

Right to Information (RTI)



This booklet provides an insight into the Right to Information Act substantiated by relevant Case Studies and Illustrations.

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Introduction

The Right to Information (RTI) Act, 2005, is a revolutionary tool meant to empower people and enable common public to participate in the decision-making process by providing them access to information held under the control of public authorities, including any information where public money is involved. The Act that came into effect from October 2005 seeks to change the administrative ethos and culture of secrecy in the country and aims to evolve a new work culture that promotes transparency and accountability in Government functioning.

A law of this nature has been long overdue in India. Right to Information, as a law, was first introduced in Sweden in 1776. Since then, many democracies all over the world have enacted similar laws. However, in India, a continuing legacy of colonial times has given the bureaucracy a pervasive culture of secrecy and aloofness. Although democratic framework demands transparency, backed by the colonial law, The Official Secrets Act, 1923, secrecy has been the byword of Indian bureaucracy and has acted as a barrier towards transparent and accountable governance. RTI aims to alter feudal mindset and allow democracy to function effectively.

RTI can work as an antidote to corruption and high handedness and the arbitrary use of power. It is people's money collected through various taxes that are used for public utilities and, in a democracy, every citizen has the right to know how the tax payers' money is being used. By providing access to this information, RTI, therefore, puts a check on the unbridled authority of the State and makes the Government – at every level – accountable to the people.

All public authorities and bodies under the Constitution of India or

any other law that includes authorities under the Central Government, State Government and Local bodies come under the scope of the RTI Act. Non-Governmental Organisations that are substantially financed, directly or indirectly, by public funds also come under the ambit of this Act.

Under this Act, an independent commission, similar to the Election Commission is created. The appointment of the Central Information Commissioner is made by the President of India upon the recommendation of a committee consisting of the Prime Minister, the Leader of Opposition, a Lok Sabha member and a union cabinet minister nominated by the Prime Minister. There is also provision for Information Commissioner for States. As per this Act, the annual report of the Information Commission has to be tabled in the Parliament explaining the number of requests made to public authorities, decisions, appeals, pending cases and reason for not furnishing information.

The Act directs every public authority to provide public information that are not exempted from disclosure. Public authorities have to maintain records duly catalogued and indexed, in a manner and form so as to facilitate access to information by the citizens. As per the provisions of this Act, it is the duty of the person concerned to furnish the information at the appropriate time in an appropriate manner. Even Cabinet Papers, after a decision has been taken, must be divulged. During the discussion on this act in the Lok Sabha, one of the Member of Parliament, Mr. Varkala Radhakrishnan said, "Furnishing of information must not be delayed. Information delayed is injustice, as justice delayed is justice denied". According to this Act, in the normal course, the information sought has to be provided within thirty days of the receipt of the request. In case the application gets rejected, any Indian citizen can ask the reason or criteria upon which his application was rejected. An activist can seek a piece of information on how much

money was spent on a particular project of Government.

Civil Society and Right to Information

RTI is a weapon in the hands of Civil Society. RTI empowers the civil society with the Right to seek information and helps in:

- Enabling Good Governance
- Ensuring accountability and transparency
- Ensuring participation of public in governance
- Eliminating corruption and
- Empowering people

There are some exemptions in the RTI Act. The public, for example, is restricted from seeking information on defense and security.

Limitations

RTI has the potential to act as a beacon of public empowerment and encourage accountability and transparency in governance. However even the RTI Act has a few limitations that may need improvement in the future.

The committee that appoints the Central Information Commissioner is not an independent body. It consists of at least two members from the Government. This may work against transparency and may be dangerous to the real spirit of RTI.

In case of delay in providing information by the public authority, penal provisions of monetary fine is just not enough as provided in the Act.

The offending Information Officer or concerned public authority should be made liable to undergo other kinds of penalties.

As the next step forward Right to Information must be incorporated as a Fundamental Right under the Constitution of India.

As Prime Minister Dr. Manmohan Singh said, "It is often said that in modern society information is power. By sharing that information with the people at large, we are therefore, proposing decentralisation and participatory governance. It is revolutionary enactment that has placed huge powers in the hands of the ordinary citizen of the country to demand a transparent and accountable administration."

Frequently Asked Questions (FAQs)

1. When did the Right to Information Act come into force as a law?

The Right to Information Act received the assent of the President of India on 15th June 2005 and came into force on 12th October 2005. Some of the provisions came into effect immediately and the rest on the 120th day of its enactment. All provisions of the Act are currently in force.



2. What is the aim of this enactment?

RTI legitimises for all Indian citizens to access information under the control of public offices. It intends to promote transparency and



accountability in the working of every public authority, Central and State Government departments and agencies. The Act has directed the establishment of a Central Information Commission and State Information Commissions to deal with matters connected to the various provisions of the Act.



3. Where does the Act apply?

All states except Jammu and Kashmir are covered by the Act.

4. What does information mean?

Information under this act means any material (in any form) that includes records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, and models, which is in the charge of a public authority. Information related to any private body, which can be accessed by a public authority under the law, also comes under the scope of this enactment.

5. What does the Right to Information imply?

As per this Act all citizens of India have the right to access information held by or under the control of any public authority. It includes the right to:

- Inspect documents and records.
- Take notes, extracts or certified copies of documents, records or certified samples of materials.
- Obtain information in the form of diskettes, floppies, tapes, and videocassettes or in any other electronic mode or through printouts where such information is stored in a computer or in any other device.



6. Who is a public authority?

Public authority means any authority, body or institution established or constituted under the Constitution of India, any law passed by the Parliament of India and State Legislatures. Bodies owned, controlled or substantially financed and Non-Government Organisations substantially funded by the Government also come under the scope of public authorities.

7. What are the obligations of public authority?

The Act directs public authorities to publish and update the following information for free accessibility to the public:

- Particulars of organisation, functions and duties; powers and duties of its officers and employees; procedures and norms followed in the decision making process including channels of supervision and accountability.

- Rules, regulations, instructions, manuals and records held by it or under its control or used by its employees for discharging its functions.
- Statement of the categories of documents that are held by it or under its control.
- Particulars of any arrangement that exists for consultation with, or representation by, the members of the public in relation to the formulation of its policy or implementation.
- Statement of the boards, councils, committees and other bodies, consisting of two or more persons constituted as its part or for the purpose of its advice, and as to whether meetings of those boards, councils, committees and other bodies are open to the public, or the minutes of such meetings which are accessible for public.
- Directory of its officers and employees.
- Monthly remuneration received by each of the officers and employees, including the system of compensation as provided in the regulations
- Budget allocated to each of its agency, indicating the particulars of all plans, proposed expenditures and reports on disbursements made.
- Manner of execution of subsidy programmes, including the amounts allocated and the details of beneficiaries of such programmes.
- Particulars of recipients of concessions, permits or authorisations granted by it.

- Details in respect of the information available to the citizens for obtaining information, including the working hours of a library or reading room, if maintained for public use.
- Names, designations and other particulars of the Public Information Officers (PIOs).

The information should be disseminated widely and in such a manner that is easily accessible to the public. The dissemination of information may be through notice boards, newspapers, public announcements, media broadcasts, internet etc.

8. Who are Public Information Officers?

Every public office must designate Public Information Officers (PIOs) in all administrative units or offices. It should assign an officer at each sub-divisional level or sub-district level as assistant PIO to receive RTI applications which should be forwarded to concerned PIOs or officers in the Information Commission.

9. How can people obtain information?

Any Indian citizen can request by writing in English or Hindi or in the regional language directly or through electronic medium, specifying information required and submitting the prescribed fee to PIO or Assistant PIO. There is also provision to make the request orally in case a request cannot be made in writing. PIOs must assist persons making the request orally to convert the



same in writing. An applicant who is making a request for information should not be required to give any reason for requesting the information. The person also need not submit any other information except contact details.

10. What is the procedure and timeline for disposal of a request?

PIOs have to provide the information within thirty days of the receipt of the request, once all formalities for submission (format, fees, etc.) are met. If the information sought for concerns the life or the liberty of a person, the same should be provided within forty-eight hours of the receipt of the request. Five days shall be added to the above response time, in case the application for information is given to the Assistant Public Information Officer. If a third party is involved then the time limit will be 40 days.



If the request requires any further payment of fees, the PIO should intimate the concerned person with details of fees to be submitted in addition to fee submitted. No fees should be charged from the applicant who lives below the poverty line. The period intervening between the despatch of the request and the payment of fees should be excluded for the purpose of calculating the period of thirty days.

In case the person to whom access is to be provided is sensorily

disabled, the PIO should provide assistance to enable access to the information and assistance to inspect the records in case required.

In case of rejection of a request, an Information Officer should communicate to the applicant substantiating the reasons for the rejection, the period within which an appeal against such rejection may be done and the particulars of the appellate authority. If the concerned PIO fails to make a decision on a request for information within the specified time, it should be deemed that the request has been refused.

11. What are the possible grounds for rejection of an application?

Application seeking information which:

- Would prejudicially affect the sovereignty and integrity of India, the security, strategic, scientific or economic interests, relation with a Foreign State or which may lead to incitement of an offence.
- Is forbidden to be published by any court of law or tribunal, disclosure of which may lead to the contempt of court.
- Can cause breach of privileges of the Parliament or the State Legislature.
- Requires commercial confidence and protection like trade secrets or intellectual property and the information of which would harm the competitive position of a third party.
- A person in his fiduciary relationship, unless the competent authority is satisfied that the larger public interest permit the

disclosure of such information.

- Is received in confidence from Foreign Governments.
- Will endanger the life or physical safety of any person or identify the source of information or assistance given in confidence for law enforcement or personal protection.



- Hampers the process of investigation or apprehension or prosecution of offenders.
- Includes records of deliberations of the Cabinet, Council of Ministers, Secretaries and other officers.
- Relates to personal information, the disclosure of which has no relationship to any public activity or interest or which would cause unjustifiable invasion of the privacy of the individual unless the PIO or the appellate authority, as the case may be, is satisfied that the larger public interest justifies the disclosure of such information.
- Pertains to the infringement of copyright of a person other than the State.

Any information, which is not denied to the Parliament or the State Legislature, should not be denied to any person.

12. Is partial disclosure of information allowed?

Yes. Access can be provided to that part of a record which is not exempted from disclosure. This part of information may be severed from any part that contains exempt information.

13. What is meant by third party information?

Information that relates to or is supplied by a third party and has been considered as confidential by that third party is considered as third party information. In case of receipt of request for such information, the PIO should provide an opportunity of representation to the third party.

The PIO (Public Information Officer), within five days from the receipt of request for such information, gives a written notice to the third party to make a submission regarding whether the information should be disclosed. On the basis of the facts of the submission of the third party, the PIO should take a decision about disclosure. The third party should be provided ten days to respond and all procedures should be completed within forty days after receipt of the request.

14. What are the duties of the Information Commission?

The duty of the Information Commission should be to receive and inquire into a complaint from a person, who.

- is unable to submit a request to a PIO (Public Information Officer)
- has been refused the application or appeal
- has not been given a response to the request

- has been asked to pay an unreasonable fee
- has been given incomplete, misleading or false information as per the opinion of the applicant

The Information Commission can initiate an inquiry upon a request and the officers of the Commission are vested with powers of the Civil Court under the Code of Civil Procedure 1908 to take action. The Information Commission prepares an annual report on the implementation of the provisions of the Act and has to present a copy to the Government and for public use.

15. Can one appeal against the decision of the public information officer?

Any person who does not receive a decision within the time specified (thirty days and forty days in cases where third party is involved) or is aggrieved by a decision of the PIO, can appeal to a senior ranked PIO. A second appeal against the decision of first appeal may be



referred to the Information Commission.

16. Can any penalty be imposed to Public Information Officer for omission of duty?

Information Commission can impose penalty of Rs.250/- per day till information is furnished, if the time taken is more than thirty or forty days, whichever is applicable.

Penalty can be imposed on the following:

- Refusal to receive application
- Delaying the requested information within the specified time
- Malafide intent in providing incorrect, incomplete or misleading information
- Destruction of information or evidence
- Obstructing in furnishing information

The total amount of penalty shall not exceed Rs. 25,000 on a PIO (Public Information Officer).

Annex A

Sample Letter for Seeking Information Under RTI

To	From
Public Information Officer	Vivek K. Velankar
Pune Municipal Corporation	"Meghana"
Pune	Sunita Society, Erandawane
	Pune 411004

Subject: Information under "Right of Information Act 2005"

Respected Sir,

Kindly provide me the necessary and required information as requested below:

1. Full Name of the Applicant : Mr.Vivek Krishnaji Velankar
2. Address : "Meghana" ; Sunita Society, Earandawane ; Pune 411004
3. Particulars Of Information required:
 1. Subject matter of information - Correspondence between BSNL & PMC; MSEDCL & PMC on duct design and duct construction on IRDP Roads
 2. Period to which information relates - From 12.12.04 until 01.09.2007

3. Description of information required - Please furnish the following information:

Under the IRDP scheme, where would all the utilities including BSNL & MSEDCL lay their cables at the side of the road? On this issue please provide me the following information:

- Were BSNL & MSEDCL consulted while designing ducts for their cables on all roads under IRDP? If yes, please provide me copies of minutes of meeting held between PMC, MSEDCL & BSNL on this.
- Please provide me copies of all correspondence between PMC & BSNL, PMC & MSEDCL on the issue of design, construction and maintenance of these ducts on all roads under IRDP (including the complaints / suggestions).

4. Below Poverty Line: No

5. I will personally collect the information.

Place : Pune

Date : 03.09.07

(Vivek Velankar)

Annex B

Case Studies: How RTI Works

A Right to Information application compelled Guru Teg Bahadur Hospital in New Delhi to provide free treatment to an old woman who could not afford her surgery. Her son Ali alleged that the hospital had earlier sought medicines worth Rs.30,000 for the operation. Ali filed a Right to Information application asking details of drug stocks and bills. Armed with this information, Ali approached the Delhi High Court. In the court, the hospital pledged to operate Ali's mother free of cost.

While people lost their lives fighting a similar battle in other State's, the Special Economic Zones (SEZs) Virodhi Manch and Goa Bachao Abhiyan in Goa used Right to Information and obtained crucial documents to launch a successful battle against SEZ. For the first time a central policy was reversed and eight SEZ proposals in Goa were scrapped by the inter-ministerial Board of Approvals.

About 300 Right to Information applications filed by Burning Brain Society about the implementation and enforcement of tobacco control laws and the name of the person responsible for non-implementation made Chandigarh the first smoke-free city not only in India but also in any developing country.

Krishak Mukti Sangram Samiti in Assam used Right to Information to expose diversion of food grains from PDS allotted to the poor. While the Assam Government instituted a departmental probe on the basis of the KMSS charges, the Central Food and Public

Distribution Department too has called for a report from the Assam Government on the matter.

Using RTI to fight for their rights, women in a small village, Banakhandi, in West Bengal filed 108 Right to Information applications to force the district administration work on supply of drinking water.

About IGSSS

IGSSS is a development support organization striving to make a difference in the lives of the vulnerable and the backward through the establishment of meaningful partnerships with grassroots NGOs and communities.

IGSSS is registered under the Societies Registration Act, Foreign Contribution Regulation Act and income Tax Act.

Our Vision and Mission

To strive for the creation of a society where power, resources and the fruits of development are shared by all, to provide platform to the marginalized and the underprivileged to build their lives, tap, channelize and anchor the immense human potential and cultivate a humane and equitable society.



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