

**Impact of the Right to Information Act, 2005 in
Institutionalizing Transparency and Accountability in
Indian Governance**



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CONTENTS

- Acknowledgement..... 3
- Abstract..... 4
- Link between Transparency and Accountability..... 5
- The Right to Information Act.....6
- Right to Information and Good Governance.....12
- The hub of Transparency.....14
- Right to Privacy and RTI.....16
- RTI and Judiciary.....21
- Conclusion.....23

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Abstract-

Transparency and accountability in administration is the *sine qua non* of participatory democracy. Free flow of information is essential for the health of a democratic society. The Right to Information Act became a pioneer tool to the citizens of India for promoting, protecting and defending their Right to know. It came as a march which broke the unrevealed silence. India being a huge democracy needs participation from every front to implement the objective of good governance and The Right to Information Act acts as an index to measure the growth, development and governance of a country which helped the citizens to participate in any social, political or economical debate concerning the issues or interest of the country. As said by the Thomas Jefferson "Information is the currency of democracy," For a society to develop into a developed democracy, freedom of information is must and curiosity should be instilled in the minds of citizen and this type of informed citizenry is only possible by broad access of information about government operations.

Keywords: Right to Information, Transparency, Accountability, Democracy, Governance.

Link between Transparency and Accountability

To understand the nature and implementation of the Act, Firstly one has to understand what exactly is transparency, accountability and the link between them. Transparency and accountability are reciprocally supporting. Transparency involves ready access to reliable, comprehensive, timely, understandable, and internationally comparable information on government activities and accountability encapsulates three main elements; answerability- the need for justification of actions; enforcement- the sanction that could be imposed if the action is found to be unsatisfactory; and responsiveness - the ability of those held accountable to respond to the demands made. Transparency of information is essential for demanding accountability. Mendel has listed the international and comparative standards that should underpin freedom of information legislation-

Principle 1- Maximum disclosure

Principle 2- Obligation to publish

Principle 3- Promotion of Open Government

Principle 4- Limited Scope of Exceptions which should be clearly and narrowly drawn and subject to strict “harm” and “public interest” test.

Principle 5- Requests for information should be processed rapidly and fairly and an independent review of any refusal should be available.

Principle 6- Individuals should not be deterred from making requests for information by excessive costs.

Principle 7- Meetings of public bodies should be open to the public.

Principle 8.-Disclosure takes Precedence.

Principle 9.-Protection for Whistleblowers is required.

Making government more open and transparent is a process involving three important areas of focus-

Right to information laws – this establishes the constitutional/legal right for a citizen to access the information that they want.

Proactive transparency – this commits governments to publishing as much information as possible in an accessible form.

Open data approach – this enables us to reconfigure government data into forms that provide useable and accessible information.

The Right to Information Act, 2005

“Where a society has chosen to accept democracy as its creedal faith, it is elementary that the citizens ought to know what their government is doing.” -Justice P N Bhagwati

Right to Information (RTI) is an index to measure the growth and development of a country. In India, till 2005, the citizens had no access to any information which was dealt by a Public Authority. Matters effecting public interest was not easy for a common man to get accessibility. The promulgation of Right to Information Act (2005) set the stage for the transparency in the functioning of the government and its various agencies. Under this Act, access to information from a public agency has become a statutory right of every citizen. In its enactment, it had been argued that the system of government in India is so opaque that ordinary citizens do not have much information about how decisions are made and how public resources are utilized. In effect, RTI Act is a vehicle for greater transparency about the manner of functioning of public agencies. There have been some major gains in disclosure of information, as reported in media and research from time to time.

What constitutes ‘information’?

Section 2(f) of RTI Act defines “information” as 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 the time being in force;

Wherein “record” according to Section 2(i) includes—

- any document, manuscript and file;
- any microfilm, microfiche and facsimile copy of a document;
- any reproduction of image or images embodied in such microfilm (whether enlarged or not); and
- any other material produced by a computer or any other device;

What is ‘Right to Information’?

So as per Section 2(j) “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 in any other electronic mode or through printouts where such information is stored in a computer or in any other device;

Section 2(h) of the RTI Act defines “**public authority**” as any authority or body or institution of self-government established or constituted,—

(a) By or under the Constitution;

(b) By any other law made by Parliament;

(c) By any other law made by State Legislature;

(d) By notification issued or order made by the appropriate Government, and includes any—

(i) Body owned, controlled or substantially financed;

(ii) Non-Government Organization substantially financed, directly or indirectly by funds provided by the appropriate Government;

Apart from public authority, one may also access information of any private entity, subject to the condition that the public authority may be legally entitled to access such information sought by you under any existing law.

Exemption from disclosure of information:

Exemptions against furnishing information under the RTI Act have been provided under Section 8(1) and Section 9 of the Act. Unless the public authority is able to demonstrate that information sought for falls under any of the exempted categories of information, it would be bound to provide the information and that reasons for rejection of requests for information must also be clearly provided. Section 8 (1) of the RTI Act being a non-obstante provision, over-rides other provisions of the RTI Act.

Section 8- Exemption from disclosure of information:

(1) Notwithstanding anything contained in this Act, there shall be no obligation to give any citizen,—

(a) information, disclosure of which would prejudicially affect the sovereignty and integrity of India, the security, strategic, scientific or economic interests of the State, relation with foreign State or lead to incitement of an offence;

(b) Information which has been expressly forbidden to be published by any court of law or tribunal or the disclosure of which may constitute contempt of court;

(c) Information, the disclosure of which would cause a breach of privilege of Parliament or the State Legislature;

(d) Information including commercial confidence, trade secrets or intellectual property, the disclosure of which would harm the competitive position of a third party, unless the competent authority is satisfied that larger public interest warrants the disclosure of such information;

(e) Information available to a person in his fiduciary relationship, unless the competent authority is satisfied that the larger public interest warrants the disclosure of such information;

(f) Information received in confidence from foreign government;

(g) Information, the disclosure of which would endanger the life or physical safety of any person or identify the source of information or assistance given in confidence for law enforcement or security purposes;

(h) information which would impede the process of investigation or apprehension or prosecution of offenders;

(i) cabinet papers including records of deliberations of the Council of Ministers, Secretaries and other officers: Provided that the decisions of Council of Ministers, the reasons thereof, and the material on the basis of which the decisions were taken shall be made public after the decision has been taken, and the matter is complete, or over: Provided further that those matters which come under the exemptions specified in this section shall not be disclosed;

(j) information which relates to personal information the disclosure of which has not relationship to any public activity or interest, or which would cause unwarranted invasion of the privacy of the individual unless the Central Public Information Officer or the State Public Information Officer or the appellate authority, as the case may be, is satisfied that the larger public interest justifies the disclosure of such information: Provided that the information, which cannot be denied to the Parliament or a State Legislature shall not be denied to any person.

Section 9- Grounds for rejection to access in certain cases.—

Without prejudice to the provisions of section 8, a Central Public Information Officer or State Public Information Officer, as the case may be may reject a request for information where such a request for providing access would involve an infringement of copyright subsisting in a person other than the State.

Right to Information as a Fundamental Right:

Supreme Court on the Right to Information- The right to information is a fundamental right flowing from Art. 19(1) (a) of the Constitution is now a well-settled proposition. Over the years, the Supreme Court has consistently ruled in favor of the citizen's right to know. The nature of this right and the relevant restrictions thereto, has been discussed by the Supreme Court in a number of cases: The development of the right to information as a part of the Constitutional Law of the country started with petitions of the press to the Supreme Court for enforcement of certain logistical implications of the right to freedom of speech and expression such as challenging governmental orders for control of newsprint, bans on distribution of papers, etc. It was through these cases that the concept of the public's right to know developed.

The landmark case in freedom of the press in India was **Bennett Coleman and Co. v. Union of India** (AIR 1973 SC 106), where the right to information was held to be included within the right to freedom of speech and expression guaranteed by Art. 19 (1) (a).

In **Indira Gandhi v. Raj Narain**, the Court explicitly stated that it is not in the interest of the public to 'cover with a veil of secrecy the common routine business - the responsibility of officials to explain and to justify their acts is the chief safeguard against oppression and corruption.'

In **SP Gupta v. Union of India**, the right of the people to know about every public act, and the details of every public transaction undertaken by public functionaries was described. In **People's Union for Civil Liberties v. Union Of India** 8 the court held that exposure to public scrutiny is one of the known means for getting clean and less polluted persons to govern the country.

This principle was even more clearly enunciated in a later case in **Indian Express Newspapers (Bombay) Pvt. Ltd. vs India** where the court 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.”

In **State of U.P vs. Raj Narain**. The Court said, “While there are overwhelming arguments for giving to the executive the power to determine what matters may prejudice public security, those arguments give no sanction to giving the executive exclusive power to determine what matters may prejudice the public interest. Once considerations of national security are left out there are few matters of public interest which cannot be safely discussed in public”. K.K. Mathew went further to say, 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. The 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 rate, have no repercussion on public security.

In **Secretary General, Supreme Court of India, vs. Subhash chandra Agarwal**- High Court of Delhi held that : The CJI is a public authority under the RTI Act and information so given by CJI of the assets in public information. Declaration of assets by the SC Judges, is 'information u/s 2(f) of the Act and the contents of asset declaration are to be treated as personal information, and may be accessed in accordance with the procedure prescribed under section 8(1)(j). Lastly, the CJI, if he deems appropriate, may in consultation with the Supreme Court Judges, evolve uniform standards, devising the nature of information, relevant formats, and if required, the periodicity of the declaration to be made. The Delhi HC directed that the CPIO, Supreme Court of India, shall release the information sought by the respondent of the declaration of assets.

RIGHT TO INFORMATION AND GOOD GOVERNANCE

The right to information act is a path making legislation which brings to light the secrecy of administration. It is an effective means to promote democratic ideology. The act is powerful instrument to fight against corruption. Access to information can empower the poor and weaker sections of society to demand government information about public policies and actions, thereby led to welfare of all. Good governance and right to information are complimentary to each other. A nation whatever form of government it pursues must fulfill the aspirations of common man. Good governance is characterized by- political accountability, availability of freedom, bureaucratic accountability, availability of information, effectiveness, efficiency, law abiding citizen and cooperation between government and society. As such the Right to information is a natural corollary of good governance. The enactment of RTI act 2005 introduces an open and transparent government and gives every citizen right to seek and receive information to make administration more responsible and transparent which means good governance.

The Right to Information and transparency of administration as an effective tool of good governance-

(1) Participation- Participation of both men and women is the cornerstone of good governance. Representative democracy does not mean the rule of chosen few; it must take into interest of all sections specially the most vulnerable sections in the society. The Right to information acts gives people a chance to participate not just one in five years, but every day and question any decisions. The right to Information act gives an opportunity to the common men to participate in governance and reduce the imbalance in power relationship, provides a tool to oppose injustice and allows collective spirit to make democracy work for everyone. Right to information act also strengthen grassroots democracy and ensures peoples participation in local governance and development activities.

(2) Accessibility- Right to Information makes it possible to easy access of information from government departments, documents, records, services, finances and policies to all sectors of community. The Right to Information act by providing easy access of information

reduces the traditional long gape between citizens and administration and thus helps in nation building process. The right to know and easy access of government information helps the people to understand the limitations of government at different levels. The availability of information also helps to foster in development process and it is a symptom of true and mature democracy.

(3) Transparency- Transparency is the milestone of good governance. Transparency means that decisions taken and their enforcement are done in a manner that follows rules and regulations. It also means that information is freely available and directly accessible to those who will be affected by such decisions and their enforcement. Transparency and accountability is possible only when the public have access to information. The enactment of Right to Information act 2005, people are now able to seek information from any government department with a definite time frame. The Right to Information act is intended to promote accountability and transparency in government by making the process of government decision making more open. Though some departments of the Union government are exempted from this act but the information can be sought if it is concerned with violation of human rights. Even the information from the private authority can be sought only through the controlling authority and controlling authority will send the notice to the institution concerned under section 11 of the act. In addition to this, the citizens are taxpayers, so they have every right to ask the government.

(4) Accountability- Accountability is another requirement of good governance. Not only the government, the private sector institutions should also accountable to the people. Information is power and Right to Information act brings accountability and transparency in the administration. The Right to Information act provides people with mechanism to access information, which they can use to hold the government accountable or to seek explanation as to why decisions have been taken, by whom and with what consequences or outcomes. However, accountability cannot be achieved without transparency and rule of law.

(5) Empowerment- Before enactment of Right to Information Act, participation in political and economic processes and the ability to make informed choices has been restricted to India. As a consequence, commoners remain ignorant of various schemes and are unable to

resist when their rights become causality. At the same time, people remain ignorant in terms of the ways and means through they can obtain their entitled rights from the concerned departments legally. Now with enactment of Right to Information act people can participate in decision making process and it enables the citizens to know about the government decisions. The Right to Information act empowering people by removing unnecessary secrecy surrounding in decision making process of the government.

(6) Equity and inclusiveness- Equity is another prominent feature of good governance. It implies everybody is a part of the governance and they do not feel excluded from the mainstream of society. The Right to Information act also does not make any discrimination between rich and poor and it covers all the citizens in India. It always comes forward to fight against inequality, injustice and inhuman activity.

(7) Effectiveness and Efficiency- The Seventh feature of good governance is efficiency and effectiveness. The concept of efficiency in good governance covers doing work at first speed and effectiveness means doing things effectively with result oriented. In this connection Right to Information act will bring more effective and efficient record management techniques that are needed to facilitate the provision of information in response to public interest. Under RTI provision 4 (1) it is clearly mentions, —It is the obligatory of public authority to maintain all its records duly catalogued and indexed.¶ Under section 4(b) —every public authority is requested to publish within 120 days from the enactment of the act as many as 17 manuals.¶

The Hub of Transparency-

There are two separate bodies to hear complaint and appeals under the RTI Act, 2005. For central level there will be Central Information Commission (CIC) and State Information Commission (SIC). CIC will deal with the matter pertaining to central level public authorities and SIC state level public authorities.

CENTRAL INFORMATION COMMISSION-

Section 12 provides for constitution of Central Information Commission (CIC). The Central Government constitutes the body to be known as CIC. It shall consist of the Chief Information Commissioner and other Central Information Commissioners (ICs). The general superintendence, direction and management of the affairs of the CIC shall vest in the Chief Information Commissioner who shall be assisted by other Information Commissioners. The headquarter of the CIC will be at Delhi. Chief Information Commissioner and other Information Commissioners shall hold office for a term of five years and shall not be eligible for reappointment provided maximum age of sixty-five years (Section 13). CIC and other ICs can be removed as per Section 14.

The Chief Information Commission (CIC) was established in 2005 and came into operation in 2006. Information Commissions sit at the crossroads between the rights of the public and the duties of officials. At a minimum, all decision notices need to be collected internally into a central database, so that Commissioners and staff can easily refer back to previous decisions. State information commissions have also been setup, thus giving practical shape to the 2005 Right to Information (RTI) Act. The CIC helps in spreading the culture of public seeking information under the RTI and expose wrong doings. When handling cases, it is important that Information Commissions keeps in mind the law's objective of promoting open government via maximum disclosure of information and the information disclosure is in the public interest. It is crucial that the Information Commission remains user-friendly.

STATE INFORMATION COMMISSION-

Section 15 provides for constitution of State Information Commission (SIC). The State Government constitutes the body to be known as SIC. It shall consist of the State Chief Information Commissioner (SCIC) and other Information Commissioners (ICs) not exceeding ten. The general superintendence, direction and management of the affairs of the SIC shall vest in the State Chief Information Commissioner who shall be assisted by other

Information Commissioners. The headquarter of the SIC will be decided by state government. State Chief Information Commissioner and other Information Commissioners shall hold office for a term of five years and shall not be eligible for reappointment provided maximum age of sixty-five years (Section 16). SCIC and other ICs can be removed as per Section 17.

RIGHT TO INFORMATION IN CONSONANCE WITH RIGHT TO PRIVACY

Dr Manmohan Singh opined *“There is a fine balance required to be maintained between the right to information and the right to privacy, which stems out of the fundamental right to life and liberty. The citizens' right to know should definitely be circumscribed if disclosure of information encroaches upon someone's personal privacy. But where to draw the line is a complicated question,”*

Right to Privacy under the Indian Constitution and International Conventions—

Right to privacy is not an explicit right under the Indian Constitution. Rather, it is implicit in the “right to life” under Article 21 of the Constitution of India. Every individual has a private side and right to privacy aims to identify and confer the right to a person to be left alone, to indulge in certain activities either alone or with someone whom he/she considers to be his/her confidante (spouse). Right to privacy is a universal concept that finds eloquent manifestation in various international covenants. Article 12 of Universal Declaration of Human Rights (1948) states that “No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence or to unlawful attacks on his honor and reputation.” Article 8 of European Convention on Human Rights, 1950 states “Everyone has the right to respect for his private and family life, his home and his correspondence; there shall be no interference by a public authority except such as is in accordance with law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the protection of the rights and freedoms of others.” The Constitution, thus, recognizes the right to privacy as an implicit component of Article 21 and it has been further reiterated in Puttaswamy case that it is

doubtless that right to privacy is clearly a fundamental right, an intrinsic constituent of human worth and dignity. It is further stated in Puttaswamy that privacy has two roles: normative and descriptive. Privacy in the normative sense affiliates to moral principles, eternal values and essentials pertaining to human dignity, autonomy and self worth. In the descriptive sense, it refers to a bunch of entitlements and claims vindicated on the normative basis and rendered implementable being supported by constitutional mandate. If the State denies it to any person, he/she may approach the highest court of the land to vindicate and enforce the right. The human rights consciousness further fortified the growing realization that creativity is best nurtured and honed in an atmosphere of privacy and seclusion. This is the developmental aspect of privacy which more than justifies the quick incorporation of the right to privacy into the broader embrace of right to life under the Indian Constitution.

Right to Privacy under the RTI Act, 2005

According to Section 8(1)(j) of the Right to Information Act, 2005, information which has been exempted from disclosure at the instance of a citizen of this country is defined as; “information which 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 unless the Central Public Information Officer or the State Public Information Officer or the appellate authority, as the case may be, is satisfied that the larger public interest justifies disclosure of such information.” The above statutory provision quite clearly lays down that private information respecting an individual which is lying with the government cannot be sought by a third party as such information is exempted from disclosure on the rationale of an individual’s right to privacy. However, the applicant who seeks such information from the government may be allowed access to such information if it can be proved that such information warrants disclosure on public interest. When a citizen is seeking his own information, there is no potential breach of privacy as there is no intrusion into his privacy and, hence, Section 8(1)(j) does not apply. But when a third party seeks information about a person under RTI, he may be denied access to it unless such an application is justified on the ground of a larger public interest. The Central Information Commission defined “Invasion of Privacy” as “One, who intentionally intrudes, physically or otherwise, upon the solitude or seclusion of another, or his private affairs

or concerns, is subject to liability to the other for invasion of his privacy, if the intrusion would be highly offensive to a reasonable person.” It is the most critical responsibility of the public authority receiving information regarding individuals to maintain a high degree of confidentiality and not to disclose such information unless such disclosure is warranted under exceptional circumstances owing to larger public interest. Personal information does not lose its privacy and confidentiality just because it has been shared with public authorities. But it becomes a matter of concern for if the public authorities share personal details of an individual with a third party when such details have no reasonable nexus with public interest and there is every likelihood of such information being manhandled by unscrupulous elements resulting in mischief, harassment, reputational risk of the owner of such information. Besides, data integrity in this digital world is a very crucial factor which calls for due circumspection from the government authorities as the Supreme Court of India is quite emphatic in *Puttaswamy* of the need to properly preserve private data of the citizens with utmost care coupled with robust technological infrastructure. The urgency of data protection in today’s world has impelled the apex court to import the idea of “informational privacy” as a significant dimension of privacy.

In *Thappalam Service Cooperative Bank Limited vs State of Kerala*(2013) 16 SCC 82, the Supreme Court has recognized that the Right to Privacy as a Fundamental Right emanates from Article 21 of the Constitution.

The Supreme Court in *R.Rajgopal*’s case held as under:

“...The right to privacy is implicit in the right to life and liberty guaranteed to the citizens of this country by Article 21. It is a ‘right to be let alone’. A citizen has a right to safeguard the privacy of his own, his family, marriage, procreation, motherhood, child bearing and education among other matters.”

While referring to a judgment from Constitutional Court of South Africa in *NM & Ors vs Smith & Ors.*, 2007 (5) SA 250(CC), had this to say about the fundamental right to privacy recognized by the South African Constitution:

An implicit part of this aspect of privacy is the right to choose what personal information of ours is released into the public space. The more intimate that

information, the more important it is in fostering privacy, dignity and autonomy that an individual makes the primary decision whether to release the information or not. That decision should not be made by others. This aspect of the right to privacy must be respected by all of us, not only the state.....”

In *D S Nakara & ors vs Union of India (1983) 2 SCR 165* the Supreme Court while holding that the division of pensioners into two classes being violative of Article 14 of the Constitution *inter alia* observed that a pension scheme which looked to the goals for attainment of pension of welfare state proposed to be set up in the light of the Directive Principles of State Policy and Preamble of the Constitution the pensioners for payment of pension from a class. The division which classified the pensioners into two classes on the basis of the specific date was devoid of any rational principle and was both arbitrary and unprincipled being unrelated to the object sought to be achieved by grant of liberalised pension and the guarantee of equal treatment contained in Article 14 was violated inasmuch as the pension rules which were statutory in character meted out differential and discriminatory treatment to equals in the matter of computation of pension from the dates specified in the impugned memoranda.

The Right to Information and the Right to Privacy: The Paradox

The right to information and the right to privacy are both essential human rights in the modern information society. In most of the cases, both the rights complement each other in holding governments accountable to individuals. But there is a zone of conflict which emerges when there is a demand for access to personal information stored in a government database. It is an established fact that RTI Act is a vital piece of legislation which guarantees one and all access to public data or data pertaining to any activities of various public authorities. There is no conflict of interest so far as information relating to various aspects of governance is concerned since it is considered essential to allow the citizens of this country to seek information and know facts and figures of various government departments. In some cases, the citizens may also claim access to information kept in the database of private agencies provided such agencies are involved in

activities related to governance of the nation or outsourced to function at the instance of certain public authorities and public departments. The citizens of India are taken as partners in the functioning of the wheel of democracy and progression and this philosophy caters to the justification of participatory democracy where transparency in its functioning is the truest hallmark. But when the two rights confront each other, the government needs to develop strategies and mechanisms to limit conflicts and to reconcile the rights as far as possible. Some structural and legislative means and modalities need to be explored to harmonize right to information and right to privacy. When the question of harmonizing the apparently conflicting rights is raised, a sense of compromise and accommodative culture needs to be promoted to ensure that the larger interest that needs to be nurtured under all circumstances is not compromised. It is quite understandable that so far as the genre of both the rights – the right to privacy and the right to information are concerned, they affiliate to the broader regime of human rights. Right to privacy is no doubt essential for an individual's satisfying sense of freedom which creates a conducive atmosphere for the fullest possible manifestation of one's personality but when public interest becomes a crying need, private interest must yield to the demands of public interest. Situational imperatives or urgency must determine the primacy of one right over the other.

Right to privacy is not expressly given to citizens, but is the result of judicial review and court decisions. Privacy essentially connotes the right of an individual to control circumstances and situations based upon individual autonomy under which he is to share his personal information and the extent to which he intends to share it. Right to Information on the other hand guarantees to the citizens of a nation the right to seek information about government activities from appropriate government sources. At the first inspection, it may seem that the right to access information and right to privacy are irreconcilable. But privacy law and right to information law are like two sides of the same coin – acting as complementary rights that encourage individual's right to protect them and to promote government accountability. The conflict between these two rights needs to be reconciled and harmonized. The challenge lies with demarcating the extent or limit up to which private information may be disclosed. Though there is no pedantic and state-of-the-art method to mark the line of demarcation of disclosure and non-disclosure, some kind of weighing of circumstances and contextual priority is necessary to ascertain how much of private

information of an individual needs to be disclosed having regard to the broader question of public interest for the good of the society at large.

RTI and the Indian Judiciary-

The RTI Act was enacted on 15 June 2005 and it came into force on 15 October 2005. The basic objective of this transparency statute is to bring about openness, transparency and accountability of the government functionaries. Various judicial decisions have been pronounced with regard to the RTI law in India to emphasize upon the significance of the RTI Act in bolstering the faith of the common masses in the right to know and receive information. Right to information is the right of the general public to seek and receive information from government sources as to how decisions are taken, how the various expenditures are incurred by the various public authorities and as to the various aspects of functioning of the government departments. The very right to information draws inspiration from the constitutional basis derived from Article 19(1) (a) of the Constitution of India which states that “All citizens have the right to freedom of speech and expression”. The Apex Court of India held that the right to information is an integral element of the purpose of Article 19 of the Indian Constitution. The majority opinion held that freedom of speech and expression takes within its fold the right of all the citizens of India to read and be informed. In another case the Supreme Court of India stated, “In a government of responsibility like ours where the agents of the public must be responsible for the conduct there can be but a 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 bearings.” The judgment in **Manubhai. D. Shah v Life Insurance Corporation** reaffirmed this point. The fundamental purpose in the right to freedom of speech and expression is to enable every person of this country to form opinions and beliefs and share them freely with others. In essence, the foundational principle involved here is the right to know. The Supreme Court almost a quarter of a century ago in **S. P. Gupta & Others v. Union of India**, which is popularly known as the Judges Case, made an observation, “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.” Unnecessary secrecy in government leads to arrogance in governance and defective decision making. Open government always ensures greater transparency and efficiency in the matter of governance and administration. There is no gainsaying the fact that exposure to public scrutiny is the surest insignia of an efficient and effective government. It is truly said that open government is a clean government and a powerful shield against political and administrative opaqueness and incompetency.

CONCLUSION

Though the RTI is a remarkable piece of legislation yet it has issues and challenges in its execution and implementation especially in the downtrodden areas. For the effective application of the Act, the following suggestions are put forward:

1. The technicalities of filing an RTI application should be more simplified. The literacy rate of rural India is quite low and thus they find it quite difficult to comply with the procedures.
2. The usability and effect of the RTI should be publicized by awareness campaigns to the general people especially for the poor and marginalized people who are more victimized when compared to the rest. In this aspect, the role of NGO'S and the media is highly anticipated.
3. There is an urgent need to protect the whistle blowers who are targeted or attacked so easily. The impending bill should be passed or else an ancillary strict measure should be taken in this regard.
4. Children are considered resources for the future health of a nation. Therefore, RTI act should be added in the school syllabus to arouse curiosity of children about RTI at the grass-root level.

To ensure accountability the RTI shall target mismanagement, abuse of discretion, corruption and other administrative malpractices. One can see Right to Information as the key to strengthen participatory democracy and promoting people-centric governance. Downtrodden sections of the society can be empowered by giving them access to information so that they can demand their welfare and actually bring into operation the numerous beneficial schemes of the government, which due to lack of administrative intent to bring them in action mostly remain on paper.

In a fundamental sense, therefore the Right to Information Act, if used and implemented prudently, has the potential to unleash good governance system more responsive to community needs, and this is the basic premise of democracy.