

with scattered, ill-educated and poor population. The instrument calls for provision of labour inspection for effective implementation and envisages supply of guidance and assistance in establishing and organizing rural workers' organizations. The

Recommendation calls for promotion of public information system on the role of rural workers' organizations in economic and social development including mass education campaigns; radio, television and cinema; seminars, meetings and visits to

RIGHT TO INFORMATION ACT, 2005

By

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"In Government of responsibility like ours where all 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 the public functionaries. The responsibility of officials to explain or to justify their acts is the chief safeguard against oppression and corruption". — Justice K.K. Mathew.

Access to information held by a public authority was not possible until 2005. Lack of information precluded a person to realize his socio-economic aspirations, because he had no basis to participate in the debate or question the decision making process even if it was harming him. Official Secret Act, 1923 acted as a remnant of colonial rule shrouding everything in secrecy. The common man did not have any legal right to know about the public policies and expenditures. It was ironical that people who voted the persons responsible for policy formation to power and contributed towards the financing of huge costs of public activities were denied access to the relevant information.

This culture of secrecy resulted in prolific growth of corruption, abuse of power and unscrupulous diversion of the public money was the order of the day. Under such conditions, public and various NGOs demanded greater access to the information held by public authorities. The Government

acceded to their demand by enacting Right to Information Act, 2005.

The 'Right to Information' statutorily refers to as a right of information accessible under the Act which is held by or under the control of any public authority and includes a right to:

1. Inspection of work, documents, records.
2. Taking notes, extracts, certified copies of documents and records.
3. Taking separate samples of materials.
4. Obtaining information in the form of diskettes, floppies, tapes, video cassettes or in any other electronic mode or through printouts where such information is stored in a computer or any other device.

Evolution of the Right to Information

(A) Movement for Right to Information in India: Campaign for Right to Information

in India began with the Mazdoor Kisan Shakti Sangathan (MKSS) movement for transparency in the accounts of people around the implementation of minimum wages in rural India. Spirit of entries to collect the manuscripts has been a sign of rampant corruption in the system, causing MKSS to demand official information on file with the Government. The movement quickly spread throughout India. From very modest start in the villages of Rajasthan, the success of MKSS was an inspiration for activists in India and worldwide. This led to the genesis of a broader discourse on the Right to Information in India.

This enticed them to demand their legal entitlement. In response they got an answer that the official documents are not consonant with the necessary work that ought to be done by them. Such official documents were wrapped in the walls of bureaucratic 'secrecy' unavailable even to the persons to which they were related. However, some clues by the sympathetic officer indicated towards economic anomalies. Tackling these discrepancies required some unique medium to sensitise the people directly and easily for this purpose, MKSS adopted the means of placing the disclosed information (whatever could be elicited) in the public domain through live wire village based public hearing colloquially referred as '*jan sumvais*'. This movement raised famous slogans like 'hamara paisa, hamara hisaab' (our money, our accounts) and 'hum janenge, hum jiyenge' (we will know, we will live). Overall it can be safely asserted that transparency and accountability were the two pronged demands of the movement, which they wanted to be instilled in the system as a whole.

Dawn of the Right to Information ushered with this movement, which made people realize that secrecy enabled corrupt officials to siphon off minimum wages and other entitlements to the poor. A movement demanding the Right to Information was thus born and its first champions were the

disempowered rural workers in the remote rural area of Rajasthan. Movements for Right to Information cannot be seen as isolated events. They are in co-existence with a movement to make democracy real and functional. Right to Information was demanded as the right to work, the right to obtain famine relief, or the right to receive minimum wages. Secrecy and national interest were some excuses which were heavily used by the power wielders to wrap information insulating it from the reach of masses. Corruption, therefore, was breeding politically in face of lack of accountability and an open Government. Importance of open Government was observed by eminent juristic mind of the nation Justice *Bhagwati* in the following words:

"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".

'Loksatta', an NGO from Andhra Pradesh has taken a place in massive awareness campaigns Statewide. In response to the pressure of the grass roots movements as well as to satisfy the international money lending institutions to borrow the loans, some of the State Governments such as Goa (1997), Tamil Nadu (1997), Rajasthan (2000), Karnataka (2000), Delhi (2001), Assam (2002), Maharashtra (2003), Madhya Pradesh (2003) and Jammu and Kashmir (2003) introduced the Right to Information Act. Among all these Acts, Maharashtra's Right to Information Act was considered as the model Act in promoting transparency, accountability and responsiveness in all the Institutes of the State as well as the private organizations which are getting financial support from the Government. Tamil Nadu's Right to Information Act was considered as the most innovative one in how to refuse the information to the seekers.

The growing demand for a right to public information from various sections of the

society, led by civil society organizations in these States could no longer be ignored. The need to enact a law on Right to Information was recognized unanimously by the Chief Ministers Conference on “Effective and Responsive Government”, held on 24th May, 1997 at New Delhi. The Government of India, Department of Personnel, decided to set up a ‘working group’ (on the Right to Information and Promotion of Open and Transparent Government) in January, 1997 under the Chairmanship of *H.D. Shouri*, which submitted its comprehensive and detailed report and the draft bill on Freedom of Information in May, 1997. The Press Council of India, the Press Institute of India, the ‘National Campaign for People’s Right to Information’ and the Forum for Right to Information unanimously submitted a resolution to the Government of India to amend the proposed Bill in February, 2000. The Government of India introduced the Freedom of Information Bill, 2000 (Bill No.98 of 2000) in the Lok Sabha on 25th July, 2000. The Bill, which cast an obligation on public authorities to furnish such information wherever asked for, was passed by the Parliament as the Freedom of Information (FOI) Act, 2002. However, the Act could not be brought into force because the date from which the Act could come into force was not notified in the Official Gazette.

The Prime Minister of India, emphasising on the importance of Right to Information in the governance of the country, reflected the culmination of what was a sporadically vehement movement initiated by the otherwise disempowered masses. He said, “Four years ago I said you that an important challenge we face is the challenge of providing good governance. We have taken several steps to make the Government transparent, efficient and responsive. The Right to Information Act was one major step. We have initiated reform and modernization of Government”.

Analysis of the Right to Information Act

(B) Important provisions of the Right to Information Act. 2005:

Meaning of Information: Section 2(f) of the Act defines information as any material in any form, including the records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, log books, contracts, reports, papers, samples, models, data material held in any electronic form and information relating to any private body which can be accessed by a public authority under any law for the time being in force. The Right to Information statutorily refers to as a Right to Information accessible under the Act which is held by or under the control of any public authority and includes a right to:

1. Taking notes, extracts, certified copies of documents and records,
2. Inspection of work, documents, records,
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4. Obtaining information in the form of diskettes, floppies, tapes, video cassettes or in any other electronic mode or through printouts where such information is stored in a computer or in any other device.

(B.1) Maintenance and Publication of Records: Proactive disclosure of information by the public authorities has been provided under Section 4(1) of the Act. This provision casts a duty on public authorities to maintain records for easy access, and to publish, within 120 days of enactment of the statute. For this purpose, Section 4(3) states that for the performance of sub-section (1), all information shall be disseminated widely and in such form and manner which is easily accessible to the public.

Request for Information: Section 6 permits persons to obtain information in English or Hindi or in the official language of the area

from the designated officers. The person requesting for information is not required to give any reason for the request and personal benefits.

Disposal of Request: Section 7 of the Act requires the request to be disposed of within 30 days provided that where information sought for, concerns the life or liberty of a person, the same shall be provided within 48 hours. Before any decision is taken for furnishing the information, the designated officer shall take into consideration the representation, if any, made by a third party under Section 11.

(B.2) Salient features of Right to Information Act, 2005:

Specifically, the main objectives of the law on Right to Information Act, 2005 are:

1. To operationalise the fundamental right to information,
2. To set up systems and mechanisms that facilitate people's easy access to information,
3. To promote transparency and accountability in governance,
4. To minimize corruption and inefficiency in public offices and to ensure people's participation in governance and decision making.

Right to Information can be said to be based on two main concepts:

1. The right of the public to access the information and the corresponding duty of the Government to meet the request, unless specifically defined exemptions apply, the duty of the Government to proactively provide certain key information even in absence of a request.
2. The Right to Information Act, 2005 basically has two parts: (i) substantive law, (ii) Procedural law. Section 3 coupled with some other provisions like Sections 8, 9, 18, 19 and 20 of the Act deal with substantive law while Section 6 along with some other

provisions like Section 7 of the Act deal with Procedural Law. Thus the Act is a code in itself.

These are some of the main features which make this legislation a positive step towards the realization of tenets that have been conceived by the founding fathers of the Constitution.

Performance of the Right to Information Act:

(C.1) Right to Information as good governance: The success of a democratic framework depends on good governance. It can be achieved by the efficient and effective administration. According to a document prepared by the Initiative for Human Rights, good governance has eight major facets. It is participatory, consensus oriented, accountable, transparent, effective and efficient, equitable, inclusive and respects the rule of law. Right to Information is one of the most important method of good governance, which is necessary to ensure sustainable human development.

Corruption is major hindrance in the growth of any system. Dangers are more in a democratic system, where development of people who have reposed their faith by electing the Government to power does not take place. Conditions become more aggravated when basic information related to the people is not disclosed in the garb of maintenance of secrecy. In fact this culture of secrecy breeds nepotism and increases corruption to a obnoxious level. Information therefore is an antidote to corruption. It limits the abuse of discretion and protects civil liberties.

The whole relation of Right to Information and 'good governance' finds its mention in the address of the Prime Minister of India, who, while piloting the Bill for its passage by the National Parliament, stated as under on 11th May, 2005:

"I believe that the passage of this Bill will see the dawn of a new era in our processes of governance, an era of performance and efficiency, an era which will ensure that benefits of growth flow to all sections of

our people, an era which will eliminate the scourge of corruption, an era which will bring the common man's concern to the heart of all processes of governance, an era which will truly fulfil the hopes of the founding fathers of our Republic.

(C.2) The passage of Right to Information Act has up to a certain extent infused transparency and accountability in the working of public departments. This has increased the efficiency of decision making process. This has led to reduction in corruption in the country as evident from the following:

1. The Transparency International (TI) has reported that perceived corruption in India (a score of 3.5 out of 10) has declined at the rate of about 15-20 per cent per year, due to the implementation of the Right to Information Act.

2. The Centre for Media Studies in collaboration with TI has recently accomplished an All India Survey Study (unpublished) of the poor below the poverty line. The views of the poor have been elicited in all the flagship programmes that have been implemented for alleviation of poverty. At least 40 per cent of the respondents have reported that corruption has declined.

The progress of Right to Information Act has been studied by the Society for Participative Research in Asia (SPRIA) in August, 2006. In order to track the progress of Right to Information Act in 12 States (Himachal Pradesh, Uttaranchal, Chhatisgarh, Haryana, Rajasthan, Jharkhand, Madhya Pradesh, Uttar Pradesh, Andhra Pradesh, Kerala, Gujarat and Bihar), SPRIA decided to conduct a study on a set of indicators namely the constitution of State Information Commission and its role, role of Nodal Agencies, appointment of Public Information Officers (PIOs), experience of seeking information from PIOs, mandatory disclosure under Section IV of Right to Information Act and role of Government in educating people under Section 26 of the Act. The study indicated the following results which are briefly discussed below:

People belonging to rural areas feel that appeal process is very expensive. Public Information Officers have been appointed in most public authorities in the States. The process of accessing information by people has started slowly through Right to Information Act. However, there exists great confusion in definition of public authority. Most of the PIOs at State level and district level are not co-operative and they sometimes threaten to applicants to withdraw applications. PIOs should be given more training so that they are sensitive to people's need and PIOs who are guilty of deliberate denial of information should be penalized. It is quiet striking that unawareness in rural areas is very high. The applications within the Act are mostly filed by the educated classes and urban people.

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 qua non* in a genuine democracy."— *Soli Sorabjee*.

Information is power, and that the executive at all levels attempts to withhold information to increase its scope for control, patronage, and the arbitrary, corrupt and unaccountable exercise of power. Therefore, demystification of rules and procedures, complete transparency and pro-active determination of this relevant information amongst the public is potentially a very strong safeguard against corruption.

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