

INTERNSHIP RESEARCH REPORT

RIGHT TO INFORMATION IN EDUCATION SECTOR



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LIST OF ABBREVIATIONS

RTI -Right To Information.

CIC -Central Information Commission.

SC -Supreme Court.

HC -High Court.

Ltd. -Limited

Co. -Company

Ors. -Others

Anr. -Another

Vs. -Versus

sec. -Section

Art.- Article

INTRODUCTION

Right to Information (RTI) is an act which replaced the Freedom of information Act, 2002 and is passed by the Parliament of India for setting out the practical regime of the right to information for citizens. The Act applies to all States and Union Territories of India, except the state of Jammu and Kashmir. Under the provisions of the Act, any citizen of India may request information from a "public authority" (a body of Government or "instrumentality of State") which is required to reply maximum within thirty days. The Act requires every public authority to computerize its records for dissemination and to proactively disclose certain categories of information.

Section 2(f) of the **RTI Act** defines Information as:

"Information" means any material in any form, including records, documents, memos, e-mails, opinions, advice, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material held in any electronic form and information relating to any private body which can be accessed by a public authority under any other law for a time being in force.

Right to Information (RTI) is defined under **Section 2(j)** as:

“Right to Information” means the right to information accessible under this Act which is held by or under the control of any public authority and includes the right to:

- (i) inspection of work, documents, records;
- (ii) taking notes, extracts or certified copies of documents or records;
- (iii) taking certified samples of material;

- (iv) obtaining information in the form of diskettes, floppies, tapes, video cassettes or any other electronic mode or through printouts where such information is stored in a computer or any other device;

The basic object of the Right to Information Act is-

1. To bring Transparency & Accountability in the working of every public authority.
2. The right of any citizen of India to request access the information and the consequently the duty of Govt. to meet the request.
3. Responsibility on all sections of the society.
4. Responsibility on the Govt.
5. The duty of Govt. to pro-actively make available key information to all.
6. To curb corruption.
7. To ensure informed citizenry and transparency in governance.
8. To ensure less expensive and time-bound information.

Article 19 of the Constitution of India and Universal Declaration of Human Rights, 1948 also recognize the Right to information, which states that everyone has a right to freedom of opinion and expression. This right includes freedom to hold opinion without interference and to seek, receive and impart information through any media. The Right to information is a basic human right derived from Art 19(1) (a) of the constitution of India. It states, —All the citizens have the right to the freedom of speech and expression and Art 21 deals with the right to life of citizens. In **Bennette Coleman vs. Union of India**,¹ SC ruled that the right to freedom of speech and expression guaranteed by Art. 19(1) (a) included the right to information.

¹ 1973

In Phairembam Sudesh Singh v. The State of Manipur and Ors. (02.02.2016 –HC of Manipur) ,

The RTI Act, 2005 is enacted with the avowed objective of conferring a statutory right on the citizens in India to have access to Government-controlled information or to seek information from Central Government/State Governments, local bodies and other competent authorities as a matter of right. The idea is that it would prove to be instrumental in bringing in transparency and accountability in Government and Public Institutions which would help in bringing the growth of corruption in check. The scope of the Act is wide enough to cover all the Constitutional Institutions and subject to exemptions, universally applies to all Public Authorities. Section 3 gives statutory recognition to the right to information subject to the 11 other provisions of the Act. Section 8 sets out limitations on the right of access as exemptions from disclosure of information. Similarly, Section 24(4) confers power on the State Government to exempt any intelligence and security organization established by it from the purview of the provisions. It may be noted that the right to information is a facet of "freedom of speech and expression", as contained in Article 19(1)(a) of the Constitution, which are the foundation of all democratic organizations. Fundamental rights should not be cut down by too restricted an approach. Even prior to the enactment of RTI Act, 2005, the expression "freedom of speech and expression" has been construed by the Hon'ble Supreme Court, in a catena of decisions, to include not only liberty to propagate one's views, ideas, opinions and thoughts but also the right to acquire information. In other words, the right to information can be said to be a fundamental right subject to the exemptions as contained in Section 8 and 24 of the RTI Act. As has been held by the Hon'ble Punjab & Haryana High Court, the expression "information pertaining to allegations of corruption and human rights

violence" is not defined in the Act but it has a wide connotation in view of the objective sought to be achieved in the Act. The relevance of transparency and accountability in the administration has arisen because of the corruption being rampant and power allegedly being misused by the Public Authorities in the country. Article 19 of the Universal Declaration of Human Rights, 1948 provides that everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers. To comprehend the intent of the Legislature while enacting the RTI Act specially as regards the said expression, the provisions of the Act, as a whole, are to be read keeping in mind the purpose for which the RTI Act is enacted and it may further be noted that the exemptions cannot be construed so as to defeat the very objective sought to be achieved in the RTI Act, 2005.

Implications of the Right to Information Act (2005) for higher education institutions

All Universities and Colleges which are established by law passed by Parliament or by State Legislature or by notification by the appropriate Government or owned, controlled or substantially financed directly or indirectly by funds provided by the Government shall come within the meaning of a Public Authority under this Act.

All universities and colleges are required to adhere to this Act and take necessary steps for implementation of various provisions including proactive disclosure of certain categories of information as defined u/s 4(1)(b) of the Act. Such information shall be made available to the public at large through the website by the concerned university/college.

This means enough information should now be available to the students, parents (and society at large) to evaluate the quality and capabilities of every higher education at institutions and help them make informed choices.

How can students benefit from RTI?

RTI stands for Right to Information and the official act was passed in 2005, giving RTI the fundamental right status under Article 19-1 of the Constitution. Under this act, every citizen has the right to seek information from any central and state government authorities. The people have the right to know about the working of the government, the role it plays, and the functions it performs. The Right to Information Act is helpful to Indian citizens of all ages, ethnicities, and regional ties, including students, working professionals, government officials, and senior citizens.

RTI under the provision(s) students **getting opportunity to see his/her own answer sheets inspect their required documents relating to their performance in acquiring degree/P.G degree etc.,** from the concerned University or State Boards to obtain accurate information about educational examinations and qualifications.

RTI for students- Different Scenario where RTI would help:

RTI for Mark sheet Evaluation and Checking Answering Sheets:

After declaration of results, the students if unsatisfied with their results they can inspect their answer sheets and report if discrepancies are found in the correction of answers. The Supreme Court of India has specifically ruled that students who require to inspect their answer sheet may be allowed to do so under the RTI Act and any by-laws or rules of Education Board/Examination Board can't prevent them from checking their sheets.

RTI for students can help even in case of Competitive Exams which follow the OMR method of answering:

One can file RTI to obtain his/her own OMR sheets. If an RTI is filed regarding an examination that involved OMR marking (Optical Mark Recognition), then the following information can be received.

1. A copy of the OMR sheet
2. The answer key to compare with the OMR.
3. Cut-off marks for all sections, along with the marks received in each.
4. Cut-off marks for the category, and all categories

Filing RTI for students with regards to educational institutions:

By RTI, Students can verify a university degree and know the authenticity of mark sheets and degrees.

In case of a **Government Institution,**

You need to file an **RTI with the office of the PIO of the University** concerned. In case there is no PIO appointed in the University, the application should be addressed to the Office of Registrar of the University. In the application, you may ask them about the degrees and mark sheets which have been issued by the university or any other queries also.

In the case of **Private universities** or institutions,

- Private universities do not fall under the purview of RTI, so students cannot directly file RTI in these institutions.
- **Indirect means may be followed** for the information required i.e. you should **approach the Directorate of Education of the state** where that institute or university is established. The application should be addressed to the Public information branch **of the Directorate of Education** of the concerned state where the institution is established and request them to verify filing an whether that university is recognized and the mark-sheet and degree issued are genuine

Process for filing RTI for students:

- If the student is not major, the application has to be made by the father or mother or guardian, with the consent of the student.
- If the student is above 18 years of age on the date of application filing, the student can file RTI for student's application, with relevant changes in the given format, or get it filed by father/mother/ guardian in the given format with an authorized signature.
- The payment of the filing fee must be made as per state RTI rules to which the Board of Examination belongs. For example, since CBSE is a central government entity, you should pay Rs10 by postal order, drawn in favor of

the Accounts Officer, Central Board of Secondary Education, made payable at Delhi.

- The format to be used must be as mentioned by the respective state or central RTI rules.
- The details of the format and payment of fee state-wise for RTI for students application and address of the concerned PIO are available at point.
- If you do not get a reply within 30 days of mailing this application, or if the reply is not satisfactory, file the first appeal immediately.
- Note: The onus of finding the correct PIO or in his/her absence the address of the Office of Registrar of the University lies on the applicant. Any wrong PIO or Registrar being addressed can lead to rejection of the RTI request.

Is there an easy option to File RTI for students?

A student is someone who is not always that savvy when it comes to file the RTI using the "government-specified" formats and nor does he/she have enough time to go from office to office to find the right person to hand over the RTI application or find the correct address to mail.

But there is a very simple option to file an RTI for Mark sheet Verification, Re-evaluation of answer copies or even checking the authenticity of a degree or a university; in short, for anything where a student needs to file an RTI, they can use our platform - OnlineRTI.com. The steps are-

Go to Online RTI's Student RTI section.

Fill in your name, address and contact details.

Write the content of your RTI application that you require assistance with.

The expert team of RTI experts will contact the student to find out more. They will then draft the RTI application on student's behalf, and send it to the student for approval.

Once the student approves, they will send it to the correct authority. The student will get the response directly from the concerned authority.

Private Entities under the RTI Act

The organization which does not comply with the definition of "Public authority" under Sec.2 (h) of the RTI Act is considered to be private entities. But just being a private entity does not exempt one from the RTI Act. Any citizen can avail information from the private entities as has been stated below:-

As stated under the RTI Act only those private organization which have been "substantially funded", only they are covered under RTI Act, which includes the NGO's, schools, colleges which have been aided by the government. Substantially funded means either the government has invested in it or is providing any aid in the process of working which will also include aid as in equity or subsidies inland.

In the case of a private-public partnership, one can get information and get solved its queries by filing an RTI application to the public partner, who is abided by law to provide such information which has been asked.

Private Schools under RTI Act-

As per the Central Information Commission, any information with the government relating to the regulation and management of the private schools is covered under RTI Act. Hence it means that a citizen cannot directly file an RTI application to private school but can file an application for information to the government

authority under which it is registered or affiliated to the government department which controls it.

In the case of *Khanapuram Gandaiah v. Administrative Officer & Ors* where the apex court stated that as per Sec.6 of the RTI Act, only those information relating to the private entity could be attained which can be accessed by the Public Authority under any other law.

The recent change was brought by the Central Information Commission, who stated that schools which are covered under the Delhi Education Act, 1973 and Right to Education Act, 2009, will be covered under RTI irrespective of it being a private entity or public entity. This means that any citizen could file an RTI against them to ensure transparency.

In relation to Delhi Education Act, under the RTI Act Sec.2 (f) which states that ever private school under Sec. 4 and Sec. 8 of Delhi Education Act has a duty to follow the regulatory conditions of service and has to keep a record of the same which are covered under the RTI of the employees and hence the Central Information Commission passed an order which was sustained by the Delhi High Court, where public authority, as well as private authority, is mandated to provide information on service records, salaries, vacant seats total vacancies in classes,. But to some issues like estimated receipt of the budget, statement denoting the salary disbursement or payments of the ensuing year.

Concerning the Right to Information Act, schools are abided by rules to follow the regulatory conditions for services along with its information relating to the application for economically backward classes and the seat availability for them should be recorded therefore this information is also open for RTI.

Any information which has to be sought from any other private schools which have not been registered under Delhi Education Act and Right to Education Act can be availed through the through government entity or the public authority under which the Private entity has been registered. The information gathered through those government authorities will be covered under Sec.2 (f) of the Act. which deals with information relating to the private body which has been gathered through public authority through different laws regulating those private authorities.

As has been mentioned that the private school is not directly covered under the RTI Act but it does not exempt them from providing information through RTI. Any citizen can attain information through these private schools.

Firstly one has to recover information relating to the government department with which it is registered, as many of the private entities are controlled by the some or other government department.

Secondly, it has to locate the Public Information Officer or any other authority to which RTI application can be sent.

Apart from it, the person applying has to comply with the RTI format and the fees for attaining information and other rules mentioned in the Act.

In the case of CBSE and Anr. Vs. Aditya Bandopadhyay and Ors.² ,

"18. In these cases, the High Court has rightly denied the prayer for a re-evaluation of answer books sought by the candidates given the bar contained in the rules and regulations of the examining bodies. It is also not a relief available under the RTI Act. Therefore the question of whether re-evaluation should be

² SPL (C) NO. 75262/2009

permitted or not does arise for our consideration. What arises for consideration is the question of whether the examinee is entitled to inspect his evaluated answer-books or take certified copies thereof. This right is claimed by the students, not concerning the rules or bye-laws of examining bodies, but under the RTI Act which enables them and entitles them to have access to the answer-books as 'information' and inspect them and take certified copies thereof. Section 22 of the RTI Act provides that the provisions of the said Act will affect, notwithstanding anything inconsistent therewith contained in any other law for the time being in force. Therefore the provisions of the RTI Act will prevail over the provisions of the bye-laws/rules of the examining bodies regarding examinations. As a result, unless the examining body is able to demonstrate that the answer-books fall under the exempted category of information described in clause (e) of section 8(1) of RTI Act, the examining body will be bound to provide access to an examinee to inspect and take copies of his evaluated answer-books, even if such inspection or taking copies is barred under the rules/bye-laws of the examining body governing the examinations. "

CONCLUSION

Although RTI does not apply to private schools directly but at the same time it does not exempt them completely. It indirectly extends to private schools. The reason behind it is that the schools are the building blocks of society hence it is necessary to have transparency despite being private or public. RTI has been enacted for the welfare of citizens, therefore, some more changes are needed to be made so that all the private educational institutions could be covered under the RTI Act.

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