

How to file an RTI?

By Jyoti Goel

India is the largest democracy of the world and for a democracy to function well it is important that its citizens are kept informed well. If the people of a country are not well informed on the various governmental policies, schemes, its working etc. then how will the citizens be able to express their opinions? And public expression is the basic pillar of a democracy. Governance can be good only when there is increased participation of people and this can be achieved only when the people have free access to information and this purpose is fulfilled by RTI or Right To Information.

Under RTI citizens can seek information from any government whether central or state. The RTI Act 2005 was implemented so that people can seek information from government or any public utility department. It was put forward to make the working of various departments and institutions etc. more transparent to the general public. The Act replaced an earlier Freedom of information Act of 2002.

RTI in India was the need of the hour. Corruption has become deep rooted in the system of Indian administration and governance. Secrecy gives it another dimension. As a taxpayer each citizen of India has the right to know about the working of the government and RTI serves the purpose. It gives people the right to access information and hence only then people can put it to effective use. Without the intellectual freedom a successful democracy cannot be imagined. It is very important that there is transparency in the government functioning.

Thomas Enderson in his commentary on the First amendment to the US constitution remarked that the society uses freedom of information and expression to protect certain values, which can be grouped into four broad categories. The first of these is assuring individual self-fulfillment, the second set of values focuses on means of attaining the truth, the third addresses a method of securing the participation of members in the society in social and political decision making, the fourth set of value seeks to maintain the balance between stability and change in the society.¹

The kind of information that a person can seek under the act for a better understanding can be categorized into two categories viz personal, social.

The personal category includes the information relating to passport delay, IT refund, FIR status, EPF status, pension application, occupancy certificate etc. Students can even see their answer sheet evaluation and marksheet verification.

The social category includes seeking of information such as relating to MP/ MLA fund usage for various schemes, Gram Panchayat expenditure details, social audit of government projects etc.

¹ [http://www.ijhssi.org/papers/v2\(3\)/version-1/B231122.pdf](http://www.ijhssi.org/papers/v2(3)/version-1/B231122.pdf)

Under the RTI Act information is any material in any form. It can be records, documents, e-mails, circulars, contracts etc. it also includes information from any private body of which the government authority has the right to access.

Public authority under the act means anybody of self government established under constitution. Any bodies owned or controlled by state or central government or NGO financed by state or central government are also included in the public authority.

Under the RTI Act it is also mandatory for the public authorities to publish their records on the website or in other words computerize them so that more and more people can see them and there are minimal cases of people requiring to file an RTI.

Now talking further about the scope of RTI; the RTI applies to whole of India excluding the state of Jammu and Kashmir. Any government or public institution or basically public authority comes under RTI.

Procedure to file RTI

The RTI can be filled by two ways one is offline and the other is online.

1. **Identify the department to seek information:-** the first step is to identify the department whether under state or central government from which information has to be found. For example information relating income tax will go to the income tax department.
2. **Writing the application:-** the next step is to write the an application for the purpose. There is a prescribed format for the same but it can be written on a plain paper too. The language can be Hindi or English or the official language of the state.
Make sure to ask questions related to only one topic per RTI.
3. **Making the fee payment:-** there is a fee of Rs10 charged per RTI which has to be sent through Indian Postal Order.
4. **Send the application:-** once all these formalities are done it is now time to send the application via speed post to the concerned department.

Now once the RTI has reached the department it's time to wait and get the information of your desire. But the law prescribes a deadline for the same, which is as follows:-

1. It is 30 days from the date of receiver of information
2. 48 hours for the information which concerns the life and liberty of any person
3. The time extends to 40 days when the information is regarding a third party.

It is here worthwhile to mention that not all information can be disclosed so easily just by filling an application. The law reserves the right to not disclose all the information keeping in mind the safety and security of the nation and its people.

The information which cannot be disclosed includes:-

1. Any information which would affect the sovereignty and integrity of the nation
2. Any such information which might affect the relation of our country with the other.

3. Any information which is forbidden by court of law to be published.
 4. Any disclosure which would affect the privileges of the parliament or state legislature.
 5. Any trade secret, commercial confidence or intellectual property disclosure of which would harm the competition.
 6. Information which would hamper the process of investigation.
- Etc.

Some important case laws relating to RTI:-

1. Reserve Bank of India v. Jayantilal Mistry (Supreme Court, 2015)

Issue: - whether the RBI and other banks can deny information to the general public on the grounds of economic interest, commercial confidence and fiduciary relationship with other banks and public interest on the other hand.

Decision:- RBI is not in any fiduciary relationship with other banks. It holds information for the public interest but not in the interest of other banks.

RBI shall maintain transparency.

2. State of Uttar Pradesh v. Raj Narain (1975) 4 SCC 428

Decision: - Justice Mathew said that “in a government of responsibilities like ours, where all agents of public must responsible for their conduct, there can be but few secrets. The people of this country have the right to know every act, everything which is done in a public way by their public functionaries. They are entitled to know all public transactions. their right to know, which is derived from the concept of freedom of speech, though not absolute, is a factor which should make one wary when secrecy is claimed for transactions which can, at any rate, have no repercussion on public security”.²

3. Jiju Lukose v. State of Kerala (Kerala High Court, 2014)

Issue:- a PIL was filed to upload the of FIR on website of the police station and copies to be made available to the accused immediately. The petitioner got the copy even after this 2 months later till then he and his family members were in dark of the nature of allegations being been imposed on him. He contended that under RTI Act all officers were obliged to furnish him the information.

Decision: - it was held that the FIR is a public document but under 8(1) of the act it may not be disclosed till the investigation is complete. But it can be claimed by the Informant and the accused as per legal provisions under the Code of Criminal Procedure, 1973 as it is their legal right.

4. Union Public Service Commission Etc. v. Angesh Kumar & ors. (Supreme Court, 2018)

In this case it was held that the raw marks in UPSC exam cannot be furnished owing to public interest that it might cause a problem. Although if a case is filed and the court of law finds it fit to disclose such facts in the interest of public then it can certainly be done.

Challenges to RTI

1. Low awareness regarding the same especially in the remote rural areas is a major drawback.
2. The state and the central authorities lack commitment in record management which also a big drawback.
3. The limited use of technology also hampers its effective implementation.
4. Non availability of proper infrastructure is also a big problem in the effectiveness of RTI.
5. Non availability of user guides to file an RTI is also a major issue which needs consideration.

Conclusion

India has woken up and is working to provide economic, social and political rights to the citizens. Steps are being taken to aware people of their various rights and duties so that there can be more and more participation of people in the governance. A good governance requires a great participation by the people of the country. It can be achieved only when the information is circulated well among them. The public authorities have to be more transparent so as to allow free flow of information which ultimately help curb the corruption and criminalization which is now eating the system like a pest. RTI is a great and a commendable step towards the achievement of this goal. Though it has some loopholes but both the government and of course the citizens as well shall work towards their eradication to help India be a well informed and socially, politically developed and aware nation.