

# LEGISLATIVE PROVISIONS ON RIGHT TO INFORMATION IN INDIA

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## Abstract

*The purpose of the paper is to highlight the conceptual framework of Right to Information in India, its role in improving social, economical, political and cultural development and the problems associated with the industrialization. In this paper an attempt is also made to discuss the various constraint and limitations of Right to Information in India. The findings of the paper will help the planners to frame an exact and benefiting policy for legislative provisions on right to information in India.*

**Keywords:** Right to Information, Freedom Of Information Act, The Right To Information Act, 2005.

## INTRODUCTION

Freedom of speech and expression guaranteed by the Constitution of India, have been liberally construed by the Supreme Court of India from its inception of the right to life, liberty and equality. The right of freedom of speech and expression embraces within its scope the freedom of propagation, interchange of ideas and dissemination of information which would aid the citizen's understanding regarding working of their Government and its various organs in a democracy. The importance which the framers of our Constitution attached to this freedom is evident from the fact that restrictions could be placed on that right by law only on the limited grounds specified in Article 19 (2). Though on the one hand judiciary has treated the right to information under the concept of freedom of speech and expression but on the other hand, transparency that is the very basic ingredient of any democracy should be shown in the functioning of the authorities. Manifestation of transparency lies in the right access information held by public authorities. Since the concept of democracy emanates as the system of the people, meant for the people and governed by the people. So the access of the people to the public records was crying a need. Now the seed of the freedom of information has been planted but it requires careful nurturing by legislature and affective implementation by executive. The belief that access to information is a human right reflected in "Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media regardless of frontiers.

The right of citizen's access to information is an important means of achieving an accountable, transparent and participatory Government. In the current era of information, the significance of authentic, genuine and updated information is a significant factor as in the absence of such information socio-cultural, economic and political development is badly affected. In a fast developing country like India, accessibility of information wishes to be guaranteed in the simplest and greatest possible form. This is very significant because every progressive procedure of a democratic country depends on the availability of proper information. In order to achieve the above mentioned provisions of a democratic country the right to information Act, 2005 was passed. An in depth analysis of this Act is much essential in order to facilitate the common people to have a comprehensible understanding of such an empowering piece of legislation that has been premeditated to have a far reaching impact on the whole governance of the country.

## THE FREEDOM OF INFORMATION ACT, 2002

The freedom of information Act, 2002, was enacted by the government of India to provide for freedom to every citizen to secure access to information under the control of public authorities, consistent with public interest, in order to promote openness, transparency and accountability in administration and in relation to matters connected therewith or incidental thereto. The statement of objects and reasons appended to the freedom of information Act, 2002 laid down that the freedom of information bill sought to achieve the following objects:

- 1) The need to enact a law on right to information was recognized unanimously by the chief minister's conference on 'effective and responsive government' held on 24th May, 1997, New Delhi. In its 38th report relating to demand for grants of the ministry of personnel, public grievances and pension, the parliamentary standing committee on home affairs recommended that the government should take measures for the enactment of such legislation.
- 2) In order to make the government more transparent and accountable to the public, the government of India appointed a Working Group on the right to information and promotion of open and transparent government under the chairmanship of H.D. Shourie. The working group was asked to examine the feasibility and need for either full-fledged right to information

Act or its introduction in a phased manner to meet the needs of open and responsive governance and also to examine the framework of rules with reference to the civil services (conduct) rules and manual of office procedure. The said working group submitted its report in May 1997 along with a draft freedom of information bill to the government. The working group also recommended suitable amendments to the civil services (conduct) rules and manual of departmental security instructions with a view to bring them in harmony with the proposed Bill.

- 3) The draft bill submitted by the working group was subsequently deliberated by the group of ministers constituted by the central government to ensure that free flow of information was available to the public, while *inter alia*, protecting the national interest, sovereignty and integrity of India, and friendly relations with foreign States.
- 4) The proposed bill is in accordance with both - Article 19 of the Constitution as well as Article 19 of the Universal Declaration of Human Rights, 1948.
- 5) In our present democracy, the civil services (conduct) rules and manual of office procedure frame work, free flow of information for the citizens and non-government institutions suffer from several bottlenecks including the existing legal framework, lack of infrastructure at the grass root levels and an attitude of secrecy within the civil service as a result of the old framework of rules. The government proposes to deal with all these aspects in a phased manner so that the freedom of information Act becomes a reality consistent with the objective of having a stable, honest, transparent and efficient government.
- 6) The proposed bill will enable the citizens to have an access to information on the statutory basis. With a view to further this objective, clause 3 of the proposed Bill specifies that subject to the provisions of this Act, every citizen shall have right to freedom of information. Obligation is cast upon every public authority under clause 4 to provide information and to maintain all records consistent with its operational requirements duly catalogued, indexed and published at such intervals as may be prescribed by the appropriate government or the competent authority.

However, with the passage of time, it was found that even this Act did not fulfill the aspiration of the citizens of India. In order to ensure greater and more effective access to information, it was thought that the Freedom of Information Act, 2002 must be made more progressive, participatory and meaningful. In view of the significant changes proposed in the existing Act, the government decided to repeal the freedom of information Act and in the proposed legislation to provide an effective framework for effectuating the right to information. Thus the right to information Act, 2005 which came into force in India is regarded as a milestone in the history of social legislation to impart information to citizens of India regarding working of the government and its corporations, etc., to make them more transparent as a result of which corruption, if not eliminated at all, would be checked to a greater extent.

## THE RIGHT TO INFORMATION ACT, 2005

### Objective of the Act

In order to ensure greater and more effective access to information, common people of the country have a fundamental right to know what is being done by their government in its own name. In any democratic country freedom of speech and free flow of information is considered as the lifeblood and safety valve that is also necessary for political growth as well as to checks the abuses of power held by public authorities. The present Act is to harmonize the conflicting public interests, that is, ensuring transparency to bring in accountability and containing corruption on the one hand, and at the same time ensure that the revelation of information, in actual practice, does not harm or adversely affect other public interests which include efficient functioning of the government.

### Title and Scheme of the Act

The title of any Act is considered a part and parcel of that Act and the title of the current RTI Act without any doubt worded and lays down that it purely relates to the right to information. The title of any statute being an important part of that Act may be referred to for ascertaining the purposes, general scope and for throwing the light on its structure while it cannot override the clear meaning of the enactment. The title of any chapter cannot be justifiably used in order to restrict the plain provisions of any enactment. The true and clear sense of any law has, therefore, to be determined not only on the label given to in any specific statute but on its substance.

The Act is containing six chapters and two schedules.

Chapter I: Preliminary (section 1-2).

Chapter II: Right To Information and Obligations of Public Authorities  
(section 3-11).

Chapter III: The Central Information Commission (section 12-14).

Chapter IV: The State Information Commission (section 15-17).

Chapter V: Power and Functions of the Commissions, Appeals and Penalties  
(section 18-20).

Chapter VI: Miscellaneous (section 21-31).

**Chapter I** is the preliminary chapter that deals with the preliminary aspects, definitions, scope and extent of the Act. According to which this Act is to be applicable to whole of India except the state of Jammu and Kashmir and some of the provisions came into force immediately and rest after one hundred and twenty days of its enactment. "Information" means any material in any form, including models, samples, papers, reports, contracts, logbooks, orders, circulars, press releases, advises, opinions, e-mails, memos, documents, records, data material held in any electronic form and information relating to any private body which can be accessed by a public authority under any other law for the time being in force.

**Chapter II** of the Act deals with the right to information and obligations of public authorities which provides that all citizens subject to the provision of this Act shall have the right to information. The important thing is here the use of the word "all citizens" and not the all persons. Firstly the word person include natural as well as artificial person and this right is available to the natural individual only and secondly the right to information is conferred or available only to all the citizens of the country and not to all the people of the world visiting India. Simultaneously this chapter provides the obligation of the public authorities, designation of the public information officer, request made for seeking any information, disposal of such request, exemption or grounds for rejection of such application and third party information.

**Chapter III** of the Act deals with the Central Information Commission wherein constitution of the Central Information Commission, terms of office and conditions of service as well as the procedure for the removal of the Chief Information Commissioner or the Central Information Commissioner are laid down.

**Chapter IV** of the Act deals with the likewise chapter IV the State Information Commission wherein this chapter deals constitution of the State Information Commission, terms of office and conditions of service as well as the procedure for the removal of the Chief Information Commissioner or the State Information Commissioner.

**Chapter V** of the Act deals with the powers and functions of the Information Commission, the procedure for appeal against the order of the State Public Information Officer or the Central Public Information Officer as the case may be and the penalties for refusing to receive an application for information without any reasonable cause etc. etc.

**Chapter VI** of the Act deals with the miscellaneous provision wherein it deals with the protection of action taken in good faith, Act to have overriding effect, the jurisdiction of any courts is barred in order to entertain any suit, application as well as any other proceedings in respect of any order made under this Act, this Act shall not be applicable to certain organizations specified in the Second Schedule, monitoring and reporting of the implementation of the provisions of this Act, appropriate government may subject to the availability of finances or other resources prepare the programmes, power to make rules by appropriate government as well as by competent authority, laying the rules before the parliament, empowering the Central Government to remove difficulties and to repeal the Freedom of Information Act, 2002.

### 3.3.3 Salient Features

In Dec, 2004 the bill of right to information was introduced in the Lok Sabha that has been passed by both Houses of Parliament with major amendments in May, 2005, received the assent of the President on 15<sup>th</sup> June 2005 and the Act was notified in the Gazette of India on 21<sup>st</sup> June, 2005 and came into force on 12<sup>th</sup> Oct, 2005. This Act basically has two parts (a) Substantive law; section 3 coupled with sections 8, 9, 18, 19 and 20 deal with substantive law (b) Procedural law, section 6 along with section 7 deal with procedural law. Thus the present Act is a completed code in itself and contains the following features:

- i. The object of present Act is to promote the transparency, openness and accountability in the functioning of every public authority and simultaneously to strengthen the democratic republic. Transparency of information and an informed citizenry are needed and required for any democratic country, simultaneously considered not only vital to its functioning and but also essential to stop the corruption and to hold the government and their instrumentalities accountable towards the common people. It was, therefore, considered convenient to provide the information to the citizens who desire to have it.
- ii. Section 2 of the current Act comprises the definition clause. It is a very well settled principle of the interpretation of statutes that whenever the definition clause is added to any Act, the definitions of the words given therein simply define the meaning of that words in order to make the terms specific in the sense in which that word are used in the different sections of the Act. If in any definition, the word 'means' is used, it indicates the exhaustive definition of the word and in case the word 'includes' is used, it indicates that it includes definite matters which an normal or common definition of the word might not have included. It is understandable and reasonable to presume that the meaning as expressed in the definition shall be used in the same sense in every part of the Act. The presumption that the same words are used in the same sense in all part of the Act is not proper if sufficient reasons can be shown in order to interpret that a word used in one part of any Act in different or another sense from that what it bears in another part of the same Act. The word shall use in any statute generally taken in a mandatory sense but not always necessary and in the same sense the word may generally take as permissible or directory sense but is it also not true that non-compliance with those provisions will not



render the proceedings invalid. Though the word may generally never mean must or shall but it is capable for being used in this sense also in the light of the context. Where the discretion is conferred upon any public authority (high status) coupled with an obligation, such word that denotes discretion should be construed to mean a command. The expressions used in the definition clause are made fixed, the precision and certainty in law also requires that it should not be made loose and should be kept tight as far as possible. It is not acceptable to give a wide meaning to any terms used in any statute simply because that statute does not define an expression.

- iii. Section 3 of the current RTI Act comprises that every citizen of India has been provided a right to information. This is indeed very necessary for promoting the transparency, openness and accountability in the working and functioning of every public authority. Without having adequate information relating to any matter, a citizen cannot form any conversant opinion. It is a very well settled principal that any Democracy cannot survive or carry on until the citizens are free and fairly informed. In this regard the honorable Supreme Court of India has also held that the right to information is a fundamental right, covered under 'freedom of speech and expression'. Before coming into force of this current RTI Act, it has already been decided by the Supreme Court through many of the cases that to receive any information regarding any matters of public concern is a citizen's right, as well as to know about the affairs and sound policies formulated for governance aimed for welfare, of the government, that has been elected by them. The Supreme Court also held that a voter has a right to know about the previous history, qualifications and experience of his candidate as a part of his right. Public in general is also entitled to know the conditions through which their elected representatives got the distributorships and dealerships of petroleum products because one-sided information, disinformation, misinformation and no information will similarly produce an inappropriately informed citizenry and democracy requires appropriately informed citizens who can make positive contributions in the governance.
- iv. Section 4 of the current Act comprises that in order to provide the information to the citizens, it is compulsory for every public authority to uphold and preserve all its records appropriately catalogued and indexed in a manner and in a form which facilitates the right to information under this Act simultaneously all records should be computerized and connected through a network all over the country on different systems, subject to the availability of the resources so that any citizen can access to such records from any place in the country. It shall be a continuous endeavor of every public authority to provide as much as possible information to the public suo motu at regular intervals through different means of communications, including internet, so that the common public need a minimum use of this Act for obtaining any information. Each information should be circulated extensively and in such manner and form which should be easily accessible to the public by taking into consideration the local language, cost effectiveness, and the utmost operative process of communiqué in that local area. The citizen's right to know the facts, the true facts about the administration of the country is thus one of the pillars of a democratic state and that is why the demand for openness in the government is increasingly growing in different parts of the world.
- v. Section 5 of the current Act comprises that in order to provide the information to all those, request for information every public authority shall designate as many officers either as central or state public information officers and central or state assistant public information officers as the case may be in all executive offices or units within the time period specified for the same. Every such central or state public information officer shall deal for providing the information to the persons seeking information and also provide practical assistance to such persons, may also seek the assistance of others officers for the same purpose.
- vi. Section 6 of the current Act comprises that in order to receive any information from any public authority; a request is to be made through electronic means or in writing, in Hindi or English or in the official language of the area concerned to the central or state public information officer or to the state or central assistant public information officer as the case may be by specifying the details of the information sought by him along with such fee as may prescribed for such purpose. Different fees and different modes of payment have been prescribed by the center and the states respectively. For receiving the information no need to give any specific reason or any personal details except that is required for contacting him. It was unanimously resolved that a law on the right to information should be definite and necessities to be given real material. The public information officer cannot refuse to receive handwritten application for receiving the information under this Act if is otherwise legible. Where the information requested is belonged to any other public authority, the information officer to whom the application is made is to transfer such application to the concerned department as possible as but not later than five days.
- vii. Section 7 of the current Act comprises that on receipt of any application, the central or state information officer as early as possible within a time period of thirty days either deliver the information sought on payment of prescribed fee as for the same or reject the application on the grounds specified in the Act. The compliance of the time limit is mandatory and on non-compliance of it, request shall be deemed to have been refused and the information requested will be provided free of charge. In case extra fee is required for making the information, an intimation of the same is to be sent to the person making the request. No fee is to be charged from the persons below poverty line as determined from time to time and for the convenience of identification of such person, a card is issued. In case of rejection of application the person making the request will be communicated the reasons for rejection, the name and particulars of the appellate authority as well as the time period within which appeal may be preferred and the information should be delivered in the form in which is sought. No information in consolidated form or opinion can be sought under the right to information Act when no such information in consolidated form or opinion is available in any document or record with the public authority.

Thus only that information is to be provided to the applicant under the right to information Act which exists with the public authority. It has been held that the applicant may approach the Registrar of the companies (ROC) as advised by the appellate authority, in order to obtain the relevant information and there is no question of denial of information to him under the right to information Act. The requirements for payment of costs of providing the information, as prescribed, should be determined in consultation with the requester and accordingly, deposits should be accepted from the information seeker in advance, so as to minimize wastage of resources of the public authorities.

- viii. Section 8 and 9 of the current Act comprises the exemption clauses that provide, there shall be no compulsion for providing any citizen such information, disclosure of which would prejudicially affect the relation with foreign state, economic or scientific interests of the State, strategic, security, integrity and sovereignty of the country, or lead to incitement of any offence. Such information should also not to be disclosed which may constitute contempt of court or which has been specifically forbidden to be published by any court of law or which would harm the competitive position of any third party or which would cause a breach of privilege of Parliament or the State Legislature including commercial confidence, trade secrets or intellectual property, or any information available to a person in his fiduciary relationship, or information received in confidence from foreign government. All the information, the disclosure of which would identify the source of information or endanger the life or physical safety of any person or the information which would impede the process of prosecution or apprehension or investigation of offenders shall not be disclosed. The current Act has also exempted cabinet papers including records of deliberations of the Council of Ministers, Secretaries and other officers from disclosure. Any personal information the disclosure of which has no relationship to any public activity or interest can be denied and the information that cannot be denied to a state legislature, shall not be denied to any person. Any information regarding any matter, event or occurrence, that happened, occurred or took place, before twenty years from the date of making such request, shall be delivered to all person making request under the section. The right to information is considered a right under the fundamental right of freedom of speech and expression. There are certain grounds upon which reasonable restriction can be imposed on the fundamental right of freedom of speech and expression, in the same way some restriction can also be imposed on the use of right to information. Instructions and solutions to questions communicated by the examining body to the examiners, head- examiners and moderators, are information available to such persons in their fiduciary relationship and therefore, exempted from disclosure under the right to information Act.
- ix. Section 10 of the current Act comprises that where any request made for information is rejected on the ground that information requested is exempted from disclosure, then access may be provided to that part of the record which does not contain any information which is exempted from disclosure and which can reasonably be severed from any part that contains exempted information. In determining the legislative intent on the question of separability, it will be legitimate to take into account the history of the legislation, its object, the title and the preamble to it.
- x. Section 11 of the current Act comprises that where the information requested is related with any third party that has treated it as confidential and the central or state public information officer as the case may be intends to disclose any information or record, or part thereof, he may, within five days of such request, give a written notice and invite to the concerned third party for making a submission in writing or orally, regarding whether the information should be disclosed, and such submission shall be kept in view while taking a decision about disclosure of information. Where the appellant has sought information about tax returns filed by a third party and a copy of the investigation report on tax evasion petition filed by him, which is in progress, it has been held that the appellate authority has correctly applied the right to information Act for exemption of information from disclosure.
- xi. Section 12 and 15 of the current Act comprises that the general superintendence, direction and management of the affairs of citizen's right to information have been assigned to the central or state information commission as the case may be, which shall exercise all the powers conferred on, and shall perform the functions assigned to it under this Act. The concerned commission shall consist of the chief information commissioner and such number of central information commissioners as may be necessary. It is the mandate of the parliament that the state information commission should be multi-member body and the state cannot be allowed to plead that it be permitted to have a single member commission on the ground that the work is less or that it would lead to unnecessary expenses.
- xii. Section 18 of the current Act comprises the powers and functions of the state or central information commission as the case may be and says that the commission is duty bound to inquire into a complaint received from a person, who has been unable to submit a request to a central or state public information officer, either by reason that no such officer has been appointed under this Act, or who has been refused access to any information requested under this Act; or who has not been given a response to a request for information or access to information within the time limits specified under this Act; or who has been required to pay an amount of fee which he or she considers unreasonable; or who believes that she or he has been provided false, misleading or incomplete information under this Act; and in respect of any other matter relating to requesting or obtaining access to records under this Act. On being satisfied by the commission that some reasonable grounds are existing for inquiry it may suo moto initiate inquiry in respect of the matter and has the same power as are vested in a civil court.
- xiii. Section 19 of the current Act comprises the appeal against the decision of the central or state public information officer, within thirty days from the expiry of such period or from the receipt of such a decision to the officer senior in rank to such information officer in same office in each public authority. A second appeal against the decision of first appellate

authority shall lie within ninety days from the date on which the decision should have been made or was actually received, with the central or the state information commission. In every appeal, the onus to prove that denial of the request was justified shall be on the information officer. The first or the second appeal shall be disposed within a total period of forty five days and the decision will be binding. When the appellant preferred appeal against the order of CPIO direct to the central information commission. It was held that as the appellant has not preferred any appeal before the first appellate authority on the decision of the CPIO after he received the same, he should do so at the first instance before approaching the commission.

- xiv. Section 20 of the current Act comprises the penalties against the public information officer who has without any reasonable cause, destroyed the subject of the request, knowingly given misleading, incomplete or incorrect information, mala fide denied the request, not furnishing the information within the time specified or refused to receive an application by the information commission while deciding any complaint or appeal, a penalty of two hundred and fifty rupees each day till either application is received or information is furnished, however, the total amount of penalty imposed shall not exceed twenty five thousand rupees. Further repetition of the same act may invite the disciplinary action against such information officer. State information commission has power to impose penalty or take disciplinary action in consonance with principles of natural justice.
- xv. Section 23 of the current Act comprises that any application, complaint or even appeal cannot lie into any civil court and this Act makes a bar of jurisdiction of civil court and states clearly that no prosecution, suit or other legal proceeding shall be laid against any person who does anything relating to information. The civil courts have the jurisdiction to try all suits of a civil nature excepting suits of which their cognizance is either expressly or impliedly barred.
- xvi. Section 24 of the current Act comprises that public authority almost covers the entire departments upon which this Act is applicable even then there are certain departments which are beyond the limits of this Act provided under the second scheduled as intelligence bureau, research and analysis wing of the cabinet secretariat etc., being intelligence and security organisations established by the central or state government or any information furnished by such organisations to the concerned government but any information pertaining to the allegations of corruption and human rights violations shall not be excluded. However, before parting with the appeal, central information commission would urge the high officers of the intelligence bureau, to consider if they could volunteer to supply the information requested by the appellant if it did not in any way compromise the functioning of IB.
- xvii. Section 25 of the current Act comprises that to ensure whether the Act is being implemented in the true sense or not, the responsibility is on the Central or State Information Commission to prepare a report about it after the end of each year and forward a copy to the appropriate Government containing: the number of request made to each public authority; or decisions where applicants were not entitled to access to the documents; or appeals referred to the central or state information commission; particulars of any disciplinary action taken and amount collected by each public authority.
- xviii. Section 26 of the current Act comprises that until and unless the people of the country are not aware about the provisions of any law, the purpose of making that particular law will not be succeed, with this view the duty is cast on the appropriate Government to develop and organize educational programmes to make the people aware about their rights specially to the disadvantaged community and to encourage public authority to participate into such programme and to provide the required information on time for that to train their information officers.

The above mentioned features are sufficient in order to indicate that the current RTI Act 2005 has in place all the essential elements necessary for a sound access to information law. Now it is on the citizens as well as the administration to ensure that the Act is used responsibly by all the various stakeholders.

## **COMPARISON BETWEEN FREEDOM OF INFORMATION ACT 2002 AND RIGHT TO INFORMATION ACT 2005**

The freedom of information Act, 2002 (Act 5 of 2002) though passed by the parliament and also received the assent of the President of the India, never came into force and became inoperative as it faced severe criticism from all corners due to certain inherent shortcomings.

- i. The first and the foremost significant change was the change in the very nomenclature of the Act of the 2005 by replacing the word 'freedom' with the word 'right' in the title of the statute. The obvious legislative intent behind it was to make seeking of prescribed information by the citizens, a right rather than a mere freedom. There exists a subtle difference when the common people perceive it as a right to get information in contra-distinction to being a freedom. Upon such comparison, the connotations of the two have distinct and different application.
- ii. The freedom of information Act was weak and inadequate in its *suo moto* disclosure policy which has been improved to some extent in the right to information Act. Under the freedom of information Act, only the particulars of an organization; its functions, powers and the duties of its officers; norms; rules and regulations; list of records available to citizens; details of facilities to get information; facts related to any decision; reasons for its decision, and, project schemes were to be disclosed *suo moto*. The right to information Act, on the other hand, contains powers to review the Act's disclosure policy that are vested with an information commission. The commission has the authority to add to the list of information to be disclosed *suo moto*. In addition, the right to information Act enables the publishing of more routine and detailed information at regular intervals.



- iii. The Act of 2005 was enacted to radically alter the administrative ethos and culture of secrecy and control, the legacy of colonial era and bring in a new era of transparency and accountability in the governance. Under the Act of 2002 information means any form relating to administration, operations or decisions of public authority while the Act of 2005 includes e-mails, memos, opinions, circulars, orders, logbooks, contracts, reports, models, data materials, etc., through this way widened the scope of information. The definition of 'Right to Information' also include the right to inspection of work, documents, records, taking certified samples of material, taking notes and extracts and even obtaining information in the form of floppies, tapes, video cassettes etc.
- iv. The Act of 2002 was to come into force only after notification and it was notified on 6<sup>th</sup> January, 2003 as an Act of 2003, but it never brought into force while the Act of 2005 comes into force from 120th day after its enactment. Under the Act of 2002 the obligation of the public authorities was to maintain records and indexed to meet operational requirements about the organization while the Act of 2005 provides to disclose within 120 days the structure, powers and duties of organization and to ensure that all appropriate records to be computerized and connected through a network all over the country so that access is facilitated, endeavour is to suo-moto disclosures.
- v. Under the Act of 2002 the aggrieved could prefer an appeal to the authority prescribed within 30 days and second appeal could be within 30 days to the central or state government as the case may be while the Act of 2005 provides that the aggrieved can appeal to senior in rank to the public information officer in the same department within 30 days and the second appeal can be within 90 days to central or state information commission, whose decision shall be binding. Under the Act of 2002 every public authority should appoint PIOs while the Act of 2005 provides that within 120 days every public authority should designate Central or state PIOs to provide information on request.
- vi. The Act of 2005 makes the definition clause more elaborate and comprehensive. It broadens the definition of public authority by including therein, an authority or body or institution of self-government established or constituted by a notification issued or order made by the appropriate Government and includes anybody owned, controlled or substantially financed by the Government and also non- governmental organization substantially financed by the appropriate Government, directly or indirectly.
- vii. Though the exemption clauses from disclosure of the information is a common provision in both of the Acts by stating that notwithstanding anything contained in the respective Act, there shall be no obligation to give any citizen the information specified in the exempted clauses. Even the provisions provided in the 2005 Act has more elaborate exemption clause than that of the 2002 Act. In addition, the Act of 2005 also contains the second schedule which enumerates the intelligence and security organisations established by the central government to which the provisions for information do not apply.
- viii. Another very significant provision which was non- existent in the Act of 2002 is in relation to the penalties as no provision was made for imposition of any penalty in the earlier Act, while in the Act of 2005 severe punishment like imposition of fine from 250/- per day up to 25000/- can be imposed. The central/ state information commission can also direct any disciplinary action against the erring public information officers further the appropriate government and the competent authority have also been empowered to frame some rules for the purpose of carrying out the provisions of the Act.
- ix. Every rule made by the central government under the Act of 2005 has to lay before each houses of parliament while it is in session for a total period of 30 days. Greater transparency, promotion of citizen-government partnership greater accountability and reduction of corruption are stated to be the salient features of the Act of 2005.
- x. The right to information, like any other right is not an unlimited or unrestricted right and subject to the statutory and constitutional limitations. Section 3 of the Act of the 2005 clearly spells out about the restriction and states that the right to information is subject to the provisions of the Act. Other provisions of the same Act requires that the information must be held by or under the control of the public authority apart from the provisions for specific exemption and the fields to which the provisions of the Act do not apply. The doctrine of severability finds place in the statute under Section 10 of the said Act.
- xi. Neither the Act of 2002 nor the Act of the 2005, under its repeal provision repeals the official secrets Act, 1923. The Act of 2005 only repeals the freedom of information Act, 2002. It was felt that under the official secrets Act, 1923, the entire development process had been covered in secrecy only and practically, the public had no legal right to know as to what process had been followed or adopted in designing the policies for the citizens of the country which them and also how the programmes and any schemes were being implemented.
- xii. Lack of openness in the functioning of the government provided a fertile ground for the growth of inefficiency and corruption in the working of the public authorities. The Act of 2005 was already intended to provide the remedy for this widespread evil and provide appropriate links to the government. It was also expected to bring reforms in the environmental, economic and health sectors which were primarily being controlled by the government.

## CONCLUDING OBSERVATION

The recognition of openness and transparency in any one part of government functioning lay the road towards complete transparency in all the functioning and effective legislation creates certain legal spaces. The right to information not only helps in controlling the corruption and the arbitrary power but also strengthen the aspirations of

people for participatory democracy. Theoretically speaking, there can be no disagreement about participatory democracy being a purer form of democratic practice. On the basis of above discussion it seems safely to said that the right to information is considered as a tool for promoting the participatory, development and to strengthening any democratic governance as well as facilitating effective delivery of socio-economic services. In the sort of society, in which we live today, acquisition and gaining of information and new knowledge along with its application have passionate and invasive impact on the processes of taking informed decisions that results into overall productivity. People having access to information and understanding the use of such acquired information in the processes of exercising their political, economic and legal rights become empowered. By following such view, almost every society has made endeavors for putting in place a mechanism of free flow of information and ideas to make the common people known without asking government functionaries for every little bit of information. Disseminating the information and knowledge through communication technologies such as print media, radio, televisions as well as internet have yielded positive results and made significant contributions to the well-being of the poor people. In this backdrop, the Right to Information Act, 2005, was passed by the Indian parliament to dismantle the culture of secrecy and to change the mindset of the bureaucrats and political leaders as well as to create conditions for taking an informed decision.

A key objective of the Right to Information Act, 2005 is the greater probity and honesty to promote transparency and accountability in the working of every public authority in the country and hold the scourge of corruption, which are critical for ensuring good governance and development. The Act mandates a legal-institutional framework for setting out the practical regime of right to information for every citizen to secure access to information held by or under the control of public authorities. It prescribes mandatory disclosure of certain information to citizens and designation of Public Information Officers in all public authorities to attend to requests from citizens for information within stipulated time limits. It provides for appeal to designated appellate officers against the decisions of public information officers. It also mandates the constitution of a central information commission and state information commissions to enquire into complaints, hear second appeals, and guide implementation of the Act. It was also observed that there are numerous ways in which government information is accessible to the public where the concerned person need not to file an application for being informed regarding procedure and provisions of any particular law affecting them, containing into the different laws and provides the provisions of information such as criminal law, business law, intellectual property law, service laws and other allied laws.

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