



## Right to information act, 2005: Issues and challenges

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### Abstract

Right to Information Act, 2005 is the best piece of legislation enacted by the legislature. Even before enactment of this Act, the judiciary on many occasions held that people of this country have a right to know. The Apex Court held that the Right to Information is a fundamental right under Article 19(1) (a) of the Constitution of India. Even after the enactment of Act the judiciary and Information Commissions are busy in interpreting which information is of personal nature and where the public interests are involved. It seems still it is evolving and long way to settle in definite destination.

**Keywords:** information, personal nature, public interest

### 1. Introduction

Although the Right to Information was explicit in the Constitution of India in Article 19 but there were various issues whereby the information were denied by the public authorities. In *State of U.P. v. Raj Narain*<sup>[1]</sup> the Apex Court held that people of this country have a right to know every public document and everything that is done in a public way, by their public functionaries. In *S.P. Gupta v. Union of India*<sup>[2]</sup> it was held that open government is the new democratic culture of an open society toward which every democratic society is moving and our country should not be exception. In *Secretary, Ministry of Information and Broadcasting, Government of India v. Cricket Association of West Bengal*<sup>[3]</sup> the Supreme Court opined that Article 19(1) (a) of the Constitution of India provides that all citizens shall have right to freedom of speech and expression. Article 19(2) states that nothing in Article 19(1) (a) shall affect the operation of any existing law, or prevent that State from making any law, in so far as such law imposes reasonable restrictions on the exercise of the right conferred by the said article in the interests of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality or in relation to contempt of court, defamation, or incitement to an offence. In *People Republic for Civil Liberties v. Union of India*<sup>[4]</sup> it was observed that Right to information is a fundamental right under Article 19(1) (a) of the Constitution. However, the state under Article 19(2) of the Constitution is entitled to impose reasonable restrictions in the interest of State. In *B.C. and Co. v. Union of India*<sup>[5]</sup> it was opined that freedom of speech and expression under Article 19(1) (a) of Indian Constitution includes two fold rights; one the right of citizen to speak and second the right of community to hear or know. Even before the Right to information Act,

2005 various statutory provisions were available to access the information in restricted form which included The Factory Act, 1948 (there must be compulsory disclosure of Information to Factory workers who have right to know regarding dangers including health hazards and measures of protection); The Indian Evidence Act, 1872 (S.76 Public officials to provide copies of public documents to anyone who has right to inspect them) Trade Marks Act, 1999 (the certain documents are to be open to public inspection at the Trade Marks Registry like register upon which any entry in register is based, every notice of opposition etc); The Representation of People Act, 1951 ( candidate contesting in election is required to furnish in his nomination paper like accusation of any offence punishable with two or more years of imprisonment in any case including framing of charges in any case, conviction of an offence and sentence of one or more than one year imprisonment in the form of an affidavit and the details of his assets and liabilities); The Environment (Protection) Act, 1986 (Procedure for public hearings and the requirement for the publication of a proposal of any project affecting the environment); The Air (Prevention and Control of Pollution) Act, 1981 (the State shall maintain a register containing information relating to air pollution); The Water (Prevention and Control of Pollution) Act, 1974 (State shall maintain a register containing information relating to water pollution) etc. In *Union of India v. Association of Democratic Reforms*<sup>[6]</sup> the Apex Court opined that democracy cannot survive without free and fair election, without free and fairly informed voters. The Tamil Nadu Right to Information Act, 1997, Goa Right to Information Act, 1997, The Madhya Pradesh Right to Information Act, 1998, The Karnataka Right to Information Act, 2000, The Rajasthan Right to Information Act, 2000, The Delhi Right to Information, Act 2001.

<sup>1</sup> AIR 1975 SC 865

<sup>2</sup> AIR 1982 SC 149

<sup>3</sup> AIR 1995 SC 1236

<sup>4</sup> AIR 2004 SC 1442

<sup>5</sup> AIR 1973 SC 63

<sup>6</sup> AIR 2002 SC 2112

In 2004, the efforts of National Advisory Council brought into existence the enactment of Right to information Bill, which was passed by parliament in 2005 and came into force in October 12, 2005.

## 2. Judicial Trends

In *Tamil Nadu Road Development Co. Limited v. Tamil Nadu Information Commissioner* <sup>[7]</sup> it was held by Citizen's right to know emanates from citizen's right to freedom of speech and expression, which is a fundamental right under Article 19(1) (a) of the Constitution. RTI Act which has been enacted to give effect to right to know which is one of the basic human rights in today's world, must receive a purposive and broad interpretation.

### 2.1 No need to give purpose/reasons for seeking information

In *Usha Devi v. Central Public Information Officer, NABARD* <sup>[8]</sup> held that the Information Officer had no right to enquire from the complainant about his intention or purpose. Therefore, where any application is given under this Act, applicant is neither required to give reasons for demanding information nor he can be compelled to give reasons. In *Surupsingh H. Naik v. State of Maharashtra* <sup>[9]</sup> the Bombay High Court reiterated that the reasons for the information sought by the respondent need not be given. Section 6(2) of the Act does not require the applicant to give any reasons for requesting the information. In *Board of Management of Bombay Properties of the Indian Institute of Science, Mumbai v. Central Information Commission, New Delhi* <sup>[10]</sup> it was held by the Bombay High Court that *locus standi* or the intention of the applicant cannot be questioned and the public authority is required to furnish all the information sought by him except what has been exempted under section 8 therein.

### 2.2 Answer sheets of Examinee

In, *Central Board of Secondary Education v. Aditya Bandopadhyay* <sup>[11]</sup> it was held that an examining body does not hold the evaluated answer books in a fiduciary relationship. Further, no other exemption under section 8 is available in respect of evaluated answer books; hence, the examining bodies must permit inspection sought by the examinees.

The information as to the names or particulars of the examiners/co-ordinators/scrutinisers/head examiners are therefore exempted from disclosure under Section 8(1)(g) of RTI Act, on the ground that if such information is disclosed, it may endanger their physical safety. Therefore, if the examinees are to be given access to evaluated answer books either by permitting inspection or by granting certified copies, such access will have to be given only to that part of answer book which does not contain any information or signature of the examiners/co-ordinators/scrutinisers/head examiners

exempted from disclosure under Section 8(1) (g) of the Right to Information Act, 2005.

In *Bihar School Examination Board v. Suresh Prasad Sinha* <sup>[12]</sup> the Apex Court said that answer sheet or any document containing personal information of third person is exempted under section 8(1) (e) and (j) of the Right to Information Act, 2005.

### 2.3 Personal Information not to serve public interest

In *Girish Ramchandra Deshpande v. Central Information Commissioner and Others* <sup>[13]</sup> the Supreme Court refused to order disclosure of the service related records of a civil servant such as copies of memos, charge sheet issued in disciplinary proceedings, immovable property returns, income tax returns, detail of investment made, detail of gift received etc on ground of protecting the officer's fundamental right to privacy. The performance of an employee/officer in an organization is primarily a matter between the employee and the employer and normally those aspects are governed by service rules which fall under the expression 'personal information' the disclosure of which has no relationship to any public activity or public interest. On the other hand, the disclosure of which would cause unwarranted invasion of privacy of that individual.

The details disclosed by a person in his income tax returns are 'personal information' which stand exempted from disclosure under clause (j) of Section 8(1) of the Right to Information Act, 2005, unless involves a larger public interest and the CPIO/SPIO or the Appellate Authority is satisfied that the larger public interest justifies the disclosure of such information.

In *H.E. Rajashekarappa v. State Public Information Officer and Under Secretary to Government, Bangalore* <sup>[14]</sup> the High Court observed that the object of the Act is to provide right to information to citizen so that they can secure access to information under the control of public authorities so as to promote transparency and accountability in the working of every public authority.....However, information under section 2(f) of the Act does not cover the personal information of the officials of the public authority. The intention of the legislation is to provide right to information to a citizen relating to public affairs of the public authority. Therefore, the respondent had no right under the Act to seek personal information of the petitioner.

### 2.4 Economic Interests and RTI

In *Reserve Bank of India v. Jayantilal N. Mistry* <sup>[15]</sup> it was observed that when it comes to national economic interest, disclosure of information about currency or exchange rates, interest 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

<sup>7</sup> AIR 2009 (NOC) 542 (Mad.)

<sup>8</sup> CIC/PB/C/2009/00541-SM (18.09.2009)

<sup>9</sup> AIR 2007 Bom 121

<sup>10</sup> AIR 2011 Bom 57

<sup>11</sup> 2011 STPL (Web) 685 SC 1

<sup>12</sup> (2009) 8 SCC 483

<sup>13</sup> (2013) 1 SCC 212

<sup>14</sup> AIR 2009 Karn. 9

<sup>15</sup> Transferred Case (Civil) no 91 of 2015

economy, particularly if released prematurely. However, lower level economic and financial information, like contracts and departmental budgets should not be withheld under this exemption. This makes it necessary to think when or at what stage an information is to be provided i.e. the appropriate time of providing the information which will depend on nature of information sought for and the consequences it will lead to after coming in public domain.

### 2.5 Misuse of RTI Act, 2005

In *Divakar S. Natarajan v. The State Information Commissioner* <sup>[16]</sup> it was opined that the Act is an effective device which, if utilized judiciously and properly would help the citizens to become more informed and would lead to more transparency and accountability. What is more important is that the applicant is not required to disclose the reason as to why he wants the information. However, indiscriminate efforts to serve would only put enormous pressure on the limited human resources that are available. Diversion of such resources, for this task would obviously, be at the cost of ordinary functioning. Therefore the provisions under this Act must be used judiciously and properly.

In *Shobhit Bansal v. Hindustan Petroleum Corporation Ltd* <sup>[17]</sup> held that if application is fictitious using fake name and address and impersonation, the same is not maintainable because it would defeat the purpose of this Act.

In *Rishipal Singh Tomar v. Directorate of Education* <sup>[18]</sup> application to harass the public authority is not be entertained as it amount to misuse of RTI. The appellant demanded copy of SC certificate, by whom it was issued and in which State it was issued, educational qualification etc The Commission observed that the appellant is misusing the RTI to settle his personal scores against the school and the teachers. RTI is not a rendezvous for charge sheeted, penalized and irresponsible teachers.....If any further harassment is done by the appellant, the school authorities or the teachers can approach the legal consultants to initiate proper civil/criminal proceedings against him.

The Central Information Commission further held that appellant is a cantankerous misuse of RTI, does not deserve any sympathy or information as there no public interest. The Appellant is wrecking vengeance against the authority and officers for taking stern action against his misconduct. He is hereby criticised for misuse of RTI. The public authority can reject his RTI application about inquiry and inquiry officers as that would impede the entire process of inquiry.

The RTI Act is one of the finest legislations we have had in India as on date. RTI Act should be amended if at all, in such a manner that it proves even more beneficial to the common man. It was amazing to acknowledge that all politicians whether ruling or in opposition advocated an amendment but they were rapid to sense the public mood and ruled out any dilution in the Law.

### 3. Recommendations of the Second Administrative Reforms Commission

The Second Administrative Reforms Commission in 2008 recommended the following amendments to strengthen the Right to Information:

1. The Official Secrets Act: The Official Secrets Act, 1923 should be repealed, and substituted by a chapter in the National Security Act, containing provisions relating to official secrets. 'Official Secret' means any information the disclosure of which is likely to prejudicially affect the sovereignty and integrity of India, the security of State, friendly relations with foreign states, economic, commercial, scientific and technological matters relating to national security and includes: any secret code, password, sketch plan, model, article, note or document in relation to a prohibited place."
2. Governmental Privilege in Evidence: Section 123 of the Indian Evidence Act, 1872 should be amended to read as follows:
  - i) Subject to the provisions of this section, no one shall be permitted to give any evidence derived from official records which are exempt from public disclosure under the RTI Act, 2005.
  - ii) Where he withholds such permission, he shall make an affidavit containing a statement to that effect and setting forth his reasons therefore.
  - iii) Where such officer has withheld permission for the giving of such evidence, the Court, after considering the affidavit or further affidavit, and if it so thinks fit, after examining such officer or, in appropriate cases, the Minister, orally shall issue a summons for the production of the unpublished official records concerned, if such summons has not already been issued shall inspect the records in chambers; and shall determine the question whether the giving of such evidence would or would not be injurious to public interest, recording its reasons therefore.
  - iv) Where, under sub-section (3), the Court decides that the giving of such evidence would not be injurious to public interest; the provisions of subsection (1) shall not apply to such evidence. Provided that in respect of information classified as Top Secret for reasons of national security, only the High Court shall have the power to order production of the records."

Section 124 of the Indian Evidence Act will become redundant on account of the above and will have to be repealed.

Accordingly, the following will have to be inserted at the appropriate place in the Code of Civil Procedure, 1908 and the Code of Criminal Procedure, 1973:

"Any person aggrieved by the decision of any Court subordinate to the High Court rejecting a claim for privilege made under section 123 of the Indian Evidence Act, 1872 shall have a right to appeal to the High Court against such decision, and such appeal may be filed notwithstanding the fact that the proceeding in which the decision was pronounced by the Court is still pending."
3. The Oath of Secrecy: As an affirmation of the importance of transparency in public affairs, Ministers on assumption of office may take an oath of transparency along with the

<sup>16</sup> AIR 2009 (NOC) 1362 (AP)

<sup>17</sup> CIC/MA/A/2007/00029

<sup>18</sup> CIC/SA/A/2014/001474

oath of office and the requirement of administering the oath of secrecy should be dispensed with. Articles 75(4) and 164 (3), and the Third Schedule of the Constitution of India should be suitably amended and safeguard against disclosure of information against the national interest may be provided through written undertaking by incorporation of a clause in the national security law dealing with official secrets.

4. Exempted organizations: The Armed Forces should be included in the Second Schedule of the Act. The Second Schedule of the Act may be reviewed periodically. All organizations listed in the Second Schedule have to appoint Public Information Officers. Appeals against orders of Public Information Officers should lie direct with Central Information Commissioners/State Information Commissioners. This provision can be made by way of removal of difficulties under section 30 of the RTI Act.
5. The Central Civil Services (Conduct) Rules : Civil Services Rules of all States may be reworded on the following lines: "Communication of Official Information: Every Government servant shall, in performance of his duties in good faith, communicate to a member of public or any organisation full and accurate information, which can be disclosed under the Right to Information Act, 2005. Nothing in this rule shall be construed as permitting communication of classified information in an unauthorised manner or for improper gains to a Government servant or others."
6. The Manual of Office Procedure : Para 116 of the Manual of Office Procedure needs to be reworded as follows: "Communication of Official Information: Every Government Servant shall, in performance of his duties in good faith, communicate to a member of public or any organization full and accurate information, which can be disclosed under the Right to Information Act. (Nothing stated above shall be construed as permitting communication of classified information in an unauthorized manner or for improper gains to a Government Servant or others)." Para 118 (1) should be deleted. The State Governments may be advised to carry out similar amendments in their Manuals, if such provisions exist therein.
7. Classification of Information: The Government of India should amend the Manual of Departmental Security Instructions in the following manner:
  - i) Information Deserving Classification: It would be advisable for each Ministry/Department to identify the information which deserves to be given a security classification. Ordinarily, only such information should be given a security classification which would qualify for exemption from disclosure under the Right to Information Act, 2005.

The Classification of documents should be done as per the following guidelines:-

Sl. No	Section of the RTI Act to which Classification information pertains
1	8(1)(a) Top Secret
2	8(1)(b) Confidential
3	8(1)(c) Confidential
4	8(1)(d) Secret
5	8(1)(e) Confidential
6	8(1)(f) Secret
7	8(1)(g) Top Secret/Secret
8	8(1)(h) Secret/Confidential
9	8(1)(i) Confidential
10	8(1)(j) Confidential/restricted
11	9 Confidential/restricted

The above mentioned classification should be generally followed. It is quite possible that information may be covered by more than one exemption; in that case the information should be given the classification of the higher category. Also if it is felt by the competent authority that circumstances of a case demand a higher classification than what is indicated above, then the same may be done by an authority, which is empowered to give such a classification. Provision should be made to include annual confidential reports of officers and examination question papers and related matters in the exemptions under the RTI Act, 2005. This may be done by way of removal of difficulties under Section 30 of the Act.

- ii) Upgrading and Downgrading: Documents once classified as "Top Secret" or "Secret", should remain so classified as long as required but not exceeding 30 years. Documents classified as confidential and restricted should remain so for a period not exceeding 10 years. However, the competent classifying officer may, for reasons to be recorded in writing, Recommendations authorise continued classification beyond the period prescribed above if information, the disclosure of which would cause damage to national security or national interest. A recipient officer of appropriate rank in a Ministry or Department may upgrade the security classification of a document received from outside, but this raised classification will be limited only to the Ministry or Department. He will, however, have no authority to downgrade the security classification of a document received, without the concurrence of the originator. Within the same Department, an officer superior to the originator would have the authority to downgrade or upgrade the classification.

iii) Officer Authorised to Accord the Grading:

Top Secret Not below Joint Secretary  
Secret Not below Deputy Secretary  
Confidential Not below Under Secretary

The State Governments may authorise officers of equivalent rank to accord the grading.

8. **Building Institutions:** Section 12 of the RTI Act may be amended to constitute the Selection Committee of CIC with the Prime Minister, Leader of the Opposition and the Chief Justice of India. Section 15 may be similarly amended to constitute the Selection Committee at the State level with the Chief Minister, Leader of the Opposition and the Chief Justice of the High Court. The Government of India should ensure the constitution of SICs in all States within 3 months. The CIC should establish 4 regional offices of CIC with a Commissioner heading each. Similarly regional offices of SICs should be established in larger States. At least half of the members of the Information Commissions should be drawn from non civil services background. Such a provision may be made in the Rules under the Act, by the Union Government, applicable to both CIC and SICs.
9. **Designating Information Officers and Appellate Authorities**
  - a) All Ministries/ Departments/Agencies/Offices with more than one Public Information Officers have to designate a nodal Assistant Public Information Officer with the authority to receive requests for information on behalf of all PIOs. Such a provision should be incorporated in the Rules by appropriate governments.
  - b) Public Information Officers in Central Secretariats should be of the level of at least Deputy Secretary /Director. In State Secretariats officers of similar rank should be notified as Public Information Officers. In all subordinate agencies and departments officers sufficiently senior in rank and yet accessible to public may be designated as Public Information Officers.
  - c) All public authorities may be advised by the Government of India that along with the Public Information Officers they should also designate the appellate authority and publish both, together.
  - d) The designation and notification of Appellate Authorities for each public authority may be made either under Rules or by invoking Section 30 of the Act.
10. **Organising Information and Recordkeeping:** Suo motu disclosures should also be available in the form of printed, priced publication in the official language, revised periodically (at least once a year). Such a publication should be available for reference, free of charge. In respect of electronic disclosures, National Information Commission should provide a single portal through which disclosures of all public authorities under appropriate governments could be accessed, to facilitate easy availability of information. Public Records Offices should be established as an independent authority in Government of India and all States within 6 months by integrating and restructuring the multiple agencies currently involved in

record keeping. This Office will be a repository of technical and professional expertise in management of public records. It will be responsible for supervision, monitoring, control and inspection of record keeping in all public offices. Public Records Office would function under the overall supervision and guidance of Central Information Commission/State Information Commission. As a onetime measure, Government of India should earmark 1% of the funds of all Flagship Programmes for a period of five years for updating records, improving infrastructure, creating manuals and establishing the Public Records Offices. (An amount not exceeding 25% of this should be utilized for awareness generation.) As a onetime measure, Government of India may create a Land Records Modernisation Fund for survey and updating of all land records. The quantum of assistance for each State would be based on an assessment of the field situation. All organizations, which have jurisdiction over an area equal to or exceeding a district, should be funded and required to complete the process of digitization by the end of 2009. All sub-district level organizations should complete this task by the end of 2011. The controlling Ministries / Departments at Union and State level should lay down a detailed road map for this purpose with well-defined milestones within 6 months, so that this could be implemented as a priority item in the Eleventh Five Year Plan.

11. **Capacity Building and Awareness Generation:** Training programmes should not be confined to merely PIOs and APIOs. All government functionaries should be imparted at least one day training on Right to Information within a year. These training programmes have to be organized in a decentralized manner in every block. A cascading model could be adopted with a batch of master trainers in each district. In all general or specialized training programmes, of more than 3 days duration, a half-day module on Right to Information should be compulsory. Awareness campaigns should be entrusted to credible non profit organizations at the State level. They should design a multi media campaign best suited to the needs, in the local language. Appropriate governments should bring out guides and comprehensible information material within the prescribed time. The CIC and the SICs may issue guidelines for the benefit of public authorities and public officials in particular and public in general about key concepts in the Act and approach to be taken in response to information requests on the lines of the Awareness Guidance Series.
12. **Monitoring Mechanism:** The CIC and the SICs may be entrusted with the task of monitoring effective implementation of Right to Information Act in all public authorities. (An appropriate provision could be made under Section 30 by way of removal of difficulties). As a large number of Public Authorities exist at regional, state, district and sub district level, a nodal officer should be identified wherever necessary by the appropriate monitoring authority (CIC/SIC) to monitor implementation of the Act. Each public authority should be responsible for compliance of provisions of the Act in its own office as well as that of the subordinate public authorities. A

- National Coordination Committee (NCC) may be set up under the chairpersonship of the Chief Information Commissioner with the nodal Union Ministry, the SICs and representatives of States as members. A provision to this effect may be made under Section 30 of the Act by way of removing difficulties. The National Coordination Committee would serve as a national platform for effective implementation of the Act, document and disseminate best practices in India and elsewhere, monitor the creation and functioning of the national portal for Right to Information, review the Rules and Executive orders issued by the appropriate governments under the Act, carry out impact evaluation of the implementation of the Act and perform such other relevant functions as may be deemed necessary.
13. **Facilitating Access:** In addition to the existing modes of payment, appropriate governments should amend the Rules to include payment through postal orders. States may be required to frame Rules regarding application fee which are in harmony with the Central Rules. It needs to be ensured that the fee itself does not become a disincentive. Appropriate governments may restructure the fees (including additional fees) in multiples of Rs 5. {e.g. instead of prescribing a fee of Rs. 2 per additional page it may be desirable to have a fee of Rs. 5 for every 3 pages or part thereof}. State Governments may issue appropriate stamps in suitable denominations as a mode of payment of fees. Such stamps would be used for making applications before public authorities coming within the purview of State Governments. As all the post offices in the country have already been authorized to function as APIOs on behalf of Union Ministries/Departments, they may also be authorized to collect the fees in cash and forward a receipt along with the application.
  14. **Inventory of Public Authorities:** At the Government of India level the Department of Personnel and Training has been identified as the nodal department for implementation of the RTI Act. This nodal department should have a complete list of all Union Ministries/Departments which function as public authorities. Each Union Ministry/Department should also have an exhaustive list of all public authorities, which come within its purview. The public authorities coming under each ministry/ department should be classified into constitutional bodies, line agencies, statutory bodies, public sector undertakings, bodies created under executive orders, bodies owned, controlled or substantially financed, and NGOs substantially financed by government. Within each category an updated list of all public authorities has to be maintained. Each public authority should have the details of all public authorities subordinate to it at the immediately next level. This should continue till the last level is reached. All these details should be made available on the websites of the respective public authorities, in a hierarchical form. A similar system should also be adopted by the States.
  15. **Single Window Agency at District Level:** A Single Window Agency should be set up in each District. This could be achieved by creating a cell in a district-level office, and designating an officer as the Assistant Public Information Officer for all public authorities served by the Single Window Agency. The office of the District Collector/Deputy Commissioner or the Zilla Parishad is well suited for location of the cell. This should be completed by all States within 6 months.
  16. **Subordinate Field Offices and Public Authorities:** The lowest office in any organization which has decision making power or is a custodian of records should be recognized as a public authority.
  17. **Application to Non Governmental Bodies:** Organisations which perform functions of a public nature that are ordinarily performed by government or its agencies, and those which enjoy natural monopoly may be brought within the purview of the Act. Norms should be laid down that any institution or body that has received 50% of its annual operating costs, or a sum equal to or greater than Rs.1 crore during any of the preceding 3 years should be understood to have obtained 'substantial funding' from the government for the period and purpose of such funding. Any information which, if it were held by the government, would be subject to disclosure under the law, must remain subject to such disclosure even when it is transferred to a non-government body or institution. This could be achieved by way of removal of difficulties under section 30 of the Act.
  18. **Time Limit for Information beyond 20 Years:** The stipulation of making available 20-year old records on request should be applicable only to those public records which need to be preserved for such a period. In respect of all other records, the period of availability will be limited to the period for which they should be preserved under the record keeping procedures. If any public authority intends to reduce the period upto which any category of record is to be kept, it shall do so after taking concurrence of the Public Records Office. These recommendations could be implemented by way of removal of difficulties under Section 30 of the Act.
  19. **Mechanism for Redressal of Public Grievances:** States may be advised to set up independent public grievances redressal authorities to deal with complaints of delay, harassment or corruption. These authorities should work in close coordination with the SICs/District Single Window Agencies, and help citizens use information as a tool to fight against corruption and mis-governance, or for better services.
  20. **Frivolous and Vexatious Requests:** Section 7 may be amended to insert sub section (10) as follows: "The PIO may refuse a request for information if the request is manifestly frivolous or vexatious. Provided that such a refusal shall be communicated within 15 days of receipt of application, with the prior approval of the appellate authority. Provided further that all such refusals shall stand transferred to Central Information Commission/State Information Commission, as the case may be and the Central Information Commission/ State Information Commission shall dispose the case as if it is an appeal under section 19(3) of the RTI Act". It may be provided that information can be denied if the work involved in processing the request would substantially and unreasonably divert the resources of the public body. Provided that such a refusal shall be communicated within

15 days of receipt of application, with the prior approval of the appellate authority. Provided further that all such refusals shall stand transferred to Central Information Commission/State Information Commission, as the case may be and the Central Information Commission/State Information Commission shall dispose the case as if it is an appeal under section 19(3) of the RTI Act. This may be accomplished by way of removal of difficulties or framing of appropriate Rules.

21. Application of the Act to the Legislature and the Judiciary:

A system of indexing and cataloguing of records of the legislatures, which facilitates easy access, should be put in place. This could be best achieved by digitising all the records and providing access to citizens with facilities for retrieving records based on intelligible searches. A tracking mechanism needs to be developed so that the action taken by the executive branch on various reports like Comptroller and Auditor General of India, Commissions of Enquiry and House Committees is available to legislators and public, online. The working of the legislative committees should be thrown open to the public. The presiding officer of the committee, if required in the interest of State or privacy, may hold proceedings in camera. The records at the district court and the subordinate courts should be stored in a scientific way, by adopting uniform norms for indexing and cataloguing. The administrative processes in the district and the subordinate courts should be computerized in a time bound manner. These processes should be totally in the public domain.

#### 4. Epilogue

The Commissions (State Information Commission and Central Information Commission) and Judiciary is busy in interpreting the provisions and scope of the Right to Information Act, 2005. Several Land mark judgements have been delivered on the right to privacy, information of personal nature, information of public nature, misuse of RTI, where the economic interests are involved or where not, whether the application under Right to Information Act lies in service matter where the relationship of employer and employee exists, where the fiduciary relationship exists or not etc. It is observed in many cases that the misuse of the RTI is on higher side just to settle the score or to defame. It is felt that even since 2005 the law under RTI is evolving law not a settled law. Applicants and State Public Information Officers/Central Public Information Officer must use RTI Act judiciously and properly. There is dire need to amend the RTI Act so that specific information may come under the specified category. Moreover, it is also noticed that the State Public Information Officers/Central Public Information Officer are supplying and denying the information as per their whims not as per the true spirit of the RTI Act. Our efforts should be to implement the provisions of Act in true spirit.

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