

# **Has The R.T.I. Act Gained its Goal in Present Scenario**

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## **Constitutional Perspective of Right to Information**

**Dr. Kavita Sharma\***

RTI, A movement toward strengthening systems by transparency and accountability. Aimed at exposure and eradicating corruption at high places including top intelligences. Help us by propagating the message and the public cause. Right to Information Act 2005 is hailed as a revolution in India's evolution as a democracy. It empowers the ordinary citizen with the tools of information that propel government decision. Thanks to the legislation, citizens can seek and get within 30 days – information on how the government arrived at decisions, be it about ration card application or the money spent on lighting a bridge outside home.

Right to Information is derived from our fundamental right of expression under Article 19. If we do not have information how our Government and Public Institutions function, we can not express any informed opinion on it. This has been accepted by various Supreme Court judgments since 1977. All of us accept that the freedom of press is as essential element for a democracy to function. It is worthwhile to understand the underlying assumption in this well entrenched belief. Why is the freedom of the media considered as one of the essential features for a democracy? Democracy revolves around the basic idea of a citizens being at the center of governance and a rule of the people. Since the Government is run on behalf of the people, they are the rightful owners who have a right to be informed directly.

Right to Information Act 22 of 2005 is a confidication of this important right of citizens. The right existed since the time India became a republic but was difficult to enforce without going to court. The Act and its rules define a format for requisitioning information, a time period within which information must be provided thirty days – method of giving the information some charges for applying Rs 10/- and some exemption of information which will not be given. There is some charge for providing the information typically Rs 2/- for an A4 size paper, the principle is that charges should be minimum – more as a token. They are not at all representative of the costs which may be incurred. Citizens can ask for information by getting Xerox copies of documents, permissions, policies

and decisions. Inspection of files can also be done and samples can be asked for. All administrative offices of public authorities have to appoint Public Information Officers (PIO). Citizens apply for information to the Public Information Officer of the concerned office. If it is not provided or wrongly refused the citizen can go in appeal to an Appellate who would be an official in the same department, senior to the PIO. If this too does not give a satisfactory existence within the constitution. This facilitated the need of a specific legislation enabling the citizens to enjoy the right available to them.

Therefore, there was an immediate need of a specific legislation to provide information to the citizens as a matter of right and to create a climate and culture for the right to information. The same message echoed in the justice exposition by Justice Mathew in *Kesavananda Bharati V, State of Kerala* stated in these prominent words like

“Fundamental rights themselves have no fixed content, most of them are empty vessels into which each generation must pour its content in the light of its experience.”

Now that the statute requires information about the pendency of the applications, reasons as to why they are not disposed off or the reasons behind the rejection of an application, there is bound to be improvement in the efficiency of the departments. As of now, the only supervision of efficiency is supervision that is made by the superior officers at the time of reviewing the employees work and while recording comments in the annual confidential reports or ACRs. The process has not proved successful and though it may be continued still the threat of a Designated official calling for the relevant information at the instance of a citizen will be a salutary check on the inefficiency of officers. It also checks lethargy or bad faith or corrupt motives.

Another important aspect is that in India, we have not given respect and prominence to the rights of the individual citizen. The democracy is impossible until we recognize the majesty of the individual citizen. If individual citizens are empowered to ensure greater accountability and transparency in governance, it can bring about a major change. There has been no vehicle available for individual citizens to impact the governance structure. In a system seeking with corruption and becoming increasingly insensitive to the problems of the disadvantaged citizenry, the Right to

Information has shown promise of empowering citizens to get accountability and act as enforcer of good governance.

The overall impact of these decisions has been to establish clearly that the right to information, or the public right to know, is embedded in the provisions guaranteeing fundamental rights in the constitution. Various Indian laws provide for the right to access information in specific contexts. Section 76 of the Indian Evidence Act 1972, contains what has been termed as Freedom of Information Act in embryonic form. The provision requires public officials to provide copies of public documents to any one who has a right to inspect them. The factories Act, 1948, provides for compulsory disclosure of information to factory workers "regarding dangers including health hazards and the measures to overcome such hazards" arising from their exposure to dangerous materials. While this is an excellent provision, in practice it is violated with impunity. The Environment (Protection) Act 1986, and the Environmental Impact Assessment Regulations provide for public consultation and disclosure in various circumstances.


There is another dimension of the RTI Act which needs to be deliberated upon. Soetime back BBC News reported that obtaining information through the RTI was a costly affair. A Chattisgarh farmer reportedly was presented with a bill of Rs 1,82,000/- as cost of mimeographing documents. All that he had asked for was information on paddy purchases in his area. This is obviously to defeat the very purpose of RTI. It is clearly mentioned that information should be provided gratis to people living below the poverty line. A farmer could very well come in this category. Moreover, an information officer is required under Section 7(3) of the act to intimate before hand the applicant how much it will cost to provide information along with the method of calculation made to arrive at that amount. Thus it becomes imperative that the government develops and organises educational programmes to create awareness among the public, especially the disadvantaged people, on how to exercise their right as envisaged by this Act. The Bihar government has started a system where a person can file an RTI application by simply calling the helpline number. This is an important step wherein illiterate people can take recourse to RTI without going through cumbersome paperwork and procedures. Further, to make it more people - friendly, electronic mail facility can also be introduced. A recent decision by the parliamentary standing committee

on Public Grievances and Personnel to recommend scrapping of fees at the time of filing applications seeking information from the government departments under the RTI is a welcome step.

However, in many cases the implementation of the Act has spelled success. Issues like public distribution system, privatization initiatives, pensions and reforms, road repairs, electricity connections, telecom complaints have been dealt by people through the RTI. Many honest officers also feel strengthened as all decisions are now open to civil society and media scrutiny which will act as a deterrent to uncalled for political pressure. Recently documents obtained under the RTI by a Ludhiana based NGO reveal that money collected for Kargil war relief and rehabilitation of tsunami and cyclone victims was misused by senior public officials. Bureaucrats heading local branches of the Indian Red Cross Society diverted this money to pay hotel bills. The case further highlights the importance of strict implementations of the RTI Act to cleanse the system of possible corruption. Common men and women have both benefited from this Act. For example, a case of a petitioner who waited for 18 years to get compensation for a plot acquired before independence was resolved through RTI plea. However, if we especially talk about women empowerment, then yes this Act has contributed in its own way in creating conditions for the woman to take recourse to a better well-informed decision making process, even in her day-to-day life. A fierce protest by activists of certain states that people at large put a lid on attempts to limit the scope of this Act. Gandhian and social campaigner, Anna Hazare, who recently passed away, went on an indefinite fast in Maharashtra in Delhi, protest rallies were held at Jantar – Mantar.

The left also clarified that it would not support the Amendments Bill in Parliament. The government realized its image were on downslide and decided not to go ahead with the 'Amendments'.

Thus RTI has helped people in making an informed choice. People have access to the decision – making process, reasons for government delays, for example why a ration card is being unduly delayed. Common citizens can now escape harassment from public officials. Governance has to be an open book and officials conscious of the fact that they are liable for omissions and commissions during their tenure for just and systematic work rather than doing things at the whims and fancies arbitrarily



and getting away with it - after all the affected are the country's common masses who bear the burnt of mismanagement. The RTI has to play a critical role in systematic corrections rather than limiting its success to individual cases. Then only the RTI Act can be considered a step towards ensuring a stronger and vibrant democratic process in India.

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