

RIGHT TO INFORMATION AND GOOD GOVERNANCE IN INDIA

Satyam Kumar Pandey and Abhinav Mishra¹

Abstract

Accountability, transparency, freedom of speech and expressions etc; are inalienable feature of any democratic system. And the importance of these becomes more when it comes to such a diverse country like India. Right to Information Act, 2005 is a step ahead in achievement of these ideals. The preamble of the Act itself provides that “Democracy requires an informed citizenry and transparency of information which are vital to its functioning and also to contain corruption and to hold governments and their instrumentalities accountable to the governed”.

The transformation from mere governance to good governance is possible only if the citizens of the country have right and access to information of and participation in the governance. The good governance is the governance in which people are served by their representatives not ruled by their representatives.

Participation of people is sine qua non of any democratic form of government in achieving the ideal of good governance and RTI is a measure step towards this goal.

RTI, not only brings transparency, accountability in governance but also act as the deterrent against the arbitrary actions, policies, and decisions of public authorities. Therefore, RTI, undoubtedly strengthen the governance.

The right to Information Bill, 2005 was passed by the Lok Sabha on May 11, 2005 and by the Rajya Sabha on May 12, 2005 and received the assent of the President of India on June 15, 2005 and came to force on October 12, 2005.

The paper tries to highlight the basic objective or purpose of RTI and its importance with good governance. The paper focuses on the challenges or hindrances in efficient working of this act and also recommendations regarding this.

INTRODUCTION

“Democracy is the form of government established by the people, of the people and for the people”. This phrase suits on the text only until and unless there is access of right to information

¹ Damodaram Sanjivayya National Law University, Visakhapatnam.

of the activities of their representatives. This right includes right of holding public opinion and to seek, receive information from the public authorities.

There is very close link between right to information and good governance. Right to Information is the tool of achieving the goals of good governance. The essences of good governance are transparency, accountability, responsiveness and consequently these are promoted or facilitated by the Right to Information.

Welfare of the people is considered as the goal of representative form of government and the source of the government's income is generated from the taxes paid by these people, consequently they have justifiable right to know whether their income is properly utilised or not. The extent of this right does not limited to mere getting information but to but also to take legal action in form of PIL etc. and get the justice through the courts of law.

RTI has the very active and vital role in the good governance in India; where, corruption and criminalization is the nerve of administration and the source of this corruption is the secrecy which they have maintained for the long time, therefore introduction of the RTI Act is the measure step towards reducing the corruption to certain extent.

“We live in an age of information, in which the free flow of information and ideas determines the pace of development and well being of the people. The implementation of RTI Act is, therefore, an important milestone in our quest for building an enlightened and at the same time, a prosperous society. Therefore, the exercise of the Right to Information cannot be the privilege of only a few.”²

People who have access to information and who understand how to make use of the acquired information in the processes of exercising their political, economic and legal rights become empowered, which, in turn, enable them to build their strengths and assets, so as to improve the quality of life. And ultimately this is only the aim of good governance.

Focusing on the importance of RTI Prime Minister “*Digital India, which was the part of good governance campaign of the government was complementary to RTI because putting information online brings transparency which in turn brings trust.*”Further he says “*RTI has become a tool of good governance. The RTI Act should not just be limited to a citizen's right but it should empower everyone to hold truth to power*”³

OBJECTIVES OF RTI

² Dr. Manmohan Singh ,former Prime Minister of India, Valedictory Address at the National Convention on RTI, October 15, 2006

³ Prime Minister, Narendra Modi, addressing at the 10th Annual Convention of RTI law.

The basic object of the Right to Information Act is to empower the citizens, promote transparency and accountability and greater participation in the working of the Government, Contain corruption, and make our democracy work for the people in real sense. It goes without saying that an informed citizen is better equipped to keep necessary vigil on the instruments of governance and make the government more accountable to the governed. The Act is a big step towards making the citizens informed about the activities of the Government

NEXUS BETWEEN RTI AND GOOD GOVERNANCE

“Open Government is the new democratic culture of an open society towards which every liberal democracy is moving and our country should be no exception. In a country like India which is committed to socialistic pattern of society, right to know becomes a necessity for the poor, ignorant and illiterate masses.”⁴

Whenever we talk about good governance, basic and first things that strike in our minds are transparency, accountability, participation of the people, informed citizenry etc, and these elements are core value of any good governance. The objectives and purpose of the very RTI Act is to achieve these objectives, so in this way it acts as a tool for good governance.

The objectives of the Act are:

Greater Transparency: Rights which are provided in various sections of the Act certainly facilitates the greater transparency in work of public authorities. For instance, under section 2(j), of the Act, a citizen has the right to:

- Inspection of work, documents, records
- Taking notes extracts or certified copies of the documents or records
- Taking certified sample of material, and
- Obtaining information in electronic form, if available

Under section 4(1)(d) of the Act, a public authority is required to provide reasons for its administrative or quasi judicial decision to the affected persons.

The commission u/s 20(1) has power to impose penalties or to recommend disciplinary action against the information providers, if held for being stone in path of the free flow of information. In other words, intention of the framers of this Act is that there should not be any bottle neck in the process of free flow of information to the citizens. The citizens are thus better informed about the performance and contributions of the elected representatives, which augurs well for a healthy democracy and democratic governance of projects.

⁴ SP Gupta v. UOI (AIR) 1982 SC (149)

One of the most important features of the Act is that a person who seeks information need not provide any reasons and very much unnecessary details of himself/herself which encourages more filing of RTIs, which ultimately promotes greater transparency.

However, it is admitted that this feature has its own disadvantage also. Sometime this right is misused by few people, but the number of misuse is far less than the benefit out of it.

Greater Accountability: One of the brilliant features of RTI is that it makes public authorities answerable to the general public, which strengthen the participatory democracy. Every public authorities is required to provide reasons for its administrative and quasi judicial decisions to the affected persons u/s 4(1)(d) of the Act, and hence the possibility of arbitrariness reduce to the great extent.

The worldwide accepted indicators of good governance over the period of time are:

- Voice and accountability
- Political stability and absence of violence
- Government effectiveness
- Regulatory quality
- Rule of law
- Control of corruption

Rule of Law: Good governance requires fair legal frameworks that are enforced impartially. A fair, predictable and stable legal framework is essential so that businesses and individuals may assess economic opportunities and act on them without fear of arbitrary interference or expropriation. This requires that the rules be known in advance, that they be actually in force and applied consistently and fairly, that conflicts be resolvable by an independent judicial system, and that procedures for amending and repealing the rules exist and are publicly known.⁵

Participation: Good governance requires the participation of the society in formation of policies, legislations, strategy, etc. since all these policies affect the society as a whole or say a particular part of the society, whatever the case may be but the participation of people is very crucial in determining the path of governance.

Even if a particular part of society has the secondary effect of the particular programme or policy, there should be consultancy process so that their view should be taken into the account.

Governance which lacks these components certainly turns into a bad governance. The path without adoption of these components leads to abuse of power, corruption, aloofness in administration.

⁵ Shilpa, RTI: A Tool to Strengthen Good Governance and Tackling Corruption, International Journal of Humanities and Social Science Invention, ISSN (Online): 2319 – 7722, Volume 2 issue 2.

CHALLENGES IN RTI WAY OF GOOD GOVERNANCE

- **Low Level of Awareness:** The Act itself through section 26 states that the appropriate government may develop and organise educational programmes to promote the understanding of the public, especially the disadvantage community, regarding how to exercise the right contemplated under the Act. However according to the surveys, nearly 20% of the respondents were aware of the RTI Act.

Sources of this awareness were:

- ✓ Mass media channels like television channels, newspapers etc
- ✓ Word of mouth

This awareness level is further lower among disadvantaged community such as women, rural population, and backward classes like SCs, STs, and OBCs.

- **Inconvenient submission channels for RTI application:** As per Section 6(1) of the Act a citizen can make a request “in writing or through electronic means in English or Hindi or in the official language of the area in which the application is being made..... However, inadequate efforts have been made to receive RTI applications through electronic means i.e., on email/ website etc, which can be done by the appropriate Government using Section 26(3c).
- **Protection of Whistleblowers:** This is one of the most alarming issues in the way of RTI. Recent data and surveys clearly show the increasing number of assault and murder of RTI activists throughout the country. The whole purpose of the Act will be of no use if such types of activities are not prevented and if strict punishments are not inflicted to the wrongdoers.
- **Lack of Uniformity:** The implementation of RTI act is uneven. It is not equally implemented to all the states. Therefore, awareness level also differs from state to state. In states like Arunachal Pradesh, Uttarakhand and Punjab the awareness level about RTI act is high, on the other hand awareness of people in Gujrat, Madhyapradesh, Jharkhand and UP is not high. Moreover different rules for different states especially on fees and costs make the RTI filing ineffective.⁶
- **Favouritism:** Generally, it is observed that retired bureaucrats are being appointed for the post of highest level of RTI officials i.e. the information commission at the central and state levels. These commissions are the independent of the government. Activists are of the opinion that these officials often show sympathetic attitude towards their fellow babus.⁷

⁶ Borah, Sri Keshbananda, *RTI: a key to good governance*, International Journal of Humanities and Social Science Invention, ISSN (Online): 2319 – 7722, Volume 2 Issue2.

⁷ Ibid.

SUGGESTIONS OR RECOMMENDATIONS FOR PROPER IMPLEMENTATION OF RTI ACT

- Since, as mentioned above, lack of awareness is the main challenge for the implementation of the Act, therefore the “publicity” of the Act becomes very important. There must be allocation of enough funds from the government side for the publicity of the RTI Act, and also, these funds should be spent through CIC.
- Apart from government, NGOs and civil society groups should take initiatives to conduct awareness campaign to educate rural population about the Act. These initiatives must preferably targeted towards vulnerable groups like, women, farmers, middle and working class people; the reason for the same is that these classes of people are the more affected groups who suffer due to the exploitation of public authorities.
- With the Right to Information (RTI) Act, 2005 completing a decade of its enactment, it is high time for our judicial fraternity to revisit its hitherto adopted conservative approach with respect to submitting itself before this progressive piece of legislation aimed at insuring transparency and accountability in working of every authority so that it gives a clear and strong signal to all those critics who often decry and question its image as an institution functioning in a clandestine and opaque manner.⁸
- Introduction of the RTI Act in the school syllabus is also very important so that the children who are considered as the future leaders of the country may get a brief idea of the Act and they could be encouraged to knowing further in future.
- Public officials, such as district collectors and deputy commissioners, who are responsible for the administration at district level, must be given responsibility of monitoring and implementation of the Act through various departmental authorities within their respective district.
- It is evident from the past few years that the life of whistleblowers is no safe in this country. There is rapid increase in the number of attacks and also some result in death of these activist. It is the moral responsibility of the government to protect RTI activists and users and take legal action against the attackers; punishment of such type of offenders must be enhanced.
- Officials representing public authority must be trained so that they are made aware of their duties and obligations under the RTI Act.
- Political influence on the public authorities may be hindrance in the efficient working of these authorities, so they have to maintain integrity by ignoring the vested interest.

⁸ Kumar Hemant, Contributing Editor, Lawyers Update, vol. XXI, Part 8, August, 2015

- **Finally**, democratization of information and knowledge resources is critical for people's empowerment to realize the entitlements as well as to augment opportunities for enhancing the options for improving quality of life. The strengthening of information regime is therefore *sine quo non* for promoting democratic governance and right to development.

CONCLUSION

Thus it can be correctly said that RTI as a whole is a great step in a democratic set up like India. It is a powerful tool that can deliver significant social benefits. It can provide a strong support to democracy and promote good governance by empowering citizen's ability to participate effectively and hold government officials accountable rather than just an information provider.

However, there are challenges in the effective implementation of the Act but the same can be removed by taking suitable measures and the goal of good governance, i.e. transparency, accountability, greater participation etc. can be achieved through RTI.

Currently, the RTI Act is passing through the decisive phase, much more needs to be done to facilitate its growth and development.

References

Original work by taking references from following sources:-

Articles

- Borah, Sri Keshbananda, *RTI: a key to good governance*, International Journal of Humanities and Social Science Invention, ISSN (Online): 2319 – 7722, Volume 2 Issue2.
- Shilpa, RTI: A Tool to Strengthen Good Governance and Tackling Corruption, International Journal of Humanities and Social Science Invention, ISSN (Online): 2319 – 7722, Volume 2 issue 2.

Apart from these sources, no. of books, articles, newspapers and books have been referred which have been cited throughout the paper.

