

## **Governance Class 04**

16th February, 2024 at 9:00 AM

**THE CLASS STARTED (IN CONTINUATION) AT: (09:02 AM):**

**TRANSPARENCY & ACCOUNTABILITY: (09:04 AM):**

- **Right to Information (RTI):**
- Secrecy is the root cause of corruption in the administration.
- India has inherited colonial administrative structures whose basic objective was to exploit the country.
- British govt. has realized that they could continue with the exploitation only when there is complete secrecy in the governance.
- Indian Evidence Act, of 1872 and the Official Secrets Act, of 1923 were passed to promote a culture of secrecy within the administration.
- After independence, the same legislations were continued, and the govt. also promoted more secrecy in the administration with All India Civil Services Conduct Rules and Regulations, 1959, 1964.
- India has opted for a Welfare State and the govt. started implementing hundreds of welfare schemes targeting different sections of society.
- By, mid-1980 it was realized that most of these schemes had resulted in massive levels of corruption due to secrecy in their implementation.
- In 1990 there was a demand by the villagers in Rajasthan to know about the schemes that were implemented by the state.
- They got support from the Majdur & Kisan Shakti Sangathan (MKSS) an NGO led by former IAS Officer Aruna Roy.
- Finally, the administration was forced to furnish the information demanded by villagers.
- In 2005, as part of the Right Based Approach to development, the Parliament passed the landmark Right to Information (RTI) legislation.
- Under this, the citizens can file the RTI application with the ministries and departments demanding information that is not a part of Section 8 of RTI.
- It is the responsibility of the Public Information Officer (PIO) within a stipulated period of 30 days.
- If the information is not provided, citizens have a Grievance Redressal Mechanism in the form of the Information Commission.
- These Information Commissions can receive applications and direct the concerned PIOs to provide the information.
- They also have the power to impose fines on the ministries and departments.
- In 2009, the Second Administrative Reforms Commission submitted a report regarding challenges faced in the implementation of the RTI.

### **CHALLENGES IN RTI: (09:57 AM):**

- **Official Secrets Act:** It was passed for objective hidden information from citizens. It has only promoted a culture of secrecy within the governance.
- The Second ARC felt that as long as there is an Official Secrets Act, the RTI cannot be implemented in letter and spirit.
- It has recommended the repeal of the Official Secret Act and replacing it with the National Security Act.
- All the information related to National Security can be part of the National Security Act and the rest of the information should be made available to the citizens under the RTI.
- RTI was derived from the Freedom of Information Act of the USA.
- In the USA under this legislation, even the Top-Secret information should be made available to the citizens after 30 years.
- Under the Official Secret Act, the government once classified certain information as top-secret information and it will never be made public.
- In the true spirit of the RTI, the Second ARC recommended that even the op secret information should be made available to citizens after 30 years.
- **Response of the Government:**
- The govt. has rejected the above recommendations and the govt. ha argued that only 3% of the total information is part of the Official Secret Act (**OSA**) and the rest of the 97% of information is to be made available to the citizens under the RTI.
- OSA is not coming in the way of implementation of the RTI Act.
- **What should be done:**
- To realize the objective of complete transparency in the administration OSA should be removed and replaced with the National Security Act.
- Top-secret information also should be made available after 30 years.

### **INFORMATION COMMISSION: (10:32 AM):**

- **Challenges in the Information Commission:**
- **a) Pending cases:** At present more than 3,20,000 cases are pending with the Information Commission both at the central level and states, due to insufficient resources at the disposal of the information commissions (Justice delayed is Justice denied).
- **b) Credibility:** The credibility of the Information Commission because of the tendency on the part of govt. to appoint the retired bureaucrats as members of the Information Commission.
- **c) Lack of Personnel:** It has been found that most of the information commissions are functioning with insufficient staff strength.
- For example, the Central Information Commission (CIC) at present is functioning with 25% of the sanctioned strength.
- There are many State Information Commissions that are defunct out of 29 information commissions, 4 are defunct and 3 are headless (without the Chief Information Commissioner).
- **d) Delay in Disposal of the RTIs:** The waiting time to hear an appeal taken by the Information Commission is around one year.
- **e) Status of Annual Reports:** 19 Information Commission has not filed its annual reports.
- **f) Understaffing of CIC:** CIC has only 3 members with 8 positions remaining vacant.
- The Information Commission had the power to come out with orders and impose fines on PIOs for not implementing the orders, but the Information Commission does not have the power to get their orders implemented.
- In more than 90% of the cases, fines were not paid by the concerned official.

### **SUGGESTIONS TO IMPROVE RTI: (11:13 AM):**

- **Suggestions:**
- i) The Supreme Court in 2019 ruled that the information commission vacancies should be filled without any delay.
- Recently, the CJI has commented that there is a deliberate tendency on the part of the govt. to not fill in the vacancies has effectively ended the implementation of RTI (recently CJI considered RTI as a Dead Letter).
- ii) The SC in 2023 ruled that Central and State govt must fill in all the vacancies within a stipulated period.
- iii) The Second ARC has recommended that to ensure the credibility of the Information Commissions, at least 50% of the members should be from non-Civil Services backgrounds and around 50% of the members should be from NGOs and Civil Society organizations who are working in the field of RTI.
- iv) Information Commissions should be given sufficient powers to get their orders implemented by the ministries and departments.
- v) The Information Commission should be given the powers of Contempt of Court.

### **RESPONSE OF THE GOVERNMENT TO THE ABOVE RECOMMENDATIONS: (11:48 AM):**

- **Position of RTI in 2005:**
- a) The Information Commission even though is a Statutory body is given the status of a Constitutional body like the Election Commission.
- b) The CIC was given the rank of Chief Election Commissioner(CEC) and other commissioners were given the rank of Election Commissioners (EC).
- c) The salaries were the same as that of Election Commission members.
- d) They were also given the security of tenure.
- **Changes by the Government in RTI:**
- a) The constitutional status is delinked as the Information Commission is a statutory body.
- b) The govt. has downgraded the rank of information commissioners and reduced the information commission members to the rank from Election Commissioners to the Secretary.
- c) The government has removed the security of tenure.
- d) Decreased the tenure of the information commissioner (previously it was 5 years now it is 3 years with eligibility of renomination).
- e) The government has delinked the salaries and allowances of the information commission.

### **TOPICS OF THE NEXT CLASS:**Continuation of RTI, etc.