

The Right to Information Bill - A Landmark Legislation

Satyanarayan Mohapatra

Pandit Jawaharlal Nehru had once said "The Constitution is after all some kind of legal body given in the ways of Governments and the life of a people. A Constitution if it is out of touch with the people's life, aims and aspirations becomes rather empty if it falls behind those aims it drags the people down. It should be something a head to keep the peoples eyes and minds up to a certain high mark." It is therefore the solemn duty of the people to keep the Govt. confined within the constitutional limitations and realization of their aims and aspirations and it is equally an obligation of the Government to treat the people at the end of all State organisations to treat the people and activities.

With the passage of the Rights to Information Bill, citizens have the right to obtain any Govt. records from most Central and State Government authorities, Panchayat Raj institutions, local bodies and even from receipts of Govt. grants. On the whole the R.T.I. Act offers an opportunity to change the culture both within and outside the Government. On the whole it is yet another right bestowed upon an ordinary citizen to bring in the realization that in a true democracy, "the Government is finally answerable to the people not just for the broad policies and achievements and failures but for each action and process."

The broad spectrum of the Act enjoins upon any citizen to obtain information on the status of his driving licence, application to CAG or from

the names of the beneficiaries of a certain Government to a multimillion scam report - one just needs to send an application on an e-mail with a prescribed fee to the Public Information Officer (PIO) at the Sub-division or District level. The PIO must respond to your application within 30 days or in certain cases within forty eight hours if it concerns your life and liberty otherwise they are liable to prosecution.

"The passing of the Act is a historic event that will create opportunities for the people of India to participate meaningfully in democratic governance." With the passage of the Act India will be reckoned among the 10 Commonwealth Countries which have a comprehensive legislation on the right to information.

No doubt with the passage of this path breaking legislation the country has been freed from the Official Secrets Act which made divulging of any official information an offence. The Right to Information Act 2005 overrides contrary provision of any other law in force. The Act will come into force with immediate effect after President's signature. It will have jurisdiction over every public authority in the country. Some states have already passed or propose to bring in Right to Information Laws. Thus both the central and state Act shall co-exist giving citizens a choice.

There shall be a strong and independent information commission as appellate bodies at the state and central level with power to impose penalties. They are expected to promote

transparency and accountability in the working of every public authority. The Chief Information Commissioner is selected by a committee which includes the Prime Minister of India, Leader of the Opposition among others to confer it an independent status. Under provisions of the Central Act the Information Commission while disposing of an appeal may impose fine on an official Rs.250/- per day subject to a maximum of Rs.25000/- if information is delayed without reasonable grounds beyond the stipulated period of 30 days. Those officers who have willfully distorted or destroyed or obstructed in providing the information are also liable to disciplinary proceedings as per the relevant Service Rules. This has been provided for undue influence exerted on a public servant for suppression of information and undermining the institution as a whole.

The legal connotation of information has been broadly defined and relates not just to paper or electronically stored records but also to material of any form. It is also supposed to include materials used in road, building and construction in order to ensure effective checks. The Act further postulates that information shall be obtained from the private sector through Government channel. Access to such information relating to any private body can be accessed by public authority under any other law for the time being in force. This may prove to be a crucial provision for an individual to get fully informed about the working of the private sector in matters affecting their lives.

The Act enjoins further to allow third parties to a proceeding to be given an opportunity before disclosing any information with reference to confidentiality. The law allows a grace period of 15 days in order to complete the formality after which the required information shall be supplied. The third party which broadly implies Govt. agencies provides scope for collusion between the erring officials and other Govt. bodies.

There are ten categories of information exempted from disclosure under law. Necessary overriding provision is there to plug any loophole if it is desirable in public interest and which shall be more advantageous in relation to the harm it is likely to cause in disclosing the same. It enjoins upon every public authority to publish every year its basic functions and decisions. It behaves upon every notified agencies to provide information on question of corruption and violation of human rights. This has been specially provided to ensure accountability during execution of the law on the part of public authorities under the special provisions under the Armed Forces Special Power Act that have resulted in alienation of the local population.

The Act is a major improvement and a culmination of people's movement to usher in greater transparency in the implementation of policies and programmes undertaken for people's welfare.

Democratic constitutions are no guarantee for the accomplishment of democratic values for "a constitution is only an organisation of men and women. Its character depends upon the character of the people engaged in governing and being governed." Thus in ultimate analysis it is the man that matters and not the law.

Jeremy Cronin of the South African Communist party speaking at a meeting to review 10 years of democracy in South Africa put forth three powerful challenges for democracy. "How do we learn to speak truth to power; make truth powerful and make the powerful truthful." The right to information should be understood and appreciated in this broader perspective.

The writer lives in L3/78, Acharya Vihar, Bhubaneswar -13