

INFORMATION:
DISCLOSURE AND NON-DISCLOSURE UNDER
RIGHT TO INFORMATION ACT, 2005

By Parag Singh Parmar

INTRODUCTION:

Right to Information is a Fundamental Right and guaranteed as per Article 19 and 21 of the Constitution of India. It is part of the Fundamental Right to Freedom of Speech and Expression recognized by the Constitution and various Supreme Court decisions. The **Right to Information Act 2005** (Act No. 22/2005) is a law enacted by the Parliament of India giving citizens of India access to records of the Central Government and State Governments. The Act applies to all States and Union Territories of India, except the State of Jammu and Kashmir - which is covered under a State-level law. Under the provisions of the Act, any citizen (including the citizens within J&K) may request information from a "public authority" (a body of Government or "instrumentality of State") which is required to reply expeditiously or within thirty days. The Act also requires every public authority to computerize their records for wide dissemination and to proactively publish certain categories of information so that the citizens need minimum recourse to request for information formally.

HISTORICAL BACKGROUND:

The RTI Laws were first successfully enacted by the state governments —Tamil Nadu (1997), Goa (1997), Rajasthan (2000), Karnataka (2000), Delhi (2001), Maharashtra (2002), Madhya Pradesh (2003), Assam (2002) and Jammu and Kashmir (2004).

The Maharashtra and Delhi State level enactments are considered to have been the most widely used. The Delhi and J&K Right to Information Acts are still in force.

The first draft of the Right to Information Bill was presented to Parliament on 22 December 2004. After intense debate, more than a hundred amendments to the draft Bill were made between December 2004 and 15 June 2005, when the bill finally passed. The Act came fully into effect on 13 October 2005. The Act covers the whole of India except Jammu and Kashmir. It is applicable to all constitutional authorities, including the executive, legislature and judiciary; any institution or body established or constituted by an act of Parliament or a state legislature. It is also defined in the Act that bodies or authorities established or constituted by order or notification of appropriate government including bodies "owned, controlled or substantially financed" by government, or non-Government organizations "substantially financed, directly or indirectly by funds" provided by the government are also covered in the Act's ambit.

DEFINITION: INFORMATION

The Act defines information in sec. 2(f) as any material in any form, including the records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, log books, 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 law for the time being in force.

Sec. 2(i) defines the word 'record' as including (a) any document, manuscript and file, (b) any microfilm, microfiche and facsimile copy of a document, (c) any reproduction of image or images embodied in such microfilm and (d) any other material produced by a computer or any other device.

The information under this Act includes any mode of information in any form of record, document, e-mail, circular, press release samples, samples of electronic data, etc.

Disclosure of Information under Right to Information Act, 2005:

Information can be sought under the RTI Act at different stages or different points of time. What is exempted from disclosure at one point of time may cease to be exempted at a later point of time depending upon the nature of exemption.

For example, any information which is exempted from disclosure under **Section 8** of RTI Act, 2005 is liable to be disclosed if the application is made with regard to the occurrence or event which took place or occurred or happened twenty years prior to the date of the request vide **Section 8(3)** of the RTI Act.

In other words, information which was exempted from disclosure, if an application is made within twenty years of the occurrence, may not be exempted if the application is made after twenty years.

Similarly, if information relating to the **intellectual property that is the question papers, solutions/model answers and instructions**, with regard to any particular examination conducted by the Appellant, cannot be disclosed before the examination is held, as it would harm the competitive position of innumerable third parties who are taking the said examination.

Therefore, it is obvious that the Appellant examining body was not liable to give to any citizen any information relating to question papers, solutions/model answers and instructions relating to a particular examination before the date of such examination. But, the position will be different once the examination is held.

Disclosure of the question papers, model answers and instructions in regard to any particular examination would not harm the competitive position of any third party once the examination is held. In fact, the question papers are disclosed to everyone at the time of examination. The Appellant voluntarily publishes the "suggested answers" in regard to the question papers in the form of a book for sale every year after the examination.

Therefore, **Section 8(1)(d)** of the RTI Act does not bar or prohibit the disclosure of question papers, model answers (solutions to questions) and instructions if any given to the examiners and moderators after the examination and after the evaluation of answer scripts is completed as at that stage they will not harm the competitive position of any third party.

The information to which RTI Act applies falls into two categories, namely,

(i) Information which promotes *transparency and accountability* in the working of every public authority disclosure of which helps in containing or discouraging corruption, enumerated in Clauses (b) and (c) of Section 4(1) of RTI Act and

(ii) Other information held by public authorities not falling under Section 4(1)(b) and (c) of RTI Act.

With regard to information falling under the first category, the public authorities owe a duty to disseminate the information widely *suo moto* to the public so as to make it easily accessible to the public. In regard to information enumerated or required to be enumerated under Section 4(1)(b) and (c) of RTI Act necessarily and naturally the competent authorities under the RTI Act will have to act in a pro-active manner so as to ensure accountability and ensure that the fight against corruption goes on relentlessly.

But, with regard to other information which do not fall under Section 4(1)(b) and (c) of the Act there is a need to proceed with circumspection as it is necessary to find out whether they are exempted from disclosure.

One of the objects of democracy is to bring about transparency of information to contain corruption and bring about accountability.

But, achieving this object does not mean that other equally important public interests including efficient **functioning of the governments and public authorities optimum use of limited fiscal resources, preservation of confidentiality of sensitive information**, etc. are to be ignored or sacrificed.

The object of **RTI Act** is to harmonize the conflicting public interests, that is ensuring transparency to bring in accountability and containing corruption on the one hand, and at the same time ensure that the revelation of information in actual practice does not harm or adversely affect other public interests which include efficient functioning of the governments optimum use of limited fiscal resources and preservation of confidentiality of sensitive information on the other hand. While **Sections 3 and 4** of RTI Act, 2005 seek to achieve the first objective, **Sections 8, 9, 10 and 11** of RTI Act, 2005 seek to achieve the second objective.

Therefore, when **Section 8** exempts certain information from being disclosed it should not be considered to be a fetter on the right to information but as an equally important provision protecting other public interests essential for the fulfilment and preservation of democratic ideals. Therefore, in dealing with information not falling under **Section 4(1)(b)** and **(c)** the competent authorities under the RTI Act will not read the exemptions in **Section 8** in a restrictive manner, but in a practical manner so that other public interests are preserved, and the RTI Act attains a fine balance between its goal of attaining transparency of information and safeguarding other public interests.

Among the ten categories of information which are exempted from disclosure under **Section 8** of RTI Act, six categories which are described in **Clauses (a), (b), (c), (f), (g)** and **(h)** carry absolute exemption. Information enumerated in **Clauses (d), (e)** and **(j)** on the other hand, get only conditional exemption, that is the exemption is subject to the overriding power of the competent authority under the RTI Act in larger public interest to direct disclosure of such information. The information referred to in **Clause (i)** relates to an exemption for a specific period with an obligation to make the said information public after such period. The information relating to intellectual property and the information available to persons in their fiduciary relationship referred to in **Clauses (d)** and **(e)** of **Section 8(1)** do not enjoy absolute exemption. Though exempted, if the competent authority under the Act is satisfied that the larger public interest warrants disclosure of such information, such information will have to be disclosed. It is needless to say that the competent authority will have to record reasons for holding that an exempted information should be disclosed in the larger **public interest**.

What is not open to disclosure?

Section 8 is the most important part of the act and it is very simple for officials to reject the request for information if it falls under any of these long, general and ambiguous clauses of exemptions. This section is general and can be interpreted in either way. However, RTI act 2005 is far better and open than Freedom of Information act 2002, there were many restriction and provision were ambiguous though RTI act 2005 also have restriction under

section 8 but this are less in complexity and more in number than Freedom of Information act 2002.

Section 8 in The Right to Information Act, 2005

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.

(2) Notwithstanding anything in the Official Secrets Act, 1923 (19 of 1923) nor any of the exemptions permissible in accordance with sub-section (1), a public authority may allow access to information, if public interest in disclosure outweighs the harm to the protected interests.

(3) Subject to the provisions of clauses (a), (c) and (i) of sub-section (1), any information relating to any occurrence, event or matter which has taken place, occurred or happened twenty years before the date on which any request is made under section 6 shall be provided to any person making a request under that section: Provided that where any question arises as to the date from which the said period of twenty years has to be computed, the decision of the Central Government shall be final, subject to the usual appeals provided for in this Act.

ANALYSIS

- **National Security or Sovereignty:** As explained above, there is some information, which relates to India's national security, which could genuinely cause harm if it was released to the public. For example, information published during a conflict, detailing the number of soldiers defending a boundary, where they were positioned or their strategic plans. However, it would not be appropriate to use this exemption simply to keep a contract for the purchase of an air force fighter jet secret. This is common commercial information which should be made public to reduce the likelihood of corruption tainting the procurement process, and should not be withheld simply because it relates to defence.
- **National Economic Interests:** Disclosure of information about currency or exchange rates, interest rates, taxes, the regulation or supervision of banking, insurance and other financial institutions, proposals for expenditure or borrowing and foreign investment could in some cases harm the national economy, particularly if released

prematurely. However, lower level economic and financial information, like contracts and departmental budgets should not be withheld under this exemption.

- **Relations with Foreign States:** The relationship between countries can often be sensitive, such that candid assessments and analysis of other countries' behaviour and policies could easily offend and in so doing, damage India's own international interests. However, this exemption should not be used simply to hide political deals between players, which are not in the public interest and can never justify non-disclosure of information which discloses a breach of national law.
- **Law Enforcement and the Judicial Process:** While an investigation is underway, there may be information which needs to be protected, for example, witnesses identities or the case being put together against a suspect. If released, the case could be jeopardized. Likewise, while a case is underway, information may need to be kept secret. Notably, the discussions between a lawyer and their client will almost always be kept secret, even if the lawyer is the Attorney-General and the client is the Government. These exemptions should not be used though, to protect police and judicial officers from having their own conduct scrutinized, particularly if a victim is seeking information about whether their case is being/has been properly handled.
- **Cabinet and Other Decision-Making Documents:** Cabinet papers, including records of deliberations of the Council of Ministers, Secretaries and other offices, are excluded, but once a decision is made, the reasons for the decisions and the documents which were used to make the decision should then be disclosed to the public. This is important because it means that during the decision-making process there is a level of confidentiality, but once a decision is made the public has a right to access relevant information so that they can better understand the policy-making process.
- **Trade Secrets and Commercial Confidentiality:** Some information held by many private companies should be open to the public, for example, where that information relates to the provision of a public service or is necessary for the exercise or protection of a right. However, it is already recognised in law that companies should be able to protect their trade secrets. Care should also be taken to minimize the harm caused to a company's competitive commercial interests when disclosing information, for example, by not publishing tender submissions during a tender process. However, this exemption should not be used to block the release of contracts with private bodies who are providing public services.

- **Individual Safety:** Obviously, information should not be disclosure where publication would be likely to put an individual's safety or liberty at risk. For example, the identity of people who "blow the whistle" on corruption inside their organisation should be protected, because otherwise they may be targeted for discrimination or even violence.
- **Personal Privacy:** There is considerable information about individuals which is held by the government. The right to privacy requires that the government should try to protect this information from public disclosure, unless there is some overriding need for it to be disclosed. For example, my next door neighbour should not be able to access my medical records just because they are held by a government hospital. Notably though, public officials should not be able to use this exemption to protect their own conduct in their official capacity from scrutiny. Thus, information about public service transfers and appointments can be disclosed.

The Right to Information Act provides that certain sensitive information may be withheld from the public, if the public authority in possession of the information thinks that the same is likely to jeopardize either national interests or to violate the trade secrets. These exceptions are found in primarily, in Sec. 8 and Sec. 9 of the RTI '05. However, contrary to the popular conception, Sec. 7(9) is not an exception.¹

Section 8 lays down certain qualified exemptions, which are subject to the Public Interest Test. Here, the public authority in possession of the information, must consider whether there is greater public interest in disclosing the information or withholding the information (popularly called- balancing the public interest or herein referred to as the Public Interest Test). Surprisingly, the RTI '05 fails to mention anywhere the definition of a 'public authority'. This term is not found defined in any freedom of information law of the world.

²Public Interest, in such circumstances would hold the key while making the decision of whether the information is to be withheld or disclosed. Public Interest, in the opinion of the Supreme Court of India has been expressed by way of Supreme Court Guidelines for maintaining a Public Interest Litigation, 1998 and also in cases like **Janta Dal v. VHS**

¹ By virtue of the decision of the CIC Sarbajit Roy v D.D.A., Decision, No.10/1/2005-CIC, Dt.25.02.2006

² Srinivas Madhav, "The Right to Information and Public Interest - A Primer", RTI Manual, March 2007

Choudhary³, S P Gupta v. President of India⁴, or State of Gujarat v Mirzapur Moti Kureshi Kasab Jamat ⁵

EXEMPTIONS

Further discussing the exemptions laid down in Sec. 8 of RTI '05, the deduction that all the qualified exemptions can further be categorized into three:

a. Class Exemptions

Section 8 [1] (b), (e), (f), and (i) contains these exemptions. In these cases, the public authority may not demonstrate any harm, but simply might show that the information is exempted under the above mentioned clauses.

b. Prejudice based Exemptions

The degree of prejudice is not specified, so any level of prejudice might be argued. However, less significant the prejudice is shown to be, the higher the chance of the public interest falling in favour of disclosure of the information in question. Whether prejudice exists is a matter of fact to be decided on a case to case basis. Section 8 [1] (a), (c), (d), (g), (h), and (j) contains these exemptions.

c. Time limited Exemptions

Section 8 [3] imposes time limit on exemptions. Section 8 [1] (b), (d), (e), (f), (g), (h), and (j) are time limited exemptions, which are no longer valid exemptions after 20 years from the date of the record.

All the exemptions that are made by the Public Authority are discretionary and not mandatory. The public authority may take such decisions as a matter of administrative discretion, where they are not prohibited otherwise from doing so.

Sec. 9 of the RTI '05 lays down that any information, whose copyright is not held by the state, cannot be provided by it under any circumstances. This exemption laid

³ [1992] 4 SCC 305

⁴ AIR 1982 SC 149

⁵ [11] AIR 2006 SC 212

down in the RTI '05 is not a qualified exemption, but rather an absolute one. It is primarily intended to prevent misuse of the RTI '05 by the Governmental agencies, especially in matters of infringement of copyright and the like.

Section 24 of the RTI '05 dictates that the intelligence and security organisations cannot fall under the purview of this act. It also makes a statement to the effect that any information given by such agencies to the Government too would be outside the scope of the applicability of this act. These organizations are sought to be mentioned in Second Schedule of the RTI '05, which has a comprehensive list of 18 different organizations. However, the Section also lays down a proviso to prevent the basic aim of the act from being violated by declaring that allegations of corruptions and violations of human rights cannot be excluded under this act. Therefore, this section can be said to be the quintessence of the spirit of democracy as it provides for information to the public, but at the same time, puts a reasonable limit in place over the same.

Under powers conferred by Section 24 (4) of the RTI '05, the only notification till date has come from the Office of Governor of State of Tamil Nadu, dated 14 – 10 – 2005, and it reads to exclude many of the Correcting Agencies of the State like Cyber Crime Cell, Idol Wing, Police Radio branch, Costal Security Group, Finger prints bureau, etc.

OFFICIAL SECRETS ACT and RIGHT TO INFORMATION

The OSA '23 came into the news when the Government of India, through the CBI⁶ decided to proceed in action against a former RAW⁷ Official V K Singh for not following the guidelines under the same act (in 2007)⁸. In fact, the folly of the CBI in that particular matter came to the fore almost immediately as a simple study of the provisions of law revealed that by exposing corruption in RAW, no violation had been committed by the official. Further, the same act had already been given the status of being "incongruous with the regime of

⁶ Central Bureau of Investigation

⁷ Research and Analysis Wing of India

⁸ Times of India, Ex-RAW official questions relevance of Official Secrets Act, 28 Sep 2007

democracy" by the Administrative Reforms Commission⁹ in 2006 itself.¹⁰ The ARC had in fact suggested to the Prime Minister in his report that suitable security measures could be implemented in the National Security Act, and the OSA '23 could be scrapped altogether. Although the most popular case on the conflict between OSA '23 and the RTI '05 would undoubtedly be Iftikhar Gilani case¹¹ wherein the journalist was falsely implicated of having classified information despite of the same being freely available to public at large.

This case was the pioneer in setting up the incongruence between the OSA '23 and the RTI '05. Despite of various petitions to the President Of India, from the Members of Parliament, Reporters of various media, etc, till date no decision has been taken despite the victimization of various such prominent and intelligent officials.

Technically speaking, the OSA '23 is India's anti – espionage act which was acquired from the British. It states clearly that any action which involves helping an enemy state against India. It also states that one cannot approach, inspect, or even pass over a prohibited government site or area. According to this Act, helping the enemy state can be in the form of communicating a sketch, plan, model of an official secret, or of official codes or passwords, to the enemy. The disclosure of any information that is likely to affect the sovereignty and integrity of India, the security of the State, or friendly relations with foreign States, is punishable by this act. However, in the OSA clause 6, information from any governmental office is considered official information; hence it can be used to override freedom of information requests. This has drawn harsh criticism.¹² In fact, the Chief Information Officer of the Government of India, has pondered aloud over this issue by taking a stand against the Government of India, especially the CBI. In his view, India being a democracy, public is the government and hence there cannot be any protection offered by the OSA '23 to the Government from the public at large. He further elaborates the law point by discussing the core of Section 8 (d), (e) and (j), wherein the Information Officer on being satisfied that "public interest in disclosure outweighs the harm to the protected interests" can issue even information held as secret under OSA '05.

However, there have been Constitutional Law experts from other countries who have

⁹ Herein after mentioned as ARC

¹⁰ Times of India, Scrap Official Secrets Act: Reforms panel, 9 Jun 2006

¹¹ Taken from various news reports and Iftikhar Gilani's book – My Days in Prison,

¹² As quoted by en.wikipedia.org

expressed their opinion on such type of conflict. In view of J. Duncan and M. Derrett,¹³ although such an inconsistency is inevitable, there can be an action taken up by the judiciary on the issue and the matter can be resolved on a prompt action basis. Otherwise, there might be more and more cases wherein, the authorities will be at a loss to take decisions in favour of the public, thus rendering the law laid down for their benefit as an ineffective statute.¹⁴

Similarly, there are many who argue and view the Right to Information as a constitutional right, by way of judicial amendment.¹⁵ Discussing the scope of the notion of "judicial amendment"¹⁶ it is worth noting that Justice Krishna Iyer along with Justice Tulzapurkar in the case of **Nandani Satpathy v. Dani (P.L.) and anr.**,¹⁷ have introduced the concept of 'judicial amendment' and hence, the same is an acceptable proposition in the Indian Law. Moreover, it is also observed that in the US / Canadian Law, amendment of the Constitution by the Judiciary is not only acceptable, but also commended upon if worth its weight. Similarly, though the world's biggest democracy does not have any statute on the provisions for sexual harassment of women at workplace, the guidelines laid down in the groundbreaking judgment of **Vishakha v/s State of Rajasthan**¹⁸ have been accepted and implemented, hence, the same concept of 'judicial amendment' finds its place in the Indian jurisprudence as well.

Based upon this concept and the decision of the Hon'ble Supreme Court in **Peoples Union for Civil Liberties v. Union of India**¹⁹ by observing that Right of information is a facet of the freedom of 'speech and expression' as contained in Article 19(1)(a) of the Constitution of India, as reiterated by the Court, we can conclude that the purview of Art. 19 (1)(a) read with Art. 21 is wide enough to include the Right to information, and thus, the same is indisputably

¹³ Studies in Law: An Anthology of Essays in Municipal and International Law. Edited by V. V. Deshpande. [Bombay: Asia Publishing House. 1961. 524 pp]

¹⁴ International and Comparative Law Quarterly, Vol. 11, No. 2 (Apr., 1962), pp. 629-631

¹⁵ St. of U.P v. Raj Narain – Right to know as inherent part of fundamental right under Art. 19 (1) [a] and Art. 21

¹⁶ There are two methods of amending the Constitution – (1) Parliamentary Amendment and (2) Amendment by the judiciary in the wake of its powers of interpretation.

¹⁷ 1978 AIR 1025 : 1978 SCR (3) 608 : 1978 SCC (2) 424

¹⁸ 1997 AIR SCW 3043

¹⁹ (1997) 1 SCC 301

a fundamental right. ²⁰The supporters of this view point out that even the "basic structure" test laid down in *Keshavanada Bharti Case*²¹ is satisfied, if the amendment of Right to Information as a fundamental right is made as the same works in strengthening the democracy of the country without derogating the basic features of the Constitution like judicial review, democracy or Rule of Law. The OSA '23 is incongruous with the provisions of the RTI '05 as it violates a fundamental right granted under Part III of the Constitution.

Considering the Right to Information as a constitutionally granted fundamental right, we can also declare that the OSA '23 is thus, arbitrary with the basic fundamental principles laid down in the Constitution of India and hence should be struck down, by the judiciary. However, if it is not stuck down, the same will not be operative by the rule of 'doctrine of eclipse'²², Speaking from the orthodox point of view, the doctrine of eclipse applies where a pre –constitutional law under the provisions of the Government of India Act, 1935 and became invalid on the coming of the Constitution of India²³.

On operation of the Constitution, a shadow falls on because it is inconsistent with the Constitution. The act is eclipsed²⁴. The case is very much as was observed by the Supreme Court in **Bhikaji Narain Dhakras v. M.P.**²⁵, wherein, the Court while interpreting Article 13 of the Indian Constitution relied upon the theory of eclipse and observed that the impugned unconstitutional existing law is eclipsed for the time being by the fundamental right but is revived as soon as the constitutional fetter is removed. However, the same is to be made applicable even to pre-constitutional law in the broad outlook of post constitutional amendment, if the same is implemented as suggested by various critics.

²⁰ As rightfully pointed out by Vienaya Ganesan in her article "Should Right to Information Have Been Granted as a Fundamental Right?"

²¹ AIR 1973 SC 1461

²² India in 1975: Democracy in Eclipse, Norman D. Palmer, Asian Survey, Vol. 16, No. 2, A Survey of Asia in 1975: Part II (Feb., 1976), pp. 95-110, University of California Press, copyright - JSTOR

²³ Human Rights – Comparative and International Perspective, Joan Church, Christian Schulze, Hennie Strydom, Unisa Press, 2007 (with special reference to India)

²⁴ Introduction to Constitution of India – Brij Kishore

²⁵ AIR 1955 SC 781

CONCLUSION

This Act is designed to facilitate and further its end i.e., empowerment of public to know what is going on under the guise of administration and should not be treated as an enactment providing penalties and punishments.

Without any hesitation it can be said that this Act should be the voice of so called voiceless in our society. Lastly, remind everybody that one should not be crazy about rights only and one should also be mindful about one's duties. Rights and duties are the two sides of a coin.

In recent years, there has been an almost unstoppable global trend towards recognition of the right to information by countries, intergovernmental organizations, civil society and the people. The right to information has been recognized as a fundamental human right, which upholds the inherent dignity of all human beings. Moreover, the Right to Information Act is for the smooth functioning of the government by maintaining transparency between the government working and the public who are the beneficiaries. In nutshell it can be said that this piece of legislation is unique in many aspects. It entitled the citizen to know the details of governance subject to certain limitations. It will further reduce the gap between the rulers and ruled.

But it must be kept in mind that the right to information is not absolute. Not all information that the Government generates will or should be given out to the public. Everyone would there are some pieces of information, which are so sensitive that if they were released to the public, they might actually cause serious harm to more important interests.

For example, at a time of conflict, if someone wanted to know how many troops were being deployed and where they were being sent, the Government might legitimately want to keep these details secret because if this information fell into the wrong hands, it could pose a great risk to the national security of India. Nevertheless, if someone requested the same information two years after the war, it would be less clear that the information should be kept secret because the likelihood of harm being caused by disclosure would probably be less.

The key issue is that information can legitimately be kept secret in some circumstances, but only where disclosure would be likely to cause serious harm to specific, important

public interests. All right to information laws include provisions that allow certain types of information to be withheld from the public. These provisions are commonly called "exemption provisions" or "exclusion clauses".

Unfortunately, although exemption provisions can serve a useful function, experience has shown that they are often abused by officials who are determined to keep their actions hidden from the public. This is not acceptable. Information should not be withheld just because it 'embarrasses' the government, or because it will get officials into trouble. Recognizing that exemption clauses are often misapplied to protect government interests, it is important that the citizens have a good understanding of the exemptions provisions that might apply to their application so that they can check to see if they have been properly applied.

REFERENCES:

- Humanrightsinitiative.org
- Legalservices.com
- Disclosure of information under right to information act, 2005, blogpost, Kalra Kush
- Kaneja S. R. ,Right to information act, 2005