

Proceedings of 14th Annual Convention of Central Information Commission, 12.10.2019

1. Chief Information Commissioner, Shri Sudhir Bhargava, welcomed the Hon'ble Home Minister Shri Amit Shah to the 14th Annual Convention of the Central Information Commission. He thanked the Union Minster of state, Dr. Jitendra Singh for his presence. He also welcomed all the participants. He observed that the RTI Act is a powerful tool for empowerment of the citizens. This enactment helps in curbing corruption, enhancing transparency and accountability in Public Authorities as well as improving delivery of service to the people. This Act provides information pertaining to government's activities, eases citizen's active participation in developmental activities which is so very important for a vibrant democracy.

He further added that the Commission in order to improve its work has made optimum use of technology. All the documents/communications with the Commission has been completely digitized and this system especially with regard to registration and disposal in real time has been made for the ease of the citizens. E-hearing system is being conducted efficiently. The website of the Commission has been updated and has been made more user-friendly. By establishing a video-conferencing studio within the Commission, there has been a comprehensive reform in e-hearing.

The CIC informed that the Commission in order to facilitate filing of appeals/complaints by the information seeker has launched a 'Citizen Service Icon' on its website. In just one click, the appellant or complainant can file online appeals and complaints, the present status of the appeal, cause-list, and decision can also be seen and downloaded. The Commission has also launched a mobile-app.

The Chief Information Commissioner informed that the Annual Convention is organised into three themes viz., **i).** Gandhian Thoughts and RTI; **ii).** RTI as a tool of effective governance and **iii).** RTI Act – challenges ahead.

2. Dr Jitender Singh, Minister of State in the Prime Minister's Office, Ministry of Personnel, Public Grievances and Pension stated that under Prime Minister Shri Narendra Modi's, leadership the government had further strengthened the cause of transparency and accountability by creating an online portal for RTI,

which did not exist previously and now citizens can file RTI applications around the clock. He said that the proactive disclosure increased the transparency in the last five years and has led to reduction in the need for filing RTI. He said that in 2019 alone, 12 lakhs RTI related grievances had been redressed successfully. He added that the government had taken several steps to increase awareness about RTI but cautioned that the law should not be misused.

3. Union Minister of Home Affairs Shri Amit Shah, expressed satisfaction at the functioning of the Right to Information (RTI) Act and said that in the 14 years since its enactment, the purpose and objective of the Act has been fulfilled. He added that the main objective of RTI was to increase trust of people in the system of governance, and the Act has been successful in instilling and strengthening the faith of the people and the system functions within the boundaries defined by the Constitution. He noted that this trust will automatically increase the partnership and ownership of people in governance, and this sense of partnership goes a long way in making the nation progress.

Shri Shah also said that in 1947, India attained freedom from a long era of oppression where the objective of the administration was discriminatory and was to fulfil the wishes of foreign masters, as opposed to looking after the welfare of people. This objective and the steps taken in that direction caused a disconnect between people and the administration. Shri Shah remarked that till 2005, no steps were taken to remove this disconnect, but in the last 14 years, this gap has been bridged by the transparency and accountability ushered in through the RTI Act. He called transparency and accountability the twin pillars of good governance and hailed RTI as a major milestone for good governance. Shri Shah noted that RTI has channelized and transformed civil society into a force that ensures accountability from the government. He said that while till 1990 only 11 nations had some form of RTI, this number increased with information revolution and globalization, and this increase has helped advance the cause of good governance globally. He hailed India as the first nation to have successfully created an accountability system till the last stage of governance. He said that India has nearly 5 lakhs information officers working to fulfil the writ of RTI at different levels of government, and such a large number of officers working for the cause of transparency and accountability is unseen anywhere else in the world.

Shri Shah praised RTI as a great step to remove injustice and corruption from the system and increase the efficiency of governance. He said that RTI removes arbitrariness from governance and acts as a major grievance redressal tool. He said that the use of high technology methods like video conference and digitization of RTI files makes the lives of applicants easier.

Shri Shah said that under the leadership of Prime Minister Shri Narendra Modi, the government is committed to creating a system where there is enough suo moto declaration of information that the need to file RTI applications itself is reduced. He said that the success of a transparent government lies not in an increase in the number of RTI applications but in the fact that RTI applications reduce in spite of the RTI process being completely accessible to people. Shri Shah expounded upon the dichotomy between RTI and Data Protection laws. He noted the importance of proactive, suo moto declaration of information by the government and said that from Mudra to online registrations of FIR, the use of internet has helped infuse transparency in the system. He said that the job of officers dealing with RTI is to create awareness, and that people should know they do not need RTI for many things for which the government proactively declares information. Shri Shah noted that there has been very little misuse of RTI and said that this shows the maturity of our democracy. He said that awareness regarding transparency should not be limited to quasi-judicial proceedings and disposal of cases but govt servants should instead actively reach out to people to make them aware of the proactive steps taken by government to increase transparency, accountability and efficiency in the government. Shri Shah gave the example of the Kedarnath all weather road as a successful attempt to harness technology to increase transparency in government projects. He also mentioned the GeM (Government e-Marketplace) portal where the smallest vendor can be part of govt tendering. He hailed the portal as a major step forward for small industries and reiterated that the government was committed to creating a system where people would not need to use RTI because information would be proactively disclosed and available in the public domain. Shri Shah advised the officers that they should increase the sense of responsibility in people, along with awareness about RTI. He said that RTI should not be misused or used for personal enmity or vendetta. He said that the power RTI brought with it also bring in the responsibility to use it carefully. He added that Prime Minister Shri Narendra Modi was determined to create

a system where information was given freely, so that people would not need to resort to RTI. He added that the government would further ease the process of RTI. He said that RTI would go a long way in the creation of a welfare state envisaged by the makers of our Constitution, and New India as envisioned by Prime Minister Shri Narendra Modi.

The inaugural session ended with vote of thanks proposed by Shri Bimal Julka, Information Commissioner.

Session: (I) Gandhian Thought and RTI

4. **Shri. Pavan K. Verma, Former Member of Parliament**, began his speech with the essence of Gandhi's ideological thrust for the empowerment of the ordinary citizens. He went on to celebrate the exceptional and novel mentalities of Ahimsa and Satyagrah which Gandhiji adopted in attaining our freedom from the control of the British Empire. He stressed upon how Gandhiji's preoccupation was not only confined to the idea of attaining political freedom but also, to ensure that each citizen receives equitable rights, respect and dignity in an independent India. With this intention Gandhiji wished to reach to the last person in the social ladder; to wipe away the tears from the eyes of the person standing last. His desire to reach out to last citizen motivated him to begin his extra-ordinary journey, where he fought for those who were denied justice. It was this objective which later on took him to his march to Dandi, popularly known as Salt Satyagrah – a non-violent civil disobedience movement, where Gandhiji was accompanied by poorest of the poor.

He then discussed how significant the RTI Act would have been had it existed during the Gandhian era and how Gandhiji would have openly supported it and anything else which in his estimation would have strengthened the citizens' ability to interfere with power of the State. Therefore, when RTI Act came into being it was in Gandhian terms a political-social revolution. He went on to explain how RTI Act has played a significant role in eradicating opacity, impenetrability and the stubbornness of the State machinery and other affiliated organizations, covered under the RTI Act. He then explained how empowerment is related to democracy, which in turn means freedom to participate in discussions and debates.

5. Shri. Anurag Gangal, Professor, Department of Political Science University of Jammu, stated that Right to Information is considered to be a non-violent weapon against might, suppression and exploitation and Gandhian philosophy led to such fulfilment of Antodaya to Sarvodaya. Gandhiji acquired such wisdom from the lessons he learned in his life and it was for the first time in South Africa that he stood up against might, suppression and exploitation. This struggle of Gandhiji created a huge impact over people, as common man for the first time started to think to secure certain rights. Mahatama Gandhi was always in favour of securing and protecting the interest of others and his philosophy of Non-violence created a huge impact both in the country and in the Parliament, which later on resulted in the enactment of the Right to Information Act, 2005. Gandhian Philosophy is not an ideology or precent because he lived that life all the concepts he laid down or the lessons he imparted were all his personal experiences. Right to information is a fulfilment of Gandhian Philosophy of Antodaya to Sarvodaya. Poorest and weakest must feel as tall and strong as the richest and most powerful in a democracy like India. Satyagraha is the tool to be used to realize the dream of welfare of the poorest in India. RTI is a constitutional movement towards corruption free government. Mahatama Gandhi during his Civil Disobedience Movement said that “I want sympathy of the World in this battle of Might”, that battle is still going on but Right to information is considered to be a beacon of hope against this battle of might. Right to information is one of the result of Gandhij’s Struggle, it was not directly coined by him but essence of the same can be concluded from his Speeches and Tabloids. Right to Information is considered to be a “Fifth Estate” of Indian Democracy and also considered to be a Fourth Generation Human Rights in this Modern World.

Session: (II) RTI as a tool of effective Governance.

6. Shri. Wajahat Habibullah, Former Chief Information Commissioner, focussed on the vital aspects of Democracy, which can be attributed solely to bringing transparency of working of Government authorities by providing information to its citizens of the acts done by it, which have been brought through the enactment of the RTI Act.

He further focussed on the various relevant provisions of the RTI Act, i.e. Section 2(f), Section 4, Section 8 and 9, Section 24, etc. to demonstrate the strength of the Statute, and the effective implementation of the same. He said that the pro-active disclosure by various public authorities under Section 4 of the RTI Act, in public domain aids in developing trust of the citizens towards the functioning of the public authority. He highlighted that as per Section 2(f) of the RTI Act, even private bodies which are substantially financed by the Govt. of India fall within the ambit of the RTI Act, and other private bodies are also linked with the mechanism of RTI, and the same also play an important role in providing information to the citizens.

The speaker mentioned that the purpose of the RTI would be fulfilled when the same is accessible to the poor people, people living in villages in India who are unaware about the provisions of the RTI Act, and hence face trouble in exercising their right in obtaining benefit of this social legislation. In this regard, he appreciated the role of a Panchayat in the villages in providing aid to the villagers to obtain information under the RTI Act, and also spread awareness amongst the Villagers, which is extremely crucial and vital to meet the objective of the Act. He addressed the audience on the nature of information which is exempted under Section 8 of the RTI Act. Referring to Section 8 of the RTI Act, he stated that under the RTI Act every information has to be provided to the citizen, unless and until specifically exempted under Section 8 of the RTI Act.

He also emphasized on the penalty provision of the RTI Act, and said that the penalty provision empowers the CIC to take action against the public authorities where incorrect information is provided to the citizen. The incorporation of the penalty provision in the Act ensures the implementation of the RTI Act by disclosure of information to the citizen. He concluded by referring to various judgments and law laid down by the Hon'ble Courts for effective implementation of the RTI Act, and the role it has played in ensuring disclosure of information to the public, thereby leading to transparency and accountability in a Democracy.

7. **Shri A. N Tiwari, former Chief information Commissioner**, highlighted the role of RTI Act in promoting good governance, transparency and accountability in the working of Public Authorities and instrumentalities of the State. However, he also discussed the limitations of a codified law to achieve its objects and stated that unless a joint effort was undertaken by the Bureaucracy, Judiciary and other stakeholders, the objects enshrined in the Act, will not be achieved. He further mentioned that as a rights instrument, RTI is automatically placed in an adversarial position vis a vis' the Government. But if the government is to be persuaded to adopt the norms of open government there has to be a constructive and continuous engagement between it and the stakeholders. Government view transparency as potentially disruptive and in the functioning of its instrumentalities they are apprehensive about transparency. He also mentioned that it was necessary to find the right kind of definition for institutional transparency in order to enhance its acceptability by public institutions and that any attempt to rush to find "One Cap Fits All" solution could be counter-productive. He then went onto explain that it is empirically proven that institutional transparency has improved trust between the people and the rulers while secrecy acts as a barrier. He also reflected upon the achievements of the RTI mechanism at a micro level but raised the issue of its impact at State and National Level without the willingness of the Government and its instrumentalities to bring about perceptible changes to achieve the objective of bringing utmost accountability and transparency in its functioning.

8. In his presentation **Shri. Shyamlal Yadav, Senior Editor in The Indian Express**, brought out that the information gathered through the RTI Act has prompted Central and State governments and other governmental organisations to carry out several reforms since the enactment of this transparency law. He proceeded with his own stories published in the Indian Express and India Today and their impact on society. Some of the examples given by him which had a strong effect on the governance included curtailment on the foreign tours of the Ministers and bureaucrats due to which two circulars were issued to impose restrictions on foreign travel expenses. He also explained that it was with the help of RTI Act that now every bureaucrat has to declare his assets and liabilities in public domain. He further highlighted that earlier the regulatory bodies; like UGC Chairman, Member ICAR, Supreme Court Judges and High Court Judges were being awarded honorary doctorates from the institutes which were under their watch and this practice was

stopped after the matter was brought into the limelight through RTI Act. The effect was that circular was issued by the NAAC officials that family members cannot accept honorary doctorates from institutions which are under their administrative control. He further gave an example of the MPs who were in a habit of engaging their own relatives as personal Assistants. The same has been stopped after 146 MPs were found engaging their own relative for the post of PAs and in this connection, a resolution was passed by Rajya Sabha Committee stating that the Members will not appoint their close relatives as their PA. Similarly information about lapsed policies obtained with the help of RTI Act, resulted in LIC, for the first time launching a special revival campaign by which revival of policies could be done for such policies which had been lapsed for more than 5 years. He concluded his presentation with the statement that without the RTI Act it would not have been possible for him to bring such reforms in the governance.

Session: (III) RTI Challenges ahead

9. Shri. Bimal Julka, Central Information Commissioner presentation was divided into three parts:- (a) RTI Act at a glance (b) Challenges in its implementation (c) Case Laws / Practical Examples. In the first part which dealt with the nuances of the RTI Act, 2005, he spoke about the Preamble of the Act which aims to promote transparency and accountability in the working of every Public Authority. Attention was also drawn towards the critical issues in Governance by highlighting few important points such as: Government and Governance; National Values; Securing Justice and its access; Empowerment of People; Employment and Regional Diversity; Delivery of Services; Capacity Building; Corruption and Electoral Reforms, etc. The presenter also discussed the definition of the “Right to Information” viz-a-viz the “Redressal of Grievance” alongside the judicial pronouncements.

He then took up the second part where he discussed the challenges occurring in the implementation of the RTI Act, 2005. Taking from his personal experiences in adjudicating the RTI Appeals/Complaints, He informed that most of the Appellant/Complainant sought for the redressal of their grievances which are out of the purview of the Act and that they consistently pray to the Commission to resolve their personal grievances despite knowing the limited jurisdiction of the Commission.

Regarding Section 4 of the RTI Act on the Suo motu disclosure, he stated that Section 4 is based on a theme i.e. “Minimum Resort to RTI Act” but it has failed to achieve its object due to non-compliance of the provisions of Section 4 by the Public Authorities despite several judicial pronouncements and DoP&T Circulars. The speaker further stated that in most of the cases the application was not transferred by the public authority within the prescribed period of 5 days from the date of receipt of the application which ultimately delayed the response and consequently, the implementation of Section 7(1) which says that the application should be responded within 30 days from the date of receipt failed to achieve its object in letter and spirit. Shri Julka in the third part of his presentation mentioned several landmark decisions of the Superior Courts which are relied upon by the Commission from time to time.

He also suggested some way forward to deal with the challenges which are coming up in the implementation of the RTI Act, 2005 such as Suo motu disclosure of information by all public authorities at regular intervals on public platforms like the Internet which is critical for ensuring access to information; Improvements of Record Keeping of Public Authorities; Sensitization and Awareness Generation amongst Information Seekers and Givers regarding RTI Mechanism; Greater Awareness and Understanding of the term ‘Public Interest’, etc.

10. Prof. Partha P Chakrabarti, Dept. of Computer Science and Engineering India Institute of Technology, Kharagpur, stated that how application of modern Information and Communications Technologies (ICT) can resolve the most intricate challenges of the RTI system. He highlighted the effective use of modern methods of information acquisition and dissemination in various multimedia formats, distributed knowledge portals. Further, he talked about the new challenges like information security, availability, access control, confidentiality and fake handling of data/information. He also talked about how technology can be effectively used for implementation of RTI and securing transparency and accountability. He specifically said that in the coming year there would be rise of conversational artificial intelligence (AI) chat bots which reduces human work. Further, he stated that by using latest techniques of Artificial Intelligence, machine learning, automated question answer system etc. not only provide timely information

with less effort for all parties and will help in resolving the disputes quickly, but more importantly enable the marginalised and most needy to access their rights. He also made some recommendations like creation of national RTI knowledge management system, information collection, harvesting, integration, dissemination, authentic management system with meta data, use of mobile as well as modern communication technologies, creation of research and development wing in ICT for RTI etc.

11. Ms. Anjali Bhardwaj, RTI Activist, at the outset emphasized upon the importance of ‘Right to Information Act’ introduced in the country in the year 2005 which is one such legislation passed by Parliament of world’s largest democracy. She enlightened the audience on the challenges associated with the institutional capacity to respond to the information requests and appeals under the RTI Act, 2005.

She stated that there were news-items in the past few months wherein lack of adequate mechanisms for ensuring effective proactive disclosure has caused unnecessary harassment to the masses. On this point, she cited the story of RTI applicants who had to run from pillar to post for obtaining information on their basic needs such as ration, pension etc. She gave one example of effective use of RTI Act, Smt. Zarina Begum who had filed an RTI application seeking information about rations wherein she was told by the distributor that no ration was allotted in her name. But in response to the RTI query, she got the papers such as stock register, sale register etc. and was shocked to find a huge gap in the projected figures. Resultantly, seven public distribution shops lost their licenses. Another story was that of Smt. Sumitra Devi who had seen multiple transfers of her RTI application pertaining to a meagre pension of Rs. 1500/-.

Further, she advocated reducing of oral RTI requests into writing for the people who can’t even read or write. The govt. should help in doing this. Opining on the legal hurdles, she stated that transferring of RTI application u/section 6(3) without application of mind by the concerned CPIO to multiple public authorities is an impediment in proper implementation of the RTI Act, 2005. It becomes much more problematic if the RTI application is not transferred within a period of 5 days from the date of receipt of the RTI application. She termed the wrong interpretation of Sections 8 and 9 as problematic which are widely used for denying the information to most of the citizens.

She also expressed her reservations about privatisation of various govt. services. On this point, she shed some light on the interpretation of 'substantial financing' in view of the latest decision of the Hon'ble Supreme Court of India in ***D.A.V. College Trust And Management Society vs. Director Of Public Instructions***, Civil Appeal No. 9828 of 2013 dated 17.09.2019. 'Substantial' means a large portion. It does not necessarily have to mean a major portion or more than 50%. No hard and fast rule can be laid down in this regard. Thereafter, she drew attention to the observation of the Hon'ble Supreme Court of India in the *Rafale* case, wherein, it was stated that the 'public interest' clause is a revolutionary clause.

On the technological advancement and uploading of information on the website, she stated that it does not help 70% people who have no access to internet services. Moreover, she emphasized on correct and clear information which are uploaded on the website of the public authorities. She opined that 15th year of the RTI law is absolutely critical for the public authorities facing huge challenges in empowering the ordinary citizens.

The conversation concluded with a vote of thanks proposed by Shri Neeraj Gupta, Information Commissioner.
