

CJI and RTI

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Manifest pedagogy: In a major victory to the RTI Act, Supreme Court declared itself as a public authority under RTI. The case which has been sub-judice for the past 10 years has finally been resolved in favour of Transparency and Disclosure. There are many important dimensions to this judgement like the definition of Public authority in RTI act which is important for prelims and the provisions for disclosure of property will be important for Mains.

In news: Recently SC has ruled that the office of the Chief Justice of India (CJI) is a public authority under the Right to Information (RTI) Act.

Placing it in syllabus: Judiciary & RTI

Static dimensions:

- RTI and definition of public authority
- Genesis of the issue

Current dimensions: Recent judgment & Its importance

Content:

RTI and definition of public authority:

- RTI Act is an act of the Parliament of India **to provide for setting out the practical regime of right to information for citizens.**
- Under the provisions of the Act, any citizen of India may request information from a “**public authority**” which is required to **reply expeditiously or within thirty days.**
- As defined in the Act, a “ Public authority” is **any**

authority or body or institution of self government established or constituted –

- by or under the Constitution;
- by any other law made by Parliament or a State Legislature;
- by notification issued or order made by the Central Government or a State Government.
- Bodies owned, controlled or **substantially financed by** the Central Government substantially financed by the Central Government or State Government also fall within the definition of public authority.
- The **financing of** the body or the **NGO** by the Government **may be direct or indirect.**

Genesis of the issue:

- An **activist Subhash Chandra Agrawal filed a petition in 2007** seeking “**copy of the 1997 resolution**” which required every judge to make a declaration of all assets.
- The SC refused to share the asset declaration resolution.
- Agrawal moved the **Chief Information Commission (CIC)**, which ruled that the office of the **SC falls under the ambit of the RTI Act** and the it cannot deny information sought under the RTI Act.
- In **2009**, Agrawal had sought **details of correspondence between the Collegium and the government on the appointment of three SC judges** – Justices HL Dattu, AK Ganguly and RM Lodha who had superseded Justices AP Shah, AK Patnaik and VK Gupta.
- Though **CIC directed the CJI’s office to disclose the correspondence details**, SC had refused to do so and **moved the Delhi High Court challenging the CIC ruling.**
- The **SC argument** was that declaration of assets to the CJI was “**personal information**” of the judges and hence **not covered under the RTI Act.**
- While the matter was being heard by the Delhi High

Court, the SC had passed another resolution making declaration of assets by the judges in public “voluntary”.

- In September 2009, the single-judge bench of the Delhi High Court upheld the CIC ruling pronouncing that the CJI came under the ambit of the RTI Act.
- The Supreme Court approached a bigger bench of the Delhi High Court against the single-judge verdict in the RTI case.
- The three-judge Delhi High Court bench in November 2009 ruled that the 1997 resolution of the Supreme Court judges was binding on all judges of the apex court.
- In January 2010, the bench ruled that the office of the CJI is a public authority and comes under the ambit of the RTI Act.
- The SC approached itself by filing a petition against the Delhi High Court ruling.
- A three-judge bench of the SC stayed the Delhi High Court judgment in the RTI case in 2010.
- In 2016 it referred the RTI case to a five-judge Constitution bench.

Recent judgment:

- The SC bench led by CJI Ranjan Gogoi rejected the contention of the SC that had challenged a Delhi High Court judgment bringing it under the ambit of the RTI Act.
- The bench has declared that “transparency doesn’t undermine judicial independence”.
- It ruled that the office of the CJI is a “public authority” under the RTI Act, as much as the SC itself.
- This judgement enables the disclosure of information such as the judges’ personal assets.
- The Bench unanimously argued that the right to know under the RTI Act was not absolute and this had to be balanced with the right of privacy of judges.

- The **information related to** issues such as **judicial appointments** will also be subject to the test of public interest.
- However, **RTI can't be used as a tool of surveillance.**
- It said that **only the names of judges recommended by the collegium can be disclosed, not the reasons.**

Its importance:

- **Transparency and the right to information are crucially linked to the rule of law** itself.
- The **RTI Act** is a strong weapon that enhances **accountability, citizen activism and participatory democracy.**
- With the CJI's office coming under the RTI Act, the **ordinary citizen can seek information regarding assets of the judges and also the reason for their appointment.**
- Bringing **accountability reforms in judiciary** would increase **people's trust in the courts' impartiality,** aiding core judicial functions.
- It is a step in the right direction to **curb corruption** in public authorities.
- It could lead to **better governance** by curbing arbitrary and corrupt acts.