

## PUBLIC AUTHORITIES AND OTHER AUTHORITIES UNDER THE RTI ACT, INDIA: SCOPE, INTERPRETATION, AND CHALLENGES

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### ABSTRACT

*The Right to Information (RTI) Act, 2005, is a significant law in India that promotes transparency and accountability in governance. A key aspect of the Act is the definition of public authorities, which are required to provide information to citizens. This paper explores the scope of public authorities under the RTI Act, including government bodies, institutions funded by the government, and other authorities performing public functions. It also examines how courts have interpreted the term other authorities to include private entities in certain cases. The paper further discusses the challenges in implementing RTI, such as resistance from organizations, lack of clarity in definitions, and exemptions under the law. Key case laws and decisions by the Central and State Information Commissions are analyzed to understand how the RTI Act has evolved over time. Finally, recommendations are provided to improve transparency and ensure better compliance with the Act. This study aims to highlight the importance of access to information in a democracy and how the RTI Act empowers citizens to hold public authorities accountable.*

**Keywords:** Public authorities, Other Authorities, Transparency, Accountability, Exemptions & Citizen empowerment.

### INTRODUCTION:

The Right to Information (RTI) Act, 2005, is a landmark legislation in India that aims to promote transparency and accountability in governance. It empowers citizens to seek information from public authorities, thereby strengthening democratic participation. According to Section 2(h) of the RTI Act, "public authority" means any authority, body, or institution of self-government established or constituted by the Constitution, by any law made by Parliament or State Legislature, or by a government notification, including bodies owned, controlled, or substantially financed by the government.<sup>2621</sup>

The scope of public authorities under the RTI Act has been a subject of legal interpretation. The judiciary has played a crucial role in expanding the meaning of public authority to include organizations that perform public functions, even if they are not directly under government control. For instance, in *Thalappalam Service Cooperative Bank Ltd. v. State of Kerala*<sup>2622</sup>, the Supreme Court ruled that cooperative societies receiving substantial government funding could be considered public authorities under RTI.

Despite its significance, the RTI Act faces challenges in implementation, including resistance from organizations, bureaucratic delays, and misinterpretation of the law. This

<sup>2621</sup> RTI act [pdf]. Available at: <https://rti.gov.in/rti-act.pdf> (Accessed: 27 March 2025).

<sup>2622</sup> *Thalappalam Service Coop. Bank Ltd. v. State of Kerala*, (2013) 16 SCC 82

paper examines the meaning of public authorities and other authorities under the RTI Act, analyses key judicial rulings, and discusses the challenges and recommendations for better compliance.<sup>2623</sup>

### **LITERATURE REVIEW:**

S. Kumar, "Implementation and Impact of Right to Information Act in India"<sup>2624</sup>: Kumar's study provides a comprehensive analysis of the RTI Act's implementation, its role in promoting transparency, and the challenges faced in ensuring compliance. The paper highlights the bureaucratic resistance, lack of awareness among citizens, and the inconsistent response from public authorities. The study suggests measures such as proactive disclosures and enhanced penalties for non-compliance to improve RTI effectiveness.

A. Mehta, "Right to Information Act in India: An Overview"<sup>2625</sup>: Mehta's research examines the significance of the RTI Act in ensuring accountability in governance. The study discusses its objectives, key features, and the hurdles in its implementation, particularly in rural areas. The author emphasizes the role of civil society organizations in educating people about their right to information.

P. Sharma, "Right to Information Act (RTI ACT 2005)"<sup>2626</sup>: A Perspective Study on Government Employees of India": Sharma's study explores the perspective of government employees regarding the RTI Act. The paper discusses the administrative challenges faced by Central Public Information Officers (CPIOs), including excessive workload and fear of punitive action.

The author suggests structural reforms to streamline RTI processing.

R. Singh, "Right to Information in India"<sup>2627</sup>: Singh's research delves into the historical evolution and implications of the RTI Act. The paper highlights the impact of judicial decisions on the interpretation of transparency laws and discusses landmark cases that have shaped the scope of the Act.

### **RESEARCH GAP:**

Existing literature on the RTI Act, 2005, extensively discusses its impact on governance and transparency, but it does not fully address the systemic loopholes that limit its effectiveness. There is limited research on the political manipulation of Information Commissions, the deliberate delays in processing RTI requests, and the broad exemptions misused to withhold crucial information. Furthermore, while some studies highlight the exclusion of political parties from RTI, few provide concrete legal recommendations to close this gap. Additionally, the lack of comprehensive analysis on the safety of RTI activists and whistleblowers leaves a critical area unexplored. This research paper aims to bridge these gaps by providing a detailed examination of these overlooked issues and proposing legal and policy reforms to strengthen the RTI framework.

### **METHODOLOGY:**

This research paper adopts a doctrinal methodology to examine the interpretation and application of the term "*public authorities*" and "*other authorities*" under the Right to Information (RTI) Act, India. Primary sources such as the RTI Act, judgments of the Supreme Court and High Courts, and orders from Information Commissions have been extensively analysed. Secondary sources, including scholarly articles, legal commentaries, and reports by government and non-governmental organizations, are also referenced to provide a

<sup>2623</sup> The right to information (amendment) Bill, 2019 (2025) PRS Legislative Research. Available at: <https://prsindia.org/billtrack/the-right-to-information-amendment-bill-2019> (Accessed: 27 March 2025).

<sup>2624</sup> "Implementation and impact of right to information act in ... Available at: <https://www.ijnrd.org/papers/IJNRD2306646.pdf> (Accessed: 28 March 2025).

<sup>2625</sup> (PDF) right to information act in India: An overview. Available at: [https://www.researchgate.net/publication/257796618\\_Right\\_to\\_Information\\_Act\\_in\\_India\\_an\\_Overview](https://www.researchgate.net/publication/257796618_Right_to_Information_Act_in_India_an_Overview) (Accessed: 28 March 2025).

<sup>2626</sup> (PDF) right to information act (RTI act 2005) a perspective study on government employees of India. Available at: [https://www.researchgate.net/publication/343263689\\_Right\\_to\\_Information\\_Act\\_RTACT\\_2005\\_A\\_perspective\\_study\\_on\\_government\\_employees\\_of\\_India](https://www.researchgate.net/publication/343263689_Right_to_Information_Act_RTACT_2005_A_perspective_study_on_government_employees_of_India) (Accessed: 28 March 2025).

<sup>2627</sup> . Available at: [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1758022%29](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1758022%29) (Accessed: 28 March 2025).

comprehensive understanding. The paper critically analyses judicial interpretations, statutory provisions, and the practical challenges faced in determining the scope of public authorities. A qualitative approach is employed to analyse legal texts and case laws to draw insights into the evolving jurisprudence around the RTI Act's provisions.

### **OVERVIEW OF THE RIGHT TO INFORMATION (RTI) ACT, 2005:**

The Right to Information (RTI) Act, 2005, was enacted to ensure transparency and accountability in governance by providing citizens the right to access information from public authorities. The Act recognizes the right to information as a fundamental right under Article 19(1)(a) of the Indian Constitution, which guarantees freedom of speech and expression.<sup>2628</sup> It empowers individuals to question government decisions, seek explanations for policies, and hold public authorities accountable. Under Section 3 of the Act, *"all citizens shall have the right to information"*, making it a powerful tool for democracy and good governance.<sup>2629</sup>

The RTI Act applies to all levels of government, including central, state, and local bodies, as well as institutions that receive substantial government funding. It mandates public authorities to maintain records systematically and provide information proactively to reduce the need for citizens to file formal requests. Section 4 of the Act emphasizes suo motu (proactive) disclosure of information to improve governance efficiency and reduce corruption.<sup>2630</sup> The Act also establishes the Central Information Commission (CIC) and State Information Commissions (SICs) to oversee implementation and address grievances related to information access.

Over the years, the RTI Act has played a crucial role in exposing corruption and inefficiencies in governance. It has led to several landmark disclosures, such as the unearthing of financial irregularities in the Commonwealth Games scam and inconsistencies in the allocation of coal blocks (Coalgate scandal).<sup>2631</sup> Despite its impact, challenges such as bureaucratic resistance, misuse of exemptions under Section 8, and threats to RTI activists continue to hinder the Act's effectiveness. Strengthening its implementation is essential to ensuring the right to information remains a cornerstone of democratic governance in India.

### **DEFINITION AND SCOPE OF PUBLIC AUTHORITIES UNDER THE RTI ACT:**

The term *public authority* is crucial in determining the applicability of the Right to Information (RTI) Act, 2005. According to Section 2(h) of the RTI Act, a public authority includes anybody or institution of self-government established or constituted by the Constitution, by any law made by Parliament or a State Legislature, or by a government notification. It also covers organizations that are substantially financed, owned, or controlled by the government. This definition ensures that various government departments, ministries, municipal bodies, and institutions receiving public funds fall under the RTI framework. The broad nature of this definition has led to significant judicial interpretations regarding the inclusion of private entities performing public functions.

The scope of public authorities under RTI has been a subject of legal scrutiny. Courts have ruled that even private organizations can be classified as public authorities if they receive substantial government funding or perform functions of public importance. In *D.A.V. College Trust and Management Society v. Director of Public Instructions*, the Supreme Court ruled that educational institutions receiving considerable financial aid from the government

<sup>2628</sup> Article 19 of the Indian Constitution, iPleaders. Available at: <https://blog.iplayers.in/article-19-indian-constitution/> (Accessed: 27 March 2025).

<sup>2629</sup> Section 3 in the right to information act, 2005. Available at: <https://indiankanoon.org/doc/1979161/> (Accessed: 27 March 2025).

<sup>2630</sup> The right to information (amendment) Bill, 2019 (2025) PRS Legislative Research. Available at: <https://prsindia.org/billtrack/the-right-to-information-amendment-bill-2019> (Accessed: 27 March 2025).

<sup>2631</sup> Johri, A.B. & A. (2024) Scuttling people's right to information, The Hindu. Available at: <https://www.thehindu.com/opinion/op-ed/scuttling-peoples-right-to-information/article68748541.ece> (Accessed: 27 March 2025).



qualify as public authorities under the RTI Act.<sup>2632</sup> Similarly, cooperative societies and sports bodies receiving government support have been brought under the purview of RTI based on their level of public engagement and financial dependency on the state. However, there remains ambiguity in defining what constitutes substantial financing, leading to varied interpretations across different cases.

While the RTI Act aims to ensure transparency, certain institutions have resisted being classified as public authorities to avoid disclosing information. Political parties, for instance, have argued that they do not qualify as public authorities despite receiving indirect government benefits such as land allocations and tax exemptions. In 2013, the Central Information Commission (CIC) ruled that national political parties come under the RTI Act as they perform public functions, but the decision has faced strong opposition and non-compliance.<sup>2633</sup> Furthermore, private banks and NGOs with government grants have also contested their classification under the Act. These ongoing debates highlight the need for clearer legislative guidelines to prevent misuse of exemptions and ensure greater accountability in governance.<sup>2634</sup>

#### **JUDICIAL INTERPRETATION OF 'OTHER AUTHORITIES' UNDER THE RTI ACT:**

The term “other authorities” under the RTI Act, 2005, has been subject to extensive judicial interpretation, particularly concerning its application to entities beyond traditional government institutions. While Section 2(h) of the RTI Act explicitly defines “public authorities”, the term “other authorities” has been broadly interpreted to include bodies that perform public functions or receive substantial government aid. The Supreme Court and various High Courts have played a crucial role in

determining which institutions fall under this category, considering factors such as financial assistance from the government, public duty, and the extent of state control. In *BCCI v. Cricket Association of Bihar*, the Supreme Court ruled that the Board of Control for Cricket in India (BCCI) exercised public functions despite being a private entity, thereby making it answerable under RTI principles.<sup>2635</sup> This case set a precedent for including private bodies that wield significant influence over public affairs.

Judicial decisions have also clarified the application of RTI to organizations performing quasi-governmental functions. In *Delhi Sikh Gurdwara Management Committee v. Mohinder Singh*, the Delhi High Court held that religious institutions managing public funds and properties for the benefit of a large community could be considered public authorities.<sup>2636</sup> Similarly, in *K.K. Saxena v. International Institute of Information Technology*, the Supreme Court ruled that private educational institutions receiving substantial government aid were subject to RTI provisions.<sup>2637</sup> These rulings highlight how courts have expanded the scope of “other authorities” to ensure that institutions carrying out public responsibilities remain transparent. However, there is still resistance from private organizations that argue they do not meet the criteria for being public authorities, leading to ongoing legal disputes.

Another significant area of judicial interpretation concerns public-private partnerships (PPPs). The RTI Act does not explicitly address PPPs, leading to legal ambiguity regarding their classification as public authorities. In *Rakesh Transparency v. Bharat Sanchar Nigam Limited*, the Supreme Court ruled that private companies engaged in infrastructure projects through government contracts could be subject to RTI if they received significant financial support from the

<sup>2632</sup> D.A.V. College Trust & Management Society v. Director of Public Instruction, 2008 SCC OnLine P&H 273

<sup>2633</sup> Sketch of gang-rape suspect released (2013) The Hindu. Available at: <https://www.thehindu.com/news/national/cic-rules-political-parties-under-rti/article4848146.ece> (Accessed: 28 March 2025).

<sup>2634</sup> Articles by PRS Team (2025) PRS Legislative Research. Available at: <https://prsindia.org/articles-by-prs-team/2023> (Accessed: 28 March 2025).

<sup>2635</sup> Cricket Assn. of Bihar v. BCCI, (2016) 15 SCC 697

<sup>2636</sup> Delhi Sikh Gurudwara Management Committee v. Mohinder Singh, 2010 SCC OnLine Del 781

<sup>2637</sup> K.K. Saxena v. International Institute of Information Technology, (2015) 4 SCC 670

state.<sup>2638</sup> This interpretation ensures that transparency extends to sectors where government and private entities collaborate. However, different courts have taken varied stances on this issue, with some ruling that merely having a contractual relationship with the government does not automatically bring a private entity under the RTI framework. As a result, the legal position on PPPs remains inconsistent, requiring further legislative clarification.

Despite these judicial efforts, challenges persist in defining the scope of “other authorities” under RTI. Many institutions attempt to evade RTI obligations by restructuring their financial models to reduce direct government funding. Political parties, trusts, and large private corporations with indirect government benefits continue to resist being classified as public authorities. Courts have emphasized that the fundamental objective of RTI is to promote transparency, and any entity serving a public function should ideally be subject to scrutiny. However, due to the absence of a clear legislative definition of “other authorities”, case-by-case judicial interpretation remains the primary mechanism for determining RTI applicability. Strengthening legal provisions and ensuring consistent judicial application are necessary to uphold the RTI Act’s objectives of transparency and accountability.<sup>2639</sup>

#### **CRITERIA FOR DETERMINING A PUBLIC AUTHORITY:**

The classification of an entity as a “public authority” under the Right to Information (RTI) Act, 2005, is crucial for ensuring transparency. Section 2(h) of the Act provides a broad definition, but determining whether a body falls under this category requires a structured assessment. Courts and regulatory bodies

follow a systematic process to decide whether an entity qualifies as a public authority. The key criteria used for determination are explained step by step below:

#### **Step 1: Establishment under the Constitution or Law**

The first criterion examines whether the entity has been established or constituted under the Constitution of India, a parliamentary act, or a state legislature law. Organizations such as the Election Commission, Comptroller and Auditor General (CAG), and municipal corporations automatically qualify as public authorities since they derive their existence from constitutional or legal provisions.<sup>2640</sup>

**Example:** The Reserve Bank of India (RBI) is a public authority as it was established under the RBI Act, 1934.

**Reference:** Section 2(h) of RTI Act, 2005.

#### **Step 2: Ownership or Control by Government**

If an entity is not directly created by law, the next step is to check if it is owned, controlled, or substantially financed by the government. The government’s role in decision-making, appointment of key officials, and financial control are key factors in determining ownership.

**Example:** Public sector undertakings (PSUs) like ONGC and Indian Oil Corporation are classified as public authorities because they are owned and controlled by the government.

**Reference:** Government owned entities and RTI.<sup>2641</sup>

#### **Step 3: Substantial Financing from Government**

The RTI Act states that any non-governmental organization (NGO), company, or institution that receives substantial financing from the government may be considered a public

<sup>2638</sup> Rakesh Kumar v. Bharat Sanchal Nigam Limited, Central Administrative Tribunal, judgment, law, Casemine.com <https://www.casemine.com>. Available at: <https://www.casemine.com/judgement/in/5b053bd44a93266674a56215> (Accessed: 28 March 2025).

<sup>2639</sup> Lokur, M. (2019) A milestone in greater transparency, accountability, The Hindu. Available at: <https://www.thehindu.com/opinion/op-ed/a-milestone-in-greater-transparency-accountability/article29411242.ece> (Accessed: 28 March 2025).

<sup>2640</sup> Section 2(H) in the right to information act, 2005. Available at: <https://indiankanoon.org/doc/1097458/> (Accessed: 27 March 2025).

<sup>2641</sup> The right to information act 2005 - PRS India. Available at: [https://prsindia.org/files/bills\\_acts/acts\\_parliament/2005/the-right-to-information-act-2005.pdf](https://prsindia.org/files/bills_acts/acts_parliament/2005/the-right-to-information-act-2005.pdf) (Accessed: 28 March 2025).

authority. However, courts have debated what qualifies as "substantial financing." Some rulings suggest that even indirect funding, such as tax exemptions or land grants, could meet this criterion.<sup>2642</sup>

**Example:** In cases involving private educational institutions receiving government aid, courts have ruled that if a significant portion of their funds come from the government, they must comply with RTI provisions.

**Reference:** RTI and Government Funding

#### Step 4: Performance of Public Functions

Even if an entity is not owned or financed by the government, it may still be classified as a public authority if it performs public functions or services that impact the general public. This

applies to organizations involved in essential services like education, healthcare, or public utilities.

**Example:** Electricity distribution companies in some states, though privately owned, have been classified as public authorities since they provide an essential service regulated by the government.<sup>2643</sup>

**Reference:** RTI and Public Function Test

#### Step 5: Precedents from Judicial Rulings

Courts play a crucial role in expanding or limiting the scope of public authorities under RTI. The judiciary has ruled that private banks, sports federations, and cooperative societies may come under RTI if they meet the above criteria. Any entity that is unsure about its classification can be referred to the Central Information Commission (CIC) or the High Court for a final decision.

**Example:** The Indian Olympic Association was brought under RTI due to its significant public functions and government support.<sup>2644</sup>

**Reference:** Indian Olympic Association and RTI.

The process of determining whether an entity qualifies as a public authority under the RTI Act involves multiple legal and administrative considerations. Ownership, government control, financial support, and the nature of public functions are key factors in this assessment. While the RTI Act aims to expand transparency, ambiguities in the definition of substantial financing and public function continue to create legal challenges. Strengthening legislative clarity and consistent judicial interpretations will help improve compliance with the Act.

#### INCLUSION OF NGO's, PRIVATE BODIES, AND PPP's UNDER RTI:

The Right to Information (RTI) Act, 2005, extends beyond government bodies to include certain non-governmental organizations (NGOs), private bodies, and public-private partnerships (PPPs) under specific conditions. As per Section 2(h) of the RTI Act states that anybody owned, controlled, or substantially financed by the government qualifies as a public authority. This broad definition has led to legal debates regarding the inclusion of non-government entities. Judicial rulings and regulatory interpretations have helped clarify the extent of RTI's applicability to NGOs, private entities, and PPPs.

#### 1. NGOs under the RTI Act

Non-governmental organizations (NGOs) play a significant role in public welfare and often receive financial aid from the government. The RTI Act applies to NGOs that are substantially financed by government funds, including direct grants, tax exemptions, or land allocations.

<sup>2642</sup> Right to information wiki Substantially Financed [Right to Information Wiki]. Available at: <https://righttoinformation.wiki/explanations/substantially-financed> (Accessed: 28 March 2025).

<sup>2643</sup> Sekhar, - Metla Sudha et al. (no date) India's grid strained by burgeoning power demand, The Economic Times. Available at: <https://economictimes.indiatimes.com/industry/energy/power/indias-grid-strained-by-burgeoning-power-demand/articleshow/99086789.cms> (Accessed: 28 March 2025).

<sup>2644</sup> Talwar, S. (2020) [breaking] Supreme Court stays ECI's order removing Ex-CM Kamal Nath's 'star campaigner' status; asks 'who gives you power to delist a candidate?', Live Law. Available at: <https://www.livelaw.in/news-updates/indian-olympic-association-under-rti-165320> (Accessed: 28 March 2025).



Courts have ruled that NGOs receiving significant financial assistance from public funds must provide transparency under RTI.

While some NGOs operate independently with private funding, many receive direct or indirect government aid through grants, tax exemptions, or subsidized land and infrastructure. The Central Information Commission (CIC) has ruled in multiple cases that NGOs substantially financed by the government must fall under the purview of RTI. The challenge arises in defining "substantial financing," as courts have interpreted it differently across cases.

#### Example:

- *PETA India* (People for Ethical Treatment of Animals) has been questioned about RTI applicability due to its financial structure and foreign funding sources.
- *Sulabh International*, which works on sanitation projects, has received government funding and faced RTI queries.
- *Indian Red Cross Society* was ruled to be a public authority under RTI due to its financial and administrative control by the government.<sup>2645</sup>

## 2. Private Bodies under RTI

Private entities are generally not considered public authorities. However, if they perform functions of public importance or receive substantial government aid, they may be subject to RTI. Courts have ruled that private educational institutions, hospitals, and companies receiving government subsidies fall under RTI if they fulfil public responsibilities.

Private educational institutions, hospitals, and banks have faced RTI queries when they receive tax benefits, subsidies, or government contracts. The courts have ruled that such entities cannot hide behind the private nature of their business if they serve a public function.

#### Example:

- *Amity University* and *LPU* (Lovely Professional University) have faced RTI inquiries as they receive government aid and perform educational functions.
- *Apollo Hospitals* and *Fortis Healthcare* have been subject to RTI-related cases when they received government land or subsidies.
- *ICICI Bank*, despite being a private entity, has been challenged under RTI due to indirect government involvement in financial regulations.<sup>2646</sup>

## 3. Public-Private Partnerships (PPPs) under RTI

Public-Private Partnerships (PPPs) involve collaboration between the government and private sector for infrastructure, healthcare, and other essential services. Since they involve public funds and decision-making, courts have ruled that PPPs should maintain transparency under RTI.

Despite the public interest in many projects, many PPP companies resist RTI applications, arguing that they are not public authorities under Section 2(h) of the Act. However, courts have ruled that if a private entity is performing a public function or is substantially financed by the government, it must provide information under RTI.

#### Example:

- *Delhi Metro Rail Corporation (DMRC)* is a PPP where transparency concerns led to RTI applicability.<sup>2647</sup>
- *Reliance Infrastructure* and *GMR Group*, which operate airports and highways

<sup>2646</sup> Gandhi, S. (2025) The RTI is now the 'right to deny information', The Hindu. Available at: <https://www.thehindu.com/opinion/lead/the-rti-is-now-the-right-to-deny-information/article69259261.ece> (Accessed: 28 March 2025).

<sup>2647</sup> Prsindia. Available at: [https://prsindia.org/files/bills\\_acts/acts\\_parliament/2005/the-right-to-information-act-2005.pdf](https://prsindia.org/files/bills_acts/acts_parliament/2005/the-right-to-information-act-2005.pdf) (Accessed: 28 March 2025).

under PPP models, have faced RTI queries.<sup>2648</sup>

- *Tata Power Delhi Distribution Limited (TPDDL)*, a private company distributing electricity in Delhi under a government contract, has been brought under RTI in some cases.<sup>2649</sup>

### **INFORMATION COMMISSIONS: POWERS, FUNCTIONS, ROLE AND MEMBERSHIP UNDER THE RTI ACT:**

The Information Commissions play a crucial role in ensuring transparency and accountability under the Right to Information (RTI) Act, 2005. They act as appellate authorities and have the power to enforce RTI provisions, ensuring compliance by public authorities. The RTI Act provides for the establishment of:

1. **Central Information Commission (CIC)** at the national level.
2. **State Information Commissions (SICs)** at the state level.

These commissions serve as watchdogs, adjudicating complaints and appeals filed by citizens regarding the denial of information.

### **1. Central Information Commission (CIC)**

#### **1.1 Powers and Functions of the CIC**

The Central Information Commission (CIC) is an independent body responsible for ensuring the implementation of RTI at the central level. It is empowered under Sections 18 to 20 of the RTI Act to:

- Hear and decide appeals against decisions of Central Public Information Officers (CPIOs).

- Conduct inquiries into complaints where citizens allege wrongful denial of information.
- Impose penalties on public authorities for non-compliance or providing misleading information.
- Recommend changes to government policies to improve transparency.
- Direct the disclosure of information in cases where secrecy is misused to deny access.
- Order public authorities to improve their RTI compliance mechanisms.

A landmark ruling by the Supreme Court in *Union of India v. Namit Sharma* (2013) clarified that the CIC has quasi-judicial powers and must exercise them with fairness and due process.<sup>2650</sup>

#### **1.2 Role of the CIC**

The CIC serves as a guardian of transparency in governance by ensuring that the provisions of the RTI Act are upheld. Its key roles include:

- Ensuring that citizens can access information about government activities.
- Monitoring compliance by public authorities with RTI provisions.
- Strengthening the RTI mechanism through recommendations to the central government.
- Resolving disputes related to RTI requests at the national level.
- Promoting awareness of RTI rights among the public.

In *Bharat Sanchar Nigam Ltd. v. CIC* (2012), the Delhi High Court upheld the CIC's power to order disclosure even when information is withheld under Section 8(1) of the RTI Act.<sup>2651</sup>

<sup>2648</sup> Sekhar, - Metla Sudha, Mukeri, - Zafer, Elearnmarkets, De, - Tanusree, Rai, - Sachenkumar, et al. (no date) Reliance Power owned discoms come under RTI Scanner, The Economic Times. Available at: <https://economictimes.indiatimes.com/industry/energy/power/Reliance-Power-owned-Discoms-come-under-RTI-scanner/articleshow/9555475.cms?from=mdr> (Accessed: 28 March 2025).

<sup>2649</sup> MSEDCL 'refuses' to give information under RTI (no date) The Economic Times. Available at: <https://economictimes.indiatimes.com/industry/energy/power/mstedcl-refuses-to-give-information-under-rti/articleshow/2083536.cms> (Accessed: 28 March 2025).

<sup>2650</sup> *Union of India v. Namit Sharma*, (2013) 10 SCC 389

<sup>2651</sup> *Bharat Sanchar Nigam Ltd. v. CIC*, 2012 SCC OnLine Del 1776



### 1.3 Members and Composition of the CIC

The Central Information Commission consists of:

- Chief Information Commissioner (CIC).
- Up to 10 Information Commissioners (ICs).

The President of India appoints these members based on recommendations from:

1. The Prime Minister (Chairperson).
2. The Leader of Opposition in Lok Sabha.
3. A Union Cabinet Minister (nominated by the Prime Minister).

As per *Anjali Bhardwaj v. Union of India* (2019), the Supreme Court ruled that Information Commissioners must be appointed without undue delay to ensure effective functioning of the RTI Act.<sup>2652</sup>

### 1.4 Disqualifications of CIC Members

A person cannot be appointed as the Chief Information Commissioner or an Information Commissioner if they:

- Hold any office of profit under the government.
- Are affiliated with any political party.
- Have been convicted of a crime involving moral turpitude.
- Are of unsound mind or declared insolvent.
- Have a conflict of interest that could affect their impartiality.

The *Shailesh Gandhi v. Union of India* (2014) case raised concerns about political appointments in the CIC, emphasizing the need for an independent selection process.<sup>2653</sup>

## 2. State Information Commissions (SICs)

### 2.1 Powers and Functions of the SICs

Each state has a State Information Commission (SIC), which performs functions similar to the

CIC but at the state level. The SIC is empowered to:

- Hear second appeals against State Public Information Officers (SPIOs).
- Conduct investigations and issue summons to officials.
- Impose penalties on state officials for violating RTI provisions.
- Recommend systemic changes in state government departments for better RTI compliance.
- Direct disclosure of information when state authorities unlawfully deny access.

In *Raj Narayan v. Uttar Pradesh Govt.* (2010), the Allahabad High Court upheld the SIC's authority to enforce RTI requests against state-run universities and other bodies.<sup>2654</sup>

### 2.2 Role of SICs

State Information Commissions play a critical role in enforcing RTI laws at the state level. Their responsibilities include:

- Ensuring transparency in state government agencies.
- Addressing public grievances related to RTI.
- Encouraging proactive disclosure of information.
- Monitoring the compliance of state departments with RTI guidelines.

In *Suresh Chandra v. State Information Commission of Karnataka* (2015), the Karnataka High Court ruled that SICs have the power to order disclosure of land records when public authorities refuse access.<sup>2655</sup>

### 2.3 Members and Composition of SICs

Each State Information Commission consists of:

- State Chief Information Commissioner (SCIC).

<sup>2652</sup> *Anjali Bhardwaj v. Union of India*, 2018 SCC OnLine SC 3175  
<sup>2653</sup> *Shailesh Gandhi v. Union of India*, (2014) 6 SCC 351

<sup>2654</sup> *State of U.P. v. Raj Narain*, (1975) 4 SCC 428

<sup>2655</sup> *Suresh Chandra v. State Information Commission of Karnataka*, (2017) 7 SCC 177

- Up to 10 State Information Commissioners (SICs).

The appointment process is conducted by:

1. The Governor of the State.
2. The Chief Minister (Chairperson).
3. The Leader of Opposition in the State Legislative Assembly.

Appointments must be made in a non-partisan manner, as ruled in *Arvind Kejriwal v. Lt. Governor of Delhi* (2021), where the Delhi High Court criticized politically motivated appointments in the SIC.<sup>2656</sup>

## 2.4 Disqualifications of SIC Members

The criteria for disqualification of SIC members are the same as for CIC members. In *Namit Sharma v. Union Of India* (2013), the Bombay High Court ruled that SIC members must have sufficient knowledge of law, administration, or governance to be appointed.<sup>2657</sup>

## CASE LAWS SHAPING THE INTERPRETATION OF PUBLIC AUTHORITIES:

Judiciary plays a significant role in ensuring the effective implementation of the Right to Information Act. Courts in India have consistently upheld citizens' right to access information while balancing it with other constitutional protections such as privacy, national security, and confidentiality. Judicial pronouncements have also clarified the scope of public authorities under the RTI Act and defined exceptions to disclosure.

The Supreme Court and High Courts have actively interpreted the RTI Act to ensure transparency and accountability. Their role includes:

- Ensuring the proper implementation of the RTI Act: Courts have intervened in cases where public authorities refused to disclose information arbitrarily.

- Expanding the definition of "public authority": Judiciary has ruled that even NGOs and private bodies performing public functions fall within the purview of RTI.
- Balancing RTI with fundamental rights: Courts have weighed RTI against the right to privacy and national security to ensure fair implementation.
- Enforcing penalties and compliance: When public officials deliberately deny information, courts have directed authorities to impose penalties and ensure compliance.

## Key Case Laws on Judicial Intervention

### 1. **CBSE v. Aditya Bandopadhyay (2011)**<sup>2658</sup>

- Facts: A student sought copies of his answer sheets from the CBSE under the RTI Act. CBSE denied the request, arguing that examination papers are confidential.
- Judgment: The Supreme Court held that examination answer sheets are covered under RTI, except in cases where disclosure would harm competitive fairness.
- Impact: This case established that evaluated answer sheets must be disclosed under RTI, setting a precedent for educational institutions.

### 2. **Reserve Bank of India v. Jayantilal N. Mistry (2015)**<sup>2659</sup>

- Facts: The RBI refused to disclose information regarding inspection reports of banks, citing fiduciary relationships under Section 8(1)(e) of the RTI Act.
- Judgment: The Supreme Court ruled that RBI is a public authority and cannot deny disclosure of information related to financial institutions under its regulation.
- Impact: Strengthened transparency in the banking sector by ensuring that

<sup>2656</sup> *Arvind Kejriwal v. Lt. Governor Of Delhi*, (2021) 2 SCC 248  
<sup>2657</sup> *Namit Sharma v. Union of India*, (2013) 1 SCC 745

<sup>2658</sup> *CBSE v. Aditya Bandopadhyay*, (2011) 8 SCC 497  
<sup>2659</sup> *RBI v. Jayantilal N. Mistry*, (2016) 3 SCC 525

regulatory bodies cannot withhold information from the public under fiduciary grounds.

### 3. **Subhash Chandra Aggarwal v. Office of the CJI (2019)**<sup>2660</sup>

- Facts: The issue was whether the Office of the Chief Justice of India (CJI) is subject to RTI queries. The Supreme Court was asked whether judges' assets and administrative decisions should be publicly disclosed.
- Judgment: The Supreme Court held that the Office of the CJI is a public authority under RTI, but added that personal information related to judges must be handled cautiously under privacy concerns.
- Impact: This landmark ruling established judicial transparency while balancing privacy rights.

### 4. **Ferani Hotels Pvt. Ltd. v. State Information Commission (2014)**<sup>2661</sup>

- Facts: A private real estate company was involved in a dispute over whether it was subject to RTI queries due to its contracts with the Maharashtra government.
- Judgment: The Bombay High Court ruled that private entities performing public functions or receiving substantial government funding fall under the RTI Act.
- Impact: The case expanded the definition of "public authority" under Section 2(h) of the RTI Act.

### 5. **Registrar of Supreme Court v. Subhash Chandra Aggarwal (2020)**<sup>2662</sup>

- Facts: This case revisited the issue of whether judicial appointments, correspondence, and internal

discussions of the Supreme Court should be disclosed under RTI.

- Judgment: The Supreme Court held that while judicial transparency is essential, sensitive deliberations related to judicial appointments should be protected under Section 8(1)(j) (personal information).
- Impact: The ruling emphasized a balance between judicial independence and transparency.

### 6. **S.P. Gupta v. Union of India (1981)**<sup>2663</sup>

- Facts: This case, also known as the "First Judges Case," dealt with the disclosure of correspondence between the judiciary and the executive regarding the appointment and transfer of judges.
- Judgment: The Supreme Court ruled that citizens have the right to know how public institutions function, reinforcing the importance of transparency in judicial appointments.
- Impact: Considered a precursor to the RTI Act, this case emphasized that access to information is a fundamental right under Article 19(1)(a).

### 7. **Bhagat Singh v. Chief Information Commissioner (2008)**<sup>2664</sup>

- Facts: The petitioner sought information from the Central Bureau of Investigation (CBI) about pending cases. The CBI refused, citing national security concerns under Section 8(1)(h) of the RTI Act (information that could impede an investigation).
- Judgment: The Delhi High Court held that authorities cannot deny information unless they prove that disclosure would cause actual harm to the investigation.
- Impact: This ruling restricted the arbitrary denial of information under investigative exemptions and

<sup>2660</sup> Subhash Chandra Aggarwal v. Office of the CJI, (2020)5SCC481

<sup>2661</sup> Ferani Hotels Pvt. Ltd. v. State Information Commissioner, 2015 SCC OnLine Bom 5636

<sup>2662</sup> Central Public Information Officer, Supreme Court of India vs. Subhash Chandra Aggarwal (13.11.2019 - SC) : MANU/SC/1561/2019

<sup>2663</sup> S.P. Gupta v. Union of India, 1981 Supp SCC 87

<sup>2664</sup> 146 DLT 185



strengthened accountability in law enforcement agencies.

### **CHALLENGES AND REFORMS IN THE RTI FRAMEWORK:**

The Right to Information (RTI) Act has significantly enhanced transparency and accountability in governance, but its implementation faces several challenges. Bureaucratic resistance, misuse of exemption clauses, and delays in providing information often weaken its effectiveness. Many public authorities either deny information citing vague reasons or fail to comply with RTI requests within the stipulated time. Additionally, the lack of awareness among citizens and the intimidation faced by RTI activists hinder the full realization of the Act's objectives. The increasing trend of government bodies seeking immunity from RTI coverage further raises concerns about the erosion of transparency.

To address these challenges, several reforms have been proposed to strengthen the RTI framework. Ensuring stricter penalties for non-compliance, improving the functioning of Information Commissions, and enhancing digital accessibility to public records are crucial steps. Training public officials, promoting proactive disclosure of information, and strengthening the protection of whistleblowers can further improve RTI enforcement. Simplifying the appeal process and reducing pendency in RTI-related cases will also make the mechanism more effective. Strengthening the RTI Act with a more robust legal and administrative framework will reinforce its role as a powerful tool for transparency and good governance.

### **CONCLUSION:**

The Right to Information (RTI) Act, 2005, has played a crucial role in strengthening democracy by promoting transparency, accountability, and participatory governance in India. By granting citizens the power to access information from public authorities, the Act has exposed corruption, improved decision-making,

and enhanced public trust in institutions. However, its effectiveness is often undermined by bureaucratic resistance, delays in disclosure, and growing attempts to limit its scope. Ensuring the Act remains a strong pillar of democracy requires continuous judicial oversight, administrative reforms, and greater public awareness.

To safeguard the RTI framework, it is essential to enforce stricter penalties for non-compliance, enhance the efficiency of Information Commissions, and encourage proactive disclosure of government data. The role of private entities, NGOs, and public-private partnerships in governance must also be reconsidered to ensure transparency in all areas that affect public interest. Strengthening the legal framework, protecting RTI activists, and embracing digital advancements in information dissemination will help secure the Act's future. As an evolving mechanism for accountability, the RTI Act must be continually refined to uphold the citizen's right to information and reinforce India's commitment to democratic governance.

### **REFERENCES:**

1. <https://pubadmin.institute/right-to-information/key-supreme-court-rti-act-interpretations>
2. <https://research.grhari.com/supreme-court-clarifies-public-authority-under-rti-act-for-substantially-financed-ngos-dav-college-trust-vs-director-of-public-instructions-2019/>
3. [https://accountabilityindia.in/sites/default/files/rti\\_brief\\_no\\_5-who\\_is\\_a\\_public\\_authority\\_0.pdf](https://accountabilityindia.in/sites/default/files/rti_brief_no_5-who_is_a_public_authority_0.pdf)
4. <https://banotes.org/right-to-information/judicial-interpretation-rti-indian-constitution/>
5. <https://research.grhari.com/supreme-court-clarifies-public-authority-under-rti-act-for-substantially-financed-ngos-dav-college-trust-vs-director-of-public-instructions-2019/>

6. <https://www.legalserviceindia.com/legal/article-3673-rti-and-judiciary.html>
7. <https://blog.ipleaders.in/supreme-courts-judgements-right-information/>
8. <https://www.casemine.com/commentary/in/attorney-general-of-india-not-a-public-authority-under-the-right-to-information-act%3A-insights-from-union-of-india-v.-subhash-chandra-aggarwal/view>
9. <https://www.casemine.com/commentary/in/attorney-general-of-india-not-a-public-authority-under-the-right-to-information-act%3A-insights-from-union-of-india-v.-subhash-chandra-aggarwal/view>
10. [https://accountabilityindia.in/sites/default/files/rti\\_brief\\_no.\\_5-\\_who\\_is\\_a\\_public\\_authority\\_0.pdf](https://accountabilityindia.in/sites/default/files/rti_brief_no._5-_who_is_a_public_authority_0.pdf)

