

Right to Information: Its Role in Ensuring Good Governance in India

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Abstract

India is governed by Rule of Law. Everything i.e. executive, legislative and judicial acts are judged by pre written or determined laws. Right to information gives an effective weapon in the hands of people. Freedom of information keeps government more accountable and ultimately reduces corruption. Transparency and accountability are the imperatives for sustaining democratic government. So Right to information is a vital instrument of social transformation. India is a modern welfare state. Ensuring good governance is the very first requirement to achieve goal of welfare state. By asking questions regarding the government policies and its implementation, an information seeker person makes administration responsible and can take matter to court of justice.

Right to Information Act 2005 has served to be an effective watchdog ensuring all those coming in purview of the act to work in accordance with rules and regulations. 'Knowledge is power,' is said by French philosopher Michel Foucault. Right to Information Act 2005 empowers people requisite knowledge about government schemes, administrations etc. when any malfunctioning of administration or practice occurs, people can correct it resulting in good governance.

Some of the Right to Information activists sometimes misuses this weapon. When the act of the government officials are for welfare of people and minor procedure is not followed by the officers, the progress of the scheme should not be hampered by asking information, if the officers are not acting mala-fide. Right to Information Act 2005 is a path-breaking legislation which signals the march from darkness of secrecy to dawn of transparency. Now public officers, administrators have to provide maximum disclosure and minimum confidentiality. Present paper is an endeavor to discuss the major indicators of good governance and eradication of corruption in India though Right to Information.

Introduction

Transparency and openness are the principles of good governance. The concept of good governance directly emanates from the right to know which is implicit in the right to free speech and expression



guaranteed under Article 19(1)(a).¹ Right to information brings openness in the administration which helps to promote transparency in state affairs, keep government accountable. If there is no transparency, accountability cannot be fixed. There should be maximum disclosure and minimum confidentiality.²

India is a modern welfare state, thousands of schemes are run by central and state governments for the welfare of the citizens. Red tapism, unresponsive bureaucracy, nepotism, corruption etc. have infested our democracy. Right to information (RTI) is panacea for all these diseases. Kofi Annan has once said that, “Good Governance is perhaps the single most important factor in eradicating poverty and promoting development.”

Right to information (RTI) is harnessed as a tool for promoting participatory development, strengthening democratic governance and facilitating effective delivery of socio-economic services. We live in knowledge society today, acquisition of information and new knowledge and its application have intense and pervasive impact on processes of taking informed decisions, resulting in overall productivity gains. 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.³

James Madison said in 1822: “A popular government, without popular information, or the means of acquiring it, is but a prologue to a farce or a Tragedy; or perhaps both. Knowledge will forever govern ignorance and people who mean to be their own governors must arm themselves with the power which knowledge gives.”⁴ Information is regarded as the oxygen of democracy. It invigorates where it percolates. If people do not know what is happening in their society, if the actions of those who rule them are hidden, then they cannot take a meaningful part in the affairs of the society. Freedom of expression, free dissemination of ideas and access to information are vital to the functioning of a democratic government. Information is crucial for a vibrant democracy and good governance. It also means that enough information is provided to all the stake holders in easy understandable forms and media to enable their meaningful participation in decision making processes. Accountability means that public institutions and functionaries are answerable to the People and to their institutional stakeholders. In general, an organization or an institution should be accountable to those who will be affected by its decisions or actions. Accountability cannot be enforced without a regime of transparency.⁵ A direct relationship exists between right to information, informed citizenry and good governance. The Right to information provides citizens the opportunity of being informed of what the government does for them, why and how it does it. Good



governance provides a platform that enables government functionaries to operate efficiently, effectively and transparently and be accountable to the public for their actions. It aims to put an end to inconsistent government practices and help in establishing a responsive state. Public participation in government, respect for the rule of law, freedom of expression and association, transparency and accountability, legitimacy of government, and the like, which are the core values of the good governance, can be realized only if the right to information is implemented in the right spirit. Right to information is the hallmark of the good governance.

Government has to take care of all citizens, if only few rich and privileged manage to fulfill their interest but masses lack this capacity then this is not good governance. When a government delivers goods and services to all citizens in time bound manner without corruption, it is called as good governance. Good governance improves the standard of living of the society by creating and making available the basic amenities of life; providing its people security and the opportunity to their better life; installs hope in their heart for a promising future; providing, on an equal and equitable basis, access to opportunities for personal growth; affording participation and capacity to influence, in the decision-making in public affairs; sustaining a responsive judicial system which dispenses justice on merits in a fair, unbiased and meaningful manner; and maintaining accountability and honesty in each wing or functionary of the Government. In nutshell, Good Governance entails effective participation in public policy-making, the prevalence of the rule of law and an independent judiciary, besides a system of institutional checks & balances through horizontal and vertical separation of powers, and effective oversight agencies.⁶ Good Governance emerges through sincere and honest application of prevailing laws and respecting the spirit behind these laws.

Major Components of Good Governance

As per the World Bank, the United Nations Commission on Human Rights and Asian Development Bank the good governance includes some attributes and some of them are discussed here:

Accountability – Accountability is a key requirement of good governance. Without accountability, the root of any development failure cannot be traced. Hence not only governmental institution but all private and civil society organizations must be accountable to the public and to their institutional stakeholders. Accountability is one of the prerequisites of democratic or good governance. Accountability is associated with the idea of answerability, based on the premise that individual identity is determined by one's position in a structured relationship.

Transparency: Transparency means information is freely available and directly accessible to those who



will be affected by these decisions and their enforcement. Access to information is a great enabler of transparency. In the context of governance, transparency refers to availability of information to the general public and clarity about functioning of government institutions. Transparency and accountability are interrelated and mutually reinforcing concepts. „Without transparency, that is, unfettered access to timely and reliable information on decisions and performance, it would be difficult to call public sector entities to account. Unless there is accountability, that is, mechanisms to report on the usage of public resources and consequences for failing to meet stated performance objectives, transparency would be of little value. The existence of both conditions is a prerequisite to effective, efficient and equitable management in public institutions.⁷

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.

Participation: Good governance requires that civil society has the opportunity to participate during the formulation of development strategies and that directly affected communities and groups should be able to participate in the design and implementation of programmes and projects. Even where projects have a secondary impact on particular localities or population groups, there should be a consultation process that takes their views into account. This aspect of governance is an essential element in securing commitment and support for projects and enhancing the quality of their implementation. Lack of these components turns the governance into bad governance. The deficit of all these indicators leads the path of abuse of power, corruption and aloofness in the administration.

Authorities who come under RTI- Information can be asked from any public authority. “Public authority” means any authority or body or institution of self-government established or constituted,—

- (a) by or under the Constitution;
- (b) by any other law made by Parliament;
- (c) by any other law made by State Legislature;
- (d) by notification issued or order made by the appropriate Government, and includes any—
 - (i) body owned, controlled or substantially financed;
 - (ii) non Government Organisation substantially financed, directly or indirectly by funds provided by the appropriate Government;⁸



Public Information Officer- Public authorities have designated some of its officers as Public Information Officer. They are responsible to give information to a person who seeks information under the RTI Act.

Political Parties- Central Information Commission (CIC) has held that the political parties are public authorities and answerable to citizens under RTI Act.

By using RTI as a tool citizens can take information from public authorities and keep check on corruption thus RTI makes real swaraj. The Right to information Act specifies that citizens have a right to:

- Request any information
- Take copies of documents.
- Inspect documents, works and records.
- Take certified samples of materials of work.
- Obtain information in form of printouts, diskettes, floppies, tapes, video cassettes or in any other electronic mode or through printouts.⁹

The Act specifies time limits for replying to the request:

- If the request has been made to the PIO, the reply is to be given within 30 days from the date of receipt.
- If the request has been made to an APIO, the reply is to be given within 35 days of receipt.
- If the PIO transfers the request to another public authority (better concerned with the information requested), the time allowed to reply is 30 days but computed from the day after it is received by the PIO of the transferee authority.
- Information concerning corruption and Human Rights violations by scheduled Security agencies (those listed in the Second Schedule to the Act) is to be provided within 45 days but with the prior approval of the Central Information Commission.
- However, if life or liberty of any person is involved, the PIO is expected to reply within 48 hours.

Since the information is to be paid for, the reply of the PIO is necessarily limited to either denying the request (in whole or part) and/or providing a computation of “further fees”.

Where the Central Information Commission or the State Information Commission, as the case may be, at the time of deciding any complaint or appeal is of the opinion that the Central Public Information Officer or the State Public Information Officer, as the case may be, has, without any reasonable cause, refused to receive an application for information or has not furnished information within the time specified under sub section (1) of section 7 or malafidely denied the request for information or knowingly given



incorrect, incomplete or misleading information or destroyed information which was the subject of the request or obstructed in any manner in furnishing the information, it shall impose a penalty of two hundred and fifty rupees each day till application is received or information is furnished, so however, the total amount of such penalty shall not exceed twenty five thousand rupees.¹⁰

Exemptions- Sec. 8 exempts from disclosure certain information and contents as stated in Sub-clauses (a) to (j) thereof. Sub-clause (b) exempts information, which is expressly forbidden by any court of law or tribunal or the dispute of which may constitute contempt of court. Sub-clause (g) exempts information the disclosure of which would endanger life, or physical safety of any person or identify the source of information or assistance given in confidence for law enforcement or security purpose. Sub-clause (h) exempts information, which could impede the process of investigation or apprehension or prosecution of offenders. Sub-clause (i) exempts Cabinet papers.

It is important to note that the Act specifies that intelligence and security organizations are exempted from the application of the Act. However, it is provided that in case the demand for information pertains to allegations of corruption and human rights violations, the Act shall apply even to such institutions. The capacity of citizens to receive information on the workings of their government is critical to transparency and accountability. Right to Information enables such capacity in citizens.

The prime object of RTI law is to change the culture of secrecy, red tapism and aloofness that has long plagued India's monolithic and opaque bureaucracy. Right to Information is a symbol for components of good governance. Good governance can be ensured through RTI. It is helpful in ensuring transparency and accountability in the governance. The history of struggle for right to information started in Devdungri village in the Rajasthan for transparency and wages system. This effort was started by MKSS (Mazdoor Kissan Shakti Sangthan) to tackle corruption at grass root level. As a result many states pass bill related to right to information and in 2005 government passed a land mark Act named, 'Right to Information Act, 2005' with the objectives of greater transparency in functioning of public authorities. Improvement in accountability and performance of the government, promotion of partnership between citizens and the government in decision making process; and reduction in corruption in the government departments are critical elements of good governance.¹¹

Right to information and good governance are shown in figure as under

Right to Information and Judiciary-The right to information is a fundamental right flowing from Art. 19(1)(a) of the Constitution is now a well-settled proposition. Over the years, the Supreme Court has consistently ruled in favor of the citizen's right to know. The nature of this right and the relevant restrictions



thereto, has been discussed by the Supreme Court in a number of cases:

In *Bennett Coleman v. Union of India* (1973), the right to information was held by Supreme Court to be included within the right to freedom of speech and expression guaranteed by Art. 19(1)(a).

In *Raj Narain v. State of UP* (1975), the Court explicitly stated that it is not in the interest of the public to ‘cover with a veil of secrecy the common routine business - the responsibility of officials to explain and to justify their acts is the chief safeguard against oppression and corruption.’

In *S.P. Gupta v. Union of India* (1982), the right of the people to know about every public act, and the details of every public transaction undertaken by public functionaries was described.

Conclusion-

RTI makes public authorities responsible. Putting questions makes them answerable to the citizens, thus a direct deterrent effect on public authorities. Lord Akton has said, “Power corrupts and absolute power corrupts absolutely.” RTI prevents them achieving absolute power. They are bound to work honestly which promotes good governance. Social activist Aruna Roy has described India’s RTI Act as “the most fundamental law this country has seen as it can be used from the local panchayat (a unit of local government) to parliament, from a nondescript village to posh Delhi, and from ration shops to the 2G scam.”¹²

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