

# ROLE OF RIGHT TO INFORMATION ACT TO SECURE CONSTITUTIONAL GOVERNANCE AND DEMOCRATIC PRINCIPLES IN INDIAN POLITY

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Good governance of the government means the governing the conduct of its subjects by the state through various institutions with certain goals and objectives. Constitutional governance is the governance where the authority of the state to govern the conduct of its subjects drawn through constitution. The relevance of the Right to information is constitutional governance is that the constitution of India in its preamble has resolved to uphold the principles of democracy which include "Right of citizens to know about day to day affairs of government. Transparency and accountability in functioning of government authorities is one of the most important object of the Act. The good governance further implies that there is involvement of citizens in decision making involvement of citizens in implementation and evaluation of policies of the government. The goal of transparency and accountability in the working of every public authority may be achieved by enforcing the authorities to disclose the information.

Good governance and right to information are complimentary and the success of each other depends up on the other. Right to information Act 2005 would make the civil servants alert to provide the information to public challenges and as a byproduct would make administration responsive and transparent which means good governance. Right to Information and good governance is the bedrock of democracy and can pave the way for transparency, openness and accountability in governance of the affairs of the state and ensure effective participation of people in a democratic society. Accountability incorruptibility sensitivity and ethical conduct are the key factors of good governance.

In *S. P. Gupta<sup>1</sup> and others vs President of India and others* S.C held that democratic form of government necessarily requires accountability which is possible only when there is openness transparency and knowledge. Greater exposure about functioning of the government ensures better and more efficient administration promotes and encourages honesty and discourages corruption, misuse or abuse of authority. In *Express<sup>2</sup> News papers pvt ltd vs the union of India* the S.C affirmed that Right to know is part and parcel of the Right to freedom of speech and expression. The terms transparency and accountability are made part of "Preamble of the constitution and preamble of the Right to information of Act 2005. Transparency makes the citizens to know exactly what is going on and the rationale of the decision taken by the government and accountability makes sure about that the action and inaction of the government. In order to have transparency and accountability in administrative functions of the state the government should have efficient mechanism like facilitation centers and redressal centers. In *State of Uttar Pradesh Vs. Raj Narayan<sup>3</sup> and others* S.C held that the Right to Know which is derived from the concept of freedom of speech though not absolute the people of the country have a right to know every public transaction.

In *T.S.R Subramanian and others vs Union of India and others* the issue of accountability of administrative officers of the government was questioned and the court held that democracy requires an informed citizenry and transparency of information.

#### **The main Constitutional Governance Indicators<sup>4</sup> are**

- Voice and Accountability
- Political Stability and Absence of Violence
- Government Effectiveness
- Regulatory Quality
- Rule of Law

<sup>1</sup>AIR 1982, Supreme Court 149.

<sup>2</sup> Case Decided on 8 January 1958.

<sup>3</sup>1975, 4 SCC 428.

<sup>4</sup> World Bank Report for Period 1960 to 2012 [www.worldbank.org](http://www.worldbank.org)

- Control of corruption.

In 161 session at Cairo in sep 1967 the inter parliamentary union has adopted a document as Universal Declaration of democracy which enumerated the principles of democracy.

- 1) Democracy is a universally recognized idea as well as a goal which is based on common values shared by peoples throughout the world community irrespective of cultural political social and economic differences.
- 2) Democracy is the basic right of Citizenship to be exercised under conditions of freedom equality transparency and responsibility with due respect for the plurality of views and in the interest of polity.
- 3) Democracy aims essentially to preserve and promote the and fundamental rights the individual to achieve social justice foster the economic and social development of the community strengthen the cohesion of society and enhance national tranquility as well as to create a climate that is favorable For international peace .Democracy is the best way of achieving these objectives it is also the onlythat has the capacity for self correction.
- 4)Democracy is based on the existence of well structured and well functioning institutions as well as on body of standards and rules and on the will of society as a whole fully conservant with its rights and responsibilities.
- 5) Democracy is founded on the ofevery one to take part in the management of public affairs it therefore requires the existence of representative institutions at all levels.
- 6) It is an essential function of the state to ensure the enjoyment of the state to ensure the enjoyment of civil cultural economic political and social rights to its citizens.Democracy thus goes hand in hand with an effective honest and transparent government freely chosen and accountable for its management of public affairs.
- 7) Public accountability which is essential to democracy applies all those who hold public authority whether elected or non elected and to all bodies of public authority without exception. Accountability entitles a right of access to petition to government and seek redress through impartial administrative and judicial mechanism.
- 8)Public life a whole must be stamped by a sense of ethics and by transparency and appropriate norms and procedures must be established to up hold them.
- 9)A sustained state of democracy requires a democratic climate and cultural nurtured and reinforced by education and other vehicles of culture and information.
- 10)The state of democracy presupposes freedom of opinion and expression this right implies freedom to hold opinion without interference and to seek receive and impart information and ideas through any media and regardless of frontiers.

The principles of democracy emphasize up on freedom of equality transparency and responsibility .It aims at preserving and promoting the dignity and fundamental rights of the individual achieving social justice fostering the economic and social development of the community .Our democracy is based on the existence of well-structured and well functioning institutions like parliament judiciary Election commission and others .In democracy citizens have a Right to Know what their government is doing .It is only if the people know how the government is functioning and they can fulfill the democratic rights given to themand makes the democracy a really effective and participating democracy.

In recent judgment of the institute of charteredaccounts of India vs Shaunak H. satya and others<sup>5</sup> the S.C.has mentioned the relationship between democracy and Right to information Act2005in detail. One of the objects of democracy is to bring about transparency of information to contain corruption and bring about accountability .Since the constitution of india has declared India to be a democratic country ,the state is duty bound to adhere various principles of democracy recognized widely in polity of other democracies .The goals and objectives of the constitution could be termed as principles of democracy . In Union of India vsAssociation<sup>6</sup> of democratic forum the court held that the Right to know would strengthen the participation in decision making process and also in election process .The same view was mentioned by S.C in recent judgements of Resurgence India vs Election commission of India<sup>7</sup> and others, held that the citizens Right to know of the candidate who represent him in the parliament will constitute an integral part of Art 19(1)(a) of the constitution and any act which is derogative of the fundamental rights is the ultra vires of the constitution.

<sup>5</sup> SLP Case no. 2040 by 2011 Decided on 2<sup>nd</sup> September 2011.

<sup>6</sup>2002 5 SCC 294.

<sup>7</sup> WPC no. 128 of 2008 decided on 13 September 2013.

In CPIO Supreme court of India vs Subhas Chandra Agarwal<sup>8</sup> it was stated that the independence of judiciary and the fundamental right to free speech and expression are of a great value and both of them are to be balanced.

The Supreme court has brought new dimensions and interpretations of the law relating to the Right to information in two judgments. In first case Union of India vs Namit Sharma<sup>9</sup> the court held that the Right to privacy or person protected under Art 21 of the constitution should be affected by furnishing any particular information.

In T.S.R Subramaniyan and others vs Union of India<sup>10</sup> and others the court held that democracy requires an informed citizenry and transparency of information.

### **The major objectives of the R.T.I. Act are:**

- 1) Greater Transparency in functioning of Public authorities;
- 2) *Informed Citizenry for promotion of partnership between citizens and the government in decision making process.*
- 3) *Improvement in Accountability and performance of the government and*
- 4) *Reduction in Corruption in the government departments.*

*All these Parameters are critical elements of good governance, which entails full accountability to stakeholders who are partners in development process and have the powers to enforce accepted policies, common norms and recognized bench marks. It is expected therefore, that the citizen armed with information obtained through their exercise of their right to know, would be able to protect life and liberty as well as secure equity and justice before the Law.*

*With a view to ensuring maximum disclosure of information regarding government files regulations and reports including decision making processes every public authority is required to "maintain all its records duly catalogued and indexed in a manner and the form which facilitates the right to information under the act. The public authorities are therefore expected to make pro-active disclosures through publication of relevant documents including web-based dissemination of information. Besides the public authorities are also required to provide as much information suomotu to the public at regular intervals through various means of communication including internet so that the public have minimum resort to the use of this act to obtain information.*

*To facilitate the access to information a citizen has U/Sec 2(i) of the act the right to:*

1. *Inspection of Work, documents, records;*
2. *Taking notes extracts or certified copies of the documents or Records;*
3. *Taking certified sample of material and*
4. *Obtaining information in electronic form, if available*

*Thus all the public authorities have duly placed the information in public domain and a citizen has a right to observe as to what is going on inside organization. The Media and civil society have raised development issues based on facts about the use of funds as well as the best practices in formulation and implementation of pro-poor schemes. The citizens are thus better informed about the performance and contributions of the elected representatives which augurs well for a healthy democracy and democratic governance of projects.*

### **Promotion of Citizen –Government partnerships**

The RTI act provides a framework for promotion of citizen –government partnership in designing and implementation of development programmes for improving quality of life which calls for increasing peoples options for higher earnings better education and health care a cleaner environment a richer culture life. Under the RTI regime, citizens participation has been

Promoted through (a) access to information and involvement of affected groups /communities in design and implementation of projects and (b) empowerment of local government bodies at village level through the involvement and cooperation with NGOs/self help groups.

Until the implementation of the RTI act, it was not possible for any ordinary person to seek the details of a decision making process, which was found most often as ineffective in terms of its outcome. It was therefore not possible to hold a free and frank discussion on issues of common concern of people or to fix the responsibility for any action. Such an era of darkness in policy planning including monitoring and evaluation of schemes by affected persons is over. Due to effective implementation of the flagship

<sup>8</sup>SL PCC No. 32855 of 2009.

<sup>9</sup> Review petition civil no. 2675/2012 decided on 3 September 2013.

<sup>10</sup> WPC no. 82 of 2011 Decided on 31<sup>st</sup> October 2013.

programmes for poverty alleviation ,and infrastructure development ,the mis-match between the planned targets and actual realization has, of late been minimized which has enabled the people to build their strengths and abilities to realize their socio- economic objectives.

As a result of increased government s accountability in delivery of services rural to urban migration has ,of late decelerated as widely reported in the media. This is also corroborated by the findings of a national level survey conducted by the transparency international and the centre for media studies. The survey has revealed that in the opinion of 40 percent of respondents (all below the poverty line )corruption and mal-practices in implementation of poverty alleviation programmes have declined due RTI induced accountability of the government and its functionaries at various levels.

## **2) Reduction in Corruption :-**

Under the RTI regime there is there is unprecedented transparency in working of public departments. There is thus better understanding of the decision making process and greater accountability of government .This led to reduction in corruption in the country as evident from the following

- a) The transparency international (TI) has reported that perceived corruption in india has declined ,due to mainly the implementation of the RTI act .This is evident from corruption reduction score of 3.4 (out of 10) in 2008, after an initial rise of 3.5 in 2007, compared to 2.99 in 2006 which indicate a decline in corruption to the extent of 15%
- b)The TI-CMS has recently accomplished an all india survey study of the poor below the poverty line.The views of the poor have been elicited in respect of all the flagship programmes that have been implemented for alleviation of poverty .At least 40 percent of the respondents have reported that corruption has declined.
- c) It has also been observed that wherever NGOs are actively involved in the development activities, the perceived corruption is abysmally low.

## **3) RTI and Its Impact On Major Indicators of Development.**

- a) poverty alleviation
- b) Guaranty of income and food security.
- c) Implementation of NREGA
- d) Mid- Day Meals to school children
- e) Integrated child development scheme
- f) Grant of food security and pension for the poor senior citizens
- g) public distribution system to poor
- h)shelter for poor
- i) National rural health mission
- j)Environmental pollution
- k)Empowerment of weaker sections.

## **Right to information and voice accountability:-**

The administrators and other representatives of the state can be held responsible for their ill-fated actions and inactions ,if public at large is given a voice in administration decision making process.Tomorr

## **Right to information and political stability:**

Political stability means “not so frequent change in government ,not so frequent elections and stability in actions of the political establishment (ie)ministerial actions .It is the only when sufficient opportunity is given to the elected representatives in the government they can hold them accountable for their decisions. The political instability leads to delay in taking important decisions which hamper growth and development of the nation. In the other words , knowledge of important facts and figures related to political establishment including ministerial actions can be used as a handy tool to take wise decision while casting his vote by the voter and this wise selection of candidate to inform would bring much political stability.

## **Regulating mechanism.:-**

The success and failure of grievance is depends up on the redressal mechanism which includes regulatory authorities. It means howsoever the strong are rules regulations and powers there is strong in implementation mechanism but if there is no redressal mechanism to regulate the implementation and to look in to grievances the system is bound to fail either today or

The most unique feature of the Act is it provides the best redressal mechanism to regulate implementation of the act in true spirit of its objectives .It provides for establishment of appellate authority.The redressal mechanism provided in the act can not be used to regulate the functions of any authority unless the requested function is of providing information to the person making such request. By

seeking and receiving relevant information from authority and by filing a writ of mandamus under Art 226 used to regulate the administrative function of the government.

#### **Right to information And Rule of law :-**

The goals and objectives laid down in constitution may be termed as goal to ensure the enforcement of Rule of Law and ensuring access to information is termed as goal and objectives of a democracy. It may be said that ensuring the enforcement of Rule of law will lead to ensuring enforcement of Right to information.

#### **Right to information and control of corruption :-**

The relation between corruption and transparency is inversely proportionate to each other. It means greater transparency will lead to control of corruption higher rate of corruption means transparency is nowhere. The provisions of the act can be used to enforce the authority to perform its other duties in fair manner element of corruption in administrative function of the government.

#### **Right to information and government effectiveness:-**

Effective government machinery is that, there is optimum utilization of resources available (ie) efficiency with the enactment of the act with its subsequent application the Indian constitutional governance in true spirit has started and the day is not far when we will reach the fruits of good governance.

#### **CONCLUSIONS :-**

The Right to information ACT 2005 to secure constitutional governance has made special emphasis on future prospects. The judiciary has expanded the scope of constitutional rights by terming right to know as fundamental right and how right to know can bring transparency in functioning of the public authorities and how it can control corruption that prevails in functioning of such authorities and to achieve the good governance of the country. Right to know, as tool to access public held information, has significant bearing on good governance development and the implementation of flagship programmes for all alleviation of poverty.

The central and state information commission has played a critical role in enforcing the provisions of the act as well as educating the information seekers and providers. The implementation of the law on right to know for setting up information regime therefore augurs well for strengthening the knowledge society as well as for increasing the accountability of public bodies. RTI promotes and protects the socio-economic interests of citizens, particularly the poor who are receiving the benefits of development as per their entitlements. With a view to realizing the development goals the following are suggested to strengthen the RTI regime.

First- All the development projects should incorporate transparency and accountability.

Second;- The government should develop the capacities for access to information.

Third;- In view of high illiteracy among the poor a multimedia approach should be added to educate and train people of diverse linguistic backgrounds.

Fourth;- Increase in awareness about the human rights and to create necessary conditions for good governance of which all the stakeholders would be duly proud of.

Finally;- The strengthening of information regime is therefore since quo non for promoting democratic governance and to development

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