

KNOW YOUR RIGHT TO KNOW

(First Information Act of 1997)

By

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Right to Information Act was enacted by Parliament in the Fifty Sixth year of the Republic of India. Right to information means the right to information accessible under the Act, Right to information is fundamental to the realisation of economic and social rights as well as civil and political rights. The Parliament of India has passed Right to information Laws, which empower citizens to question the Government, inspect their files, and take copies of Government documents and also to inspect Government works. That the Press Council of India prepared a draft Bill in 1996 to make a provision for securing right to information. The Institute of Rural Development, Hyderabad also prepared a bill in 1997. The Government of India appointed a working group on January 2, 1997. This group recommended for the legislation and stated that it is necessary to enact an Act for enabling people to know about their right to information.

Meaning :—The terms ‘Information’ derived from the Latin words ‘Formation’ and ‘Forma’ which means giving shape to something and forming a pattern respectively. It adds something new to our awareness and removes the vagueness of our ideas.

Need for right to information :—The Right to Information Act was introduced in order to remote transparency furthermore accountability in the working of every public authority, the constitution of a Central Information Commission and State Information Commission and for matters connected to those areas. A democratic country like ours has a responsibility to disclose certain information regarding Government’s functioning and their

instrumentalities *etc.* “Lack of transparency was one of the main causes for all evading corruption and Right to Information would lead to openness, accountability and integrity”. Therefore it is expedient to provide certain information to citizens who desire to have it information. It includes any material in any form, including records, documents, memos, e-mails, opinions, adduces, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material in any electronic form and information relating to any private body which can be accessed by a public authority under any other laws and it deals with not only with the functioning of their Government but also with the organization, duties, remuneration of the Government affair. It reveals the policies or announces the decision which effect public. It provides reasons for its administrative or quasi-judicial decisions to effected persons. It provides information *suo mottu* to the public at regular intervals through various means of communications including internets, so that the public have minimum resort to their use of this Act to obtain information.

Bringing Information to the Citizens :—It was founded in 1996. Justice P.B. Sawant, the Chairman of the Press Council of India, drafted the bill keeping in view the dire need of the day and the observations made by eminent persons that in a democracy the core of the Bill is clause 3 which says;

- i. every citizen shall have the right to Information from public body;
- ii. it shall be the duty of the public body to maintain all records duly catalogued and indexed;

- iii. the public body shall be under a duty to make available to the person requesting information, as it is under an obligation to obtain and furnish and shall not withhold any information or limit its availability to the public except the information specified in Clause 4, and iv. All individuals whether citizens or not, shall have the right to such information that affects their life and liberty.

Right to Information Act 2005 provides timely response to citizens requests for Government information. This provides a broad way to the citizens for quick search information, web published by various departments in Government. The National Campaign for peoples Right to information (NCPRI) seeks to empower people and to deepen democracy through promoting peoples right to information. It campaign for the enactment and use of a right information law that is effective and accessible to all and supports peoples efforts at developing the ability and motivation to use the right information for redressing peoples individual and social problems.

Means and Procedure :—Taking into account the cost and effectiveness the information may be revealed through newspapers, electronic media broadcasts with the help of Central Public Announcements, Central Public Information Officer (CPIO) or State Public Information (SPIO) with free of cost or cost of a medium or the cost of a print as prescribed by the rules.

In all administrative units every public authority may appoint as many officers at State or Central level as required for this purpose. They may designate officers at each sub-divisional level or the sub-district level as a Central Assistant Public Information Officer, or a State Assistant Public Information Officer to receive applications for information or appeals under this Act. They forward the same to the SPIO or Senior Officer specified

under Section 19 or Central Information Commission or the State Information Commission as the case may be. They render assistance to the persons who seek such information. These officers may seek assistance of any other officers as he or she considers it necessary for the proper discharge of his/her duties. The person who seeks such information may apply in writing with or without nominal fee as prescribed. Sometimes these officers may help them in obtaining the information by oral request or by reducing it into writing. The applicant need not give any reason while asking about particular information. The officers concerned under Sections 5 and 6, shall as expeditiously as possible, and in any case within 30 days of the receipt of the request, either provide the information on payment of such fee as may be prescribed or reject the request for any of the reasons specified in Sections 8 and 9.

Where as the information sought is in connection with life or liberty of a person, the same shall be provided within 48 hours of the receipt of the request. They may provide for sufficient information or provide the information regarding its appellate authority, time, limit, process and any other forms.

In certain cases they may refuse to give information which is detrimental to the safety or reservation of the record in question. When it leads to disproportionately divert the resources of the public authority. They may refuse to give information which in the eyes of the authority may pre-judiciously affect the sovereignty and integrity of India,

- (i) the security, strategic, scientific or economic interests of the State, relation with foreign State
- (ii) Information which has been forbidden by any Court, law, Tribunal *etc.*
- (iii) Information discloses of which would cause breach of privilege of Parliament or State Legislature

- (iv) Information includes commercial confidence, trade secrets, or intellectual property, the disclosure of which would harm the competitive position of a third party.
- (v) Information received in confidence from foreign Government.
- (vi) For physical safety or any harm or individuality the source of information or assistance given in confidence for law enforcement or security purposes.
- (vii) If the information would impede the process of investigation or apprehension or prosecution of offenders.

Body : The Central Government, by notification in the Official Gazette constitutes a body known as Central Information Commission. It consists of Chief Information Commissioner and such number of Central Investigation Commissioners, not exceeding 10 members as may be deemed necessary.

The Chief Information Commissioner and Information Commissioners shall be appointed by President on the recommendation of a committee consisting of Prime Minister, who shall be the Chair person of the committee. The Leader of Opposition in the Lok Sabha and a Union Cabinet Minister to be nominated by the Prime Minister. The management of affairs of Central Information Commission in Chief Information Commissioner and his subordinates without being subjected to directions by any other authority under this Act. The headquarters of Central Investigation Commission shall be at Delhi. The Chief Information Commissioner shall hold office for a term of 5 years from the date on which he enters upon his office and shall not be eligible for re-appointment. No Chief Information Commissioner shall hold office as such office as such after he has attained the age of sixty-five years.

Every officer hold office for a term of 5 years. He is eligible for the pose of Information Commissioner. They may resign by writing to the President. They may be removed by flowing Section 14. The salaries and allowances payable to and other terms and conditions of service of the Chief Information Commissioner shall be the same as that of Chief Election Commissioner and an Information Commissioner shall be the same as that of an Election Commissioner.

The members of State Information Commission are of eminence in public life with wide knowledge and experience in law, science and technology, social service, management, journalism, mass media or administration and governance, the officer shall not be member of Parliament. Or Member of Legislature of any State or Union Territory, or hold any other officer of profit or connected with any political party or carry on any business or as per use any profession. His retirement age is at 65 years. His term of office is 5 years. Governor will appoint Chief Information Commissioner. Removal shall take place following the procedure under Section 17. Salary is that of Election Commissioner. The State Information Commissioner shall be the same as Secretary to the State Government.

Powers and functions : Subject to the provisions of this Act, it shall be the duty of the Central Information Commission or State Information Commission to receive and enquire into a complaint from any person. The Central or State Commissioners while enquiring into any matter under this section have the same powers as are vested in a civil Court while trying suit, under the Code of Civil Procedure Code 1908 while summoning, receiving and inspection of documents and receiving evidence on affidavit, requisitioning any public record or copies thereof from any Court or office *etc.*

Any person who does not receive decision within the time specified under Section 7 or

is aggrieved by a decision of the Central Public Information Officer or State Public Information Officer within 30 days from the expiry of such period or from receipt of such a decision prefer on appeal to such officer who is senior in rank to the CPIO or SPIO as the case may be, in each public authority.

Second appeal against the decision shall be within 90 days with the CIC or SIC if there is sufficient cause. This second appeal shall be disposed within 30 days of the receipt of the appeal or within such extended period not exceeding total of 45 days from this date of filing thereof, as the case may be.-

The Central or State Commissioners have power to impose penalties for any loss or other detriment suffered. If without any reasonable cause of any Public Information Officer failed to receive or furnish information *malafide*, denies the request, or knowingly given incorrect, incomplete or misleading information or destroyed information is liable for disciplinary action against the CPIO or SPIO under service rules applicable to him.

The CIC or SIC shall as soon as practicable after the end of each year, prepare a report on the implementation of the provisions of this Act during that year and forward a copy thereof to the appropriate Government.

Each ministry or department shall in relation to the public authorities within their jurisdiction, collect and provide such information to the CIC or SIC as is required to prepare the report under the section and comply with the requirements concerning the furnishing of that information and keeping of record for the purposes of this section.

Each report status

1. The number of decisions where applicants were not entitled to access to the documents pursuant to the requests.

2. The number of appeals referred,
3. Particulars of disciplinary action taken against any officer in respect of the administration of this Act
4. The amount of charges collected by each public authority under this Act.
5. Recommendation for reform, modernization or other legislation or amendment of any law or any other matter relevant for operationalising the Right to access information.

They lay the report for each House of Parliament and each House of the State legislature every year. The appropriate Government may within its limited resources try to develop and organize educational programmes to advance the understanding of the public as to how to access, try to develop and organize educational program to advance the understanding of the public as to how to exercise rights contemplate under this Act.

Encourage public authorities to participate in the development and organization of programmes. Encourage them to know about their activities and in all round information general and particular provide relevant training, provide a guide contain such information,

Effectiveness of the Act : In recent years, many Commonwealth Countries like Canada, Australia, and New Zealand have assessed laws providing for the right of access to administrative information, USA, France and Scandinavian Countries have also passed similar laws. US Freedom of Information Act ensures openness in administration by enabling the public to demand information about issues as varied as deteriorating civic amenities, assets of senators and utilization of public funds. It not only seen in developed countries but also in developing countries. Sweden has been enjoying the right to know since 1810.

The need for Right to Information has been widely felt in all sectors of the country and this has also received judicial recognition through some landmark judgments of Indian Courts. A Supreme Court judgment delivered by Mr. Justice Mathew is considered a landmark. In his judgment in the *State of UP v. Raja Narain*, (1975) case, Justice Mathew rules-In a Government of responsibility like ours, where all the agents of the public must be responsible for their conduct, there can be few secrets which cannot be disclosed for the sake of people of a country. The people of this country have a right to know every public act, everything that is done in a public way by their public functionaries. They are entitled to know the particulars of every public transaction in all the matters concerned. Their right to know, which is derived from the concept of freedom of speech, though not absolute, is a factor which should make one wary when secrecy is claimed for transaction which can at any rate have no impact on public security. But the legislative wing of the State did not respond to it by enacting suitable legislation for protecting the right of the people.

In *S.P. Gupta v. Union of India*, AIR 1982 SC 149, popularly known as Judges Case. Here again the claim for privilege was laid before the Court by the Government of India in respect of the disclosure of certain documents. The Supreme Court by a generous interpretation of the guarantee of freedom of speech and expression elevated the right to know and the right to information to the status of a fundamental right, on the principle that certain implicit rights are immanent and implicit in the enumerated guarantees.

The Court declared that concept of an 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). The Supreme Court of India has emphasized in the *SP Gupta's* case (supra), that open Government is the new democratic culture of an open society towards which every

liberal democracy is moving and our country should be no exception. In a country like India which is committed to socialistic pattern of society, right to know becomes a necessity for the poor, ignorant and illiterate masses.

In 1986, the Bombay High Court followed the *S.P. Gupta* judgment in the well-known case *Bombay Environmental Group and others v. Pune Cantonment Board*. Bombay High Court distinguished between the ordinary citizen looking for information and groups of social activists this was considered a landmark judgment concerning access to information.

Difficulty with disclosure : The disclosure may lead to certain problems. They may conflict with order public interests they may become hurdle in efficiency of working of Government, optimum use of limited fiscal resources and the preservation of confidentiality of sensitive information.

There are some practical problems like i. If any wrong occurred in doing some Government and through RTI it came to the knowledge of some one there is a chance for him to blackmail the authority. To reduce this problem information sought by him were to be put on website; the possibility of blackmail would be substantially reduced.

ii. Government will be overburdened with the duty of conveying information to reduce this problem all Government departments have to be habituated in keeping the latest information on proper channels through electronic media and on websites.

iii. It may require huge amount of resources to face this problem the authorities have to collect a small amount of free from individuals for getting certain information. The amount may be a large amount for any one department.

If all the mistakes were rectified The Information Act can be used generously and ultimately it leads to development of the country.