

The Right to Information Act, 2005

Dr. Jyotirmati Samantaray

The Right to Information Act promulgated countrywide on October 12, 2005, is a significant milestone in the journey of Indian democracy. The theoretical zeal behind the "Information Movement" needs to be tempered by an acute awareness of real life conditions at the grass-root level. Information has been perceived as power everywhere in general and by the executive (at various levels) of developing countries in particular.

The celebrated Hindi novel *Rag Darbari* (The Court Music) of Srilal Shukla, written about thirty years ago poignantly and allegorically depicts '*Dharam-ki-Ladai*' of a '*Langad*' (Lame ore), who spends a life time in vain in trying to get a '*nakal*' (copy) from a Registration Office without paying the mandatory bribe. Even after 30 odd years of '*Rag Darbari*' it has taken a strong-willed public movement to brave the odds for eight long years to get to the people what should be naturally theirs - the "Right to Information", in the form of an act.

The movement for RTI can be traced back to the grass-root struggle of the rural poor, who have sought to fight against corruption in their areas affecting their livelihood and justice around them. The RTI got the legal support for the first time in 1975 in Supreme Court Case of *State of U.P. vs Raj Narain* (1975). In 1978, RTI was sought for

exercising certain suggestions and objections to the Motor Vehicle Act in Gujarat. The State Government refused to part with the information stating that, it was confidential under the Official Secrets Act, 1923. The RTI took the ground in another landmark judgment in 1981 by Attorney General Soli Sorabjee in the case of *S.P. Gupta vs Union of India*. The Court declared that "the concept of an open Government is direct emanation from the right to know which seems to be implicit in the right of speech and expression guaranteed under Act 19(1)A."

In 1982, Mathew Commission Report recommended for the amendment of the Official Secrets Act, 1923. In 1989, V.P. Singh's National Government came to power and declared its decision to make RTI a Fundamental Right.

By this time the demand for RTI got intensified and took the shape of a mass movement. The struggle for the same reason came alive when Mazdoor Kisan Shakti Sangathan (MKSS), a NGO in Rajasthan stirred national conscience through a unique movement for justice in wages, livelihood and land concerning various districts of Rajasthan.

In 1995, the Press Council of India drew up the first blue print for a Freedom of Information Bill. It asserted that information which could not be denied to Parliament or State

Legislature should not be denied to a citizen. In 1997, the Government of India introduced the Freedom of Information Legislation. In 1997 itself, a working group presented another draft. In July, 2000, the Freedom of Information Bill 2000 was finally introduced in Parliament. The Parliament of India have passed the Right to Information Act (RTI) in May, 2005. The Act which received Presidents' assent in June 2005, came into full force from 12th October, 2005.

One of the most important issues raised in respect of the new Act first came to public prominence when President of India commented on the Law in June, 2005 and expressed his disapproval of the inclusion of file notings under the purview of the Act.

Prime Minister Dr. Manmohan Singh has instructed the Department of Personnel and Training to exempt file notings on identifiable individuals, groups of individuals, organizations, appointments, matters relating to inquiries and departmental proceedings from the purview of the Right to Information Act.

The Right to Information Act (RTI) is a legislation for the have-nots. The RTI is a comprehensive legislation that would confer statutory rights on citizens for seeking information from public authorities. It is a legislation for poor. The Act seeks to ensure (a) maximum disclosure and minimum exemptions consistent with constitutional provisions, (b) an effective mechanism for access to information and disclosure by authorities, (c) an independent appeal mechanism and (d) penalty for failure to provide information as per law.

The Act is not applicable to Jammu & Kashmir. Intelligence and security organizations are out of its purview. It provides exemptions for all documents of the Cabinet and Council of Ministers.

The Preamble of the RTI Act states that it sets out to provide a "practice regime of right to information for people to secure access to information in order to promote transparency and accountability." Only citizens can request information from a public authority.

It is simple. You need to make a written request to the PIO (Public Information Officer) of the department concerned on plain paper in the prescribed format and fee. It should never take more than 30 days, except in cases concerning the life and liberty of a person, where information must be provided within 48 hours. Where no response is received, that will be deemed to be refusal. Where applications are approved, a fee will be imposed for accessing the information.

If a person feels that he or she has been wrongly denied information, he or she can appeal to the officer senior to the PIO in the public authority concerned who is the Appellate Authority. A second appeal can be lodged with the State Information Commissioner and penalties can be imposed on the concerned PIO at Rs.250/- per day.

Want to know how much money was earmarked for repairing roads in your neighbourhood, or what the Government spends on VIP Security? Now onwards, just ask the Government and it is obliged to provide answers. That too within a specified time. The RTI Act places India among 55 countries in the world to have such legislation.

The Act provides for penalties. It will be the power of the Central Information Commission / State Information Commission to receive complaints if the PIO does not provide correct and timely information. In our State, Orissa, the State Information Commission is headed by the

Chief Information Commissioner who is assisted by one Information Commissioner at present.

Former senior IAS Officer, Shri D.N. Padhi is the Chief Information Commissioner of the State Information Commission. Prof. Radhamohan is the State Information Commissioner of the two member Commission. Presently the Commission is located at State Guest House, Bhubaneswar. The Commissioner is the Appellate Authority for hearing appeals from aggrieved persons who have been denied information. The Commission can inquire into an appeal from a person who has been refused access to any information requested under this Act or who has not got a response to a request for information within the specified time limit.

In Orissa, there is RTI Cell at Reception Office of the Orissa Secretariat to receive applications for all the departments functioning in the Orissa Secretariat Building. Similarly, for each office of the State Government there are PIOs and Appellate Authority.

The RTI Act has given hope to the common man. To making it work is the task ahead. Ms. Aruna Roy, whose Mazdoor Kisan Shakti Sangathan (MKSS) first took up the cause feels that a forum is to be created so that people all over the country can make use of RTI through

the time tested method of social audits. She has also asked the World Bank to review its disclosure policy and projects of public importance.

The RTI Act if implemented effectively will give people information. One of the most important part is section 8(2) which stipulates that information legislation of a state shall not be denied to any person. The citizen should take this opportunity to utilize the new Act. This Act will definitely stiff Indian democracy to a vigorously participatory one. The law can bring transparency, accessibility and accountability or can combat diseases of corruption only if citizens use it intelligently and effectively.

Reference :

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3. *Times of India* November 2, November 26, 2005.
4. Orissa Right to Information Rules, 2005.
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Dr. Jyotirmati Samantaray is working as an Assistant Information Officer in the Information & Public Relations Department, Government of Orissa, Bhubaneswar

Hon'ble Chief Minister Shri Naveen Patnaik at the 31st Biennial National Convention of Hind Mazdoor Sabha at J.N. Indoor Stadium, Cuttack on 3-2-2006.

