

Mahatma Gandhi



- *The Real 'Swaraj' will come not by the acquisition of authority by a few but by the acquisition of capacity by all to resist authority when abused.*

Summary

- Public Authority
- What is information
- Is RTI a burden?
- Generators of information
- Preservation of Information
- Office Management reforms
- Role of State & Central Information Commissions

ACTION

- TRUTH ABOUT THE ACTION MUST BE KNOWN
- TRUTH ABOUT THE INACTION MUST BE KNOWN
- TRUTH ABOUT THE PROHIBITED ACTION MUST BE KNOWN

Historical Perspective

Global

- *Earliest - Sweden – 1776*
- *UN Assembly Resolution : People’s right to have access to official information – 1948 – Freedom of Information is Fundamental Human Right*
- *Article 19 of the International Covenant on Civil & Political Rights (ICCPR)*
 - *USA – 1966 -amended after ‘Watergate’ in 1974*
- *56 Countries have already enacted the Right to Information (North America, Most of Europe, Australia, India, South Africa, Colombia, Peru, Japan)*
- *In over 25 Countries efforts are pending to enact the Right to Information Law.(Russian Federation, Most of South America & East African Countries, South East Asian Countries)*

Historical Perspective

B) National

- Supreme Court Ruling : 1982-'Disclosure of Information as regards the functioning of Government must be the rule and secrecy an exception'
- Smt. Sheela Barse v/s Govt of India 1985 - Information about juvenile delinquents in custody
- Mr. Kulwal v/s Jaipur Municipal Corporation 1986 -Freedom of Speech and expression (Art 19) implies right to information
- Mazdoor Kissan Shakti Sanghatan Movement, Rajasthan (Mrs Aruna Roy)- May 1990- Ensured that minimum wages were paid to all the labourers on developmental works, Jansunwai

Historical Perspective

- Information Ministers' Conference : 1990
- Tehri Gadhwal- Bhilangana block – NGO-Chetana- Open enquiry
- Anna Hazare – 2001- Agitation against State Government RTI Act 2000
- Freedom of Information Bill in Parliament : 2000 – Mr H D Shouri-
 - State Acts of Tamilnadu & Goa - 1997, Rajasthan & Maharashtra – 2000, Delhi – 2001, Madhya Pradesh – 2003 Assam, J&K
- Parivartan (Arvind Kejriwal)- Jansunwais in Delhi - Jan 2000

RTI ACT – AIMS

- Democracy requires informed citizenry and Transparency of Information in functioning
- Contain Corruption and to hold Governments accountable to the governed
- Harmonising the conflicting interests of **revelation of information**, and **preservation of Confidentiality** of sensitive information
- Setting up of Practical Regime of RTI for Citizens to Secure Access to Information under the Control of Public Authorities

The Right to Information Act, 2005 (No. 22 of 2005)

- **Passed by Lok Sabha:** **11th May 2005**
- **Assent by the President:** **15th June, 2005**
- **Appointment of Public Information Officers (PIOs) and Asst. PIOs :** **22nd September, 2005
(100 days from enactment of Act – June 15, 2005)**
- **Proactive Disclosure by Public Authorities to be completed :** **12th October, 2005
(120 days from enactment of Act- June 15, 2005)**

Right to Information Act, 2005

Applies to:

- Whole of India, both Central and State Governments (except J&K).
- All “Public Authorities” covered by the Act.

Does not apply to:

- 22 Intelligence and Security Organizations of the Central Government
- Intelligence and Security Organizations as may be notified in the State Government

AP STATE GOVT. - GOMS. No. 667 dt. 3.9.2007

1. State Intelligence Dept. and its spl. Intelligence branch, State Security wing
2. State Greyhounds Organization
3. All District Special branches under the control of SP
4. All security in the Districts under the SPs
5. APSP
6. SPF
7. SARCPL – State Armed Reserve Central police line

This Act Contains Six Chapters and 31 Sections

Chapter I: Preliminary

Sec 1: Short Title & Commencement

Sec 2: Definitions

I) Right to Information **Sec.2 (j)**

- inspection of work, documents, records
- taking notes, extracts, or certified copies of documents or records
- taking certified samples of material
- obtaining information in the form of diskettes, floppies, tapes, video cassettes or in any other electronic mode or through printouts...

ii) Information **Sec.2(f)**

- 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
- **information relating to any private body which can be accessed by a public authority**

iii)Public Authority section 2 (h)

- Any Authority or Body or Institution of Self-Government established or constituted:
 - (a) by or under the Constitution
 - (b) by any other law made by Parliament
 - (c) by any other law made by State Legislature
 - (d) by notification issued or order made by the appropriate Government
 - (e) body owned, controlled or substantially financed &
 - (f) Non-governmental organizations substantially financed, directly or indirectly
by Govt. funds.

Section – 3

- **All Citizens shall have the right to information. (Subject to the provisions of this Act)**

PUBLIC AUTHORITY (S.4)

**1.RECORDS
S 4(1)(a)**



Catalogue

Index

Computerize

Network

To facilitate access to these records S 4(2)

**2. Admn.+ Quasi
Judi. Decisions**

Reasons to
Affected persons

**3.Designate
PIO/APIO
S 5(1)&(2)**

**4.Publish
S 4(1)(b)**

PUBLIC AUTHORITY

OBLIGATIONS

4.Publish

TECHNICAL

Rules

Regulations

Instructions

Manuals

PUBLIC

Facilities to Citizens

Public
Representation

Advisory Committee

Directory of PIOs

3.FINANCE

Budget &
Allocation

4.RECORDS

Categories of
Documents

Information
Available in
E form

5. ORG.

Functions/ Duties
Dec. making process
Channels of
supervision &
Accountability
Norms for discharge
of Functions

Emp. Powers & Duties
Remuneration
Directory

ROLE OF PIO

RECEIPT OF APPLICATIONS

FIXING OF FEE

GIVING INFORMATION (S. 7)

30 DAYS

48 HOURS IN CASE OF
LIFE/ LIBERTY

INF. RELATING
TO OTHER PA

INF. RELATING TO
THIRD PARTY (S 11)

Role Of APIO :

- APIO receives application or Appeal
- forwards to PIO or Appellate Authority within 5 days.

Application for Information **Section 6**

- In writing
- In English, Hindi or official language of the Area
- Specifying the particulars of information sought
- No reason need to be given
- Accompanied by fee or BPL Certificate

Exemptions from Disclosure of Information

Section 8

- a). Information which affects sovereignty and integrity of India, Security, scientific and economic interests of the State
- b) Expressly forbidden to be published by court of law.
- c). Breach of privilege of Parliament or Legislature
- d). Commercial confidence & Trade Secrets
- e). Fiduciary relationship
- f) Information received in confidence by the foreign Govt.
- g). Endangering the life and personal safety
- h) Information which impedes the process of Investigations and prosecutions
- i). Cabinet matters
- j) .Personal information which has no relationship to any public activity or public interest.

Protection of copyright Section - 9:

- **Information which involve an infringement of copyright subsisting in a person other than the State may be rejected.**

Severability

Section - 10

- **Providing part of the information which does not come under exemptions.**
- **Reasons for providing part of Information are to be informed to the applicant.**

Third Party Information Section - 11:

- **If the information requested pertains to third party, PIO shall give a written notice to the third party with in 5 days**
- **The third party must be given a chance to make a representation with in 10 days**
- **If Public Interest outweighs, PIO can furnish information though the Third party is not willing.**

Chapter III: Central Information Commission

Section 12: Constitution of Central Information Commission

Section 13: Term of Office and Conditions of Service

Section 14: Removal of Chief & Other Information Commissioners

Chapter IV: State Information Commission

Section 15: Constitution of State Information Commission

Section 16: Term of Office and Conditions of Service

Section 17: Removal of Chief & Other Information Commissioners

Chapter V:

Powers & Functions of the Information Commissions & Appeal and Penalties

Section 18: Powers & Functions of the Information Commissions

Information Commission has a duty to receive & dispose appeals from the persons where:

- PIO has not been appointed
- not publishing certain information
- refused to give information
- no response within specified time limits
- One feels the fee charged is unreasonable
- the information given is incomplete or false or misleading
- any other matter relating to obtaining information under this law.

Information Commission - Powers

CIC/SIC shall have the powers as a Civil Court:

- **summoning**
- **taking oath**
- **Seek for production of documents**
- **Inspection of documents**

CIC powers including

- **Seek submission of annual report**
- **Compensation for the loss suffered by the requestor**
- **Impose penalties**
- **Reject the appeal.**

Appeal - Time limits

Section - 19:

1st appeal to Appellate Authority - in 30 days

- to be disposed in 30 days

- 2nd appeal to I.C. - in 90 days

Penalties Section - 20:

- **Rs. 250/- per day**
- **Maximum Rs. 25,000/-**
- **Can recommend disciplinary action against the PIO**
- **After giving reasonable opportunity**

Chapter VI: Miscellaneous

Section - 21 : Protection of action taken in good faith

Section - 22: Act having overriding effect

Section – 23: Bar of Jurisdiction of Courts

Section - 24: Act not applies to 22 Intelligence and Security organizations

Monitoring and Reporting

Section 25

Annual report to the Government :

- **Number of requests received by each PA**
- **Number of rejections and appeals**
- **Particulars of disciplinary action taken**
- **Amount of fees and charges collected**

- **Government will table the IC report before the House each year**

Section 26: Appropriate Government to prepare programmes for Capacity Building

Section 27: Powers to make Rules by Government

Section 28: Powers to make Rules by Competent Authority

Section 29: Laying of Rules

Section 30: Power to remove difficulties

Section 31: Repeal of Freedom of Information Act 2002

Important Points for JA

- You are the generator of information
 - Understanding of the Act and subject necessary
- You are the custodian of information
 - What is your job chart
 - What are the files, records, registers
 - How to maintain them
 - How to preserve them permanently

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