

RIGHT TO INFORMATION ACT 2005

Analysis, Experiences and Future Strategies

In a govt. 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 public functionaries. They are entitled to know the particulars of every public transaction in all its bearing. – Supreme Court in State of UP Vs Raj Narain in 1975

Gaining access to public information has been the most intriguing thing in our country. They may be the feudal lords or the powerful British rulers or the present day bureaucrats, people of our country always remained in quandary to seek government records, information directly or indirectly effecting their lives. Indian democracy brought in the Constitution of India in 1950, which had strongly related right to information as one of our Fundamental rights. Article 19 defines freedom of expression and opinion as including seeking, receiving and impacting information. Nevertheless, our governance opened its doors to the most radical legislature by bringing Right to Information Act 2005 into force.

The Act begins with setting out a regime of right to information for citizens to secure access to information; this would enable a democratic state which would require informed citizens and transparency of information leading to containment of corruption and increase accountability of the government. All attempts, which have been made to bring the corrupt officers in books, have been deliberately kept arbitrary. The Act also points towards a conflicting situation wherein certain information is likely to conflict with other public interest but it also enumerates the need of preserving democratic ideal.

Section I

As per the Act, *Information* means any material in any form including records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, logbooks, 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 other law for the time being in force but does not include "file notings" [S.2(f)]. While defining "records", the Act includes any document, manuscript, file, microfilm, microfiche, fax copy of any document, or any other document produces by computer or any other device.

It is clear that the Act tries to incorporate almost all documents maintained by a public office. Though Section 8 and 9 of the Act lists out more than 13 exemptions wherein the information will not be given as it will be detrimental to the sovereignty and integrity of India, security, scientific or economic interest of the State under the official secrets Act 1923. This delimits the right to information, which would otherwise have been an instrument to monitor international and secret dealing of the government.

Role of Public Authority:

It is desired under the law for every public authority should maintain all its records duly cataloged and indexed and publish the particulars of its organization, functions and duties, rules and regulations followed by the organization, a directory of its officers and its employees, monthly remuneration of employees, budget allocation to the organization, etc. It is mandatory for all public authorities to facilitate the names, designations and other particulars of the Public Information Officers (PIOs).

It is also enumerated that the public authority should endeavour to provide suo-moto information to the public through various means of communication.

Deliverance of Information:

According to Section 6 of the Act, the applicant is required to apply in writing or through electronic means giving the details about the information to be sought and details necessary to contact the applicant. Though none of the department in Delhi have acknowledged the request in electronic form till date.

Even though the Act is silent on the prescribed format of the application, the DDA has developed a form, which has a dedicated Serial No. and the form requires the applicant to furnish the reason as to why the information is needed, which against Section 6(2) of the Act.

The PIO have to furnish or refuse the information within 30 days of the request, failing which the PIO shall be liable to pay a penalty of Rs 250 per day upto Rs 25,000 or disciplinary action. (Section 20)

Section II

Right to information has a global recognition and is considered as the most effective right for a good governance and democracy. More than 40 nations have adopted the law and many more countries are in the process of enacting the legislation.

Right to information Laws in other countries

New Zealand, Canada and Australia passed Information Acts in 1982, in South Africa it came in 2000 while Pakistan came out with an Ordinance in 2002. USA had passed it in 1966.

In USA, request has to be complied within 10 days, and provisions of disciplinary action against the erring official or employee are strong. While in Australia it should be done within 14 days, and within 20 days in New Zealand. Even Pakistan has given 21 days time for the agencies to respond. There are no penalties in Australia, New Zealand while in Canada, South Africa and Pakistan if an official prevent the disclosure of information commits an offence and is liable to a fine or imprisonment upto 2 years.

In US, the agencies must submit an annual report to the Speaker of the House of Representatives and President of the Senate, with a detail of refusals, appeals, results, names and titles of person responsible for denial of request. This rule is not seen in any of the Act worldwide.

Laws passed in different states in India

Prior to the Central Act, many states in India had their own Right to Information Act, codes etc. The first state to pass this act was Tamil Nadu in the year 1997, Followed by Goa, Madhya Pradesh in the same year. The Goa's Right to Information Act was considered one of most progressive Act, one of the main component of the Goan Act was the provision of an independent appellate authority (outside the Government) to deal with complaints. In the same year National level campaign was launched in Rajasthan in the name of NCPRI with an predetermine "to assist in operationalising the right to information to generally empower the poor".

By 2000, NCPRI could get the Act passed in Rajasthan through which they gathered huge documents and financial records of Panchayats and District offices. This launched a massive drive against corruption, which was prevalent in all ranks and files of the Rajasthan government.

Section III

Conclusion and Beginning

UPA government has been lauded for passing of the Right to Information Act in the whole of India. All the government websites demonstrates the most progressive language calling themselves the quintessence of transparency and accountability. But one needs really think about the parameters within which the citizens have to respond. The government is deciding for the people as to what information should be available to what kind of people. The experiences of Public Interest Litigations have shown us, how the instruments meant to assist the deprived have been used against them. Be it employment or housing of the poor, there seems nothing is meant for the poor.

Taking from here, Hazards Centre resolved to file applications with Delhi Development Authority, which had always denied information other than their commercial enterprises. While taking the request, DDA's officials are sensing the parting with the information almost threatening as they are rooted in the power structure. Moreover, the officials pretend that they barely know the details of the Act and ask the applicant to clarify with seniors officials, who are always either in meetings or on leave.

We tried to enumerate some of the first hand account while dealing with the DDA RTI counters.

- 1 The RTI counters at Vikas Sadan causes a lot of inconvenience for the applicant; the applicant has to almost shout at the window to make them heard.

- 2 DDA has come up with its own form with a serial number on top, for this reason they don't give you more than one form at a time. The Form is designed as if the applicants are only going to ask them about the status of the flats, or houses, one has to also mention clearly the reason for filing the application. Whereas the Act clearly says that the applicant don't need to furnish any reason. Further, to harass the applicant, the officials ask the applicant to submit the photocopy of the fee receipts along with the application, which nowhere mentioned in the Act.
- 3 The officers at the counter are unaware of the departments within DDA, they ask us to go to the MCD Slum department if we want information on Slum eviction. Then the applicant has to show them the list of PIOs and then they reluctantly accept the request.
- 4 In some of the offices like the DDA Master Plan office at Vasant Kunj, there is no accountant, and in order to deposit the fee one needs to walk a kilometer. The PIO designate is very insensitive and often seen saying that the applicants have no work but to harass them.

The purpose of this seminar is give our experiences and to find the ways of dealing with these officers and content of the Act. As we are seeing this meeting as the beginning of a long campaign which will not only make the communities seeking information aware of this law and the problems identified by us but making the DDA officials accountable.

One needs to strengthen the campaign to seek information and challenge DDA's autocratic and monopolistic attitude.

Reference:

- RTI Act 2005
- CHRI website
- NCPRI website
- Hazards Centre documents