



INDIAN JOURNAL OF  
LEGAL REVIEW

VOLUME 4 AND ISSUE 3 OF 2024

INSTITUTE OF LEGAL EDUCATION



## INDIAN JOURNAL OF LEGAL REVIEW

APIS – 3920 – 0001 | ISSN – 2583-2344

(Free and Open Access Journal)

Journal's Home Page – <https://ijlr.iledu.in/>

Journal's Editorial Page – <https://ijlr.iledu.in/editorial-board/>

Volume 4 and Issue 3 of 2024 (Access Full Issue on – <https://ijlr.iledu.in/volume-4-and-issue-3-of-2024/>)

### Publisher

Prasanna S,

Chairman of Institute of Legal Education (Established by I.L.E. Educational Trust)

No. 08, Arul Nagar, Seera Thoppu,

Maudhanda Kurichi, Srirangam,

Tiruchirappalli – 620102

Phone : +91 94896 71437 – [info@iledu.in](mailto:info@iledu.in) / [Chairman@iledu.in](mailto:Chairman@iledu.in)



© Institute of Legal Education

**Copyright Disclaimer:** All rights are reserve with Institute of Legal Education. No part of the material published on this website (Articles or Research Papers including those published in this journal) may be reproduced, distributed, or transmitted in any form or by any means, including photocopying, recording, or other electronic or mechanical methods, without the prior written permission of the publisher. For more details refer <https://ijlr.iledu.in/terms-and-condition/>

## A CRITICAL STUDY ON RIGHT TO INFORMATION ACT 2005

**AUTHOR** – HARISUDHAN N & JAIADITHYA K, TAMIL NADU DR. AMBEDKAR LAW UNIVERSITY (TNDALU),  
SCHOOL OF EXCELLENCE IN LAW (SOEL).

**BEST CITATION** – HARISUDHAN N & JAIADITHYA K, A CRITICAL STUDY ON RIGHT TO INFORMATION ACT 2005, *INDIAN JOURNAL OF LEGAL REVIEW (IJLR)*, 4 (3) OF 2024, PG. 189-193, APIS – 3920 – 0001 & ISSN – 2583-2344.

### Abstract

Right to Information Act of 2005 in place of Freedom of Information. An important legislation for Indians in promoting transparency and accountability in the working of public authorities. This confers the right to information upon Indian citizens except there would be the afore said exemptions under Section 8. The Act requires that a response to the application be given within 30 days, urgent matters are responded to expedited. Although the Act has played a role in improving transparencies, curbing corruption, and adding power to the people, it still poses problems like exploitation of information, increased bureaucratic workload, and impacts on decision-making. Issues such as poor record-keeping, insufficient staffing of information commissions, and the misuse of information further hinder its effective implementation. The article discusses these issues, provides case studies, and proposes suggestions for improvement, such as simplifying the application process, ensuring proactive disclosure, strengthening information commissions, and raising public awareness. Addressing these challenges is crucial for maximising the RTI Act's effectiveness in fostering a transparent and accountable governance system.

**Keywords:** Right to Information Act, transparency, accountability, public authorities, exemptions, bureaucratic challenges, information commissions, case studies, legislative reforms.

### Introduction

The Right to Information (RTI) Act of 2005 is an Indian law that grants citizens the right to access information under the authority of public authorities, promoting transparency and accountability in the activities of all government institutions. The Right to Information Act replaced the earlier Freedom of Information Act of 2002. Only Indian citizens can make an application for RTI while non-residents of India are not eligible.

As per Section 8 of the RTI Act 2005 there is an exemption which cannot be divulged under the RTI Act.

- When the information causes injury to the sovereignty, unity, security, economy, or relationship with foreign countries of India.
- If the information jeopardizes the individual's safety.
- Information pertaining to trade secrets, etc.
- Information about contempt of court and intellectual property.

The public body must provide the requested information to the petitioner within 30 days. If petitioner requires information pertaining to his life and liberty, the public authority must provide it to him within 48 hours. It is the responsibility of public authorities to explain the reasons for their administrative or quasi-judicial decisions to affected parties.

### Who is responsible for RTI?

The authority or institution that is answerable to the RTI petition are

- The organs of government, i.e., executive, legislative, and judiciary
- The organisations that are created by government orders
- The Non Governmental Organisations for which the government provide fund either directly or indirectly.

### Background of RTI

In the case **State of U.P. vs. Raj Narain & ors, 1975 AIR 865**

The Supreme Court held that India is a democratic country, so people have the right to

know how the government is working. Thus, the Government of India enacted the Right to Information Act, which provides information to the citizen.<sup>377</sup>

In 2001: A committee gave its recommendation.

In 2004 : The National Advisory Council (NAC) drafted the RTI Bill.

In 2005 : On 15th June 2005, The RTI Bill was passed by parliament.

In 2005 : On 12th October 2005, the RTI Act came into effect.

### Important Section under Right to Information Act-2005

- Sec - 1(2) It extends to the whole of India except the State of Jammu and Kashmir.
- Sec - 2(a) "Appropriate Government" refers to:
  - The Central Government, if the public authority is established, constituted, owned, controlled, or substantially financed by funds provided directly or indirectly by the Central Government or the Union territory administration.
  - The State Government, if the public authority is established, constituted, owned, controlled, or substantially financed by funds provided directly or indirectly by the State Government.
- Sec - 2(f) "Information" means any material in any form, including records, documents, memos, e-mails, opinions, advice, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material held in any electronic form, and information relating to any private body that can be accessed by a public authority under any other law for the time being in force.
- Sec - 3 According to this section, citizens of India have a right to seek information.
- Sec - 4 This section deals with the duties of public authority.
- Sec - 6 (1) Any person who is seeking the information has to make a request either by writing or electronic means in

English, Hindi, or any other regional language.

- Sec - 6(3) This section talks about the transfer of an application to another public authority.
- Sec - 7 This section talks about the time period for providing the information.
- Sec - 8 This section deals with exemptions from disclosure of information.
- Sec -18 This section dealt with Powers and Functions of Information Commissions.
- Sec-19 Deals with An appeal for the order of Central Public Information Officer (CPIO) or State Public Officer (SPO) by applicant.
  - The first appeal time limits fall within 30 days from the date of the decision.
  - The appeal second time has to be submitted within 90 days from the date of decision.
- Sec - 20 This section deals with the kinds of punishment that can be meted out to an Information officer appointed under the act for failure to receive an application, not furnishing information within a specified time limit etc.,

### How to obtain information

#### 1. Procedure for Accessing the Information:

- The person must make a written or electronic request in English, Hindi, or any other regional language.
- No reason is necessary to get the information.
- If you are below the poverty line, you are not needed to pay a fee; otherwise, you must pay the fee as authorized.

#### 2. Time restriction for obtaining information

- The agency must notify the requester of information requested within 30 days.
- If the petitioner requires information regarding his life and liberty, then it must be provided by the public authority within 48 hours.
- If the application is transferred to another public authority, an additional 5 days will be added to the response time listed above.

<sup>377</sup> State of U.P. vs. Raj Narain & ors, 1975 AIR 865

- If the interest of a third party is involved, the time period will be 40 days.

3.Fee .

- If you are below the poverty line, you are not forced to pay the charge.

- If the Public Information Officer fails to deliver the information within a specified time frame, the applicant shall be given the information for free.

### Advantages

#### Transparency

Transparency enables citizens to make decisions based upon better choice making. Facilitates trust and coordination between citizens and governmental organizations. Promote a more responsive and responsible government. Corruption is minimized since the applicant is as wise as any opponent.

#### Public participation

Enable citizens to request information from the government and challenge and hold the officials accountable.

#### Engage citizens

This is the legal tool that made public participation and participation in governance more public, showing people actual government decision-making processes.

#### Disadvantages

##### Potential for Misuse of Information

There is always the risk that information obtained through RTI will be misused, resulting in a negative outcome and the disclosure of personal, security, and confidential information.

##### Increased Bureaucratic Workload

Because this act requires public officials to spend a significant amount of time and resources providing information to the public, their workload will grow, perhaps leading to delays.

##### Not recording

Other effects that the RTI Act may have on decision-making include making officials not to record their decisions and conversations with public analysis.

##### Other disadvantages

The other problem is that the government hires a large number of Public Information Officers

(PIO), making it harder for the public to acquire information. People can only meet the PIO with a security pass, and they must wait many hours to receive one. Some ministries require a specific form to be filled out, which is not required by law, and they will also accept requests on plain paper. The Department of Personal and Training (DoPT) must release a circular to clarify this. Due to the increased volume of requests for information, the offered information may be erroneous, or requests may go unanswered even after 30 minutes.

#### Case Law

##### Karnataka Information Commissioner v. PIO

A person approached the Karnataka High Court for information under the Right to Information Act. The application was rejected by the court officer saying that the same had to be sought under the regulation of the court itself. He appealed before the State Information Commission which in turn directed the court to furnish the required information. The order of the SIC was however successfully challenged and set aside by the court itself.

Impact of the Judgement: This judgment has had an enormous impact on the information commissions. They have become more docile to the courts and are no longer willing to contest their rulings. This further dilutes the rule of law as authorities need some respect to enforce the laws. In simple words, the Supreme Court judgment has clipped the wings of the Information Commissions and made them ineffective in upholding transparency and accountability.<sup>378</sup>

##### Girish Ramchandra Deshpande v. Central Information Commission & Ors. (2013) AIR SCW 5865

The court opined that about details of a public servant's movable and immovable property, assets, liabilities, as also professional details, an order can be passed to decline disclosure. According to the high court, details furnished in the income tax return by a person were clearly "personal information" exempted from disclosure as provided by Section 8(1)(j) of the

<sup>378</sup> Karnataka Information Commissioner v. PIO

RTI Act, without regard to greater public interest involved. After reviewing the decision, it is evident that the court regarded all of the required material, including memos, orders of punishment, assets, income tax returns, and gifts received, as personal information of the public worker. The court exempted this information from disclosure under Section 8(1)(j) of the RTI Act, substantially broadening the reach of that provision. In my judgment, the verdict exceeds a realistic interpretation of the law. In my perspective, the ruling goes beyond a reasonable reading of the law, and the only basis given for refusing the information is the court's agreement with the Central Information Commission's decision.<sup>379</sup>

**CBSE v. Aditya Bandopadhyay & Ors. 2011 AIR SCW 4888**

The Supreme Court considered whether the Right to Information (RTI) Act of 2005 gives examinees the right to view and get copies of their graded answer scripts from public examinations. The Central Board of Secondary Education (CBSE) claimed that it had a fiduciary connection with examinees, making it immune from disclosure under Section 8(1)(e) of the RTI Act. However, the Court held that Section 22 of the RTI Act declares that its provisions have an effect of overriding all inconsistent laws and policies. Thus, access-providing provisions of the RTI Act override even the examination body restrictions which may bar access. The Court determined that unless the examining authority can prove that the information comes under an exempted category as provided in Section 8(1)(e), it must The Court ruled that unless the examining body can demonstrate that the information falls into an exempted category as defined in Section 8(1)(e), it must respond with RTI requests. Finally, the Supreme Court determined that CBSE did not have a fiduciary relationship with the examinees, and hence was not exempt from revealing the information. The Court ordered CBSE to allow examinees to

inspect and receive copies of their evaluated answer scripts under the RTI Act.<sup>380</sup>

**Criticism**

One of the major impediments to the successful execution of the Right to Information (RTI) Act is inadequate record-keeping within the bureaucracy, which frequently results in lost files. Citizens struggle to obtain the information to which they are entitled due to a lack of openness and accountability.

Another key flaw is the understaffing of information commissions, who are in charge of directing the implementation of the RTI Act. This personnel shortfall impedes the commissions' ability to efficiently review and react to RTI applications, resulting in delays and inefficiencies.

The supplementary enactments, such as Whistleblowers Act, have been scaled down and the powers which formerly were vested in the law have been diluted thereby reducing the importance of the law under the aegis of the RTI Act. The original intent of the RTI Act was to bring transparency and accountability in governance, which is weakened by this sorry state of affairs. The government failed to anticipate the effect that the RTI Act would create when information was not provided proactively in the public domain, and as a consequence, the numbers rose manifold on applications filed under the RTI Act.

Another key reason why the RTI is crucial is that citizens were forced to file the RTI application to retrieve information, which they should have otherwise gotten normally. Unfortunately, there have been cases of frivolous requests under the RTI, which are cumbersome and time-consuming for government officials. To aggravate the injury, there is also a case of misusing information retrieved under the RTI to blackmail government officials, which is also unlawful.

Overall, these barriers and hindrances have hampered the implementation of the RTI Act. If these issues are properly addressed, it will be

<sup>379</sup> Girish Ramchandra Deshpande v. Central Information Commission & Ors. (2013) AIR SCW 5865,

<sup>380</sup> CBSE v. Aditya Bandopadhyay & Ors. 2011 AIR SCW 4888,

crucial in having this law implemented to its fullest so that the deficiencies in government are allowed to be met.

### Suggestion

#### Improving the Right To Information Act

The RTI Act is a significant tool for encouraging transparency and accountability in government. There are some issues and limits that must be addressed in order to improve the RTI Act.

#### Simplify the process

The procedure for filling up the RTI application should be made simple so that each citizen can approach the office. The procedure of making an RTI application must, therefore, be done online to reduce the burden of bureaucracy.

#### Proactive Disclosure

The government should play an effective role in publishing the information, as the RTI Act specifies how it must be disclosed. As a result, the volume of RTI applications will be reduced, making information more easily accessible to citizens.

#### Strengthen Information Commissions

Adequate resources and people must be allocated to improve the Information Commission. As a result, it decreases delays and inefficiencies associated with responding to RTI applications. Misuse of information can be avoided by using government-approved measures. The government must establish a framework to regulate the use of information and take action against those who misuse it. Raise Awareness People should be aware of the Right to Information Act, particularly in remote areas.

#### Conclusion

As an Indian citizen, it serves to improve government transparency and accountability through the Right to Information Act. It has disadvantages-information misuse, increased bureaucratic workload with respective consequences for decision-making procedures-because of its useful benefits such as improvement in openness, eradication of corruption, and empowerment of the individual. To effectively implement RTI Act in the country, it

is advisable to streamline the process of filing an RTI application, proactive disclosures of information, strengthening of the role of information commissions, protection from information misuse, and mass awareness of RTI Act so that we can ensure to keep the RTI Act in course to bring transparency and accountability into the government.

#### References

1. [https://dgrindia.gov.in/writereaddata/media/documents/important\\_section\\_of\\_rti\\_en.pdf](https://dgrindia.gov.in/writereaddata/media/documents/important_section_of_rti_en.pdf)
2. <https://www.nic.in/wp-content/uploads/2020/02/RTI-Act-FAQ.pdf>
3. <https://www.lexisnexis.in/blogs/right-to-information-act-2005/>
4. <https://byjus.com/free-ias-prep/right-to-information-rti/#:-:text=Historical%20Background&text=The%20Supreme%20Court%20held%20that,for%20exercising%20this%20fundamental%20right>
5. <https://medium.com/@yashj7346/historical-background-of-rti-ca78b11a420e>
6. <https://medium.com/@yashj7346/historical-background-of-rti-ca78b11a420e>
7. <https://www.lexquest.in/pros-and-cons-of-the-rti-act-2005/>

#### Case Law

1. State of U.P. vs. Raj Narain & ors, 1975 AIR 865
2. Karnataka Information Commissioner v. PIO
3. Girish Ramchandra Deshpande v. Central Information Commission & Ors. (2013) AIR SCW 5865,
4. CBSE v. Aditya Bandopadhyay & Ors. 2011 AIR SCW 4888