

TRANSPARENCY & LEGISLATURE W.R.T PRIVACY LAWS
IN ACCORDANCE WITH PARLIAMENTARIANS

(By Aviral Pandey

B.A.LLB.(Hons.), 4th semester

KIIT SCHOOL OF LAW, BHUBANESWAR)

INDEX

S.NO	SUBJECT	PAGE NO.
1.	ABSTRACT	3
2.	INTRODUCTION	3-4
3.	ABOUT RIGHT TO INFORMATION ACT, 2005	4
4.	WHAT DOES INFORMATION MEAN?	4-5
5.	DO PARLIAMENTARIANS COMES UNDER THE AMBIT OF RTI?	5
6.	THINGS THAT LED TO MAXIMISE THE EXTENT OF THIS ACT TO COVER POLITICAL PARTIES IN IT	6-7
7.	TRANSPARENCY AND LEGISLATURE	7-8
8.	CONDITIONS OF ADMISSIBILITY OF QUESTIONS	9-10
9.	BRIEF DISCUSSION ON RULE XI AND XII WHICH ARE BASED UPON THE CHARACTER OF A PERSON	11-13
10.	RULE 48- QUESTION ON MATTERS OF CORRESPONDENCE BETWEEN THE GOVERNMENT OF INDIA AND THE GOVERNMENT OF STATE	13
11.	RULE 49- CHAIRMAN TO DECIDE ADMISSIBILITY	13-14
12.	RIGHT TO PRIVACY OR RIGHT TO INFORMATION, WHICH ONE IS ULTIMATE? [OVERVIEW]	14-16
13.	THE HUMAN RIGHTS ACT	17
14.	U.K AND OTHER STATE LAWS RELATED TO THE RESEARCH	17-20
15.	EXTENDING FAR DOWN	21
16.	CONCLUSION	22
17.	SUGGESTIONS	23
18.	REFERENCES	24-25

ABSTRACT

Abstract is the idea which a writer has in his mind about his research. At my current stage and most often I was thinking about the relationship between transparency and legislature. At first glance what comes up to my mind is : Actually a few days back I was asked a general question that whether ministers that we elect are accountable/ answerable to us or not. I thought in my why is he asking me such a question, I mean of course he is answerable to the general public because we people have the power to vote and actually we the people are sovereign as stated in our preamble of the Constitution of India. After when a person is elected, he is supposed to represent his territory.

There are various rules set for his conduct of business and he has to abide by that. Now we all know that there are certain things that are private, like for example: I am an individual person, there would be some things that I would like to keep private and not tell other people about it and definitely no one has the right to publish it and no one can ask you any questions regarding that. So, here what I am making you understand is there are some things that a member of the parliament or a member of the legislative assembly cannot raise questions on that matter in the ongoing session of the parliament. Because it's a private thing which belongs to some other person and you should not interfere in his conduct no matter what happens, at least without his consent and until and unless it's not in the interest of the majority of the general public. Although these questions are not explicitly illegal, they imply an illegal motive said Rebecca Pontikes, a solo practioner at Boston Firm Pontikes law.

INTRODUCTION

This paper deals with the extensive research upon certain restrictions on parliamentarians in asking certain questions in parliament in accordance with the right to information act, 2005.

As we will discuss all the basics at the later stage regarding this topic, now I felt there is a need to introduce my topic to you, to tell you what this topic is all about. This research paper is based on the right to privacy, which is given to the every citizen of India by our Constitution under article 21. This research paper would include different articles, acts, case laws and many

interesting things related to the restrictions put upon parliamentarians in asking certain questions in Parliament.

In the background of our history and in the light of our aspirations and hopes and other relevant circumstances, our law making body is Sui Generis. No other legislating body in the world is like ours. Our legislating body combines under its wings such diverse people, numbering now more than 1.311 billion, with different languages and religions and in different stages of economic development, into one nation, and no other nation is faced with such vast socio- economic problems. My research will be in accordance with transparency and legislature.

As planets revolve around the sun because of its large magnetic attraction which holds them in a sequence, the points stated above are like sun in my research all the ideas relating to my research will revolve around these points only and I promise that they all will be in a sequence, so that they can be read and interpreted easily.

ABOUT RIGHT TO INFORMATION ACT, 2005

Right to information came into force on 12th October 2005, some provisions have come into force with immediate effect viz. obligations of public authorities, designation of Public Information Officers and Assistant Public Information Officers and constitution of Central Information Commission, constitution of State Information Commission, non-applicability of the state to intelligence and security organizations and power to make rules to carry out the provisions of this act.

The basic object of this right is to empower the citizen, promote transparency, accountability and contain corruption in working of the government. An informed citizen is better equipped to keep vigil on the activities of the government and make them accountable for their governance. This act is a big step towards making people aware about the activities of the government¹.

WHAT DOES INFORMATION MEAN?

¹ <http://rti.gov.in/>

Information means material in any form including records, documents, memos, opinions, e-mails, advices, press release, circulars, orders, logbooks, contracts, report, 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 force².

DO PARLIAMENTARIANS COMES UNDER THE AMBIT OF RTI?

Parliamentarians comes under the ambit of section 2(h) of the Right to Information Act, 2005 which envisages us, with the idea of public authority. But there are certain exemptions under which they can deny certain disclosure of information to the individuals.

Several grounds for denying information under section 8 of Right to information act 2005 are as follows:

- (a) Information, disclosure of which would prejudicially affect the sovereignty and integrity of India.
- (b) Information which has been expressly forbidden to be published by any court of law.
- (c) Information, disclosure of which would cause a breach of privilege of parliament or the state legislature.
- (d) Information received in confidence from foreign government.
- (e) Information, the disclosure of which would endanger the life or physical safety of any person or enforcement or security purposes.
- (f) Information which would impede the process of investigation or apprehension or prosecution of offenders.
- (g) Cabinet papers including records of deliberations of the council of Ministers, Secretaries and other officers.
- (h) Information which relates to personal information the disclosure of which has no relationship to any public activity or interest³.

² http://www.tn.gov.in/rTI/about_rti.htm

³ <http://adrindia.org/sites/default/files/Political%20Parties%20under%20RTI%20Act.pdf>

THINGS THAT LED TO MAXIMISE THE EXTENT OF THIS ACT TO COVER POLITICAL PARTIES IN IT

In 2010 Association for democratic reforms filed an application under the Right to information act to all the political parties about the '10 maximum voluntary contributions' received by them in the past 5 years to which only INC and CPI(M) replied that they don't fall within the purview of the RTI Act and the other political parties just ignored it (under point 40 of the case Mr. Subhash Aggarwal V. Parliament of India)⁴ . To which ADR filed a complaint and Subhash Agarwal (RTI activist) filed a petition with the CIC. Which was then stated as Mr. Subhash Aggarwal V. Parliament of India (Supra). Argument which was put forward with regard to the petitioner was that political parties should be treated as Public authorities within section 2(h) of the Right to Information Act, to which CIC stated that:

In view of the above discussion, we hold that INC, BJP, CPI(M), CPIO, NCP and BSP have been substantially financed by the Central Government under section 2(h)(ii) of the RTI Act. The criticality of the role being played by these Political Parties in our democratic set up and the nature of duties performed by them also point towards their public character, bringing them in the ambit of section 2(h). The constitutional and legal provisions discussed herein above also point towards their character as public authorities. The order of the Single Bench of this Commission in Complaint No. CIC/MISC/2009/0001 and CIC/MISC/2009/0002 is hereby set aside and it is held that AICC/INC, BJP, CPI(M), CPI, NCP and BSP are public authorities under section 2(h) of the RTI Act.

In the case of Bangalore International Airport limited V. Karnataka Information Commission⁵, the Karnataka High Court has held that:

“A public authority may be described as a person or administrative body entrusted with functions to perform for the benefit of the public and not for private profit. Not every such person or body is expressly defined as a public authority or body, and the meaning of a public authority or body may vary according to the statutory context; one of the distinguishing

⁴ Decision no. – CIC/SM/C/2011/001386

⁵ Writ petition No.- 12076 of 2008 (GM – RES)
Reported in- ILR2010 KAR3214

features of an authority not being a public authority, is profit making. It is not incumbent that a body in order to be a public body must always be constituted by a statute; for an authority to be a 'public authority' it must be an authority exercised or capable of being exercised for the benefit of the public”

From this case it became quite clear that political parties also come within the ambit of RTI.

TRANSPARENCY AND LEGISLATURE

In the case of [Mr. VenkateshNayak v. Dept. of Atomic energy]⁶ on 26 June 2012. In the Parliament when RTI bill was debated Shri VarkalaRadhakrishnan (MP) said, "There must be transparency in public life. There must be transparency in administration and people must have a right to know what has actually transpired in the secretariat of the State as well as the Union Ministry. A citizen will have a right because it will be safe to prevent corruption. Many things are done behind the curtain. Many shoddy deals take place in the secretariats of the Central and State Governments and the information will always be kept hidden. Such practice should not be allowed in a democratic country like ours. Ours is a republic. The citizenry should have a right to know what transpired in the secretariat. Even Cabinet papers, after a decision has been taken, must be divulged as per the provisions of this amendment. It cannot be hidden from the knowledge of others. It must be divulged. But before taking a final decision, the Cabinet papers can be kept secret."Thus it is clear that the intention to prevent disclosure was only until the time that the decision was taken by Cabinet on the Cabinet Papers/Notes. Once the Cabinet decision has been taken, the first part of the proviso that the decision had been taken would be fulfilled. With the tabling of the bill in Parliament the second part of the Proviso that the matter is complete or over would also have been met. The Commission would like to remember the further contentions of Shri VarkalaRadhakrishnan, "After Independence, the Constitution came into being on 26th January 1950; till date, we have not given the fundamental right to information to the citizenry. Many things are done without their knowledge. They have a right to know. We are accountable to the people. The Government as well as the Parliament, as also everybody is accountable to people. It includes Judiciary also; and everybody is accountable to

⁶Decision no. - CIC/SG/A/2012/001023/19365

the people. They must know and they are entitled to know what actually is taking place in the governance of the country."

In the Indian Parliamentary system there is a question hour session which is held in the first hour of the Parliament in which ministers ask questions to other ministers. Unless the chairman otherwise directs, the question hour shall be from [12:00 noon to 1:00 Pm]⁷. The question shall be asked only by giving 15 day notice in advance. There are four main types of question- Starred questions, Non – starred questions, Short notice questions, and question addressed to private members. Starred questions are those for which an oral answer is expected. The member is allowed to ask a supplementary question, with the permission of the Speaker, after the reply is obtained from the Minister concerned. Non-starred questions are those for which a written reply is expected. After the reply has been provided, no supplementary question can be asked. A notice period is to be given to the minister to reply to a question. However, if a Member seeks to ask a question urgently and cannot wait for the duration of the notice period, then the member can do so provided it is accepted by the Speaker. Such questions are called supplementary questions. A short notice question can also be asked by members. Where the news is disquieting, Parliament likes to be informed immediately of the facts. Of course, a short notice question can be answered with the concurrence of the executive and neither the speaker nor Parliament has any means to compel the minister to do so. In its own interest, however, the Executive feels bound to accept a short notice question provided it has the information available or can get in quickly from its field offices. The Question to a Private Member is addressed to the Member himself/herself and it is asked when the subject matter of it pertains to any Bill, Resolution or any matter relating to the Business of the House for which that Member is responsible. For such Questions, the same procedure is followed as in the case of Questions addressed to a Minister with such variations as the Speaker may consider necessary or convenient.

For the proper understanding of this research I will go through rule 47 of Rules of Procedure and conduct of business in the council of states (Rajya Sabha), 9th edition. August 2016.

⁷ Rules of Procedure and conduct of business in the council of states, Chapter vii, rule no. 38

47. Conditions of admissibility of questions

(1) Subject to the provisions of sub-rule (2) of this rule, a question may be asked for the purpose of obtaining information on a matter of public importance within the special cognizance of the Minister to whom it is addressed.

(2) The right to ask a question is governed by the following conditions:

(i) It shall be pointed, specific and confined to one issue only.

(ii) It shall not bring in any name or statement not strictly necessary to make the question intelligible;

(iii) If it contains a statement the member shall make himself responsible for the accuracy of the statement;

(iv) It shall not contain arguments, inferences, ironical expressions, imputations, epithets or defamatory statements;

(v) It shall not ask for an expression of opinion or the solution of an abstract legal question or of a hypothetical proposition;

(vi) It shall not ask as to the character or conduct of any person except in his official or public capacity;

(vii) It shall not exceed 100 words.

(viii) It shall not relate to a matter which is not primarily the concern of the Government of India;

(ix) It shall not ordinarily ask for information on matters which are under the consideration of a Parliamentary Committee;

(x) It shall not ask about proceedings in a Parliamentary Committee which have not been placed before the Council by a report from that Committee.

(xi) It shall not reflect on the character or conduct of any person whose conduct can only be challenged on a substantive motion;

(xii) It shall not make or imply a charge of a personal character;

- (xiii) It shall not raise questions of policy too large to be dealt within the limits of an answer to a question;
- (xiv) It shall not repeat in substance questions already answered or to which an answer has been refused;
- (xv) It shall not ask for information on trivial matters;
- (xvi) It shall not ordinarily seek information on matters of past history;
- (xvii) It shall not require information set forth in accessible documents or in ordinary works of reference;
- (xviii) It shall not raise matters under the control of bodies or persons not primarily responsible to the Government of India;
- (xix) It shall not ask for information on a matter which is under adjudication by a court of law having jurisdiction in any part of India;
- (xx) It shall not relate to a matter with which a Minister is not officially connected;
- (xxi) It shall not refer discourteously to a friendly foreign country;
- (xxii) It shall not seek information about matters which are in their nature secret.

Explanation- These are the rule which a member has to follow in order to ask question in Parliament. These include many minute things like, a member's question should be specific and should not be of dual nature, the things which a members asks in parliament should be true and he would be the one who would be wholly responsible for what he speaks there. The statement made by the member should not contain defamatory or ironical statements and they have to avoid un-parliamentary language also, which is strictly intolerable in the working hours of the parliament. By these rules we come to know about the line which is drawn before the legislature beyond which they cannot go, although they have freedom of speech under article 105(1) of the Constitution of India but then also they are barred with certain limitations. Now it would be occurring in your mind that why I am only talking about Rajya Sabha?, to solve this issue I will discuss about Lok Sabha and even different state legislatures will also be covered in my research.

Brief discussion on rule XI and XII which are based upon the character of a person

Rule XI states that: It shall not reflect on the character or conduct of any person whose conduct can only be challenged on a substantive motion.

The question asked in the question hour session of the parliament should not be of that degree that it would harm the character of a person or the one which brings the conduct of the other person to the limelight, as his conduct can only be challenged through substantive motion.

A substantive motion is a self-contained independent proposal submitted for the approval of the House and drafted in such a way as to be capable of expressing a decision of the House, e.g., all resolutions are substantive motion.

Rule XII states that: A question making a charge of a personal character shall be disallowed.

To discuss this I would like to describe what is personal character? Personal character traits are the attitudes you have toward your activities and the challenges they present. These traits may be positive, negative or often in between, depending on the situation. Positive personal character traits lead to achievement of goals and success. So, if a member asks any question which is laying hands on the personal character of the person then that question would be disallowed by the speaker.

Talking about Lok Sabha, rule 41 (2) also talks the same as Rajya Sabha. In comparison to Rajya Sabha, Lok Sabha contains three additional rules namely:

- (1) [it shall not seek information about matters which are in their nature secret, such as composition of Cabinet Committees, Cabinet discussions, or advice given to the President in relation to any matter in respect of which there is a constitutional, statutory or conventional obligation not to disclose information;
- (2) it shall not ordinarily ask for information on matters which are under consideration of a Parliamentary Committee; and
- (3) it shall not ordinarily ask about matters pending before any statutory tribunal or statutory authority performing any judicial or quasi-judicial functions or any commission or court of

enquiry appointed to enquire into, or investigate, any matter but may refer to matters concerned with procedure or subject or stage of enquiry, if it is not likely to prejudice the consideration of the matter by the tribunal or commission or court of enquiry]⁸.

After briefing about Lok Sabha we will go further into this matter and discuss about the legislative assemblies of different states i.e. under what rules restrictions are imposed upon parliamentarians in putting up certain questions before the Parliament in the Question hour session. There are states which have same rules as mentioned in the Rule of Procedure and Conduct of Business in the Council of States and the House of the People but they have their own statutes. These states are as follows:

1.	ODISHA ⁹	Chapter VII, rule 44(1) (2).	The conditions admissibility of questions.
2.	MEGHALAYA ¹⁰	Chapter VIII, rule 37.	The conditions admissibility of questions.
3.	KERALA ¹¹	Chapter VII, rule 36 (1) (2).	The conditions admissibility of questions.
4.	TAMIL NADU ¹²	Rule no.- 23	
5.	Andhra Pradesh ¹³	Chapter VII, rule 43(1) (2).	The conditions admissibility of questions.
6.	MADHYA PRADESH, CHHATTISGARH ¹⁴	Chapter VII, rule 36(1)(2).	The conditions admissibility of questions.
7.	MAHARASHTRA ¹⁵	Chapter VI, rule 68(2).	
8.	UTTAR PRADESH ¹⁶	Rule 124	Admissibility of questions
9.	DELHI ¹⁷	Chapter VII, rule	Admissibility of questions

⁸ Rules of Procedure and Conduct of Business in Lok Sabha [Chapter vii, rule 41(2)].

⁹ <http://odishaassembly.nic.in/Rules.aspx>

¹⁰ Rules of Procedure and Conduct of Business in Meghalaya legislative assembly, Shillong -1, 2005.

¹¹ Rules of Procedure and Conduct of Business in Kerala legislative assembly, Thiruvananthapuram, April 2011.

¹² Tamil Nadu legislative assembly, Practice and procedure, Chennai

¹³ Rules of Procedure and Conduct of Business in Andhra Pradesh legislative assembly, [notified upto 01-12-2012]

¹⁴ Rules and Procedures of the Chhattisgarh Vidhan Sabha.

¹⁵ Maharashtra legislative assembly rules, Tenth edition, 2015

¹⁶ Rules of Procedure and Conduct of Business in Uttar Pradesh legislative assembly.

These are the few examples of various legislative assemblies of different states with same set of rules as in the main statute, the only difference is that the rule no. is different. Otherwise all have the same set of rules and regulations.

With this restriction legislatures are faced with some other restrictions too. Rule 48 of Rule of Procedure and Conduct of Business of the Council of states talks about the following:

Rule 48¹⁸- Questions on matters of correspondence between the Government of India and the Government of a State

In matters which are or have been the subject of correspondence between the Government of India and the Government of a State, no question shall be asked except as to matters of fact, and the answer shall be confined to a statement of fact.

After all these rules also if it is not clear, then the decision of the Chairman would be final in all the regards, according to rule 49 of the rules of procedure and the conduct of business of the council of states.

Rule 49- Chairman to decide admissibility

(1) The Chairman shall decide whether a question or a part thereof is or is not admissible under these rules and may disallow any question or a part thereof when in his opinion it is an abuse of the right of questioning or calculated to obstruct or prejudicially affect the procedure of the Council or is in contravention of these rules.

(2) Subject to the provisions of rule 44, the Chairman may direct that a question be placed on the list of questions for answers, on a date later than that specified by a member in his notice, if he is

¹⁷ Delhi legislative assembly rules and procedures.

¹⁸ Rules of Procedure and conduct of business in the council of states

of the opinion that a longer period is necessary to decide whether the question is or is not admissible.

RIGHT TO PRIVACY OR THE RIGHT TO INFORMATION WHICH ONE IS ULTIMATE?

OVERVIEW:

Privacy is a fundamental right recognized in the UN declaration of Human rights, and in many other international and regional treaties. Privacy underpins human dignity and other key values such as freedom of association and freedom of speech. It has become one of the most important human rights issues of the modern age.

[Certain human rights such as liberty, freedom of expression or right to life are universal and therefore would apply uniformly to all human beings worldwide. However, the concept of 'privacy' is a cultural notion, related to social norms, and different societies would look at these differently. Therefore referring to the Data Protection Act, 1988 of U. K. or the laws of other countries to define 'privacy' cannot be considered a valid exercise to constrain the citizen's fundamental right to information in India. Parliament has not codified the right to privacy so far, hence, in balancing the right to information of citizens and the individual's right to privacy, the citizen's right to information would be given greater weightage]¹⁹.

In India from this conclusion we can say that although privacy is a fundamental right which comes under article 21 of the Constitution of India it cannot always be enforced. If any conflict arises between these two rights then that conflict has to be solved by using the principle of harmonious construction²⁰.

In the case of *Mr. VR Sharma V. Ministry of labor and employment*²¹ on 18 May 2011 it was stated that there is no doubt that the information sought is "personal" information inasmuch as it is the Annual Confidential Report of a government officer. The ACR is a report that evaluates

¹⁹ Union of India v. Anita Singh WP(C)No. 677 of 2013 & CM No. 1293

²⁰ The rule of harmonious construction is the thumb rule to interpretation of any statute. An interpretation which makes the enactment a consistent whole, should be the aim of the Courts and a construction which avoids inconsistency or repugnancy between the various sections or parts of the statute should be adopted.

²¹ CIC/SG/A/2016/000464/12432

the work and performance of a public servant. The public authority concerned, must necessarily have this information so to make an assessment of its officers' performance. The ACR, containing certain information about the officer is disclosed by the officer to the public authority and such report is prepared by the public authority. This is necessarily done in the course of a public activity. Disclosure of such information cannot be construed as unwarranted invasion of privacy of the officer concerned as it concerns issues raised in the exercise of his public activity as a public servant. Moreover, a public servant is accountable to the public and therefore, every citizen has the right to obtain information that may assess his credibility, integrity and performance.

According to my opinion in our country right to privacy is different for a member of legislature and it is different for the general public. Right to privacy for a member of parliament is like very casual. They are considered as public serving people so people can ask any information about them using RTI provided that the thing which you are asking does not comes under the ambit of section 8²² of the RTI act, 2005. On the other hand legislatures have all the information about the general public which they cannot reveal it to anyone under the right to privacy, they can only reveal the information if there is larger public interest involved in that matter and that too with the consent of the person whose information is being released to the other people. There is a thin line difference between the two.

In another case of [Mr. Vishal Narula v. Mcd, Gncd Delhi]²³ on 29 January, 2011 it was held that The Parliament has not codified the right to privacy so far, hence in balancing the right to information of citizens and the individual's right to privacy, the citizen's right to information would be given greater weightage. The complete copy of the application for mutation of the property sought by the Appellant is personal information of the Third Party. However, an application for mutation of property was required to be submitted to the public authority in accordance with law and therefore, it comes within the ambit of information provided to the public authority in the course of a public activity. Further, the Third Party has failed to establish before the Commission how disclosure of an application for mutation of the property shall result in an unwarranted invasion of the privacy of the Third Party. Therefore, the contention of the

²² Section 8 of the RTI act, 2005- Exemption from disclosure of information.

²³ Decision no. – CIC/SG/A/2010/003155/11181

Third Party that disclosure of the complete copy of the application for mutation of property to the Appellant was exempted under Section 8(1)(j) of the RTI Act is rejected.

In [Mr. Shiv Prakash Makharia v. IDBI Bank]²⁴ on 14th September, 2011 it was held that:

Certain human rights such as liberty, freedom of expression or right to life are universal and therefore would apply uniformly to all human beings worldwide. However, the concept of 'privacy' is a cultural notion, related to social norms, and different societies would look at these differently. Therefore referring to the Data Protection Act, 1988 of U. K. or the laws of other countries to define 'privacy' cannot be considered a valid exercise to constrain the citizen's fundamental right to information in India. Parliament has not codified the right to privacy so far, hence, in balancing the right to information of citizens and the individual's right to privacy, the citizen's right to information would be given greater weightage.

THE HUMAN RIGHTS ACT:

²⁴ Decision no.- CIC/SM/A/2010/001610/SG/14604

In passing the Human rights Act, the UK parliament did not introduced law for any individual person but the public authorities including courts were to follow the guidelines provided by the European Convention on Human rights. Parliamentary sovereignty was preferred over the convention rights. Here the European Convention on human rights guarantees the right to respect for private and family life under article 8.

Article 8 states that:

1. Everyone has the right to respect for his private and family life, his home and his correspondence.
2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the 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 prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

U.K & OTHER STATE LAWS RELATED TO THE RESEARCH

The purpose of parliamentary questions is to elicit information from the government of the day, and thus to assist members of both Houses in holding the government to account. The House has resolved that it is of “paramount importance” that ministers should give “accurate and truthful” information to Parliament, and that they be as “open as possible” in answering questions. Such requirements are inherent in ministerial accountability to Parliament. A parliamentary question is not a “request for information” under the Freedom of Information Act 2000.

[What makes a question inadmissible?]²⁵

Questions are generally regarded as inadmissible if they fall into one or more of the following categories:

²⁵ Companion to the standing orders and guide to the proceedings of the house of lords, 2017, Rule 6.18

- Questions that cast reflections on the Sovereign or the Royal Family.
- Questions that relate to matters sub-judice.
- Questions that relate to matters for which the Church of England is responsible.
- Questions that relate to matters devolved to the Scottish Parliament, the Welsh Assembly or the Northern Ireland Assembly.
- Questions that contain an expression or a statement of opinion, or whose purpose is to invite the government to agree to a proposition, or to express an opinion.
- Questions that are phrased offensively. The principles of Standing Order 32 (asperity of speech) also apply.

There are other types of questions also that are inadmissible in the House of Commons, viz. –

- 1) In general, questions should not contain accusations against individuals. The names of individuals or bodies are not introduced into questions, individually or for the purpose of advertisement²⁶.
- 2) Questions should not be hypothetical, and should address issues of substance. Questions which are “trivial, vague or meaningless are not tabled²⁷.

The matters which are of less importance should be avoided in the parliament by the ministers in the question hour session.

While researching, I found a weird thing known as Personal statements which stated that:

(Members may by leave of the house make a short factual statement of a personal character, such as a personal apology, a correction of information given in a speech made by them in the house or a reply to allegations made against them in the house. Personal statements are usually made at the beginning of business and are not debatable.)²⁸

Canada has two personal information protection laws at the federal level. The Privacy Act and The Personal Information Protection and Electronic Documents Act (PIPEDA). PIPEDA among

²⁶Companion to the standing orders and guide to the proceedings of the house of lords, 2017, Rule 6.19(7)

²⁷Companion to the standing orders and guide to the proceedings of the house of lords, 2017, Rule 6.19(11)

²⁸Companion to the standing orders and guide to the proceedings of the house of lords, 2017, Rule 6.01

other things, contains a broader definition of “personal information “as well as provisions explicitly covering data matching. Moreover, it has been submitted that many of the problems with the Privacy Act could be remedied by adopting the privacy principles under the Canadian Standards Association Model Code for the protection of personal information, which forms the basis of PIPEDA’s privacy protection. The following 10 privacy principles from the model code are widely seen within the privacy community as constituting the basic elements of a solid framework for privacy management.

1. **Accountability:** an organization is responsible for personal information under its control and shall designate an individual or individuals who are accountable for the organization’s compliance with the following principles.
2. **Identifying Purposes:** the purposes for which personal information is collected shall be identified by the organization at or before the time the information is collected
3. **Consent:** the knowledge and consent of the individual are required for the collection, use, or disclosure of personal information, except where inappropriate.
4. **Limiting Collection:** the collection of personal information shall be limited to that which is necessary for the purposes identified by the organization. Information shall be collected by fair and lawful means.
5. **Limiting Use, Disclosure and Retention:** personal information shall not be used or disclosed for purposes other than those for which it was collected, except with the consent of the individual or as required by the law. Personal information shall be retained only as long as necessary for fulfilment of those purposes
6. **Accuracy:** personal information shall be as accurate, complete and up-to-date as necessary for the purpose for which it is to be used.
7. **Safeguards:** personal information shall be protected by security safeguards appropriate to the sensitivity of the information.
8. **Openness:** an organization shall make readily available to individuals specific information about its policies and practices relating to the management of personal information.

9. **Individual Access:** upon request, an individual shall be informed of the existence, use and disclosure of his or her personal information and shall be given access to that information. An individual shall be able to challenge the accuracy and completeness of the information and have it amended as appropriate.
10. **Challenging compliance:** an individual shall be able to address a challenge concerning compliance with the above principles to the designated individual or individuals for the organization's compliance.

Now you might be thinking how this thing is related to this topic to which I would like to say that a senator may speak whatever he wants within the Parliament because of the freedom of speech provided to him (Freedom of speech is arguably the most important parliamentary privilege; for a democracy to function properly the people's elected representatives must be free to raise any matter. If a person speaking in Parliament believes a fact or opinion needs to be raised in a debate, that person should not be deterred from raising it by fear of a criminal or civil liability. This protection has long been claimed, and found concrete expression in Article IX of the Bill of Rights 1689 and in the Claim of Right Act 1689 in Scotland), but then also they shouldn't discuss someone's personal matters in the parliament because that discussion has nothing to do with others and would only indicate malice in the mind of senator . So the conclusion rests at this point that although senators have freedom of speech, but then also there are certain laws which bound them in some particular ways, and these laws are known as Privacy laws. This freedom of speech applies to all the people taking part in the parliamentary proceedings but the thing is that this right extinguishes as soon as the parliamentary proceedings are over. Since 1689, the most important aspect of privilege – freedom of speech – has also been enshrined in statute law, by the Bill of Rights in England and Wales and by the Claim of Right Act in Scotland.

EXTENDING FAR DOWN

While going deep down this research I wish to share a news with you, but before that I want to tell you that while the Parliament is in session and then at that time someone who is speaking at that time cannot tell lie about some other person or minister. Like for example, In the House of

Commons, on 18 September 2012, MP Paul Flynn was kicked out of the UK parliament for telling the defence secretary Phillip Hammond that he was using British soldiers as human shields for ministers' reputations by sending them to die in vain in a war which was lost. He compared Hammond and other government ministers to politicians in the First World War "who lied and soldiers died." Paul Flynn refused to withdraw the accusation of lying and was banned from the House of Commons for five days²⁹, and the next day the headlines of the newspapers were flooded by the news that BRITISH MP BANNED FROM PARLIAMENT FOR SAYING THE GOVERNMENT WAS LYING ABOUT AFGHANISTAN. Here it could have been possible that what Paul Flynn was saying was correct but that matter was in the interest of national security and was somehow considered private and confidential to the government. So, from here we get the point that no matter what you cannot reveal private things of someone else in the Parliament.

CONCLUSION

Conclusion means ending of this research paper and certainly I didn't wanted this to end. I know I am being too philosophical at this point of time and I want you to know why I don't want this

²⁹<https://www.youtube.com/watch?v=XXNb3j2ZZEM> (speech from a member of Parliament)

to end because this research has been a journey to me with many up's and down's in it and the whole journey was in a way very meaningful to me. Transparency and legislature with laws related to certain privacy aspects which parliamentarians cannot infringe in the Parliament, this was the whole thing on which I researched, I found very less things on this topic and that is the reason why my research paper is very small, but the things that I have covered under my research are overwhelming. You would be wondering that many questions are there in my research which I have not yet answered and the reason is that, I thought of giving all the answers in the conclusion itself. Do Parliamentarians come under the ambit of RTI? Yes, Parliamentarians come under the ambit of RTI because we the people have elected them and we have all the rights to get information from them, and also in certain cases they can deny the recipient with the information. Next question which comes is right to privacy or right to information which one is ultimate? Before researching on this topic I thought that right to privacy should be considered first and then there should be some scope of right to information, but yet again I was proven wrong and the conclusion which came out was, if the information is in the interest of the general public then the right to privacy is put aside. So, here from these two questions and their conclusions I wanted that I write the conclusion of this research in parts and not in whole, which is inappropriate to me because when you are writing the conclusion then you have to describe the whole journey and end it in a beautiful way. I don't know if I will be able to end it in a beautiful way or not? So, finally from my point of view as many times discussed above, (sorry I don't have a new word for that.) it is true that parliamentarians have freedom of speech in parliament and they are free from the court proceedings also but then at the same time they cannot discuss about the private life of an individual in the parliament.

SUGGESTIONS:

The legislature is the legislative body of the country and the members sitting there are elected by the people of India, then what makes them think that work that they do is a private affair and the

general public should have no access to that information. For which RTI was passed in the year 2005. People now a days are keen to keep a check on the activities of a minister or a public authority and that is how there is a short fall in the corruption cases, because ministers fear that if they get caught up in this matter, there whole professional life would be finished.

There are certain general recommendations which I have stated and they are as follows:

- 1) Discussion papers on draft legislation- Department may consider publication of “green papers” which describes the people with policy objectives of the government on certain issues.
- 2) Publishing draft legislation- After a Bill has been introduced, it is published in the Official Gazette. Even before introduction, a Bill might, with the permission of the Speaker, be published in the Gazette, but then also department need to think of innovative ways of reaching out to the public through newspapers, websites and consultations.
- 3) Operationalizing section 4 of the RTI Act- Section 4 1(c) of the RTI Act requires government departments to proactively publish all relevant facts when formulating policies. Effective operationalization of this provision is an institutional mechanism through which the legislative process can be made more transparent and participatory.

Further concerning the privacy laws I think that there is a development process going on in this aspect. Now a days, the right to privacy is covered under the ambit of the right to life under article 21 of the Indian Constitution, and certainly by this thing the ambit of the privacy laws is getting broader. At the same time not waiting for the reforms to happen in our country in accordance with the privacy laws, there should be some amendments and more power should be given in the hands of CIC and SIC's.

REFERENCES

1. <http://rti.gov.in/>

2. http://www.tn.gov.in/rti/about_rti.htm
3. <http://adrindia.org/sites/default/files/Political%20Parties%20under%20RTI%20Act.pdf>
4. Decision no. – CIC/SM/C/2011/001386
5. Writ petition No.- 12076 of 2008 (GM – RES)
Reported in- ILR2010 KAR3214
6. Decision no. - CIC/SG/A/2012/001023/19365
7. Rules of Procedure and conduct of business in the council of states, Chapter vii, rule no. 38
8. Rules of Procedure and Conduct of Business in Lok Sabha [Chapter vii, rule 41(2)].
9. <http://odishaassembly.nic.in/Rules.aspx>
10. Rules of Procedure and Conduct of Business in Meghalaya legislative assembly, Shillong -1, 2005.
11. Rules of Procedure and Conduct of Business in Kerala legislative assembly, Thiruvananthapuram, April 2011.
12. Tamil Nadu legislative assembly, Practice and procedure, Chennai
13. Rules of Procedure and Conduct of Business in Andhra Pradesh legislative assembly, [notified upto 01-12-2012]
14. Rules and Procedures of the Chhattisgarh Vidhan Sabha.
15. Maharashtra legislative assembly rules, Tenth edition, 2015
16. Rules of Procedure and Conduct of Business in Uttar Pradesh legislative assembly.
17. Delhi legislative assembly rules and procedures.
18. Rules of Procedure and conduct of business in the council of states
19. Union of India v. Anita Singh WP(C)No. 677 of 2013 & CM No. 1293
20. The rule of harmonious construction is the thumb rule to interpretation of any statute.
An interpretation which makes the enactment a consistent whole, should be the aim of the Courts and a construction which avoids inconsistency or repugnancy between the various sections or parts of the statute should be adopted.
21. CIC/SG/A/2016/000464/12432
22. Section 8 of the RTI act, 2005- Exemption from disclosure of information.
23. Decision no. – CIC/SG/A/2010/003155/11181
24. Decision no.- CIC/SM/A/2010/001610/SG/14604

- 25.** Companion to the standing orders and guide to the proceedings of the house of lords,
2017, Rule 6.18
- 26.** Companion to the standing orders and guide to the proceedings of the house of lords,
2017, Rule 6.19(7)
- 27.** Companion to the standing orders and guide to the proceedings of the house of lords,
2017, Rule 6.19(11)
- 28.** Companion to the standing orders and guide to the proceedings of the house of lords,
2017, Rule 6.01
- 29.** <https://www.youtube.com/watch?v=XXNb3j2ZZEM>(Speech from a Member of Parliament)