

RIGHT TO INFORMATION ACT, 2005

Historical Perspective

Global

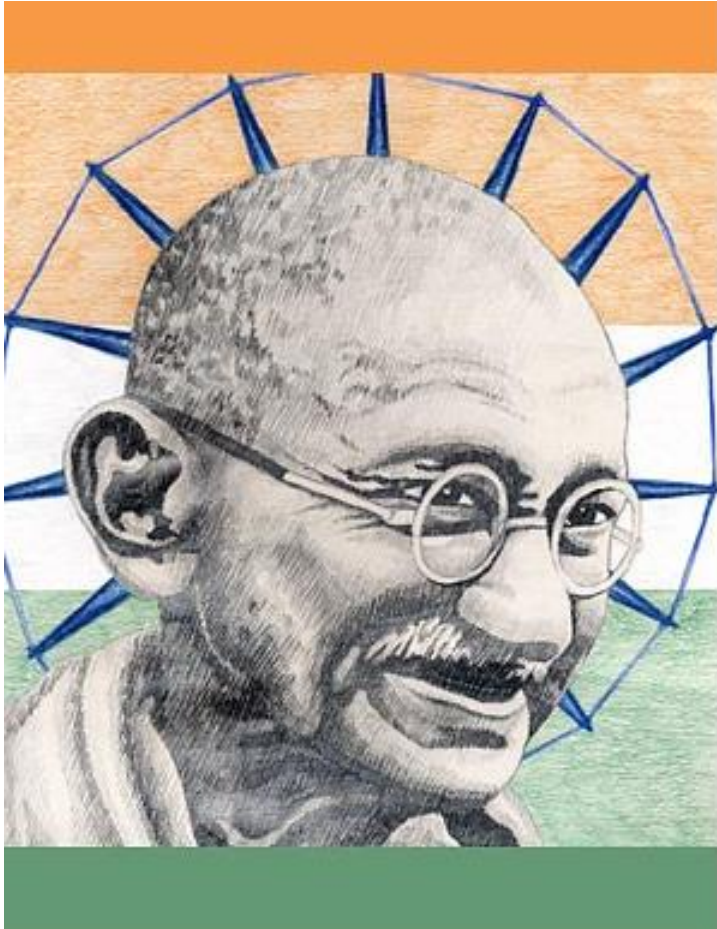
- Earliest - Sweden – 1776
- UN Assembly Resolution : People's right to have access to official information – 1948 – Freedom of Information is Fundamental Human Right

National

- Supreme Court Ruling : 1982 – 'Disclosure of Information as regards the functioning of Government must be the rule and secrecy an exception'
- Mr. Kulwal v/s Jaipur Municipal Corporation 1986 - Freedom of Speech and expression (Art 19) implies right to information

Historical Perspective

- Mazdoor Kissan Shakti Sanghatan Movement, Rajasthan (Mrs Aruna Roy) - May 1990
- Anna Hazare, Maharashtra – agitation against State Govt.
- Parivarthan (Arvind Kejriwal) – Jansunwai's in Delhi
- Chief Minister's Conference : 1997
- Freedom of Information Act 2002
- State Acts of Tamilnadu & Goa - 1997, Rajasthan & Maharashtra – 2000, Delhi – 2001, Madhya Pradesh, Assam, J&K - 2003



*The Real 'Swaraj' will
come not by the
acquisition of authority
by a few but by the
acquisition of capacity
by all to resist authority
when abused. –
Mahatma Gandhi*

RIGHT TO INFORMATION

PARADIGM SHIFT

An act which will be implemented by the people and acted upon by the Government

RTI ACT – Objectives

- Democracy requires informed citizenry and Transparency of Information in functioning
- Contain Corruption and to hold Governments accountable to the governed
- **Harmonising the conflicting interests of revelation of information and preservation of confidentiality of sensitive information**
- Setting up of Practical Regime of RTI for Citizens
- Secure access to information under the control of Public Authorities
- Promote Transparency and Accountability in the working of Public Authorities

Right to Information Act, 2005

Applies to:

- Whole of India, both Central and State Governments (except J&K).
- All “Public Authorities” covered by the Act.

Does not apply to:

- (25) Intelligence and Security Organizations of the Central Government
- (7) Intelligence and Security Organizations of Andhra Pradesh

This Act Contains Six Chapters and 31 Sections

Sec. 1: **Short Title & Commencement**

- The Provisions of sub-section (1) of section 4, sub-sections (1) and (2) of section 5, sections 12, 13, 15, 16, 24, 27 and 28 shall come into force at once
- The remaining provisions shall come into force on the one hundred and twentieth day of its enactment.

Sec. 2: **Definitions**

Right to Information

Sec.2 (j)

Right to information accessible under the Act which is *held by* or *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.....

Information

Sec. 2(f)

Any material in any form

- including records, documents, memos, e-mails
- opinions, advice, press releases, circulars, orders
- logbooks, contracts, reports, papers, samples, models
- data material held in any electronic form
- information relating to any private body which can be accessed by a public authority

Record

Sec. 2(i)

‘Record’ includes

- a) any document, manuscript and file;
- b) any microfilm, microfiche and facsimile copy of a document;
- c) any reproduction of image or images embodied in such microfilm (whether enlarged or not); and
- d) any other material produced by a computer or any other device;

Public Authority

Sec. 2(h)

Any Authority or Body or Institution of Self- Government established or constituted:

- (a) by or under the Constitution
- (b) by any other law made by Parliament
- (c) by any other law made by State Legislature
- (d) by notification issued or order made by the appropriate Government, and includes any
 - i) body owned, controlled or substantially financed
 - ii) Non-government organization substantially financed, directly or indirectly by funds provided by the appropriate Government

Right to Information

Section – 3

All Citizens shall have the right to information

Obligation of Public Authorities

Section 4

- Sec 4 (1)(a) Maintain records
 - Computerize records
 - Networked all over the country
- Sec 4(1)(b) Proactive Disclosure of Information
- Sec 4(1)(c) Publish all relevant facts while formulating important policies which affect public
- Sec 4(1)(d) Provide reasons for its administrative or quasi-judicial decisions to affected persons
- Sec 4 (2),(3)&(4) Dissemination of Information
- Sec 5 (1) & (2) Designate PIOs / APIOs

Proactive Disclosure of Information

Sec 4 (1) (b)

Information to be disclosed proactively within 120 days from the enactment of the Act

- **Particulars of its Organisation, functions and duties**
- **Directory of its officers and employees**
- **Powers and duties of officers and employees**
- **Procedures in decision-making process**
- **Norms set by it for discharge of functions**
- **Information regarding the rules, regulations, instructions used for the discharge of its functions**

Proactive Disclosure of Information

- **Statement of categories of documents held by it and under its control**
- **Information on policy formulation/ implementation**
- **Statement of the Boards, Councils, Committees etc.**
- **Monthly remuneration of officers/ employees**
- **Budget allocated to each of its agencies, particulars of all plans, proposed expenditures and reports on disbursements made**
- **Execution of subsidy programmes, the amounts allocated & the details of beneficiaries of such programmes**

Proactive Disclosure of Information

- **Particulars of recipients of concessions, permits or authorisations granted by it**
- **Details of information available in an electronic form**
- **Particulars of facilities available to citizens for obtaining information**
- **Names, designations and other particulars of the Public Information Officers.**
- **Update every year**

Responsibilities of Public Information Officer

Section - 5

- **Receive applications for Information**
- **Render reasonable assistance to the persons seeking information**
- **If the application pertains to other Public Authority, transfer it with in (5) days**
- **Seek assistance of any other officer, if necessary, for proper discharge of duty as PIO**
- **The Officer from whom information is sought is deemed to be the PIO in respect of the Information.**
- **Check whether the Information is an exempted one under sections 8 or 9 / third party information**
- **Furnish information / Reject the application if it comes under exemptions**

Responsibilities of Asst. Public Info. Officer

- **Receive application for information or appeal**
- **Forward the same to the concerned within five days**

Application for Information

Section 6

- Request to be made in writing
- To be in English, Hindi or official language of the area
- To the State Public Information Officer or Assistant Public Information Officer
- Specifying the particulars of information sought
- No reason need to be given
- Accompanied by fee or BPL Certificate

Disposal of request

Sec. 7

- With in 30 days in general cases
- With in 48 hours, where the information sought for concerns the life or liberty of a person
- Send intimation about the fee required to be paid for furnishing the information
- The period intervening between dispatch of intimation and payment of fees shall be excluded
- Calculations made to arrive at the fee shall also be furnished
- If the information seeker is a disabled person appropriate assistance to be rendered

Disposal of request

Sec. 7

- If the PIO fails to furnish information within the stipulated time the same shall be provided free of charge.
- If PIO rejects the request for information, reasons must be stated, referring relevant sections.
- Time limit for appeal, details of AA also to be informed
- An information shall ordinarily be provided in the form it is sought unless it would disproportionately divert the resources of the public authority

Fee for Receipt of Application and furnishing information (GO Ms.No.454, GAD, Dt.13.10.05)

- At Village Level No Fee
- At Mandal Level Rs.5
- Other than the Above Rs.10
- Publications printed, text, maps, plans, floppies, CDs, Samples, models or material in any form , **if priced** Same price

Other than the above

- i. Printed or text form (A4 or A3 size) Rs 2 per page
- ii. Other than A4 or A3 size Actual Cost
- iii. Maps & Plans Actual Cost

iv. In Electronic Format

a. Floppy

Rs.50

b. CD

Rs.100

c. DVD

Rs.200

v. Samples and Models

Actual Cost

vi. Inspection of Records

First one hour

No fee

Subsequent hour or Fraction

Rs.5

vii. Material to be sent by post

Actual Cost

Mode of Fee for Receipt of Application

- Cash
- Postal Order
- Demand Draft
- Bankers Cheque
- Court Fee Stamp

No Fee for the Below Poverty Line (BPL) people
(White Card Holders are treated as BPL people)

Fee for Receipt of Application – Head of Account
(GO Ms.No.530 GAD,dt.29.11.05)

- 0070 – Other Administrative Services
- 60 - Other Services
- MH 118 - Receipts under RTI Act 2005
- SH (25) - Receipts Under RTI Act 2005

Exemptions from Disclosure of Information

Section - 8

Section – 8 (1)

- would affect the sovereignty and integrity of the Country
- would affect the security , strategic, scientific or economic interests of the State
- would affect relations with foreign States
- has been expressly forbidden to be published by any court of law
- may constitute contempt of court

Exemptions from Disclosure of Information

- cause breach privilege of Parliament or State Legislature
- includes commercial confidence, trade secrets or intellectual property
- information available in fiduciary relationship
- received in confidence from foreign Government

Exemptions from Disclosure of Information

- endangers the life or physical safety of any person
- Impede the process of investigation
- Cabinet papers including records of deliberations of Council of Ministers and other officers
- Personal information

8 (2) - Information under exemptions
can also be furnished, if Public
interest outweighs in disclosure

8 (3) - Exemption Period
(20 years except a,c,i of 8(1))

Protection of copyright

Section - 9

- **Information which involve an infringement of copyright subsisting in a person other than the State may be rejected**

Severability

Section -10

- **Providing part of the information which does not come under exemptions**
- **Reasons for providing part of Information are to be informed to the applicant.**

Third Party Information

Section - 11

“ Third Party means a person other than the citizen making a request for information and includes a public authority” Sec. 2 (n)

If the information requested pertains to third party;

- PIO shall give a written notice to the third party with in 5 days from the receipt of request**
- The third party shall respond within ten days.**
- Except in the case of trade or commercial secrets, disclosure by the PIO allowed, if larger public interest involves and though the third party refused for disclosure**

Chapter III: Central Information Commission

Section 12: Constitution of Central Information Commission

Section 13: Term of Office and Conditions of Service

Section 14: Removal of Chief & Other Information Commissioners (**Central**)

Chapter IV: State Information Commission

Section 15: Constitution of State Information Commission

Section 16: Term of Office and Conditions of Service

Section 17: Removal of Chief & Other Information Commissioners (**State**)

Powers & Functions of the Information Commissions

Section 18

- Receive appeals as 2nd Appellate Authority
- Receive Complaints from Citizen
- Shall have the powers as a Civil Court
- Impose Penalties
- Recommend Disciplinary Action
- Compensation to the Citizens

Appeals

Section -19

- 1st appeal to the Appellate Authority with in 30 days
- Appeal shall be disposed by the Appellate Authority with in 30 days (can be extended up to 45 days for which reasons to be recorded in writing)
- 2nd appeal against the decision of appellate authority with in 90 days to Information Commission
- If the information relates to third party, the Information Commission shall give a reasonable opportunity of being heard to that third party

Penalty

Section 20

Every PIO will be liable for penalty for

- not accepting an application
- Delaying information release without reasonable cause
- Knowingly giving incomplete, incorrect and misleading information
- Destroying information that has been requested
- Obstructing furnishing of information in any manner
- Penalty amount is Rs. 250/- per day to a maximum of Rs.25,000/-
- PIO shall be given a reasonable opportunity of being heard by the Commission before any penalty is imposed
- The Information Commission can also recommend disciplinary action against the PIO

Chapter VI: Miscellaneous

Section - 21 : Protection of action taken in good faith

Section - 22: Act having overriding effect

Section - 23: Bar of Jurisdiction of Courts

Section - 24: Act not applies to certain organizations

Section -25: Monitoring and Reporting

- Section 26: Appropriate Government to prepare programmes for Capacity Building
- Section 27: Powers to make Rules by Government
- Section 28: Powers to make Rules by Competent Authority
- Section 29: Laying of Rules
- Section 30: Power to remove difficulties
- Section 31: Repeal of Freedom of Information Act, 02

THANK YOU