

The Right to Information Act, 2005: It's Background and Evolution

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ABSTRACT:

An essential step in ensuring transparency and accountability in government systems and processes is Citizen's Access to Information. It includes the right to know and to be known and the right to impart and receive information regarding the functioning of the government and the state machineries. In modern constitutional democracy, it is axiomatic that the citizens have a right to know about the affairs of, government which having being elected by them, seek to formulate sound policies of Governance aimed at their welfare. The Right to Information generally understood as the right to access information held by public authorities is not just a necessity of the citizens but it is a precondition to good governance. During the last decade, it empowered public to get information from the State. As emphasized by the National Commission to Review the Working of Constitution under the chairmanship of Justice M.N. Venkatachaliah the much of the common man's distress and helplessness is because of his ignorance of decision making process. The report has exhorted government to assume a major responsibility and mobilize skills to ensure flow of information to citizens. In this background, this paper makes an attempt to trace the historical background and evolution of right to information in India and other countries. It examines efficacy of regulatory framework related to right to information in India. It also highlights the contribution and role of the Supreme Court of India to felicitate the proper and effective implementation of the Right to Information Act, 2005 in India.

Key Words: *Right to Information; Constitution of India; Democracy; Informed Citizenry*

INTRODUCTION:

This paper makes an attempt to trace the historical background and evolution of right to information in India and other countries. It examines efficacy of regulatory framework related to right to information in India. It also highlights the contribution and role of the Supreme Court of India to felicitate the proper and effective implementation of the Right to Information Act, 2005 in India.

Information is currency that every citizen requires to participate in the life and governance of the society. In any democratic polity, greater the access, greater will be the responsiveness, and greater the restrictions, greater the feeling of powerlessness and alienation. Information is basis for knowledge, which provokes thought, and without thinking process, there is no expression. Citizen's Access to Information is an essential step in ensuring transparency and accountability in government systems and processes.

It includes the right to know and to be known and the right to impart and receive information regarding the functioning of the government and the state machineries. The right to inform and the right to be informed are co-extensive. In modern constitutional democracy, it is axiomatic that the citizens have a right to know about the affairs of, government which having being elected by them, seek to formulate sound policies of Governance aimed at their welfare. The

Right to Information generally understood as the right to access information held by public authorities is not just a necessity of the citizens but it is a precondition to good governance. To be specific, access to Information makes democracy more vibrant and meaningful and allows citizens to participate in the governance process of the country. During the last decade, it empowered public to get information from the State. The importance of RTI can be judged from the report of National Commission to Review the Working of Constitution under the chairmanship of Justice M.N.Venkatachaliah. The report has emphasized the fact that much of the common man's distress and helplessness is because of his ignorance of decision making process. He remains ignorant and unaware of the process which vitally affects his interest. Government procedures and regulations shrouded in veil of secrecy do not allow the clients to know how their cases are being handled. They shy from questioning officers handling their cases because of the latter's snobbish attitude and bow-wow style. RTI should be guaranteed and needs to be given real substance.

The report has exhorted government to assume a major responsibility and mobilize skills to ensure flow of information to citizens. Further, right to information ensures minimizing manipulative and dilatory tactics of *babudom*, putting a considerable check on graft and corruption. The state-level RTI Acts have been enacted by the state governments of Karnataka (2000), Goa (1997), Rajasthan (2000), Tamil Nadu (1997), Delhi (2001), Maharashtra (2002), Assam (2002), Madhya Pradesh (2003), and Jammu and Kashmir (2004), Haryana (2005).

HISTORICAL BACKGROUND:

Declaration of The Rights of Man, 1789 provides that all the citizens have a right to decide, either personally or by their representatives, as to the necessity of the public contribution, to grant this freely, to know to what use it is put; and to fix the proportion, the mode of assessment and of collection and the duration of the taxes. United Nations Charter, 1945 through the General Assembly, in 1946 resolved that "freedom of information is a fundamental human right and the touchstone for all freedoms to which the United Nations is consecrated." The United Nations Special Rapporteur, an office of United Nations Commission on Human Rights on freedom of opinion and expression, noted in 1995 that 'the right to seek or have access to information is one of the most essential elements of freedom of speech and expression. Similarly, in the annual report of the year 2000, it was pointed out that the right to information was not only important for democracy and freedom, but also for facilitating public participation and realisation of the right to development.

Universal Declaration of Human Rights, 1948 in Art 19 provides that 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 and regardless of frontiers.

The International Covenant on Civil and Political Rights, 1968 through Article 19 provides that everyone shall have the right to hold opinions without interference. Everyone shall have the right to freedom of expression. This right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art or through any other media of his choice.

India has ratified the ICCPR. Section 2(d) read with 2(f) of the Protection of Human Rights Act, 1993 clarifies "human rights" to include the rights guaranteed by the ICCPR. The Commonwealth Association recognizes human rights and democracy as part of its fundamental political values. These include fundamental human rights, and the individual's inalienable right

to participate in the democratic process. In the year 1980, the law ministers of the Commonwealth countries at their meeting held at Barbados stated that ‘public participation in the democratic and government process would be most meaningful when citizens had adequate access to official information.

European Convention on Human Rights, 1950 in Article 10 prescribes (1) Everyone has the right to freedom of expression. This right shall include freedom to hold opinions, and to receive and impart information and ideas without interference by public authority and irrespective of frontiers; (2) The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or such penalties as are prescribed by law, and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

Rio Declaration on Environment and Development, 1992 in Principle 10 first recognized the fact that access to information on the environment, including information held by public authorities, is the key to sustainable development and effective public participation in environmental governance. Agenda 21, the ‘*Blueprint for Sustainable Development*’, the companion implementation document to the Rio Declaration, states: Individuals, groups and organizations should have access to information relevant to environment and development held by national authorities, including information on products and activities that have or are likely to have a significant impact on the environment, and information protection measures.

EVOLUTION OF RIGHT TO INFORMATION:

Sweden was the first country in the world which guaranteed the Right to Information as early as 18th Century (in the year 1766). By 2013, more than 93 countries have national-level Right to Information laws or regulations in force including the major developing countries like China and India. Of all these, Mexico has taken the lead in 2002 with one of the best examples of a well functioning Freedom of Information Act in the world, which represents a vital element of Mexico’s democratic transition, and became a model worldwide. A well competent governmental body (Instituto Federal de Acceso a la Información) is entrusted with the responsibility of implementation and overseeing the law. Handling over 200,000 requests in its first five years have resulted in Mexico setting a new international standard for transparency legislation.

The momentum for adoption of Right To Information laws is building in Africa, with passage of a law in Nigeria in 2011 after a decade-long civil society campaign and work led by the African Commission on Human and Peoples Rights to develop a Model Access to Information Law for AU member states. Momentum is also developing in Asia, boosted by China’s adoption of nationwide regulations (applicable to all levels of government) in 2007 and Indonesia’s adoption of a nationwide law in 2008. The region least touched by the right to information movement is the Middle East. Only Jordan, Yemen and Israel have laws; moreover Jordan’s law is weak and adoption was driven by the government rather than civil society.

In Asia so far almost 20 nations have adopted Freedom of Information laws including Kazakhstan (Freedom of Information Act, 1993), South Korea (Act on Disclosure of Information by Public Agencies, 1996 adopted in 1998 and amended in 2004), Japan (Law concerning Access to information, 1999 came into power in 2001 and amended in 2003), China (Open Government Information Regulation, 2008 which came into effect in 2009) and Indonesia

(Freedom of Information Law, 2008 which came into force in 2010). In South Asia, countries such as Afghanistan, Bhutan, Maldives and Sri Lanka, have not adopted any related legislations. Only Nepal (2007), Bangladesh (2009), Pakistan (2002) and India (2005) have such laws. In Pakistan, the Freedom of Information Ordinance passed in 2002 has provision for fine up to Rs. 10,000 when complaints are deemed to be frivolous, vexatious or malicious by the Ombudsmen. In Nepal, the law requires public agencies to update and publish 12 different kinds of information by themselves on a periodic basis. Likewise, in Bangladesh, request for information cannot be rejected on the ground of national security. In this connection, it is necessary to highlight the legislative attempts related to right to information in United Kingdom and United States of America.

Though the democratic traditions are deep-rooted in England, yet the thrust of legislation in this direction has been not on information but 'Secrecy'. The law is contained basically in the Official Secrets Acts of 1911, 1920, 1939. Broadly speaking, it is the Official Secrets Act, 1911, which governs the subject matter substantially. Judiciary, in England, has approved openness in Government and it is achieved by refusing the government's claim of secrecy. It may be noted that the Official Secrets Act, 1923 makes almost all kinds of documents secrets and punishes anyone who leaks them out. A consolation against the rigorous provision is Section 10 of the Contempt of Court Act, 1981. This section reflects the importance which parliament attaches to the free flow of information to the public.

Freedom of speech and expression is guaranteed by the first Amendment of the Constitution of the United States, which says that Congress shall not make any law abridging the freedom of speech or of the press. The Constitution of America does not contain any specific provision of access to administrative documents, but such a right has been conferred by statutes like the Administrative Procedure Act, 1946 and the Freedom of Information Act, 1966. In U.S.A., the affirmative rights to acquire information are considered as a corollary of the First Amendment freedoms.¹⁸ However, the protection of the Bill of Rights goes beyond the specific guarantee to protect from congressional abridgement of those equally fundamental personal rights, necessary to make the express guarantees fully meaningful. The First Amendment was held to involve not only the right to speak and publish but also the right to hear, learn and to know. Thus, the freedom of speech necessarily protects the right to receive information. Thus, the trend in United States is in favour of allowing an affirmative First Amendment right.

RIGHT TO INFORMATION IN INDIA:

There is no specific Constitutional right to Freedom of Information. The chapters on Fundamental Rights and Directive Principles of State Policy are totally silent on the subject. However, through Judicial Activism, the courts have started carving out this right in Article 19 (1)(a) which confers the right of freedom of speech and expression. Though a directive in this regard seems to have begun as early as in 1960, however, it was K.K. Mathew J., who expounded with force that in "Government of responsibility" like ours where all the agents of the public must be responsible for their conduct, there can be but few secrets the people of this country have a right to know every public act, everything is done in a public way by their functionaries". It was only in 1981 that "right to know" matured to the status of Constitutional right in the celebrated case. In the words of Justice Bhagwati, "the concept of open Government is the direct emanation from the right to know which seems to be implicit in the right of free speech and expression guaranteed under Article 19(1)(a) of the Constitution."

In *Romesh Thappar V. State of Madras*, AIR 1950 SC 124 & *Brij Bhushan V State of Delhi*, AIR 1950 SC 129 cases the Supreme Court held that freedom of press is included in freedom of speech. In *Sakal Newspapers (Pvt.) Ltd. V. U.O.I*, AIR 1962 SC 305 the Supreme Court held that, the impugned Act and, the Order imposed unconstitutional restriction on freedom of the press. Again in *Bennett Coleman v. UOI*, AIR 1973 SC 106, similar curbs of Sakal case, were imposed but majority held that the impugned Order not only violated the freedom of the press but also violated the right of the readers the information which was included within their right to freedom of speech and expression. In *Indian Express Newspapers Bombay Pvt. Ltd. V. UOI*, AIR 1986 SC 515, p 527, Venkataramiah J. (as he then was) said that In today's free world freedom of the press is the heart of social and political intercourse. The press has now assumed the role of the public educator making formal and non formal education possible in a large scale particularly in the developing world, where television and other kinds of modern communication are not still available for all sections of society. The purpose of the press is to advance the public interest by publishing facts and opinions without which a democratic electorate cannot make responsible judgments.

In *Prabha Dutt V. UOI* , (1982) 1 SCC 1, AIR 1982 SC 6, the Supreme Court held that, the Right to Information of a journalist did not give her an unrestricted access to information. The right to information being integral part of the right to freedom of speech is subject to restrictions that can be imposed upon that right under art 19(2). In *Dinesh Trivedi V. UOI*, (1997) 4 SCC 306, the court came to the conclusion that the details of the Vora Committee report and the materials on which it was based might be kept confidential until the nodal agency prepared cases against the guilty persons. The Court therefore directed the government to appoint a nodal agency but not give directions for disclosing the supporting materials. This decision should guide future determination of when and which information would be required to be given and which kind of information may be covered by the exemptions provided by the Right to Information Act 2005.

This view in the words of the same learned Judge is that “the right to information or access to information is basic to the democratic way of life.” However, it is submitted that both Mathew and Bhagwati, JJ. had not given an account on how the “right to know” could be founded under the freedom of speech and expression. They were further silent on the relationship between the restriction which should be placed on the right to know and the restriction existing under Article 19(2).

Right to Information cannot be located exclusively in Article 19(1)(a) of the Constitution. Indeed, it is to be found in several other provisions also. Further, inclusion of the right to information only in Article 19(1) (a) of the Constitution will indirectly restrict that right only to citizens. Rather, such right must vest in every human being irrespective of his/her citizenship. If the right to information is to be treated as a human right, it need not be restricted to citizens. For example, if a person is legally detained or die in police custody, can his/her near relative not seek information about him even if they are not citizens? Keeping in view the liberal interpretation of the rule of *locus standi*, any person can raise question of legality of State's action which infringes the fundamental rights of persons who are poor and devoid of resources to come to court, the information must now be available to non- citizens also. This argument also draws support from Article 19 of the Universal Declaration of Human Rights, 1948 and Article 19 of the International Covenant on Civil and Political Rights of 1966 and India is a party to both the Covenants. While widening the scope of right to information further, the Supreme Court has held that the right to information emanated from the right to personal liberty and procedure established by law, guaranteed by Article 21 of the Constitution.

Directive Principles of State Policy, providing for social and economic transformation, direct the State to strive to minimize the inequalities in income, and endeavor to eliminate inequalities in status, facilities and opportunities, not only amongst groups of people, residing in different areas or engaged in different vocations. Dr. BR Ambedkar presupposed a vigilant citizenry for Directive Principles. The inclusion of the Fundamental Duties in the Constitution shows the importance of the civil society and its duty to promote rationality scientific outlook, humanism and spirit of inquiry. Such a civil society must comprise a well-informed citizenry.

MAJOR OBJECTIVES OF RIGHT TO INFORMATION ACT, 2005:

India's RTI Act is said as one of the most empowering and most progressive legislations passed in the post Independent India and world's best law. Most radical provision of the Act is that the information seeker needs not to give any reason for it or prove his *locus standi*. Right to Information Act provides a broad framework for Government and Citizens' interface contain corruption, ensure accountability and to mutually share the responsibility for development. Under the Act, the public authorities are required to adopt open and transparent procedures and methods of delivery of services. They ought to reveal what they do, how they do and what are the outcomes of the policies, programmes and public expenditures. In a democratic society, the citizen have the right to know as to how they are governed and they also have right to exercise their options to indicate how they ought to be governed and served by the Government.

The major objectives of the Right to Information Act, with which the legislation was passed by the Indian Parliament in the year 2005 are critical elements of good governance, which entails full accountability to stakeholders, who are partners in development process. And, have the powers to enforce accepted policies, common norms and recognized bench marks. It is expected, therefore, that the citizens, armed with information obtained through their exercise of right to know, would be able to protect life and liberty as well as secure equity and justice before the law. An attempt is therefore made below to examine the extent to which the Right to Information has been successful in influencing the above factors in the desirable direction.

With a view to ensuring maximum disclosure of information regarding government rules, regulations and reports including decision making processes, every public authority is required to 'maintain all its records duly catalogued and indexed in a manner and the form which facilitates the right to information under the Act'. The public authorities are therefore, expected to make pro-active disclosures through publication of relevant documents, including web-based dissemination of information. Besides, the public authorities are also required to 'provide as much information *suo motu* to the public at regular intervals through various means of communication, including internet, so that the public have minimum resort to the use of this Act to obtain information'. In addition, a public authority is required to "provide reasons for its administrative or quasi-judicial decisions to the affected persons". Public authorities have to facilitate the access to information to a citizen, the right to (i) inspection of work, documents, records (ii) taking notes, extracts or certified copies of the documents or records (iii) taking certified sample of material and iv) obtaining information in electronic form, if available. In the cases where the information sought for are not provided within the stipulated period of 30 days or the information furnished are incomplete, misleading or incorrect, a requester is free to file a complaint or appeal before the Information Commission, for necessary directions to the parties as per the provisions of the Act.

The Commission has the mandate to impose penalty and/or to recommend disciplinary action against the information providers, if held responsible for obstructing the free flow of

information. The Commission may also award compensation for any detriment suffered by a requester for seeking information.

Thus, the Act ensures greater transparency than ever before in the working of the public bodies. The disclosure of vital information thus results in checking corrupt practices in delivery of services and ensuring the reach of entitlements to the poor. The Right to Information Act provides a framework for promotion of citizen government partnership in designing and implementation of development programmes for improving quality of life, which calls for increasing people's options for higher earnings, better education and health care, a cleaner environment and a richer cultural life. The principle of partnership is derived from the fact that people are not only the ultimate beneficiaries of development, but also the agents of change. The stakeholders' participation leads to better projects and more dynamic development. Under the Right to Information regime, citizens' participation has been promoted through (a) access to information and involvement of affected groups/communities in design and implementation of projects and (b) empowerment of local government bodies at village level through the involvement and cooperation of citizens. The pro-active disclosure of information has enabled the beneficiaries to assume a central role in design and execution of policies. Right to Information has instilled a wider sense of ownership in economic and political processes.

The Right to Information provides people with the mechanism to access information, which they can use to hold the government to account or to seek explanation as to why decisions have been taken, by whom and with what consequences or outcomes. In addition, every public authority is required 'to provide reasons for its administrative or quasi-judicial decisions to the affected persons'. There is, therefore, no scope for any arbitrary decision. Until the implementation of the Right to Information Act, it was not possible for an ordinary persons to seek the details of a decision making process, which was found most often, as ineffective in terms of its outcome. It was, therefore, not possible to hold a free and frank discussion on issues of common concern of people or to fix the responsibility for any action. Such an era of darkness in policy planning, including monitoring and evaluation of schemes by affected persons, is over.

The information regime has, in effect, created conducive conditions for everyone to have a better understanding of how the government works or how a particular decision was reached. The culture of secrecy, as known, encourages the government officials to indulge in corrupt practices, misuse of power and diversion of funds for private purposes. As a result, the government's social spending yields no worthwhile benefits. It creates an environment of distrust between the people and the government, which impinge upon the development and jeopardize democratic governance. Under the Right to Information regime, there is unprecedented transparency in the working of public departments.

There is thus better understanding of the decision making process and greater accountability of government. This has led to reduction in corruption in the country as evident from the report of the Transparency International (TI) which perceives that corruption in India has declined, due mainly to the implementation of the Right to Information Act. This is evident from corruption reduction score of 3.6 (out of 10) in 2013, after an initial rise of 3.5 in 2010, compared to 2.99 in 2009, which indicate a decline in corruption to the extent of 15%.⁴⁹ Right to information (RTI) is harnessed as a tool for promoting participatory development, strengthening democratic governance and facilitating effective delivery of socio-economic services. People who have access to information and who understand how to make use of the acquired information in the processes of exercising their political, economic and legal rights become empowered, which, in turn, enable them to build their strengths and assets, so as to improve the quality of life. In view

of this, almost every society has made endeavors for democratizing knowledge resources by way of putting in place the mechanisms for free flow of information and ideas so that people can access them without asking for it. People are thus empowered to make proper choices for participation in development process.

Until 2005, an ordinary citizen had no access to information held by a public authority. Even in matters affecting legal entitlements for such subsidized services as food for work, wage employment, basic education and health care, old age pension and food security for destitute, it was not easy to seek the details of decision making process that affected or harmed him. Under the Official Secret Act, 1923, the entire development process has thus been shrouded in secrecy. The people who voted for the formation of democratically elected governments and contributed to the huge costs of financing public activities, had no legal rights to know as to what process has been followed in designing the policies affecting them, how the programmes have been implemented, who are the concerned officials associated with the decision making process and execution of the schemes and why the promises made for delivery of essential services to the poor have not been fulfilled? The major concern of the RTI Act, 2005 is to allow for greater probity in the functioning of the government departments so as to promote transparency and accountability in the working of the public bodies and contain the scourge of corruption, which are critical for ensuring good governance and development. In the Right to Information regime, the poor persons armed with information through the exercise of right to know, are getting increasingly involved in designing and implementation of poverty alleviation programmes such as Guarantee of Income and Food Security through NREGA, Jawaharlal Nehru Urban Renewal Mission (JNNURM), Mid-Day Meals to School Children, Integrated Child Development Scheme (ICDS), Grant of Food Security and Pension for the Poor Senior Citizens etc.; Delivery of Services under Subsidized Schemes like Public Distribution System (PDS) and Shelter for the Poor etc.; Education and Health Care Schemes like Sarva Shiksha Abhiyan, National Rural Health Mission and Aam Admi Insurance Schemes etc.; Basic Infrastructure Development Programmes like rural roads, electricity, water and sanitation etc.; Empowerment of Vulnerable Sections mainly women, SC/ST, minorities and disabled persons etc.; Environmental Protection.

SUPREME COURT OF INDIA AND RIGHT TO INFORMATION:

Can an applicant seek information as to why and for what reasons the judge had come to a particular decision or conclusion? In *Khanpuram Gandaiah v. Administrative Officer & Ors.*, the Supreme Court held that definition of “information” shows that an applicant under Section 6 of the Right to Information Act can get any information which is already in existence and accessible to the public authority under law. Of course, under the Right to Information Act an applicant is entitled to get copy of the opinions, advices, circulars, orders, etc., but he cannot ask for any information as to why such opinions, advices, circulars, orders, etc. have been passed, especially in matters pertaining to judicial decisions. A judge speaks through his judgments or orders passed by him. If any party feels aggrieved by the order/judgment passed by a judge, the remedy available to such a party is either to challenge the same by way of appeal or by revision or any other legally permissible mode. No litigant can be allowed to seek information as to why and for what reasons the judge had come to a particular decision or conclusion. A judge is not bound to explain later on for what reasons he had come to such a conclusion.

Whether, instructions and solutions to questions were information made available to examiners and moderators in their fiduciary capacity and therefore exempted under Section 8(1)(e) of the Right to Information Act. Giving answer to this question in *The Institute of Chartered Accountants of India v. Shaunak H. Satya*, the Court held that, anything given and taken in

confidence expecting confidentiality to be maintained would be information available to person in fiduciary relationship. Therefore, instructions and solutions to questions communicated by examining body to examiners, head-examiners and moderators were information available to such persons in their fiduciary relationship and therefore, exempted from disclosure under Section 8(1)(d) of Right to Information Act. “Authorities shall maintain proper balance so that while achieving transparency, demand for information does not reach unmanageable proportions affecting other public interests.”

A decision, classic example of judicial over-reach, killing right to information was made in *Namit Sharma v. UOI*. The Supreme Court, chaired by Justice AK Patnaik and Justice Swatanter Kumar, passed an order which would fundamentally change the constitution and working of Information Commissions. Apart from the operational problems, the suggested changes would require an amendment to the RTI Act by the government. The Supreme Court has given directions that, all Information Commissions shall work in Benches of two members, and one member should be a ‘judicial member’.

Thus 50% of the Commissioners will now be retired judges. Effectively the disposal of pending cases will drop to about 50% of the current disposals. This will lead to Commissions deciding cases after five years or more in the next few years. Certain other elements in the order are confusing. For instance, it is unlikely that a sitting judge will ever leave the Supreme Court to join the CIC. Yet ironically, a retired judge of the SC would also not be able to join since both the Supreme Court and CIC have the same retirement age of 65 years. It is not clear why the head of Information Commissions must necessarily be a judicial member. If anything, he or she needs to have some administrative acumen over and above a regular member.

In *Shri Subhash Chandra Aggarwal v. Indian National Congress & Ors.*, the Central Information Commission has held, on 3rd June 2013 that INC, BJP, CPI(M), CPIO, NCP and BSP (6 Recognised National Political Parties) have been substantially financed by the Central Government under section 2(h)(ii) of the RTI Act. The criticality of the role being played by these Political Parties in Indian democratic set up and the nature of duties performed by them also point towards their public character, bringing them in the ambit of section 2(h). The constitutional and legal provisions also point towards their character as public authorities and it was held that AICC/INC, BJP, CPI(M), CPI, NCP and BSP are public authorities under section 2(h) of the RTI Act. Reacting to this decision, all political parties unanimously decided to make an amendment to the RTI Act & the Bill for the purpose is pending in the Parliament. This bill should be immediately withdrawn to enable citizens of this country to know the functioning of the political parties.

CONCLUSION:

The Right to Know is not meant for gratifying idle curiosity or mere inquisitiveness but is essential for the effective functioning of democracy. Transparency and accountability are sine quo non in a genuine democracy. India, being largest democracy has to strive hard to serve the citizens of country. The Right to Information Act, 2005, in its childhood, during these fourteen years has shown its charisma in Delhi Legislative Assembly elections and citizens, full of information have reacted greatly to the performance of the government. Hence, attempt should be to give more and more scope, ambit, use of it rather to attenuate it.

Right to know, as a tool to access public held information, has significant bearing on good governance, development and the implementation of flagship programmes. A common man is empowered to seek accountability of the Government. Yet the task of implementing the law is not without major challenges. Lack of adequate public awareness, lack of proper system to store

and disseminate information, lack of capacity of the public information officers (PIOs) to deal with the requests, bureaucratic mindset and attitude etc. are still considered as major obstacles in implementation of the law. With a view to realizing the development goals, the followings are tasks ahead:

All the 'Public Authorities' are required to make proactive disclosure of information. Almost entire gamut of their activities and the manner in which they are executed are to be disclosed. The issue is how to present and capture the relevant information that can be of use to the stakeholders for realizing their rights. The computerization of records and use of IT resources to ensure transparency in functioning of different departments should be accorded high priority. The information should be disclosed on *suo motu* basis so that a citizen does not have to resort to the provisions of the Right to Information Act.

The Act empowers every citizen to seek information and to gain ideas and acquire new knowledge to improve quality of life and to participate in the effective governance of public authorities. The issue is to promote information literacy among people to enable them to decide what to ask for, how to ask and how to make good use of information, so that they can effectively participate in the process of development, including control of corruption. The issue of promotion of information literacy among both educated and not so well educated citizens is very critical and challenging to enable them to claim for their entitlements.

A comprehensive Information Management System should be developed by each public authority for storage and retrieval of data and information that may be shared with anyone who seeks to inspect the records and use the information. Use of information technologies would not only facilitate faster dissemination of information but would also reduce the costs of servicing and sharing information. In view of high illiteracy among the poor, a multimedia approach should be adopted to educate and train people of diverse linguistic backgrounds. They should be enabled to decide and select as to what information should be sought for and that from where and how? Besides, they should also know as to how to make best use of information Section 4(2) of the Right to Information Act, 2005 provides that it shall be a constant endeavour of every public authority to take steps to provide as much information *suo motu* to the public at regular intervals through various means of communications, including internet, so that the public have minimum resort to the use of this Act to obtain information.

This alone can ensure cost-effective use of the provisions of the Right to Information Act and promote efficient use of limited resources.

In this connection, recommendation of the National Commission to Review the working of the Constitution is worth considering. It has recommended that Article 19(1)(a) of the Indian Constitution should be amended as "All citizens shall have the right to freedom of speech and expression which shall include the freedom of press and other media, the freedom to hold opinion and to seek, receive and import information and idea." Additional ground in Article 19(2) should be added as "Preventing disclosure of information received in confidence except when in public interest."

Democratization of information and knowledge resources is critical for people's empowerment to realize the entitlements as well as to augment opportunities for enhancing the options for improving quality of life. The strengthening of information regime is therefore *sine quo non* for promoting democratic governance and right to development.

The Public Interest Disclosure and Protection to Persons Making the Disclosure Bill, 2010, provides the Central Vigilance Commission powers of a civil court to hand down harsh penalty to people revealing the identity of whistleblowers. According to the bill, the onus will be on the

CVC to protect the identity of the citizens who provide information about the misuse of government authority and funds. Hence, the Bill should be immediately passed.

There are Backlog of appeals & complaints in Commissions. Around, 18872 Appeals & 5669 Complaints are pending in CIC. The RTI Act provides for maximum period within which disposal of application either for information or for first appeal has to be disposed off but it nowhere provides for maximum period for disposal of complaints or appeals by Information Commissions. It has resulted in backlog of cases in the ICs thereby frustrating the very purpose of the Act. Therefore, a time limit should be prescribed for ICs within which they have to dispose of complaints and appeals.

Last, but not the least, it is submitted that the Right to Information Act, 2005 will have no fruitful result unless the society will not be awarded. Thus, being a law scholar it is our responsibility to educate the people about the law and their own rights. The government, both, Central and State, should also make an endeavour in this regard.

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6. Roger Vleugels' list compiled in consultation with FOI Advocates, a network of more than 400 FOI NGOs and individuals in more than 90 countries.
7. *Conway v. Rimmer*, (1968) A.C. 910 decision enlarged the public access to administrative information.
8. Section 10 of the Act provides a protection to the press and media from the disclosure of source of their information. A disclosure can only be desired by a judicial finding that it is necessary in the interest of any of the exceptional circumstances specified under the section.
9. *Secy. Of State v. Guardian Newspaper Ltd*, (1984) 3 All E.R. 60 at p. 603.
10. Thomas Emerson, *Legal Foundation of Right to Know*, Washington University Law Quarterly, 1976, p. 2. In *Lamont v. Post Master General*, 14 Lawyer Edition, 2d. 398 (1965), it was held that the First Amendment contains no specific guarantee of access of publications.
11. *Stanley v. Georgia*, 22 Lawyer Edition, 2d. 542 (1969)
12. *Hamdard Davakhana v. Union of India*, AIR 1960 SC 554.
13. *State of U.P. v. Raj Narain*, AIR 1975 SC885.
14. *S.P. Gupta v. Union of India*, AIR 1982 SC 149 at p. 158-160.
15. *Sheela Barse v. Union of India*, AIR 1986 SC 1773
16. *Pune Environmental Case, (Bombay Environmental Action Group v. Pune Cantt. Board*, SLP (Civil) 11291/198)
17. Article 22(1) of the Constitution of India
18. Article 311(2) of the Constitution of India

19. *E.P. Royappa v. State of Tamil Nadu*, AIR 1974 SC 555.
20. *Peoples' Union for Democratic Reforms v. Union of India*, AIR 1982 SC 1473
21. Article 19 of UDHR, 1948
22. Article 19 of ICCPR, 1966
23. *Essar Oil Ltd. V. Halar Utkarsh Samiti*, AIR 2004 SC 1834.
24. Constituent Assembly Debates, 4 November 1948, vol. 7, p 41.
25. Inserted by the Constitution (42nd Amendment) Act, 1976.
26. Constitution of India, Art. 51A(e)
27. Ex.Prime Minister of India Dr. Manmohan Singh delivering Valedictory Address at the National Convention on RTI, October 15, 2006
28. Section 6(2) of the Right to Information Act, 2005
29. Section 4 of the RTI Act, 2005 provides for "Obligation of Public Authorities".
30. Aim & Object Clause of the RTI Act, 2005.
31. RTI Act, 2005.
32. Proviso to Section 7(5) of the RTI Act, 2005
33. *Ram Jethmalani v. UOI* 57 (popularly known as the Black Money Case).