

# Right to Information

## LEARNING OBJECTIVES

*In this Chapter, you will learn about:*

- Introduction
- RTI Activists Who Lost Their Life for RTI
- The Struggle for Right to Information
- Evolution of Right to Information (India)
- Significance of Right to Information
- Right to Information and Administrative Reforms
- Important Provisions of the Act
- Exemptions and Exclusions
- Implementing Issues of the Act
- ART – II Recommendations
- Political Parties under Right to Information
- Judiciary under Right to Information
- NGOs under Right to Information
- 10 Years of Right to Information
- Steps to Improve Right to Information Act
- Success Stories of Right to Information
- Conclusion
- Practice Questions

## 12.1 RIGHT TO INFORMATION

*“The Right to Information Law of 2005 signals a radical shift in our governance culture and permanently impacts all agencies of state. The effective implementation of this law depends on three fundamental shifts: from the prevailing culture of secrecy to a new culture of openness; from personalized despotism to authority coupled with accountability; and from unilateral decision-making to participative governance”.*

—Second Administrative Reforms Commission

## 12.2 RTI ACTIVISTS WHO LOST THEIR LIFE FOR RTI

In the last few years, the following are some of those who laid down their lives fighting against corruption in public life. Do we know how many more unsung heroes are there?

- **Sathyendra Kumar Dubey:** Director Planning, National Highways Dept, murdered for exposing corruption in the Golden Quadrilateral project in Gaya, Bihar.
- **Amith Jethwa:** A Prominent RTI Activist and ‘Green Crusader’ was campaigning against alleged illegal mining in the Gir Sanctuary areas in Gujrat, which is backed by some politicians. He was shot at by unidentified assailants.
- **Sathish Shetty:** Famous in Pune for boldly invoking RTI Act to bring to light corruption in land dealings, killed while on his morning walk.
- **Arun Sawant:** Shot dead for exposing corruption in Badalpur Municipality.
- **Sola Ranga Rao:** Paid his life as he had filed RTI application in the Mandal Parishad Development Office regarding funds disbursement.
- **Venkatesh:** Died in his fight against encroachment of government lands.
- **Shanmugam Manjunath:** An IIM graduate; murdered for exposing sale of adulterated petrol.

## 12.3 THE STRUGGLE FOR RIGHT TO INFORMATION

Right to Information (RTI) is an integral component of a liberal democracy. This principle is widely accepted and it can be understood by the fact that most modern states have enacted their own versions of the law. The Indian version of RTI is considered to be the most soundly drafted among its peers, as the United Nations Development Programme (UNDP) in its appeal ‘Eliminate Corruption, Enable Better Living’ has hailed it as the best, in practice.

Like many other acts that empower the citizenry, this act had its own share of hurdles that it encountered through its years of drafting and formation. Thousands of activists put themselves through a relentless struggle to ensure that this act came into being. It began with the relentless fight by the civil society groups for People’s Rights in Rajasthan that finally in 1997 resulted in the enactment of RTI Act in the state.

It was alleged during the 1990s that there was a rampant spread of corruption and malpractices in the implementation of poverty alleviation schemes in Rajasthan. The malpractices were brought to light by The Mazdoor Kisan Shakti Sangathan (MKSS), a social movement in the state, which was initially seeking to understand the reasons behind the non-payment of minimum wages for workers in Rajasthan. It was when reports or information was denied to them, they realized that people were not being given a responsible and transparent administration. MKSS functionaries involved themselves in an extensive groundwork, which revealed a slew of malpractices in poverty alleviation schemes of the state. This made the public realize that they have to be informed of the policies, plans and administrative activities of the government. Thus was born a remarkable movement, which resulted in the creation of the first RTI law in the country, in the state of Rajasthan.

The movement was spearheaded by renowned social activists, Aruna Roy, Nikhil Dey and Changan Singh of the MKSS, with the extensive support of the common masses. It led to the Government of Rajasthan proclaiming in the assembly that they will come up with a law to provide access of information to the public on request.

After more than a year since the proclamation, the law was yet to materialize. Therefore, in April 1996, MKSS began a relentless struggle demanding the government to implement their

prior proclamation in the Assembly. The demonstration was massive, with people from various walks of life participating in it. The government had no other option than passing the law and finally obliged in the year 2000. This became a shot in the arm for MKSS, as they began the process to realize the enactment of RTI throughout India.

MKSS paved the way for the formation of the National Campaign for Peoples Right to Information (NCPRI). Many organizations and human rights movements aligned themselves with NCPRI to bring about RTI Act.

In 2002, during the NDA Government headed by Sri Atal Bihari Vajpayee, a Bill on Freedom of Information Act 2002 was introduced in the Parliament. But it did not become an Act.

In 2004, the UPA headed by Manmohan Singh included RTI Act in its election manifesto; when it formed the government, it started taking steps to fulfil its promise.

In August 2004, the National Advisory Council, the NCPRI and the commonwealth Human Rights Initiative (CHRI) together made some changes in the 2002 RTI Bill and submitted the core document. On the basis of the core document, in December, the new Bill on RTI Act was introduced in the Parliament.

The Bill was approved by the Lok Sabha on 11 May 2005 and by the Rajya Sabha on 12 May. The Indian President's approval was obtained on 15 May, and the Bill formally became an Act. It was published in the *Government Gazette* on 22 June, and from 12 Oct 2005, it was implemented.

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.

## 12.4 EVOLUTION OF RIGHT TO INFORMATION (RTI) (INDIA)

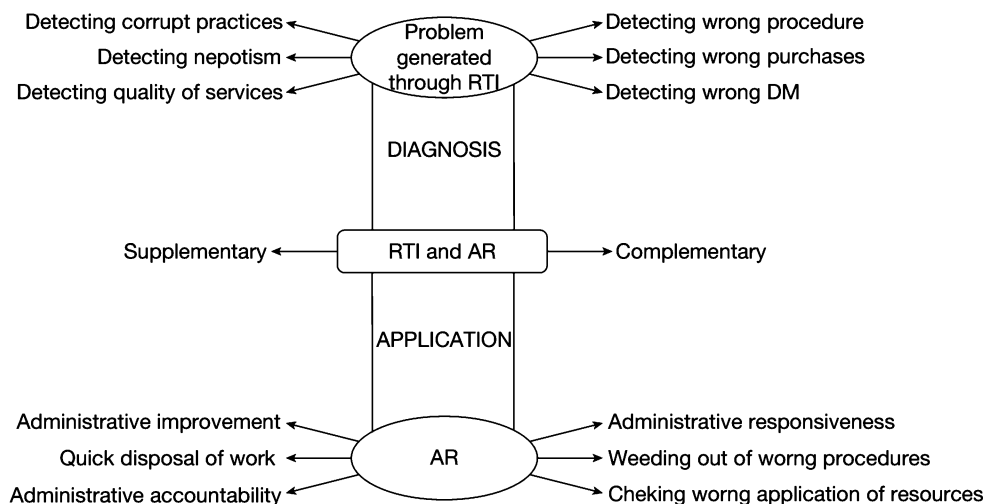
- The Constitution of India does not provide for the RTI as a fundamental right. However, it is inherent, within the scope of Article 19(1)(a) and Article 21.
- As a party to the Universal Declaration on Human Rights, India acknowledges Article 19 of the declaration, which talks of the right to receive and impart information.
- Supreme Court in various cases, such as state of UP vs Raj Narain, SP Gupta vs UOI, Dinesh Trivedi vs. UOI, Bhopal gas leak case, has asserted that the idea of 'Right to Know' is a fundamental right.
- Mathew Commission (1982): Emphasized the Right to know.
- 5th Pay Commission (1994–97): Recommended the abolition of the Official Secrets Act and introduction of RTI Act.
- 1995: The Press Council of India brought out the first blueprint of a model RTI Act.
- 1997: Shourie Committee – another draft on RTI.
- 2000: Rajasthan and Karnataka enacted their own RTI Acts.
- 2001: Delhi enacted its RTI Act
- 2002: Maharashtra and Assam enacted their own RTI Acts.
- 2002: Freedom of Information act was introduced and enacted, but it was never notified.
- 2005: RTI finally enacted and got notified and came into force.

## 12.5 SIGNIFICANCE OF RIGHT TO INFORMATION (RTI)

1. RTI reinforces the idea of popular sovereignty.
2. It promotes openness, transparency and accountability in governance.
3. It is one of the viable weapons to combat corruption.

4. The proper use of RTI will check the arbitrary nature or high-handedness of officials.
5. It bridges the gap between providers and recipients of public services.
6. It paves the way for a participative democracy by including the citizens in the decision making process.
7. By enhancing participation, RTI strengthens grassroots democracy.
8. It serves as a device to access to other rights provided by law.
9. It creates an amicable ambience for transparency in government organizations.
10. Results in effective functioning of the government thereby enhancing predictability.
11. Access to information can empower the poor and the weaker sections of society to demand and get information about public policies and actions, thereby leading to their welfare.
12. Promotes administrative reforms by exposing weaklings and voids in the system.

## 12.6 RIGHT TO INFORMATION (RTI) AND ADMINISTRATIVE REFORMS



RTI and administrative reforms go hand-in-hand towards assuring good governance:

1. RTI ensures transparency, accountability and efficiency, which are themselves goals of administrative reforms.
2. RTI helps in revealing the shortcomings of the system, which leads to further administrative reforms.
3. RTI is a novel measure that cannot be successfully executed until and unless supported by structural and procedural reforms.
4. Constant requests for information under RTI can help civil servants to reduce the possibilities for errors and therefore can ensure better performance from the government machinery.

## 12.7 RIGHT TO INFORMATION ACT (2005)

The Act specifies that citizens have a right to:

- Request any information (as defined).
- Take copies of documents.

- Inspect documents, works and records.
- Take certified samples of materials of work.
- Obtain information in form of printouts, diskettes, floppies, tapes, video cassettes or in any other electronic mode or through printouts.

### 12.7.1 Information Defined

According to the law, the term '*Information*' has been defined as any material in the form of records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data 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.

### 12.7.2 Process

Under the Act, all authorities covered must appoint a Public Information Officer (PIO) within their organization. Any person may submit a request to the PIO for information in writing. It becomes the PIO's duty to provide information to the person who has requested for the information. If the request involves or pertains to another public authority, it will be the concerned PIO's responsibility to transfer/forward the request to a PIO of the concerned organization, within 5 days of receipt. In addition, every public authority is required to designate Assistant Public Information Officers (APIOs) to receive RTI requests and appeals for forwarding to the PIOs of their public authority. The citizen making the request is not obliged to disclose any information except his/her name and contact particulars.

The Act specifies time limits for replying to the request:

1. If the request has been made to the PIO, the reply is to be provided within 30 days of receipt.
2. If the request has been made to an APIO, the deadline gets an additional 5 days, and thus the reply is to be given within 35 days of receipt.
3. If the PIO transfers the request to another public authority (better concerned with the information requested), the time allowed to reply is 30 days but computed from the day after it is received by the PIO of the transferee authority.
4. For information concerning corruption and human rights violations by scheduled security agencies (those listed in the second schedule to the act), responses have to be provided within 45 days post the approval of the Central Information Commission.
5. However, if the life or liberty of any person is involved, the PIO is expected to reply within 48 hours.

If the information is not provided within the required period, it can be treated as a deemed refusal of information. Refusal with or without reasons may be ground for appeal or complaint. Further, information not provided within the time prescribed is to be provided free of charge.

## 12.8 EXEMPTIONS

The following things are exempted from disclosure:

1. Sensitive information, disclosure of which would prejudicially compromise the sovereignty and integrity of India; the security; strategic, scientific or economic interests of the State; relation with a foreign State or which may lead to the incitement of an offence.

2. Information which has been forbidden to be published by any court of law or tribunal or any disclosure that would constitute to contempt of court.
3. Information, the disclosure of which would cause a breach of privilege of Parliament or the State Legislature.
4. Information including commercial confidence, trade secrets or intellectual property, the disclosure of which would harm the competitive position of a third party, unless the competent authority is satisfied that larger public interest warrants the disclosure of such information.
5. Information available to a person in his/her fiduciary relationship, unless the competent authority is satisfied that the larger public interest warrants the disclosure of such information.
6. Information received in confidence from foreign Governments.
7. Information, the disclosure of which would endanger the life or safety of any person(s) or identify the source of information or assistance given in confidence for law enforcement or security purposes.
8. Information which would impede the process of investigation or apprehension or prosecution of offenders.
9. Cabinet papers including records of deliberations of the Council of Ministers, Secretaries and other officers.
10. Information which relates to personal information, the disclosure of which has no relationship to any public activity or interest, or which would cause unwarranted invasion of the privacy of an individual. However, such information, which cannot be denied to the parliament or a state legislature, is not exempted under this purpose.

Notwithstanding any of the exemptions listed above, a public authority may allow access to information, if public interest in disclosure outweighs the harm to the protected interests.

### 12.8.1 Exclusions

The following investigation and intelligence agencies are exempted from the purview of this law:

Central Intelligence and Security agencies specified in the Second Schedule like IB, RAW, Central Bureau of Investigation (CBI), Directorate of Revenue Intelligence, Central Economic Intelligence Bureau, Directorate of Enforcement, Narcotics Control Bureau, Aviation Research Centre, Special Frontier Force, BSF, CRPF, ITBP, CISF, NSG, Assam Rifles, Special Service Bureau, Special Branch (CID), Andaman and Nicobar, The Crime Branch-CID-CB, Dadra and Nagar Haveli and Special Branch, Lakshadweep Police, Agencies specified by the State Governments through a notification will also be excluded.

This exclusion is however not absolute and these organizations are required to provide information, when accused of corruption and/or human rights violations.

## 12.9 IMPLEMENTING ISSUES OF THE ACT AND THE SOLUTIONS

1. Appointment of Central Information Commissioners and State Information Commissioners should be done in a bipartisan manner involving the leader of opposition. Chief Justices of SC and HC may also be included.
2. Despite a legal obligation to constitute State Information Commissions, five states: Jharkhand, Manipur, Sikkim, Andhra Pradesh and Mizoram have not appointed them yet.



3. The Central Information Commission should be geographically dispersed across the country with at least four regional offices headed by an official in the ranks of commissioner. This is in addition to the regional offices of State Information Commissions.
4. Information commissions should be constituted by adequately representing different sections of society, instead of having a preponderance of Civil Servants. It is advisable to have at least half of the members as non-civil servants.
5. Private institutions that enjoy natural monopoly, or whose functions impinge on citizens lives substantially, must come under RTI.
6. Definition of 'Substantially Financed' has been taken variously. So commission has defined it:

Organizations that have received 50% of annual operating costs or a sum more than ₹1 crore during any of preceding 3 years, should come under RTI.

7. NGOs and RTI  
NGOs having the following characteristics should come under the purview of RTI:
  - Substantially financed by government authorities.
  - NGOs having natural monopoly, impinging on citizens lives.
  - Any information, if it were held by government, subject to RTI disclosure, when transferred to NGO will continue to be subject to disclosure.
8. National Coordination Committee (NCC) should be created and be headed by Central Information Commissioner – this committee will monitor the implementation of RTI.
9. Application of RTI to legislature:
  - There should be a tracking mechanism so that action taken by executive branches on CAG reports and other enquiry commission reports is available to the public and legislators.
  - Working dynamics of Legislative Committees should be thrown open to the public.
10. Application of RTI Act to Judiciary
  - Records at district court and subordinate courts should be stored in a scientific manner and uniform way.
  - Administrative processes in district and subordinate courts should be computerized in a time bound manner.
11. Information provided by government departments are mystified and too technical. This should be addressed by providing information that will add value to the applicant.
12. Maintenance of information is not automated and therefore not efficient. Proper IT infrastructure should be installed in order to record day to day actions of the concerned departments.
13. Suo moto disclosure of information mandated under the Act is not being done properly.
14. Awareness of the law is very low among masses. More and more publicity is required to educate the people regarding the law.
15. Costs of accessing information through RTI are high.
16. Official Secrets Act promotes a culture of secrecy, which acts as a deterrent to RTI. It should be judiciously applied, without hindering the scope of RTI.
17. Officials need to be properly sensitized and trained with respect to transparency and accountability concerns of RTI.

18. Other acts, rules, manuals have not been amended to make them congruent with the RTI spirit.
19. RTI has not been able to create a climate of transparency as a norm. Rather RTI is being used to pet small work done or to threaten or harass.
20. Right to privacy has not been provided under the Act.
21. Bureaucratic pre-eminence in Information Commissions results in promotion of traditional bureaucratic ethos of secrecy and lack of accountability.
22. Many High Courts have made rules exempting themselves from RTI.

## 12.10 RECOMMENDATIONS OF SECOND ADMINISTRATIVE REFORMS

1. The Official Secrets Act, 1923 should be repealed, and substituted by a chapter in the National Security Act, containing provisions relating to official secrets.
2. Relevant provisions of Indian Evidence Act, 1872, civil procedure code needs to be amended.
3. A. As an affirmation of the importance of transparency in public affairs, Ministers on assumption of office may take an oath of transparency along with the oath of office and the requirement of administering the oath of secrecy should be dispensed with. Articles 75(4) and 164 (3), and the Third Schedule should be suitably amended.  
B. Safeguard against disclosure of information against the national interest may be provided through written undertaking by incorporation of a clause in the national security law dealing with official secrets.
4. Civil Services Rules of all states may be reworded in such a manner that disclosure of full and accurate information under RTI is a duty in good faith.
5. A. Section 12 of the Act may be amended to constitute the Selection Committee of CIC with the Prime Minister, Leader of the Opposition and the Chief Justice of India. Section 15 may be similarly amended to constitute the Selection Committee at the State level with the Chief Minister, Leader of the Opposition and the Chief Justice of the High Court.  
B. The GOI should ensure the constitution of SICs in all States within 3 months.  
C. The CIC should establish four regional offices of CIC with a Commissioner heading each. Similarly regional offices of SICs should be established in larger States.  
D. At least half of the members of the Information Commissions should be drawn from non-civil services background. Such a provision may be made in the Rules under the Act, by the Union Government, applicable to both CIC and SICs.
6. All ministries/departments/agencies/offices with more than one PIO have to designate a nodal APIO with the authority to receive requests for information on behalf of all PIOs. Such a provision should be incorporated in the Rules by appropriate governments.  
All public authorities may be advised by the Government of India that along with the PIOs they should also designate the appellate authority and publish both, together.
7. Suo moto disclosures should also be available in the form of printed, priced publication in the official language, revised periodically (at least once a year).
8. All government functionaries should be imparted at least one day training on RTI within a year.
9. Awareness campaigns may be entrusted to credible non-profit organizations at the State level.



10. The CIC and the SICs may be entrusted with the task of monitoring effective implementation of the RTI Act in all public authorities. (An appropriate provision could be made under Section 30 by way of removal of difficulties).
11. A National Coordination Committee (NCC) may be set up under the chairpersonship of the Chief Information Commissioner with the nodal Union Ministry, the SICs and representatives of States as members. The National Coordination Committee would:
  - a. Serve as a national platform for effective implementation of the Act,
  - b. Document and disseminate best practices in India and elsewhere,
  - c. Monitor the creation and functioning of the national portal for RTI,
  - d. Review the Rules and Executive orders issued by the appropriate governments under the Act,
  - e. Carry out impact evaluation of the implementation of the Act; and
  - f. Perform such other relevant functions as may be deemed necessary.
12. States may be advised to set up independent public grievances redressal authorities to deal with complaints of delay, harassment or corruption
13. A. Organisations which perform functions of a public nature that are ordinarily performed by government or its agencies, and those which enjoy natural monopoly may be brought within the purview of the Act.  
 B. Norms should be laid down that any institution or body that has received 50% of its annual operating costs, or a sum equal to or greater than ₹1 crore during any of the preceding 3 years should be understood to have obtained 'substantial funding' from the government for the period and purpose of such funding.  
 C. Any information which, if it were held by the government, would be subject to disclosure under the law, must remain subject to such disclosure even when it is transferred to a non-government body or institution.

ARC-II has called RTI Act the master key to good governance.

### **12.10.1 Change in Archaic Laws, Procedures and Practices**

1. Official Secrets Act should be repealed and should be substituted by a chapter in the National Security Act.
2. Indian Evidence Act, 1872, should be amended to aid disclosure of officially classified information.
3. Civil Service Rules of all states to be reworded: Civil Servant shall communicate all information applicable under RTI to public.
4. Manual of official procedure to be reworded on same line.

### **12.11 POLITICAL PARTIES UNDER RIGHT TO INFORMATION (RTI)**

Over the years and through its various judgments, the Supreme Court has consistently ruled in favour of the citizen's right to know. In *State of UP vs Raj Narain* (1975), the apex court declared that right to freedom of speech and expression guaranteed by Article 19(1)(a) included the right to know every public act, everything that is done in a public way and by their public functionaries.

In *S.P. Gupta vs UOI and Anr* (1981), the Supreme Court reiterated that right to know is implicit in right of free speech and expression, and disclosure of information regarding

the functioning of the government must be the rule. In *People's Union of Civil Liberties vs UOI* (2004), the RTI was further elevated to the status of a human right, necessary for making governance transparent and accountable. It also emphasised that governance must be made participatory.

Political parties act as the vocal chords of the people, both within and outside the government. Through policy making and debates in legislatures, politicians voice the demands of citizens, acting as a liaison between the people and the government. In order to ensure that they truly serve the above purpose, it is necessary that they have a good level of transparency in their functioning. In the Indian political scenario, parties are scattered across various camps based on ideology, affiliation and several other divisions. However, it is quite strange to note that they stand united, when it comes to keeping their organizations away from eyes of RTI. In fact, the NDA government led by Prime Minister Narendra Modi went to the extent of filing a counter-affidavit before the Supreme Court in 2015, saying that including political parties under the RTI would adversely affect their internal working and political functioning. As a contention, political parties say that they already exhibit a good level of transparency by filing their income tax returns and reporting on their donations to the Election Commission of India. However, it is to be noted that until the financial year 2016–17, these returns only included donations above ₹20,000.

Considering this, it is evident that national political parties have for long been resisting the RTI to conceal obscurities in their sources of funding. This has also proved how the existing laws have miserably failed in bringing complete transparency in the funding of political parties, creating the need for an overhaul in the mechanism for political funding.

The current pattern of funding, which shows the control and influence exerted by the big corporates and the business houses, pose an important question about the status of autonomy of the political parties in representing people and shaping up the policies, and RTI would help in exposing such links.

## 12.12 JUDICIARY UNDER RIGHT TO INFORMATION (RTI)

There are three substantial questions of law regarding RTI for Judiciary. These are as follows:

1. Whether the independence of judiciary be affected by the information sought.
2. Whether such disclosure of information would threaten the reliability of the decisions and expression of honest opinion by all the constitutional bodies.
3. Whether non-disclosure is protected under Section 8(1)(j) of the RTI Act.

There are indeed some valid and effective arguments for the judiciary to feel the need for secrecy. For example, collegium discussions can cover a lot of areas, which includes the discussion of courtroom corridor gossip and private life of the judges, the examination intelligence reports given by the government and the expression of personal opinions of the judges.

Credibility and reputation is hugely important especially for those who are occupying the highest seat of Judiciary, and many feel that even the slightest tarnish to this could be debilitating and prevent judges from doing their job.

And this is especially important in the case of Judges who are rejected by the collegium but still continue to serve in their respective posts in the High Courts. It is a legitimate fear among the Judges that few overenthusiastic advocates may dig the dirt on the Judges and take it out of context in order to have some leverage in the Courtroom, by asking for their recusal or otherwise, questioning their independence while hearing a case.

And ultimately, many judges are people too, and by tradition and necessity, deeply private ones at that.

Therefore, being completely subject to RTI is perhaps deeply uncomfortable to some of them at a deeper level.

So, can anything be done to solve this issue?

There is no one easy solution, and it is difficult to find one when there is a standoff between the Apex Court and the Government about reform of judicial appointments.

### **12.13 NGOS UNDER RIGHT TO INFORMATION (RTI)**

The definition of public authority under Section 2(h) of the Act is as follows:

‘Public authority’ means any authority or body or institution of self- government established or constituted:

- by or under the Constitution;
- by any other law made by the Parliament;
- by any other law made by a State Legislature;
- by notification issued or order made by the appropriate Government, and includes any:
  - (i) body owned, controlled or substantially financed;
  - (ii) non-Government organization substantially financed, directly or indirectly by funds provided by the appropriate Government;
  - (iii) NGO that is substantially financed, directly or indirectly by the government is under RTI review.

In *Thalapalam Service Co-operative Bank Ltd. v. Union of India* (2013), the Supreme Court clarified that:

- ‘controlled’: a control of substantial nature over the management and affairs of the body and not just mere supervisory or regulatory control.
- ‘financed directly or indirectly’: receiving grants-in-aid, governmental funds, benefits from government schemes (for land, etc.).

Any NGO that qualifies the above is under the purview of the RTI Act, 2005.

Comptroller and Audit General (CAG) Shashi Kant Sharma directed social audits on NGOs and panchayat bodies directly funded by the government, state information commission has ordered all state government-funded NGOs to come under the ambit of RTI Act.

The order states transparency and accountability should be maintained by NGOs which receive annual funding of ₹50,000 and above by government. NGOs must come under section 4 (1) (b) of RTI Act, 2005, which demands proactive disclosure of information by an organization.

### **12.14 10 YEARS OF RIGHT TO INFORMATION (RTI)**

In 2015, the RTI act completed 10 years, though amidst mixed opinions evaluating its journey so far. On one hand, there is a sense of rejoice for its role in establishing citizens’ right to seek information from public authorities. On the other hand, inaction on reforms needed for efficient implementation of the act have raised doubts over how far things have practically changed at the ground level. The reality of RTI act’s implementation lay somewhere in the middle of these two standpoints. In its decade-long existence, the act has managed to bring transparency by exposing slew of corruption cases running into thousands of crores such as CWG, 2G and

Adarsh society scam. But, accountability in the routine working of the public authorities is yet to take roots as majority of common citizens still find access to information difficult due to delays, supply of insufficient information and limited reach of the act.

### 12.14.1 Issues in the Existing Act's Implementation

Citizen's participation in everyday governance entails supply of information in due time. According to a study, pendency of cases in 23 Information Commissions (ICs) across India is 1,98,7391. And, it takes at least a year for an appeal to come up for hearing before an IC. The resultant delay in accessing information undermines citizens' right to know and redress individual grievances, access entitlements such as ration cards and pensions, investigate government policies and decisions, and expose corruption. One of the main reasons for high pendency of appeals with ICs is ineffective process of information supply at the level of Public authorities (PAs) during first application and subsequent first appeal.

The information Seeker Survey found that '75% of the citizens are dissatisfied with the quality of the information provided by PAs'. Even the process of first appeal does not yield substantial result. Except for first appeals filed with the central government or Delhi government, there is less than 4% chance of getting any information by filing a first appeal<sup>4</sup>. The reason behind such state of affairs is not only bureaucratic resistance to transparency but inefficient information collection and management system within government agencies. As the files and information are dispersed across several offices of one department for lack of digitisation of records, it becomes difficult to provide information completely and timely on the part of PAs.

Along with it, suppliers of information, the PIOs are not properly equipped or trained to handle the responsibility of supplying information. According to a study, 45% of the PIOs have not undergone any form of training related to the RTI act. Thus, lack of comprehensive capacity-building efforts make it difficult for them to process the bulky information held by government agencies into legible one sought by citizens. The IC report also observed that many cases may not have been brought up for adjudication if well-informed PIOs had resolved the issue earlier.

Lack of ownership of the act by state governments has also resulted in scarcity of financial resources for the functioning of the act. Union Government, on the recommendation of the 2nd Administrative Reform Commission had advised state governments to earmark 1% of the funds meant to implement major welfare schemes towards necessary reforms such as digitization of records and buying necessary infrastructure to provide information over a period of 5 years.

## 12.15 STEPS TO IMPROVE RIGHT TO INFORMATION (RTI) ACT

### 12.15.1 Creation of RTI Implementation Cell by Appropriate Governments

To ensure coordination between the appropriate Government and the Information Commission in discharging the duties mandated under the RTI Act, it is recommended that there should be an RTI Implementation Cell under the appropriate Government. This Cell should be under the leadership of a senior-level bureaucrat. This Cell is expected to set up implementation measures to promote compliance by the public authorities and oversee the status of implementation. The Chief CIC or Chief SIC may be an invitee in the meetings of the proposed Cell to help the appropriate Government in carrying out the responsibilities mandated under the Act.

### 12.15.2 Strengthening Implementation Set-up at Public Authority

'RTI readiness Plan' needs to be prepared to assess the status of current preparedness and to plan for the next 3 years. On basis of this report, a project plan needs to be developed to identify basic activities, which should be carried out for effective implementation of the RTI Act; assess the quality of record keeping and ensure good standards of records management; • coordinate and arrange adequate training for required staff in the authority; and identify areas for proactive disclosure. It will have to ensure the proactive disclosure is updated and linked to the needs of the citizens; plan for proper infrastructure, systems and processes are developed for implementation of RTI.

### 12.15.3 Annual Self-Assessment by Nodal Departments

It is suggested that the Centre/State Nodal Departments should carry out an annual self-assessment exercise. This self-assessment is to assess initiatives taken by the State Government towards implementation of the Act and also capture various outcomes. This exercise is intended to identify a comprehensive list of activities, which are needed to be taken by the Nodal Departments.

### 12.15.4 Massive Awareness Campaign

A massive awareness campaign is necessary to educate the citizens about the RTI Act and encourage citizen involvement. The awareness program must especially target the vulnerable categories of citizens such as:

- (i) women;
- (ii) farmers and rural families; and
- (iii) middle and working class, for whom most of the social benefit schemes of the Government are targeted.

For this purpose, RTI awareness and education needs to be aggressively pursued using the appropriate medium of communication. Also adequate budget needs to be allocated by the appropriate Governments for this initiative. The main objectives of the campaign should be to (i) increase public knowledge and awareness; (ii) encourage citizen involvement and debate; and (iii) increase transparency within Government through informed citizenry.

### 12.15.5 Alternative Channels for Submission of RTI Requests

In order to facilitate citizens in filing RTI requests/appeals, the following alternate channels should be designated as APIOs (provided for under section 5(2)):

- Citizen Service Centres (CSCs) facilitating citizens in filing RTI applications
- Department of Posts to assist in drafting and forwarding the application/appeals
- RTI call centres
- RTI portal
- RTI resource centre in each district headquarter

**RTI Call Centre:** The RTI call centre could be a single nodal point used by citizens for filing RTI applications/appeals/complaints over the telephone. Additionally, it could also serve as a centralized database of all the RTI applications received and the respective responses. The

following figure 3.3 depicts some of the mechanisms involved in the functioning of the call centre. The call centre can be developed on the lines of the 'Jankari' RTI call centre in Bihar. Through this initiative, the citizens can file information requests under the RTI Act through telephonic channel.

### 12.15.6 Creating Enabling Environment and Capacity Building

Recommendations:

1. Creation of a Knowledge Resource Centre.
2. Capacity building for training.
3. Making Record Keeping 'RTI Friendly'.
4. Development of Web-based applications for PAs and Information Commissions.
5. Improve Motivation of PIOs.
6. Earmarking budget for implementing the recommendations.

### 12.15.7 Improving Efficiencies at Information Commission Recommendation

Improving the disposal rate of complaints/appeals by information commission through following recommendations:

- Creation of more offices and using video conferencing for hearings.
- Passing order on merit of the case without hearing (to be used only when the order is in favour of appellant).
- Composition of Information Commissions.
- Induction Period for new Commissioners.
- Usage of Standard Templates for passing order.

## 12.16 SUCCESS STORIES OF RIGHT TO INFORMATION (RTI)

### Success Story I

#### Attendance of the Village School Teacher

In a pre-middle school in Panchampur village, situated 70 km away from the District Headquarters of Banda, a teacher was appointed for the school. However, the teacher was absent for most of the times. The workers and volunteers from Delhi-based organisations like Kabir and Parivartan, along with the local workers from the Chingari Sangathan under the 'Action Research Villages' Campaign, propagated the use of the RTI. Finally, the villagers witnessed a ray of hope when they learned that they could question the Government and ask for information related to the attendance records, leave records and medical records of the absconding village school teacher. Fifteen villagers drafted an application regarding the same and filed a number of applications with the Primary Education Officer at the Banda District Head Quarters. They asked for the records of the teacher but also questioned the Primary Education Department about the department's role and responsibilities in such situations. Immediate action was taken on the issue by the department. The Primary Education Officer summoned the teacher the very next day and asked for an explanation. Living up to his accountability and responsibility, the officer appointed a new school teacher for the village school. The school was opened on the next day itself and regular teaching began in the school. An enquiry was ordered against the teacher and he was asked to report to the school instantly. The villagers were overwhelmed with the fact that their use of RTI could reap such instant results (Source: *PACS Report*).



## Success Story 2

### Campaign Report to the District Magistrate, Banda

Another interesting facet of the campaign was the process of filing RTI applications in Banda (UP). A group of 10 volunteers and villagers went to various offices for submitting their RTI applications. None of the applications could be filed easily. Most of the offices were ill-equipped for the task. One of the major problems faced during the filing process was that the clerks, and sometimes even the officers, appeared non-conversant and at times completely ignorant about the RTI Act itself. The applications were filed after a lot of trepidation, struggle and running around the offices. These experiences were submitted in the form of a report to the District Magistrate of Banda District, which had the desired effect and considerably improved the situation in most of the offices (Source: *PACS Report*).

## Success Story 3

### Transparency in Public Distribution System for BPL Families

The 'Mere Gaon Ke Sawaal' Campaign volunteers noticed that the residents of Nai Basti (Bahraich, UP) were also facing the same problems as the other economically backward villages of the region. The 'Kotedar' had been apathetic towards their requests. The use of RTI by the villagers, the women being in majority, was successful in curbing the corruption that had seeped in the Public Distribution System to some extent. When the campaign volunteers saw the BPL ration cards of the villagers, they found that no entries had been made during February 2006 to December 2006. It was evident that the villagers had not received any ration in the said time period. Immediately, 51 village residents agreed to file group RTI applications on the issue and demanded information regarding the acquisition and the distribution of the ration and also asked for copies of the ration records. The applications were filed by the applicants personally after a lot of difficulty at the District Supply Office. Exactly within a fortnight, the Kotedar reached the village and narrated a long sob story, which moved few of the innocent villagers so much that they even agreed to take back their RTI applications. They very next day, the Kotedar brought a minibus to the village along with 'pooris' made with 1 quintal flour and asked the villagers to come to the SDM's office and take back their RTI applications. But, the women of the forest village rights forum refused to do so. This initiative by the women of the village encouraged the other villagers and they also refused to take back their RTI applications. The Kotedar trying another of his tactics one day announced in the village that all those who requested for information can collect it from him. When few villagers reached to take the information, they were forced to make thumb imprints on a blank paper. The Dehat Sanstha volunteers immediately reported this scam to the SDM. Finally, the Kotedar was suspended (Source: *PACS Report*).

## 12.17 CONCLUSION

RTI is a landmark legislation as it was enacted after a sustained demand and struggle from the grassroots level. It empowers ordinary citizens to question government accustomed to function in unbreachable secrecy. Where people and activists have been able to make use of RTI, results have been rewarding—from uncovering human rights violations in Hashimpura, to bringing transparency in IIT-JEE entrance exams and making MNREGA (Mahatma Gandhi National Rural Employment Guarantee act)-related information public.

Yet, a lot remains to be done to make transparency and accountability a regular feature of governance in India. The urban–rural divide in its access contradicts its foremost objective of bringing information and thus, empowerment to the masses at grassroots level. The lack of reforms denies citizens the opportunity to make governance people-centric. Given that the weakness of the RTI lies in its weak implementation, the next phase of RTI act needs to focus on increasing the authority of implementing agencies, especially SICs, of the act in order to set in motion the practical regime of RTI by ensuring much needed compliance from government agencies.

## 12.18 PRACTICE QUESTIONS

1. ‘The major assumption behind a new style of governance is the citizen’s access to information. Much of common man’s distress and helplessness could be traced to his lack of access to information and lack of knowledge of decision-making processes’. In the light of this statement, discuss the need for RTI and the modes in which they can be brought.
2. The RTI Act, 2005 has unleashed enormous expectations and aspirations among the citizens. Discuss.
3. Accountability is the question of democracy. In the light of this statement, evaluate the effectiveness of RTI Act.
4. RTI act is a major breakthrough in our democratic polity. Elucidate its effectiveness in our administrative system.
5. What arrangements are required to give protection to the whistle-blowers, as a part of RTI Act?
6. Is there a need to rationalize exemptions under RTI?
7. Bring out the lacunae affecting RTI act in its effective implementation.