

Court Judgments on Right to Information in India

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ABSTRACT

The right to information is implicitly guaranteed by the Constitution but the public authorities denied access to information in the name of official secrets. The Indian Parliament enacted the Right to Information Act, 2005 with a view to set out a practical regime for securing information in the country. Most radical provision of the Act is that the information seekers need not to give any reason for it or prove his locus stand. Good governance requires that civil society has the opportunity to participate during the formulation of development strategies and that directly affected communities and groups should be able to participate in the design and

implementation of programmes and projects. The national and regional judicial fora too have recognized the importance of right to information which offers several advantages to the mankind. Jurists have also upheld that right to information is a key livelihood and development issue. The courts have also enlightened the policy makers and administrators about the relevance of right to information from social justice and economic development points of view in India. The courts have clearly pointed out that in a government of responsibility like India people have a right to decide by whom and by what rules they shall be governed. The people are also entitled to call on those who govern on their behalf to account for their conduct. The courts have also emphasized the need for enabling the people to have access to information regarding disputes and legal proceedings. The courts have observed that the people of this country have a right to know every public act, everything that is done in a public way, by their public functionaries.

Preamble

The Constitution of India guarantees freedom of speech and expression to all the citizens of the country vide Article 19(1.a). Article 19(2) places certain reasonable restrictions upon this freedom in the interest of certain human and professional values. The right to information is implicitly guaranteed by the Constitution but the public authorities denied access to information in the name of official secrets. The progressive individuals and organizations fought for the right to information consistently in the post-independence era. Several judicial pronouncements also upheld the fundamental right to information which is a powerful instrument of good governance. The Indian Parliament enacted the Right to Information Act, 2005 with a view to set out a practical regime for securing information in the country. It gave a powerful tool to the citizens to get information from the Government as a matter of right. This law is very comprehensive and covers almost all matters of governance and has the widest possible reach, being applicable to Government at all levels- Union, State and Local as well as recipients of government grants. The various court judgments and their implications on the Right to Information Act are primarily amplified in this article based on qualitative research methodology.

Genesis of Right to Information in India

The Right to Information Act is duly acknowledged as one of the world's best law with an excellent implementation track record. It is one of the most empowering and most progressive legislations passed in the post Independent India. From the day the Act came into force, enlightened citizenry had started using the law by making information requests in order to get the police to act or get their entitlements of food grain under public distribution system or expose the corrupt officials. Most radical provision of the Act is that the information seekers need not to give any reason for it or prove his locus stand.

There is a well established linkage between right to information and good governance according to empirical evidence gathered by the researchers. Studies have reported that access to information is a great enabler of transparency which refers to availability of information to the general public and clarity about functioning of government institutions. Transparency and accountability are interrelated and mutually reinforcing concepts. The existence of both conditions is a prerequisite to effective, efficient and equitable management in public institutions. Good governance requires that civil society has the opportunity to participate during

the formulation of development strategies and that directly affected communities and groups should be able to participate in the design and implementation of programmes and projects.

Justice K. K. Mathew noted: “The freedom of speech protects two kinds of interests. There is an individual interest, the need of men to express their opinion on matters vital to them and a social interest in the attainment of truth so that the country may not only accept the wisest course but carry it out in the wisest way. Now in the method of political government the point of ultimate interest is not in the words of the speakers but in the hearts of the hearers”.

The National Front Government headed by V. P. Singh was committed to make right to information a fundamental right. The former Prime Minister V. P. Singh (1989) declared the attitude of the government on right to information thus: “An open system of governance is an essential prerequisite for the fullest flowering of democracy. Free flow of information from the government to the people will not only create an enlightened and informed public opinion but also render those in authority accountable. In recent past we have witnessed many distortions in our information system. The veil of secrecy was lowered many a time not in the interest of national security, but to shield the guilty, vested interests or gross errors of judgments. Therefore, the National Front Government has decided to make the Right to Information a fundamental right”.

The subject of good governance is widely recognized as an essential feature of democracy across the globe. Many nations have recognized that good governance constitutes the cornerstone of every democracy since it includes wide range of issues like economic, political, administrative and judicial as well. Scholars have noted that governance is a process or a system that ensures certain activities to be carried out, managed or controlled within the parameters of accountability, legitimacy and transparency. Good Governance rests on positive, responsive and sensitive administration which entails sound public sector management (efficiency, effectiveness and economy), accountability, exchange and free flow of information (transparency), and a legal framework for development (justice, respect for human rights and liberties), according to Overseas Development Administration (1993).

Justice PB Sawant, former Chairman of the Press Council (1996) stated that in a democracy people were the masters and those utilizing public resources and exercising public power are their agents. The Working Group on Right to Information (1997) headed by H. D. Shouri submitted the comprehensive report and draft bill on Freedom of Information on 24 May

1997. The Freedom of Information Bill, 2000 was passed in December 2002 and received Presidential assent on January 2003, as the Freedom of Information Act, 2002. The National Advisory Council suggested certain important changes to be incorporated in the Act to ensure greater access to information and transparency in governance.

The important changes proposed to be incorporated, *inter alia*, include establishment of appellate machinery with investigating powers to review decisions of the Public Information Officers; penal provisions for failure to provide information as per law; provisions to ensure maximum disclosure and minimum exemptions, consistent with the constitutional provisions and aspirations of progressive thinkers. In view of the significant changes proposed by the National Advisory Council, suggestions of jurists and lobbying of activists, the Government of India decided to repeal the Freedom of Information Act, 2002 and enact another comprehensive law for effectuating the right to information in accordance with the provisions of Article 19 of the Constitution of India.

The UPA government came to power at the center in May 2004 and promised that RTI would be made more progressive, participatory and meaningful. The National Advisory council (NAC) was set up to see the implementation of the common minimum programme. In July 2004 the Supreme Court in a public interest litigation case pursued by Prashant Bhushan on behalf of NCPRI set a deadline of September 15, 2004 for the central government to issue notification on right to information. The government had consulted the legal luminaries and activists including Aruna Roy and tabled the RTI Act in Parliament. The RTI amendment act was approved by the Parliament quickly. The President of India gave his assent to the RTI Act 2005. Thus, the act came into force on October 12, 2005.

Democracy requires an informed citizenry and transparency of information which are vital to its functioning and also to contain corruption and to hold governments and their instrumentalities accountable to the governed, says the preamble of the Indian Right to Information (RTI) Act. The act provides effective access to information for citizens of India, which is under the control of the public authorities. It promotes transparency and accountability in the working of every public authority. India being democratic Nation securing the liberty, freedom and rights of its citizen under the Constitution of India, the Central Government had enacted Right to Information Act, 2005 for promoting transparency and accountability in the working of the Public Authority.

The champions of democracy have emphasized the need and importance of people's participation in the process of governance on the basis of adequate access to official information. Several international conventions have also prevailed upon the national governments to bring about a special legislation to ensure public right of access to government information. These international efforts have sought to promote democracy, the rule of law, just and honest government and fundamental human rights. The new millennium is regarded as an era of transparency and accountability on the part of government and all sectors of society concerned with public welfare and progress. The national and regional judicial fora too have recognized the importance of right to information which offers several advantages to the mankind. Jurists have also upheld that right to information is a key livelihood and development issue. The courts have also enlightened the policy makers and administrators about the relevance of right to information from social justice and economic development points of view in India. The major decisions of Supreme Court and High Courts are presented briefly in this part under two headings namely Supreme Court on Right to Information and High Courts on Right to Information.

Supreme Court on Right to Information

Supreme Court of India (1973:16) examined the case of *Bennett Coleman & Co. v. Union of India* and struck down the newsprint control order saying that it directly affected the petitioners' right to freely publish and circulate their paper. The court observed: "The constitutional guarantee of the freedom of speech is not so much for the benefit of the press as it is for the benefit of the people. The freedom of speech includes within its compass the right of all citizens to read and be informed". This judgment highlighted the need for right to information in the post-independence era in India.

Supreme Court of India (1975:17) examined the case of *Uttar Pradesh v. Raj Narain* and stated: "In a Government of democracy like ours, where all the agents of the public must be responsible for their conduct, there can be but few secrets. The people of this country have a right to know every public act, everything that is done in a public way by their public functionaries. They are entitled to know the particulars of every public transaction in all its bearing. Their right to know, which is derived from the concept of freedom of speech, though not absolute, is a factor which should make one wary when secrecy is claimed for transactions which

can at any right have no repercussion on public scrutiny. The responsibility of officials to explain or to justify their acts is the chief safeguard against oppression and corruption”.

Supreme Court of India (1982:18) examined the case of *S. P. Gupta & ors V. Union of India* and noted: “Now, if secrecy were to be observed in the functioning of government and the processes of government were to be kept hidden from public scrutiny, it would tend to promote and encourage oppression, corruption and misuse or abuse of authority for it would be all shrouded in the veil of secrecy without any public accountability. But if there is an open government with means of information, available to the public, there would be a greater exposure of the functioning of the government and it would help to assure the people of a better and more efficient administration. There can be little doubt that exposure to public gaze and scrutiny is one of the surest means of achieving a clean and healthy administration”. The court upheld the truth that an open government is clean government and a powerful safeguard against political and administrative aberration and inefficiency. Thus, the right to information has a solid constitutional foundation in a developing country like India.

Supreme Court of India (1985:19) examined the case of *Indian Express Newspapers (Bombay) Pvt. Ltd. v. India* and remarked: “The basic purpose of freedom of speech and expression is that all members should be able to form their beliefs and communicate them freely to others. In sum, the fundamental principle involved here is the people’s right to know.” The court held that Article 142 of the Constitution enables the Court in the exercise of its jurisdiction to make such order as is necessary for doing complete justice in any cause or matter pending before it. The court ordered that the petitioners and others who are engaged in newspaper business shall make available to the Government all information necessary to decide the question.

Supreme Court of India (1987:20) examined the case of *Sheela Barse, v. State of Maharashtra* and pointed out that when factual information is collected as a result of interview the same should usually be cross-checked with the authorities so that a wrong picture of the situation may not be published. The court noted that as and when reasonableness of restrictions is disputed it would be a matter for examination and tape-recording should be subject to special permission of the appropriate authority. The court ordered that interviews cannot be conducted under forceful circumstances but the willingness of the prisoners to be interviewed would always be insisted upon.

Supreme Court of India (1988:21) examined the case of the Reliance Petrochemicals Ltd., v. Proprietors of Indian Express Newspapers, Bombay Pvt. Ltd. and others and observed that pending determination of the issues raised, any court will order interim relief to such applicants by way of grant of such refunds. The court held that the petitioner will be liable to make any such refund only if it is ultimately decided by this court or any other court that the issue of debentures is invalid and that the application moneys have to be refunded. The court ordered that there was no cause for apprehension on the part of the petitioner that the publication of any such article could abort the debenture issue in the manner it could have done.

Supreme Court of India (1992:22) examined the case of Manubhai .D. Shah v. Life Insurance Corporation and stated: “The basic purpose of freedom of speech and expression is that all members should be able to form their beliefs and communicate them freely to others”. The court held that Doordarshan being a State controlled agency funded by public funds could not have denied access to the screen to the respondent except on valid grounds. The court accepted the point of view of the petitioners who submitted that the film faithfully brought out the events that took place at Bhopal on that fateful night. The court also noted that the respondent cannot be accused of having distorted the events subsequent to the disaster. The court ordered that Doordarshan being a State controlled agency funded by public funds could not have denied access to the screen to the respondent except on valid grounds

Supreme Court of India (1992:23) examined the case of Usman Gani J. Khatri of Bombay Etc. v. Cantonment Board and Ors and noted: “Both individuals and groups have the right to know information and distinguished between the ordinary citizen looking for information and groups of social activists”. This was considered a landmark judgment concerning the right to information in Indian democracy. A perusal of the observations made in the above order leave no manner of doubt that this Court had clearly mentioned that it was not expressing any opinion on the contentions raised by the parties nor on the questions decided by the High Court. Thus, the above decision cannot be considered as a precedent for the cases in hand before us and no help can be sought by the petitioners on the questions now raised before us and decided by giving detailed reasons as mentioned above”.

Supreme Court of India (1995:24) examined the case of the Ministry of Information and Broadcasting, Govt. of India, and Others, V. Cricket Association of Bengal and others and remarked: “The freedom of speech and expression includes right to acquire information and to

disseminate it. Freedom of speech and expression is necessary, for self-expression which is an important means of free conscience and self-fulfillment. The right to communicate, therefore, includes the right to communicate through any media that is available whether print or electronic or audio-visual such as advertisement, movie, article, speech etc. This fundamental right can be limited only by reasonable restrictions under a law made for the purposes mentioned in article 19(2) of the Constitution”. Finally, the court ordered that it would be equally open to the nodal Ministry (Government of India) to permit such foreign agency in addition to AIR/ Doordarshan, if they are of the opinion that such a course is called for in the circumstances.

Supreme Court of India (1995:24) examined the case of the Tata Press Ltd., V. Mahanagar Telephone Nigam Limited and others and pointed out that the Nigam/union of India cannot restrain the appellant from publishing Tata Press yellow pages comprising paid advertisements from businessmen, traders and professionals. The Court also held that the appellant shall not publish in the Tata Press yellow pages any entries similar to those which are printed in the white Pages of the telephone directory published by the Nigam under the Rules.

Supreme Court of India (1997:26) examined the case of the case of Dinesh Trivedi, M.P. and Others v. Union of India and Others and observed: “Democracy expects openness and openness is a concomitant of a free society. It is important to realise that undue popular pressure brought to bear on decision makers in government can have frightening side effects. Any public issue needs to be addressed by a body which function with the highest degree of independence, being completely free from every conceivable influence and pressure. Such a body must possess the necessary powers to be able to direct investigation of all charges thoroughly before it decides, if at all, to launch prosecutions. To this end the facilities and services of trained investigators with distinguished records and impeccable credentials must be made available to it”. The court called upon the authorities to maintain a fine balance which would serve public interest ultimately.

Supreme Court of India (2002:27) examined the case of Union of India V. Association for Democratic Reforms and others and stated: “The true and correct statement of assets owned by the candidate should be disclosed. The Election Commissions is directed to call for information on affidavit by issuing necessary order in exercise of its power under article 324 of the Constitution of India from each candidate seeking election to Parliament or State

Legislature”. The court also held that the educational qualifications, assets, liabilities, pending cases, conviction and other details should be submitted for public scrutiny and action.

Supreme Court of India (2003:28) examined the case of People’s Union For Civil Liberties (PUCL) and Another, Petitioner v. Union of India and Another, With LokSatta and Others, v. Union of India and noted: “The foundation of a healthy democracy is to have well informed citizens-voters. The reason to have right of information with regard to the antecedents of the candidate is that voter can judge and decide in whose favour he should cast his vote. It is voter’s discretion whether to vote in favour of an illiterate or literate candidate. It is his choice whether to elect a candidate against whom criminal cases for serious or non-serious charges were filed but is acquitted or discharged. Exposure to public scrutiny is one of the known means for getting clean and less polluted person to govern the country”. The court upheld the need for enabling the voters to know relevant antecedents of the candidate contesting the elections.

Supreme Court of India (2003:29) examined the case of Indira Jaising v. Registrar General, Supreme Court of India and remarked: “It is no doubt true that in a democratic framework free flow of information to the citizens is necessary for proper functioning particularly in matters which form part of public record. There are several areas where such information need not be furnished. The inquiry ordered and the report made to the Chief Justice of India being confidential and discreet is only for the purpose of his information and not for the purpose of disclosure to any other person”. The court ordered that information which belongs to exceptional category need not be disclosed to anybody under the existing principles and practices. That position in law is very clear. Thus, the only source or authority by which the Chief Justice of India can exercise this power of inquiry is moral or ethical and not in exercise of powers under any law. Exercise of such power of the Chief Justice of India based on moral authority cannot be made the subject-matter of a writ petition to disclose a report made to him.”

Supreme Court of India (2003:29) examined the case of the People’s Union of Civil Liberties v. Union of India & another and pointed out that the right to information provided for by the Parliament under Section 33A in regard to the pending criminal cases and past involvement in such cases is reasonably adequate to safeguard the right to information vested in the voter/citizen. The court held that there is no good reason for excluding the pending cases in which cognizance has been taken by Court from the ambit of disclosure. The provision made in Section 75A regarding declaration of assets and liabilities of the elected candidates to the

Speaker or the Chairman of the House has failed to effectuate the right to information and the freedom of expression of the voters/citizens. The court ordered that the Election Commission has to issue revised instructions to ensure implementation of Section 33A subject to what is laid down in this judgment regarding the cases in which cognizance has been taken.

Supreme Court of India (2007:30) examined the case of Research Foundation for Science Technology and National Resource Policy v. Union of India and observed: “The right to information and community participation for protection of environment and human health is also a right which flows from article 21. The Government and authorities have, thus to motivate the public participation. These well enshrined principles have been kept in view by us (Court) while examining and determining various aspects and facets of the problems in issue and the permissible remedies”.

Supreme Court of India (2010:31) examined the case of Khanapuram Gandaiah v. Administrative Officer & Ors and stated: “Under the Act, an applicant is entitled to get copy of the opinions, advices, circulars, orders, etc but he cannot ask for any information as to why such opinions, advices, circulars, orders etc have been passed especially in matters pertaining to judicial decisions. A judge speaks through his judgments or orders passed by him. If any party feels aggrieved by the order and or judgment passed by a judge, the remedy available to such a party is either to challenge the same by way of appeal or by revision or any other legally permissible mode”. The court held that a judge cannot be expected to give reasons other than those that have been enumerated in the judgment or order to protect the public from the dangers to which the administration of justice would be exposed. The court ordered that applicants have no right to seek information which would adversely affect the independence of the judiciary.

Supreme Court of India (2011:32) examined the case of the Central Board of Sec. Education & v. Aditya Bandopadhyay & Ors and remarked: “The disclosure of information with reference to answer books does not involve infringement of any copyright and therefore section 9 of RTI Act will not apply”. The court held that certain demands for disclosure of all and sundry information unrelated to transparency and accountability in the functioning of public authorities and eradication of corruption would be counter-productive as it will adversely affect the efficiency of the administration and result in the executive getting bogged down with the non-productive work of collecting and furnishing information. The court ordered that the Act should

not be allowed to be misused or abused, to become a tool to obstruct the national development and integration, or to destroy the peace, tranquility and harmony among its citizens.

Supreme Court of India (2012:33) examined the case of Girish Ramchandra Deshpande v. Cen. Information Commissioner. & Ors and pointed out that the performance of an employee/officer in an organization is primarily a matter between the employee and the employer and normally those aspects are governed by the service rules which fall under the expression personal information, the disclosure of which has no relationship to any public activity or public interest. The court held that the disclosure of personal information would cause unwarranted invasion of privacy of that individual. The court ordered that personal information stands exempted from disclosure unless it involves a larger public interest which justifies the disclosure of such information.

Supreme Court of India (2012:34) examined the case of the Namit Sharma v. Union of India and observed that the High Powered Committee at the Centre and the State levels is expected to adopt a fair and transparent method of recommending the names for appointment to the competent authority. The court held that the Information Commission is bound by the law of precedence, i.e., judgments of the High Court and the Supreme Court of India. The court ordered that the Commission shall give appropriate attention to the doctrine of precedence and shall not overlook the judgments of the courts dealing with the subject and principles applicable, in a given case.

Supreme Court of India (2012:35) examined the case of Bihar Public Service Commission v/s Saiyed Hussain Abbas Rizwi & anr and stated that the examinees shall be given access to evaluated answer books either by permitting inspection or by granting certified copies which does not contain any information or signature of the examiners and other authorities to ensure their security. The court held that such disclosure should prevent since the possibility of a failed candidate attempting to take revenge from such persons cannot be ruled out. The court ordered that transparency in such cases is relatable to the process where selection is based on collective wisdom and collective marking.

Supreme Court of India (2013:36) examined the case of the Thalappalam Ser. Coop. Bank Ltd. & v. State Of Kerala & Ors and noted that the Registrar of Cooperative Societies is not obliged to disclose those information if those information fall under Section 8(1)(j) of the Act. The court held that other public authorities can also access information from a Co-operative

Bank of a private account maintained by a member of Society under law. The court ordered that an information which has been sought for relates to personal information, the disclosure of which has no relationship to any public activity or interest or which would cause unwarranted invasion of the privacy of the individual, the Registrar of Cooperative Societies, even if he has got that information, is not bound to furnish the same to an applicant, unless he is satisfied that the larger public interest justifies the disclosure of such information, that too, for reasons to be recorded in writing.

High Courts on Right to Information

High Court of Rajasthan (1986:13) examined the case of L.K.Koolwal v. State of Rajasthan and remarked that every citizen has a right to know about the activities of the state, the instrumentalities, the departments and agencies of the state. The state can impose the reasonable restrictions in the matter like other fundamental rights where it affects the national security and any other allied matter affecting the nation's integrity. The court ordered that in the matter of sanitation and other allied matter every citizen has a right to know how the state is functioning.

High Court of Delhi (2002:05) examined the case of Ozair Husain v. Union of India and pointed out that it is the fundamental right of the consumers to know whether the food products, cosmetics, and drugs or of non-vegetarian or vegetarian nature. The court ordered that there is a constitutionally guaranteed right of the consumers to the full disclosure of the products and services delivered by the companies.

High Court of Karnataka (2004:09) examined the case of K. Ravikumar v. Bangalore University and observed that in the light of the policy of the government on transparency and openness, the authorities cannot flatly deny any document on the ground of confidentiality or secret in such matters. The court held that transparency and openness provide a right of information to citizen for enforcing his constitutional right of judicial review in a court of law.

Madhya Pradesh High Court (2005:11) examined the case of Ram Vishal v. Dwaraka Prasad Jaiswal and stated that the record of Municipal Corporation is a public record and usually it will be presumed that there should be no difficulty in getting the certified copy of public record. The court further held that there must be some reason which has to be placed on record in case of denial of information to the applicant.

Allahabad High Court (2008:01) examined the case of the Dhara Singh Girls High School v. State of Uttar Pradesh and noted that whenever there is even an iota of nexus regarding

control and finance of public authority over the activity of a private body or institution or an organization etc. the same would fall under the provisions of Section 2(h) of the Act. The court held that the working of any such organization or institution of any such private body owned or under control of public authority shall be amenable to the Right to Information Act. The court ordered that whenever there is even an iota of nexus regarding control and finance of public authority over the activity of a private body or institution or an organization etc. the same would fall under the provisions of Section 2(h) of the Act.

Kerala High Court (2010:10) examined the case of the Thalapalam Service Co-Operative v. Union of India and remarked that all citizens had the right to information and public offices are duty bound to provide the information to the people about the funds which are made available to them by the Government. The court held that the funds reach a society as a result of the actions taken by the Government, thereby making available, the necessary finance that is required for the society for its activities. The court ordered that arming of citizenry with information is not a matter that should be trimmed, crippled, clipped or excluded. It ought to be permitted to be available wherever it could, except where it is impermissible in order to achieve the objective of the RTI Act.

Bombay High Court (2009:03) examined the case of Nagar YuwakShikshanSanstha, Wanadongri, Nagpur v. Maharashtra State Information Commission and pointed out: “The Public Trust is not run by the government either directly or indirectly and its management and affairs are controlled by the trustees. No doubt, the public trusts are subject to regulatory measures to be found in Bombay Public Trusts Act. But that does not mean that either the charity commissioner or the appropriate government controls this public trust by virtue of the fact that such public trust is registered one and regulatory measures are made applicable”. The court ordered that the government does not have control over the management and its affairs either directly or indirectly.

Delhi High Court (2010:06) examined the case of CPIO, Supreme Court of India v. Subhash Chandra Agarwal and observed: “The privacy rights, by virtue of section 8(1)(j) of the RTI Act whenever asserted would prevail. However, that is not always the case, since the public interest element, seeps through that provision. Thus when a member of the public requests personal information about a public servant, such as asset declarations made by him – a

distinction must be made between the personal data inherent to the position and those that are not and therefore, affect only his/her private life”.

Kerala High Court (2010:10) examined the case of the *Treesa Irish v. The Central Public Information* and stated that the universities should disclose the information pertaining to evaluation of answer papers by the examiners in the larger public interest and to ensure proper valuation of answer papers. The court held that the answer papers of the petitioners should be valued by an expert and the eagerness of public authorities to limit the scope of the request for information under the Act arises out of its inertia.

Delhi High Court (2011:07) examined the case of *Arvind Kejriwal v. Central Public Information Officer* and noted that confidential information relating to third party without notice or without hearing third parties cannot be furnished. The court held that information seeker is not required to give any reason for obtaining official information. The court ordered that the information relates to a third party and can be prima facie regarded as confidential as it affects the right of privacy of the third party. The second situation is when information is provided and given by a third party to a public authority and prima facie the third party who has provided information has treated and regarded the said information as confidential.

Delhi High Court (2012:08) examined the case of the *Registrar of Companies & Ors v. Dharmendra Kumar Garg & Anr* and remarked that information should be furnished by the Public Information Officers without malafide or deliberately without any reasonable cause. The court held that penalty can be imposed if the officers failed to provide the information, or knowingly furnished incorrect, incomplete or misleading information or destroys the information. The court ordered that such consequences would not auger well for the future development and growth of the regime that the RTI Act seeks to bring in.

Bombay High Court (2012:04) examined the case of *Public Information Officer v. Manohar Parrikar* and pointed out that the posts of President and Governors are created by Constitution of India. They are public authorities under section 2(h) of Right to Information Act, 2005. The court held that the PIO acts as a medium for dissemination of an information by the public authority under the RTI Act. The PIO can be subjected to a penalty under Section 20 of the RTI Act for non-disclosure of the information. The proviso to Section 20 provides that the PIO shall be given a reasonable opportunity of being heard before any penalty is imposed on him. Thus, the PIO is, in effect, a party litigant in an appeal or a second appeal which is filed

before the first appellate authority or the Information Commission and in certain circumstances is also personally liable to a penalty.

Manmohan Singh (2007) notes: “The barriers of administrative and political corruption should be tackled by the upcoming bureaucrats and quality of governance be improved at all levels to build an India ‘worthy of our dreams’. If there are barriers, there are barriers in our country, in our good governance, in our governance processes. It is a fact [that] there is lot of corruption, both at the political level and at the administrative level. Right to Information Act is a tool to strengthen good governance and tackle corruption which is the biggest challenge for development.

Bhushan (2015:02) remarks: “No democratic government can survive without accountability and the basic postulate of accountability is that the people should have information about the functioning of the government. It is only if people know how government is functioning that they can fulfill the role which democracy assigns to them and make democracy a really effective participatory democracy. It was on the basis that the Right to Information is a fundamental right of people that the Court ordered that even candidates contesting elections would be obligated to publicly disclose information about their criminal antecedents and their income and assets etc. Yet, though the courts general pronouncements on the right to information have been very liberal, its practices have often not been in conformity with the declared right”.

Mathur (2015:12) sums up the utility of court judgments which have facilitated proper understanding of the RTI laws and implementation of the provisions of the Act over a period of time. It reads: “Right to Information Act 2005 gives unprecedented powers to the citizens to hold public authorities accountable for performance of the government institutions and making them more transparent in their actions. Understandably, these institutions, which have traditionally not been used to sharing information with public, have inhibitions in providing information, often taking recourse to some grounds for exemptions provided in the Act. Many times these grounds are not held valid by information commissions and courts causing avoidable embarrassment to public authorities. RTI Act, which has very radical provisions, is perceived as potentially the most potent intervention for good governance. Overtime, various provisions of the Act have been interpreted by SIC, CIC, High Courts and the Supreme Court through their judgments and there is now greater clarity on the provisions than there was still a few years back. These judgments,

though voluminous, provide interesting and useful insights to public authorities into how a particular provision needs to be used while handling RTI applications. A large number of petitions have gone to various High Courts and the Supreme Court which have, through their judgments, provided clarifications and interpretations to various provisions of the Act”.

Conclusion

The courts have clearly pointed out that in a government of responsibility like ours, where all the agents of the public must be responsible for their conduct, there can be but few secrets. The citizens of India have a right to decide by whom and by what rules they shall be governed and they are entitled to call on those who govern on their behalf to account for their conduct. The courts have also emphasized the need for enabling the people to have access to information regarding disputes and legal proceedings. The courts have observed that the people of this country have a right to know every public act, everything that is done in a public way, by their public functionaries. The judicial pronouncements have also highlighted the right to know which is derived from the concept of freedom of speech, though not absolute.

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