



Challenges Related To RTI Act

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This article is based on **“The RTI regime failed India during Covid-19”** which was published in The Hindustan Times on 05/06/2020. It talks about issues related to the Right to Information Act, 2005.

The basic objective of the **Right to Information Act 2005 (RTI Act)** is to empower the citizens, to seek information from Public Authorities. Thereby it promotes transparency and accountability in the working of the Government, and makes Indian democracy work for the people in real sense.

The current **Covid-19 pandemic** has put lives and livelihoods at stake and led to a socioeconomic crisis. In this context, the free flow of information is an essential component of crisis management.

However, contrary to the basic axiom of the RTI Act, a query seeking details of **PM Cares fund** was denied by the Prime Minister’s Office. It stated that the **PM Cares fund is not a public authority**. Also, the State Bank of India refused to give these details on the ground that it was third party information held under fiduciary capacity.

This highlights one of many issues pertaining to RTI Act. Therefore, given the importance of public access to information, it is necessary to address the underlying issues that mar the functioning of RTI Act.

Note: History of RTI Act

- First right to information law was enacted by Sweden in 1766.
- The idea of RTI Act in India was floated by the former Prime Minister of India, Shri. V.P. Singh in 1990.
- The first grassroot campaign for the introduction of RTI was started by Mazdoor Kisan Shakti Sangathan (MKSS) in 1994.
- National Campaign for People’s RTI – Formed in 1996; formulated initial draft of RTI law for the Government.

- Tamil Nadu became the first Indian State to pass RTI law in 1997.
- Freedom of Information (FOI) Act, 2002 passed by Parliament, could not be implemented.
- Bill for the present RTI Act, 2005 was passed on the recommendations of National Advisory Council (NAC) in May 2005, and RTI Act, 2005 became effective from October 12, 2005.

Associated Challenges

- **Misuse of RTI Act :** Due to non-applicability of locus-standi rule to RTI case and non-requirement of giving reasons for seeking information, it has been observed that the RTI act is misused by the many petitioners.
 - This leaves ample scope for non-serious information seekers to misuse it for their personal interest rather than public interest in disclosure.
 - Also, this diverts the time of public servants and adversely affects their work.
- **Low Public Awareness:** Public Awareness is very low in India regarding their rights as well as duties.

Some reasons behind this are lack of education and awareness. It was further observed that awareness level is low among the rural areas and in disadvantaged communities such as women, SC/ST/OBC.
- **Huge Backlog and Delay in Disposal of Cases:** One of the reasons the RTI Act was considered to be revolutionary was that a response has to be provided in a fixed time, failing which the government official concerned would be penalized. However, this time-bound nature of the Act suffers due to multiple reasons:
 - Due to the **insufficient number of Information Commissioners** at the center level, there is a high backlog and delay in the hearing of the cases.
 - Further, because of **poor quality**, incomplete and inaccurate information, the filing the First appeal increases significantly under the RTI Act.
 - Moreover, the **act doesn't provide any limit within which the Second Appeal to Chief Information Commission (CIC)** must be heard. Due to this, the applicant has to wait for months in order to have his or her case heard at CIC.
 - **Ineffective record management systems** and procedures to collect information from field offices lead to delays in processing RTI applications.
- **Dilution of the law:** The **RTI Act (Amendment) Act, 2019** gives the central government the power to fix the terms and the service conditions of the Information Commissioners both at central and state levels.

By vesting excessive powers with the central government, this amendment has hampered the autonomy of CIC.

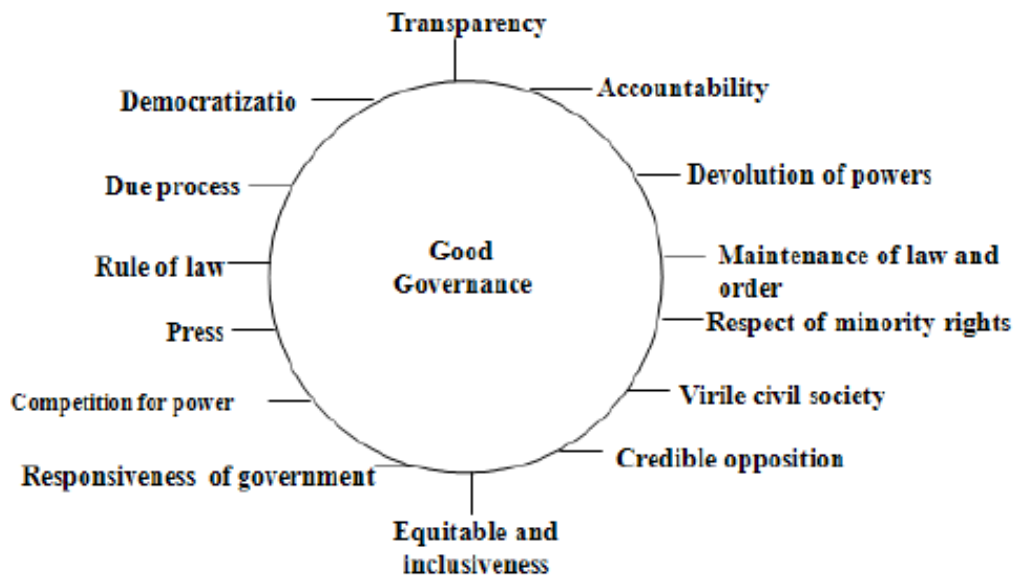
- **Issue of Enforceability:** The Act does not give adequate authority to the Information Commissions to enforce their decisions.
 - Information commissions can give directions to public authorities to take the steps necessary to comply with the Act, but are not empowered to take any action if such directions are ignored.
- **Secrecy:** The free flow of information in India remains severely restricted by the legislative framework including several pieces of restrictive legislation, such as the **Official Secrets Act, 1923**.

Way Forward

- **Open Data Policy:** Government institutions should put all disclosable information on their respective websites.
 - By this, the petitioners may immediately access whatever information they need.
 - This will also reduce the burden of the department to provide information which takes much of its valuable time.
- **Compiling of Similar RTI Applications:** Many RTI Applicants file multiple RTI applications on the same subject/seek the same information, which increases the burden of the information department of various public institutions.
 - Also, a system needs to be put in to weed out such duplicate cases.
- **Preventing Misuse of RTI:** RTI misuse can be prevented by introducing the reason knowing provision for filing the petition.
 - Also, there should be a provision of Penalty for wasting the valuable time of the Information Commissioner for demanding unnecessary information or which is not in public interest.
- **Balancing with Privacy Right:** Another right of a citizen protected under the Constitution is the right to privacy. This right is enshrined within the spirit of Article 21 of the Constitution.
 - Thus, the right to information has to be balanced with the right to privacy within the framework of law.
- **Increasing Public Awareness:** This can be done by the launch of awareness campaigns through Radio, Television and Print Media various regional languages in rural areas.
 - A chapter on RTI Act, 2005 should be added in school/college curriculum.
 - Central/State Information Commissions should be provided with sufficient funds for creating awareness about RTI Act, 2005.

Democracy is all about governance of the people, by the people and for the people. In order to achieve the third paradigm, the state needs to start acknowledging the importance of informed public and the role that it plays in the country's development as a

nation. In this context, underlying issues related to RTI Act should be resolved, so that it can serve the needs of **Information societies**.



Drishti Mains Question

Discuss the underlying issues related to RTI act and how they can be resolved, for the pursuit of good governance.

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This editorial is based on “**Canberra Connect**” which was published in The Indian Express on June 6th, 2020. Now watch this on our Youtube channel.