



CONCEPT OF OPEN GOVERNMENT AND INFORMATION RIGHT

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Abstract-- Open government is the need of today's world. The RTI Act emphasizes that "democracy requires an informed citizenry" and that transparency of information is vital to flawless functioning of constitutional democracy. It is nobody's case that while all organs of the State must exhibit maximum transparency, no such obligation attaches to Political Parties. Given that Political Parties influence the exercise of political power, transparency in their organization, functions. A democratic polity, as understood in its quintessential purity, is conceptually abhorrent to corruption and, especially corruption at high places, and repulsive to the idea of criminalization of politics as it corrodes the legitimacy of the collective ethos, frustrates the hopes and aspirations of the citizens and has the potentiality to obstruct, if not derail, the rule of law. Democracy, which has been best defined as the Government of the People, by the People and for the People, expects prevalence of genuine orderliness, positive propriety, dedicated discipline and sanguine sanctity by constant affirmance of constitutional morality which is the pillar stone of good governance.

Key Words- *Open Government, Information, Fundamental Rights, Constitution, Democracy.*

1. INTRODUCTION

An open government is directed by the principal of transparency, accountability, participation and collaboration. Open government is a subject of developing significance in managerial regulation. The advanced pattern is towards more open government. Openness in government will undoubtedly act as a powerful beware of the maltreatment or abuse of power by the government.¹

Perhaps of the most ignored right in popular governments all through the world is the Right to Information, which however, being one of the most valued basic liberties has generally been dismissed by most nations all through the world, including India. The Right to Freedom of Information is presently viewed as a standard global regulation, which is exemplified from the reverence of the right in various state constitutions, as well as different worldwide pledges and deals most outstandingly the Universal Declaration of Human Rights [hereinafter UDHR], the International Covenant on Civil and Political Rights [hereinafter ICCPR] and the European Commission on Human Rights [hereinafter ECHR] among others.

The right to information has both inherent and instrumental worth. Its characteristic worth comes from the fact that residents reserve a privilege to be aware. It is a urgent step towards a more profound, more significant majority rules government. All the more substantially, in a nation like India it can advance action for improvement and thusly has extensive instrumental worth. Information empowers individuals to settle on illuminated decisions, and monitor chose delegates and authorities who guarantee to act for their aggregate benefit. Along these lines, accountability and transparency are both upgraded profoundly.

The lawful right to demand information (RTI) can prompt more open, responsible, and participatory government. OGP (Open government partnership) individuals are expected to have regulations

¹ <https://www.legalserviceindia.com/legal/article-63-open-government-and-right-to-information.html#:~:text=It%20aims%20at%20promoting%20Transparency,and%20recipients%20of%20government%20grants.>



empowering fair admittance to information. Through OGP, the viability of these regulations can be improved by eliminating extra obstructions to information and making stages to write about extortion or debasement. OGP individuals are additionally growing the wildernesses of RTI by empowering residents to utilize information to participate and shape arrangements, administrations and financial plans. This has been particularly powerful at the nearby level where governments are nearest to their residents.²

2. ADVANCEMENT OF RIGHT TO INFORMATION (INTERNATIONALLY)

Article 19 of all-inclusive announcement of **Human Rights, 1948** perceives the Right to information.

Sweden (1766): First country to ensure RTI to its residents. Constitution proclaims that residents will have free admittance to information subject to just some limitation.

Finland (1951): Law on the right to information on exposure of record.

France (1978): Commission on admittance to regulatory archives.

US: Foundation of openness and RTI lay in Constitutional fundamental right of free discourse.

Canada: Freedom of information Act, 1986.

Australia, New Zealand: Freedom of Information Act, 1982.

South Africa (1996): Constitution gives RTI as a fundamental right.

Great Britain: Freedom of Information Act, 2002 gives general right of community to a wide range of recorded information by open authority for certain exclusions.³

3. ADVANCEMENT OF RIGHT TO INFORMATION IN INDIA

In Rajasthan the Right to Information movement was started by Aruna Roy in the mid 1990's. The Mazdoor Kisan Shakthi Sangathan (MKSS) prevailed Through Struggle and tumult, in getting to and utilizing information to stop nearby defilement and double-dealing. In 2005 the Parliament has enacted another regulation - Right to Information Act 2005. This new Act supplant the old Freedom of Information act, 2002, which was un told and subsequently, not functional. It targets advancing Transparency and accountability in the working of each and every public power. It has the most extensive conceivable arrive at covering focal government, state governments panchayat raj Institution, Local Bodies and beneficiaries of government awards.

This right to information act is appropriate to all the province of Jammu and Kashmir. Which has its own Right to Information Act 2009 Every resident of India has the Option to look for information through this act. just an Individual can utilize this RTI office. A gathering or organization can't demand for any Information.

4. INFORMATION COMMISSION

The Act accommodates foundation of Central Information Commission and State Information Commission. The Information Commission acts as a redressal valve in guaranteeing that the specialists under the act do their obligations and works appropriately and the residents right to information is defended.

Each government office will have its own PIO (Public information officer) who is capable to acknowledge the solicitation from the Public and give the Information. Within 30 days of their solicitation a base expense is charged structure. The public individuals from BPL (Below Poverty Line)

² www.opengovpartnership.org

³ Ibid



are excluded from paying any charge to look for any information. Likewise there are APIOS (Assistant Public Information officers) accessible in the mail centers situated in principal urban communities and towns.

The officer is charged Rs.250 each day as punishment for the postponement. He is probably going to be charged Rs2500 for giving incorrectly Information to disavowal of Information and disciplinary action will be started against the officer who neglects to give Information and it his clarification isn't properly legitimate.⁴

5. EXPLANATIONS BEHIND THE NEED FOR THE RIGHT TO INFORMATION

- Right to information is fundamental due to the responsible to individuals.
- It diminishes the hole among administration and individuals.
- Increments individual's participation in administration.
- Pursues individuals mindful of managerial choice making.
- Diminishes the opportunity of maltreatment of power by the community workers.

6. RIGHT TO INFORMATION AS A FUNDAMENTAL RIGHT

Right to information has enacted from the freedom of discourse and articulation revered in article 19(1) (a) and right to life and individual freedom contained in article 21 of the constitution. The judiciary regards it as a piece of the freedom of discourse and articulation ensured by article 19(1) (a). It is additionally of similarly foremost thought that equity shouldn't just be finished yet in addition be freely perceived as having been finished.

In *Bennet Coleman v. UOI*⁵, the court held that the majority rules system implies a government of individuals, clearly every resident should be qualified for participate in the vote based people. Their successful participation can be guaranteed provided that they have adequate information with them.

7. THERE ARE A FEW PARTS OF OPEN GOVERNMENT

- a. Presentation of reports by the government in the court throughout some suit.
- b. Official mystery.
- c. Access to information.

8. INDIVIDUALS' RIGHT TO KNOW HAS TWO ANGLES

- a. How far government ought to utilize criminal authorization to prevent free progression of information?
- b. How far government is under a positive commitment to make accessible, on request, information to individuals not in the denied classification?

In *S.P.Gupta v. UOI, Bhagawathi*⁶. J, has seen that the open government is the new equitable culture of an open society towards which each liberal a majority rules system is moving and our nation ought to be no exemption.

⁴ The Information Technology Act, 2005

⁵ AIR 1973 SC 106

⁶ AIR 1982 SC 149



Residents should understand what their government is doing. No equitable government can make due without accountability which suggests that individuals ought to have information about the working of the government. Mystery in working of the government advance activity, defilement, abuse and maltreatment of power. Open government is a spotless government.

If the right to Freedom of Speech and Expression includes the Right to disseminate information to as wide a section of the population as is possible, the access which enables the right to be so exercised is also an integral part of the said right. The wider range of circulation of information or its greater impact cannot restrict the content of the right nor can it justify its denial.⁷

In *People's Union for Civil Liberties*, the SC dealt with this aspect of the freedom of obtaining information on certain matters on relating to the public acts flaws from the fundamental rights enshrined in Art 19(1)(a). Securing information on the basic details concerning the candidates contesting for elections to Parliament or the State Legislative promotes freedom of expression and therefore the right to information forms an integral part of above said article.⁸

Voters has a right to know the educational qualification of the candidate contesting in an election. The fundamental rights is concomitant to Electoral Right.⁹

In *Secretary of service of information and broadcasting, Government of India v. Cricket relationship of west Bengal*¹⁰, the high court held that the freedom of discourse and articulation incorporates rights to obtain information and to disperse it.

In *Tata Press Ltd v. Mahanagar phone Nigam Ltd.*¹¹, the court held that business discourse is a piece of freedom of discourse and articulation. Such a long ways as the monetary requirements of a resident are concerned, their satisfaction must be directed by the information spread through the advertisements.

In *Dinesh trivedi v. UOI*¹², Supreme Court underlined that right to know is proverbial in present day established majority rules systems. Craftsmanship 21 is useless without the right to information.

In *Attorney General v. Time News Papers Ltd*¹³, it was held that the fundamental rights included are individuals' right to be aware. Freedom of discourse an articulation ought to, in this way, get a liberal help from every one of the individuals who put stock in the participation of individuals in the administration.

Indians document almost 60 lakh RTIs consistently, the largest number of such information demands on the planet . A complete number of 2,74,737 RTI applications were recorded under independent in various divisions and organizations in Delhi.

Simpreet Singh RTI activist said, "It simply takes 10 Rs to right a wrong the greatest accomplishment of RTI is that it lets the most powerful individuals know that they are not past the scope of an everyday person."

For Example

Through a RTI starting from the power bill of your nearby commissioner to the sum spent by the government in preparing of a competitor. A little kid in her RTI asked who has provided the request for printing Mahatma Gandhi's picture on cash notes.

⁷ Shreya Singhal v. UOI, (2015) 5 SCC 1

⁸ PUCL v. UOI, (2003) 4 SCC 399

⁹ Mairembam Prithiviraj v. Pukhrem Sharatchandra Singh, (2017) 2 SCC 487

¹⁰ AIR 1995 SC 1236

¹¹ AIR 1995 SC 2438

¹² (1997) 4 SCC 306

¹³ 1974 ac 273



In one more fascinating RTI, a political activist in 2004 asked the political decision commission of India for what good reason political race images utilized in electronic democratic machines are high contrast and not bright.

9. STATE LEVEL LAWS

The RTI regulations were first effectively enacted by the state governments – Tamilnadu (1997), Goa (1997), Rajasthan (2000), Karnataka (2000), Delhi (2001), Maharashtra (2002), Madhya Pradesh (2003), Assam (2002).

10. EXCLUSION

There is a limitation in looking for information as per the authority Secret Act 1923 and such information won't be uncovered or given to the resident of India in light of a legitimate concern for the nation's security. No information relating to workplaces and segment managing security of the country which will imperil the public security, security to the personnel, like the defence, CBI, CID, BSI, Police etc. However any issues connecting with breakdown or defilement in the division are barred and can be looked for through this RTI Act.¹⁴

11. RTI AND ADMINISTRATIVE REFORMS

- RTI and Administrative Reforms have a commonly building up harmonious connection.
- RTI guarantees transparency, accountability and effectiveness which are themselves objectives of Administrative Reforms.
- RTI helps in uncovering the deficiencies of the framework which prompts further Administrative Reforms.
- RTI can't prevail in that frame of mind until and except if upheld by primary and procedural changes. Consequently Administrative Reforms are a need for RTI achievement.
- Solicitation of information under RTI can assist with making the government employees mindful of the issues and subsequently prompts restorative action.

12. CONCLUSION

The officer who is the top of all the information act is the Chief Information Commissioner (CIC). Toward the year's end CIC is expected to present the reports which contains the quantity of solicitations, measure of charges gathered by every public power under the act and so on, Bhopal Gas Tragedy might have been stayed away from assuming that individuals had been given finished information about the risks of the plants and the defensive measures.

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¹⁴ www.legalservices.com



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