

Right to Information Act:-A Democratic Weapon

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Abstract: Right to information Act is key to successful democracy. Well informed public form a rich human resource for development of the country. Following UNO, the international community adhered to practice of freedom of information as a basic Human Right and incorporated it in their legislative list providing a legal right to the people. India travelled from age of Official Secret Act during British Rule to incorporation of Right to information Act as a new legislation in 2005. Supreme court has declared the right to information as fundamental right and citizens are empowered to legally seek any information from public authorities. Every public authority shall be required to designate an officers in all administrative units and have to provide information to persons, the information seeker not later than 30 days, Society is entitled to know and public interest is better preserved if corruption or maladministration is exposed. The Whistleblower laws are based upon this principle". However, the effectiveness is affected as PIOs are unable to provide information due to lack of proper maintenance of official records and user friendly digital maintenance system to store. Backward segments departments should be better equipped and officials entrusted to be periodically trained to manage information effectively ,the officials should have a clear concept that the law is favouring flow of information not on maintaining secrecy .Still their exist certain draconian laws which are against the spirit of democracy and to be amended suitably.

Key words: Right, information, Democracy

I. INTRODUCTION

Information is the oxygen of democracy. A democracy, in order to be more successful, needs effective public participation and scrutiny of all public affairs. Informed people can contribute for a better society and better governance, keeping the government more transparent, accountable and effective. It is therefore said that "a popular Government, without popular information, or the means of acquiring it, is but a prologue to a farce, or a tragedy; or, perhaps both. Knowledge will forever govern ignorance; and a people who mean to be their own governors must arm themselves with the power which knowledge gives"¹ "If liberty and equality, as is thought by some are chiefly to be found in democracy, they will be best attained when all persons alike share in the government to the utmost"²

In this respect ,Sweden is the first country which adopted freedom of information as a state policy since 1766. After the establishment of the UNO, the international community adhered to practice, freedom of information as a basic Human Right. In Article 19 of the UDHR, it has been clearly declared that, "Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers." The International Covenant on Civil and Political Rights, 1966 incorporated that, "everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice"³.

Accordingly, most of the countries of the world have incorporated freedom of information in their legislative list providing a legal right to the people. Similarly, in other important international organizations, regional instruments also adhered to the above right.

Evolution of Right to information in India - During the colonial rule, India adopted the Official Secrecy, where the intention of the legislature was to keep the government functioning in secret. The Act is a strong piece of legislation, restricting leakage of any sort of information. The objective was to help the colonial administration to a safe and secured position. But the position has totally changed in India after its independence. Even during the freedom struggle, our freedom fighters were the strong critics of the above law. After independence, India adopted its new constitution, incorporating most of the good features from different constitutions of the world.

The preamble of the constitution declared for a democratic republic to attain equal justice for everybody. The chapter on fundamental rights in Article 19 provided a chapter on Citizens' Rights, covering most of the unique humanitarian principles including freedom of press, expression, etc

Supreme Court and Right to Information : The constitutional mandates of freedom of speech and expression has gained its momentum by the successive judicial interpretations in different occasions. During 1973 the Supreme Court in *Benett Coleman v. Union of India*⁴, Chief Justice Ray, in the judgment, said: "It is indisputable that by freedom of the press is meant the right of all citizens to speak, publish and express their views. The freedom of the press embodies the right of the people to read." In the State of U.P. v *Raj Narain*⁵, the concept of the right to information was eloquently formulated by Mathew, J. as:

"In a government of responsibility like ours, where all the agents of the public must be responsible for their conduct, there can be but 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 functionaries. They are entitled to know the particulars of every public transaction in all its bearing. The 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 transactions which can, at any rate, have no repercussion on public security. To cover with a veil of secrecy, the common routine business, is not in the interest of the public. Such secrecy can seldom be legitimately desired. It is generally desired for the purpose of parties and politics or self-interest or bureaucratic routine. The responsibility of officials to explain and to justify their acts is the chief safeguard against oppression and corruption"

Thereafter, the judiciary in India has constantly endeavored to provide better freedom of information to the people through the dynamics of judicial interpretation.

Political Dynamics, Civil Society and the RTI :- During 1990, the coalition government at the centre led by Mr. V.P. Singh for the first time raised for the freedom of information, but failed to legislate due to necessary support. During that time the Mazdoor Kisan Shakti Sangathan in Rajasthan, a right based organization was struggling for getting justice for the common man. This grass root organization was instrumental in mobilizing the public support for legislation on Freedom of information and at last it was materialized when the Parliament enacted the Freedom of Information Act, 2002.

This Act was again repealed during the period of UPA government and a new legislation in its place was passed by the Parliament as the Right to Information Act, 2005 (Hereinafter RTI Act). In the statement of objects and reasons, it was stated that, 'in order to ensure greater and more effective access to information, the Government resolved that the Freedom of Information Act, 2002 enacted by the Parliament needs to be made more progressive, participatory and meaningful. The national Advisory Council deliberated on the issue and suggested certain important changes to be incorporated in the existing Act to ensure smoother and greater access to information.' The Act incorporated the following provisions in five chapters, where Chapter One contains preliminary matters; Chapter Two covers up matters relating to the Right to Information and Obligations of Public Authorities; Chapter Three focuses on the Central information Commission, Chapter Four on the State Information Commission; and Chapter Five on the powers and functions of the Information Commissions, Appeal and penalties.

II. IMPORTANT FEATURES OF THE RTI ACT:

- ❖ All citizens have the right to information.
- ❖ The term "Information" includes any mode of information in any form of record, document, e-mail, circular, press release, contract sample or electronic data etc.
- ❖ Right to information covers inspection of work, document, record and its certified copy and information in form of diskettes, floppies, tapes, video cassettes in any electronic mode or stored information in computer etc.
- ❖ Applicant can obtain information within time bound frame, i.e., 30 days from the date of request in a normal case and within 48 hours from the time of request where the information involves life or liberty of a person.
- ❖ Public authorities are under obligation to provide information on written request or request by electronic means.
- ❖ Certain information is exempted from disclosure.
- ❖ Restrictions made for third party information.
- ❖ Provisions for appeal against the decision.
- ❖ Provisions for penalties against the erring official.

- ❖ Constitution of Central Information Commission and the State Information Commissions by the appropriate governments with elaborate power and functions.
- ❖ Barring of any suit or proceeding against any order under the Act.

III. LIMITATION OF RTI ACT

The right to information Act 2005 seems like an empowering legislation but to give right to the citizen in true sense the culture of the administration needs to be changed. Indeed, the adamant attitude of the bureaucratic will not make it easy for the Act to be implemented. The bureaucrats/official who will be providing information need to be sensitized & trained properly with strictures for resistance and violation to share the information. The Right To Information also require a continuous public education. the provision of Right to Information Act merely 'facilitating', so judicial activism of a high order is very essential to implement the Act in letter & spirit.

IV. CONCLUSION

It is said that Rome was not built in a day. It equally applies to every system. In our country where a number of citizens are poor, illiterate and from working class, to get the desirable result of any development or law it requires time and sincere effort. As it is found that the people are gradually becoming aware of law and utilizing it to get the benefits, it will surely strengthen the process of good governance and curb corruption.

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IOSR Journal Of Humanities And Social Science (IOSR-JHSS) is UGC approved Journal with Sl. No. 5070, Journal no. 49323.

Dr. Dillip Kumar Mahapatra. "Right Information:-A Democratic Weapon." IOSR Journal Of Humanities And Social Science (IOSR-JHSS) 22.7 (2017): 58-60.