

RESEARCH REPORT

Right to Information Act 2005: Its Uses and Abuses in Indian Context

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INTRODUCTION

Preamble of constitution of India enshrines India as a Sovereign, Socialist, Secular, Democratic Republic. Democracy is largely known a government of the people, by the people and for the people. Thus, starting point of democracy is people, and the final and last point is also the people. It is natural that quality of democracy will depend upon the quality of the people. The more people will be knowledgeable, educated and informed, the more quality of govt. will be good. So every true democratic government concentrates on the education and knowledge of its citizen. Education and knowledge of natives depend upon the free flow of information. It improves the quality of people and consequently the quality of democracy.

Therefore, every democracy has given importance to freedom of speech and right to information. Freedom of speech and expression serve many purposes but basically two purposes – (1) expression of view and thoughts and (2) exchange of view and thoughts and absorption of new thoughts.

Overall freedom of speech and expression creates an atmosphere of free flow of information. That is why, it is said that right to know is an implied aspect lying in freedom of speech. Nevertheless, some democracies have clearly laid down the law of right to information like Sweden guaranteed it to nationals as back as 1766 and Finland in the year 1951. As India has a legacy of colonial rule and most of the laws and rules have come from British India, there was no law on right to information. Instead of this, there was a ban to demand information and to divulge information in the garb of Official Secret Act 1923 in India. Even in our constitution framed in 1949, which is the lengthiest in the world and presently has more than 450 articles divided in 26 parts and 12 schedules, had no direct indication/chapter/awards right to information. However, we already had so-called fundamental rights in the form of freedom to speech and expression, Article 19 of the constitution of India which guarantees – fundamental right to freedom of speech and expression is actually derived from United Nations Organization's (UNO) resolution 1946, which stated that 'Freedom of information is a fundamental human right'.

Accordingly, Article 19 of Universal Declaration of Human Rights has recognised as the right to information and is binding on the nations. Later on, at the time of various disputes, the honourable Supreme Court held in its various decision that right to freedom to speech and expression also includes right to know. But there was no clear cut law in India.

In India, right to information for the first time got a legal support and mass appeal in the year 1975, when Shri Raj Narain M.P. contestant from Raebareli challenged declaration of emergency and claimed right to know the reasons for imposing emergency. Hon'ble justice Mathew gave a landmark judgment and observed that 'In a Government of responsibility like ours, where all the agents of public must be responsible for their conduct, there can but few secrets. The people of this country have a right to know every public act and every thing that is done in a public way by the public functionaries. They are entitled to know the particulars of every public transaction in all its bearings. Their right to know which is derived from the concept of freedom of speech, though not absolute, is a factor which should make one wary when secrecy is claimed for transaction which can at any rate have no repercussion on public security. "This is actually a source and soul of modern R.T.I.".

Thereafter, in 1982, Mathew Commission report recommended for the amendment of Official Secret Act 1923. In 1989, Sri V.P. Singh, the Prime Minister of India, expressed his view to make Right to Information (RTI) a fundamental right. Thus, the need to peev into public programme and decision-making was felt, and an undercurrent revolution started in India. Finally, Mazdoor Kisan Shakti Sangathan (MKSS), a Non Government Organization (NGO) of Rajasthan, stirred national conscience through a unique movement for justice in wages. In 1994, MKSS introduced a new ground for fighting corruption in wage distribution in the block and panchayat works of Rajasthan. Finally, Freedom of Information Bill 2000 and Freedom of Information Act 2002 were framed but never notified due to strong bureaucratic lobby in India.

Tehelka exposure about commission and kickback in purchases in defence ministry convinced the government and

the bureaucracy that information should be provided like clean air and pure drinking water. It is also a public property like any other civic amenity. Officials do not create and preserve information for their own benefit alone but for the benefit of public they serve. As such it can't be unreasonably kept away from the citizens.

Thus, the United Progressive Alliance (UPA) government under the Prime Ministership of Sri Manmohan Singh finally notified in Oct 2005 the historical RTI Act 2005 of India empowering the Indians to participate in planning, execution and social change of India directly as well as indirectly, with an aim to create transparency in day-to-day government functioning and to weed out the corruption from Indian society which was prevailing due to red tapism, colonial Official Secret Act 1923 and lethargic traditional bureaucracy which only believe to postpone an issue or pass the buck on other shoulders.

USES AND ABUSES

Right to information is related to freedom of speech and expression. Therefore, it will be used to its maximum as we use our tongue to speak, to praise and to criticise someone. Diversity in India raises the pace and rate of its use. Ideally, we can say that RTI has individual use, social use, economical use and political use and so on.

(A) Individual use means seeking and using information for personal use and benefit, solving of self-problem of individual that is single individual or social unit. Basically, the bureaucracy when talks of abuses of RTI, it often refers this use particularly and alleges that RTI is meant to solve individual problem. They allege that heaps and plethora of irrelevant information sought by the person facing a particular problem and seeking of unconnected and unrelated data from officers should be disallowed. Individuals need to be trained how to exercise their RTI right. At present, we lack manpower, infrastructure, software, and no information is available online and all are hidden and treated secret. All offices should have detailed website to deliver information than to be a show piece of formal data. There should also be publicity and advertisement from govt. side to educate the people of India to make them mature citizen. (B) Social use means use of information by NGOs for larger benefit of section of society. Data demanded by such NGOs appear to be larger, irrelevant and sometimes considered dangerous by the bureaucracy, as the giving of information often hammers on the network of corruption which is prevalent in Indian society. It is the NGOs MKSS, Rajasthan which raised question and demanded list of labourers employed, payment made, rate of wage paid and others, and movement of RTI took a shape of weapon against corruption in Bureaucracy. So there is a cry that NGOs are misusing the act. Bureaucracy wants to individualise the use of this act. But in spirit, act can be used by NGOs, cooperative

or corporate body as well. Moreover, it can be said to be only a teething trouble of Indian bureaucracy towards honesty and transparency. (C) Economical use means use of information and data for fiscal and business policy and planning, our taxation policy, our budget priorities, export–import policy, market/banking and others. All sorts of activities and sectors are covered under this act. RTI can be very useful for the individual tax payers as well as corporate if information called for are supplied or already put on website, so that suggestion may come, and stakeholders may be well prepared in advance. Any government policy, rate of tax, increase/decrease in price of a commodity should not come as a bolt from the blue. If the people will have access to economic/fiscal data and policy of govt., it will be beneficial to the state economy particularly in the global market era. RTI may pave two ways of flow of information from govt/public sector to private sector and *vice versa*. It will certainly improve the health of economy of India. Information are like facts and goods, it must be available and supplied in sufficient quantity and good quality to the users. If there is draught in an area, if there is flood in an area, govt. helps and subsidises people from govt. fund, traders and economist must also know as to which crop and yield and what much crop and yield is going to suffer so that the import of raw material and final material like cotton, sugar can be pre-planned to the maximum accuracy than on tentative basis. Hence, economical use of RTI is related to future development of India.

POLITICAL USE

In the modern age, politics is also being treated as a profession of commerce and trade. Religion/caste wise population data, voter age wise data, sex wise data, voter card issued data, cancelled card data and others – all have importance and election commissioner office can't deny to give such data to the aspirants or even to polling agents for planning. As there are various types of election held almost every year, for example Gram Sabha, Gram Pradhan, Block Area, District Area Election and finally MLA and MP election and others, updated voter list is a recurring exercise and data must be put open to public on demand. From Election 2017 in U.P., even election commission and voting machine are under shadow of doubt. It is govt. duty to clear doubt disclosing technology used in voter machine. Recently, chip used at petrol pumps has further aggravated the situation. Faith in technology for giving transparency is under doubt. Tech India, Digital India and skill India are under the shadow of doubt and deceit.

In brief, we can summarise that to run democracy successfully, people must be equipped with knowledge of all sorts of information they need. Nobody has authority to withhold information and data. Even for war and peace with any nation, people need to be consulted. Priority of expenditure

on development work or defence equipment also needs to be open to public for discussion. For example in 1990, Shri Rajeev Gandhi sent armed forces in Sri Lanka and later withdrew and unnecessary expenditure was entailed. Loss of manpower was entailed by India due to non-consultation of public; it was totally unnecessary and unwarranted exercise. International websites like Wikipedia and WikiLeaks are possible only in Europe because they are more particular and advance towards RTI. In India, Tehelka Dot Com was unnecessarily raided in 2001, and Tarun Tejpal was prosecuted to leak corruption in purchase of defence equipments. In 2010, Delhi High Court has held that media engaged in leaking corruption are doing good job and can't be prosecuted. Every sector of Govt. is willing to weed out corruption from India. Each and every person and national is having a mobile with camera and camcorder

facility to capture the venue and person engaged in corruption. Let us hope age of transparency and zero tolerance to corruption by Indian people by 2020, and 'Informed India' will be the slogan of free India in 2020.

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