

Right To Information As An Instrument Of Good Governance: An Overview

Dr. Sultan Singh

Associate Professor, Dept. of Public Administration, CDLU, Sirsa.

ABSTRACT

Right to information is an important landmark in the history of transformation of administration into participatory democracy. Its important trademark is the transparency and accountability in administration and policy making. The success of RTI will provide basic information about government decisions and policies. Since the inception of RTI Act in 2005 a new confidence was visible in public mind that they can seek information on various aspects of governance from the government and thus can help the working of government through the process of participation and conversation. It was a new innovation in the working of democratic system in India and it was expected that the government will be responsive to the public demand to function according to the aspirations of the people.

Keywords: Good Governance, RTI, Government, Constitution, Accountability, Transparency, Decentralization, Corruption, Civil Society, Amendment.

Introduction

Seeking information is a fundamental right in democracy. RTI Act, 2005 gives this right to people. Supreme Court has clarified that this right is included in Article 19 and 21 of the constitution of India. Article 19 provides freedom of expression while article 21 relates to right to life. In our country almost 40 to 60 lakhs applications have been received under the RTI Act, 2005 in the last 14 years. The research has confirmed that poor people are using this act. This has given power to poor people ensuring good governance. In the last 14 years,

since the enforcement of this act, government working has become more transparent and accountable. According to reports of transparency international nearly 80 RTI activists have been killed in last 14 years, because they tried to expose the corruption in corridors of power.

The Parliament of India passed the Right to Information (RTI) Act in May 2005. This Act, which received Presidential assent in June 2005, came into full force from October 13, 2005. For the first time, after nearly six decades of Independence, the citizens of India have a real opportunity to exercise this very important right. Though the Supreme Court of India has, on more than one occasion, declared that the right to information is a fundamental right under the Indian Constitution, till recently there was no enabling legislation to allow most of the citizens of India to exercise this right.

The RTI Act 2005 covers all Central, state and local government bodies and in addition to the executive, it also applies to the judiciary and the legislature. It covers all-bodies owned, controlled or substantially financed, either directly or indirectly by the government, and non-governmental organisations and-other private bodies substantially funded, directly or indirectly, by the government. This would seem to include private school, hospitals and other commercial institutions that have got subsidies in the form of land at concessional rates or tax concessions, among others. Apart from these, the law, interestingly, also covers the private sector as it provides the citizens access to all information that the government can itself access through any other law currently in force. The Act gives a detailed definition of the term 'information' and significantly includes 'opinions and advices' as subject to disclosure. This clearly means that file noting are also to be disclosed, unless their content falls under one of the exemptions specified in Section 8 of the Act. The definition of 'information' also includes the right to inspect work documents and records held by the government and allow for the extraction of certified samples for verification. Therefore, the act moves beyond the realm of files and

documents and enables the information seeker to reality check. The Act has set out a relatively simple process for accessing information. What does Information mean? Information means any material in any form including records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material held in any electronic form and relating to any private body which can be accessed by a public authority under any other law for the time being, in force but does not include 'file noting'. What does Right to Information mean? It includes the right to —

- (i) Inspect works, documents, and records;
- (ii) Take notes, extracts or certified copies of documents or records;
- (iii) Take certified samples of material; and
- (iv) Obtain in form of printouts, diskettes, floppies, tapes, video in any other electronic mode or through printouts.

Relationship of Right to Information and Good Governance -

The access to information is cardinal to good governance and access to information is a vital factor for achieving the goals of good governance. For it promotes transparency and public accountability in the working of government functionaries. Good Governance is a facet of administrative efficiency. Publicity of information serves as an instrument for the oversight of citizens. By the same token it suggests that law could become a means for fighting corruption. Therefore, a government which produces a trustworthy flow of information creates greater certainty and transparency. This is especially appreciated by those who intend to invest in the country. International experience shows that countries that allow citizens to access public information have seen a reduction in indicators of corruption and, consequently, substantial increases in administrative efficiency. Good Governance is a part of governance. It is the government that is accountable to the public for delivering

a broad set of outcomes but more importantly it is the public service consisting of public servants that constitutes the delivery mechanism. Therefore, the accountability and governance arrangements between government which acts as the principal and the public service which is its agent, impact on the government's ability to deliver and on its accountability to the public.

The importance of the right to information lies in its role in enforcing democratic accountability. This right is important not only for the exercise of political and civil rights but also social and economic rights. Independent information is also important for the people to make informed choices. Amartya Sen has remarked, "You don't have famines in a country that has a free press. " The right, it argues, is directly related to survival right and basic needs such as food, water and health. The right to information is a potent tool for countering corruption. If government is to be clean and accountable there must be access to information.

1. People's Participation

Governance in a democracy implies that to effectively participate in the process of governance, the citizens must have the necessary information to make informed choices.-between available options. The RTI not only helps to improve the quality of decision-making by removing unnecessary secrecy but also facilitate the process of policy formulation on issue of their concern.

2. Democratisation of Governance —

Access to information is the basic requirement in democratisation of governance. It helps to check misuse of administrative authority for private gains and in the process to promote justice, equity and fairplay. That is why, L.D. White has observed, "Power in a democracy requires control, greater the power greater should be the control." RTI is one such device for disciplining the power and ensuring better, accountability.

3. Public Accountability -

The RTI is promotive of a culture of accountability by providing accessibility to information pertaining to finances, proceedings and decisions of all the social actors whose activities impact the public. It can provide check on mismanagement, abuse of discretion, bribery, other forms of corruption and malpractices.

4. Rule of Law -

Right to information reduces the chance of misuse of resources and lessens corruption and thus help governance function better, making service providers accountable for their actions, creating participatory and transparent environment for people to contribute in policy formulation and establishing the rule of law.

5 Combating Corruption -

The RTI is, likely to reduce corruption and increase administrative efficiency. The RTI in so far as that it provides every citizen the enforceable right to question, examine, audit, review and assess government acts and decisions, to ensure that these are consistent with the principles of public interest, probity and justice , it is likely to reduce corruption and increase administrative efficiency.

6. Checking the Misuse of Discretionary Powers —

Since officers are given discretionary powers for carrying out their duties effectively, they can abuse their discretion to suit various political or vested interests or to misappropriate funds. The right to information is a potent instrument to check misuse of administrative discretion and to ensure fairness.

7. Administrative Efficiency -

Administrative efficiency in government comprises of conducting the administration without unnecessary delays and without any ulterior or corrupt

motives. But it is quite often observed that grievances of citizens in the form of representations or statutory applications or appeals are kept pending for long periods sometimes months or years. In some other cases, applications are simply disposed of by saying that the government or the concerned authority "finds no reason" to accede to the request etc. Now that the RTI Act requires information about the pendency of the applications, reasons as to why these have not been disposed of or the reasons behind their rejection needs to be given, this is likely to improve the efficiency of various departments.

8. Creating a More Democratic and Open Society - There can be no democratic participation in decision-making without transparency and sharing of information. The free flow of information is essential if problems are to be identified and resolved. As against this a secretive governing culture fosters suspicion and is resistant to change unless legitimized by informed opinion leaders.

9. Protection of Civil Liberties - The right to information is also essential for protecting liberties of citizens by making it easier for civil society groups to monitor wrong-doings like custodial deaths and abuse of preventive detention legislation. Effective community monitoring of custodial institutions is dependent on access to information.

10. Reducing Poverty -

Legislation on right to information is fundamental to furthering the effective development of society and eradicating poverty. Information can empower poor communities to battle the circumstances in which they find themselves and help balance the unequal power dynamic that exists between people marginalized through poverty and their governments.

11. Effective Implementation of Government Schemes -

In rural areas, numerous schemes for providing food, housing, employment and education are run by the Central and state governments. These schemes meant for the poorest of the poor in the rural areas are routed through the network of government agencies. There is widespread criticism of these funds being routinely misappropriated or misused on a large scale. By providing entire information on these schemes to the public and access to records concerning their utilisation would certainly improve the implementation of the schemes.

12. Reforming Administration-

Uncaring, callous, slow, unaccountable and corrupt are among the perceptions by the common people of a government servant. The public perception is not too far from the reality. Over the years, the public servant starts regarding every file as another job to be done at his convenience, forgetting that behind every file there is a decision to be taken which would vitally affect some body.

Currently, the words 'governance' and 'good governance' are being increasingly used in development literature. 'Bad governance' is being increasingly regarded as one of the root causes of all evil within our societies. Major donors and international financial institutions are increasingly basing their aid and loans on condition that schemes to ensure 'good governance' are undertaken. Governance means the process of decision-making and the process by which decisions are either implemented or failure in implementation is acknowledged and remedied. Governance includes national governance, international governance, corporate governance and local governance. Government is one of the actors in governance and so is the public sector. All actors other-than government, public sector and the military constitute 'civil society'.

Significance of RTI

Accountability as well as transparency and information constitute two of the seven specific aspects of governance identified by the 1992 World Bank document titled Governance and Development, a release that may be attributed to its quest for good governance. Consequently, the citizens' right to information has now been universally recognised as an effective means to transparent and accountable public administration. As a matter of fact, the traditional concept of invisible government has become obsolete in this age of liberalisation and globalisation. Today, the citizens, the stakeholders, the consumers of public services, the beneficiaries of development programmes, the civil society organisations, the business and commercial houses--all must get the information they require legitimately from the public authorities, local bodies, and government-aided organisations relating to their administration.

RTI Amendment Act, 2019

The new amendment executed in July 2019 has put a direct check on the powers and functions of Chief Information Commissioner and Information Commissioners. Apart from the appointment power the Central Government has got power to fix the tenure and salary and other allied compensation. This provision will compel the commissioners to toe the line of Central Government. The criticism on the Amendment of the RTI Act mainly came from fear generated in the process of legislation. There was need for consultation and public opinion before the legislation to have an effective participation in the process of information. The Central Government did not refer the matter of legislation to the Standing Committee of the Parliament. This fear compounded in the criticism and the value of the commissioners in the entire information system. The Central Government might have adopted the discussion related to RTI in Parliament. After the passing of Amendment Bill the public has to rely on the activities of the Central and State governments and the entire ambit of

information rests within the power of the Central Government. The Central Government is representative of the people and in this capacity it can formulate policies according to choice and options available and thus restrict the powers of the RTI Commissioners.

Changes in the RTI by Amendment Act, 2019

1. The Central Government will notify the term for the CIC and the ICs and will not be fixed for five years.
2. Salaries, allowances and other terms and conditions of service of the Central and State CIC and ICs will be determined by the Central Government.
3. The new Act removes the provision that at the time of the appointment of CIC and ICs (at the Central and State level), if they are receiving pension or any other retirement benefits for previous government service their salaries will be reduced by an amount equal to the pension.

Consequences of the New RTI Amendment Act 2019

1. The Central Government can pilot its policies without much resistance from opposition parties.
2. Chief Information Commissioner and other Commissioners will have to function on the basis of choice and options provided by the Central Government.
3. The new RTI Amendment Act, 2019 might compromise autonomy and in of the information commissions and the commissioners.
4. Judicial powers of the RTI Commissioners will also' under-go change with the increasing role of the Central authorities.
5. Political programs are based of information available in the country and the limitation of information will undermine the role of opposition and power of the Commissioners.

6. It is good for the country that a balanced information is provided and the RTI Commissioners play an important role in the development programs.
7. RTI Commissioners are treated as statutory bodies but there is marked difference between statutory and constitutional bodies like the Election Com-mission.
8. The salaries and pension will be varied on the basis of statutory designation.
9. The central Government will clarify the rules about the functioning of the RTI Commissioners.

In India, the Right to Information Act, 2005 is emerging as a powerful instrument in the hand of a common man as "at present where control over information assumes the dynamics of a distinct power relation involving the abuse of position, money and muscle power; a right to information can serve as an instrument of real power especially for those who suffer its constant denial, on daily basis". As rightly stated, "Accountability is essential for good governance, and this is possible through transparency in operations freedom of information, and access to information by the citizens". The fact is that transparency and openness in the functioning of the government have a cleansing effect on the functioning of the government and help keeping a check on corruption. The Act seeks to end excessive secrecy in governance and strives for an open system with reasonable safeguard to empower people in curbing corruption. There is no denying that mere enactment of the RTI Act, howsoever path-breaking legislation it is, and it would not be enough to provide open and transparent public administration. In fact, it would just be the beginning of a long and arduous journey. The most challenging task for operationalising the RTI would be to bring about major changes in our administrative system, institutions and processes so as to evolve and facilitate an altogether new culture

of openness in place of the existing age-old culture of secrecy leading to establishment of good governance.

Suggestions for Making RTI Act as a Vehicle of Good Governance

1. All process of seeking information under RTI Act, must be digitalized so that the information can be provided at the earliest.
2. In the RTI Act, 2005 the second appeal in made to state information commission where the matter is resolved in about a year time. This is too long period and it must be reduced to 3 months.
3. People are seeking information about basic minimum services like drinking water, housing yojna and the matters related to local panchayats for bringing transparency in administration people should be made aware about various provisions of RTI, Act.
4. It is matters of concern that many vacancies exists in central information commission as well as in state information commission. These must be filled immediately.
5. Only retired government officers are appointed as information commissioners. People of independent thinking must be appointed as information commissioners, so that commission can work independently.
6. State information commission totally independent of central information commission. CIC must have supervision over SIC's.
7. Rajasthan Government has introduced Jan Seva Portal to make available information about various welfare schemes introduced by various departments. Such initiative should be adopted by various departments of state and central government.
8. Most applications under RTI Act are received demanding information about general government orders, circulars, minutes

- of various meetings. Tender, work orders etc. These information should be made available to websites of various departments which will reduce the burden of seeking information under this act.
9. Most of the officers working in the RTI, offices need to be trained about various provisions of this act.
 10. The commission has powers of a civil court for limited purposes. This power should be widened so as to enable the commission to appropriately deal with contempt matters. The commission should be empowered to enforce their decisions including penalising the Head of the Public Authority for continued contempt of its orders. By that time, commission may use 19 (8) b compensation clause against the non-cooperative head of public authority.
 11. Fee charged should be moderate and uniform throughout the country.
 12. To help the information seekers there should be a single window service at the e-dish centre in the district headquarters.

Concluding Observations

The importance of the right to information lies in its role in enforcing democratic accountability. This right is important not only for the exercise of political and civil rights but also social and economic rights. Independent information is also important for the people to make informed choices. Countries which have introduced laws relating to freedom of information are seeking to replace a "culture of secrecy" that prevails within their public service with a "culture of openness". These new information laws are intended to promote accountability and transparency in government by making the process of government decision-making more open. As observed in the first Report of Second Administrative Reform Commission, "The Right to Information Law of 2005 signals a radical shift in our governance culture and permanently impacts

all agencies of state. The effective implementation of this law depends on three fundamental shifts: from the prevailing culture of secrecy to a new culture of openness; from personalized despotism to authority coupled with accountability; and from unilateral decision-making to participative governance".

It is well recognized that right to information is necessary, but not sufficient, to improve governance. A lot more needs to be done to usher in accountability in governance, including protection of whistle blowers, decentralization of power and fusion of authority with accountability at all levels. Right to Information has been seen as the key to strengthen participatory democracy and ushering in people-centred governance, access to information can empower the poor and the weaker sections of society to demand and get information about public policies and action, thereby leading to their welfare. Without good governance, no amount of developmental schemes- can bring in improvements in the quality of life of the citizens.

In a fundamental sense, right to information is a basic necessity of good governance. Therefore, right to information has also been said to be the life blood of democracy. The more the citizen is able to access governmental functioning the greater is the responsiveness of the governmental system to the community needs.

REFERENCES

Anil Monga, "New Public Management in India" Management in government, IJPA, Vol XXXIX No. 4 January - March 2008.

Aruna Roy and Nikhil Dey, "The Right to Information "Facilitating People's Participation and State Accountability", MKSS Rajasthan, available at <http://www.10iacc.org>.

Bata K. Dey, "Good Governance, Parametric Issues" A future Vision, Uppal Publication, 2002 New Delhi.

B.P. Mathur, "Right to Information: A transparent Government", Governance Reform for vision India, Macmilliam, 2005. New Delhi.

Government of India, Second Administrative Reforms Commission, First Report on Right to Information: Master Key to Good Governance, June 2006. New Delhi.

R.B. Jain, "Public Administration in India" 21st Century Challenges for Good Governance, 2001.

S.L. Goel, Right to Information and Good Governance, Deep and Deep Publication, 2007, New Delhi.

Subhash Kashyap, "Towards Good Governance: Need for Political Reforms", Indian Journal of Public Administration, Special Issue on Good Governance, 1996, New Delhi.

T.N. Chaturvedi. (ed.) Towards Good Governance, Indian Journals of Public Administration, 1999. New Delhi.

Newspapers

The India Express, Nov. 14, 2019. Chd.

Rajasthan Patrika, Oct 12, 2019, Jaipur.