
THE ACT OF RIGHT TO INFORMATION

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Abstract

India is considered the world's biggest democracy. Transparency, transparency and accountability are the fundamental characteristics of a democratic system. Public authorities or administrative authorities have a broad discretionary power in India, so there has been a feeling in the minds of both lawmakers and the public that this can lead to abuse of power that eventually leads to maladministration and corruption. For this reason, the right of the common citizens of the country to access information on actions or activities discharged by public officials should be granted so that the mechanism of regulation and balance can be preserved. The right to knowledge, therefore, has arisen. The right to information implies that the public can participate in governance by accessing information kept by administrative or public authorities in relation to their public welfare functions. It is not only a constitutional right, but also a human right of a person to be aware by public bodies of information relating to public actions. Good governance is important and makes government authorities more transparent and accountable to the common people of a nation. There is a strong connection between the right to information and administrative law, since it is possible to describe administrative law as a "branch of public law dealing with administrative authority operations" and the right to information empowers the public to access information kept by public authorities.

Keywords: *democracy; information; governance; public welfare and right.*

I. INTRODUCTION

As proposed in the Right to Information (RTI) Act, 2005, the right to information is the culmination of a step in the development of human civilization. It is an embodiment of one of the country's advanced facades of democracy flourishing. This right, in its vital palpitations, is also an index of the growth of human rights and freedoms, spontaneously flowing from the country's democratic credentials. The growing consciousness of human rights and freedoms paved the way for a democratic form of governance with the mental growth and advancement of science,

technology and industry. Independence in almost every animated being is an inbuilt desire. Therefore, in different parts of the world, the increasing knowledge of different liberties led to revolutions against autocracies and monarchies, and democracy visited the political scenario, growing and thriving in a wide way in many countries of the world. The development of human freedoms and dignity has been one of the core initiatives of democracy [1]. Since our freedom was the culmination of centuries of struggle and sacrifice, from the new setup, the people cherished high expectations and ambitions. The Constitution of India has therefore laid down acceptable provisions in the form of fundamental rights and the directive principles of the State Policy.

II. RIGHT TO INFORMATION AND INDIAN CONSTITUTION

The fundamental idea behind the development of the Indian Constitution is to create India as an independent, secular, republic and democratic country requiring informed citizenship and accountability of information that is vital to its functioning and also to prevent corruption by keeping the government and its agency accountable to the people for their acts. However, there is some knowledge that is likely to interfere with the public interest in practical practice. In other words, if all the information relating to the functioning of the government is available for disclosure, it would impact the effectiveness of the government, for instance in the use of limited fiscal resources, and also because of the wide range of functioning secrecy of such information by the government. It is therefore of primary importance to harmonize the competing desires of the right of citizens to know and the public's greater interest in the disclosure of such classified information while upholding democratic values. These ideal ideals enshrined in the Constitution are the basis of the Right to Information law in India.

The right to information is not expressly referred to in the Indian Constitution but is considered to be an integral part of the right to freedom of speech and expression provided for in Article 19(1)(a) of the Indian Constitution by the Supreme Court of India's detailed interpretation of the different fundamental rights. In the *Indian Express (Bombay) Newspaper Pvt. Ltd. v. Union of India*[2] The court affirmed the right of the citizens in all rooms to know every public act and transaction conducted by public officials. The Supreme Court noted the increasing demand for transparency in the position of government in various parts of the world in the case of the *S.P Gupta v. Union of India* and asserted that the right of the citizen to know is the fundamental pillar of the democratic state.

Under Article 19(a) of the Indian Constitution, fundamental rights are the basic right to human life and the right to know is one of the fundamental rights. In addition to Article 19(a) of the Constitution, there are other articles in the Constitution which further validate the right of an

individual to know or to be informed. There are Article 22(1), Article 22(5), and Article 311(2) [3].

Article 22(1) of the Constitution provides that the person arrested or detained must be told of the reasons for the detention, as well as of his right to be advised and represented by a lawyer of his choosing.

Article 22(5) specifies that if a person is detained under the law providing for preventive detention, he or she shall, as soon as possible, be told of the reason for his or her arrest and also of his or her right to appeal his or her arrest by the authority enforcing the arrest order.

Article 331(2) of the Constitution mandates that no civil servant be dismissed, suspended or reduced in rank, except after an investigation has been undertaken in which he should also be told of the charges he is accused of and given a fair opportunity to be heard in relation to those charges. The right to knowledge has been recognized as part of natural justice, demanding that no unheard individual be condemned. Unless and until the individual is aware of the charges or claims against him, a fair opportunity will not be granted to defend himself or refute those charges. The right to be informed may be limited, like any other right, solely on the grounds of fair limitation, as provided for in Article 19. However sometimes it is also argued that right to information violates other's right to privacy [4].

It is evident from the reading of the above-mentioned papers that the right of the people to know, while not explicitly mentioned under the Indian Constitution, can clearly be seen as embedded to be the basic fundamental right that extends to all such individuals who drive government authority.

In 1993, the Consumer Education and Research Council, Ahmedabad recommended a draft RTI Law. The Press Council of India headed by Justice P.B. Sawant presented a draft model law on the right to information to the Government of India in the year 1996.

The first legislation enacted in India as the 'Freedom of Information Act, 2002' allowing a citizen of India to secure access to information under the control of public authorities, died in the womb as it was not possible to completely develop the infrastructure needed to make it operational. The Freedom of Information Act, 2002 was repealed and replaced by a new statute, "The Right to Information Bill, 2005," introduced on 23.12.2004 in Lok Sabha, obtained the President's approval on 15.06.2005 [5].

Right to information means the right to information available by or under the jurisdiction of any public authority in compliance with RTI, 2005. Any person shall have the right, under this statute,

to obtain information, to inspect works, records, reports kept by public authorities, or even to obtain information relating to private bodies under the jurisdiction of public bodies. The citizen shall be entitled to take notes, excerpts, authorized copies of records and papers, as well as to obtain information in the form of floppy disks, floppy disks or in some other electronic mode or by means of print-outs, given that such information is stored on a computer or any other unit.

It has been recognized that the 2005 RTI Act would be in the interests of both political system stakeholders, i.e. information providers viz., the government and all other public institutions and information seekers, viz., public representatives. Transparency and transparency in public administration are required to be promoted and thus aid in enhancing the decision-making process, as well as in reducing corruption, nepotism and casteism. This would boost the government's reputation in several respects. On the other hand, it will provide the public with an empowering mechanism by which they will secure access to information that will allow them to make informed decisions and thereby promote individual involvement in public relations, as well as allow them to claim their democratic rights more effectively. In other words, the RTI Act, 2005 has given due recognition to the fact that the right of access to information is the lifeblood of a democracy because the lack of information hampers the growth of an individual as it deprives them of the ability to grow to their optimal potential.

III. JUDICIAL PRONOUNCEMENT

The Apex Court claimed in the case of *Bennett Coleman vs. Union of India*[6] that "The right to information is our fundamental right falling within the scope of Article 19(1)(a) of the Constitution of India." The court noted in *Express Newspaper Ltd VS. Union of India*[7] that the primary object of the right to freedom of speech and expression is that individuals should be able to form an opinion and convey it to others freely.

The court noted in the case of *SP Gupta vs. Union of India* [8] that "it is the right of the public to obtain information on public functions performed by the public authorities and to authorize the public to have access to information relating to public transactions carried out within the framework of the public act. The court ruled in *RP Ltd. vs. Indian Express Newspaper* [9] that "The right to information is a fundamental right and falls within the scope of Article 21, i.e. the right to life and personal freedom." The Apex Court examined the right to knowledge in the light of human rights in the case of *People's Union for Civil Liberties vs. Union of India* [10], which is important to make administration and governance accountable and more transparent. Therefore, from the Supreme Court's statement above, we can conclude that our fundamental right is the right to know.

IV. CONCLUSION

The right to information is a tool in the hands of the people of the country to know the functions performed by public authorities, the object of the public transaction alleged to have been performed in the name of the act and the source of financing for the discharge of those functions. Prior to the enactment of the Right to Information Act, 2005, the right to information exists since it is considered one of the constitutional rights within the scope of Article 19(1) (a). This right encourages openness and accountability by public bodies while discharging functions. Although the right to information in India is regarded as development, it suffers from many disadvantages that need to be revised and strengthened. The Right to Information Act, 2005, gave citizens the power to challenge the functioning of public bodies in areas affecting the general public, thereby giving the country's democratic principles greater strength. The object of the Right to Information Act was to provide good governance by invoking transparency and accountability in different government agencies that are involved in the duty to work for the failure of public welfare that the public has full authority to challenge such failure, and the RTI Act is the means to exercise that authority.

V. REFERENCES

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