

Bang of Right To Information on Good Governance (RTI Weapon to Fight Corruption in Administration)

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ABSTRACT:

RTI has proved to be a strong weapon in the hands of people for ensuring transparency in government departments containing corruption. The free flow of information is must for the society, as it helps to grow and to retain a continuous debate and discussion among the people. There was a days when public dealing were kept in secret, which often led to corruption, exploitation and abuse of statutory and governmental power. Information is playing an essential role in modern socio-economic developments. This paper talk's with reference to the impact of right to information on administration with the help of cases.

Right to information can create the information literacy among poor people, so that they must be able to know their rights and improve their living standards. Transformation from governance to good governance is possible if people start participating in activities of government and free access for information. Indian Parliament has passed Right to Information Act, 2005 to make administration accountable, responsible, efficient and transparent. There are many social activists and anti- corruption crusaders like Anna Hazare etc. Anna Hazare ended his 12 days fast when the Jan Lok Pal bill got incredible public support as public came out on the streets of Delhi, Bangalore and other cities and raised their voice over mounting corruption. Therefore, RTI can be seen as a fast emerging and an effective anti-corruption tool to erode and prevent corruption practices. The main factor behind corruption is secrecy, which was taken as a tool of truthfulness towards government in past era. The basic object of RTI is to empower the citizens, promote transparency and responsibility in the functioning of the government and make our democracy work for the people in real sense, because government is of the people, for the people and by the people.

Keywords: - *Right to Information, government, Knowledge, Openness, Transparency, Accountability, Administration.*

“If liberty and equality, as is thought by some are chiefly to be found in democracy, they will be best attained when all persons alike share in the government to the utmost”

- Aristotle

INTRODUCTION:

In general terms RTI simply means right to access information from government authorities. Right to information can create the information literacy among poor people, so that they must be able to know their rights and improve their living standard. The free flow of information is must for the society, as it helps to grow and to retain a continuous debate and discussion

among the people. It is the duty of government to inform the people about the day to day affairs happening within the government. Right to Information empowers public to seek any information from the government, inspect any government documents and can seek certified photocopies. Some laws on Right to Information also give powers to Indian citizens to official inspect any Government or to take sample of material used in any work.

Right to Information is define under section 2(i) of the Right to Information Act,2005 it means the right to information accessible under this Act ,which is under the control of any public authority and includes the right to inspection of work, documents, records, taking notes, extracts or certified copies of documents or records, taking certified samples of material, obtaining information in the form of diskettes, floppies, tapes, video cassettes or in any other electronic mode or through printouts where such information is stored in a computer or in any other device. The right to Information envisages a practical regime of transparency and accountability in the activities of government authorities. It aims to empower the common citizen with ideas and information to seek entitlement and to participate in the process of democratic governance

As Bhagwati J. advised in the S.P. Gupta V. President of Indiaⁱ: that the Open government is the new democratic culture of an open society towards which every liberal democracy is moving and our country should be no exception.

Union For Civil Liberties(PUCL) and Another V. UOI And Another,ⁱⁱ In this case under constitution, Article 19(a) freedom of speech and expression), Article 19(2)representation of the people act. The court held that voters have fundamental right to know relevant qualification of candidates for office, including information about their income and assets. A section of a law stating that candidates could not be constrain to reveal any data about themselves other than their criminal records was unlawful.

Union of India V. Association for democratic reforms and another, with PUCL and anr. V. UOI,ⁱⁱⁱ The court held that the citizens have a right to know about social activities and candidates for office, along with their assets and criminal and educational background, which right is borrowed from the constitutional right to freedom of speech and expressions.

SECRECY IN GOVERNMENT PRACTICE

The rule of Government of India is secrecy and openness is an exception. Government papers and documents are divided into four categories they are namely Top Secret, Secret, Confidential and Personal. The top secret is for the information of vital nature affecting national security The secret is for the papers of information which is likely to threaten public security or cause injury to the interests or prestige of the nation or would cause serious awkwardness to the administration either within the country or in its relations with foreign nations. The word confidential pertains to give advantage to a foreign nation or even cause administrative embarrassment. Personal is the information is given to an individual is not meant for publication.

A government servant under civil service rules is under an obligation not to disclose to anyone including a fellow government servant any information acquired by him during the course of his official duties. This is provided under rule 8 of Central Civil Service Rule act 1955. A violation of this rule will subject the civil servant to disciplinary action, apart from punishment under any other law.

RIGHT TO INFORMATION IN INDIAN LAWS

Even prior to enactment of legislation Securing right of information, the Supreme Court by a permissive interpretation deduced the right to know and access information on the interpretation that the concept of an accessible government is the absolute result from right to know which is implicit in the right of freedom Speech and expression under Article 19(1)(a) of the constitution of India. Article 19 of Universal affirmation of Human Rights act, 1948 grants that people has the right to freedom of opinion and expression and this right includes freedom to grasp opinion without intervention and to seek, obtain and impart information and ideas through any media and despite of frontiers.

There are laws which are adverse to the right to know in India and need to be amended in order to protect the right to know. Sections 123, 124, and 162 of Indian Evidence act, 1872 Section 123 state that any head of department may refuse to provide information on happening activity of state. Similar section 124 states that no public officer shall be drive to disclose communications made to him in official. Section 162 states that the court not to inspect a document relating to matters of state.

In the case Electronics and Computer Software Export Promotion Council V. Central Information Commission & Navneet Kaur^{iv} The Court ruled that a “trade facilitation organization” It is a social endorsement that must persist by the RTI Act because it receives financial support from the government, and for some administrative control, report to the central government through a member of department, and receives department assignments. The Supreme Court delivered a judgment in which it held that —the people have a right to know everything that is done in a civic way, by their public functionaries. For two decades, activists had to fight to get this constitutional right executed in a law. The National Campaign for People's Right to Information was formed to work for legislation in this glance. Along with the Press Council of India, it wrote a draft of a Right to Information Law.

CONSTITUTION AND RIGHT TO INFORMATION

Right to information is our fundamental right under constitution of India, 1950. At this juncture, it is crucial to note that the Supreme Court, in State of U.P v. Raj Narain,^v in this case endorsed the ‘right to know’ as a right inherent in Fundamental Right to freedom of speech and expression under article 19(1)(a) of the Constitution. Following this, a surfeit cases the right to information was recognized as a right inherent in the article 19(1)(a) and in article 21. In the case People's Union For Civil ... vs Union Of India the Supreme Court pragmatic that Right of information is a aspect of the Article 19(1)(a) of the Constitution of India. Right of information, thus, undoubtedly is a fundamental right. However, every time

the Constitution is modified, the ‘basic structure’ test laid behind in Keshavanada Bharti Case^{vi} has to be satisfied. The test provides that a constitutional amendment should not be in belittlement of the basic features of the Constitution like judicial review, democracy or Rule of Law. The right to information is as a fundamental right, if at all there is any effect on any of the basic structure it would be in the nature of toughen the democracy and making it progressive, as envisaged by the makers of our Constitution.

Article 32 of the Constitution guarantees a right to constitutional remedies on the situation of a violation of the fundamental right of any national. The constitution furthermore imposes certain duties upon the citizens under Article 51. RTI is not expressly mentioned in the Seventh Schedule of the Constitution, and does not fall under any of three lists of the Constitution. As such it is a expendable matter and the power to legislate on such matters rests with the Central government.

As Justice Krishna Iyer in the Maneka Gandhi case,^{vii} said “a government which functions in secrecy not only acts against democratic virtue, but also buries itself with its own burial”. There is a certain danger that regardless of several efforts for wellbeing purpose, the power may be used arbitrarily and for corrupt goals.

In the case Common cause V. union of India^{viii}. The court held that the scope of the term “conduct of election” in article 324 of the constitution of India, 1950 is broad enough to give the election commission authority to issue direction for political parties to submit detail of all election related expenditures.

Beside Article 19(1) (a), the other articles which give right to information under constitution are Articles 311(2) and 22(1). Article 311(2) provides for a government servant to know why he is being dismissed or removed or being demoted and demonstration can be made against the order. By Article 22(1) a person can know the grounds for his detention. In Onkar Lal Bajaj v. Union of India,^{ix} ‘Article 21 and 14 of constitution, right to information, allowance of retail outlets, distributorships and dealerships of petroleum products-political patronage for allotment was suspected by the press ,under such situation ,the citizen has a right to know under what basis their elected representatives got such allotments’

ROLE OF RTI IN GOOD GOVERNANCE

Right to Information is the Master key to good governance. Information can empower the poor and weaker sections of society to demand and government information about public policies and actions, thereby led to welfare of all. Good governance and right to information are highly favourable to each other. A nation whatever form of government it pursues must fulfil the aspirations of common man. Good governance is the only avenue, which can provide guaranty the life of individuals. RTI and good governance go hand in hand.

“We live in an age of information, in which the free flow of information and ideas determine the pace of enlargement and well being of the people. The implementation of RTI Act is, therefore, an important milestone in our quest for building an enlightened and at the same time, a wealthy society. Therefore, the exercise of the Right to Information cannot be the privilege of only a few.” by Dr. Manmohan Singh, Prime Minister of India.

We shall now turn to the relationship between right to information and good governance. The term good governance is a recent addition in the concept of public administration. This term has considerably extended the scope of public administration. The range or purpose of public administration is not simply to maintain law and order and to implement the decisions of the executive. The purpose of public administration is to achieve both the welfare objectives and, at the same time, over-all progress of body politic. Now it is rightly observed that how far the administration of a state falls within the category of good governance should be judged by the people. General public pay taxes and they expect their tax is properly spent for the development purposes. But how far a government has achieved success is required to be examined by the tax-payers. In *Dinesh Trivedi v. Union of India* the highest court made the observation, “In modern constitutional democracy, it is axiomatic, that citizens have a right to know about the affairs of government which, having been elected by them, seeks to put together sound policies of governance aimed at their welfare.”^x

In the education and health care policies and programmes RTI has contributed to improvements in nature and size of the services under the following crown jewel programmes like Sarva Shiksha Abhiyan, National Rural Health Mission, Aam Admi Insurance Scheme etc.

EMPOWERMENT OF WEAKER SECTIONS THROUGH RTI

The development strategies have duly laid prominence on protection of vulnerable sector of the society, mainly women, SC/ST, minorities and disabled persons. In almost every policy and scheme for promotion of welfare and empowerment of deprived groups, there are relevant components that assure the reach of specified benefits through the policy of preferential treatments and positive discrimination. Having known the entitlements for reservations in employment and recognition in educational institutions, scholarships, old age pensions, health insurance, etc., the citizens have begun to effectively realize the entitlements through the use of RTI. The deficiencies in implementation of policies, if any, have also been raised, which provide necessary feedback for formulating sound policies for empowerment of weaker sections. There are umpteen numbers of cases pertaining to human rights issues that have been raised by the affected persons and groups, who seek accountability of service providers and the concerned departments.

LANDMARK JUDGMENTS OF RTI

- *Bennett Coleman & Co. v Union of India* ^{xi}The judges in this case asserted that it is indisputable that by freedom of the press meant the right of all citizens to speak, publish, and express their views. Freedom of speech and expression includes within its compass the right of all citizens to read and be informed
- *Sakal Newspapers (Private) Ltd. v. Union of India* ^{xii}The Supreme Court held that the impugned Act and the Order imposed unconstitutional restraint on the freedom of the press. The court also held that restriction upon freedom of speech was to be examined with low premise of constitutionality than the restrictions upon freedom of trade or business.

- **S. P. Gupta v. Union of India** In this case is popularly known as Judges Transfer case, Bhagwati, J. had advised in the landmark case that it is vital for the people to have as much information about governmental activities as possible. Participation in government by the people is regarded, as an important aspect of democracy and citizen cannot participate unless they have information as to what is going on in the country.

SUCCESS STORIES OF RTI

Over the past six years, the Right-to-Information Act has emerged as a powerful tool for India's civil society to bolster transparency and hold those in power culpable. The law which allows Indian citizens to seek information from most government torso was first implemented in October 2005. To mark the sixth anniversary of the RTI Act, India Real Time nonce a list of some of the great successful RTI cases.

- **Adarsh Society Scam:** In this scam the applications is filed by RTI activists like Yogacharya Anandji and Simpreet Singh in 2008 were instrumental in bringing to light links between politicians and military officials, among others. The scandal has already led to the termination of Ashok Chavan, the former chief minister of Maharashtra.
- **Public Distribution Scam in Assam:** In 2007, members of an anti-corruption non-governmental organization based in Assam, the Krishak Mukti Sangram Samiti, filed an RTI request that revealed unevenness in the distribution of food meant for people below the poverty line. The allegations of corruption were detected and several government officials arrested.
- **Appropriation of Relief Funds:** Information obtained through an RTI application by an NGO based in Punjab revealed that bureaucrats heading local branches of the Indian Red Cross Society used money designate for victims of the Kargil war and natural disasters to buy cars, air-conditioners and pay for hotel bills with other things. Local courts charged the officials found responsible with fraud and the funds were transferred to the Prime Minister's Relief Fund.
- **Right to information exposes Janawad scam:** RTI has once again helped come to the rescue of people in attached with those who is responsible for the "mother of all Rural Development scams" in Rajasthan.

RTI CHANGED THE FUNCTIONING OF GOVERNMENT OFFICIAL

The ultimate goal of RTI is to change the way government relates to citizens. It seeks to change the uncommunicative close-door practices of the past and succeed it with a more open and citizen-friendly official culture. The desire is to attain systemic change whereby public authorities become ever sensitive to peoples' concerns and responsive to their needs.

A survey by an Indian RTI observer, Shyamlal Yadav, published in The Indian Express in its October 28 2015 edition has acknowledged. The Right to Information Act was executed on October 12. Over the last decade, it has converted the functioning of the government machinery in several ways. There are many ways in which RTI has changed the functioning of the government and officials. They include the following, Ministers' foreign trips, Bureaucrats' foreign trips, Ministers' assets, Bureaucrats' assets, Judges' assets, Exam results, Personal staff of MPs, ministers, Accessible file noting, Scams exposed, I-T returns of parties

CASES ON RTI

- **Namit Sharma v. Union of India,**^{xiii} Recalling key segment of an earlier judgment reading into the Right to Information act a obligation that appointees to the Information Commission acquire judicial qualifications, the Supreme Court of India concluded that it was eventually for Parliament to decide whether such a prerequisite was appropriate.
- **Public Sector vs government,**^{xiv} National Mineral Development Corporation fought against the government over the latter's decision to grant licence for mineral survey to Tata Iron and Steel Company in Bastar, Chhattisgarh in 2007. RTI showed the mandatory environment endorsement was not given by Centre.
The court held that the "central government had failed to abide by with its own Act before issuing the licence to TISL"
- **Ec Pocket Maya Enclave Residents Welfare Association [sic] and Ors. Vs. Delhi Development Authority and Ors,**^{xv} The Association relied on certain information obtained under the RTI Act, 2005. The information obtained revealed that more than Rs. 600,000 was spent planting trees in the park during the previous year. Petitioner Association used this in conjunction with numerous Supreme Court decisions that say that an vicinity hallmark and used as a park by the public is vested in the community, and the use of the land cannot be malformed for any other purpose.
- **Rajiv Pujari and Ors. etc. etc. Vs. State of Orissa,** represented through its Secretary, Revenue and Excise Department, Government of Orissa and Ors. etc. etc.,^{xvi} Rule 4(1) of the Land Acquisition (Companies) Rules, 1963 requires that an enquiry be conducted by the head of the district administration before the acquisition of land for a company. Petitioners obtained a document under the Right to Information Act, 2005, which showed that the mandatory enquiry was never conducted. The Court agreed with this contention.
- **Court on Its Own Motion vs. Dept. of Women & Child Development & Ors,** The petitioners used the Right to Information Act to obtain statistical information about the number of juveniles lodged in the Tihar Jail. The information obtained from the prison authorities revealed that 114 juveniles had been moved from Tihar Jail to observation homes between October 2010 and August 2011. This was submitted to the Court as proof of the claims made about the incarceration of children in prisons meant for adults.^{xvii}

CURRENT STATUS OF RTI:

- **PDP Had Letter Of prop up For Mehbooba Mufti, Returned Undelivered:** The People's Democratic Party was all set to form the government and only a last-minute hiccup prevented their handing over the letter of sustain for Mehbooba Mufti to Governor, a response to an RTI query has revealed.
- **Hema Malini Served Notice For Annihilating Mangroves On Allotted Land, Reveals RTI:** A spanking new Right to Information query has revealed that Bharatiya Janata Party representative Hema Malini purportedly desecrated the Coastal Regulation Zone Act by destroying mangroves on a plot formerly given to her at Versova, and notice was served.
- **CIC Draw Up Arvind Kejriwal's Office Over Senior Citizen's Pension Issue:** The Central Information Commission has chided the office of Kejriwal for "not applying its mind" before transferring petition of a senior citizen, in quest of to know status of pension, to 29 departments.

- There has been issuance of approximately 160 million Rupee 1 Currency Notes in 2 Years: The Finance Ministry issued scores of 160 million currency notes of one rupee denomination in the last two years, nearly two decades after they were taken off print, reply to queries made under the RTI Act showed.
- There has been another issue regarding the killing of whistleblowers for which no data is available as to any evidence or any related matter: There is no centralized data concerning the killing of whistleblowers or RTI activists, the government said. There were reports in the media that some people have been assaulted and killed in the last three years allegedly due to their performance as RTI activists. Although data regarding attack, killing of whistleblowers and RTI activists are not maintained centrally. Protesting against projected amendments in Whistleblowers Protection Act-2011, an RTI activist from Madhya Pradesh, who exposed the Vyapam scam, met Congress president Sonia Gandhi and Vice-president Rahul Gandhi over the matter.
- RBI held responsible to Disclose Information Under RTI Act : The Supreme Court held that the Reserve Bank of India should take unyielding action against those banks and financial institutions which have been indulge in disgraceful business practices and it cannot withhold information on defaulters and other issues covered under the RTI Act.

Justice Arail Nagraj said in one his case that “The weapon alone cannot will a battle and the warriors using the weapon should win it”.

CONCLUSION:

RTI helps to protects and promotes the socio-economic interests of every citizen, particularly the poor, who are receiving the benefits of development as per their privilege. Without good governance, no developmental schemes can bring improvements in the life of the citizens. Good governance has four components they are as, transparency, accountability, predictability and participation. It can be rightly mentioned that Right to Information act is an agent of good governance. It makes administration more accountable to the people. It makes people aware of administration and gives them an opportunity to take part in decision making process.

The Government should develop the potential for access to information. The capacities of both the public authorities and the citizens may have to be enhanced, for which a two-pronged strategy would be needed. Also a high order Judicial Activism is also necessary for the implementation of RTI. there is need active participation from people, NGO's, civil society groups, integrity among government departments and political will from government0t and elected leaders. Government needs to ensure that a large bulk of population becomes educated. It has been truly said that an open government is pure government and a powerful safeguard against political and administrative aberration and inefficiency.

RTI Completes 10 Years. Will it Survive another 10? RTI has helped millions of people demand accountability from their supervision, get basic services from ration cards to water connections and even helped reveal details of the coal allotment scam. Although 10 years after India got one of its most effective tools to fight corruption and seek transparency turns up to be losing steam.

The fight for the right to Information is the fight for survival of democracy in India.
The states are too high for us to ever give up, so we will never give up.

– Arvind Kejriwal

FOOTNOTES:

- ⁱ AIR 1982 SC 149,234:1981 Supp SCC 87
- ⁱⁱ AIR(2003)SC 2363
- ⁱⁱⁱ 2002 AIR 2112; 2002 (3) SCR 294
- ^{iv} LPA No. 1802/2006 &CM 11865/2006; appeal challenging order dated 19 July 2006 (No. 1143/2006)
- ^v A.I.R 1975 SC 865
- ^{vi} (1973) 4 SCC 225
- ^{vii} A.I.R. 1978 SC 597
- ^{viii} 1996 SCAL (3) 258; see also (1996) 2 SCC 752
- ^{ix} A.I.R (2003) 2 SCC673
- ^x (1997) 4 SCC 306
- ^{xi} 1973 AIR 106, 1973 SCR (2) 757
- ^{xii} 1962 AIR 305, 1962 SCR (3) 842
- ^{xiii} (2013) 1 SCC 745
- ^{xiv} 2008 (101) DRJ 339
- ^{xv} The original case name includes the typo: "Association", 2006 (92) DRJ 562
- ^{xvi} 2010(II) ILR CUT 1008
- ^{xvii} 2012 IVAD (Delhi) 641, WP (C) 8889/2011

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