



Government of Tamilnadu
Department of Employment and Training

Course : TNPSC Group IV / VAO Exam

Subject : Indian Polity

Topic : **RIGHT TO INFORMATION**

@ Copyright

The Department of Employment and Training has prepared the TNPSC Group-IV / VAO Exam study material in the form of e-content for the benefit of Competitive Exam aspirants and it is being uploaded in this Virtual Learning Portal. This E-content study material is the sole property of the Department of Employment and Training. No one (either an individual or an institution) is allowed to make copy or reproduce the matter in any form. The trespassers will be prosecuted under the Indian Copyright Act.

It is a cost-free service provided to the job seekers who are preparing for the Competitive Exams.

Commissioner,
Department of Employment and Training.

RIGHT TO INFORMATION.

Article 19(1) of the Indian Constitution specifies that the Right to Information (RTI) is a part of the fundamental rights. It says that every citizen has freedom of speech and expression. In 1976, in the Raj Narain vs the State of UP, it was held by the Supreme Court that people cannot speak unless they know. Hence the Right to Information is embedded in Article 19. It was also said in the same case that the in the Indian democracy, people are the masters which give them the right to know about the functioning of the government. RTI Act provides machinery for exercising this fundamental right.

As per the RTI Act 2005, every citizen has the right to receive a timely response from the government for any information that is sought by them with respect to the functioning of the government.

The basic objective of RTI is

- Empowerment of the citizens
- Promotion of transparency and accountability in the functioning of the government
- Prevention and elimination of corruption
- Making the democracy work FOR the people in its real sense.

An informed citizen is better equipped to have a better vigilance on the instruments of governance in order to make the government more accountable to the governed. RTI is a huge leap in keeping the citizens informed about the activities of the government.

An RTI portal is created by the Ministry of Personnel, Public Grievances and Pensions in order to facilitate the process of RTI. Besides access to information related to RTI, published disclosures by various public authorities under the state and the central governments, it acts as a gateway for obtaining information on the details of first Appellate Authorities, Principle Information Officers etc.,

- Every Public authority is obligated to maintain a computerised version of all the records in a manner that could be accessed over a network at any place within the country by issuing it to the person on his/her demand.
- Various channels need to be frequently updated by the public authority so that the use of RTI Act to seek information can be kept to a bare minimum.

A written or electronic request must be placed by a person seeking information under the RTI Act. No reason shall be sought from the person placing the request except the contact details in case the authorities would have to contact him/her. However, the

authorities are not obligated to provide any such information that is received under confidence by a foreign government, cabinet papers, information forbidden to be shared by the court of law, information that could potentially hurt the sovereignty and integrity of India.

Under the RTI, every citizen is empowered to:

1. Seek information / ask questions to the government
2. Request for copies of government documents
3. Inspect government documents and works
4. Request for samples of materials of any government work

Right to Information Act, 2005

Right to Information (RTI) is act of the Parliament of India to provide for setting out the practical regime of the right to information for citizens and replaces the erstwhile Freedom of information Act, 2002. Under the provisions of the Act, any citizen of India may request information from a "public authority" (a body of Government or "instrumentality of State") which is required to reply expeditiously or within thirty days. The Act also requires every public authority to computerise their records for wide dissemination and to proactively certain categories of information so that the citizens need minimum recourse to request for information formally.

This law was passed by Parliament on 15 June 2005 and came fully into force on 12 October 2005. Every day, over 4800 RTI applications are filed. In the first ten years of the commencement of the act over 17,500,000 applications have been filed.^[1]

Information disclosure in India is restricted by the Official Secrets Act 1923 and various other special laws, which the new RTI Act relaxes. Right to Information codifies a fundamental right of the citizens of India. RTI has proven to be very useful, but is counteracted by the Whistleblowers Act.^[2]

Scope

The Act covers the whole of India except Jammu and Kashmir, where J&K Right to Information Act is in force. It covers all the constitutional authorities, including 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".

Private bodies

Private bodies are not within the Act's ambit directly. In a decision of Sarbjit roy vs Delhi Electricity Regulatory Commission,^[1] the Central Information Commission also reaffirmed that privatised public utility companies fall within the purview of RTI. As of 2014, private institutions and NGOs receiving over 95% of their infrastructure funds from the government come under the Act

Political parties

The Central Information Commission (CIC) held that the political parties are public authorities and are answerable to citizens under the RTI Act. The CIC said that six national parties - Congress, BJP, NCP, CPI(M), CPI and BSP and BJD - has been substantially funded indirectly by the Central Government and have the character of public authorities under the RTI Act as they perform public functions.^{[6][7]} But in August 2013 the government introduced a Right To Information (Amendment) Bill which would remove political parties from the scope of the law. Currently no parties are under the RTI Act and there has a case been filed for bringing all political parties under it.^[8]

Governance and process

The Right to information in India is governed by two major bodies:

- Central Information Commission (CIC) – Chief Information commissioner who heads all the central departments and ministries- with their own public Information officers (PIO)s. CICs are directly under the President of India.^[9]
- State Information Commissions – State Public Information Officers or SPIOs head over all the state department and ministries. The SPIO office is directly under the corresponding State Governor.

State and Central Information Commissions are independent bodies and Central Information Commission has no jurisdiction over the State Information Commission.^[9]

Fees

A citizen who desires to seek some information from a public authority is required to send, along with the application (a Postal order or DD (Demand draft) or a bankers cheque) payable to the Accounts Officer of the public authority as fee prescribed for seeking information. If the person is from a disadvantaged community, he/she need not pay. The applicant may also be required to pay further fee towards the cost of providing the information, details of which shall be intimated to the applicant by the PIO as prescribed by the RTI ACT

Controversies

The Right to information in India has been mired with controversies ranging from their use in political battles, asking for educational degrees of political rivals, or cases of

blatant refusals to provide information on high-profile projects to allegations of misuse by civil society.^{[11][12][13]}

Digital right to information systems

A digital portal has been set up, **RTI Portal**, a gateway to the citizens for quick search of information on the details of first Appellate Authorities, PIOs etc. amongst others, besides access to RTI related information / disclosures published on the web by various Public Authorities under the government of India as well as the State Governments. It is an initiative taken by Department of Personnel and Training, Ministry of Personnel, Public Grievances and Pensions

Though there are recent efforts on digital governance, Right to Information implementation has seen a digitalisation neglect even after 11 years of its enactment. A recent research on 'Ballot Box India' outlines that though central ministries are covered by a single Digital window to file Right to Information requests with integrated payment gateways and tracking mechanism none of the states have, as of yet, come forward to implement their versions or use the existing Right to Information Digital Infrastructure.^[15] The research report covering 29 states and union territories also highlights the responses from the SPIOs (State Public Information Officers). Researchers in the study focussed on the Digital implementation and asked about plans or timeline to provide such facility. 64% State Public Information failed to respond while the rest of the responses merely took cognizance without any hard timelines. The research also covers in details - the difficulty in filing manual Right to Information requests with the states with delays ranging many months of wait time and various follow ups and rejections. Every state in India has different rules and fee structures to file an application through registered post without any tracking mechanism as covered in details in the report.^{[15][16]} right to information is a scheme to provide the individual acts for all citizens of all across in the world.

Activism around an efficient right to information

Researchers and activists have been proposing changes to make the process easier, efficient and meaningful. One of it demands state and central information systems under one Digital System to streamline information flow and provide proactive information backed by streamlined mandatory reporting.

Right to Information (RTI Act 2005) - One RTI campaign flyer started by ballot box India researchers after doing a survey with 28 states SPIOs and Central CIC.

The Right to information(RTI Act 2005) was touted as one law which would bring in transparency and eradicate corruption by civil society direct involvement. Failure to implement it in a thoroughly and efficiently has led to rough loss estimate of \$245 million yearly as per one estimate.^[15] The first RTI application was filed at a police station in Pune by Shahid Raza Burne

India being a federal state has many items in concurrent list and projects have multiple departments working on them, and sometimes projects are moved from one department to another. With Central and State information commissions working in such a disconnect, and manual transfers of the request for information between departments lead to big delays, confusion, and loss of traceability. It not only denies timely information, creates high barriers to information only a few with very strong motivations and means can cross, but puts a common citizen at the risk by exposing them directly to the departments and agencies which they are trying to find information on.

Digital RTI Mission was initiated by a policy think tank based in Kochi (CPPR) to make Kerala the first RTI digital state in India.

Attacks on RTI activists and protection suggestions

Commonwealth Human Rights Initiative (CHRI) data points to over 310 cases^[20] across India where people were either attacked, murdered, physically or mentally harassed or had their property damaged because of the information they sought under RTI. The data throws up over 50 alleged murders and two suicides that were directly linked with RTI applications filed.^[21]

There is a consensus felt that there is a need to amend the RTI Act to provide for the protection of those seeking information under the Act.^[22] The Asian Centre for Human Rights recommends that a separate chapter, "Protection of those seeking information under the(RTI) Act", be inserted into the Act.

Protection measures suggested include:

- Mandatory, immediate registration of complaints of threats or attacks against RTI activists on the First Information Report and placing such FIRs before the magistrate or judge of the area within 24 hours for issuance of directions for protection of those under threats and their family members, and periodic review of such protection measures
- Conducting inquiry into threats or attacks by a police officer not below the rank of Deputy Superintendent of Police/Assistant Commissioner of Police to be concluded within 90 days and we also use RTI and get its benefit.

Intellectual property rights

Many civil society members have recently alleged the subversion of the right to information Act by the invocation of Intellectual Property rights argument by the government agencies from time to time.

Most notable are:

- The Right to Information denied by RBI on Demonetization citing Intellectual Property Laws.

- The Right to Information Denied by Uttar Pradesh Irrigation Department after more than 8 months of a wait on under construction Gomti Riverfront Development Project. A group of researchers requested for environment Impact and Project Report on the project which is flagged for negative impacts, tax money wastage by environmental scientists and research reports.^[11]

