



# INTERNATIONAL JOURNAL OF CREATIVE RESEARCH THOUGHTS (IJCRT)

An International Open Access, Peer-reviewed, Refereed Journal

## Effectiveness of Right to Information Act, 2005 in India

<sup>1</sup>KUSH KALRA

<sup>1</sup>Ph.D Scholar , Sharda University

<sup>1</sup>Sharda University

### Abstract:

There can be no dispute that the RTI Act, 2005 is enacted with the avowed objective of conferring a statutory right on the citizens in India to have access to Government-controlled information or to seek information from Central Government/State Governments, local bodies and other competent authorities as a matter of right. The idea is that it would prove to be instrumental in bringing in transparency and accountability in Government and Public Institutions which would help in bringing the growth of corruption in check. The scope of the RTI Act is wide enough to cover all the Constitutional Institutions and subject to exemptions, universally applies to all Public Authorities.

Indiscriminate and impractical demands or directions under RTI Act for disclosure of all and sundry information (unrelated to transparency and accountability in the functioning of public authorities and eradication of corruption) would be counter-productive as it will adversely affect the efficiency of the administration and result in the executive getting bogged down with the non-productive work of collecting and furnishing information. The Act should not be allowed to be misused or abused, to become a tool to obstruct the national development and integration or to destroy the peace, tranquility and harmony among its citizens. Nor should it be converted into a tool of oppression or intimidation of honest officials striving to do their duty. The nation does not want a scenario where 75% of the staff of public authorities spends 75% of their time in collecting and furnishing information to applicants instead of discharging their regular duties. The threat of penalties under the RTI Act and the pressure of the authorities under the RTI Act should not lead to employees of a public authorities prioritizing 'information furnishing', at the cost of their normal and regular duties.

Right to information is a basic and celebrated fundamental/basic right but is not uncontrolled. It has its limitations. The right is subject to a dual check. Firstly, this right is subject to the restrictions inbuilt within the Act and secondly the constitutional limitations emerging from Article 21 of the Constitution. Thus, wherever in response to an application for disclosure of information the public authority takes shelter under the provisions relating to exemption, non-applicability or infringement of Article 21 of the Constitution the Information Commission has to apply its mind and form an opinion objectively if the exemption claimed for was sustainable on facts of the case.

## Introduction

The basic purpose of the Right to Information Act, 2005 is to ensure an informed citizenry, vital to the functioning of a democratic society, needed to check against corruption and to hold the governments accountable to the governed. In fact, the RTI Act is meant to serve two fold puposes, viz.,

- (i) effectuating the right to know already enshrined in Article 19(1) (a) of the Indian Constitution; and
- (ii) greater access to information in order to ensure maximum disclosure and minimum exemptions.

The Right to Information Act provides for setting out the practical regime of right to information for citizens to secure access to information under the control of public authority.<sup>1</sup>

The fact that the Right to Information is part of the fundamental rights of citizens under Article 19(1) of the Constitution of India has been recognised by various Courts, since the landmark decisions in the Raj Narain's case<sup>2</sup>, S.P.Gupta's case<sup>3</sup> and others. The objective of RTI Act, 2005 is to enable citizens to hold all the instrumentalities of the Government accountable.

The concept of information under the RTI Act, 2005 has been given a wide scope. It says that information means "any material in any form", which would mean any material concerning the affairs of the Government, e.g. decision, action, plan or schedule. Further, it has been defined in detail including the various modes and forms of information which can be accessed under the Right to Information Act. In other words, section 2(f) of the Act

<sup>1</sup> Lalit Dadwal, "Right to Information" M.D.U. Law Journal, Vol. X, Part I, 2005, p. 264.

<sup>2</sup> AIR 1975 SC 865

<sup>3</sup> AIR 1982 SC 149

provides an inclusive definition of the 'information' to be sought under the RTI Act but it may be extended beyond the purpose, objective and spirit of the Act.

The main purpose and objective behind the beneficial legislation is to make information available to citizens in respect of organizations, which take benefits by utilizing substantial public funds. This ensures that the citizens can ask for and get information and to know how public funds are being used and there is openness, transparency and accountability. Even though, those private organizations or institutions which are enjoying benefit of substantial funding directly or indirectly from the Governments fall within the definition of public authorities under RTI Act.<sup>4</sup>

In modern constitutional democracies, it is axiomatic that citizens have a right to know about the affairs of the Government which, having elected by them, seek to formulate sound policies of governance aimed at their welfare. However, like all other rights, even this right has recognized limitations. It is by no means absolute. In transactions which have serious repercussions on public security, secrecy can legitimately be claimed because it would then be in the public interest that such matters are not publicly disclosed or disseminated.<sup>5</sup>

The Delhi High Court in the case of Secretary General, Supreme Court of India v. Subhash Chandra Agarwal<sup>6</sup> observed that the right to information, being integral part of the right to freedom of speech, is subject to restrictions that can be imposed upon that right under Article 19(2). The revelation of information in actual practice is likely to conflict with other public interests including efficient operations of the Government, optimum use of limited fiscal resources and the preservation of confidentiality of sensitive information and, therefore, with a view to harmonize these conflicting interests while preserving the paramountcy of the democratic ideal, Section 8 has been enacted for providing certain exemptions from disclosure of information. Section 8 of the Right to Information Act, 2005, has provided certain categories of exemptions, where the Government has no liability or responsibility or obligation to give information to any citizen. Ordinarily all information should be given to the citizens but there are certain information's which have been protected from disclosure. It means this is an attempt to harmonize the public interest with the individual's right to information. Though the Act envisages imparting a progressive and participatory right to the citizens in a meaningful manner, still the wider national interest

<sup>4</sup> Krishan Pal Malik, "Right to Information" Allahabd Law Agency, Faridabad, 2013, p. 60

<sup>5</sup> MANU/SC/1138/1997

<sup>6</sup> AIR 2010 Del 159.

have to be harmonized in it. The words 'Notwithstanding anything contained in this Act' symbolized that this section is an exception to the general principles contained in the Act that it is an obligation of the PIO to provide information to the citizens unless ordered to the contrary by the Central or State Information Commission.

### **Right to Information in cases of life and Liberty**

The free flow of information is must for a democratic society *in personam* because it helps in the growth of society. Information ensures transparency and accountability in governance and thus becomes a vibrant component of efficacious democracy. Further, the fundamental right to speech and expression under Article 19(1) of the Constitution of India can never be exercised until and unless the information regarding public matters is being circulated. This makes Right to Information Act, 2005 ('the Act') a very important legislation.

The RTI Act, 2005 explicitly authorizes the common man with an instrument to access the information from any public office: the Central Public Information Officer (CPIO) or the State Public Information Officer (SPIO) of such public office is bound to provide the information sought. According to Section 7(1) of the RTI Act, information sought via RTI application should be given within 30 days from the request. The exception to the 30 day rule, as laid down in the proviso of Section 7(1) of the Act, is when the information sought concerns the 'life and liberty of a person', in which case the information should be provided within 48 hours.

As the government machinery is not designed in a way that responds to all RTI applications within 48 hours, the question of 'life and liberty of a person' has to be carefully scrutinized. A broad interpretation of 'life and liberty' would result in a substantial diversion of manpower and resources towards replying to RTI applications which would be unjustified and a narrow interpretation of 'life and liberty' may either lead to death or grievous injury.

It is reasonable to expect that when the life or liberty of a person is at stake, the information which might save/help the person should be divulged as fast as it can be. But what are life and liberty? Life and liberty are two of the most important facets of our existence. Right to life means the right to lead meaningful, complete and dignified life. It is something more than surviving or animal existence. Liberty is the immunity from arbitrary exercise of authority. It has also been defined as freedom of choice, enjoyment of rights which belong to us as individuals, freedom from all restraints but such as are imposed by law etc.

However, the term 'life or liberty of a person' has not been explicitly defined in the Act. In this case, one can draw such definition from Article 21<sup>7</sup> of the Constitution which guarantees that 'no person shall be deprived of his life or personal liberty except according to procedure established by law'. In a barrage of cases, over many years, the Supreme Court has interpreted and widened the scope of the right to life and liberty to include -

Right to live with human dignity, free from exploitation	<i>Bandhua Mukti Morcha v. Union of India</i> , [1984] 3 SCC 161
Right to livelihood	<i>Olga Tellis v. Bombay Municipal Corporation</i> , 1985 SCC (3) 545
Right to speedy trial	<i>Hussainaira Khatoon v. State of Bihar</i> , [1979] 3 SCR 169
The right against solitary confinement	<i>Sunil Batra v. Delhi Administration</i> , [1978] 4 SCC 494
The right against bar fetters	<i>Charles Sobraj v. Superintendent, Tihar Jail</i> , 1979 SCR (1) 512
The right to legal aid	<i>Madhav Hayawadanrao Hoskot v. State of Maharashtra</i> , 1979 SCR (1) 192
The right against delayed execution	<i>T.V. Vatheeswaran v. State of Tamil Nadu</i> , AIR 1983 SC 361

Unless and until an imminent danger or threat to life and liberty is made out, Section 7(1) of RTI Act, 2005 cannot be invoked and only when disclosure of information would have an effect of saving the applicant from that danger, such information should be given in 48 hours.

In the case of *Ashok Randhawa v. Lok Nayak Hospital, Govt. of NCT of Delhi*,<sup>8</sup> information was sought regarding the child Shanno, D/o. Ayub Khan who breathed her last due to alleged punishment/beating given by the teacher of her school. The Appellant had sought the medical history of the child, cause of death, the status of the child when taken to casualty, treatment given to her in casualty to control seizure, and findings of C.T. scan within 48

<sup>7</sup> **Article 21 in The Constitution Of India**

**21. Protection of life and personal liberty** No person shall be deprived of his life or personal liberty except according to procedure established by law

<sup>8</sup> CIC/SG/C/2009/000453

hours, terming it as an issue of 'life and liberty'. The Commission accepted the contention of the PIO that the 'life and liberty' (the child) in this case is dead, hence there was no imminent danger to life and liberty.

In the case of *N.N. Kalia v. University of Delhi*,<sup>9</sup> the Central Information Commission (CIC) passed following observation about section 7(1), which might help in understanding the provision better. This proviso has to be applied only in exceptional cases. Whether the information sought concerns the life or liberty of a person has to be carefully scrutinized and only in a very limited number of cases this ground can be relied upon. The government machinery is not designed in a way that responses to all RTI Applications can be given within forty-eight hours. A broad interpretation of 'life or liberty' would result in a substantial diversion of manpower and resources. The life or liberty provision can be applied only in cases where there is an imminent danger to the life and liberty of a person and non-supply of information may either lead to death or grievous injury to concerned person. Liberty of a person is threatened if he or she is going to be incarcerated and disclosure of the information may change that situation. If disclosure of information would obviate the danger, then it may be considered under the proviso of section 7(1). The imminent danger has to be demonstrably proven. When a citizen exercises his or her fundamental right to information, the information disclosed may assist him or her to lead a better life. But in all such cases, proviso of section 7(1) cannot be invoked unless imminent danger to life and liberty can be proven.

In the case of *Mr. J.K. Mittal v. Gnctd*,<sup>10</sup> the CIC held that the objective of provision of RTI Act particularly Section 7(1) proviso that life and liberty related information shall be given in 48 hours is to inculcate responsive attitude in the Police Authority. It is pathetic to note that Home Department

did not exhibit any concern and remained unresponsive. They simply passed on the back to the Police Authority.

The proviso to Section 7(1) of the RTI Act has to be applied only in exceptional cases. Whether the information sought concerns the life or liberty of a person has to be carefully scrutinized and only in a very limited number of cases this ground can be relied upon. The government machinery is not designed in a way that responses to all RTI Applications can be given within forty-eight hours. The life or liberty provision can be applied only in cases where there is an imminent danger to the life and liberty of a person and non-supply of information may either lead to death or grievous injury to concerned person. Liberty of a person is threatened if he or she is going to be incarcerated and disclosure of the information may

<sup>9</sup> CIC/SG/C/2009/001169/4696

<sup>10</sup> CIC/SA/C/2015/000030

change that situation. If disclosure of information would obviate the danger, then it may be considered under the proviso of section 7(1). The imminent danger has to be demonstrably proven. When a citizen exercises his or her fundamental right to information, the information disclosed may assist him or her to lead a better life. But in all such cases, proviso of section 7(1) cannot be invoked unless imminent danger to life and liberty can be proven.<sup>11</sup>

Priority should be given in case of life and liberty issues other than any other issues because Article 21 of the Constitution itself contains a provision regarding right to life and personal liberty. It states that “No person shall be deprived of his life or personal liberty except according to procedure established by law.” And it is also significant to note that in case of information pertaining to life and liberty, the complaint should be conspicuously branded as “Life & Liberty-Urgent” so that priority is accorded for its disposal before it is too late.

### **Right to Information in cases of Police FIR's**

Life and personal liberty are the most prized possessions of an individual. The inner urge for freedom is a natural phenomenon of every human being. Respect for life, liberty and property is not merely a norm or a policy of the State but an essential requirement of any civilized society.

The Scheme of Cr.P.C. does not provide for giving copy of the FIR to the accused at any earlier stage than by a Magistrate on commencement of the proceeding under Section 207 of the Cr.P.C. Section 173 of the Cr.P.C. however provides that Officer in charge of the police station shall forward to the Magistrate a report stating the details as mentioned in Section 173(2). Section 173(6) also empowers the police officer to indicate by appending a note requesting the Magistrate not to provide a part of the statement to the accused by giving reasons. When the FIR is registered against a person, the police has to initiate investigation under Section 157<sup>12</sup> of the Cr.P.C. If from an information received or otherwise an officer in

---

<sup>11</sup> N.N. Kalia v. University of Delhi, CIC/SG/C/2009/001169/4696

<sup>12</sup>**Section 157 in The Code Of Criminal Procedure, 1973**

157. Procedure for investigation preliminary inquiry.

(1) If, from information received or otherwise, an officer in charge of a police station has reason to suspect the commission of an offence which he is empowered under section 156 to investigate, he shall forthwith send a report of the same to a Magistrate empowered to take cognizance of such offence upon a police report and shall proceed in person, or shall depute one of his subordinate officers not being below such rank as the State Government may, by general or special order, prescribe in this behalf, to proceed, to the spot, to investigate the facts and circumstances of the case, and, if necessary, to take measures for the discovery and arrest of the offender; Provided that-

(a) when information as to the commission of any such offence is given against any person by name and the case is not of a serious nature, the officer in charge of a police station need not proceed in person or depute a subordinate officer to make an investigation on the spot;

(b) if it appears to the officer in charge of a police station that there is no sufficient ground for entering on an investigation, he shall not investigate the case.

charge of a police station has reason to suspect the commission of an offence which he is empowered under Section 156<sup>13</sup> to investigate, he shall forthwith send a report to a Magistrate empowered to take cognizance upon such offence on a police report. The Code also empowers the police officer to arrest the accused. Section 438 of the Cr.P.C. provides that where a person who has reason to believe that he may be arrested on accusation of having committed a non-bailable offence he may apply to the High Court or the Court of Session for a direction.

For meaningful exercise of the right given to the accused under Section 438 of the Cr.P.C., obtaining copy of the FIR is relevant and necessary. A person who is accused of a cognizable<sup>14</sup> offence by registration of the FIR at the police station cannot be denied the right to know the contents of the FIR to enable him to defend himself and take such steps as provided under law.

About a century ago, the Patna High Court in *Dhanpat v. Emperor* (AIR 1917 Pat 625) laid down as follows:

"It is vitally necessary that an accused person should be granted a copy of the FIR at the earliest possible in order that he may get benefit of the legal advice."

A Division Bench<sup>15</sup> of the Allahabad High Court in *Shyam Lal v. State of U.P. and Others*<sup>16</sup> had elaborately considered the question as to whether an accused is entitled for copy of the FIR and he can obtain it either from the police station or the office of the Superintendent of Police or from the Magistrate. In paragraphs 10.4 and 10.5 the following was stated:

"10.4 Court hold that the accused is entitled to know what was said in the first information report to connect with the offence so that he may be in a position to protect his interest. He is therefore, entitled to a copy thereof. He can have it from (i) the police station, or (ii) the

---

(2) In each of the cases mentioned in clauses (a) and (b) of the proviso to sub-section (1), the officer in charge of the police station shall state in his report his reasons for not fully complying with the requirements of that sub-section, and, in the case mentioned in clause (b) of the said proviso, the officer shall also forthwith notify to the informant, if any, in such manner as may be prescribed by the State Government, the fact that he will not investigate the case or cause it to be investigated.

<sup>13</sup>CrPC 158: Section 158 of the Criminal Procedure Code

#### **Report how submitted**

1. Every report sent to a Magistrate under section 157 shall, if the State Government so directs, be submitted through such superior officer of police as the State Government, by general or special order, appoints in that behalf.

2. Such superior officer may give such instructions to the officer in charge of the police station as he thinks fit, and shall, after recording such instructions on such report, transmit the same without delay to the Magistrate.

#### **<sup>14</sup>Meaning of cognizable:**

Generally, cognisable offence means a police officer has the authority to make an arrest without a warrant. The police is also allowed to start an investigation with or without the permission of a court.

<sup>15</sup>A Division Bench is a term in judicial system in India in which a case is heard and judged by *at least* two judges. However, if the bench during the hearing of any matter feels that the matter needs to be considered by a larger bench, such a matter is referred to a larger bench.

<sup>16</sup>1998 CrL. L.J. 2879



office of Superintendent of Police, or (iii) C.J.M./Magistrate, Incharge/Special Judge as the case may be and as per his desire. Ours is a welfare democratic State. It is a Government by the people, of the people and for the people, as said by Abraham Lincoln. It is common knowledge that the office of the Superintendent of Police or for the matter of that the Courts are situated invariably at a distance far from the Police Stations. Imagine the plight of such a person who is required to cover a great distance for having a certified copy of the F.I.R. to know its contents so that he could defend himself.

10.5. Accordingly, there is no manner of doubt that an accused person or any person who suspects that his name figures in a first information report can file an application or get an application filed through his pairwikar (representative/agent) for supplying certified copy of the first information report either before the S.O./S.H.O. of police Station or the office of Superintendent of Police or the C.J.M. or the Special Judge before whom the first information report is kept or forwarded by the Police Station concerned."

When Section 438Cr.P.C. is held to be a device to secure individual's liberty, all means to secure the said liberty has to be held to be available to the accused to fulfill the object which clearly reinforces the right of the accused to receive copy of the FIR. Therefore, court hold that the accused is entitled for copy of the FIR. The accused can make an application to the police station concerned or office of the Superintendent of Police or the Court of concerned Magistrate which is required to be provided to him immediately within forty eight (48) hours. The RTI Act, 2005 Act has statutorily recognised the right of information of all citizens. Application for copy of the FIR can also be submitted by any person under the RTI Act, 2005. If police authorities are claiming exemption under Section 8(1)<sup>17</sup> of the 2005 RTI Act it is a

<sup>17</sup>**Section 8 in The Right To Information Act, 2005**

8. Exemption from disclosure of information.—

(1) Notwithstanding anything contained in this Act, there shall be no obligation to give any citizen,—

(a) information, disclosure of which would prejudicially affect the sovereignty and integrity of India, the security, strategic, scientific or economic interests of the State, relation with foreign State or lead to incitement of an offence;

(b) information which has been expressly forbidden to be published by any court of law or tribunal or the disclosure of which may constitute contempt of court;

(c) information, the disclosure of which would cause a breach of privilege of Parliament or the State Legislature;

(d) information including commercial confidence, trade secrets or intellectual property, the disclosure of which would harm the competitive position of a third party, unless the competent authority is satisfied that larger public interest warrants the disclosure of such information;

(e) information available to a person in his fiduciary relationship, unless the competent authority is satisfied that the larger public interest warrants the disclosure of such information;

(f) information received in confidence from foreign government;

(g) information, the disclosure of which would endanger the life or physical safety of any person or identify the source of information or assistance given in confidence for law enforcement or security purposes;

(h) information which would impede the process of investigation or apprehension or prosecution of offenders;

(i) cabinet papers including records of deliberations of the Council of Ministers, Secretaries and other officers: Provided that the decisions of Council of Ministers, the reasons thereof, and the material on the basis of which the decisions were taken shall be made public after the decision has been taken, and the matter is complete, or over: Provided further that those matters which come under the exemptions specified in this section shall not be disclosed;

(j) information which relates to personal information the disclosure of which has not relationship to any public activity or interest, or which would cause unwarranted invasion of the privacy of the individual unless the

question which has to be determined by the police authorities by taking appropriate decision by the competent authority. In event no such decision is taken to claim exemption under Section 8 of the 2005 Act, the police authorities are obliged to provide for copy of the FIR on an application under the 2005 RTI Act.

### **Right to Information in Family Disputes Matters**

Under Right to Information Act 2005<sup>18</sup> any citizen of India may get any information from central and statutory public authorities<sup>19</sup>. The public authorities must respond to request for information in 30 days<sup>20</sup>. An independent Information Commission is setup at the national level<sup>21</sup> and Information Commissions at state levels<sup>22</sup>.

The institution of maintenance, which is prevalent in Indian since the dawn of ages aiming to provide the support network to the support to destitute females comes as a measure of social justice to women. The Hon'ble Judiciary has developed the law related to 'Institution of maintenance' to the extent as a measure of social justice and fall within constitutional sweep of Article 15(3) reinforced by Article 39. The provisions are intended to provide relief to the destitute".<sup>23</sup> For the development of the Law and the social change, it is required that Judiciary plays an active role by evolving the new principles.

Central Public Information Officer or the State Public Information Officer or the appellate authority, as the case may be, is satisfied that the larger public interest justifies the disclosure of such information: Provided that the information, which cannot be denied to the Parliament or a State Legislature shall not be denied to any person.

(2) Notwithstanding anything in the Official Secrets Act, 1923 (19 of 1923) nor any of the exemptions permissible in accordance with sub-section (1), a public authority may allow access to information, if public interest in disclosure outweighs the harm to the protected interests.

(3) Subject to the provisions of clauses (a), (c) and (i) of sub-section (1), any information relating to any occurrence, event or matter which has taken place, occurred or happened twenty years before the date on which any request is made under section 6 shall be provided to any person making a request under that section: Provided that where any question arises as to the date from which the said period of twenty years has to be computed, the decision of the Central Government shall be final, subject to the usual appeals provided for in this Act.

<sup>18</sup> Act No.22 of 2005.

<sup>19</sup> Section-6 Request for obtaining information - A person, who desires to obtain any information under this Act, shall 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, accompanying such fee as may be prescribed, to the Central Public Information Officer or State Public Information Officer, as the case may be, of the concerned public authority.

<sup>20</sup> Section-7 Disposal of request- The Central Public Information Officer or State Public Information Officer, as the case may be, on receipt of a request under section 6 shall, as expeditiously as possible, and in any case within thirty days of the receipt of the request, either provide the information on payment of such fee as may be prescribed or reject the request for any of the reasons specified in sections 8 and 9: Provided that where the information sought for concerns the life or liberty of a person, the same shall be provided within forty-eight hours of the receipt of the request.

<sup>21</sup> Section-12 Constitution of Central Information Commission The Central Government shall, by notification in the Official Gazette, constitute a body to be known as the Central Information Commission to exercise the powers conferred on, and to perform the functions assigned to, it under this Act

<sup>22</sup> S-15 Constitution of State Information Commission- Every State Government shall, by notification in the Official Gazette, constitute a body to be known as the State Information Commission to exercise the powers conferred on, and to perform the functions assigned to, it under this Act.

<sup>23</sup> Monica Chawla, Gender Justice: Women and Law in India, 99 (2006).

When a destitute female approaches the Court in India, it can never be certainly answered that (a) If she is entitled to maintenance under the particular law or not? If the answer to this question is yes, then the next question arises (b) To what extent the other party is liable to maintain her? The next important question arises in the series is (c) From when and which date she will be entitled to get the relief? And last but not the least, if she has come across the entire hurdles and somehow she is able to get the award of maintenance in her favour, the next important question arises that (d) What are the consequences if the person liable fails to oblige with the orders of Court?

The problems in the field of maintenance need to be tackled with a combination of humanitarian as well firm Legal measures, so that the person who seek a helping hand from the institution of maintenance which basically aims to establish and provide a social and financial security, should not feel victimised in order to secure the justice to fulfill the needs on day to day basis.

The Central information commission held in the case of Prashansa Sharma vs. Delhi Transco Ltd.<sup>24</sup>

- "a. the spouses have right to information between them.
- b. The husband are duty to provide all that information to his wife, and the appellant wife has right to information.
- c. Though certain documents like annual returns of assets, investments, IT returns etc were earlier declared as private/personal or third party information, as far as spouses are concerned they are not private or personal or third party information between them, in the context of marital disputes especially for maintenance purposes.
- d. The PIO's cannot reject the request for such information, if filed by spouses, on the ground of Section 8(1)(j) saying it is personal information, because the protection of privacy is overridden by the huge public interest in maintaining wives, as provided in the proviso to exception 8(1)(j). The larger public interest in maintenance of wives and children, prevention of domestic violence, etc., for the purposes of the disclosure of such information is to be observed .

<sup>24</sup> (03.02.2015 - CIC) : MANU/CI/0014/2015

Every spouse has a right to information about income, assets, investments, etc from the other spouse regarding the claim of maintenance from the other spouse employed by Government. Under Section 8(1)(j) generally, the information about a spouse happened to be public servant sought by an victimized spouse shall be disclosed in larger public interest. The proviso to Section 8(1)(j) read with Section 8(2) of the Right to Information Act entitled the destitute wives to information which they sought because of overwhelming public interest in securing their right to life.

### **Conclusion:**

The right to information is a cherished right. Information and right to information are intended to be formidable<sup>25</sup> tools in the hands of responsible citizens to fight corruption and to bring in transparency and accountability<sup>26</sup>. The provisions of RTI Act should be enforced strictly and all efforts should be made to bring to light the necessary information under Clause (b) of Section 4(1)<sup>27</sup> of the Act which relates to securing transparency and accountability in the working of public authorities and in discouraging corruption.

#### <sup>25</sup> **Meaning of formidable:**

1. Arousing fear, dread, or alarm
2. Inspiring awe, admiration, or wonder

#### <sup>26</sup> **Meaning of accountability:**

Expected or required to account for one's actions; answerable.

#### <sup>27</sup> **Section 4 in The Right To Information Act, 2005**

4. Obligations of public authorities.—

(1) Every public authority shall—

- (a) maintain all its records duly catalogued and indexed in a manner and the form which facilitates the right to information under this Act and ensure that all records that are appropriate to be computerised are, within a reasonable time and subject to availability of resources, computerised and connected through a network all over the country on different systems so that access to such records is facilitated;
- (b) publish within one hundred and twenty days from the enactment of this Act,—
  - (i) the particulars of its organisation, functions and duties;
  - (ii) the powers and duties of its officers and employees;
  - (iii) the procedure followed in the decision making process, including channels of supervision and accountability;
  - (iv) the norms set by it for the discharge of its functions;
  - (v) the rules, regulations, instructions, manuals and records, held by it or under its control or used by its employees for discharging its functions;
  - (vi) a statement of the categories of documents that are held by it or under its control;
  - (vii) the particulars of any arrangement that exists for consultation with, or representation by, the members of the public in relation to the formulation of its policy or implementation thereof;
  - (viii) a statement of the boards, councils, committees and other bodies consisting of two or more persons constituted as its part or for the purpose of its advice, and as to whether meetings of those boards, councils, committees and other bodies are open to the public, or the minutes of such meetings are accessible for public;
  - (ix) a directory of its officers and employees;
  - (x) the monthly remuneration received by each of its officers and employees, including the system of compensation as provided in its regulations;
  - (xi) the budget allocated to each of its agency, indicating the particulars of all plans, proposed expenditures and reports on disbursements made;
  - (xii) the manner of execution of subsidy programmes, including the amounts allocated and the details of beneficiaries of such programmes;
  - (xiii) particulars of recipients of concessions, permits or authorisations granted by it;

But in regard to other information that is information other than those enumerated in Section 4(1)(b) and (c) of the Act, equal importance and emphasis are given to other public interests (like confidentiality of sensitive information, fidelity and fiduciary relationships, efficient operation of governments, etc.).

Indiscriminate and impractical demands or directions under RTI Act for disclosure of all and sundry information (unrelated to transparency and accountability in the functioning of public authorities and eradication of corruption) would be counter-productive as it will adversely<sup>28</sup> affect the efficiency of the administration and result in the executive getting bogged<sup>29</sup> down with the non-productive work of collecting and furnishing information. The Act should not be allowed to be misused or abused, to become a tool to obstruct the national development and integration or to destroy the peace, tranquility<sup>30</sup> and harmony among its citizens. Nor should it be converted into a tool of oppression<sup>31</sup> or intimidation<sup>32</sup> of honest

- 
- (xiv) details in respect of the information, available to or held by it, reduced in an electronic form;
  - (xv) the particulars of facilities available to citizens for obtaining information, including the working hours of a library or reading room, if maintained for public use;
  - (xvi) the names, designations and other particulars of the Public Information Officers;
  - (xvii) such other information as may be prescribed, and thereafter update these publications every year;
  - (c) publish all relevant facts while formulating important policies or announcing the decisions which affect public;
  - (d) provide reasons for its administrative or quasi judicial decisions to affected persons.
  - (2) It shall be a constant endeavour of every public authority to take steps in accordance with the requirements of clause (b) of sub-section (1) to provide as much information suo motu to the public at regular intervals through various means of communications, including internet, so that the public have minimum resort to the use of this Act to obtain information.
  - (3) For the purpose of sub-section (1), every information shall be disseminated widely and in such form and manner which is easily accessible to the public.
  - (4) All materials shall be disseminated taking into consideration the cost effectiveness, local language and the most effective method of communication in that local area and the information should be easily accessible, to the extent possible in electronic format with the Central Public Information Officer or State Public Information Officer, as the case may be, available free or at such cost of the medium or the print cost price as may be prescribed.

<sup>28</sup> **Meaning of adverse:**

Contrary to one's interests or welfare; harmful or unfavorable

<sup>29</sup> **Meaning of bogged:**

A place or thing that prevents or slows progress or improvement

<sup>30</sup> **Meaning of tranquility:**

The quality or state of being tranquil; serenity.

The quality or state of being tranquil; serenity.

<sup>31</sup> **Meaning of oppression:**

A feeling of being weighed down in mind or body

<sup>32</sup> **Meaning of intimidation:**

1. To make timid; fill with fear
2. To coerce or deter, as with threats

officials striving to do their duty. The nation does not want a scenario where 75% of the staff of public authorities spends 75% of their time in collecting and furnishing information to applicants instead of discharging their regular duties. The threat of penalties under the RTI Act and the pressure of the authorities under the RTI Act should not lead to employees of a public authorities prioritizing 'information furnishing', at the cost of their normal and regular duties.

Right to information is a basic and celebrated fundamental/basic right but is not uncontrolled. It has its limitations. The right is subject to a dual check. Firstly, this right is subject to the restrictions inbuilt within the Act and secondly the constitutional limitations emerging from Article 21 of the Constitution. Thus, wherever in response to an application for disclosure of information the public authority takes shelter under the provisions relating to exemption, non-applicability or infringement of Article 21 of the Constitution the Information Commission has to apply its mind and form an opinion objectively if the exemption claimed for was sustainable on facts of the case.

