

LEGALFOXES LAW TIMES

APPRAISAL ON THE RIGHT TO INFORMATION ACT

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Abstract

As we are living in a democratic country, every citizen has the right to get information from the government. The government must inform citizens about day to day whatever is happening within the government. In this democratic country, each person has the right to freedom of opinion and expression. Information is an alienable and natural right of every human being. The right to information is a fundamental right to every person. According to the World Justice Project 2020, India placed 32nd position out of 128 countries for the openness of the government. It clearly shows that the public administrations in India have not been disclosing the documents and reports of the government in a good manner. Another study says that only 4% of public administrations are disclosing their documents in a good manner. We have discussed the importance of the Right to Information Act and the procedure to get the information from the Right to Information Act. In this paper, we have discussed the exemption organizations and information from the Right to Information Act and also clearly discussed the defects of the Right to Information Act. Norway placed the 1st position for the openness of the government in the World Justice Project 2020 and thus we have enlisted the reasons for its first position. In this paper, we have also described the number of applications received in 2007 by the Central Information Commission and some State Information Commissions and the total number of pending applications in the Central Information Commission and some State Information Commissions. We gave some suggestions to rectify the defects in the Right to Information Act. This paper covers the pros and cons of the Right to Information Act.

Introduction

The Right to Information act was passed on June 15, 2005 and came into force on October 12, 2005. The Right to Information is a fundamental right provided under the Constitution of India. Information is necessary to form and express opinions, therefore it is a part of Article 19(1) (a). Information is necessary for protection of the right to life and personal liberty; therefore it is a part of Article 21. The Right to Information act was implemented in order to promote transparency and accountability of the public authority. Under the provisions of the Right to Information act, any citizens can request information from a 'public authority' which is required to reply expeditiously or within 30 days. If the information is about the life or personal liberty of a person, it can be obtained within 48 hours from time of request. The main objective of this act is to empower the citizens, promote transparency and accountability of the government, to make our country corruption free and make our democracy work for the people in real sense. Penalty for refusal to receive an application for information or for not providing information is Rs.250 per day but the total amount of penalty should not exceed Rs.25,000. The public authority may refuse the request, if the public authority believes that giving you information would harm a criminal investigation.

Importance of right to information act

The Right to Information act helps the citizens to get information from the government. Every citizen has the right to get information from the government. The citizen can apply their application via both online and postal. To get the information via online the citizens need to pay Rs.10 by either online banking or credit/debit card. To get the information via postal the citizens need to paste the court stamp worth for Rs.10. To get the central government information the citizens need to pay Rs.10. State government fees are differing from state to state. The persons who are comes under the below poverty line can get the information for free.

There are two commissions to provide the information. They are

1. Central information commission.
2. State information commission.

Central information commission

Central public information officer is head of the all union ministers and the central department. Central related document had been received from the central public information officer. Central public information officer are comes under the president.

State information commission

State public information officer is head of the all state ministers and the state department. State related document had been received from the state public information officer. State public information officer are comes under the governor.

For example: If a person wants to know about the road construction in their area. A person have to know about whose the contractor, allocated money, duration of times in such information are gather in the right to information act .

Government has reply documents in some format like

1. Copies
2. Paper
3. Record
4. Report etc.

Uses:

1. Right to information act was used to ask the questions about government.
2. Right to information act was used to receive the copies about government documents.
3. People has right to receive the sample from the government.
4. People have right to information about government, public authorities and department for government.
5. Right to information act is applicable for all Constitution authorities like legislative, executive and judiciary.

Exceptional Organizations from Right to Information act

The Right to Information act does not apply to all the organizations, that means some organizations are totally exempted from the Right to Information act and here is no individual right against such organizations. The Right to Information act was restricted on grounds of national security. The sec. 8 and 9 of this act has been granted exemption and sec.24 provides exemptions with respect to certain organizations. The second schedule of this act listed the exceptional organizations. The organizations are as follows:

1. Intelligence Bureau
2. Research and Analysis Wing of the Cabinet Secretariat
3. Directorate of Revenue Intelligence
4. Central Economic Intelligence Bureau
5. Directorate of Enforcement
6. Narcotics Control Bureau
7. Aviation Research Centre
8. Special Frontier Force
9. Border Security Force
10. Central Reserve Police Force
11. Indo-Tibetan Border Police
12. Central Industrial Security Force
13. National Security Guards
14. Assam Rifles
15. SashastraSeemaBal
16. Directorate General of Income Tax(Investigation)
17. National Technical Research Organization
18. Financial Intelligence Unit India
19. Special Protection Group
20. Defense Research and Development Organization
21. Border Road Development Board, and



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Under sec.24 of the Right to Information act, some of the information is also not disclosable. The information is as follows:

1. Personal details, income tax return, PAN
2. Educational qualification unless prima-facie case of fraud
3. Family details, GPF/CGEIS nominations
4. Information which identifies ailment of an employee
5. FIR in respect of ongoing investigation
6. Case diary maintained by the police officer making an investigation
7. Investigations/enquiries in vigilance, misconduct or disciplinary case before decision by competent authority
8. Documents based on which prosecution is in progress
9. Interception of telephone by authorized personnel
10. Software developed is Intellectual Property Right of developer
11. Incentives provided by commercial organizations for promotion of their business
12. If there is confidentiality clause in the collaboration agreement between a public authority and its collaborator which prohibit disclosure to a third party, that information may be denied.

Dinesh Kumar Puri vs. Central Reserve Police Force, New Delhi¹

The appellant filed an application under the Right to Information act about the CRPF employees' education secretary and the information on action taken on his complaint letter concerning his implication in the FIR. This information comes under the sec. 24 of the Right to Information Act but the Central Information Commission directed the CRPF to provide information to the extent possible.

Srinivasa Rao Devatha vs. Ministry of Home Affairs²:

The appellant applies under the Right to Information Act to provide the information about the travel details of his wife and parents-in-law to the various countries between 1st January 2014 and

¹Dinesh Kumar Puri vs. Central Reserve Police Force, New Delhi, CIC/SB/A/2016/000511

²Srinivasa Rao Devatha vs. Ministry of Home Affairs, CIC/SB/A/2016/000145

31st December 2014. The Ministry of Home Affairs transferred the application to the Intelligent Bureau. But the Intelligent Bureau comes under sec. 24 of the Right to Information Act and thus it was not supposed to provide the information.

Is RTI effective?

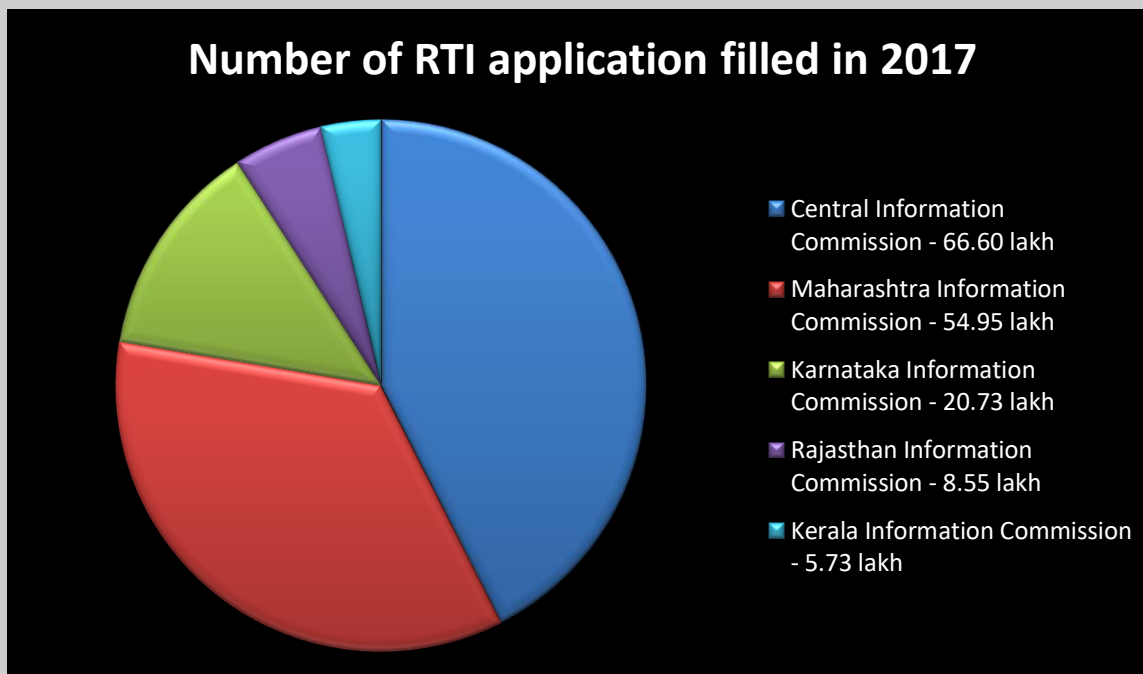
Under sec. 4 of the Right to Information Act, every public authority should disclose their information through annual reports and websites. But, according to a survey, only 4% of the surveyed central ministries and departments have been proactively disclosing information to the citizens under the Right to Information Act³. It is due to most of the public authorities are not properly following the rulebook in maintaining public records and proactive disclosure. Out of 2,023 public authorities only 963 public authorities were properly disclosing their information. 196 (20%) public authorities were never disclosing their information under sec. 4 of the Right to Information act. 241 public authorities were provided low quality information and 484 public authorities were provided very low quality information. Only 42 (4%) were provided satisfactory information to the citizens under sec 4 of the Right to Information Act. According to World Justice Project Report 2020, India placed 32nd position out of 128 countries in the openness of the government i.e., the transparency of the government⁴. People also founded that getting information from the government is difficult. Application for the Right to Information was slightly decreased 6% between 2015-16 and 2016-17; Maharashtra received more application followed by Karnataka⁵. Penalty for the late reply to the application was imposed to only 4% of the application. For 2016-17, the penalties collected by the commission were Rs.1.29 crore and Rs. 29.36 lakh was collected by the Central Information Commission. One-third of the positions in the Central Information Commission are vacant and according to the analysis conducted by Commonwealth Human Rights Initiative in March 2018, 25% of the positions in the State Information Commission are vacant. Andhra Pradesh has no State Information Commission. Gujarat and Nagaland State Commissions are headless. There are huge vacancies in the State

³Nidhi Sharma, Only 4% of the govt. departments proactively disclosing information under RTI: Survey, The Economic Times, Apr 17 2018, <https://economictimes.indiatimes.com/news/politics-and-nation/only-4-of-the-govt-departments-proactively-disclosing-information-under-rti-survey/articleshow/63792797.cms>

⁴ World Justice Project's Research Team, Mar 11 2020, https://worldjusticeproject.org/sites/default/files/documents/WJP-ROLI-2020-Online_0.pdf

⁵Chetan Chauhan, How RTI Act is dying a slow death in India, Hindustan Times, May 03 2018, <https://www.hindustantimes.com/india-news/how-rti-is-dying-a-slow-death-in-india/story-sTpdc63K7s42vxgV1bxwTI.html>

Information Commission of Haryana, Karnataka, Punjab and Uttar Pradesh. Over two lakh applications were pending in the States and Central Information Commission. An analysis by National Campaign for People's Right to Information stated that West Bengal Information Commission will take 43 years to clear all applications, Kerala Information Commission will take 6.5 years and Maharashtra Information Commission will take 5 years. The total number of pending applications in 2017-18 is 23,259.



Reason for Norway's first position for openness government in the World Justice Project

The basic principle of Norway is that people shall be free to receive information, ideas and opinions. The Norwegian government is openness and provides information, ideas and opinions to the public. Openness is reinforced by the Norwegian Human Rights Act which explicitly incorporates Article 10 of the European Convention on Human Rights. This act contains several provisions related to openness, transparency and provides the right to access official documents and data to the public. To provide information to the government the Norwegian government implemented the 'Freedom of Information Act' in May 2006. According to the World Justice

Project 2020, India has been placed 32nd position out of 128 countries but Norway placed 1st position for the openness of the government. The reasons for Norway's first position for openness government are as follows:

1. A broad right to access:

Anybody from any country can request access to Norway's public document and records. Anybody, anywhere in the world can obtain a copy of the document free of charge. The public administration may not require the applicant to provide his/her name and only demand enough information to deliver the information to the person. If the request is denied the requester has the right to know the basis for the refusal and there is also a right to complain and appeal in the case of refusal.

2. An extended scope for the Freedom of Information Act:

Sec. 3 of the Freedom of Information Act imposes a duty to the public authority and agents to keep and manage records and documents.

3. Processing the request:

The request shall be decided without undue delay.

4. Numerous exemption from public disclosure:

The right to information is an extension of the right to speech and is a fundamental right. The main principle of the Freedom of Information Act is based on democracy, control and legal certainty. Most of the organizations and information are disclosed and easily provided to the public.

5. The possibility for 'Enhanced Access to Information':

Sec. 14 to 27 of the Freedom of Information Act says about the exemption organizations and information from the Freedom of Information Act. Even though the information is restricted under the Freedom of Information Act, the public administration will provide some information to the extent possible.

Conclusion

The main motive of the Right to Information Act is to promote openness and transparency of the government. But most of the public administration information is not disclosed under the Right to Information Act. The study suggests a certain idea: Primarily, the freedom of the Right to Information Act should be extended and the request for the application should be replied as soon

as possible. Secondly, the vacant positions in the Central Information Commission and the State Information Commissions should be filed and the pending applications should be ratified as soon as possible. Thirdly, many of the information is not disclosed under the Right to Information Act due to national security. But the public administration shall try to provide the restricted information to the extent possible.



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