



## A Critical Review on the Right to Information Act, 2005

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**Abstract:** *Introduction and enactment of the Right to Information Act (RTI), 2005 is beyond any Scepticism, a big leap in the annals of the Indian Judiciary. It is a simple legislation sans legal complexity. It is a peoples made law. It is an apt to quote here that 'next to Constitution of India (COI), it is such a law "We the people, gives unto ourselves" . The day on which the RTI Act came into operation is rightly reckoned as 'Second Independence Day' of the people. Albeit, the success and the utility of the Act squarely depends upon the degree of commitment on the part of public authorities in discharging their obligations under the Act on the one hand and the people's awareness about the Act on the other hand basing on the transparency and accountability in the process of implementation. Therefore it is heartening that people themselves protecting the law that works for them, of late quite a good number of exertions have been made either to amend or weaken the Act, but due to the judicial activism, it was sustained to a greater extent. Therefore an endeavour has been made to focus or bird's eye view on its implementation accompanied by certain important verdicts delivered by various judicatures besides the Central Information Commission (CIC) in the light of the interpretation of the provisions of the Act for the larger public interest.*

**Key words:** transparency, accountability, bureaucratic resistance

### Introduction:

The RTI Act, 2005 extends to the whole of India except the State of Jammu and Kashmir. It is one of the historic legislation in the annals of democratic governance of India. It has been enacted mainly to secure the delivered information from the public authorities to promote transparency and accountability. It is meant for a healthy and vibrant democracy. The Judicatures in all the democratic countries have time and again upheld the need for free flow of information for sustaining *hale and hearty* democracies. It has completed almost 11 years of its implementation. As per Information Commission's Report, 50 lakhs RTI applications have been filing every year in India. Over the last decade, only 2% of the Indian population has utilized the law. Against all odds such as bureaucratic resistance, interference, lack of political and administrative support, threats against

the users and exertions for its dilution, people have vehemently owned the law like no other. Moreover they have defended it against every attack and sustained it, which is an eulogisable democratic pioneer for the greater public good.

### Some important case laws:

**1. Anitha Singh v. Health and family Welfare Dept. (CIS/SA/A/2016/000 356):**

The Central Information Commission(CIC) in this case has verdicted that the Doctor, who treats the deadly diseases and experienced life risk is squarely entitled to get compensation on par with the soldier and the police, who fought against the unwanted and evil social elements.

**2. K.R.Chitra V. Bar Council of India (BCI): (CIC/SA/A/2016 000023):**



In this case, the CIC has verdicted that the applicant, K.R.Chitra who is also an advocate is entitled to get the Action Taken Report from the BCI against the Lawyers, who have deceived their clients u/s 4(1)(b) of the RTI Act, 2005.

**3. Subhash Chandra, V.CBSE (C/C/SA/A2016/001451):**

In this case, the CIC has verdicted that the applicant, Subhash Chandra is entitled to get the information from the CBSE in respect of the details of marks, date of joining and the date of completion of the degree etc., related to Tyagi and ordered the CBSE to bestow the same to the applicant.

**4. Rudul Shaw v. State of Bihar (AIR 1983/1086 of 08 1983):**

Simar judgement was delivered by the SC as in the case law of SI.No.3

**5. Om Prakash Gandhi V. Thihar Jail: (CIC/SA/A/2015/000431)**

In this case, an ex-prisoner, Om Prakash Gandhi filed an application seeking information about his unauthorized more than 18 days imprisonment and claimed for compensation. The jail authorities interdicted to bestow the same and eventually when the case reached to the CIC, it verdicted that since the authorities not condemned his unauthorized more than 18 days imprisonment besides non-proving that the applicant is under trial prisoner, the applicant is entitled to get the compensation from the competent authorities.

**6. The State of AP Vs. Challa Ramakrishna Reddy (26-4-2000) SC:**

In this case, against one prisoner, his rivals raided and killed in the jail itself. When the case eventually moved to the

S.C, it verdicted due to the gross negligence of the jail authorities, the prisoner was assassinated and hence basing on vicarious liability, the Govt shall pay the compensation.

**7. Union of India V. Adarsh Sarma (2013):**

In this case, the applicant sought the details of one doctor, who left the country and his subsequent death from the Intelligence Bureau (IB) . Since it comes u/s 24 of the RTI Act, 2005 i.e., the Act not to apply to certain organizations, the IB rejected his application. Albeit, while delivering its verdict in favour of the IB, the court opined that if at all the information pertains to the implementation of the citizens rights, it is better to bestow the desired information.

**8. 1<sup>st</sup> Appellate Authority Addl DGP, CID, Haryana V. CIC (LPA) 744, 755 of 2011 – 1294 of 2009):**

In this case, the applicant sought the details of vacancy position as division-wise in CID wing. Since the information in question will be useful in order to eradicate the corruption in the appointments, the High court verdicted and ordered the competent authorities to bestow the desired information to the applicant though the CID will come u/s 24 of the RTI Act, 2005.

**9. V.K.Garg v.Directorate of Vigilance, Dept of Law (CICSA/A/2015, 000238):**

In this case, V.K.Garg, an advocate filed an application seeking certain information i.e., if any corruption allegations will come against any beaurocrat, who is the enquiry officer and to whom the complaint shall be lodged besides seeking the office memorandum in which all the said details depicted.



The Delhi High Court verdicted that if any applicant/ citizen sought or even other-wise, such type of information, it is the bounden duty of the Central and State Govts to bestow the same since procrastination of the issue will lead to corruption.

**10. Aditya V. Secretariat of Lt. Governor (LG) (CIC/SA/A/2015/000748) dated 25.05.2016:**

In this case, the applicant, Aditya sought the copy of the report and other relevant documents sent by the L G to the Central Govt after tendering the resignation by Kejriwal, C.M of Delhi during 2013-14. But the Secretariat rejected to issue the same. When it come for hearing, the CIC ordered the competent authorities to bestow the same to the applicant.

**11. Maniram Sarma V. National Informatics centre (NIC): (NIC, CIC/BS/A/2012/001725 dt. 16.12.2015):**

In this case, The applicant Maniram Sarma sought the e-mail ID's used in the offices of both Central and States Govts from the NIC u/s 4(1)(b) of the RTI Act, 2005, who in turn has rejected the same. When the case came up for hearing, the three man CIC has ordered that the NIC shall prepare a directory, which will be useful for the people for accountability and transparency and for which, all the Depts shall be co-operated in this regard in order to avoid white caller and cyber crimes.

**12. Rameswara Prasad v. Union India (2006) 2 SC, SC1:**

The Apex court said that Article 361 will not preclude the Courts Judicial Review power. Being a public authority, even the Governor and the president of India shall be bestowed the desired information, if

the information in question does not come under country's Sovereignty and security. Albeit, the case is under stay.

**13. Subhash Chandra Agarwal V.Ministry of Environment (CIC/SA/A/2015 000525) dated 29.12.2015:**

In this case, the applicant Subhash Chandra Agarwal sought the Action Taken Report against Sanjay Chaturvedi, an IFS officer of the Govt. The competent authorities rejected the same being it is a third party's information though Sanjay Chaturvedi accepted to issue the same to the applicant. The three men committee of CIC eventually ordered to bestow the same to the applicant.

**14. The Registrar (Admn), High Court, Madras V. The CIC (Wp No.26781 of 2013) MP No.1 of 2013 Dated 17.09.2014):**

In this case, the applicant sought information on how the court appoints its administrator (Registrar). In its ruling vide para 20 "... the information seeker must disclose atleast with bare minimum details as to what is the public interest/ personal interest, for which such information is sought. If such details are either absent or not disclosed, such a query can't be construed...". Albeit, after sever criticism from different quarters, the H.C on 23.09.2014, reviewed *suo motu* and said..." In the order of 17.09.2014, we have made certain general observations in paras 20 and 21... without noticing sec 6(2) of the RTI Act, 2005... "

**15. Niraj Kumar v. National Insurance Co, Ltd, Patna (CIC dt. 20.2.2008):**



In this case, the CIC has Stated that no applicant can be allowed to make free wheeling enquiries about the entire career of an employee of the public authority. RTI cannot be used to settle personal grudges.

**16. Vipin Kumar Gupta V. Vinay Varma, CPIO & DGM, Andhra Bank CPIO & DGM, Lucknow:** The CIC Stated that given the peculiar nature of this case, larger public interest would be served by disclosure of information and this would over weigh any harm to any protect interest.

**17. Sesu V.SDM (CIC SA/A/2016, 001556 dated: 01.08.2016):**

In this case, the CIC ordered that the notices for marriage shall be displayed in the authorized website so as to discern the ineligible marriage by the people and protection shall be provided to the qualified couples.

**Suggestions and conclusion:**

Though 11 years have been elapsed since the inception of the RTI Act, only 2% of the Indian Population has utilized the law. It is because of bureaucratic resistance, and interference, lack of political and administrative support threat against the users and exertions, for its dilution patently and latently. Therefore suitable steps shall be initiated by the Governments to robust the implementation of the RTI Act in the interest of the larger public by raise up to the occasion. Besides bestowing powers there should be proper mechanism to implement the RTI Act effectively and efficiently. The appropriate Government shall allocate an adequate resources for its proper implementation. There should be harmonious co-ordination between the

appropriate Government and the Information Commission to discharge their legitimate duties. In order to do so, it is a dire need to establish the RTI Implementation Cell. Furthermore, the Cell shall be supported by the Nodal Dept of the Govt. Besides that, it shall be implemented certain programmes and strategies to enhance and improve the RTI implementation as defined u/s 26(1). For its successful implementation, both the Centre and State Govt shall allocate an adequate budgets every year. It should be conducted National Level Workshops as frequently as possible and see that the CIC, SICs, Civil Society Organizations, NGOs and other Stake holders of the RTI Act shall be participated in order to discuss the RTI progress across the nation. In order to robust its implementation, it is a dire need to establish a public authority, who will be the responsible administrative head. In order to strengthen its implementation, it is suggested to conduct branding and promotion massive awareness, campaigns so as to educate the citizens about the use of the RTI Act. In order to increase the citizens involvement in the decision making process, in the form of pamphlets, posters, radio and T.V spots, academic publications and a massive and successful internet drive by user friendly website as had held in Mexico through IFAI. It is suggested that improve and facilitate convenience in filing the RTI applications and requests by way of Citizen Service Centres RTI call centres, RTI portals, RTI Resource Centre, RTI should be free flow of communication from top to bottom level so as to awaken and enlighten the citizens of India as far as the RTI Act is concerned.



To enable environment and capacity building, it should be established Knowledge Resource Centres, Capacity Building Centres, training for record keeper, development of web portals, induction classes for the PIOs for effective implementation and usage of standard templates for passing the orders basing on the merits of the case. Therefore there is a dire need for a strong 'control mechanism' to monitor the extent of implementation of the Act periodically and ensure that the RTI Act is to be followed with true letter and spirit. If all the Stake holders such as the

Govt, Citizens, NGOs CIC, PIO and the mass media will follow all the suggestions and guide lines in a planned and systematic manner as cited supra with true letter and spirit by reckoning that the Act was meant for themselves, then the very purpose of the enactment of the Act will be served beyond any scepticism. In the near future it is positively extrapolated that the people of India will be benefitted a lot by utilizing the RTI Act to a greater extent and the mechanism will also be functioned with transparency and accountability.

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