



TEN YEARS OF RIGHT TO INFORMATION ACT- A REVIEW PAPER

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ABSTRACT

The progress of paradigm shift from 'State-centric' to 'Citizen-centric' model of development, came into existence in India with the enactment of Right to Information Act, 2005 (hereafter referred as the Act). Various Colonial Acts such as Officials Secrets Act, Indian Evidence Act, Civil Services Code of Conduct Rules etc., which contains the provisions that restricts the fundamental right to information was removed with the implementation of this Act. In the modern democracy, the accountability and transparency have become the indeed tools in shaping the countries progress and development, only with the access to information that can be archived, But the colonial laws have restricted the access of information to the citizens!

But time has changed now with the implementation of Right to Information Act 2005, people can access the government held information which allows the individuals to better understand the role of government and the decision made on their behalf. The progress of democracy always depends on the informed citizens! The access to information enables peoples to participate fully in the decision making along with the government.

KEYWORDS : democracy, the right to information, people participation, progress and development.

1. INTRODUCTION:

Indian democracy has witnessed crisis in the governance in all level of planning and decision-making, as some of the key elements of democracy via accountability and transparency were not given proper attention. This has brought corruption in all form of governmental activities from local to national level. This is because the internal accountability mechanisms such as Central Vigilance Commission (CVC), Comptroller and Auditor General (CAG), Central Bureau of Investigation (CBI) have not functioned effectively as they lack their autonomy and power, so there was demand among the public spirited persons to bring the officials, externally accountable to the citizens.¹ In India, RTI Act was introduced in 2005 and since then this law has proved to be a strong weapon in the hands of people, for ensuring transparency in government departments and containing corruption.

2. WHAT IS ACCESS TO INFORMATION OR RIGHT TO INFORMATION MEANS?

Access to information and right to information are the two different terms used to convey the concept i.e. right to know the information's which are held by the government authorities'. In the other words, Right to information is the ability to access information whenever you want it. Right to Information or access to information is the one side of the coin whereas the another side is right to expression, only with the access to information we can able to express.

Article 19 (1) (a) of our constitution guarantees the freedom of speech and expression, to all citizens' which include the Right to access to information. Even Article 19 of the Universal Declaration of Human Rights states "Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers".² All though the Right to information is not expressly found in our constitution but it has the close connection because this fundamental right freedom of speech and expression can't be exercised unless the information relating to public matters are not circulated. When the people have the right access to information they naturally tends to form the influenced decision and reasoning capacity of the people increase, so the act helps the people to make close connection with the government especially the executive arm of the state.

3. JUDICIAL ACTIVISM IN TO ACCESS THE INFORMATION UNDER ARTICLE 19(1) (a):

Many people thought the right to information is not expressly found

in our constitution, however judiciary in several landmark case held that Right to access the information is the part of Article 19(1) (a), it went to extend and held this right to information is the natural concomitant of Article 19 (1) (a) In *Bennette Coleman v. Union of India*,³ case Supreme Court of India in the matter relating to Newsprint control order 1962 and matters relating to the restriction placed on allocation of newsprint, the S.C held that this restriction not only infringes the newspapers freedom of speech and expression, but all cut down the readers right to access the information, which is part and parcel of the fundamental right which is guaranteed under Article 19(1) (a) of Indian Constitution.

Again in State of UP v. Raj Narain,⁴ Justice Mathew explicitly observed that "It is not in the interest of the public to cover with a veil of secrecy the common routine business ... the responsibility of officials to explain and to justify their Acts is the chief safeguard against oppression and corruption". In the responsible government the officials are answerable to the public in some or other way, when the government works in secrecy it is acting against the democratic decency, when the information are made secret it leads to the arbitrary use of authority.

In *Secretary, Ministry of I & B, Government of India v Cricket Association of Bengal*,⁵ in 1995, the Supreme Court reiterated the proposition that the freedom of speech and expression guaranteed by Art. 19(1) (a) includes the right to acquire information and to disseminate the same; Court observed that "Democracy expects openness and openness are concomitant of a free society and the sunlight is the best disinfectant". In the modern constitutional democracies, it is axiomatic that citizens have a right to know about the affairs of the Government which, having been elected by them, seek to formulate sound policies of governance aimed at their welfare.⁶

In *Association for Democratic Reforms v. The Union of India*,⁷ the S.C ruled that candidates for the Lok Sabha or State Legislative Assemblies would have to disclose their antecedents, assets and educational qualifications to help the electorate make their right choice.

4. BACKGROUND TO JUSTIFY THE NEED OF RIGHT TO INFORMATION ACT 2005:

Disclosures of information relating to the governmental activities which are held up the government officials are governed by the Official Secrets Act, 1923 which is enacted during the British regime. The gradual and steady development progress regarding to the right to information or access to information is started from the village in Rajasthan, to obtain the information regarding the false

entries in the muster roll with regard to the drought relief work, this movement to have the access to information spread all throughout the Rajasthan, by the Mazdoor Kisan Shakti Sanghatana (MKSS), later they formed as the movement to campaign for the appropriate legislation for the access to information. Followed by it Tamilnadu becomes the first state to enact the legislation on Right to Information in 1997, followed by Goa, Rajasthan, Maharashtra, New Delhi, and Madhya Pradesh.⁹

The movement for the campaigns for the nationwide legislation for the ATI stated under the leadership of National campaign for People's Right to Information. The campaigns received the major boost which the legislation for Right to information was included in UPA, "Common Minimum Program".¹⁰ The National Advisory Council, which was set up for the implementation of Common Minimum program, took close interest for the enactment of appropriate legislation for Access to information. All this and many other factors, including pressure from the civil society groups, led to the enactment of the RTI Act in India, which came into effect on October 12, 2005

5. FROM THE FUNDAMENTAL RIGHT TO STATURARY RIGHT- RIGHT TO INFORMATION Act, 2005:

The basic object of the Act is to empower the citizens by providing information and allowing them to participate in decision-making and to bring the transparency and accountability in the working of the government and to eradicate or contain the corruption which is treated as the cancer of our Indian society. Access to information not only helps to prevent corruption but all promotes good governance.

To be specific RTI has changed the perspective of Indian democracy. Before the RTI the people participate in democracy was only by voting the government to power, after the implementation of RTI, it made the democracy more meaningful by allowing citizens to participate in the governance process. In particular, it empowers ordinary citizens, especially those in rural areas. With the help of RTI people naturally, tend to form the informed opinion. In return they can have the influence on the policies affecting them, so RTI is regarded as a boom for good governance, were the people directly participate in decision making.

RTI helps in the free flow of information from the state to public and vice versa, which reduces the gap between the information seeker and information provider, which could help the citizens to share the required information through discussions, this could bring the public sphere in the democracy. In the responsible government like ours, where all the agents of public must be responsible for their conduct, bearing some secrets; all the citizens have a right to know every public Act, everything that is done in a public way by their public functionaries

"The right to information is not only about the right to know but also the right to question. This will increase faith in democracy".¹¹

RTI gives the people the chance to participate in the democracy not just once in five years, but to question every decision taken that may affect them. RTI helps to promote collective spirit to make the working of democracy more effective and meaningful. RTI also strengthen the grass root democracy and ensures the people participation in local governance and other development activities, which resembles the mature democracy.

6. IMPACT OF RIGHT TO INFORMATION ACT IN India

6.1 RTI - A TOOL FOR ACCESS TO INFORMATION: "AN INFORMED CITIZEN IS EMPOWERED CITIZEN"

There has been always the close connection between the access to information and people participation in democracy; with the available and appropriate information, can help the people to be

informed citizens and gain confidence over the government. The modern democracy requires informed citizens and transparency of governance which are vital for its functioning and to contain corruption. To hold the instrumentalists of the government responsible and accountable to all its citizens, to make democracy more vibrant, India being the world largest democracy in the world, only through this legislation most the secrets in the government are taken away, and help to enable citizens' to seek the information, which helps in the progress of our country.

The RTI Act, 2005 not only promotes transparency and accountability among the public servants regarding their performances in their public offices but also ensures that the concept of rule of law is not subverted and foiled. Right to Information Act has enabled the citizens to seek information from the government which helps in their development. RTI as the social legislation gives power to the citizens' to question the activities of the government machinery, this shows that that the masters of democracy are the peoples to elected the government are having the controlling power. We can say only because of this Act the transparency and accountability in creeping in our government.

The Right to Information Act thus provides an effective framework for effectuating the right to information, a fundamental right, enshrined in Article 19 of the Constitution of India. We can say that RTI is only the codification of a fundamental right for easy implementation and enforcement. This Act is regarded as the milestone in the history of our social legislation because of this Act the people are shared with the information so it brings more transparency as a result corruption is controlled to a larger extent.

7. PARTICIPATORY DEMOCRACY:

In self-governance (Swaraj), we came together to form the government which works on behalf of us to protect and nourish us. The information's about the developmental activities have been denied over the long period by the governments. The right to information Act which came as safeguard for the citizens' to access the information and participate in democracy.

RTI has provided the framework for the citizen's government partnership in the best out of the programmers' that are carried out for achieving social welfare. When the people start participating in the decision making or planning it helps to promote good governance. When the information's are easily made available to the public it helps in promoting the literacy levels about the developmental and welfare activities taken for the well-being of the public at large.

Right to Information Act generally unites the people with the democratic principles and encourages them to participate in the development activities of the government. When the people themselves get involved in decision making or planning their dependency on the government is reduced to the larger extent. The principle of partnership between the citizens' and the government is derived from the fact that people are not only the ultimate beneficiaries of development but also the agents of development. The people participation leads to better projects and yields dynamic development. An informed citizen is better equipped to keep necessary vigil on the instruments of governance and to make the government more accountable to the governed.¹²

8. ACCOUNTABILITY AND TRANSPARENCY:

In the democracy, we the people who are the real ruler, through our representatives, the information about the development activities, distribution of welfare schemes, etc have to be accounted for and to the people by the government officials. By bringing the accountability the arbitrariness of the executive authorities are controlled, as is against the concept of rule of law in the democracy. Right to Information brings transparency in the government activities and allows the people to find remedies for the things which they have suffered, it has been considered as the weapon in

the hands of citizens. With the enactment of this Act, the relationship between the citizens and the government is changed, till now people have to run pillar and post of the government officials to get the work done or to get the work sanctioned.

Until the advent of the RTI Act, it was not possible for an ordinary citizen to seek the details of a decision-making process, which was found most often, as ineffective in terms of its outcome. Information and the right to information are intended to be the formidable tool in the hands of responsible citizens to fight corruption and to bring transparency and accountability in the working of public authorities. With the view of ensuring maximum disclosure and minimum secrecy in the governance, under this Act, it is mandated for every authority to maintain records, rules, regulation and order, and it should be properly indexed in the form which facilitates the right to information.

“Your landmark Right to Information Act is empowering citizens with the ability to get the services to which they're entitled and to hold officials accountable...”¹³

In case the information is not given by the public authority, or incorrect, incomplete, misleading information is given the applicant can file the complaint before the information commissioner for the necessary directions as per the Act. However there is some secrecy maintained under the Official Secrecy Act, 1923, which cannot be disclosed because of the public interest.¹⁴

9. PREVENTION OF CORRUPTION:

With the right to access the information the transparency has been ensured, which is the only proven anti-corruption tool, because with the dissemination of information the wall of secrecy that is the shield for corrupt officials, can be broken with RTI. RTI is a legally entrenched right to access the information or documents held by the government, that can be used to collect the evidence and hold the officials accountable.¹⁵ The experts feel that with the effective use of it would, in a long run curb the corruption. Before this legislation was made, corruption in India was considered as necessary growing evil, because without bribing no legitimate work is done in any government office by the officials, if one does not pay bribe unnecessary objections are raised and the person is made to run around. But now no one needs to pay the bribe for the work to be done because through RTI the people can question the authority regarding the progress and delay in implementation.

Right to access the information by the public through RTI is the important deterrent in the minds of public authority while performing their public duty, because the official will be made aware that they can't escape from the public scrutiny for their bad behavior, corruption flourishes in the darkness, with the access to information, the progress has been made towards the opening of governments activities to public scrutiny. Especially the civil society organisation, NGO, media has played very effective role in bringing the corruption charges to the society, with the help of RTI.

With the implementation of RTI in the last 10 years there has been decline of corruption in India, corruption index published by the transparency international shows that India is in 76th rank out of among 168 countries. The main reason for the drop of corruption in government is mainly due to the RTI, which served as the powerful tool in fighting the corruption.¹⁶

10. E- GOVERNANCE AND RIGHT TO INFORMATION IN INDIA

E- Governance is the one form of good governance, which is widely found in all form of Government to bring transparencies and accountability to the services offered to the people. It provides a platform for using the information and communication technology for delivering governmental services and exchanging of information between government to people, government to business and government to governments.¹⁷ Through E-Governance we have moved towards pro-active, pro- people form of governance.

Section 4(1) (b) of the RTI act in India, deals with proactive or suo-motto disclosure of information through the various communication means including internet [Section 4(2)]. RTI act not only requires the Government to provide information upon request for information under the act, but also the proactive or suo motto disclosure of certain basic category of information are made compulsory to disclose without any request for information, that are listed under Section 4(1) (b) of the Act which includes particulars of the organization, their function and duties, etc.

11. TEN YEARS OF RTI, WHERE DO WE STAND IN IMPLEMENTATION:

In the last ten for RTI Act in India, has brought serious change in the governance, in the increase in the public participation in the development activities. From the rich to poor citizens have used the RTI to obtain the information and it has changed the government from the closed one to the opened one, which has become more citizen-centric than the state-centric. RTI has been used to contain the corruption activities to the larger extent. However the challenge exists in the proper implementation of the Act, there has been the lack of awareness among the public. The low literacy level and the lack of awareness have made the act beyond the reach of poor. Under Section 26 of this Act speaks about the role of government in educating the people. But the government has not taken any large scale steps for making RTI popular among the people. Both the Central or State government have neither allotted adequate funds to organise the campaign on RTI nor supported such activities carried out by the NGO by any other way.

The most important issue is that the need for the protection of whistle-blowers under this Act, the Right to Information Act speaks nothing about the protection of whistle-blowers. There has the increasing murder of the RTI activities in India, as a result, in April 2004; the Supreme Court pressed the government into issuing an office order, the Public Interest Disclosures and Protection of Informers Resolution, 2004 designating Central Vigilance Commission (CVC) as the nodal agency to handle complaints on corruption. However, such unfortunate incidents kept increasing and brought renewed focus on the need for a law to protect whistle-blowers. Thus, Public Interest Disclosure (Protection of Informers) Bill 2010 was introduced in the Lok Sabha on August 26, 2010. The Bill seeks to establish a mechanism to register complaints on any allegations of corruption, willful misuse of power or discretion against any public servant. The Bill also provides safeguards against the victimisation of the person who makes the complaint.¹⁸ The State has failed in its duty to protect the whistle-blowers without a proper legal protection to them.

CONCLUSION:

The Right to Information Act is emerging as a powerful weapon to establish the transparency and accountability in our democratic system, 11 years since the enactment of the Act, awareness among the people about the Act in major parts of our country is very low. The success of the every social legislation is based appropriate use of that legislation at the right time.

By enacting this Act India has moved forward from the era of the arbitrary system of government to the transparent form of government, where the citizen is empowered to question the authority. So only by this Act 'citizen centric' system of governance is developed, it has empowered the ordinary citizen, which helps in the progress and development of our country. By enacting the Right to Information Act 2005 India has taken a small but significant step towards that goal. 'The real "Swaraj" (Self-government) will come not by the acquisition of authority by a few but by the acquisition of capacity by all to resist authority when abused.'¹⁹ Thus with the enactment of this Act India has taken a small step towards achieving real swaraj.

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