

BACKGROUND TO THE RIGHT TO INFORMATION

The Constitution of India guarantees seven Fundamental Rights to its citizens. The right to freedom of speech and expression are enshrined in Article 19(1). In India, it is now seriously considered to give its citizens the 'Right to Information'.

The H. D. Shourie Committee, which had been set up to formulate a draft of the legislation, submitted its report to the Government in 1999. The Shourie report had suggested that the legislation be called 'Freedom of Information Bill' instead of 'Right to Information Bill', emphasizing on the word 'Freedom'. The U. S. A. has a Freedom of Information Act. The Committee had also suggested scrapping of the Official Secrets Act framed during British Rule.

The legislation will have a threefold objective –

- (i) To set up a mechanism by which any member of the public can seek information ;
- (ii) To constitute an appellate authority for making complaints, if the information is not forthcoming ; and
- (iii) Formulating penal provisions for those who fail to make the information available.

The draft Bill submitted by the Shourie Committee was scrutinized and four Cabinet Ministers were entrusted with this task. They included Shri L. K. Advani, Shri Arun Jaitley, Shri Promod Mahajan and Shri Ram Jethamalani. Commenting on various aspects on 'Freedom of Information Bill' in a seminar, held at New Delhi, the then Law Minister, Ram Jethamalani told that the prominent feature of the Bill was that it not only guaranteed the right to have oral information on an official record or to look at them, but even to get the certified copy of the same. Information could be held back, when it related to national sovereignty, public order, security, defence, armed forces and in cases of proceeding of the Cabinet and confidential information submitted to Prime Minister.

It has been specifically mentioned that every public authority will have to appoint a public information officer to deal with the request for information and to render assistance to a citizen in drafting his/her application to acquire information.

A few years back, the ex-Chairman of the Press Council of India (P.C.I.), Justice P. B. Sawant, in a seminar on 'The Right to Information and the Media' jointly organized by the Common Wealth Human Rights Initiative (C.H.R.I) and the Department of Information, Karnataka Government held at Bangalore, said that the crux of the matter is that the people have the right to know everything that affected their interest, be it the Government, the local bodies, public sector, the undertakings or even private sector. Justice Sawant also made a strong plea to bring private sector under the purview of the proposed legislation for right to information. He urged the State Governments to enact legislation to provide right to information to people taking shelter under the provisions in the State List. States

should follow the model of Tamil Nadu and Goa which had their own enactments conferring the right to information on the people.

Justice Sawant pointed out that though Article 19 (1) (A) of the Constitution empowers the rights of expression and speech, which included the Freedom of the Press, Article 19 (2) lays down restrictions. According to him, there was a need to define these restrictions imposed by Article 19 (2) of the Constitution.

States are showing interest to introduce 'Right to Information Bill' in their respective Assemblies. We may make a case study of 'Right to Information Bill' introduced in Rajasthan Assembly on 12th April 2000.

The Bill was introduced, promising a clean and responsive administration based on accountability, openness and decentralization. Comprising 13 clauses, the Bill defines information as any material relating to the affairs of the State, or a public body, including local bodies, statutory authorities, Government companies and corporations, co-operative societies and any other body which receives financial assistance from the Government.

It has furnished a system of first and second appeals, on refusal of supply of the required information. The supply of information or its refusal has to be given within 30 days of receipt of application from a citizen.

Laying down restrictions on the right, the Bill stipulates that the officer-in-charge may withhold the information, if its disclosure will prejudicially affect the sovereignty and integrity of the country and affect the centre-state relations. The information relating to confidential records, cabinet papers and the details which may affect fair trial or adjudication in any tribunal will not be parted with.

The information will be furnished on payment of a fee to be prescribed by the Government. The information may be sought from an office where it has originated and where its record is normally maintained.

It has provided for penalty, to be determined by the disciplinary authority, if any official fails to furnish information or supplies false information. The punishment will be imposed after an inquiry is made under the service rules.

In India Tamilnadu, Goa, Delhi and Rajasthan have enacted Right to Information very recently our Parliament recognising such rights enacted Freedom of Information Act, 2002. It contained 21 sections. The objects and reason clause of the Act speaks "In our present democratic framework, free flow of information for the citizens and non-Government institutions suffers from the several bottlenecks including the existing legal framework, lack of infrastructure at the grass root levels and an attitude of secrecy within the civil service as a result of the old framework of rules. The Government proposed to deal with all these aspects in a objective of having a stable, honest, transparent and efficient Government. It speaks of Government's resolve for good Government.