

RIGHT TO INFORMATION AS A TOOL TO PROMOTE AND STRENGTHEN DEMOCRACY

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Abstract:

The right to information Act was passed in India by Parliament on 15 June 2005 and it came into force on 15 October 2005. The RTI has made information accessible to the public which they were earlier deprived off. The basic aim of the act is to bring about openness, transparency and accountability of the government. Certain provisions in the act have ensured that it is implemented in its full spirit. In this paper the salient features of the act will be discussed and with the help of case laws it will be shown that how it is applicable in various areas like consumer rights, food security, expose corruption etc. and in turn has lead to bring about accountability in society and strengthen democracy.

Key words: RTI, Land scams, food security, corruption, democracy

Introduction

The right to Information is the right of the public to know how certain decisions are taken, how the expenditure is incurred by the public authorities and the various aspects of functioning of a public authority.

The Right to Information derives its basis from three sources. First, is the constitutional basis derived from Article 19(1) (a) of the Indian constitution which states that “All citizens have the right to freedom of speech and expression”. India’s Supreme court from the case of

Bennett and Co Vs the Union Of India ,1973,read it as an integral element of the purpose of Article 19.As the majority opinion then put it,” freedom of speech and expression includes within its compass the right of all citizens to read and be informed”. In state of U.P Vs Raj Narain,1975 AIR 865 , 1975 SCR (3) 333;the apex court of the country stated, “In a government of responsibility like ours where the agents of the public must be responsible for the conduct there can be but a few secrets. The people of this country have a right to know every public act, everything that is done in a public way by their public functionaries. They are entitled to know the particulars of every public transaction in all its bearings.”

The 1981 judgement in Manubhai .D. Shah Vs Life Insurance Corporation, reaffirmed the point:”The basic purpose of freedom of speech and expression is that all members should be able to form their beliefs and communicate them freely to others. In sum, the fundamental principle involved here is the people’s right to know.”[Sukumar Muralidharan: 2005; pp41-42]. The Supreme Court almost a quarter of a century ago in S. P .Gupta &ors Vs Union of India, AIR 1982 SC 1490 popularly known as the Judges case made an observation,”Now, if secrecy were to be observed in the functioning of government and the processes of government were to be kept hidden from public scrutiny, it would tend to promote and encourage oppression, corruption and misuse or abuse of authority for it would be all shrouded in the veil of secrecy without any public accountability. But if there is an open government with means of information, available to the public, there would be a greater exposure of the functioning of the government and it would help to assure the people of a better and more efficient administration. There can be little doubt that exposure to public gaze and scrutiny is one of the surest means of achieving a clean and healthy administration. It has been truly said that an open government is clean government and a powerful safeguard against political and administrative aberration and inefficiency.”[Prakash Kardaley: 2005; pp23].

The second basis for RTI is democratic. India is a democracy where the government is of the people, by the people for the people. The public servants derive power from the people as they are either elected by the people directly or indirectly; or nominated by the people directly or by representatives of the people. Therefore they exercise power on behalf of the people.

The third basis for RTI is logical. The Citizens pay taxes. They have a right to know how their money is being spent, by whom, when and where their money is being spent.

History of RTI

The landmark judgments of the Supreme Court relating to Freedom of information and right to know were given in a number of cases since 1972; but no law had been made on the subject.

The demand for a legislation on Right to Information was made from the grassroot level. The Mazdoor Kisan Shakti Sangathan (MKSS) held a Jan-Sunwai (People's hearing) in the Bhim Tehsil of Rajasthan as on paper all the development projects had been completed but in reality there was misappropriation of funds. MKSS was successful in getting copies of relevant documents. The muster rolls contained names of people who were either dead years before or did not exist in the village. Between December 1994 and April 1995, several other public hearings were organized in the State of Rajasthan. This movement soon spread to other areas of the country also.

In 1989 the Prime Minister Mr. V. P. Singh declared the attitude of the government on right to information as, "An open system of governance is an essential prerequisite for the fullest flowering of democracy. Free flow of information from the government to the people will not only create an enlightened and informed public opinion but also render those in authority accountable. In recent past we have witnessed many distortions in our information system. The veil of secrecy was lowered many a time not in the interest of national security, but to shield the guilty, vested interests or gross errors of judgments. Therefore, the National Front Government has decided to make the Right to Information a fundamental right....."[Ritu Bannerjee: 2010, pp29]

A draft bill was made by Justice PB Sawant, Chairman of the Press Council in 1996 keeping in view the observations made by eminent people that in a democracy, it is the people who are the masters and those utilizing public resources and exercising public power are their agents. A working group on the "Right to Information and promotion of open and Transparent Government" was set up by the Government of India under the chairmanship of Mr. H. D. Shourie which submitted its comprehensive report and draft bill on Freedom of Information on 24 May 1997. A number of states had their legislations on Right To Information even before the Freedom of Information bill 2000 was introduced in the Lok Sabha. It was passed in December 2002 and received Presidential assent on January 2003, as the Freedom of Information Act, 2002. Unfortunately, a date for the Bill coming into force

was never notified, therefore it never actually came into operation. In May 2004 the UPA government came to power at the centre. The government common minimum programme promised that RTI would be made more progressive, participatory and meaningful. The National Advisory council (NAC) was set up to see the implementation of the common minimum programme. In July 2004 the Supreme court in a public interest litigation case pursued by advocate Prashant Bhushan on behalf of NCPRI(1) and centre for public interest litigation set a deadline of 15 September 2004 for the central government to advise when the act would be notified and if not the court would issue administrative guidelines .CHRI(2) released a draft rule on August 2004.After a number of deliberations and discussions with various activists like Aruna Roy and others as well with other government departments and organisation; the government tabled the RTI Act in Parliament. In May 2005 the RTI amendment act was approved by the Parliament quickly. On 15 June 2005, the President gave his assent to the national RTI act 2005.The central and state governments had 120 days to implement the provisions of the bill. Thus the act came into force on 12 October 2005.

Salient Features of the Act

The Right to Information Act is a law enacted by the Parliament of India allowing citizens of India access to records of the Central Government and State Governments. The act applies to the whole of India except the State of Jammu and Kashmir.

The Act consists of a Preamble and three chapters. Chapter one is Preliminary which contains definitions of various terms like information, Public Authority; Information Commissioner Etc. Chapter two defines freedom of information and the obligations of public authorities. Chapter three contains miscellaneous aspects relating to the implementation of the Act.

The basic objective of the act is:-

- 1) To give effect to the Fundamental Right to information.
- 2) To establish voluntary and mandatory mechanisms or procedures.
- 3) To promote transparency, accountability and effective governance of public authorities.

Information under this act refers to “any material in any form including records ,documents ,memos ,e-mails ,opinions ,advices, press releases, circulars, orders, logbooks, contracts, reports, papers ,samples, models, data material held in any electronic form and information relating to any private body which can be accessed by a public authority under any other law for the time being in force.”(3)

Right to Information means it includes the right to-i) inspect works, documents, and records.

ii)take notes ,extracts or certified copies of documents or records ;iii)take certified samples of material ;iv)obtain information in form of printouts ,floppies ,diskettes ,tapes ,video cassettes or in any other electronic mode or through printouts.(4)

Public authority means any authority or body established or constituted- i) by or under the constitution; ii) by any law made by the appropriate government including district councils and Panchayati Raj institutions etc.(5)

The obligations of public authority as per the act are that they shall publish within 120 days of the enactment the following things:-the particular of its organization, function and duties; the powers and duties of its officers and employees ;the procedure followed in its decision making process ,including channels of supervision and accountability; the norms set by it for the discharge of its functions; the rules ,regulations ,instructions ,manuals and records used by its employees for discharging its function; a statement of the categories of documents held by it or under his control; the particulars of any arrangement that exists for consultation with, or representation by the members of the public in relation to the formulation of policy or implementation thereof; a statement of the boards, councils, committees and other bodies consisting of two or more persons constituted by it. Additionally, information as to whether the meetings of these are open to the public or the minutes of such meetings are accessible to the public ;a directory of its officers and employees; the monthly remuneration received by each of its officers and employees, including the system of compensation as provided in its regulations ;the budget allocated to each of its agency, including the particulars of all plans ,proposed expenditures and reports on disbursements mode; the manner of execution of subsidy programmes ,including the amounts allocated and the details and beneficiaries of such programmes; particulars of recipients of concessions ,permits or authorizations granted by it; details of the information available to, or held by it, reduced in an electronic form; the particulars of facilities available to citizens for obtaining information, including the working hours of a library or reading room ,if maintained for public use; the names ,designations and other particulars of the Public Information Officers.(6)

Certain categories of information are exempted from the purview of the act they are information whose disclosure is likely to affect the sovereignty and integrity of India; security, scientific, strategic and economic interests of the state; relation with foreign states or lead to incitement to commit an offence; information of which would cause a breach of privilege of Parliament or State legislature; etc. (7)

Central Information Commission is constituted by the central government. The Chief Information Commissioner holds a position equivalent to the Chief Election Commissioner. The Information Commissioner holds a position equivalent to the Chief Secretary of the State. Every public authority has to send an annual report on the number of requests received, number of requests rejected and appeals, particulars of disciplinary action taken, amount of fees collected, charged etc. They have to submit to the State information commissioner or the central information commissioner as the case may be. The state information commissioner has to table the report in the State assembly, whereas the report by the central information commissioner is tabled in Parliament, annually.

The request for information has to be made in writing or electronically in English, Hindi or the language of the area. The application has to be addressed to the Public Information Officer of the concerned department. In case the information cannot be made in writing, the Public Information Officer has to help the applicant in making a written request. The required fees have to be paid with the application. Once the application is submitted, the Public Information Officer has to give the information as soon as possible; within a maximum period of thirty days. In case the information required affects the life and liberty of a person it has to be given within 48 hours of request. In case of rejection of a request, a reason has to be mentioned for the rejection. In case of delay in providing relevant information, a fine of Rupees two hundred and fifty will be levied on the Public Information Officer for each day of delay. The amount of fine for non-compliance can be increased during the course of time. (8)

Cases of RTI

In order to understand the effectiveness of an act it is important to analyse the various aspects in which the act has been utilised and its outcomes. In order to understand its effectiveness and use, various cases registered under RTI have been gathered. A few sample cases have been taken to highlight the various facets of the act. They have been categorised under various heads, in order to come to conclusion about what all could be done with the RTI.

1. Creating awareness about RTI

i) Drive against bribes: A Gujarat based Ngo Mahiti Adhikar Gujarat Pahel organised a drive against bribe using the Right to Information Act at the Satyagrah Kochrab ashram for 15 days which ended on 15 July 2006. They had over 1400 visitors at the ashram, they filed 1366 applications for RTI. They received about 1275 phone calls. The impact is not to be assessed

in terms of numbers but in terms of the creation of awareness about RTI among people. The citizens were empowered with the confidence that they can ask for information, and ask questions, from government functionaries. Some of the citizens could be transformed into propagators of RTI and a core of volunteers who were aware about the provisions, uses and implementation aspects of RTI. The people who attended the camp were from various parts of the State as well as various walks of life from a daily wage-earner to well-off business people.

ii) "Train the trainers"-In Assam active Ngos in each district were identified and they were trained about RTI and asked to go to rural and remote areas to train the people. Token money has been allotted to the 27 deputy collectors to use in assisting the Ngos in creating awareness.

iii) RTI call centre in Bihar:-The Bihar government has set up "JANKARI" a RTI call centre. Anybody can dial 155311 even from a PCO and register their complaint. The RTI application fee will be credited with the telephone bill.

2. Health Services

i) The Salt-pan workers of Gujarat, stays in Rann of Kutch, for more than 8 to 10 months. The worksites are generally 20 to 30 km away from the revenue villages.

Shailesh Patel from Agariya Heet Rakshak Manch, filed an RTI application seeking information on the Comprehensive Mobile health Van Unit in the last six months from Surendranagar district of Gujarat. Initially the PIO asked him to pay Rs.3600 for the information, but finally after the petitioner was able to educate the PIO of his duties it was given to him free of cost on a CD as the PIO was not aware of his duties. The comprehensive Mobile health van visits are announced in the weekly radio programmes of the Agariya Heet Rakshak Manch. The van also visits the workplaces regularly. This has helped in making the services effective. The availability of health check-up and treatment services reduced their expenses on medicines. Their workdays were saved and thus adding to the income of the salt-pan workers.

ii) Use of RTI to improve health care services: Boru is a small village in Gujarat and the Primary Health Centre is 8 km away from the village due to which the villagers were not able to get timely and desired medical help. Deaths had occurred in the village due to inadequate medical facilities. They filed an application with the doctor in the Primary Health centre who was also the PIO on the health facilities provided to the villagers, what they were entitled to and the duties carried out by the Health worker who was supposed to visit their village three

times a week and administer medicines and vaccinations to children, pregnant women and TB patients. Once the application was filed the health worker started visiting the village regularly. But the villagers still insisted to get a reply for their queries so that they were aware about their entitlements.

3. Water & Sanitation

i) Government robbing water from farmers:-An RTI plea has revealed that the water ministry has diverted water from 43 dams to SEZs and big cities. In the state of Maharashtra despite sufficient rainfall there has been water scarcity. The activist says that it should be considered as a theft by the government of the water rights of the farmers. The ordinance passed by the Government of Maharashtra in September 2010 under the initiative of the water ministry is to legalise past inequitable decisions to take away water rights of farmers and give them to big industries and big cities.

ii) Rs10,000 crore scam in Water Resources department:-In Assam the All Assam Shramik Krishak Kalyan Parishad obtained documents related to the schemes implemented in the State for flood control. The documents revealed that 70 per cent of the funds meant for flood control and other works related to water resources department has been siphoned off by the minister, officers and employees of the department of water resources. Only 30% of the work is completed in the different districts of the State. They have requested the chief minister to order a CBI inquiry into the alleged irregularities.

iii) Water Pollution:-An environmental activist Ajay Dubey filed an RTI application seeking information on number of industries emitting waste in air and water beyond the norms set by the government. The state pollution control board in its reply said that more than 300 commercial units in Madhya Pradesh are causing pollution by emitting harmful air and water effluents beyond the permissible limits. The State Pollution Control Board gave details of about 313 such industries which flouted standard pollution control norms during 2009-10. 170 such units are located in the industrial hubs -- Ujjain, Indore and Dhar, followed by 48 in Bhopal and 32 in Jabalpur. About 24 such commercial establishments are located in Gwalior, 18 in Guna, 12 in Rewa and two in Satna.

iv) Drainage Pipeline:-In the eastern part of Ahmedabad, Noorjahan was asked to pay Rs1000 towards putting drainage in her area. When she asked him why should she pay for it? The local leader, who happened to be the contractor, told her that the municipal corporation has sanctioned only six drainages while eighteen were needed for the area. All the 60 households in the area had to pay. She asked him whether he would give a receipt for it; which he

refused. So the next day she filed an RTI request with the District Panchayat office, PIO. Initially he was reluctant to give them any information, but later he relented under pressure. The files revealed that all the 18 drainage pipelines and also 480ft construction was also sanctioned. This meant that they did not have to pay a single rupee to the contractor. They came back and spread the word in the colony that nobody was required to pay any extra money for the drainage. Thus the women saved Rs.60, 000.

4. Land Scams

i) BDA site allotment:-A textile shop owner Mr. B. M. Shivakumar from Kengeri Satellite town with the help of RTI has brought the chief minister of Karnataka Mr. B. S. Yeddyurappa to the brink of ouster. With the help of RTI, he made it public how the chief minister had given away sites in prime localities at dirt cheap rates to his near and dear ones

ii) Land, building queries top RTI list: In the season of land scams, data for 2007-08 from the Karnataka Information Commission (KIC) show that 51% of the total RTI applications in the state - 30,432 of 59,772 - from all 33 departments, were filed with those of the revenue and urban development sections. Public enterprises and infrastructure development got just three and seven applications respectively during the same period. "Majority of the applications in these departments pertain to land sale deeds, khata conversions, mutation and record of rights copy. In the urban development department, which covers municipalities and corporations, many applications pertain to property disputes, illegal constructions and encroachments and building plan violations. The commission has asked the revenue department to digitise all land records in the state," H N Krishna, in-charge chief state information commissioner, told Times of India.

iii) Illegal Buildings: An RTI application was filed after the collapse of the building in Lalita Park in Delhi in which 65 persons were killed. More than 65 buildings in Shahadra, East Delhi are illegal. The information also reveals a close connection between the builders and officials of the MCD and DDA. They have particular modus operandi, a building is constructed in three to six months. While the building is constructed no attention is given to any complaint and later the building is declared as old and given a regularisation certificate.

iv) TN Housing quota abused to benefit judges, MLAs: - Mr. V. Gopalkrishnan procured information from Tamil Nadu Housing Board by filing an RTI application. According to RTI sources, scores of allotment have been made in Mogappair and Thirvanmiyur violating norms. The beneficiaries allotted land or flats at rates 40-60 % less than market value, including a sitting Judge of the Madras High Court, congress and DMK legislators, senior

police officials and bureaucrats such as a former regional passport officer.(Times Of India;5December 2010)

5. Fake Certificates

i) Corporator with fake certificate: An RTI application filed in the caste verification department, Swar Gate, Pune by Santosh Shrimant Jadhav, a resident of Ward no.42 same as that of Suresh Shivaji Kulkarni, corporator from Navi Mumbai revealed that kulkarni's caste certificate was fake. Kulkarni was a Telgu Brahmin from Andhra but he claimed to be an OBC (Vadari) from Maharashtra.

6. Transport and Communication

i) Railways false assurance exposed:-The Human Rights Defence Forum filed an RTI application to the Deputy Chief Operating manager, Southern Railways. The Ernakulam-Kayamkulam passenger train has fewer coaches than the sanctioned number of 14. Though the Railway authorities have agreed to increase the number of coaches in certain trains after a protest by the passengers at Thuravoor. In a reply to the application, the Southern Railway said: "Owing to shortage of general second class unreserved coaches, it is not feasible at present to augment Train no: 339 Ernakulam Kayamkulam passengers." The forum has now filed an application with the Railway Minister, Mamta Banerjee.

ii) A Bridge to nowhere:- The Pimple Nilakh-Baner Bridge over the Mula river project was undertaken jointly by the Pune Municipal Corporation (PMC) and the Pimpri Chinchwad Municipal Corporation (PCMC). About Rs5.25 crore was spent to build the 160-metre-long, 20-metre-wide bridge. The construction of the over bridge was completed on September 20, 2007. But the bridge could not be opened to the public because the PMC failed to acquire the land at one end of the bridge, as claimed PCMC officials. The acquisition of the land was essential for the construction of a road connecting the over bridge. Once functional the over-bridge would connect large parts of the municipality.

7. Unnecessary Expenditure by the Government

i) Activist Nikhil Desai filed an RTI plea with the Bombay Municipal Corporation to find out what they planned in the five gardens at Dadar Parsi Colony. The municipal corporation has spent Rs 70 lakh on laying pavements and redoing the lawn at just one of the five gardens at Dadar Parsi Colony. Upset with the "unnecessary work" and "unjustified exorbitant spending", the residents have now stepped up the heat on the municipal corporation over the controversial Five Gardens beautification project.

ii) Losses from free tickets: - The Air India refused to disclose the losses incurred by the public national carrier due to the issuance of free tickets. The Chairman of Air India is entitled any number of travels with his family free of cost. The government also issues complimentary tickets to various people, who are public authorities. (The Economic Times; 5 December, 2010)

8. Unfilled Government Vacancies

The number of beat officers or inspectors posts was lying vacant in schools for a long time. In the preceding year 63 posts were filled and 25 were vacant. The next year the number of vacant posts increased to 32. In 2007-08 of the 132 approved posts, 104 were filled. Beat officers or inspectors are hired to keep a check on teachers and principals of municipal schools. They conduct an inspection of teachers and class work. One of their key functions is to pay surprise visits to the schools, as well as pay educational visits where they are supposed to give advice to the teachers. The BMC had signed a partnership with UNICEF for the school Excellence Programme; but a look at the records revealed how neglected the civic schools are.

9 Use of RTI in NREGA

Sabarkantha district is one among the six districts in Gujarat where the NREGS is being implemented. In Prantij block, in one of the villages Bilsana workers got the payment as low as Rs 3 to Rs7 for a day's work under the NREG. Sabar Ekata Manch and Janpath did a fact finding survey in Prantij block and found that the payment was done after enactment of NREG. One of the activists of Sabar Ekata Manch contacted Mahiti Adhikar Gujarat Pahel for guidance on how to acquire the muster rolls and payment sheets under RTI. Since this information falls under the pro-active category, they advised him to file an RTI application. He was able to acquire the information after filing in the RTI application. He had to pay the charges for photocopies. On studying the muster rolls, they found that the amount calculated based on the quantum of work was written in column 7 of the muster rolls and what needs to be paid as minimum wages was written in column 10. There was a clear instruction on the muster rolls that whatever was less between column 7 and column 10 that amount was to be paid. These irregularities and violations were brought to the notice of media through a press conference. A small video film was produced with the help of Janpath, which screened for the media. The issue was highlighted. The gaps in the state government scheme for implementation of NREG were submitted to the government. This built pressure on the government. The payments made afterwards were all done as per minimum wage provision.

And where quantum of work was more the payment done was more than the minimum wages. Copy of the muster rolls played key role in effective implementation of NREGA.

10. Food Security

i) Antodaya Anna Yojana in Rapar town of Gujarat: Shri Anil Ghoda, a volunteer of Sneha Samudaay once visited a family in Rapar block where in male member of the family had turned blind after earthquake, living with his three children and aged mother. His wife had died in earthquake of 2001. His elder son of just 10 yrs age would go for a work to get a salary of Rs.10. The old mother use to beg in the village to feed her grandchildren. Anil was volunteering for an organization called *Sneha Samudaay*, which was committed for rights of marginalized. He knew that poorest family should get benefit of Antyodaya scheme of the government. Thus, he demanded in Kutch, for information about the *Antodaya Anna Yojana* in Rapar town and how much ration has been provided to Antodaya families in the last six months at PIO, Mamlatdar office. After frequent visits and not able to get the information, he filed an appeal with the State Information Commissioner. After nine months appearing before the state chief commissioner RN Das the Mamlatdar tried to shift the blame to the PDS owners. He also blamed inadequate staff strength in the clerk and deputy Mamlatdar Cadre for the failure to reply. State information commissioner demanded why this information was not proactively disclosed under section 4(1) of the act. And show cause as to penalty should not be imposed. Also, why the applicant should not be financially compensate for the

Harassment suffered by him in making frequent trips to his office as well as in coming all The way from Kutch to Gandhi Nagar for the hearing.

SCIC ordered to principal secretary food and civil supply and chief secretary Gujarat and consumer affair to ensure that the list of Antodaya and BPL families be displayed and Widely publicized in each fair price shop, Panchayat office, District supply office in the Collect orate, along with their web side.

Because of which Government has passed an order to District collector to Mamlatdars of All Taluka of Kutch district ordered to verify the list of *Antyodaya families* and submit the Report within a month. Mamlatdars personally visited each family and verified the Antyodaya families he also ordered that eligible poor people should be included in the Antyodaya and BPL list and rich people should be deleted from the list. Because of this, Fake names were found in the list. Mamlatdar sealed the five fair price shops in Rapar taluka and the verification process is going on. [www.janapathnetwork.org/anil-rti.pdf]

ii) Food grain Vs Liquor crisis in Maharashtra: The government of Maharashtra is offering subsidies for liquor production from food grains. This policy will turn jowar into a cash crop and divert huge quantities of food grains to alcohol production, creating scarcity and causing food inflation. Moreover, the RTI documents revealed the extent to which the claims made by the government have been violated-good quality hybrid jowar is being used instead of rotten jowar, and distilleries are purchasing grains from dealers rather than farmers. Rather than focussing on the acute problem of malnutrition plaguing the state, the government is promoting a policy that is clearly meant to benefit only those with business interests.

The Government of Maharashtra policy entitled "Food Grains Based liquid and integrated material financial aid 2007" has approved alcohol production from food grain. The primary motive of the government in giving a push to this policy is to help the rain-fed farmers of Marthawada and Vidarbha region by providing them good prices for jowar, Bajra and corn. Government is also considering proposals to extract alcohol from various other sources like cashew, jamun etc. The government is promoting the liquor policy, as though liquor is the only magical solutions to all sorts of problems. (Tiwale: 2010)

Instances where RTI cannot be Used

1. Information on religion cannot be obtained under RTI: The Punjab and Haryana High Court rejected claims of right to obtain information on religion of an individual as disclosed during census count and termed such information as within the private domain which cannot be disclosed under a right to information (RTI) application. Holding that no such private information can be divulged the court rejected the appeal seeking details of religion of UPA Chairperson Sonia Gandhi and her family members including Rahul Gandhi and daughter Priyanka Vadhera.

2. Security Organisation Like RAW exempted from RTI: Acting on an appeal of former RAW official Brigadier (Retd) Ujjal Dasgupta, an accused in the National Security Council Secretariat spying case, the transparency panel had earlier asked the Pune-based Centre for Development of Advanced Computing (C-DAC) to disclose details sought by him about the

software 'Anveshak'. The RAW challenged the decision in the Delhi High Court which referred the matter back to the CIC saying the panel has "erred" in overlooking sections of the RTI Act which exempted security organisations like RAW from the ambit of RTI law and those dealing with third party information.

Steps Taken to Promote RTI

i) Transparency officers to be appointed within 30 days: The Central Information Commission has directed all public authorities to appoint within 30 days senior officials as Transparency officers, who would act as a interface between the commission people and public authorities. They shall be very senior officials other than public information officers and appellate authorities which are designated for replying to RTI applications and listening to appeals against the replies. They are to be senior officials of the department who will act as a interface between the commission and the Public authorities on one hand and the public authorities and the people on the other hand.

ii) Not to reject RTI application without prescribed fees: The government has asked all the ministries and departments not to reject the RTI applications which are without the prescribed application fee of Rs 10. The Department of Personnel and Training (Do PT) has asked all Central government ministries to treat such applications "sympathetically". The officials have been asked to take a sympathetic view and see if the applicant is needy by enquiring about the person, and then waive the Rs 10 application fee. However, a final decision by the concerned public information officer (PIO) will be binding. The government has also asked all the departments to use the RTI logo make the concept popular and earmark and identify PIOs and CPIOs appointed to answer the RTI applicants.

iii) A drive by CIC to dispose over three months –old cases: : The CIC has launched a special drive to dispose the cases which are more than three months old. He also said that about 55 percent cases before the CIC, as on 30 Sep, 2010 were three months old and about 8 percent cases were more than six months old.

iv) Divisional benches of State Information Commission in Maharashtra:-State of Maharashtra is divided into five regions- Pune, Aurangabad, Nagpur, Konkan and Greater Mumbai. Each of these regions has a State Information Commissioner (SIC) and a State Chief Information Commissioner (SCIC). SCIC is responsible for the general superintendence, direction and management of the affairs of the SIC.

v) Kerala State Information Reporter:-A journal is bought out by the Kerala State Information Commission consisting of all the orders, judgements and rulings .Four issues of the journal are published in a year. This helps in informing the public about the functioning of RTI and the commission.

vi) Online Mechanism:-The Central Information Commission has launched an online mechanism enabling citizens to submit complaints and second appeals anywhere and anytime.

Conclusion

“There are four broad internationally evolved requirements of a good, people-oriented transparency law. First, exemptions should be as few as possible; second, the fees should be affordable to the poor; third, there should be an independent and yet non-judicial appellate mechanism; and fourth, there must be stringent penalty for defiance. The law adopted by Parliament emerges with a reasonably high score in each of the four tests.”[Prakash kardaley;2005;pp18]The RTI act has completed five years of its existence and has stood the test of time. The information seekers under the RTI are varied and large with varied interests, whereas the information providers are small group with varied responsibilities. This could be one of the reasons for cases pending for disposal.

The right to information movement in India, began within the interior part of India as a rural peasant movement (MKSS), in Rajasthan in the early 1990s. Given the benefits of transparency and accountability and its impact on development, the movement rapidly spread throughout the country, resulting in the enactment of the national Right to Information (RTI) Act in 2005. The RTI movement in India validated the relationship between the right to information and social change through proving that:

- 1) The right to information is a foundational right that enables other rights such as the right to food security, to employment, to health.
- 2) The right to information enhances the quality of being a citizen.
- 3) The right to information strengthens accountability and transparency.

“Access to information and collective validations of information in public hearings played an extraordinary important role in short-circuiting the exercise of power by various rungs of the local development bureaucracy and breaking the apathy of a people who were used to being powerless and the passive victims of development. Information, became a weapon, used to

leverage another development in which the stake holders played a key role in ensuring that its benefits were equitably distributed. While a variety of caveats and obstructionary barriers inclusive of costs, departmental delays, exceptions, limits to disclosure can be considered serious limitations, the very fact that the State has validated the role and value of information in development has revived hope in the enjoyment of substantive democracy in India.”[Thomas, Pradip; 2009]

The cases mentioned in the paper under various heads like drive against bribes, health services, water and sanitation, land scams ,fake certificates ,transport and communication ,unnecessary expenditure by the government ,unfilled government vacancies ,etc. From these we can conclude that the RTI can be used for any aspect of an individual’s life. Though in some cases the petitioner had to wait a long time for justice; but it was worth the wait. One unique aspect of this law is that it does not benefit the petitioner alone it proves beneficial to all those affected by a similar problem.

A number of activists and organisations are involved in creating awareness about RTI and they also help the aggrieved persons to file an RTI petition or even do it for them. By such efforts we are creating better, informed and conscious citizens for our country.

To conclude, “...democracy requires an informed citizenry and transparency of information which are vital to its functioning and also to contain corruption and to hold Governments and Their instrumentalities accountable to the governed” [Source: RTI Act’ 2005/

The appropriate implementation of the Right to Information Act will make the governance not only more transparent but also more relevant and useful for “We the People”. In the long run it would not only strengthen and promote democracy; but would build a free and fair society.

End notes:

1.National Campaign for People’s Right to Information is a New Delhi based organisation founded in 1996; involved in creating awareness and pursuing the active implementation for RTI. Activist like Aruna Roy are part of the group. They also took up an evaluation study of RTI.

2. Commonwealth Human Rights Initiative is an organisation which works for practical realisation of human rights initiative in the commonwealth countries.

3. It is so defined in Chapter I, Section 2(e) of the Right to Information Act 2005.The act can be accessed at <http://nac.nic.in>

4. It is so defined in Chapter I, Section 2(d) of the Right to Information Act 2005. The act can be accessed at <http://nac.nic.in>
5. It is so defined in Chapter I, Section 2(g) of the Right to Information Act 2005. The act can be accessed at <http://nac.nic.in>
6. It is so defined in Chapter II; Section 4 of the Right to Information Act 2005. The act can be accessed at <http://nac.nic.in>
7. It is so defined in Chapter II; Section 8(1) of the Right to Information Act 2005. The act can be accessed at <http://nac.nic.in>
8. It is so defined in Chapter II; Section 12(4) of the Right to Information Act 2005. The act can be accessed at <http://nac.nic.in>

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