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## ADMINISTRATIVE AND PROCEDURAL PROBLEMS IN THE IMPLEMENTATION OF RIGHT TO INFORMATION ACT, 2005

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### Abstract

Right to Information Act is to empower the citizens, promote transparency and accountability in the working of the Government, and make our democracy work for the people in real sense. It goes without saying that an informed citizen is better equipped to keep necessary vigil on the instruments of governance and make the government more accountable to the governed. The Act is a big step towards making the citizens informed about the activities of the Government. RTI Act has opened or explores new ways for the working of institutions and governance. But there are some deficiencies in the system due to which the RTI Act is not properly implementing like Poor record management, misuse, untrained CPIO, low public awareness, which obstruct the national development and integration, or to destroy the peace, tranquillity and harmony among its citizens. Demanding impractical and unrelated or unnecessary information affects the efficiency of the department and also increases the unproductive burden on the commission. Therefore the issues and constraints can be solved by taking some proper and important steps like giving training to the CPIO and PIO, uploading the documents on departmental website, increasing the number of information commissioners, compiling of same RTI applications, publication of RTI ACT in regional languages, making RTI Act a compulsory subject in schools. By using all these tools we can solve or tackle the issues and constraints in the implementation of the RTI Act and implement this Act in a better way for good governance which promotes openness, transparency, and accountability in the public administration.

**Keywords:** *Administrative, Information Act, 2005*

### INTRODUCTION

The right to information act, which was passed in October 2005 after extensive debate and struggle, was a major step toward ensuring openness and accountability for government operations in order to usher in a democratic system free of corruption, inaction, or inefficient performance, all of which seek to eat democracy alive and render it hollow. It was also a step toward encouraging people to participate in the running of government and to make them more aware of and concerned about government actions. It has intrinsic as well as utilitarian worth. The fact that people have a right to know gives it inherent significance. It is a critical step toward a deeper, more meaningful, more practical democracy since it encourages development action and hence has significant instrumental value. Various segments of society, notably

media workers, social activists, and positive thinkers, have traditionally argued that the freedom to seek knowledge, like the right to speech and expression, should be a basic right. The citizen's right to information is sometimes referred to as freedom of information, access to information, or right to information on an international level. The right to knowledge is inherent in India's constitution, which established a representative democracy with inalienable rights for the country's residents, which have been upheld by the court time and time again. In India, the Right to Information Act (RTI) has aimed to broaden democratic space and enable individuals to exert more control over the state's corrupt activities.

## **Right to Information**

People's right to information refers to their ability to get government papers, records, and other information. It means that individuals and non-governmental organisations should have reasonable free access to all data and documents related to government operations, decisions, and performance. In other words, it suggests that in order to empower people in a democratic state, openness and transparency is required in administration. There is a lot of literature in support of openness and against secrecy in government operations. "The secrecy is less for defending the public or government's reputation, busying its blunders, procedures, and misleading the populace," Pares confirms. United States Supreme Court Justice Douglas, "Government secrecy is essentially antidemocratic, sustaining bureaucratic mistakes." Open debate and discussion based on complete knowledge are critical to our country's health. "People who want to be their rulers must empower themselves with the strength that education provides," wrote James Madison. A popular government without popular knowledge or the means to get it is nothing more than a prelude to a comedy or tragedy, or maybe both. "The immense democratising potential of knowledge has given us the possibility to influence change and relieve poverty," Kofi Annan, the former UN Secretary General, appropriately highlighted its importance in the growing third world. ....the road of poverty may be reversed with information on our side, with information on our side, with knowledge a possibility for everybody, its importance rests on the following elements.

- Marginalized groups get a voice and have the ability to examine development efforts.
- Encourage openness, transparency, and accountability in government administration; checks administrative arbitrariness; and bridges the gap between public service providers and recipients.
- Enhances democracy and national stability by making government more responsive.

## **Promotes Transparency and Good Governance**

Citizens may examine how governments and public officials function via the right to information. There is an assumption that whatever the government does is for the people's benefit, which implies everything is done to achieve the goal of public well-being and is done honestly to maximize the advantages of the monies available. However, due to the abuse, embezzlement, and reckless use of public monies, this assumption has weakened significantly in recent years. Such things can only be checked if all public interactions are transparent.

## Issues and Constraints I in the implementation of the RTI Act, 2005

There are number of issues and constraints which are identified and are being faced by an information seeker while filing application for information request, which are the main reasons for deformity in the proper implementation of the RTI Act, 2005.

- POOR RECORD MANAGEMENT PRACTICES
- MISUSE OF RTI.
- UNTRAINED CPIO's.
- LOW PUBLIC AWARENESS.
- DELAY IN DISPOSAL OF APPEALS AND COMPLAINTS.
- HUGE BACKLOGS.
- POOR QUALITY OF INFORMATION PROVIDED.

These are the most common issues due to which an information seeker is not able to get the requisite information and at the same time the respected CPIO's are not able to provide required information to the applicant within the prescribed time limit, Resulting improper implementation of the RTI Act, 2005.

## Improvement in accountability and performance of the Government:

The Right to Information Act (RTI) gives citizens the ability to get information. Furthermore, every public entity must explain explanations for its administrative or quasijudicial judgments to the people who are impacted. Ordinary citizens could not get specifics of a decision-making process that was often judged to be ineffective in terms of its result prior to the establishment of the RTI Act. As a result, it was impossible to have a free and open conversation on subjects of public interest. Promotion of citizen-government collaboration in the decision-making process: The RTI Act establishes a framework for encouraging citizen-government collaboration in the implementation of public-benefit programmers. People are not only the final benefactors of development, but also the agents of development, which explains the cooperation. Participation of stakeholders results in better initiatives and more dynamic growth. Citizens' engagement has been fostered under the RTI Act through providing access to information and involving impacted groups in the design and execution of programmers. Local government entities are empowered at the village level via collaboration and interaction with non-governmental organizations and self-help groups. Information received via the RTI process on the use of funds given under the rural employment guarantee initiative. Most welfare programmers, especially at the village and panchayat levels, are conceived and implemented in collaboration and assistance with non-governmental organizations (NGOs) or impacted individuals, with the goal of increasing people's contentment.

## Right to Information in British Period

However, the English exploited the Indians once again with their atrocious rules, which were solely in place for their own convenience. Freedom of speech and expression was severely limited in those days. Despite the fact that many Indian authorities objected, it was in vain. Press was likewise subject to censorship, with authorization necessary to publish any news. A censorship statute was enacted for the

vernacular press. Back then, the average citizen had no way of knowing what was going on in the government and administration on a day-to-day basis. The English had adopted the Official Secrets Act of 1923, which allowed them to refuse to divulge any information.

## REVIEW OF LITERATURE:

S. P. Sathe (2006) has written a clear and insightful critique on the Right to Information Act of 2005. He has documented the emergence of the right to information as a constitutional right, as well as the history of this law. He has also explained the administrative mechanism that would be used to put this measure into effect. He has focused on the right's court judgements as well as the challenges that may arise in executing the Act.

In her piece A battle for 'Right to Know,' Aruna Roy (2006) emphasised that the RTI Campaign began in Magdoor Kishan Shakti Sangthan rather than Rajasthan in 1996.

It has given individuals who are working to create the culture, institutions, and principles that are required for a participatory democracy hope. Finally, the RTI is a demand for an equitable sharing of authority.

In her essay "Braking the Bureaucratic Mould," Mistry, Indra, J. (2006) expressed concern that the nomination of former bureaucrats as Information Commissioners might lead to the RTI system becoming simply another tool for the bureaucracy to strengthen its grip on government information.

In his paper "Information and Accountability," Amitabh Mukhopadhyay (2006) argued that the law and implementation of the right to information has made the government more responsible and public friendly. The basic reason for this is that if individuals wish to receive information from a public institution or government agency, they must do it within a certain amount of time or present a justification. People may also go to the first Appellate Authority or an information commission if they don't like what they hear.

In her essay "Access, Diversity, and Representation," Kalpana Karrabiran (2006) states that access, diversity, and representation were major issues prior to the RTI Act since women's access to justice was still lacking in a big democratic context. Women are still hearing the notion that women are unable to scale to leadership roles in significant numbers in a timely manner due to "national restrictions." How would we begin to think about the right to information as a question of physical access to public spaces where information can be obtained accountability and transparency sough in a situation where even women of privileged classes across caste and community are excluded from formal practises of misogyny are widespread and legislate [even are parliament is not an exception]?

In her essay "Exercising" the Right to Seek Information," Kathyayini, Kamaraj (2006) claims that residents of Karnataka benefit from the Karnataka Right to Information Act by receiving more benefits and responses to their inquiries (KRIA). However, the federal RTI Act of 2005 contains a few more robust provisions than the KRIA. If a growing number of individuals join the movement, governments will undoubtedly be forced to become more open and responsible.

People have been stimulated by the RTI Act, which redresses their problems, but authorities are corrupt, inept, reckless, and uncooperative since they know nothing would happen to them, according to Arvind Kejriwal (2006) in his essay "RTI Aspirations and Challenges."

In his essay "Changing Governance Forever," Shekhar Singh (2006) suggests that the RTI Act might kick off a process of transparent and inclusive governance that could eventually convert India's democracy from being nearly entirely representational to being robust. It has the potential to instil a feeling of empowerment that is required to stem the fast decline in government performance and standards, as well as the parallel trend of dealing with public expectations.

In his essay "New Life for Democracy," Singh, Charulata (2006) claimed that India, the world's biggest democracy, has always been an example of success for the rest of the globe. It has always attempted to find new methods to improve its functionality and accountability. After years of debate and struggle, the Right to Information Act was passed in October 2005, marking a major step forward in providing transparency and accountability for government operations in order to usher in a democratic system free of corruption, inaction, wrongdoing, and inefficient performance.

In her paper "Towards a dynamic democracy," Madhu, R. Sekhar (2004) finds that the rights to knowledge and freedom of speech have been recognised as basic human rights. Every resident of the nation should remember that their rights are restricted, and that with these changes, India, as a thriving economy and democracy, is entering a new period in which she will become a worldwide force. There is no going back or stopping now.

In her essay "Secret Ballots and Transparent Campaigns," Aruna Roy (2006) noted that electoral politics corruption has long been recognised as a primary cause of corrupt practises in government. The face and destiny of panchayats and their politics will alter the day slogans become a way of life.

In her paper "Towards Enhancing Governance," Shyamalima Banerjee (2005) stated that improving governance is an element of the development process. Corruption, it is thought, may be reduced via systematic engagement, transparency, accountability, and probity in government. The right to good governance is also seen as an important component of the citizen's rights that the government is expected to provide.

Angela Wadia (2006) has written a thorough analysis of the Right to Information Act of 2005 and the issues it poses. He has discussed the roles and responsibilities of PIOs (Public Information Officers), the powers and functions of the CIC and SIC (State Information Commissions), and the role of the government in promoting the RTI Act. He's also gone through the request for information process.

Das, P. K. (2006) explains the meaning and interpretation of the language employed in Article 19 and clause (1) (a) of the Indian Constitution, the result of which is the right to knowledge. He emphasises how the government's activities must be transparent, and how the state's three branches, the executive, legislative, and judicial, must not deceive the public. As a result, he demonstrates how one-sided information, deception, misinformation, and non-information all contribute to citizens becoming misinformed. According to the author, there is one key trait that information searchers should take attention

of. They may only inquire about what is already on file with the Public Information Officer, or they can request copies of documents that the Information Officer has or might have requested.

N. K. Acharya (2007) has elaborated on the technique for obtaining information and the pricing structure for doing so. He has provided the application structure, as well as the first and second appeals for getting information. He has responded to numerous questions, followed by smart comments on the Right to Information Statute, which has increased people's comprehension and wisdom about this act. He talks about examples where appellate authorities imposed fines on erring information officers and awarded costs and compensation to the injured information seekers.

Mishra, Sudhansu (2009)<sup>51</sup> have given research papers on the RTI Act's scope, various sections, strengths, and weaknesses. The book also includes helpful recommendations for including the average man in rural India's development endeavours. It traces the growth of the right to information, which is required to comprehend the needs of the general public, and it examines the right to information movements in India. A critical analysis of the Right to Information Act's origins and short development, as well as its influence on Indian democracy, has been attempted. Many social scientists from many faculties have offered their well-considered opinions on numerous topics relevant to the development of the rural economy, recognising the relevance of the RTI Act for sustainable rural development. This book depicts the many components of the RTI Act and its critical role in enhancing the rural economy using both primary and secondary data for inquiry and action research.

S. L. Goel, S. L. Goel, S. L. Goel (2007) The Right to Information has been studied from a variety of perspectives, including historical, legal, institutional, political, administrative, and even futuristic. The book is more than simply a commentary on the Right to Material Act of 2005 with some background information; it takes a complete approach to the issue. The author's presentation clearly and truthfully demonstrates that the right to knowledge has evolved into a democratic value in and of itself. He presents the broad challenges and then analyses the democratic effort for and analysis of right to information and good governance, in addition to an informative and thorough introduction. He addresses the law's scope, the implementation structure, and the little experience gathered throughout the Act's implementation. He has endeavoured to make full use of whatever information on the workings of the new information regime that has been made public to far, as well as raising certain difficulties himself.

Nagraj, M. N. (1998) has accounted for several components of the Government of India's Right to Information Act 2005, in which notable writers have shared their perspectives on the subject. The book is not only a commentary on the Right to Material Act of 2005 with some background information; it takes a holistic approach to the issue. While effective governance is the ultimate goal of a democratic democracy, the right to knowledge is an important tool for getting there.

## **OBJECTIVES OF THE STUDY**

1. Examine the Haryana Department of Secondary Education's institutional arrangements for implementing the Right to Information Act.



2. To assess the department's readiness to disseminate information under the 2005 Right to Information Act.

## RESEARCH METHODOLOGY

The purpose of this research is to analyse how the RTI Act of 2005 is being implemented in Haryana's Secondary Education Department. Sonapat, Kurukshetra, Faridabad, and Bhiwani were chosen on the basis of purposeful random selection from four divisions in Haryana. Both primary and secondary data were used in this investigation. With the use of a systematic interview schedule and personal observation, primary data was gathered. Books, articles, journals, government reports, and newspapers were used to gather secondary data. The research would be very beneficial to the education department in general and the Haryana Secondary Education Department in particular. It would undoubtedly help them to fully appreciate the issues and potential solutions for resolving difficulties and restrictions in the RTI Act's and its institutions' secondary education-related operations.

## RESULTS AND ANALYSIS

The 11th annual report of the State Information Commissioner (SIC) draws attention to possible “misuse” of the RTI Act by certain users. While the Public Information Officers (PIOs) and Appellate Authorities (AAs) have been speaking about the issue, this perhaps would be the first annual report when the Commissioner has admitted to such a “misuse”. “The various benches of the SIC have come across cases of a single person filing multiple appeals. Similarly, there have been cases of misuse of the financial leeway given to below the poverty line applicants. Misuse of the RTI Act has been noticed in some instances and it is the duty of social organizations and activists to take cognition of the same and devise measures to stop it,” according to the report. Problematic applications from time to time there is negative propaganda against the RTI Act and accusations that it is being misused to file frivolous, vexatious, or voluminous applications. It is alleged that such applications waste the time of the public authority without serving any public purpose. Our analysis suggests that less than 1% of the applications were vexatious or frivolous and the term “frivolous” was also undefined and was not easy to define in the context of the RTI Act. We finally decided to classify those applications as frivolous where it seemed that the applicant was not seriously seeking information but either being silly, trying to be funny, or using the RTI not to access useful information but to clearly serve some other purpose. But, strictly speaking, it was almost impossible for us to be certain. Whether the applicant was seriously trying to seek information or was just trying to be funny and a little over 1% were voluminous, in terms of requiring a lot of information (see Table below). Though there is no legal bar against seeking voluminous information, nevertheless it could divert time of public servants and adversely affect their work. However, we found that a large number of applicants seek information who is to blame. Sadly complaints, grievances, and cries for help continued to be submitted in the guise of RTI applications, and 7% of the applications could be collectively classified under these heads. Technically these were liable to be dismissed as not being legitimate RTI applications. However, the fact that people continue to file these under the RTI Act, added to the fact that many of the illegitimate RTI applications are also disguised complaints, grievances, and requests for help, seems to suggest that other

avenues of public interface with the government do not seem to be working very effectively. It also seems to suggest that people still have faith in the RTI Act and its ability to make the government listen when all else has failed.

**Table 1.1 comparative analysis of application consolidated state and national data**

2011-13							
	AP	ASS	DEL	RAJ	CEN	Average	BIH
Percentage							
Vexatious	0%	0%	1%	0%	0%	0%	0%
Frivolous	1%	0%	0%	0%	0%	0%	0%
Unclear	0%	0%	0%	1%	0%	0%	3%
Voluminous	1%	2%	3%	1%	0%	1%	1%
Infringement of privacy	0%	1%	0%	1%	1%	1%	0%
Long time span	1%	1%	2%	1%	2%	1%	4%
Complaint - not RTI	4%	0%	2%	1%	2%	2%	0%
Grievance - not RTI	2%	0%	3%	3%	2%	2%	1%
Asking for help - not RTI	2%	4%	2%	6%	3%	3%	4%
Others	0%	0%	0%	0%	1%	0%	1%

**Conclusion**

Such an act is necessary in a democracy like India since it empowers the people. Power cannot be a monopoly held by a small group of people. The act has given the people the authority to rule the country, as stated in the Constitution's Preamble: "We, the People of India....gives ourselves....' Information is power, and power belongs to the people. It has to be dissipated. As a result, the information must reach the people. If individuals don't have the knowledge they need to exercise their rights, they won't be able to use their authority as intended by the constitution. In other words, knowledge is a sort of power. As a result, it must be available and accessible to everybody. Everyone should be able to receive it, just as the universal adult franchise system provides political fairness to all citizens. As a result, this Act has reinforced the democratic spirit in the nation by empowering citizens to be educated about the state's issues. Uninformed people and free democracy cannot coexist, that is a reality (Abid Hussain). It is pointless to have a popular democracy if the populace is unaware of what the state is doing for the welfare of its citizens, why it is doing it, and how it is doing it. It has also been discovered that if individuals are not informed, the state may be able to exert its authority in an unwelcome way. As a result, access to information is critical for democratic government.

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