

Right to Information

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Abstract: Recent activities relating to the right to information in India present a mixed picture - there are good reasons for enthusiasm and some equally valid reasons for disappointment. In Rajasthan the Mazdoor Kisan Shakti Sangathna (MKSS) was involved in several grass roots struggles for the rights of the rural poor, including struggles against corruption. The experience of these struggles and public hearings convinced the MKSS that if the people get a right to obtain photocopies (or certified copies) of records relating to all rural development works, this will significantly increase their participation in these programs and simultaneously reduce corruption. Thus the right to information as demanded by MKSS was closely related to its struggles and experiences at the grass roots. The Right to Information Act engages the normal resident in an exceptionally extreme manner. Nonetheless, to be really powerful in guaranteeing more prominent straightforwardness and integrity in open life, the enactment should be utilized mindfully and reasonably by people in general, the separate data commissions and the concerned government divisions

Date of Submission: 01-08-2022

Date of Acceptance: 14-08-2022

I. Introduction

In every single free society there has been an inescapable clash between popularity based necessities of receptiveness, and the need to protect official mystery. Governments when in doubt will in general be clandestine: they see mystery as an utilitarian need. The Press, as the inner voice guardian of the populace, then again, is focused on taking care of the residents with the sort of data which will help them in understanding the working of the legislature, and of the law based procedures. Between the propensity of the administration to protect itself from outside control, and the tendency of the Press to make the legislature genuinely responsible to the individuals, a conflict of intrigue constantly creates.

This conflict of intrigue will in general get honed when governments become the wellsprings of a great part of the data which is important for an appropriate appraisal of administrative presentation, and comprehension of the procedures by which choices are made.

A popularity based government should be touchy to general sentiment. Be that as it may, popular supposition can't be formed either antagonistically or obligingly to the legislature of the day, except if legitimate data is made accessible to the individuals. One of the mainstays of a vote based state is the individuals' entitlement to know the realities. Open government is the premise of vote based system; and law based governments need to work in a political framework in which they are responsible. In this manner, thusly, powerful responsibility lays on colleague with the data and conditions in which the leaders work.

There is little uncertainty that the Right to Information (RTI) Act, 2005 is one 'of the most significant and progressive bits of enactment established in free India. Some would even view it as "the most significant". Since no other law can possibly change the work-culture of for all intents and purposes the whole Indian culture: its effect is additionally the most broad as it puts an instrument of intensity in the hands of each resident of the nation independent of any class or order.

The way that the law was passed is itself minimal shy of a wonder. One without a doubt thinks about how our individuals from Parliament, who have such a great amount to cover up - notice the enormous number of criminal and different bodies of evidence against huge numbers of them - ought to have decided in favor of it to transform it into a reality. One, in this manner, stops to contemplate whether they did it because of a specific impulse or on the grounds that they for sure observed its temperances.

A story has it that when in 1966 the US president, Lyndon Johnson (LBJ) marked the Freedom of Information Act; he proclaimed the respectable goals behind it. He stated, he did it "with a profound feeling of pride that the United States is an open society where the individuals' entitlement to know is appreciated and monitor.

Access to Information

The Central Information Commission which has been in existence for about three months now has received almost 300 cases, that is 100 cases per month: a marked step-up against the figures cited earlier. If only

everyone who moved a case under the RTI Act paused for a moment to consider if it would have a serious and substantial effect on things and not for the sake of harassment to some official or some department. A lot of good would be done for both sides, that is, those seeking the information as also those responsible for making it accessible.

Come to think of it, the right to information addresses the basics. The present act has made the process of asking for information an extremely simple one. Yet, it could be surmised that if this request couched in legalese. He/she would have a greater opportunity to get what he or she wants. Thus a large number of requests are likely to be received in verbose, legalistic language which only would tend to delay and complicate matters. Thus, the farther the lawyers are kept away from the RTI by both the parties, the applicant and the public authority, the better it would be. On the other hand, the legal community would be among those who would most use the RTI. That of course, is welcome.

Loopholes

A colleague in the income-tax department once told me that his office was plagued by a large number of rats which proved to be a blessing in disguise for the staff there. For monetary considerations they would put pieces of cheese on files which threatened inconvenience to certain "important" clients, so that at night, along with the pieces of cheese. The mice nibbled the files too, which were later reported as damaged and destroyed. Who can fault this system? And in most cases, a file in any government department passes through so many hands that it is impossible to pin down the responsibility of its destruction on any individual.

What then, is there to prevent sensitive files from disappearing? The standard reply in such cases to requests for information would be "not available". It is basic, along these lines, that an advisory group be set ready for prescribing not just methods for record-keeping (those rules are there however are old and there isn't sufficient mindfulness about them in government offices) yet for ways for pin-guiding obligation and furthermore proposing move toward be made against failing authorities. As an issue of rule, cruel move ought to be made against the last three authorities who have dealt with (and "lost") a delicate record. This would make it in light of a legitimate concern for at any rate one of them to see that the record or its duplicate is constantly accessible.

Ways have also to be found for maintenance of government data in forms other than government files. As for agencies responsible for ensuring the availability of information on public authorities to citizens in the three months now that the Central Information Commission has been in existence, it has so far showed little evidence of the activism expected of it. This is understandable to some extent. Before a case comes up before the commission it has to pass through two stages: a request and then an appeal, which may take up to three months. These three months, which can be taken to be the "lead time" for the commission is now practically over and it is expected that the cases will now be smoothly responded to by the central as well as the state information commissions.

But what perhaps, is far more important is that attitudes and old mindsets had to change. This is not easy but has to be done and done quickly. And really the objective of the whole Right to Information Act can be defined in one sentence, which is: "To make it possible for any citizen of India to get any piece of information from any government set-up".

The Road Ahead

There are some open specialists who have absent much by way of goading, intentionally opened up their records for examination. On the other hand we have an extreme case like that of the Hindustan Aeronautics, which took the absurd position that they were not a "public authority", and hence not covered under the RTI Act and to bolster their claim, they asked for an opinion from a local lawyer. In another case earlier, there was the case of an organization under the ministry of defense which on its own decided that they were outside the purview of the RTI Act. Later much the wiser, they retracted the order.

Recently a Pakistani delegation consisting of members who were interested in the freedom of right to information visited India and came to meet members of the information commission here. During the meeting, one of the delegates put the question "Do members of the bureaucracy feel threatened by the Act?" The answer the commission gave was that they may not feel threatened but they certainly felt themselves under pressure. But, it is better if some members do feel threatened and their misdeeds exposed soon. Their names have come to be associated with assets worth hundreds of Crores of rupees. It would be certainly a welcome move - if corrupt people, politicians and bureaucrats, are brought to book.

Be that as it may, the enactment to be genuinely successful each of the three: individuals from people in general, the open specialists and the data commission, need to play a functioning and significant job. The administration of the day needs to see that the RTI Act isn't debilitated in any way. On the off chance that there are provisos in the demonstration, these must be taken care of and amended however consistently with the end goal of making it increasingly helpful for an individual to acquire data and not the other path round. Prior

discuss revisions, for example, shutting of document taking note of or not uncovering names of authorities has at long last faded away. Our Right to Information Act is one of the most remarkable acts on the planet and ought to stay all things considered.

Together with this, it is officeholder on the legislature - which has indicated such a lot of keenness and mental fortitude in passing the demonstration - to guarantee that the offices liable for executing the demonstration are not kept from assets and offices so they can capacity to their full effectiveness. There isn't a lot of proof of this starting at now. The legislature ought to understand that it is to its greatest advantage to see that the generosity it has earned and made by passing the demonstration ought not transform into disillusionment by debilitating its usage.

Concluding Remarks

The use of the law is restricted to the educated, particularly government servants, and its use in rural areas is abysmally low. (Bihar is the only state where RTI applications can be phoned in.) More importantly, the government has hardly undertaken any campaign to popularize this law and its potential use. Even the CIC has complained time and again about the lack of official campaigns to generate awareness about the RTI Act. The second arc's report to the prime minister on the RTI Act has made a number of recommendations, "the Official Secrets Act 1923 in its current form is incongruous with the regime of transparency in a democratic society, at least half the members of the information commissions should be from a non-civil service background, a complete reorganization of public records is essential for effective implementation of the RTI Act, clear guidelines about which non-governmental organizations come under its purview should be prepared, and an effective road map for implementation of the Act in the legislature and the judiciary at all levels should be drawn."

This Right is especially relevant for the rural poor today. Illiterate peasants, landless laborers and rural women also have an equal right to demand from the Government details of developmental expenditure carried out in their own villages. They should be able to ask for and receive copies of the bills and vouchers as well as names of persons who have been 'paid' wages to construct mythical 'schools and dams' that exist only on paper. This has to be done in conjunction with an escalated effort to ensure that the pace of education picks up drastically, in order to place the village in a position to gather evidence on their own. Furthermore, personal documents like records of births, deaths etc. should be made both available and easily replicable in order for this right to gain some practical significance.

Guaranteeing the Right to Information is one of the most significant political reform measures promised in the United Front's Common Minimum Programme. There have been a lot of proposals for a model bill by certain interested groups, including one by Ms. Nitya Ramkrishna, a Supreme Court advocate who has joined forces with the MKSS. The Statement of Objects & Reason reads as follows:

"The Individual's right to information is implied by the Constitution. It is also explicit in the context of certain specific legislation. However, need is felt to consolidate the legal and Constitutional provisions to make their effect more extensive. The individual's interaction with agencies of the State is increasing and getting complex. For this interaction to be democratic and meaningful it is important that the individual have access to information. It is also necessary that the consequences of the violation of the right to information be specified and sanction be imposed in this regard to ensure greater compliance."

The government has to realize that especially in a democracy all that happens in the public domain, "in the name of the people", must be fully accessible to those self-same people. While it is true that the State needs to classify and conceal certain kinds of information, we certainly do not need a colonial-hangover type obsession for secrecy. 'Democracy' should not limit itself to a periodic election every five years, but should also encompass the Right to information as well. The people should be included in the policy formulation and implementation process in order to give the words "We, the people...." any meaning at all. Today's 'developmental projects' often displace and sweep away thousands of people who are too poorly informed to bargain for better terms. Also, this is the era of Globalization, Liberalization and the MNC. We need an educated and informed populace who will be in a position to critique certain policy decisions and voice their assent or dissent.

From a study of all the current literature available, it is the authors' recommendation that the following steps be taken to start off a process of remedial measures which may ensure that truly one day ours will be a nation "where the mind is without fear" and "knowledge is free". These may be enumerated as follows:

1. An enforceable guarantee has to be given to each citizen to access his or her personal information which is in the Government's possession, like marriage certificates, birth certificates etc.
2. There must be an "open access" office system based on the 'Ahmednagar model' in which all the documents at the district headquarters level are open to any citizen for inspection and copying.

3. Decentralize decision making, especially for developmental projects and make details more easily accessible to the public.

These are just a few of the measures which need to swiftly and surely implemented in order to ensure that 'democracy' actually has some meaning in India and the right to information takes those steps needed to transform itself from a Constitutional ideal to a living reality.

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Anant Faujdar, et. al. "Right to Information." *IOSR Journal of Humanities and Social Science (IOSR-JHSS)*, 27(08), 2022, pp. 18-21.