

## **RIGHT TO INFORMATION**

New era of transparency and accountability

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### 10.0 OBJECTIVES

After studying the unit you will be able to-

- The origin of the right to information movement.
- Objectives of the Right to Information Act 2005
- Features of the Right to Information Act.
- Process to file the application for information.
- Success stories of the Right to Information
- Challenges in implementation of the Act

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## 10.1 INTRODUCTION:

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The right to Information Act 2005 which came fully into effect on 12th October 2005 is one of the most significant legislation enacted by the Parliament in India. It is a major step towards more accountable and transparent government. RTI has been enacted 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 in order to promote transparency and accountability. The Act will certainly lead to end the culture of governmental secrecy and fulfil its potential as a truly great democracy.

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## 10.2 ORIGIN OF THE RIGHT TO INFORMATION ACT 2005

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The first and far most well-known right to information movement in India was the Mazdoor Kisan Shakti Sangathan (MKSS), an organization for the empowerment of workers and landless workers and rural poor, which began its right to information work in Rajasthan during the early 1990s. The MKSS started grass route movement, demanding access to government information on behalf of wage workers and small farmers who were often deprived of their rightful wages or their just benefits under the government schemes. Through their innovative concept of jansunvai or public hearing MKSS started demanding information from local authorities regarding the wages, muster rolls, materials used for the construction of roads during famine relief work. From the modest beginning in the villages of Rajasthan the success of MKSS has been a source of inspiration for activists in India demanding the information from the bureaucracy and the government. The struggle of MKSS activists led to a nationwide demand for law to guarantee the RTI to every citizen, with wide spread support from social activists, professionals, lawyers and media who are committed to transparent and accountable governance and people's empowerment. The MKSS movement in Rajasthan was a turning point in the RTI movement and showed that even illiterate, socially mute and exploited labourers could assert and get their other rights conceded by the invoking the RTI.

The social movements in Rajasthan and other states led to the formation of the National Campaign for People's Right to Information in 1996. Various State RTI laws were passed during this period, including Tamil Nadu, Delhi, Maharashtra, Karnataka, Assam, Madhya Pradesh and Goa. Finally, the national Freedom of

Information Act was passed in 2002. However, this Act was not notified and the newly elected government (after General Election in 2004), got the Right to Information Act passed in Parliament in 2005.

### 10.3 OBJECTIVE OF THE ACT

1. To promote transparency and accountability in the functioning of the government.
2. To set up a practical regime for giving citizens access to Information that is under the control of public authorities.
3. To empower the citizens as the law will promote the participation of the citizens in official decisions that directly affect their lives.
4. The effective implementation of RTI Act will build public trust in the government functioning.
5. It will lead to effective and efficient records management technique that is needed to facilitate the provision of information in response to public interest.

### 10.4 WHAT IS 'RIGHT TO INFORMATION'?

Government information is national resource. Neither the particular government of the day nor public officials create information for their own benefits. Government and officials are trustees of this information for the people. The RTI act enables the citizens to obtain access under the law to documents that may otherwise be available only at the discretion of government.

The RTI Act 2005 provides effective access to information for citizens of India, which is under the control of public authorities. This overrides the —official Secrets Act|| and similar laws and rules.

The Act primarily envisages setting out a practical regime of right to information for citizens to secure access to information under the control of public authorities, in order to promote transparency and accountability in the working of every public authority.

Right to Information means the right to information accessible under this Act which is held by or under the control of any public authority and includes the right to: -

- (i) Inspection of work, documents, records.
- (ii) Taking notes, extracts, or certified copies of documents or records.
- (iii) Taking certified samples of material.
- (iv) Obtaining information in the form of diskettes, floppies, tapes, video cassettes or in any other electronic mode or through printouts where such information is shared in a computer or in any other device.

Every information held by or under the control of a public authority is accessible to a citizen, unless information is exempt from disclosure.

#### 10.4.1 What is Accessible under the Law?

Information means any material in any form, including records, documents, memos, e-mail, opinions, advices, press releases, circulars, orders, log books, contacts, reports, papers, samples, models, data material held in any electronic form and information relating to any private body which can be accessed by a public authority under any law for the time being in force.

#### 10.4.2 Process

Application has to be submitted in writing with prescribed fee to public information officer (PIO).

Citizens can submit applications personally or by post in writing or through electronic means in English or Hindi or in the official language of the area, to the Public Information Officer (PIO) specifying the particulars of the information sought for; along with

fees; as may be prescribed (if not belonging to the below poverty line category). Reasons for seeking information are not required to be given.

#### Proof of Receipt of RTI application

Applicant must retain a copy of application for RTI given to Public Information Officer (PIO) with signature of PIO for its receipt in any of the following ways.

- (i) given by hand;
- (ii) by registered mail;
- (iii) by speed post through a postal department services.

There is a three level regime for receiving information. The first level officers are designated by every public authority to receive applications from citizens. At second level senior officers are designated by every public authority to look into those applications of citizens where the information sought for is refused by first level officers. If information sought is refused or supplied information is unsatisfactory to the applicant he has every right to make an appeal before Departmental Appellate Authority (DAA) of the same department. At the third level the state government sets up an independent State Information Commission (SIC). This SIC is empowered to monitor those cases where the applicants are unsatisfied with DAA's decision. SIC is also empowered to impose a fine of Rs. 250/- per day up to a maximum of Rs. 25000/-, if application is not received without any reasonable cause and can also recommend a disciplinary action.

Information has to be provided within 30 days and 48 hours where life or liberty is involved. Every PIO will be liable for fine of Rs250/-per day up to maximum of Rs25000/-for-

1. None accepting an application.
2. Malafidely denying information
3. Delaying information release without reasonable cause.
4. Knowingly giving incomplete, incorrect, misleading information.
5. Destroying information that has been requested
6. Obstructing furnishing of information in any manner.

#### 10.4.3 Definition of Public Authority:

Every body or authority created by any Law operative in the country, either of the Central Government or the State Government shall be a Public Authority. The entire Government machinery, the ministries, the departments and every organ of these ministries and departments shall be public authorities. In crux, every authority which is managing anything in the country on behalf of Government is a Public Authority and the citizens can request for information from these bodies. The entire institution of self-government in India, the Panchayati Raj is also Public Authority.

Through this process of accessing information, citizens can participate more directly in the administration and governance of society.

### 10.5 FEATURES OF RTI

The Act extends to the whole of India except Jammu & Kashmir.

All citizens shall have the right to information, subject to provisions of the Act. The RTI empowers the citizens to ask any question or seek any information from government authorities be it Central, State or Local governments.

It shall apply to Public Authorities which means any authority or body or institution of self-government established or constituted by or under the Constitution; by any law made by the appropriate Government or, any other body owned, controlled or substantially financed directly or indirectly by the appropriate Government, and includes non-government organisation substantially financed by the government.

The Act lays down the machinery for the grant of access to information. The Public Authorities are required to designate Public Information Officer and Assistant Public Information Officer within the hundred days of enactment to accept the request forms and provide information. The Public Information Officers/Assistant Public Information Officers will be responsible to deal with the requests for information and also to assist persons seeking information.

The Act envisages creation of an independent non-judicial machinery viz, Central Information Commission, State Information Commission. Legal Framework of exercise of powers by the Commission is defined in the Act.

The Act also provides the two-tier Appellate forum. First appeal is to be made to the departmental officer senior to the Public Information Officer. The second appeal is to be made to State Commission.

Fee will be payable by the applicant depending on the nature of information sought.

Time limit has been prescribed for the compliance of information depending upon the information requirements.

Certain categories of information have been exempted from the disclosure under Section 8 and 9 of the Act like conduct of International Relations, security of the State, trade and commercial secrets, intelligence agency etc.

Central Information Commission and the State Information Commissions monitor the implementation of the Act and prepare an Annual report to be laid before the Parliament / State legislatures.

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## 10.6 RTI AND TRANSPARENCY AND ACCOUNTABILITY IN GOVERNMENT

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Democracy requires an informed citizenry and transparency of information which are vital for its functioning and also to contain corruption and to hold governments and their representatives accountable to the governed.

The greater the access to the information the greater would be the responsiveness of government to the needs of the people. Without information people cannot exercise their rights and duties.

RTI is major step towards more accountable and transparent government. It will certainly lead to end the culture of governmental secrecy and fulfil its potential as a truly great democracy.

The Act provides for setting out the practical regime of right to information under the control of public authority in order to promote transparency and accountability in the working of every public authority.

The promulgation of this Act set the stage for the transparency in the functioning of the government and its various agencies.

Under this Act access to information from public agency has become a statutory right of every citizen. Ordinary citizens do not have much information about how decisions are made and how public resources utilize. Right to Information Act is a vehicle for greater transparency about the manner of functioning of public agencies.

Before this Act, the accountability of public authority was practicably minimal. By this Act the citizens can now question, audit, review, examine, access government records, acts, decisions to ensure that these are consistent with the principles of public interest, good governance and justice. This act promotes transparency and accountability in administration. The act provides for framework for promotion of citizen-government partnership in carrying out the programmes for the welfare of the people.

When the government is transparent, there is less chance for corruption and more room for accountability.



People feel more powerful, their bargaining power vis-à-vis public officials has increased manifold. The Act has definitely resulted in a greater transparency in governance.

The Act has become powerful instrument for citizens and social activists to access information from the bureaucracy and thereby ensures greater accountability and transparency in decision making.

The Act aimed to concentrate power in the hands of the citizens who may demand, even without giving a reason, any information which they think will help them exercise their rights more effectively and take an informed decision.

The general awareness amongst people about the RTI Act and how it is to be used for their benefits is still low.

Furthermore, even the judiciary has liberally interpreted the provisions of the Act, thereby making the public authorities more accountable. For instance, in *ShyamYadav vs. Department of Personnel. Training*, the Central Information Commission held that property statements filed by civil servants are not confidential and information can be disclosed after taking the views of concerned officials as per the provisions of the RTI Act.

## CHALLENGES

The cases of misuse of RTI Act are also increasing.

The PIOs are not adequately trained about the different provisions and rules of the Act regarding procedures to be followed in disseminating information.

The PIOs has the same old colonial mind set and they try to guard every information and working in secrecy under the Official Secrets Act. These bureaucrats deny information to the citizen to save themselves from criticism and feel uncomfortable with the notion of transparency.

Attacks on RTI activists have also been a major deterrent in the RTI movement. There are no provisions to protect the