



INTERNATIONAL JOURNAL OF CREATIVE RESEARCH THOUGHTS (IJCRT)

An International Open Access, Peer-reviewed, Refereed Journal

Right To Information Act

Ameliorate to Democracy

¹Rashmita Bishi

¹Advocate, High Court Of Odisha

"Information is a basic human right and the fundamental foundation for the formation of democratic institutions"
-Nelson Mandela

Abstract: Information is the oxygen that only citizen needs to live in the social structure of the society and maintain democratic balance. As democratic device to empower the common man in relation to the government, the Right to Information Act, 2005 has raised high expectation in India. It reduced the gap between administration and people. RTI Act become a pioneer tools to the citizen for promoting transparency, accountability and reduce corruption. According to Mother Teresa- "Honesty, and transparency make you vulnerable. Be honest and transparency any way". The aim of this article is explain about the importance of RTI in India and its provisions.

Index Terms - Information, RTI Act, Democracy, Corruption.

I. INTRODUCTION

"Satyameva Jayate Nanritam" i.e. truth is alone triumphs not falsehood'. It is not only a political philosophy but also an embodiment of constitutional philosophy. The constitution of India has established democratic republic³. The concept of democracy which is a corner stone of the constitution⁴. It is a product of rule of law⁵. Under a democratic setup the people have right to know about the functioning of the government⁶. India has adopted a democratic form of government and no democratic government can survive without accountability and the basic postulate of accountability is that the people should have information about the functioning of the government. The growth of democracy is depend upon good governance is reality⁸. Good governance as a democratic exigency, in order to rid corruption and provides rights⁹. Corruption is an enemy of the Nation¹⁰. Corruption in a civilised society is a disease like cancer and it is eating the vital organs of the governance¹². From the date of the constitution was adopted i.e. 26th January 1950, a Red letter day in the history of India, the nation stood as a silent witness the corruption at high place¹³. A society govern by rule of law require a reassure its citizen that the governance is free from corruption and nepotism¹⁴. If corruption is not detected in time, is sure to maliganise (sic) the polity of the country leading to disaster consequence¹⁵. Information intended to bring transparency to improve accountability and to reduce corruption¹⁶. We live in age of information, in which free flow of information and ideas determines the place of development and well being of people¹⁷. Citizen of this country has a fundamental right to receive information¹⁸. Freedom of information is in the blood which runs in the veins of freedom of expression¹⁹, providing free access to information with the object making governance more transparent and accordable²⁰. There is a definite link between right to information and good governance²¹. The right to information is a cherished right²². The RTI Act, 2005 enacted to ensure greater and effective access of information²³. The bill was passed by both the house of parliament and upon receiving the assent of the president on 15th June 2005, it came on the statute books as the Right to Information Act, 2005²⁴. The provisions of the Right to Information Act, 2005 in its true letter and spirit and inspire all public authorities to follow it lead in transparency²⁵.

The term 'information' means the act or process of informing, communication or reception, of knowledge. It may be knowledge acquired directly as by observation or study or derived inferentially or from communication from others²⁶. The right to information was harnessed as a tool for promoting development strengthening the democratic governance and effective delivery of ²⁷socio-economic drive of the country²⁸. The said legislation is undoubtedly one of the most significant enactment of independent India and a landmark in governance²⁹. The right to information accessible under this act which is held by or under the control of any public authority³⁰. The public authority therefore, can only be an 'authority', 'body' or an 'institution' of self government, established or constituted, by or under the constitution or by any other law or by an order made by the appropriate government³¹.

Under the RTI Act, Information Commissions have been setup at the centre (CIC) and in all (SICs) to adjudicate on appeals and complaint of person who have been unable to secure information in accordance with the RTI Act³². The report card on the performance of the information commissions in India show that 1,78,749 appeals and complaints were registered between April 1, 2019 and July 31, 2020 by 21 information commissions. During the same time period, nearly two lakh cases (1,92,872) were disposed by 22 commissions for whom information could be obtained³³.

II. RIGHT TO INFORMATION

Though the Indian constitution has no express provision guaranteeing the right to information, it has been recognized by the Courts in a plethora of cases as implicit in Article 19(1)(a) which guarantees to all citizens the right to free speech and expression, and Article 21 of the constitution which guarantees the right to life in accordance with due process to all citizens³⁴.

In *Mr. Justice R. N. Mishra Rtd. Vs CB1*³⁵, the Court observed that, the right to information is a fundamental right of the citizens embedded in Article 19(1) of the constitution of India, when parliament codified the said right in the form of the RTI Act, it took care to lay down ten exemption clauses in Section 8(1) on the basis of which information may be denied to citizens, unless there was a larger public interest. The exemptions contained in Section 8(1) of the RTI Act are adequate and comprehensive to that disclosure of information does not inter alia compromise national security or impede the process of investigation or apprehension or prosecution or endanger the life or physical safety of any individual.

III. CONSTITUTIONAL PROVISIONS

Democracy is the basic and fundamental structure of the constitution³⁶. The Indian constitution is both a legal and social document³⁷. It provides that the rights to privacy³⁸ and right to receive information³⁹.

Article 19(1)(a) provides that : To freedom of speech and expression.

(2). Nothing in sub-clause (a) of clause (1) shall affect the operation of any existing law, or prevent the state from making any law, in so far as such law imposes reasonable restriction on the exercise of the right conferred by the said sub-clause in the interests of the sovereignty and integrity of India, the security of the state, friendly relations with foreign state, public order, decency or morality or in relation to contempt of court, defamation or incitement to an offence.

Article 21: Protection of Life and Personal Liberty- no person shall be deprived of his life or personal liberty except according to procedure established by law⁴⁰.

IV. INTERNATIONAL PROVISIONS

International jurisprudence is moving strongly in the direction of a positive obligation being a part of freedom of expression⁴¹. The international movement to include it in the legal system gained prominence in 1946 with General Assembly of the United Nations declaring freedom of information to be a fundamental human right and a touch stone for all liberties⁴².

V. UNIVERSAL DECLARATION OF HUMAN RIGHTS, 1948

Article 19 of the universal declaration human rights, 1948 declares: everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and import information and ideas through any media and regardless of frontiers⁴³.

VI. INTERNATIONAL COVENANT OF CIVIL AND POLITICAL RIGHTS, 1966

Article 19(1) Everyone shall have the right to hold opinions without interference.

(2) Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of the choice".

VII. EUROPEAN CONVENTION FOR THE PROTECTION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOM, 1950

Article 10(1): Everyone has the right to freedom of expression. This right shall include freedom to hold opinion and to receive and impart information and ideas without interference by public authority and regardless of frontiers⁴⁵.

VIII. RIGHT TO INFORMATION ACT, 2005

The principle of purposive construction of a statute is a well organised principle which has been incorporated in our jurisprudence⁴⁶. The general welfare of the public that warrants recommendation and protection⁴⁷. The people at large have a right to know in order to be able to take part in a participatory development in the industrial life and democracy". The public have minimum resort to the use of the RTI Act to obtain the information⁴⁹. It is a safety valve⁵⁰. In a way, it checks abuse of power by the public officials⁵¹. Legislative intent behind enacting the Act, 2005⁵² for greater transparency, promotion of citizen government partnership, greater accountability and reduction in corruption are stated to be silent features of the Act⁵³. The RTI Act was enacted in furtherance of the principles found in part III of the constitution⁵⁴. It will undoubtedly have a chilling effect on the independence⁵⁵. The RTI Act makes administration more accountable to the people and it is an agent of good governance. In *Civil Liberties Vs Union of India*⁵⁶, the Apex Court held that right of information is a facet of the freedom of "speech of expression" as contained in Article 19(1)(a) of the constitution of India. The effect of the provisions and the scheme of the RTI Act is divide information into the three categories they are⁵⁷:

- (i) Information which promotes transparency and accountability in the working of every public authority, disclosure of which may also help in containing or discouraging corruption (enumerated in clauses (b) and (c) of section 4(1) of the RTI Act.)
- (ii) Other information held by public authority (that is all information other than those falling under clauses (b) and (c) of section 4(1) of RTI Act.)
- (iii) information which is not held by or under the control of any public authority and which cannot be accessed by a public authority under any law for the time being in force.

In *Chief Information Commr. Vs State of Manipur*⁵⁸, the Hon'ble Supreme Court has held as under:- The Act is meant to harmonise the conflicting interests of government to preserve the confidentiality of sensitive information with the right of citizens to know the functioning of the governmental process in such a way as to preserve the paramountcy of the democratic ideal.

IX. OBJECTIVE OF RTI ACT

*Anjali Bhardwaj Vs Union of India*⁵⁹, the Hon'ble Apex Court held that: The RTI Act would reveal that four major elements/objective required to ensure good governance are:

- (i) Greater transparency in functioning of public authorities.
- (ii) Informed citizenry for promotion of partnership between citizens and the government in decision making process.
- (iii) Improvement in accountability and performance of the government.
- (iv) Reduction in corruption in the government departments.

The right to information, therefore, is not only a constitutional right of the citizens, but there is now legislation in the form of the RTI Act, which provides a legal regime for people to exercise their fundamental right to information and to access information from public authorities. The very preamble of the Act captures the importance of this democratic right which reads as under 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.

X. IMPORTANCE OF THE RIGHT TO INFORMATION ACT

1. This law empowers people to ask for information about central, state governments including non-governmental organisations which are substantially funded by the government
2. The law gives citizens of India the tools to fight against corruption.
3. RTI gives people the right to hold the government and organisation substantially funded by the government accountable.
4. The right to information Act gives citizens the right to ask for information and decide, based on the information received whether their constitutional rights have been met.
5. This law arms individuals with information so that they can advocate for themselves.

XI. THE BHARATIYA SAKSHYA ADHINIYAM, 2023

Official records relating to the affairs of the state:

1. Section 129 of the Bharatiya Sakshya Adhiniyam, 2023 is titled as "Evidence as to affairs of state". It provides that no one shall be permitted to give any evidence derived from unpublished official records relating to any affairs of state except with the permission of the officer at the head of the department concerned, who shall give or withhold such permission as he thinks fit.
2. Section 130: no public officer shall be compelled to disclose communications made to him in official confidence, when he considers that the public interests would suffer by the disclosure⁶⁰.

XII. JUDICIAL PRONOUNCEMENTS ABOUT RIGHT TO INFORMATION

The right to information Act is a right based enactment safeguarding fundamental rights⁶¹. There are umpteen numbers of judgments, declaring that the transparency is the key for functioning of a healthy democracy⁶². The RTI Act and the significance thereof, as highlighted by the Court in various judgment⁶³.

In *General Managers Finance Air India Ltd. And Anr Vs Virender Singh*⁶⁴ had held as under: The RTI Act, as per its preamble was enacted to enable the citizens to secure access to information under the control of public authority, in order to promote transparency and accountability in the working of every public authority. An informed citizenry and transparency of information have been spelled out as vital to democracy and to contain corruption and to hold governments and their instrumentalities accountable to the governed. The said legislation is undoubtedly one of the most significant enactments of the independent India and a landmark in governance. The spirit of the legislation is further evident from various provisions thereof which require public authorities to (A) publish inter-alia:

- (i) the procedure followed in the decision making process;
- (ii) the norms for the discharge of its functions;
- (iii) rules, regulation, instructions manuals and records used by its employees in discharging of its functions;
- (iv) the manner and execution of subsidy programmes including the amounts allocated and the details of beneficiaries' of such programmes;
- (v) the particulars of recipients of concessions permits or authorizations granted [section 4(1)(b), (iii), (iv), (v), (xii) & (xiii)]

(B) suo moto provide to the public at regular intervals as much information as possible [section 4(2)].

In *Attorney General Vs Times News Paper Ltd*⁶⁵, The Apex Court observed that freedom of expression has following four broad social purposes to serve:

- (i) It helps an individual to attain self fulfillment.
- (ii) it assists in the discovery of truth.
- (iii) It strengthens the capacity of an individual in participating in decision making.
- (iv) It provides a mechanism by which it would be possible to establish a reasonable balance between stability and social change.

In *Bihar Public service Commission Vs Saiyed Hussain Abbas Rizwi & Anr*⁶⁶, the Apex Court held that, Right to information is a basic and celebrated fundamental/basic right but is not uncontrolled. It has its limitations. The right is subject to a dual check. Firstly, this right is subject to the restrictions in built within the Act and; Secondly the constitutional limitations emerging from Article 21 of the constitution. Thus, whenever in response to an application for disclosure of information, the public authority takes shelter under the provisions relating to exemption, non-applicability or infringement of Article 21 of the constitution, the State Information Commission has to apply its mind and form an opinion objectively in the exemption claimed for was sustainable on facts of the case.

In *V.Madhav Vs The Tamil Nadu Information*⁶⁷, The Madras High Court observed that, the right to information Act is a rights based enactment more akin to any other enactments safeguarding fundamental rights. As the statement of the object of the Act goes, democracy requires an informed citizenry and transparency of the information. The Act encompasses basically two things. Firstly, the right of the citizen to seek for information to which he is entitled under the provisions of the Act and the corresponding duty of the information officers to furnish such information and Secondly it leads to transparency in the government functioning.

XIII. CONCLUSION

India always took pride in being the largest democracy. Non-arbitrariness and absence of discrimination are hall marks of good governance under rule of law. In democratic countries the people are main and all law are enactments for the welfare of its. The legal maxim fulfilled this objective - "*salus populi est suprema lex*" (The welfare of the people is the supreme law). Right to Information Act, 2005 is a most popular, reformatory and ambitious law in Indian political and administrative history. It is a vaccine for treat corruption disease and hold the various bodies, agencies and departments of the government whose are involve in "MORAL TURPITUDE". The provisions of RTI Act should be enforced strictly and all efforts should be made to bring to light the necessary information under clause (b) of section 4(1) of the Act which relates to securing transparency and accountability in the working of public authorities and in discouraging corruption.

XIV. ACKNOWLEDGEMENT

I am grateful to the scholars whose works provided a strong foundation for this research on Right to Information Act: Ameliorate to Democracy. I also appreciate the support of my peers and family, whose encouragement helped shape this study. Finally, I extend my gratitude to the International Journal of Creative Research Thoughts (IJCRT) for providing a platform to share this work.

Rashmita Bishi,
Advocate, High Court of Odisha

REFERENCES

- 1 Manduka Upanishada, Verse 3.1.6
- 2 Manoj Nurula Vs UOI, (2014) 9 SCC 1.
- Central Board of Sec. Education and Vs Aditya Bandhopadhyaya & ors, (2011) 8 SCC 497.
- 4 Supra Note 2.
- 5 Govt. Of NCT of Delhi Vs Union of India, on 4 July 2018; Manoj Nurula Vs UOI, (2014) 9 SCC 1.
- 6 S.P. Gupta Vs Union of India, (1993) 4 SCC 441.
- 7 V.Madhav Vs The Tamilnadu Information on 12 July 2011, [Http://indiankanoon.org/doc/185136737/](http://indiankanoon.org/doc/185136737/).
- 8 Supra Note 2.
- 9 Duggi Ayyana Vs The State of Andra Pradesh on 21 Oct 2020.
- 10 Supra Note 2.
- 11 State of MP & Ors Vs Ram Singh, 2000 SCC (Cri) 886; Jai Bhagwan Vs State (NCT of Delhi) on 7h November, 2007.
- 12 Aftab Ahmed Vs State of U.P. Thru. Prin.Secy, on 18 September 2017.
- 13 Supra Note 2; Jai Bhagwan Vs State (NCT of Delhi) on 7h November, 2007.
- 14 Supra Note 13.
- 15 Jai Bhagwan Vs State (NCT of Delhi) on 7h November, 2007.
- 16 ICA Vs Shaunak H. Satya, (2011) 8 SCC 781; Biswajit Das Vs Kendriya Vidyalaya Sangathan, on 20 April, 2018.
- 17 Anjali Bharadwaj Vs Union of India, (2019) 18 SCC 246; Speech by Prime Minister Dr. Manmohan Singh address at the National Convention on Right to Information held on 15th October, 2006.
- 18 Association for Democratic Vs Union of India And Anr, AIR 2001 Delhi 126, 2000 (57) DRJ 82.
- 19 XYZ Vs Victoria Police, [2010] VCAT 225.
- 20 Bihar Public Service Common Vs Saiyed Hussain Abbas Rizwi & Anr, 2012 (13) SCC 61.
- 21 Anjali Bharadwaj Vs Union of India on 15 Feb 2019.
- 22 Union Public Service Commission Vs Agnesh Kumar on 20 February 2018.

- 23 Pankaj Kumar Vs Ministry of Heavy Industry on 14 Aug 2018.
- 24 Namit Sharma Vs UOI, 2012.
- 25 Mr. R.S. Mishra Vs Supreme Court of India on 11 May 2011.
- 26 Commissioner of Income Tax Vs Shree Jagan Nath Maheswary, AIR 1957 32 ITR 418 PH.
- 27 Namit Sharma Vs UOI, 2012.
- 28 Pankaj Kumar Vs Ministry of Heavy Industry on 14 Aug 2018; Mardia Chemical Limited Vs Union of India (MANU/SC/03231200402004) 4 SCC 311.
- 29 General Manager Finance Air India Ltd & Anr Vs Virendra Singh, LPA NO. 205/2012; Pankaj Kumar Vs Ministry of Heavy Industry on 14 Aug 2018; State of Jharkhand Vs Narin Kumar Singh and Anr, AIR 2008; K.K. Garg Vs Chief Commissioner of Income Tax on 13 Jan 2020.
- 30 Bihar Public service Common Vs Saiyed Hussain Abbas Rizwi & Anr on 13 dec 2012.
- 31 Shri Subhash Chandra Agrawal Vs Supreme Court of India on 14 August 2020.
- 32 Anjali Bharadwaj Vs Union of India, (2019) 18 SCC 246.
- 33 Times of India, 126 October 2020.
- 34 Supra Note 7.
- 35 [Http://indiankanoon.org/cloc/796878/](http://indiankanoon.org/cloc/796878/).
- 36 T.N. Seshan, CEC of India Vs Union of India on July 1995; Kuldeep Nayar Vs Union of India & Ors on August 2006; Manoj Nurula Vs Union of India, (2014) 9 SCC 1.
- 37 S.R. Bommai Vs Union Of India on 11 March 1994, AIR 1918, 1994 SCC (3) 1; Dinesh Trivedi Vs Union Of India, (1997) 4 SCC 58.
- 38 Supra Note 27.
- 38 Association of Democratic Vs Union Of India & Ant., AIR 2001 Delhi.
- 40 V N Sukhla, Constitution of India, 10th Edition, 2001.
- 41 XYZ Vs Victoria Police, [2010] VCAT 225.
- 42 Supra Note 27.
- 43 People's Union for Civil Vs U.O.I. & Others, on 6 Jan 2004.
- 44 The State of Public Information Vs The State of Information Commission on 17 March 2021.
- 45 The Secretary Ministry of Vs Cricket Association of Bengal, 1995, AIR 1236, 1995 SCC (2) 161.
- 46 GVFL Ltd Vs Anubhav Singh on 22 May 2020.
- 47 Bihar Public service Common Vs Saiyed Hussain Abbas Rizwi & Anr on 13 dec 2012.
- 48 Reliance Petrochemicals Ltd Vs Proprietors of Indian express Newspaper, Bombay Private Limited and Others, 1988 AIR 190; Anjali Bharadwaj Vs Union of India, (2019) 18 SCC 246.
- 49 General Manager Finance Air India Ltd & Anr Vs Virendra Singh, LPA NO 205/2012; Pankaj Kumar Vs Ministry of Heavy Industry on 14 Aug 2018.
- 50 Supra Note 27.
- 51 Ibid.
- 52 Supra Note 48.
- 53 Supra Note 27.
- 54 Supra Note 48.
- 55 People's Union for Civil Vs U.O.I. & Ors on 6 Jan 2001.
- 56 (2004) 2 SCC 476.
- 57 CBSE Vs Aditya Bandopadhyay & Ors on 9 August 2011.
- 58 (2011) 15 SCC 1.
- 59 (2019) 18 SCC 246.
- 60 Ratan Lal & Dhiraj Lal, The Law of Evidence, 27th Edition.
- 61 Supra Note 7.
- 62 Supra Note 32.
- 63 Ibid.
- 64 LAP No.205/2012 decided on 16.07.2012
- 65 (1973) 3 All ER 54.
- 66 [Http://indiankanoon.org/doc/55517912/](http://indiankanoon.org/doc/55517912/)
- 67 [Http://indiankanoon.org/doc/185136737/](http://indiankanoon.org/doc/185136737/)