

Right to Information Act

December 20, 2018

Manifest Pedagogy

RTI Act has implications on many topics in GS, ranging from Polity to Ethics. The topic is relevant as many issues related to it has been in the news. Many a times case studies have also been asked related to the Act. Hence, it is obligatory for an aspirant to know all the provisions in detail related to the Act.

In news

Amendments to RTI, vacancies in Central Information Commission and related issues

Placing it in syllabus

1. Important aspects of governance, transparency and accountability, e-governance
2. Ethics, Integrity and Aptitude

Probity in Governance: Concept of public service; Philosophical basis of governance and probity; Information sharing and transparency in government, Right to Information,

Static dimensions

1. History of RTI
2. Provisions of the Act- 2005
3. Judiciary and RTI
4. Political parties and RTI

Current dimensions

1. Recent amendments proposed
2. Section 8 of the RTI Act

3. Srikrishna committee on RTI
4. Issue of vacancies in Central and State Commissions

Content

History of RTI (key movements)

- 1982 – SC rules that the Right to Information is a Fundamental Right
- 1994 – **Mazdoor Kisan Shakti Sangathan**(was founded in 1987 by **Aruna Roy** and **Nikhil Dey**) in **Rajasthan** launches movement demanding village level Information
- 1996 – Civil society group **National Campaign for People's Right to Information (NCPRI)** started movement for RTI Act
- 2005 – The RTI Bill is passed in Parliament; comes into force from October.

Provisions of the RTI Act 2005

Objectives of the Right to Information Act:

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

Salient features of RTI

- All citizens possess the right to information.
- Information can be obtained within 30 days from the date

of request in normal case. If information is a matter of life or liberty of a person, it can be obtained within 48 hours from time of request.

- Every public authority is under obligation to provide information on written request or request by electronic means.
- Certain information are prohibited (Section 8).
- Restrictions made for third party information.
- Appeal against the decision of the Central Information Commission or State Information Commission can be made to an officer who is senior in rank.

Section 8 of the RTI Act – Exemption from disclosure of information

It deals with those information that are exempted from disclosure, they are

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

1. Any 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;**
2. 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;**
3. Information, the disclosure of which would cause a breach of **privilege of Parliament or the State Legislature;**
4. 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;

5. 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;
6. Information received in confidence from **foreign government**;
7. 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;
8. Information which would **impede the process of investigation or apprehension or prosecution of offenders**;
9. **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;
10. **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 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.

Srikrishna Committee report and its impact

The report which was submitted to the government has proposed amendments to the Section 8(1)(j) of the RTI Act which mentions exemptions from the disclosures under the Act.

- The committee examines the conflict between Right to Privacy and the need to ensure Transparency and Accountability in governance by giving its views on Section 8(1)(j). The report seeks to maintain a balance between individual right and the common good. In this case, the individual right is the Right to Privacy and the common good is transparency and accountability in governance. It says that an information needs to be disclosed if common good outweighs personal harm.
- It proposes exemption of those personal information from disclosure under the Right to Information (RTI) Act,

which can cause harm to the person concerned.

- The committee said neither the right to privacy nor the right to information is absolute and the two will have to be balanced against each other in some circumstances.

Recent amendments proposed to RTI

1. **The Right to Information (Amendment) bill, 2013** – The amendment bill removes political parties from the ambit of the definition of public authorities and hence from the purview of RTI Act.
2. **The Right to Information (Amendment) Bill, 2018** – The purport of the amendments proposed is to provide for enabling provision under the RTI Act to frame Rules regarding salaries, allowances and conditions of service for Chief Information Commissioners and Information Commissioners and State Information Commissioners. Presently, there are no such provisions available under the RTI Act.

Criticisms

1. Proposed amendments (2018) would take away the independence of the Information Commissions constituted under the RTI Act, 2005 – both at the level of Centre and states.
2. Amendments to RTI a dangerous precedent against transparency and accountability.
3. The presumed reduction in the rank and salary of the CIC and ICs would **undermine the institutional status of the commissions**
4. The perceived government control would lead to vitiation of the Act.

Criticism against the original Act :

1. It doesn't cover events which have occurred 20 years before the date on which any request is made

2. Large number of vacancies in Central and State Commissions
3. No effective implementation of the Act
4. Lack of clarity on whether political parties and judiciary come under the purview of the Act.

Test yourself : Mould yours thoughts

Transparency and Accountability in governance cannot be established without Independence. Critically examine the statement in the context of recent amendments proposed to RTI Act, 2005.