

also to achieve the objective of equality and development, non-compliance of policy decisions, guidelines or instructions aimed at mitigating the hardship and ensuring welfare and providing relief to women and take up the issues arising out of such matters with appropriate authorities, call for special studies or investigations into specific problems or situations arising out of discrimination and atrocities against women and identify the issues so as to recommend strategies for their removal; make periodical reports to the Government on any matter pertaining to women.

Under sub-section 2 of Section 10 of the Act, the central Government shall cause all the reports of the women commission to be laid before the Houses of Parliament along with a memorandum explaining the action taken or proposed to be taken on the recommendation relating to the opinion and the reasons for the non-compliance if any of any of such recommendation.

While investigation into any matter falling within its purview the commission shall have

all the powers of a civil Court in respect of matters like requiring the discovery and production of any document, receiving evidence on affidavits, requisitioning any public record or copy thereof from any Court or office, and issuing commissions for the examination of witnesses and documents.

(5) National Commission For Backward Classes :—This commission has been constituted under the National Commission for Backward classes Act, 1993 to examine the requests for inclusion of any class of citizens as a backward class in the lists and bear complaints of over-inclusion or under inclusion and tender such advice to the central Government as it deems appropriate. The advice of the commission shall ordinarily be binding upon the central Government.

The commission while performing its functions has the power to summon and enforce the attendance of any person from any part of India and examine him on oath; require the discovery and production of any document; receive evidence on affidavits; requisition any public record or copy thereof from any Court or office and issue commissions for the examination of witnesses and documents.

RIGHT TO INFORMATION ACT AND LIMITATIONS

By

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The Right to Information Act (RIT) has come into force from October 12, 2005 in all over the country. Although the Act does not permit citizens to seek information on certain matters affecting security, strategic, scientific or economic interests of the country it gives them the legal rights to be informed about utilization of public funds, progress reports of ongoing projects, state circulars, contracts *etc.* The new law place India among 55

countries in the world to have such legislation. But this Act will not be applicable in J&K.

The Act empowers the Central Information Commission/State Information Commission to receive complaints if a PIO doesn't provide correct and timely information. The CIC will be headed by a Chief Information Commissioner who will be assisted by Information Commissioners.

The Right to information is derived from our fundamental right of expression under Article 19. If we do not have information on how our Government and public institutions function, we cannot express any informed opinion on it. This has been accepted by various Supreme Court Judgments, since 1977. All of us accept that the freedom of the press is an essential element for a democracy to function. It is worth while to understand the underlying assumption in this well entrenched belief.

The freedom of information Bill, 2000 was introduced in the Lok Sabha on July 25 to meet the needs of effective and responsive Government.

It is the most significant milestone in the history of Right to information movement in India. The Freedom of information Bill 2000 says that Information means any material in any form relating to the administration, operation or decisions of a public authority as any authority or body established or constituted by or under the Constitution, or by any law made by the appropriate Government and includes any other body owned, controlled or substantially financed by funds provided directly or indirectly by the appropriate Government. Freedom of information means the right to obtain information from any public authority by means of inspection, taking of extracts and notes, certified copies of any records of such public authority and diskettes, floppies or in any other electronic mode or through print-outs.

What is Right to Information ?

Every citizen has a right to know how the Government is functioning. Right to Information empowers every citizen to seek any information from the Government, inspect any Government documents and seek certified photocopies thereof. Some laws on right to information also empower citizens to official inspect any Government work or to take sample of materials used in any work.

Constitutional Aspect of the Right to Information.

Article 19(1)(a) of the Constitution guarantees the fundamental right to free speech and expression. The prerequisite for enjoying this right is knowledge and information. The absence of authentic information on matters of public interest will only encourage wild rumours and avoidable allegations against individuals and institutions. Therefore, the Right to information becomes a constitutional right, being an aspect of the right to free speech and expression which includes the right to receive and collect information. This will also help the citizens perform their fundamental duties as set out in Article 51A of the Constitution. A fully informed citizen will certainly be better equipped for the performance of these duties. Thus, access to information would assist citizens in fulfilling these obligations.

Why should the Government provide information ?

In 1975, Hon'ble Supreme Court said in the case of *Raj Narain v. Union of India* that in a Government of responsibility like ours where the agents of the public must be responsible for their conduct there can be but a few secrets. The people of this country have a right to know every public act, everything that is done in a public way by their public transaction in all its bearings. Article 19(1) of the Constitution provides for Fundamental Right of speech and expression. Supreme Court has said that a person cannot express himself unless he "knows". Hence, Right to information is a part of the Fundamental Right of speech and expression.

Besides, we live in democracy. The Governments are by the people, of the people and for the people. The people are the masters. All the taxes collected by the Governments belong to the people. Hence the people have a right to know how they are being governed and how their money is being used.

Right to information laws provide the machinery for the use of this right. Suppose you go to a Government office and demand an officer to show all his files because this is your fundamental right, he will not do that.

So, the right to information laws provide for forms in which you can apply, where you can apply, in how many days you should get information, what if you do not get information *etc.*

Any citizen can ask for information under these laws. Presently nine State Governments have passed right to information laws. These are Jammu and Kashmir, Delhi, Rajasthan, Madhya Pradesh, Maharashtra, Karnataka, Tamil Nadu, Goa and Assam. Hence, any citizen of India can ask information from any of these State Governments related to their respective affairs.

The situation varies from state to state regarding the law applying to private bodies. The laws apply to any body controlled or substantially financed by the Government. In some states, the laws also apply to co-operative bodies and societies. However, there has been a demand that these laws should be made applicable to such private bodies who provide public services, like telecom companies, electricity companies *etc.*

What kind of information can one ask for ?

A person can ask for any information related to the Government functioning like copies of contracts of various Government works, copies of bills and vouchers, status of any application filed with the Government, status of various grievances or corruption cases pending, attendance registers of gardeners or sweepers in your area, log book of vehicles used by various Government functionaries, list of works carried out by your MLA and MP, obtain sample of material of any Government work, documents related to various policies and budgets of the Government *etc.*

What's the procedure ?

The Right to information Act is a codification of this important right of citizens the right has existed since the time India became a republic, but was difficult to enforce without going to Court. The Act and its rules define a format for requisitioning information, a time period within which information must be provided (30 days), method of giving the information, some charges for applying and some exemptions. The principle is that charges should be minimum- more as a token. They are not at all representative of the costs that may be incurred. Citizens can ask for information by getting Xerox copies of documents, permissions, policies, and decisions. Inspection of files can also be done and samples can be asked for.

All administrative offices of public authorities have to appoint 'public information Officers (PIO)' Citizens can apply for information to the PIO of the office concerned. If it is not provided or is refused, the citizen can go to an Appellate Authority who would be an official in the same department, senior to the PIO. If this too does not produce a satisfactory result, one can appeal to the State or Central Information Commissioner, an independent Constitutional Authority being established under the Act.

Penalty provision

One of the major reasons for the success of the Maharashtra and Delhi Acts is that there is a provision for penalizing the PIO in case he does not give the information within the mandated period. The National Act, which has drawn a lot of inspiration from the Maharashtra Act, also provides for a penalty for delay on the PIO at rate of Rs.250 a day there is also provision for disciplinary action against recalcitrant PIOs in some case. Thus the Right to information provides for a time bound and defined process for citizens to access information about all actions taken by public authorities. Of the Act, which ensure

that the PIO does not treat citizens' demands for information in a cavalier manner.

Limitations to Right to Information Act (RTI)

As no right can be absolute, the Right to information has to have its limitations there will always be areas of informations, there will always be areas of information that should remain protected in public and national interest. Moreover, this unrestricted right can have an adverse effect of an overload of demand on administration. So the information has to be properly clearly classified by an appropriate authority.

The usual exemption permitting Government to withhold access to information is generally to withhold access to information is generally in respect of these matters :

- * International relations and national security;
- * Law enforcement and prevention of crime;
- * Internal deliberations of the Government;
- * Information obtained in confidence from some source outside the Government;
- * Information which, if disclosed, would violate the privacy of an individual;
- * Information, particularly economic, when disclosed, would confer an unfair advantage on some person or subject or Government;
- * Information which is covered by legal/professional privilege. Like communication between a legal advisor and his client and

- * Information about scientific discoveries and inventions and improvements, essentially in the field of weapons.

Right to Information Act takes Effect

What's Right to Information ?

Law giving statutory rights to citizens to get information from public authorities, penalty upto Rs.25,000/- for failure to give information.

Who will give information ?

Each State will have a public information officer (PIO). In addition, it will have designated officers at sub-divisional level. These officers will route requests to the relevant department.

What is the procedure ?

Requests in writing, including e-mail, to be sent to PIO. Response must come within 30 days. For cases concerning life and liberty, it must come within 48 hours. Rejection will have to be in writing giving reasons.

Who is exempt ?

Right does not extend to J&K or to security agencies like IB, RAW and BSF, also, file Nothings by bureaucrats won't be made public.

Right to Information Commission

The Right to Information Act empowers Commission/state information Commission to receive complaints. If a PIO doesn't provide correct and timely information. A chief information commissioner who will be issued by information Commissioners will head the CIC.