



INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS

Open Access, Refereed Journal Multi Disciplinary
Peer Reviewed Edition :

www.ijlra.com

DISCLAIMER

No part of this publication may be reproduced or copied in any form by any means without prior written permission of Managing Editor of IJLRA. The views expressed in this publication are purely personal opinions of the authors and do not reflect the views of the Editorial Team of IJLRA.

Though every effort has been made to ensure that the information in Volume 2 Issue 7 is accurate and appropriately cited/referenced, neither the Editorial Board nor IJLRA shall be held liable or responsible in any manner whatsoever for any consequences for any action taken by anyone on the basis of information in the Journal.

Copyright © International Journal for Legal Research & Analysis

IJLRA

EDITORIAL TEAM

EDITORS

Megha Middha



Megha Middha, Assistant Professor of Law in Mody University of Science and Technology, Lakshmangarh, Sikar

Megha Middha, is working as an Assistant Professor of Law in Mody University of Science and Technology, Lakshmangarh, Sikar (Rajasthan). She has an experience in the teaching of almost 3 years. She has completed her graduation in BBA LL.B (H) from Amity University, Rajasthan (Gold Medalist) and did her post-graduation (LL.M in Business Laws) from NLSIU, Bengaluru. Currently, she is enrolled in a Ph.D. course in the Department of Law at Mohanlal Sukhadia University, Udaipur (Rajasthan). She wishes to excel in academics and research and contribute as much as she can to society. Through her interactions with the students, she tries to inculcate a sense of deep thinking power in her students and enlighten and guide them to the fact how they can bring a change to the society

Dr. Samrat Datta

Dr. Samrat Datta Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Samrat Datta is currently associated with Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Datta has completed his graduation i.e., B.A.LL.B. from Law College Dehradun, Hemvati Nandan Bahuguna Garhwal University, Srinagar, Uttarakhand. He is an alumnus of KIIT University, Bhubaneswar where he pursued his post-graduation (LL.M.) in Criminal Law and subsequently completed his Ph.D. in Police Law and Information Technology from the Pacific Academy of Higher Education and Research University, Udaipur in 2020. His area of interest and research is Criminal and Police Law. Dr. Datta has a teaching experience of 7 years in various law schools across North India and has held administrative positions like Academic Coordinator, Centre Superintendent for Examinations, Deputy Controller of Examinations, Member of the Proctorial Board



Dr. Namita Jain



Head & Associate Professor

School of Law, JECRC University, Jaipur Ph.D. (Commercial Law) LL.M., UGC -NET Post Graduation Diploma in Taxation law and Practice, Bachelor of Commerce.

Teaching Experience: 12 years, AWARDS AND RECOGNITION of Dr. Namita Jain are - ICF Global Excellence Award 2020 in the category of educationalist by I Can Foundation, India. India Women Empowerment Award in the category of "Emerging Excellence in Academics by Prime Time & Utkrisht Bharat Foundation, New Delhi.(2020). Conferred in FL Book of Top 21 Record Holders in the category of education by Fashion Lifestyle Magazine, New Delhi. (2020). Certificate of Appreciation for organizing and managing the Professional Development Training Program on IPR in Collaboration with Trade Innovations Services, Jaipur on March 14th, 2019

Mrs.S.Kalpana

Assistant professor of Law

Mrs.S.Kalpana, presently Assistant professor of Law, VelTech Rangarajan Dr. Sagunthala R & D Institute of Science and Technology, Avadi. Formerly Assistant professor of Law, Vels University in the year 2019 to 2020, Worked as Guest Faculty, Chennai Dr.Ambedkar Law College, Pudupakkam. Published one book. Published 8 Articles in various reputed Law Journals. Conducted 1 Moot court competition and participated in nearly 80 National and International seminars and webinars conducted on various subjects of Law. Did ML in Criminal Law and Criminal Justice Administration. 10 paper presentations in various National and International seminars. Attended more than 10 FDP programs. Ph.D. in Law pursuing.



Avinash Kumar



Avinash Kumar has completed his Ph.D. in International Investment Law from the Dept. of Law & Governance, Central University of South Bihar. His research work is on "International Investment Agreement and State's right to regulate Foreign Investment." He qualified UGC-NET and has been selected for the prestigious ICSSR Doctoral Fellowship. He is an alumnus of the Faculty of Law, University of Delhi. Formerly he has been elected as Students Union President of Law Centre-1, University of Delhi. Moreover, he completed his LL.M. from the University of Delhi (2014-16), dissertation on "Cross-border Merger & Acquisition"; LL.B. from the University of Delhi (2011-14), and B.A. (Hons.) from Maharaja Agrasen College, University of Delhi. He has also obtained P.G. Diploma in IPR from the Indian Society of International Law, New Delhi. He has qualified UGC - NET examination and has been awarded ICSSR - Doctoral Fellowship. He has published six-plus articles and presented 9 plus papers in national and international seminars/conferences. He participated in several workshops on research methodology and teaching and learning.

ABOUT US

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS
ISSN

2582-6433 is an Online Journal is Monthly, Peer Review, Academic Journal, Published online, that seeks to provide an interactive platform for the publication of Short Articles, Long Articles, Book Review, Case Comments, Research Papers, Essay in the field of Law & Multidisciplinary issue. Our aim is to upgrade the level of interaction and discourse about contemporary issues of law. We are eager to become a highly cited academic publication, through quality contributions from students, academics, professionals from the industry, the bar and the bench. INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS ISSN 2582-6433 welcomes contributions from all legal branches, as long as the work is original, unpublished and is in consonance with the submission guidelines.

TRANSPARENCY AND ACCOUNTABILITY: THE IMPACT OF RTI ON GOVERNANCE

Authored By - Prachi Jaiswal

INTRODUCTION

The culture of official secrecy has been one of the strongest living aspects of our colonial legacy. Representing that culture the Official Secrets Act restricted the dissemination of most information held by public bodies¹. The Right to Information Act ushers in a change, since with the passage of this Act “to provide information” tends to be a rule and “to maintain secrecy” is an exception². It is a historic Act in the annals of democracy in India and it came into force on 12 October, 2005.³

In contemporary democracies, citizens are entitled to information about the activities of the government that they elected as well as information about the welfare-oriented policies that the government has developed. The presence of knowledgeable and educated individuals is a crucial component of a robust democratic structure. Information gives individuals power because it broadens their awareness, improves the clarity of their thoughts, and empowers them. As a result, the right to information is acknowledged across a democracy and is a right that derives from the idea of democracy itself. Every citizen must have the right to access information in order to promote transparency, accountability, and openness⁴. The Preamble to the RTI Act states, “An Act to provide for setting out the practical regime of right to information for citizens to secure access to information under the control of public authorities, to promote transparency and accountability in the working of every public authority.”

This act has been one of the most important developments in our democracy, and it has contributed to greater transparency while also boosting public participation, both of which were encouraged by the Supreme Court in the case of *Dinesh Trivedi v. Union of India*⁵, 1997. The Supreme Court in a case held that the “right to freedom of speech and expression” includes the

¹ The Handbook for Trainers, The Right to Information Act, www.rti.org.in (last visited on 23 March, 2023)

² Varsha Khanwalker, The Right To Information Act In India: Its Connotations And Implementation, Indian Political Science Association

³ *Id.*,

⁴ *Id.*,

⁵ *Dinesh Trivedi v Union of India* (1997) 4 SCC 306

“right to receive and impart information”.⁶ It is an essential element of the freedom of speech and expression protected by Article 19 of our Constitution. Due to certain governmental institutions refusal to give information required by the act and their use of legal loopholes to avoid doing so, this crucial law has lately come under fire. In order to make sure the legislation fulfil the intended objective, its impact and flaws must be examined.

RESEARCH QUESTIONS

1. Why do we need the right to information laws?
2. What are the constraints faced by citizen in filling RTI applications?
3. What is the impact of RTI on economy and government institutions?

IMPORTANCE OF RTI

The Right to Information Act's primary goals are to strengthen citizen participation in the democratic process and empower them, ensure transparency and accountability in government operations, and combat corruption. According to Soli Sorabji “Lack of transparency was one of the main causes of all pervading corruption and Right to Information would lead to openness, accountability and integrity⁷”. In *Maneka Gandhi v Union of India*⁸, Justice Krishna Iyer said, “a government which functions in secrecy, not only acts against democratic decency, but also buries itself with its own burial”. The RTI Act, when used effectively, not only allays the concerns of the general public but also establishes the duties of the public authorities. It encourages a culture of obligation and fosters an environment of responsibility and openness. Today's government must be accountable, focused on the needs of the public, and committed to empowering the underprivileged. People are more likely to engage in government and contribute significantly to the development of a country if they are satisfied and have trust in it. Growth is achievable in all realms—be it social, economic, intellectual, moral, or administrative—with the active engagement of individuals. It is necessary to have knowledge and information since wild rumors about topics of public concerns are spread when there is a shortage of reliable information.

⁶ Nancy Roberts and Alasdair Roberts, ‘A Great and Revolutionary Law? The First Four Years of India's Right to Information Act’, *Public Administration Review* (2010)

⁷ Varsha Khanwalker, *The Right To Information Act In India: Its Connotations And Implementation*

⁸ *Maneka Gandhi v. Union of India*, AIR 1978 SC 597

Earlier when there was no such law for getting information from public authority as a right, then people used to rely on two sources- investigative journalism and whistleblowing against illegal and corrupt practices of the public authorities within the government⁹. It made it harder for anyone to find any illegal activities because it increased the danger for such upright people. This danger has significantly decreased since the RTI Act was passed since it gives any person the ability to contact public authorities and make the requests that are outlined in the Act. The Act also “exempts granting information where it would disproportionately divert the resources of the public authority or would be detrimental to the safety and preservation of the record¹⁰”. Every citizen and organization inside a nation has a stake in the regime of right to information. The RTI Act was passed with the intention of creating an operational mechanism for citizens to access information held by public authorities. The Act's scope of application is quite broad, including every aspect of government. It covers all governmental bodies and institution that receive substantial financial grants in addition to the Union, State, and Local Governments. There can be no government by the people if they are ignorant of the issues to be resolved, the argument for and against different solutions and the facts underlying those arguments¹¹. Governmental tax revenue is a matter of public ownership. They are entitled to information about how their government operates and how their money is being used. Public participation should be encouraged in all aspects of the government work. It is important to make the truth known to the citizens.

CHALLENGES RELATED TO RTI ACT

There are numerous confusing clauses in RTI, several organizations have argued they are not required to share information under RTI. The major ambiguous provision of defining public authority, although under RTI public authorities are those which are established by Act of parliament or legislature or those institutions which are financially aided by state or union Government¹².

The primary problem is with India's private universities. The majority of private institutions assert that they do not provide information about their operations since the state does not financially

⁹ Amar Kumar Roy, "Right to Information Act, 2005: A Response to Privileged Class Deviance," International Journal of Law Management & Humanities 5 (2022)

¹⁰ Section 7 of RTI Act, 2005

¹¹ M.M. Semwal and Sunil Khosla, RIGHT TO INFORMATION AND THE JUDICIARY, Public Administration Review (2010)

¹² Shriram Patel, "Critical Study of Right to Information Act 2005", International Journal of Law Management & Humanities 5 (2022)

support them. The unexpected fact is that 80% of private institutions do not have an RTI cell or have not yet hired their first information officer. Due to the fact that all private universities were founded by the passage of a state or legislative Act, they all come under the definition of “public authorities” under RTI. Although, the university grants commission has instructed all private universities to develop and disseminate information most private colleges lack a public information officer. The second major challenge to RTI relates to biases caused by the First Appellate officer because the first appellate officer rejects the appeal against the public information officer in 60% of cases due to departmentally favour¹³. In many situations quick information may be required but under the RTI Act information cannot be disseminated prior to the 30-day deadline which is a significant problem and obstacle.

In accordance with Section 26 of the RTI Act, the federal government is required to create and disseminate user manuals for information seekers within 18 months after the Act's adoption. However, this requirement has not been met. Many individuals called attention to the fact that many departments had not published the same. The most common method of application submission is through the PIO's office, thus it is essential to have suitable signage that includes the office's address and hours of operation. However, a significant portion of respondents claimed that there are no signboards present, while a small proportion claimed that there are signs there but they provide inadequate information. One explanation for the repeated trips to the PIO office to submit an RTI application might be the absence of sufficient signs and information about the PIO's availability.

THE IMPACT OF RTI

RTI has compelled the government to provide all of the details of its operations and expenses. Due to the public bodies' inability to maintain an opaque perspective, the RTI had exposed some of the biggest frauds.

The 2G scam is one of the largest frauds the nation has ever experienced. A number of telecom firms were allegedly abusing their strong connections to ministers and government figures to get favorable terms and gain advantages. The scandal had a value of close to 1.76 lakh crore rupees,

¹³ *Id.*,

according to the Indian CAG¹⁴. The main catalyst for this scam's revelation was yet another RTI submitted by activist Subhash Chandra Agrawal in 2011. In the year 2010 Commonwealth Games scam came into limelight. Suresh Kalmadi, the then-chairman of the organizing committee, hired businesses who overestimated their costs while excluding those that did so for unclear reasons. This fraud caused the nation not only severe financial losses but also worldwide shame and disgrace. The Commonwealth Games were also given money that was intended for Dalit welfare programs. This information was revealed by an RTI filed by an NPO- Housing and Land Rights Network¹⁵ RTI is the instrument that demonstrated to the public how the so-called guardians of the law violate the same legislation and take use of it. The most significant influence was played by activism, which also exposed the tactics used in similar scandals. The RTI played a major role in exposing the "corrupt network of politicians, bureaucrats, and military officials" that was exploiting the resources for personal benefits¹⁶.

This Act not only revealed massive frauds that had shaken the nation's economy, but it also had a big influence on governmental institutions and other public-interest government projects. The foundation of the Indian financial system is the RBI. It oversees and supervises banks across the nation and makes sure they don't engage in unethical behavior. The Supreme Court had directed the RBI in the case of Reserve Bank of India v. Jayantilal Mistry, to be transparent and not withhold information that might damage the image of certain individual banks¹⁷. The RBI was given instructions in this instance to be open and not conceal information that would harm the reputation of certain specific banks. The Indian banks sought to stop the RBI from making public the yearly inspection reports and default lists. They submitted a review petition, which the Supreme Court denied, arguing that the RBI was required by the RTI Act to divulge such information. In one of the RTIs, the bank disclosed that in the year 2018, there were around 23,000 fraud instances with a total estimated value of close to 1 lakh crore¹⁸. An motion to overturn the Supreme Court's 2015 ruling, which ordered the RBI to make its yearly inspection reports and a list of loan defaulters available to the public under the RTI Act was submitted. The Supreme Court, however, turned down this request for a reconsideration of the decision made in the Jayantilal

¹⁴ Suraj Agarwal & Aradhya Kumari, Economic Impact of Right to Information Act, 2005 1 Jus Corpus LJ 228 (2021)

¹⁵ <https://www.latestlaws.com/articles/impact-of-rti-on-corruption-in-india-a-critical-analysis> (last visited on 24 March,2023 at 22:10)

¹⁶ *Id.*,

¹⁷ Suraj Agarwal & Aradhya Kumari, 'Economic Impact of Right to Information Act, 2005' (2021) 1 Jus Corpus LJ 228

¹⁸ *Id.*,

Case. In this way, the court ensured that the banking institutions must be accountable to the citizens so as not to mislead them and keep their faith in the system¹⁹.

The retirees frequently had hardships due to delays in their pension payments, which made it difficult for them to maintain their standard of living. However, since the RTI act has been implemented, people may now ask the authorities to provide an explanation for the delay. The government is now held to a higher standard of accountability, making it more difficult for them to withhold payments without good cause. The Central Information Commission made a ruling in 2018 that stated: “The payment of pension cannot be withheld for absence of an Aadhaar Card.” To support its stance, it cited the Supreme Court's ruling in the case of K.S. Puttaswamy v. Union of India²⁰. It was decided by the courts in this case that, “production of an Aadhaar card will not be the condition for obtaining any benefits otherwise due to a citizen.” This case is significant because the CIC utilized it to reverse the judgment in favor of the pensioners when they submitted an RTI to explain why their pension was delayed. It said, “It is a matter of life and living of 55 pensioners who were dependent upon the paltry amount of pension. Though it is a small amount even a day's delay in payment might disturb the routine life of all or some of them. That is why the information relating to payment pension to retired persons should be considered and categorized as the information concerning the life and should have been responded to within 48 hours”²¹. Such actions restore the hope of afflicted individuals in the system and provide them the rights they are entitled to. Therefore, the RTI has a tremendous influence on governmental institutions. It has made it easier for people to challenge the government and defend their rights by removing the contradictions in how they operate.

CONCLUSION

Justice Bhagwati once said, “disclosure of information concerning the functioning of the government must be the rule while secrecy, an exception”²². In granting individuals access to information that had previously been withheld from them, this legislation has been revolutionary. Additionally, the procedure has been simplified with the use of electronic applications, which has increased the number of submissions. By exposing fraud and other economic malpractices used

¹⁹ Raja Muzaffar Bhat, 'SC's refusal to recall its 2015 judgment against RBI will make banks accountable under RTI' (2021)

²⁰ K.S. Puttaswamy and Anr. vs. Union of India ((2017) 10 SCC 1)

²¹ Supra note 16

²² Twinkle Shaji, 'A Revolutionary Move: The Right to Information Act, 2005' (2021) 4 Int'l JL Mgmt & Human 2861

in governmental organizations, the act has contributed to social justice for countless individuals while also having a good economic impact. Additionally, it has improved the financial industry's accountability, which is important for the country's economic wellbeing. Nevertheless, despite all of its advantages, the legislation still has certain drawbacks. The courts should make sure that "public authorities" who try to circumvent the law face harsh penalties. The legislation should be broadened to encompass more institutions. This is significant because the government's privatization agenda may lead to the privatization of several public institutions, which would have a detrimental effect on the RTI Act. To maintain the act's effectiveness, there is a stringent requirement for reform as well as a permissive approach to its execution.

No matter how progressive or people oriented a law is it all boils down to appropriate execution of a law to make it worthwhile. The public's ability to utilize their rights to the fullest degree depends entirely on their knowledge of such rights and their scope. With information in the hands of the people, the government will be working in open light with the awareness that they are accountable for all their actions to the citizens they govern²³.

BIBLIOGRAPHY

JOURNAL ARTICLES

1. Suraj Agarwal & Aradhya Kumari, 'Economic Impact of Right to Information Act, 2005' (2021) 1 Jus Corpus LJ 228
2. Raja Muzaffar Bhat, 'SC's refusal to recall its 2015 judgment against RBI will make banks accountable under RTI'
3. Shriram Patel, "Critical Study of Right to Information Act 2005," International Journal of Law Management & Humanities 5 (2022): 2157-2159
4. THE RIGHT TO INFORMATION ACT IN INDIA: ITS CONNOTATIONS AND IMPLEMENTATION Author(s): Varsha Khanwalker
5. Twinkle Shaji, 'A Revolutionary Move: The Right to Information Act, 2005' (2021) 4 Int'l JL Mgmt & Human 2861
6. THE RIGHT TO INFORMATION ACT IN INDIA: ITS CONNOTATIONS AND IMPLEMENTATION Author(s): Varsha Khanwalker

²³ Id.,

7. Amar Kumar Roy, "Right to Information Act, 2005: A Response to Privileged Class Deviance," *International Journal of Law Management & Humanities* 5 (2022)
8. Varsha Khanwalker, *THE RIGHT TO INFORMATION ACT IN INDIA: ITS CONNOTATIONS AND IMPLEMENTATION*, Indian Political Science Association

CASES

1. K.S. Puttaswamy and Anr. vs. Union of India ((2017) 10 SCC 1)
2. Maneka Gandhi v. Union of India, AIR 1978 SC 597

WEBSITES

1. <https://www.latestlaws.com/articles/impact-of-rti-on-corruption-in-india-a-critical-analysis> (last visited on 24 March,2023 at 22:10)
2. The Right to Information Act, www.rti.org.in (last visited on 23 March,2023 at 21:54)

