

Right to Information Act

- This Act may be called the Right to Information Act, 2005.
(2) It extends to the whole of India ^{1***}.
- 1. The words "except the State of Jammu and Kashmir" omitted by Act 34 of 2019, s. 95 and the Fifth Schedule (w.e.f. 31-10-2019).

- (a) "appropriate Government" means in relation to a public authority which is established, constituted, owned, controlled or substantially financed by funds provided directly or indirectly--
 - (i) by the Central Government or the Union territory administration, the Central Government;
 - (ii) by the State Government, the State Government;
- (b) "Central Information Commission" means the Central Information Commission constituted under sub-section (1) of section 12;
- (c) "Central Public Information Officer" means the Central Public Information Officer designated under sub-section (1) and includes a Central Assistant Public Information Officer designated as such under sub-section (2) of section 5;

- "competent authority" means--
 - (i) the Speaker in the case of the House of the People or the Legislative Assembly of a State or a Union territory having such Assembly and the Chairman in the case of the Council of States or Legislative Council of a State;
 - (ii) the Chief Justice of India in the case of the Supreme Court;
 - (iii) the Chief Justice of the High Court in the case of a High Court;
 - (iv) the President or the Governor, as the case may be, in the case of other authorities established or constituted by or under the Constitution;
 - (v) the administrator appointed under article 239 of the Constitution;

- "information" means any material in any form, including records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material held in any electronic form and information relating to any private body which can be accessed by a public authority under any other law for the time being in force;

- (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); and
 - (d) any other material produced by a computer or any other device;
- (j) "right to information" means the right to information accessible under this Act which is held by or under the control of any public authority and includes the right to--
 - (i) inspection of work, documents, records;
 - (ii) taking notes, extracts or certified copies of documents or records;
 - (iii) taking certified samples of material;
 - (iv) obtaining information in the form of 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;

Right to information

- Subject to the provisions of this Act, all citizens shall have the right to information.

Obligations of public authorities

- Every public authority shall--
 - (a) maintain all its records duly catalogued and indexed in a manner and the form which facilitates the right to information under this Act and ensure that all records that are appropriate to be computerised are, within a reasonable time and subject to availability of resources, computerised and connected through a network all over the country on different systems so that access to such records is facilitated;

- (b) publish within one hundred and twenty days from the enactment of this Act,--
 - (i) the particulars of its organisation, functions and duties;
 - (ii) the powers and duties of its officers and employees;
 - (iii) the procedure followed in the decision making process, including channels of supervision and accountability;
 - (iv) the norms set by it for the discharge of its functions;
 - (v) the rules, regulations, instructions, manuals and records, held by it or under its control or used by its employees for discharging its functions;
 - (vi) a statement of the categories of documents that are held by it or under its control;
 - (vii) the particulars of any arrangement that exists for consultation with, or representation by, the members of the public in relation to the formulation of its policy or implementation thereof;

- (viii) a statement of the boards, councils, committees and other bodies consisting of two or more persons constituted as its part or for the purpose of its advice, and as to whether meetings of those boards, councils, committees and other bodies are open to the public, or the minutes of such meetings are accessible for public;
- (ix) a directory of its officers and employees;
- (x) the monthly remuneration received by each of its officers and employees, including the system of compensation as provided in its regulations;
- (xi) the budget allocated to each of its agency, indicating the particulars of all plans, proposed expenditures and reports on disbursements made;
- (xii) the manner of execution of subsidy programmes, including the amounts allocated and the details of beneficiaries of such programmes;

- (xiii) particulars of recipients of concessions, permits or authorisations granted by it;
 - (xiv) details in respect of the information, available to or held by it, reduced in an electronic form;
 - (xv) the particulars of facilities available to citizens for obtaining information, including the working hours of a library or reading room, if maintained for public use;
 - (xvi) the names, designations and other particulars of the Public Information Officers;
 - (xvii) such other information as may be prescribed;
- and thereafter update these publications every year

- (c) publish all relevant facts while formulating important policies or announcing the decisions which affect public;
- (d) provide reasons for its administrative or quasi-judicial decisions to affected persons.
- (2) It shall be a constant endeavour of every public authority to take steps in accordance with the requirements of clause (b) of sub-section (1) to provide as much information *suo motu* to the public at regular intervals through various means of communications, including internet, so that the public have minimum resort to the use of this Act to obtain information.

Request for obtaining information

- (1) A person, who desires to obtain any information under this Act, shall make a request in writing or through electronic means in English or Hindi or in the official language of the area in which the application is being made, accompanying such fee as may be prescribed, to—
 - (a) the Central Public Information Officer or State Public Information Officer, as the case may be, of the concerned public authority;
 - (b) the Central Assistant Public Information Officer or State Assistant Public Information Officer, as the case may be, specifying the particulars of the information sought by him or her;
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- Provided that where such request cannot be made in writing, the Central Public Information Officer or State Public Information Officer, as the case may be, shall render all reasonable assistance to the person making the request orally to reduce the same in writing.

- (2) An applicant making request for information shall not be required to give any reason for requesting the information or any other personal details except those that may be necessary for contacting him.
- (3) Where an application is made to a public authority requesting for an information,--
 - (i) which is held by another public authority; or
 - (ii) the subject matter of which is more closely connected with the functions of another public authority,the public authority, to which such application is made, shall transfer the application or such part of it as may be appropriate to that other public authority and inform the applicant immediately about such transfer:
Provided that the transfer of an application pursuant to this sub-section shall be made as soon as practicable but in no case later than five days from the date of receipt of the application.

Case Study

- *In the instant case, the Delhi High Court has rendered an in-depth analysis of RTI applications against any decision passed by the Supreme Court. The Court has also ruled that RTI Act does not prevail over the Supreme Court Rules (SCR).*

- Facts– In this case, the Respondent was holding the post of Postgraduate Teacher and his services were terminated on allegations of sexual harassment against him. The Respondent challenged his termination before the Central Administrative Tribunal thereafter before the High Court and Supreme Court. However, the Respondent's challenge was dismissed by all the Forums. Thereafter, the Respondent in 2010 sought information by way of an RTI (Right to Information) application as to why his petition before the Supreme Court was dismissed and in the application, the Respondent stated that the said SLP (Special Leave Petition) had been decided against the principles of natural justice.

- The instant writ petition has been preferred by the Registrar of Supreme Court against the decision of the Central Information Commission (CIC), wherein the Commission CPIO (Central Public Information Officer) to provide information
- Petitioner's submission– That access to documents filed on the judicial side can only be obtained through the mechanism of Supreme Court Rules (for short “SCR”) and that the provisions of the RTI Act cannot override the SCR.

- Respondent's reply– That as the SCR and the Right to Information Act, 2005 co-exist, it is the citizens' prerogative to choose under which mechanism he would like to obtain information. She clarified that as both the laws, i.e. the RTI Act and SCR were consistent, the applicant had the prerogative of choosing the law under which he wanted to obtain information.

- The Delhi High Court in the case took a strong note of the Respondent's RTI application seeking information relating to Supreme Court's decision in the case. The Court in this context made the following observations:
- That where there is no information to be given or applicant is seeking non-existent information or where the query is inherently absurd or bordering on contempt, the CIC should not have directed the petitioner to supply information.
- That a Judge speaks through his judgments or orders passed by him. A Judge cannot be expected to give reasons other than those that have been enumerated in the judgment or order. If any party feels aggrieved by the order/judgment passed by a Judge, the remedy available to such a party is to challenge the same by a legally permissible mode.
- That no litigant can be allowed to seek information through an RTI application or a letter on the administrative side as to why and for what reasons the Judge had come to a particular decision or conclusion.
- That there is no inherent inconsistency between SCR and RTI Act as both enable the third party to obtain the information on showing a reasonable cause for the same. Since both RTI Act and the SCR aim at dissemination of information, the RTI Act does not prevail over the SCR.

- That if any information can be accessed through the mechanism provided under another statute, then the provisions of the RTI Act cannot be resorted to. Neither the Preamble of the RTI Act nor does any other provision of the Act disclose the purport of the RTI Act to provide additional mode for accessing information with the public authorities which has already formulated rules and schemes for making the said information available.
- That in the present case, maintaining two parallel machinery: one under SCR and the other under the RTI Act, would clearly lead to duplication of work and unnecessary expenditure, in turn leading to clear wastage of human resources as well as public funds.
- That dissemination of information under the SCR is a part of judicial function, exercise of which cannot be taken away by any statute. Further the SCR would be applicable with regard to the judicial functioning of the Supreme Court whereas for the administrative functioning of the Supreme Court, the RTI Act would be applicable.
- That the legislature is not competent to take away the judicial powers of the Court by statutory prohibition. The legislature cannot make law to deprive the courts of their legitimate judicial functions conferred under the procedure established.
- That the RTI Act does not provide for an appeal against a Supreme Court judgment/order that has attained finality. That queries under the RTI Act would be maintainable to elicit information like how many leaves a Hon'ble Judge takes or with regard to administrative decision a Judge takes. But no query can shall lie with regard to a judicial decision/function.