

## THIRD PARTY INFORMATION UNDER THE RIGHT TO INFORMATION ACT, 2005: A CRITICAL ANALYSIS OF TRANSPARENCY, PRIVACY AND PUBLIC INTEREST IN INDIA

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### Abstract

The Right to Information Act, 2005 represents one of the most transformative legislative measures aimed at promoting transparency and accountability in governance in India. While the Act facilitates citizens' access to information held by public authorities, it also recognizes limitations where disclosure may affect the privacy or commercial interests of third parties. Section 11 of the Act specifically deals with "third party information," providing a procedural framework for disclosure when requested information relates to or has been supplied by a third party and treated as confidential.

This research article critically analyses the legal framework governing third party information under the RTI Act. It examines the statutory provisions, judicial interpretations, and administrative practices associated with Section 11 and related exemptions under Section 8 of the Act. The study also evaluates the tension between the fundamental right to information and the right to privacy under Article 21 of the Constitution of India.

Through an analysis of landmark judgments delivered by the Supreme Court, High Courts, and the Central Information Commission, the article explores how courts have balanced transparency with protection of personal and commercial information. The research further highlights challenges such as misuse of RTI requests, arbitrary denial of information by public authorities, and procedural delays in third-party consultations.

The study concludes that while the RTI Act aims to empower citizens, effective safeguards are necessary to ensure that the disclosure of third-party information does not violate legitimate privacy interests. The article proposes legal and institutional reforms to strengthen the implementation of Section 11 while maintaining the core objectives of transparency and accountability.

**Keywords** – Right to Information Act, Third Party Information, Transparency, Privacy Rights, Public Interest, Section 11 RTI Act, Information Commission, Administrative Law.

### 1. Introduction

Transparency is a fundamental element of democratic governance. In India, the Right to Information Act, 2005 (RTI Act) was enacted to ensure transparency, accountability, and citizen

participation in governance. The Act empowers citizens to seek information from public authorities, thereby promoting openness in government functioning.

However, the right to information is not absolute. The Act incorporates several exemptions to protect sensitive information such as national security matters, trade secrets, and personal information. Among these provisions, **Section 11 of the RTI Act** deals with “third party information,” which refers to information related to a person or entity other than the applicant or the public authority.

Section 11 establishes a procedural safeguard requiring the Public Information Officer (PIO) to notify the concerned third party before disclosing such information. The third party is given an opportunity to present objections to the disclosure. Nevertheless, the final decision rests with the PIO, who must weigh the potential harm to the third party against the larger public interest. [Live Law](#)

The concept of third party information has generated significant legal debate in India. On one hand, disclosure of information enhances transparency and prevents corruption; on the other hand, unrestricted disclosure may infringe privacy and commercial confidentiality. Courts and information commissions have therefore developed jurisprudence to balance these competing interests.

This article examines the legal framework governing third party information under the RTI Act, analysing statutory provisions, judicial interpretations, and practical challenges in implementation.

## 2. Object of the Study

The present study aims to achieve the following objectives:

1. To examine the statutory framework governing third party information under the RTI Act, 2005.
2. To analyse the relationship between transparency and privacy rights in the context of RTI.
3. To evaluate judicial interpretations of Section 11 by Indian courts.

4. To identify challenges in the implementation of third-party information provisions.

5. To suggest reforms for balancing transparency with privacy protection.

## 3. Research Methodology

This research adopts a **doctrinal legal research methodology**. The study relies primarily on **secondary sources** such as statutes, judicial decisions, scholarly articles, and reports of information commissions.

Key sources used in the study include:

- The Right to Information Act, 2005
- Judgments of the Supreme Court and High Courts
- Decisions of the Central Information Commission
- Academic literature on transparency and administrative law

The research also adopts an analytical approach to examine how judicial decisions have interpreted Section 11 and related provisions.

## 4. Statement of Research Problem

Despite the progressive objectives of the RTI Act, the disclosure of third party information continues to pose several legal and administrative challenges. Public authorities frequently invoke Section 11 and Section 8 exemptions to deny information requests, often without adequate justification. Conversely, excessive disclosure may violate privacy rights and commercial confidentiality.

The core research problem addressed in this article is therefore:

**How should Indian law balance the right to information with the protection of third-party privacy and commercial interests?**

This issue has become increasingly relevant in the digital age where government records frequently contain personal data, financial

information, and commercially sensitive material.

## 5. Literature Review

Several scholars have examined the relationship between transparency and privacy in the context of the RTI Act.

Aruna Roy and Nikhil Dey argue that the RTI Act is a powerful instrument for empowering citizens and combating corruption. However, they emphasize that disclosure mechanisms must operate within a framework that respects individual rights.

Scholars such as M.P. Jain and V.N. Shukla have highlighted the constitutional dimensions of the right to information, linking it to freedom of speech and expression under Article 19(1)(a) of the Constitution.

Recent scholarship has also focused on the growing tension between RTI and the right to privacy following the landmark decision of the Supreme Court in **Justice K.S. Puttaswamy v. Union of India**, which recognized privacy as a fundamental right.

Some commentators have noted that public authorities often misuse Section 11 to delay or deny information requests, even when the information is clearly in the public interest. The Central Information Commission has also criticized the routine invocation of third-party objections as a tactic to avoid disclosure. [Apni Law](#)

The existing literature therefore highlights the need for a balanced approach that protects privacy without undermining transparency.

## 6. Legal Framework of Third Party Information under RTI

### 6.1 Section 11 of the RTI Act

Section 11 provides a procedural mechanism for disclosure of information relating to third parties. When the PIO intends to disclose information that has been supplied by a third party and treated as confidential, the following steps must be followed:

1. Notice must be issued to the third party within five days.
2. The third party must be given an opportunity to make representations.
3. The PIO must consider such representations before making a decision.

However, the provision also states that information may still be disclosed if **public interest outweighs potential harm to the third party**. [Live Law](#)

### 6.2 Section 8 Exemptions

Third-party information is often linked with the exemptions provided under Section 8, particularly:

- Section 8(1)(d): commercial confidence and trade secrets
- Section 8(1)(e): fiduciary relationships
- Section 8(1)(j): personal information

Courts have frequently interpreted these provisions together with Section 11.

## 7. Analysis of Important Judicial Decisions

### 7.1 CPIO v. Subhash Chandra Agarwal

(2019) 16 SCC 1

In this landmark judgment, the Supreme Court clarified the relationship between privacy and transparency under the RTI Act. The Court held that personal information can be disclosed only when larger public interest justifies such disclosure.

The Court also emphasized that Section 8(1)(j) must be interpreted in harmony with Section 11.

### 7.2 Girish Ramchandra Deshpande v. CIC

(2013) 1 SCC 212

The Supreme Court held that personal service records of a public servant constitute personal information and cannot be disclosed unless public interest is established.

This judgment strengthened privacy protections under the RTI Act.

### 7.3 Thalappalam Service Cooperative Bank Ltd. v. State of Kerala

(2013) 16 SCC 82

The Supreme Court clarified the scope of “public authority” and emphasized that private bodies are subject to RTI only if they are substantially financed by the government.

### 7.4 Arvind Kejriwal v. CPIO

CIC Decision

The Central Information Commission observed that Section 11 is only a procedural safeguard and not a substantive exemption.

### 7.5 SEBI v. CIC (Bombay High Court)

The Bombay High Court held that inspection reports containing third-party information cannot be disclosed without following the mandatory procedure under Section 11. [24Law](#)

## 8. Emerging Trends and Contemporary Issues

Recent developments show increasing disputes regarding the disclosure of personal and financial information under RTI.

For example, courts have rejected RTI requests seeking income tax details of individuals on the ground that such disclosure would violate privacy and does not serve public interest. [The Times of India](#)

At the same time, information commissions have ruled that certain records such as criminal case details cannot automatically be treated as private information and must be disclosed where transparency demands it. [The Times of India](#)

These decisions illustrate the evolving jurisprudence on balancing privacy and transparency.

## 9. Challenges in Implementation

Several practical challenges hinder the effective implementation of third-party information provisions:

### 1. Misuse of Section 11 by public authorities

### 2. Delays in consultation with third parties

### 3. Lack of clarity regarding public interest tests

### 4. Growing concerns regarding data privacy

### 5. Conflicting decisions of information commissions

These issues often undermine the objective of the RTI Act.

## 10. Suggestions and Recommendations

To improve the implementation of Section 11, the following reforms are suggested:

### 1. Clear guidelines on disclosure of third-party information

### 2. Time-bound consultation process with third parties

### 3. Integration with data protection laws

### 4. Training for Public Information Officers

### 5. Stronger penalties for unjustified denial of information

Such reforms would ensure that transparency and privacy are balanced effectively.

## 11. Conclusion

The RTI Act, 2005 has significantly strengthened transparency in India’s governance system. However, the disclosure of third-party information remains one of the most complex areas of RTI jurisprudence.

Courts have attempted to strike a balance between the citizen’s right to information and the individual’s right to privacy. While Section 11 provides procedural safeguards, its implementation often faces practical difficulties.

A balanced approach is therefore essential. Transparency must remain the guiding principle, but it should not come at the cost of violating legitimate privacy interests. Strengthening legal guidelines, improving administrative practices, and harmonizing RTI

with privacy jurisprudence will ensure that the objectives of the Act are fulfilled while safeguarding individual rights.

1. The Right to Information Act, No. 22 of 2005, § 11, India.
2. Id. § 8(1)(j).
3. **Central Public Information Officer v. Subhash Chandra Agarwal**, (2019) 16 SCC 1.
4. **Girish Ramchandra Deshpande v. Central Information Commissioner**, (2013) 1 SCC 212.
5. **Thalappalam Service Cooperative Bank Ltd. v. State of Kerala**, (2013) 16 SCC 82.
6. **Justice K.S. Puttaswamy v. Union of India**, (2017) 10 SCC 1.
7. Aruna Roy & Nikhil Dey, *The Right to Information Movement in India*, 3 Economic & Political Weekly 45 (2012).
8. M.P. Jain, *Indian Constitutional Law* (8th ed., LexisNexis 2018).
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10. Central Information Commission, **Arvind Kejriwal v. CPIO**, CIC/AT/A/2006/00186.

