Right to Information: Master Key to Good Governance – 2nd ARC

Introduction

"If liberty and equality, as is thought by some are chiefly to be found in democracy, they will be best attained when all persons alike share in the government to the utmost". **Aristotle**

- Right to information has been seen as the key to strengthening participatory democracy and ushering in people centred governance. Access to information can empower the poor and the weaker sections of society to demand and get information about public policies and actions, thereby leading to their welfare.
- Without good governance, no amount of developmental schemes can bring improvements in the quality of life of the citizens. Good governance has four elements
    1. Transparency
    2. Accountability
    3. Predictability
    4. Participation

- Right to information opens up government's records to public scrutiny, thereby arming citizens with a vital tool to inform them about what the government does and how effectively, thus making the government more accountable.
- Transparency in government organisations makes them function more objectively thereby enhancing predictability. Information about functioning of government also enables citizens to participate in the governance process effectively. In a fundamental sense, **right to information is a basic necessity of good governance**.
- In recognition of the need for **transparency in public affairs,** the Indian Parliament enacted the Right to Information Act in 2005. It is a path breaking legislation empowering people and promoting transparency.
- This Report is in two parts:
    1. First part focuses on Official Secrets and confidentiality issues.
    2. Second part focuses on the steps required for effective implementation of the

Act.

Part I – Official Secrets Act and Other Laws

- In a democracy, people are sovereign and the elected government and its functionaries are public servants. Therefore by the very nature of things, transparency should be the norm in all matters of governance.
- People should have the unhindered right to know the decisions of the Cabinet and the reasons for these, but not what actually transpires within the confines of the 'Cabinet room'. The Act recognizes these confidentiality requirements in matters of State and **Section 8 of the Act exempts all such matters from disclosure** .
- **The Official Secrets Act, 1923 (hereinafter referred to as OSA),** enacted during the colonial era, governs all matters of secrecy and confidentiality in governance. The law largely deals with matters of security and provides a framework for dealing with espionage, sedition and other assaults on the unity and integrity of the nation.
- While **Section 5** of OSA was obviously intended to deal with potential breaches of national security, the wording of the law and the colonial times in which it was implemented made it into a catch-all legal provision converting practically every issue of governance into a confidential matter.
- This tendency was buttressed by the **Civil Service Conduct Rules, 1964** which prohibits communication of an official document to anyone without authorization.
- **Section 123 of the Indian Evidence Act, enacted in 1872,** prohibits the giving of evidence from unpublished official records without the permission of the Head of the Department, who has abundant discretion in the matter.

Official Secrets Act

- **Sec. 8(2):** Notwithstanding anything in the Official Secrets Act, 1923 nor any of the exemptions permissible in accordance with subsection (1), a public authority may allow access to information, if public interest in disclosure outweighs the harm to the protected interests".
- "**Sec.22** The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in the **Official Secrets Act, 1923,** and any other law for the time being in force or any instrument having effect by virtue of any law other than this Act"
- The **word secret or the phrase official secrets has not been denied in the Act**. Therefore, public servants enjoy the discretion to classify anything as secret.
- This tendency was buttressed by the **Civil Service Conduct Rules, 1964** which prohibit communication of an official document to anyone without authorization.
- **The Official Secrets Act, 1923** is the main statute for fighting espionage Activities which vitally affect the national security.
    1. Spying or entry into a prohibited place etc.

2. Wrongful communication
3. Harbouring spies
4. Unauthorized use of uniforms, falsification of reports etc.
5. Interference with the police or military, near a prohibited place.

- Even information which does not have a bearing on national security cannot be disclosed if the public servant obtained or has access to it by virtue of holding office. Such illiberal and draconian provisions clearly bred a culture of secrecy. Though the RTI Act now overrides these provisions in relation to matters not exempted by the Act itself from disclosure, the fact remains that OSA in its current form in the statute books is an anachronism.
- The Law Commission also recommended consolidation of all laws dealing with national security and suggested a **"National Security Bill"** comprising of
    1. Chapters 6 and 7 of the Indian Penal Code.
    2. The Foreign Recruiting Act, 1874.
    3. The Official Secrets Act, 1923.
    4. The Criminal Law Amendment Act, 1938.
    5. The Criminal Law Amendment Act, 1961.
    6. The Unlawful Activities (Prevention) Act, 1967.

- The Commission agrees with the recommendation of the Law Commission that all laws relating to national security should be consolidated. The Law Commission's recommendation was made in 1971. The **National Security Act (NSA),** subsequently enacted in 1980, essentially replaced the earlier **Maintenance of Internal Security Act** and deals only with preventive detention. Therefore, a new chapter needs to be added to the NSA incorporating relevant provisions of OSA and other laws dealing with national security.
- While recognizing the importance of keeping certain information secret in national interest, the Commission is of the view that the disclosure of information has to be the norm and keeping it secret should be an exception. OSA, in its present form is an obstacle for creation of a regime of freedom of information, and to that extent the provisions of OSA need to be amended.
- The Commission, on careful consideration agrees with the amendment proposed by the **Shourie Committee,** as it reconciles harmoniously the need for transparency and the imperatives of national security without in anyway compromising the latter. These can be incorporated in the proposed new chapter in the NSA relating to Official Secrets.

Recommendations

- The Official Secrets Act, 1923 should be repealed, and substituted by a chapter in the National Security Act, containing provisions relating to official secrets.

- The Shourie Committee recommended a comprehensive amendment of Section 5(1) to make the penal provisions of OSA applicable only to violations affecting national security.

Governmental Privilege in Evidence

- The term "privilege" as used in Evidence law means freedom from compulsion to give evidence or to discover material, or a right to prevent or bar information from other sources during or in connection with litigation, but on grounds extrinsic to the goals of litigation
- **Section 123 of the Indian Evidence Act, 1872** prohibits the giving of evidence derived from unpublished official records relating to affairs of State except with the permission of the Head of the Department
- Further, **Section 124** of the Act stipulates: “No public officer shall be compelled to disclose communications made to him in official confidence when he considers that the public interests would suffer by the disclosure”.
- The **Law Commission in its 69th report (1977) and 88th report (1983)** on the Indian Evidence Act suggested that Section 123 should be revised.
- The Shourie Committee also examined these sections of the Indian Evidence Act and recommended amendments of Sections 123 & 124, Indian Evidence Act.

Recommendations

- Section 123 of the Indian Evidence Act, 1872 should be amended.
- Accordingly, the following will have to be inserted at the appropriate place in the Code of Civil Procedure, 1908 and the Code of Criminal Procedure, 1973:

"Any person aggrieved by the decision of any Court subordinate to the High Court rejecting a claim for privilege made under section 123 of the Indian Evidence Act, 1872 shall have a right to appeal to the High Court against such decision, and such appeal may be filed notwithstanding the fact that the proceeding in which the decision was pronounced by the Court is still pending."

The Oath of Secrecy

- A Union Minister, while assuming office, is administered an oath of secrecy as follows:
- “I will not directly or indirectly communicate or reveal to any person or persons any matter which shall be brought under my consideration or shall become known to me as a Minister for the Union except as may be required for the due discharge of my duties as such Minister.”
- A Minister in the State Government takes a similar oath.
- The **National Commission to Review the Working of the Constitution (NCRWC),** while examining the Right to Information had the following to say. “In fact, we should

have an **oath of transparency in place of an oath of secrecy**".

- A Minister is a bridge between the people and the Government and owes his primary allegiance to the people who elect him. The existence of this provision of oath of secrecy and its administration along with the oath of office appears to be a legacy of the colonial era where the public was subjugated to the government. However, national security and larger public interest considerations of the country's integrity and sovereignty may require a Minister or a public servant with sufficient justification not to disclose information.
- But a very public oath of secrecy at the time of assumption of office is both unnecessary and repugnant to the principles of democratic accountability, representative government and popular sovereignty.
- Therefore, the obligation not to disclose official secrets may be built in through an appropriate insertion of a clause in the national security law dealing with official secrets. If required, such an undertaking may be taken in writing, thus avoiding public display of propensity to secrecy.
- The Commission is therefore of the view that the Oath of Secrecy may be dispensed with and substituted by a statutory arrangement and a written undertaking. Further, keeping in view the spirit of the Act to promote transparency and as recommended by the NCRWC it would be appropriate if Ministers on assumption of office are administered an **oath of transparency** along with the oath of office.

Recommendation

- As an affirmation of the importance of transparency in public affairs, Ministers on assumption of office may take an oath of transparency along with the oath of office and the requirement of administering the oath of secrecy should be dispensed with. **Articles 75(4)** and **164 (3)** and the Third Schedule should be suitably amended.
- Safeguard against disclosure of information against the national interest may be provided through written undertaking by incorporation of a clause in the national security law dealing with official secrets.

Exempted Organizations

- **Section 24** of the Act stipulates, "Nothing contained in this Act shall apply to the **intelligence and security organisations** specified in the Second Schedule, being organisations established by the Central Government or any information furnished by such organisations to that Government."
- The list of organizations includes Border Security Force (BSF), Central Reserve Police force (CRPF), Assam Rifles etc., but the Armed Forces have been left outside the purview of the Act. When organizations such as BSF, CRPF, and Assam Rifles are exempted, there is no rationale for not exempting the Armed Forces as well. The **Second schedule** needs to be periodically revised to include or exclude organizations

in keeping with changing need

- The Commission feels that the Armed Forces should be included in the list of exempted organization **(Second Schedule of the Act),** because almost all Activities of the Armed Forces would be covered under the exemption 8(a) which states that there shall be no obligation to give to any citizen, information which would prejudicially affect the sovereignty and integrity of India, the security, strategic, scientific or economic interests of the State
- Since, public interest in disclosure outweighs the harm to the protected interests; by including Armed Forces in the Second Schedule, while national security is safeguarded, disclosure is still mandatory when public interest demands it.
- The Commission feels that even in cases of organizations listed in Second Schedule, PIOs should be appointed so that requests for applications may be filed with them. A person aggrieved by an order of the PIO may approach the CIC/SIC.

Recommendation

- The Armed Forces should be included in the Second Schedule of the Act.
- The Second Schedule of the Act may be reviewed periodically.
- All organizations listed in the Second Schedule have to appoint PIOs. Appeals against orders of PIOs should lie with CIC/SICs. (This provision can be made by way of removal of difficulties under section 30).

The Central Civil Services (conduct) Rules

- The **Shourie Committee** examined this issue and stated as follows: "There is a widespread feeling that the Central Civil Services (Conduct) Rules, 1964, and corresponding rules applicable to Railways, Foreign Services and All India Services, inhibit government servants from sharing information with public. The accent in these rules is on denial of information to public. This situation has obviously to change if freedom of Information Act is to serve its purpose and if transparency is to be brought about in the system".
- The Commission agrees with the views of the Shourie Committee. The **Central Civil Services (Conduct) Rules** were formulated when the RTI Act did not exist. The spirit of these Rules is to hold back information. With the emergence of an era of freedom of information, these Rules would have to be recast so that dissemination of information is the rule and holding back information is an exception.

Part II – Implementation of The Right To Information Act

- In order to enforce the rights and fulfil the obligations under the Act, building of institutions, organization of information and creation of an enabling environment are

critical.

- Therefore, the Commission has, as a first step, reviewed the steps taken so far to implement the Act as follows:
    - Building institutions
        1. Information Commissions
        2. Information Officers and Appellate Authorities
    - Information and record-keeping
        1. Suo motu declaration under Section 4.
        2. Public Interest Disclosure.
        3. Modernizing recordkeeping
    - Capacity building and awareness generation
    - Creation of monitoring mechanism

- The Act provides for selection of CIC and SICs in a bipartisan manner, and involves the Leader of the Opposition in the process. Since the Act is applicable to all three organs of the State, it would be appropriate to include in the selection committee the Chief Justice of the Supreme Court or High Court as the case may be. This will inspire public confidence and enhance the quality of the selection.
- The Act visualizes a Commission wherein the Members represent different sections of the society. The State Governments are still in the process of appointing Information Commissioners, but an analysis of the background of the State Chief Information Commissioners indicates the preponderance of persons with civil service background. Members with civil services background no doubt bring with them wide experience and an intricate knowledge of government functioning; however to inspire public confidence and in the light of the provisions of the Act, it is desirable that the Commissions have a large proportion of members with non civil services background.

Recommendation

- **Section 12** of the Act may be amended to constitute the Selection Committee of CIC with the Prime Minister, Leader of the Opposition and the Chief Justice of India. Section 15 may be similarly amended to constitute the Selection Committee at the State level with the Chief Minister, Leader of the Opposition and the Chief Justice of the High Court.
- The GOI should ensure the constitution of **SICs in all States within 3 months**.
- The CIC should **establish 4 regional offices** of CIC with a Commissioner heading each. Similarly regional offices of SICs should be established in larger States.
- At least half of the members of the Information Commissions should be drawn from non civil services background. Such a provision may be made in the Rules under the Act, by the Union Government, applicable to both CIC and SICs

Designating Information Officers and Appellate Authorities

Section 19(1) read with **Section 7(3) (b)** implies designating an appellate authority for each PIO, the law does not specifically provide for designating of appellate authorities as it does in case of PIOs. As a result there is avoidable confusion about the identification of appellate authorities. This omission needs to be rectified.

Recommendations

- All Ministries/Departments/Agencies/Offices with more than one PIO have to designate a nodal Assistant Public Information Officer with the authority to receive requests for information on behalf of all PIOs. Such a provision should be incorporated in the Rules by appropriate governments.
- PIOs in Central Secretariats should be of the level of at least Deputy Secretary /Director. In State Secretariats, officers of similar rank should be notified as PIOs. In all subordinate agencies and departments, officers sufficiently senior in rank and yet accessible to public may be designated as PIOs.
- All public authorities may be advised by the Government of India that along with the Public Information Officers they should also designate the appellate authority and publish both, together.
- The designation and notification of Appellate Authorities for each public authority may be made either under Rules or by invoking Section 30 of the Act.

Recommendation on Organising Information and Record Keeping

- Suo motu disclosures should also be available in the form of printed, priced publication in the official language, revised periodically (at least once a year). Such a publication should be available for reference, free of charge. In respect of electronic disclosures, NIC should provide a single portal through which disclosures of all public authorities under appropriate governments could be accessed, to facilitate easy availability of information.
- **Public Records Offices** should be established as an independent authority in GOI and all States within 6 months by integrating and restructuring the multiple agencies currently involved in record keeping. This Office will be a repository of technical and professional expertise in management of public records. It will be responsible for supervision, monitoring, control and inspection of record keeping in all public offices.
- As a one time measure, GOI may create a **Land Records Modernisation Fund** for survey and updation of all land records. The quantum of assistance for each State would be based on an assessment of the field situation.

Recommendations on Capacity Building and Awareness Generation

- Training programmes should not be confined to merely PIOs and APIOs. All government functionaries should be imparted at least one day training on Right to

Information within a year. These training programmes have to be organized in a decentralized manner in every block. A cascading model could be adopted with a batch of master trainers in each district.
- Appropriate governments should bring out guides and comprehensible information material within the prescribed time.
- The CIC and the SICs may issue guidelines for the benefit of public authorities and public officials in particular and public in general about key concepts in the Act and approach to be taken in response to information requests on the lines of the Awareness Guidance Series.

Recommendations on Monitoring Mechanism

- The CIC and the SICs may be entrusted with the task of monitoring effective implementation of the Right to Information Act in all public authorities. (An appropriate provision could be made under Section 30 by way of removal of difficulties).
- As a large number of Public Authorities exist at regional, state, district and sub district level, a nodal officer should be identified wherever necessary by the appropriate monitoring authority (CIC/SIC) to monitor implementation of the Act.
- Each public authority should be responsible for compliance of provisions of the Act in its own office as well as that of the subordinate public authorities
- A National Coordination Committee (NCC) may be set up under the chairpersonship of the Chief Information Commissioner with the nodal Union Ministry, the SICs and representatives of States as members. A provision to this effect may be made under Section 30 of the Act by way of removing difficulties. The National Coordination Committee would:
    1. Serve as a national platform for effective implementation of the Act.
    2. Document and disseminate best practices in India and elsewhere.
    3. Monitor the creation and functioning of the national portal for Right to Information.
    4. Review the Rules and Executive orders issued by the appropriate governments under the Act.
    5. Carry out impact evaluation of the implementation of the Act.
    6. Perform such other relevant functions as may be deemed necessary.

Issues in implementation

- The Commission has identified some of the problem areas in implementation and these are discussed and recommendations made for their redressal.
- Facilitating Access: For seeking information, a process as prescribed under the Act has to be set in motion. The trigger is filing of a request. Once the request is filed the onus of responding to it shifts to the government agency.

- Based on the case studies conducted by the Commission, responses of various Ministries to a questionnaire, and interactions with the stakeholders, a number of difficulties/ impediments were noted:
    1. Complicated system of accepting requests.
    2. Insistence on demand drafts.
    3. Difficulties in filing applications by post.
    4. Varying and often higher rates of application fee.
    5. Large number of PIOs.

Recommendations

- In addition to the existing modes of payment, appropriate governments should amend the Rules to include payment through postal orders.
- States may be required to frame Rules regarding application fee which are in harmony with the Central Rules. It needs to be ensured that the fee itself does not become a disincentive.
- Appropriate governments may restructure the fees (including additional fees) in multiples of Rs 5. {E.g. instead of prescribing a fee of Rs. 2 per additional page it may be desirable to have a fee of Rs. 5 for every 3 pages or part thereof}.
- State Governments may issue appropriate stamps in suitable denominations as a mode of payment of fees. Such stamps would be used for making applications before public authorities coming within the purview of State Governments.
- As all the post offices in the country have already been authorized to function as APIOs on behalf of Union Ministries/Departments, they may also be authorized to collect the fees in cash and forward a receipt along with the application.

Inventory of Public Authorities

The Act defines public authorities to include a vast array of institutions and agencies. For people to access information, a catalogued and indexed list of all public authorities is necessary. In a vast and diverse country with a federal structure, listing out all the public authorities is a Herculean task. Therefore an inverted tree concept could be followed to have an inventory of all public authorities.

Recommendations

- At the Government of India level the Department of Personnel and Training has been identified as the nodal department for implementation of the RTI Act. This nodal department should have a complete list of all Union Ministries/ Departments which function as public authorities.
- Each Union Ministry/ Department should also have an exhaustive list of all public authorities, which come within its purview. The public authorities coming under each ministry/ department should be classified into:

1. Constitutional bodies
2. Line agencies
3. Statutory bodies
4. Public sector undertakings
5. Bodies created under executive orders
6. Bodies owned, controlled or substantially financed
7. NGOs substantially financed by government.

- Within each category an up-to date list of all public authorities has to be maintained.
- Each public authority should have the details of all public authorities subordinate to it at the immediately next level. This should continue till the last level is reached. All these details should be made available on the websites of the respective public authorities, in a hierarchical form.
- A similar system should also be adopted by the States.

Recommendation on Single window agency at district level

- A **single window agency** should be set up in each district. This could be achieved by creating a cell in a district-level office, and designating an officer as the assistant public information officer for all public authorities served by the single window agency.
- The office of the District Collector/ Deputy Commissioner, or the Zilla Parishad is well suited for location of the cell. This should be completed by all States within 6 months.

Recommendation on subordinate field offices and public authorities

- **'Public authority'** has been defined as any authority or body or institution of self government established or constituted by or under the constitution, by any other law made by parliament, by state legislatures, and by any notification issued by the appropriate government, including institutions substantially funded by the appropriate Government. This would extend the spread of public authorities to the level of panchayats and village patwaris across the country.
- The intention of the Act is to reach a stage where suo motu disclosure of information by institutions in itself takes care of citizens' need for information. Therefore public authorities at the lower end of the administrative and/or functional hierarchies need to be identified to discharge responsibilities under Section 4 of the Act, as they are closest to the people both physically and functionally.

Application to Non Governmental Bodies

Under the Act, a non-governmental body needs to be substantially financed by government to be categorized as a public authority under the Act. There is however no definition of "substantially financed".

Recommendations

- Organisations which perform functions of a public nature that are ordinarily performed by government or its agencies, and those which enjoy natural monopoly may be brought within the purview of the Act.
- Norms should be laid down that any institution or body that has received 50% of its annual operating costs, or a sum equal to or greater than Rs.1 crore during any of the preceding 3 years should be understood to have obtained 'substantial funding' from the government for the period and purpose of such funding.
- Any information which, if it were held by the government, would be subject to disclosure under the law, must remain subject to such disclosure even when it is transferred to a non-government body or institution.
- This could be achieved by way of removal of difficulties under section 30 of the Act.

Time Limit for Information beyond 20 Years

A uniform limit of 20 years may on a few occasions pose problems for the Public Authorities as well as the applicants. There are a significant percentage of records which are permanent in nature. These include the records of rights maintained by the State Land Revenue Department, the Registrars and Sub Registrars of lands, important court rulings, and important files regarding policy decisions in various public authorities, birth and death Registrations etc. In such cases requests are received for events which may be well beyond 20 years.

Recommendations

- The stipulation of making available 20-year old records on request should be applicable only to those public records which need to be preserved for such a period. In respect of all other records, the period of availability will be limited to the period for which they should be preserved under the record keeping procedures.
- If any public authority intends to reduce the period up to which any category of record is to be kept, it shall do so after taking concurrence of the Public Records Office.
- These recommendations could be implemented by way of removal of difficulties under Section 30 of the Act.

Mechanism for Redressal of Public Grievances

- A successful example of this mechanism is the **Public Grievances Commission (PGC) set up by the Delhi government in 1997**. When the Delhi Right to Information Act came into force in 2001, the PGC was made the appellate authority to decide appeals under the Act. Because of this arrangement the PGC has become an effective "single window" authority which facilitates access to information and when required provides a platform for redressing the citizen's grievances as well. The PGC has also effectively

used its statutory status and authority under Delhi RTI Act combined with its non-statutory grievance redressal powers to foster systemic reforms.
- Taking note of this successful administrative arrangement, the Commission is of the view that similar arrangements could be replicated (with suitable modifications) by other states.

Recommendations

States may be advised to set up independent public grievances redressal authorities to deal with complaints of delay, harassment or corruption. These authorities should work in close coordination with the SICs/District single window agencies, and help citizens use information as a tool to fight against corruption and misgovernance, or for better services.

Recommendations regarding application of the Act to the legislature and judiciary

- A system of indexing and cataloguing of records of the legislatures, which facilitates easy access, should be put in place. This could be best achieved by digitising all the records and providing access to citizens with facilities for retrieving records based on intelligible searches.
- A tracking mechanism needs to be developed so that the action taken by the executive branch on various reports like CAG, Commissions of Enquiry and House Committees is available to legislators and public, online.
- The working of the legislative committees should be thrown open to the public. The presiding officer of the committee, if required in the interest of State or privacy, may hold proceedings in camera.
- The records at the district court and the subordinate courts should be stored in a scientific way, by adopting uniform norms for indexing and cataloguing.
- The administrative processes in the district and the subordinate courts should be computerised in a time bound manner. These processes should be totally in the public domain.

Removal of Difficulties

The Commission however have identified some initial difficulties which could impede smooth implementation of the Act.

- All organisations listed in the Second Schedule have to appoint PIOs. Appeals against orders of PIOs should lie with CIC/SICs.
- Provision should be made to include annual confidential reports, examination question papers and related matters in the exemptions under the RTI Act.
- Provision has to be made for designation and notification of Appellate Authority

for each public authority.
    - The CIC and the SICs should be entrusted with the task of monitoring effective implementation of Right to Information in all public authorities.
    - A National Coordination Committee (NCC) may be set up under the chairpersonship of the chief information commissioner with the nodal union ministry, the SICs and representatives of States as members. A provision to this effect may be made under Section 30 of the Act by way of removing difficulties.
    - The following norms should be followed for determining applicability of the Act to nongovernmental organizations.
        - Organisations which perform functions that are ordinarily performed by government or its agencies, and those which enjoy natural monopoly should be brought within the purview of the Act.
        - Norms should be laid that any institution or body that has received 50% of its annual operating costs, or a sum equal to or greater than Rs.1 crore, during any of the preceding 3 years should be understood to have obtained 'substantial funding' from the government for the period and purpose of such funding.
        - Any information which, if it were held by the government, would be subject to disclosure under the law, must remain subject to such disclosure even when it is transferred to a non-government body or institution.

- The stipulation of making available 20-year old records on request should be applicable only to those public records which need to be preserved for such a period. In respect of all other records, the period of availability will be limited to the period for which they should be preserved under the record keeping procedures. If any public authority intends to reduce the period up to which any category of record is to be kept, it shall do so after taking concurrence of the CIC/SIC as the case may be.
- It may be provided that information can be denied if the work involved in processing the request would substantially and unreasonably divert the resources of the public authority. Provided that such a refusal shall be communicated within 15 days of receipt of application, with the prior approval of the appellate authority.
- Provided further that all such refusals shall stand transferred to CIC/SIC, as the case may be and the CIC/SIC shall dispose the case as if it is an appeal under **section 19(3) of the RTI Act**.

Conclusion

The **Right to Information law of 2005** signals a radical shift in our governance culture and permanently impacts all agencies of state. The effective implementation of this law depends on three fundamental shifts:

1. From the prevailing culture of secrecy to a new culture of openness
2. From personalized despotism to authority coupled with accountability

3. From unilateral decision making to participative governance

One single law cannot change everything. But this fine legislation is an important beginning. Its effective application depends largely on the institutions created, early traditions and practices, attendant changes in laws and procedures, and adequate participation of people and the public servants. The Commission, therefore, focused on two broad categories of issues.

1. The first set of issues relates to changes in other laws and practices involving state secrets, civil service conduct rules and classification of documents. The Commission firmly believes that the **Official Secrets Act, 1923** in the current form is antiquated and unsuitable to emerging needs.
2. The second set of issues relates to implementation of the RTI Act itself, in particular process engineering, record keeping, disclosures, access and monitoring. In respect of the second category of issues, the Commission's recommendations are largely within the framework of the present law.

- It is well recognized that right to information is necessary, but not sufficient, to improve governance. A lot more needs to be done to usher in accountability in governance, including protection of whistleblowers, decentralization of power and fusion of authority with accountability at all levels.
- This law provides us a priceless opportunity to redesign the processes of governance, particularly at the grass roots level where the citizens' interface is maximum.