



Delays in Appointing Information Commissioners

For Prelims: [Supreme Court](#), [Right to Information Act, 2005](#), [Freedom of Information Act, 2002](#), [Bharatiya Sakshya Adhinyam](#), [CEC](#), [Election Commissioner](#), [Digital Personal Data Protection Act, 2023](#), [Central Information Commission \(CIC\)](#), [RTI \(Amendment\) Act, 2019](#), [Statutory Body](#), [Leader of Opposition](#), [Office of Profit](#), [Cooperatives](#).

For Mains: Issues undermining RTI's effectiveness and way forward

[Source: TH](#)

Why in News?

The [Supreme Court](#) expressed **strong criticism** of the **chronic delay** shown by the **Centre and States** in appointing **Information Commissioners (ICs)** under the [Right to Information Act, 2005](#). (RTI Act, 2005)

- Delays in appointing ICs **undermine** citizens' ability to exercise their **right to information**, with thousands of cases pending.

What are the Concerns Regarding the RTI Act, 2005?

- **Delay in Appointment:** As of 2024, the [Central Information Commission \(CIC\)](#) has **8 vacancies** in the posts of **ICs** with **23,000 pending appeals** filed by citizens.
 - Several **Information Commissions in States** have been **defunct since 2020**, and some have **stopped accepting petitions** under the **RTI Act, 2005**.
 - Dissatisfaction with RTI responses from **Public Information Officers (PIOs)** often prompts citizens **to file first appeals** with the designated Appellate Authority.
- **Subordinate Rules:** The RTI Act's implementation **varies across states** due to **different rules**. E.g., Some states **lack online portals** or have inconsistent registration, complicating the process.
- **Lack of Transparency:** The majority of appointees to the position of ICs are **former bureaucrats** raising concerns about **impartiality and transparency** in the decision-making process.
 - In *Anjali Bhardwaj and Ors v. Union of India Case, 2019*, the Supreme Court highlighted the need to **appoint people from diverse backgrounds**.
- **Personal Data Disclosure:** The RTI Act, 2005 allows **personal data disclosure** by the government if there's a **public interest**. However, The **DPDP Act, 2023**, changed this to a **complete ban** shielding powerful public officials from accountability.
- **Unilateral Amendments:** The [RTI \(Amendment\) Act, 2019](#) granted the Union Government the **sole authority** to determine the **tenure and salaries** of ICs potentially compromising their **autonomy**.

Note: [Digital Personal Data Protection Act, 2023](#) imposed a **blanket ban on personal data disclosure**, which could hinder public audits and accountability. Earlier, it **prevented** the government

from **disclosing** citizens' personal data unless there's a **strong public interest**.

What are Key Facts About the RTI Act, 2005?

- **About:** RTI Act, 2005 was enacted to empower citizens with the **right to access information** from public authorities.
 - It aims to promote **transparency, accountability, and good governance** in the functioning of government bodies and public authorities.
- **Origin:** The RTI Act originated from a **1980s grassroots movement in Rajasthan**, where villagers demanded **accountability, and access to records**.
- **Key Provisions:**
 - The Act applies to **all levels of government**, including central, state, and local bodies.
 - **Section 8(2)** allows for the disclosure of information when the **public interest outweighs confidentiality** of information.
 - **Section 22** ensures that the RTI Act takes **precedence** over any inconsistencies with other laws.
- **Exemptions:** The **Official Secrets Act (OSA), 1923** allows bureaucrats to **withhold information** to maintain the **confidentiality** of official documents.
 - Other laws, like the **Indian Evidence Act, 1872 (Bharatiya Sakshya Adhiniyam)** and **All India Services Conduct Rules, 1968** allow officials to restrict information under the **RTI Act, 2005**.
- **Key Amendments in RTI Act, 2005:**
 - **Right to Information (Amendment) Act, 2019:** Under RTI Act, 2005, the term of the **Chief Information Commissioner (CIC)** and **ICs** is fixed at **5 years or until the age of 65**, whichever is earlier. After the Right to Information (Amendment) Act, 2019, the term is decided by the **Central Government**.
 - Originally, the **CIC's salary and terms of service** align with the **CEC**, and the **IC's** with an **Election Commissioner**. After amendments, **salaries, allowances, and terms of service** for both the CICs and ICs are prescribed by the **Central Government**.

What is the Central Information Commission?

- **Establishment:** It was established under the **RTI Act, 2005**, as a **statutory body** (not a constitutional body).
- **Composition:** The **Central Information Commission** shall consist of the **Chief Information Commissioner (CIC)** and such number of **Central Information Commissioners not exceeding 10** as may be deemed necessary.
- **Appointment:** Members are appointed by the **President of India** based on the recommendations of a committee comprising:
 - The **Prime Minister** (Chairperson).
 - The **Leader of Opposition in the Lok Sabha**.
 - A **Union Cabinet Minister** nominated by the Prime Minister.
- **Eligibility and Exemption:** Eminent individuals with experience in **law, science, technology, social service, management, journalism, or governance**.
 - Must **not be MPs, MLAs**, or hold any **office of profit**.
 - No political affiliations, business, or professional engagements.
 - They are **not eligible for reappointment**.
- **Powers of the CIC:** Summoning witnesses, inspecting documents, requisitioning public records, and issuing summons for examination.
- **Functions:** Its primary role is to ensure the effective **implementation of the RTI Act, 2005** and uphold citizens' right to information.
 - It deals with cases involving **offices, financial institutions, public sector undertakings**, and other entities under the **Central Government and Union Territories**.

Way Forward

- **Addressing Vacancies:** Expedite appointments to fill vacancies in Information Commissions for **timely appeal resolution** and maintain citizens' trust in the RTI framework.
 - **Broaden the selection criteria** to include professionals from diverse fields as recommended by the Supreme Court.
- **Enhanced Coverage:** Include **public-private partnerships (PPPs)**, **sports bodies**, and **cooperatives** under the RTI Act, 2005 to ensure greater transparency, particularly in the handling of public funds.
 - Bring **political parties** under the **RTI Act** to ensure financial transparency.
- **Digital Integration:** Allow all post offices to accept **post-free RTI applications**, particularly for citizens in **rural areas**.
 - Encourage all states to adopt a unified, **National Informatics Centre (NIC)-designed RTI portal** to make it easier for citizens to file requests.
- **Accountability:** Public authorities should be **more accountable to the public** by providing **regular updates and reports** on how they are handling RTI requests.

Drishti Mains Question:

Discuss the current issues with the Right to Information (RTI) Act, 2005 and suggest measures to strengthen it for better governance.

UPSC Civil Services Examination, Previous Year Question (PYQ)

Mains

Q. The Right to Information Act is not all about citizens' empowerment alone, it essentially redefines the concept of accountability." Discuss. (2018)

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