

## **GOOD GOVERNANCE AND THE ROLE PLAYED BY RIGHT TO INFORMATION ACT, 2005 IN ENSURING GOOD GOVERNANCE**

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### **Abstract**

*Good governance can be understood as a tradition in which both the government and its subjects move forward for the welfare of the society. Good governance promotes the government of a country to make such decisions which are beneficial to all the members of the society in a transparent manner and thereby making it accountable. Here, the voices of even the least advantaged sections are heard and their needs are taken into account. This practice guarantees an efficient, participatory, transparent and accountable government. Now, for any democracy, it is very important that the citizens know about the functioning of the government otherwise they will not be able to participate effectively in the democratic process of the country. For this reason, the Government of India has passed Right to Information Act, 2005. The Act has been fruitful in making the government more transparent and accountable by furnishing information to its citizens.*

*The Article aims to examine the importance of good governance and also the vital role played by Right to Information Act, 2005 in ensuring good governance. It will also discuss in brief the problems present in the implementation of the Act and why such problems must be resolved as soon as possible.*

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Good governance is about the processes for making and implementing decisions. It's not about making 'correct' decisions, but about the best possible process for making those decisions.<sup>1</sup>

The Supreme Court of India in the recent judgement of *T.S.R. Subramanian and Ors. v. Union of India & Ors.*<sup>2</sup>, recognised the need of good governance and the role played by RTI Act in ensuring good governance.

The Supreme Court of India in this case held, '*Democracy requires an informed citizenry and transparency of information. Right to Information Act, 2005 (R.T.I. Act) recognizes the right of the citizen to secure access to information under the control of public authority, in order to promote transparency and accountability in the working of every public authority. Section 3 of the Act confers right to information to all citizens and a corresponding obligation under Section 4 on every public authority to maintain the records so that the information sought for can be provided. Oral and verbal instructions, if not recorded, could not be provided. By acting on oral directions, not recording the same, the rights guaranteed to the citizens under the Right to Information Act, could be defeated. The practice of giving oral directions/instructions by the administrative superiors, political executive etc. would defeat the object and purpose of R.T.I. Act and would give room for favouritism and corruption.*'<sup>3</sup>

Therefore by delivering such a judgement, The Supreme Court highlighted the need to incorporate transparency and accountability in the administration and thereby to ensure good governance in the country.

Whenever a decision on any matter or an issue is taken by the government after taking into account the need of the nation and after approaching and consulting the affected population, then definitely people of the nation will have faith and confidence in their government.<sup>4</sup> This is because of the fact that by doing so, people will feel that every action taken by the government is in the nation's overall interest and care has been taken by the government to reconcile the differing opinions of the citizens while coming to a decision.

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<sup>1</sup> 'What is Good Governance', <<http://www.goodgovernance.org.au/about-good-governance/what-is-good-governance/>> accessed 12 July 2016

<sup>2</sup> AIR 2014 SC 263

<sup>3</sup> <<https://indiankanoon.org/docfragment/183945465/?formInput=constitution%20of%20india%20articles%20%20fromdate%3A1-1-2013%20todate%3A31-12-2013%20>> accessed 12 July 2016

<sup>4</sup> 'Good Governance' <[http://yvonnekatambo.com/?page\\_id=85](http://yvonnekatambo.com/?page_id=85)> accessed 15 July 2016

At the same time the system of good governance also helps in making the Government remember that it is its responsibility<sup>5</sup> to act on behalf and for its citizens. As soon as the government of any country will start moving on the way of good governance, confidence will be inculcated in the members of the government who are elected by the people and also among the council officers as they will be involved with the local government where needs and wants of the society will be taken into account.

All the decisions which will be taken by the government after providing substantial information to the people, who will be affected by such a decision and after a healthy debate on the pros and cons of such a decision, will definitely be a better and a more meaningful decisions. Decisions will be bad if they are taken without taking into account the views of the community and without ensuring any transparency.<sup>6</sup>

A government which moves on the path of good governance will be able to justify its legislative actions as all the actions will be taken in a transparent manner and there would be no scope to any shortcuts or deviate from any rules and obligations which are necessary for them to follow while discharging their functions.<sup>7</sup>

In an atmosphere where moving on the path of good governance is the goal, decisions will be based on ethical and moral values. Such decisions will be fruitful to the maximum number of the members in a given community. Thus good governance helps in making ethical decisions.<sup>8</sup>

Now, the Right to Information Act has always aimed in disclosing all the information pertaining to the rules made by the government, all the regulations and reports. It has also made available the information regarding the procedure followed by authorities in decision making. Under the Act it is an obligation on every public authority to 'maintain all its records duly catalogued and indexed in a manner and the form which facilitates the right to information under the Act'<sup>9</sup>. Therefore, the public authorities are required to make pro-active

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<sup>5</sup> Ibid 3

<sup>6</sup> 'Improving Data Quality: Empowering Government Decision Makers With Meaningful Information For Better Decision Flow In Real-Time' <<http://www.inquisient.com/improving-data-quality-empowering-government-decision-makers-with-meaningful-information-for-better-decision-flow-in-real-time/>> accessed 17 July 2016

<sup>7</sup> 'Why Is Good Governance Important?' (2016) <<http://www.goodgovernance.org.au/about-good-governance/why-is-good-governance-important/>> accessed 12 July 2016

<sup>8</sup> National Conference of State Legislators < <http://www.ncsl.org/research/ethics.aspx> > accessed 28 July 2016

<sup>9</sup> Section 4 of Right to Information Act, 2005

disclosures by publishing important documents, which will also include web-based disclosure of information.

In addition to this, under the Act, public authorities are under an obligation 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’.<sup>10</sup>

Moreover under section 4(1)(d) of the Act, public authorities are also required to ‘provide reasons for its administrative or quasi-judicial decisions to the affected persons.’

In order to ensure compliance with the above given provisions of the Act, public authorities at all the levels, i.e., central, state and local levels have put up their records in public with aid of publications and internet in their regional languages. .

A citizen will have the right to file a complaint or appeal before Public Information Commission if he thinks that the information which is furnished by the public authority is not complete, or it is misleading, or incorrect. The Information Commission then, may take an appropriate action depending on the facts and circumstances of the case and according to the law laid down under the Act.

It is the duty of the Commission under section 20(1)<sup>11</sup> of the Act wherein it can impose penalty and can also make any recommendation for the disciplinary action which may be

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<sup>10</sup> Section 4(1)(b) of Right to Information Act

<sup>11</sup> Section 20 of Right to Information Act: Penalties.- (1) Where the Central Information Commission or the State Information Commission, as the case may be, at the time of deciding any complaint or appeal is of the opinion that the Central Public Information Officer or the State Public Information Officer, as the case may be, has, without any reasonable cause, refused to receive an application for information or has not furnished information within the time specified under sub-section (1) of section 7 or malafidely denied the request for information or knowingly given incorrect, incomplete or misleading information or destroyed information which was the subject of the request or obstructed in any manner in furnishing the information, it shall impose a penalty of two hundred and fifty rupees each day till application is received or information is furnished, so however, the total amount of such penalty shall not exceed twenty five thousand rupees: Provided that the Central Public Information Officer or the State Public Information Officer, as the case may be, shall be given a reasonable opportunity of being heard before any penalty is imposed on him: Provided further that the burden of proving that he acted reasonably and diligently shall be on the Central Public Information Officer or the State Public Information Officer, as the case may be. (2) Where the Central Information Commission or the State Information Commission, as the case may be, at the time of deciding any complaint or appeal is of the opinion that the Central Public Information Officer or the State Public Information Officer, as the case may be, has, without any reasonable cause and persistently, failed to receive an application for information or has not furnished information within the time specified under sub-section (1) of section 7 or malafidely denied the request for information or knowingly given incorrect, incomplete or misleading information or destroyed

enforced against information suppliers. This can be done when such information suppliers have been acting as the impediments or hurdles in the free flow information and thereby violating right to information of the citizen.

This Act has enabled the establishment of the partnership between the government and its citizens. This has helped in promoting and organising various development programs to raise the standard of living of the community by providing them with various options of increasing their income, by raising the level of education, providing more medical facilities, and making available clean and healthy environment<sup>12</sup>

The pro-active disclosure of information<sup>13</sup> has enabled the beneficiaries, mainly through NGOs, to assume a central role in design and execution of projects. The Act has instilled a wider sense of ownership in the development activities. Besides, access to information has enabled the people to participate in economic and political processes through a dialogue between people and the government officials or public campaign on public policies.<sup>14</sup>

Since the Act provides people of the nation to avail the benefits of right to information in manner in which they can call for government records and can also ask government officials the rationale behind taking a particular decision and what was the expected outcome or consequence of a particular decision, in this way it imposes a kind of responsibility on the government by making it and its officials accountable or answerable for its actions and decisions.

Also under section 4(1)(d) of the Act every public authority is under an obligation 'to provide reasons for its administrative or quasi-judicial decisions to the affected persons'<sup>15</sup> Thus one can conclude that under the Act there can be no scope the public authorities to take actions arbitrarily.

Before the passing of Right to Information Act, no ordinary person had a right to take accounts of the decision making procedure followed by the government and the government

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information which was the subject of the request or obstructed in any manner in furnishing the information, it shall recommend for disciplinary action against the Central Public Information Officer or the State Public Information Officer, as the case may be, under the service rules applicable to him.

<sup>12</sup> Freedom of Speech & Right To Information' <[https://www.youtube.com/watch?v=Da\\_qkTcuFSU](https://www.youtube.com/watch?v=Da_qkTcuFSU)> accessed 14 July 2016

<sup>13</sup> Section 4 of Right to Information Act

<sup>14</sup> M.M. Ansari, Central Information Commissioner, 'Right To Information And Its Relationship To Good Governance And Development'

<sup>15</sup> Section 4(1)(d) of Right to Information Act, 2005

was not at all transparent. There was no room for holding free and transparent discussions which were of general importance and the government was not accountable for any action or decision taken by it on those matters. After the passing of this Act, people are now more aware of the modus operandi adopted by the government in decision making. Such a step by the government has also enabled the citizens of the country to choose their leaders judiciously so that the government which is actually willing to pass laws and policies which are beneficial to them is elected.<sup>16</sup>

People have now started to take course to this institution of information to resolve issues and problems on the decisions which relates to the decisions of nature of business, administration and commercial matters. The Act has also been a boon in resolving and settling disputes relating to taxation matters, settling claims of insurance, the payment due to the contractors, procedure followed during imposing sanctions and the process of recovery of loans, etc.<sup>17</sup>

Right to information is a valuable right because of the fact that it puts life into democracy, making it more purposeful, vivid and strong.<sup>18</sup> Democracy, as defined by Abraham Linclon is, “government of the people, by the people, for the people”, right to information re-affirms that this definition is not confined into black and white and paves way for the practical implementation of this definition. Thus, citizens of a country, especially those residing in rural areas, are empowered with the aid of this right as it provides them with the means to access information required by them from the public authorities.

It must be the endeavour of every public authority within the meaning of this Act to supply as much information as it can to the people which must be done in such a manner that is easily available to the public at large. ‘It may be done through notice boards, newspapers, public announcements, media broadcast, the internet or nay other means. The public authority

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<sup>16</sup> Group Discussion: RTI Advantages and Drawbacks <<http://www.jagranjosh.com/articles/group-discussion-rti-advantages-and-drawbacks-1407329072-1>> accessed 17 July 2016

<sup>17</sup> Katiyar M, 'Use Right To Information Act (RTI) -India Inspired' <[https://www.youtube.com/watch?v=Ti6Pq\\_LNq-g](https://www.youtube.com/watch?v=Ti6Pq_LNq-g)> accessed 19 July 2016

<sup>18</sup> Aligarh Muslim University Student Union Organized An RTI Program In AMU, Where Speaker Were Mr. Arvind Kejriwal And Mr. Manish Sisodia, Under The Presidentship Of Mr. Abu Affan Farooquee On March 16, 2011. Initiative Of RTI Club Was Taken By The AMUSU.' <<https://www.youtube.com/watch?v=Xf2OIFXY5sI>> accessed 10 June 2016

should take into consideration the cost effectiveness, local language and most effective method of communication in the local area while disseminating the information.<sup>19</sup>

Although the this right has been incorporated as a statutory right by passing of RTI Act, 2005, after looking at the outcomes of various surveys<sup>20</sup> and various news articles, it can be said that even after ten years of its enactment, still it is not implemented in such a way as to provide maximum benefit which can be actually extracted from such a significant Act. The causes are many like inefficiency of PIOs, their non-friendly nature, non-willingness among them, lack of training, lack of infrastructural facilities, no financial assistance, backlog of no. of cases, lack of independence in information commissions at both central and state levels, etc.

These things indicate that there are lots of problems and hurdles present in our existing system which hampers the effective implementation of the RTI Act. The RTI Act was enacted with a very big and significant objective of aiding the government in moving on the path of transparency and accountability thereby making it an open government. But due to the presence of these loopholes which are present in the Act and also the other factors like lack of infrastructural facilities, non-friendly attitude of PIOs, huge backlog of cases, insufficient staff, improper or lack of training act as hurdles in the proper enforcement of the Act.

Therefore it is the need of the hour to address the issues pertaining to the implementation of the RTI Act. The duties and obligations which are imposed on the public authorities under the Act require a full compliance otherwise this Act which is meant to promote transparency and accountability in the government procedure would not be of any utility. The public authorities and all the information officers who are appointed under the Act to supply information on the receipt of the application made by the citizen are required to perform their duties and obligations with full dedication. They should not show any kind of leniency or should not postpone the disposal of RTI applications as a lot of information which is withheld by these government departments is capable of bringing a huge change or transformation in the government procedures. It gives a feeling of nationality in the minds of the citizens, they feel

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<sup>19</sup> 'Guide For The Public Authority (Page 1): Central Information Commission (CIC) Online' (Rti.india.gov.in, 2016) <<http://rti.india.gov.in/manual1.php>> accessed 5 June 2016

<sup>20</sup> Interim Findings of the People's RTI Assessment 2008' <[http://participedia.net/sites/default/files/case-files/98\\_305\\_RAAG\\_and\\_NCPRI.2008\\_Safeguarding\\_the\\_Right\\_to\\_Information.\\_Interim\\_Report.pdf](http://participedia.net/sites/default/files/case-files/98_305_RAAG_and_NCPRI.2008_Safeguarding_the_Right_to_Information._Interim_Report.pdf)> accessed 2 July 2016

that they are the part of the government and hence by looking at the work of the government and by analysing how the government has reached to a particular decision, they will certainly make better choices in the next elections. Thus this will ensure the improvement in the efficiency of the Indian government by making it more transparent, accountable and an open government.

Even after so many problems which are present in the proper implementation of the Act, it still remains a vital piece of legislation which strives towards moving our government on the path of transparency and accountability. Steps should be tale for the proper implementation of the Act which would motivate the public authorities to comply with all the duties and obligations imposed on them under the Act. The day is not far when our nation will have all the characteristics and elements of good governance. Every nation has few issues in the implementation of some Acts adopted by then due to various factors. But it is the duty of both the government as well as its citizens to remove all the hurdles and impediments which restrains the government from functioning in a transparent and accountable manner. Therefore the nation, as a whole should leave no stone unturned to ensure the proper and fruitful implementation of RTI Act, 2005 by the public authorities under the Act, thereby making citizens of India more powerful in a democracy and making the government more transparent and accountable.