

Right To Information Act

Lecture Meeting
WIRC - ICAI

22nd January 2015

CA Vyankatesh Joshi

Restriction on Disclosure and Use of Data

Care has been taken to ensure that the information in this presentation is accurate. However, Vyankatesh V. Joshi accepts no legal responsibility for any consequential incidents that may arise from errors or omission contained in this presentation. This presentation is intended for guidance purpose only. It does not purport to be exhaustive, neither can it be construed as a substitute for/as a definitive interpretation of the law. Interested parties are strongly advised to examine the precise requirements of the applicable legislation for themselves, form their own judgments and seek appropriate legal advice.

Contents

Introduction

History

Questions

Sections

Recent
Issues

Right to Common Man



Need for RTI Act

- Fundamental Right
- Every citizen will have access to information
- Easy Access to Information
- Minimize Corruption
- Increase efficiency of Government officials

History

- 1990 – Mr. V.P.Singh (PM) stressed on RTI as a legislative right
- 1994 – Mazdoor Kisan Shakti Sangathan created mass awareness and a demand for legislation
- 1996 – Press council drafted a law – Freedom of Information Act, 1997
- 1997 – Mr. Arun Shouri drafted the Freedom of Information Act, 1997.
- 1998 – Mr. A. B. Vajpayee (PM) announced that the law will be enacted soon.

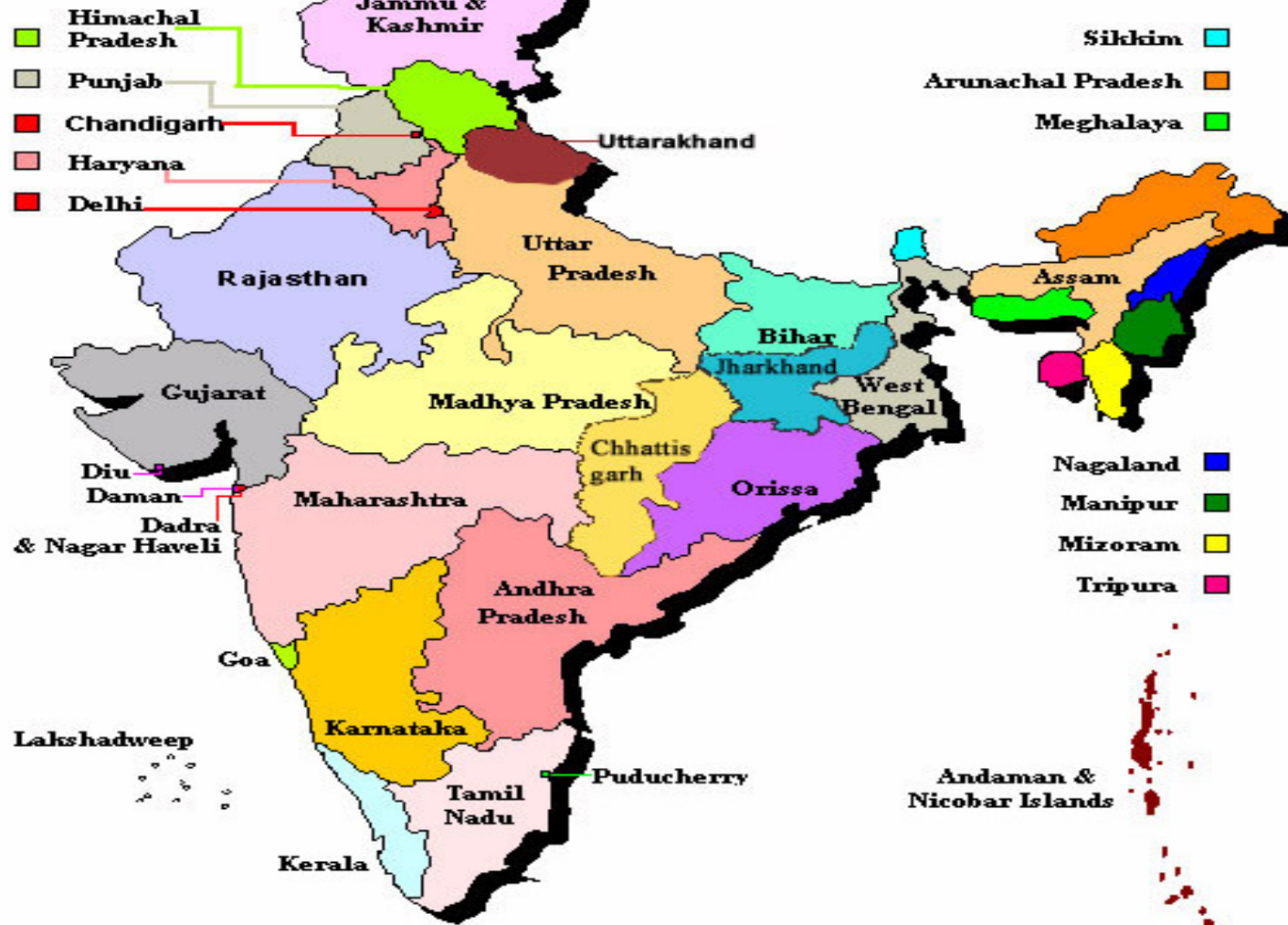
- 2000 – Freedom of Information Bill tabled in the parliament and after debate referred to a committee for review.
- 2002 – NDA government enacted the Freedom of Information Bill and adopted in 2003 but never came in to force.
- 2004 – UPA government finally tabled the new bill RTI in the parliament.
- 2005 – Mr. A. P. J. Abdul Kalam (President of India) gave his consent on 15.06.2005 and the Act became operative from 12.10.2005.

Introduction

- Purpose
- Transparency and Accountability
- Applies to the whole of India except J&K
- Official Secrets Act, 1923 [S.22]
- Enacted on 15 June 2005. Came into force on 12 October 2005.
- The Act contains 6 chapters and 31 sections with 2 schedules

RTI in India

(Website, RTI, PIO, SIC links of States)



Arrangement of Sections

Chapter Number	Particulars	Sections Covered
Chapter I	Preliminary	1, 2
Chapter II	Right to Information and Obligations of Public Authorities	3, 4, 5, 6, 7, 8, 9, 10, 11
Chapter III	Central Information Commission	12, 13, 14
Chapter IV	The State Information Commission	15, 16, 17
Chapter V	Powers and Functions of the Information Commissions, Appeals and Penalties	18, 19, 20
Chapter VI	Miscellaneous	21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31
First Schedule	Form of Oath or Affirmation to be made by CCIC/SCIC/SIC	
Second Schedule	Intelligence and Security Organisations Established by the Central Government	

Definition of 'Information' [S.2(f)]

"information" means any material in any form, including

- Records, Documents, Press Releases, Circulars, Log Books, Papers
- Memos, Opinions, Advices, Orders, Contracts
- Samples, Models, Emails, Data in electronic form
- Information related to any private body

Definition of 'Record' [S. 2(i)]

"record" includes

- a) any document, manuscript and file
- b) any microfilm, microfiche and facsimile copy of a document
- c) any reproduction of image or images embodied in such microfilm (whether enlarged or not)
- d) any other material produced by a computer or any other device

Definition of 'Right' [S. 2(j)]

- “Right to Information” includes the right to
- i. inspection of work, documents, records
 - ii. taking notes, extracts or certified copies of documents or records
 - iii. certified samples of material
 - iv. diskettes, floppies, tapes, video cassettes or in any other electronic mode or through printouts where such information is stored in a computer or in any other device

Methodology

Request for Obtaining Information [Sec 6]

- Identify the public authority which holds the information
- Identify who is the PIO to submit application to within the public authority
- Draft a clearly focused application
- Submit your application
- Wait for a decision
- Take action after the statutory period of 30 days is over

Disposal of Request [Sec 7]

Stipulated Time

- 48 hours - Life or Liberty [S. 7(1)]
- 30 days – Normal Application [S. 7(1)]
- 35 days – Other Jurisdiction of PIO [S. 5(2)]
- 40 days – Third Party Information [S. 11(3)]
- Failure to provide information in stipulated time is deemed refusal [S. 7(2)]

Fees

- Determination of fee
- Below poverty line – No fee [S. 7(5)]
- Additional fee to be paid
- Fee when response is delayed [S. 7(6)]
- Mode of Payment of fee – Cash, DD, PO, Court Fee Stamp, Non Judicial Stamp, Treasury Challan, Electronic Indian Postal Order.

Exemption from Disclosure [Sec 8]

- a. Affects the sovereignty and integrity of India
- b. forbidden by any court of law or tribunal
- c. breach of privilege of Parliament or the State Legislature
- d. information related to agencies mentioned in the Second Schedule of the Act
- e. Commercial confidence, trade secrets or intellectual property
- f. Information from a foreign government
- g. Cabinet papers including records of deliberations of the Council of Ministers, Secretaries or prosecution of offenders*
- h. Information which relates to personal matters, the disclosure of which has no bearing on any public activity or interest

Other Sections

- Grounds for Rejection in Certain Cases [Sec 9]
- Severability – part of information out of Sec 8 Exempt category [Sec 10]
- Third Party Information [Sec 11]
- Constitution of Central Information Commission [Sec 12]
- Term of Office & Conditions of Service [Sec 13]
- Removal of CIC or IC [Sec 14]

Other Sections

- Constitution of State Information Commission [Sec 15]
- Term of Office and conditions of Service [Sec 16]
- Removal of State CIS or SIC [Sec 17]
- Powers and Functions of Information Commissions [Sec 18]
- Appeal [Sec 19]
 - First Appeal (30 days)
 - Second Appeal (90 days)

Reasons for Appeal

1. No Information officer available
2. Request refused
3. No response from the officer
4. Unreasonable fee charged
5. Incomplete, misleading or false information
6. Incorrect information produced

Other Sections

- Penalties – Rs.250/- per day and maximum Rs.25,000/- & Disciplinary Action [Sec 20]
- Act not to apply in certain organisations – Schedule II [Sec 24]
- Monitoring and Reporting [Sec 25]

Some recent Issues

- Hon. PM of India Dr. Manmohan Singh said “This important legislation should not be only about criticizing, ridiculing and running down public authorities.
- RTI applications to RTO – decision of removal of dark films from the car windows.
- In gujrat a small village SALDI, could get their share of Public Distribution System with the help of RTI
- A widow was able to get back her FD amount from State bank of Saurashtra, Darbarbadh Branch, Bhavnagar Gujrat with the help of RTI

Some recent Issues

- Yale University study on RTI at Delhi slum for ration card issue.
- Previous CIC Mr. Shailesh Gandhi said that the government officers are spending only 4.6% of their time on RTI whereas the Hon. Supreme Court has said almost 75% of the time is spent by Government officers on RTI.
- Mr. Subhash Chandra Agarwal with more than 6000 applications under his belt said on 28.10.2012 at International centre Goa that the Indian Bureaucrats are actually trained in service to respond to RTI queries without revealing the necessary information in the reply.
- Electronic Postal Order for Indians staying abroad.

Some recent Issues

- One person asked for information related to one particular police station in a state. He got information from almost all the police stations in that state on particular issue.
- Lot of government departments don't answer the RTI application and also don't answer the first appeal.
- Total unclaimed deposits or inoperative accounts with 85 nationalised, public sector, private sector, foreign and other banks operative in country as on 31.12.2011 was Rs.2481,3970,461 (i.e. Rs.2,481.30 cr).
- Approximately 40 Lacs applications were made under RTI in India during the year 2011-2012.

Usage Statistics

No.	Public Authority	Requests	Pending	Disposed off
1	Delhi Police	129272	10049	119223 (92.23%)
2	Dept of Person. & Tra.	23852	988	22864 (95.86%)
3	BPCL	10712	50	10662 (99.53%)
4	Min of Environment & For	8730	2152	6578 (75.35%)
5	CSIR Head Quarters Delhi	3561	75	3486 (97.89%)
6	Steel Authority of Inda	3049	1991	1058 (34.70%)
7	Central Vigilance Commi.	2577	1302	1275(49.48%)
8	NHPC Ltd	2498	79	2419(96.84%)
9	Ministry of Mines	2225	180	2045(91.91%)
10	Directorate Gen of QA	2133	27	2106(98.73%)

Useful Websites

- www.rti.gov.in
- <http://right2information.wordpress.com>
- www.cic.gov.in
- www.persmin.nic.in
- www.freedominfo.org
- <http://rti.aidindia.org>
- www.humanrightsinitiative.org

Questions?

vyankatesh.ca@gmail.com

+91 98190 78062

+ 91 22 2618 4280

Thank you !