

## **Right to Information and Its Relation with Information & Record Management**

**By**

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### **Abstract**

In a democratic set-up the people have a right to know every public act and conduct discharged by their public functionaries. The right to know is necessary consequence of the conception of freedom of speech and expression. Information and communication are prevailing implements and have a potential to form, social and political development of the society. The Right to Information although doesn't mention as a basic fundamental right but it has been identified by the various judgements under the ambit of Article- 19(1) as Fundamental right gradually. The Right to Information Act was enacted in 2005, this is a significant event in the history of India. The Right to Information Act, 2005 guarantees the right to have access to information which has been held by the public authorities of these Government institutions. The Right to Information makes the government's actions transparent, participatory and accountable about their actions. Transparency, participatory, accountability are the essential elements for Good Governance, which helps in making government responsible and control corruption. The Right to Information Act has an important facet that is the proper management of the records because the records are in the base of the Act. The proper management of records and information is an important aspect to avail this right to information. This article will elaborate the relationship between the Right to Information and Record & Information management system. It also explains the need of Public Records Act in respect of RTI, 2005 and how this poor record management is affecting the implementation of RTI?

**Keywords:** Information, Right to Information, Record and Information management, Public Records, Public Records Act etc.

### **Introduction**

'Knowledge is the power' is the meaning of a famous French saying 'Savoir est pouvoir' but nowadays Information is the power. In a democratic society some aspects are important for the government those are- Transparency, accountability, participation of the citizens etc. An Accountable and transparent government who takes the responsibility regarding their actions is the necessity of the modern democratic society<sup>1</sup>. These are the main features for the good governance. In the conventional sense of the term, it means mere administrative reforms but the concept of good governance is much larger than. The concept of the governance is not new, it is as old as human civilisation. In simple words governance means the process of decision making and the process by which the decisions are implemented. This availability of information helps in promoting the concept of a democratic government i.e., accountable and transparent government. The Right to Information act, 2005 endorses the idea of developing the culture from secrecy to transparency. The Right to Information act provides us both kind of information, one is on request when the citizen seek any information from the

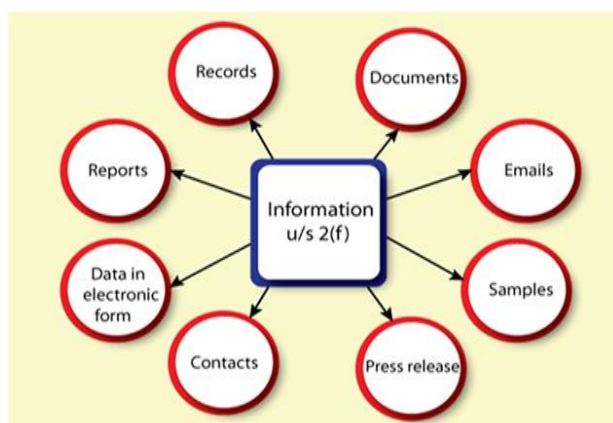
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public authority and the second one is that information which has been published by the public authorities as per mentioned in chapter -II “Right to Information and obligations of public authorities.”

## **Right to Information Act, 2005**

The Right to Information Act is an act which provides the setting out of practical regime of the RTI for citizens to protect access to information which are under the regulation of public authorities. This will encourage accountability and transparency in the functions and actions of public authorities. It is mentioned in the RTI Act 2005 that for the purpose of the act, Central Information Commission and State Information Commission should be constituted. With this act the Right of Information of the citizens which is required for a democratic country has been provided to the citizens, which are important for transparency about the actions of the government which makes government and its officials accountable and helps in avoiding corruption.<sup>2</sup>In Section- 2 of Right to Information Act, 2005 terms like ‘Information’, ‘Records’, ‘Public authority’ etc. is explained.

Information means- As per Section-2 (f) of Right to Information Act “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”.



*Information U/S 2(f) of Right to Information Act, 2005*

In the case of Sh. Vibhor Dileep Barla Vs Central Excise & Customs<sup>3</sup>,

In this case appellant ask information in the way of inquiries which has been denied by CPIO on the basis that it did not fall under ambit of Right to Information Act,2005. The commission decided that the RTI was enacted for the transparency and accountability in the actions of public authorities, as per the requirement of the act it is the duty of the public authorities to provide the information seek by the citizens but sometimes information revelation may conflict with public interest or may be the information is sensitive. As per the analysis of different sections of the act that right is related to the information that held by or is under the regulation of any public authority, if the authority doesn't hold the information or it can't be accessed by it under sec. 2(f) or if the information is non-exist, the public authority cannot provide the same under the Act. It is not an obligation on the authority to create the information for the purpose of its dissemination.

Public Authority is describe under Sec 2(h) of the act “public authority means any authority or body or institution of self-government established or constituted,

- (a) By or under the Constitution;
- (b) By any other law made by Parliament;
- (c) By any other law made by State Legislature;
- (d) By notification issued or order made by the appropriate Government, and includes any—
  - (i) Body owned, controlled or substantially financed;
  - (ii) Non-Government Organisation substantially financed, directly or indirectly by funds provided by the appropriate Government.”

In the case of Smt. Raj Kumari Agrawal and others Vs Jaipur Stock Exchange Ltd.<sup>4</sup> applicant filed the petition to find out whether the stock exchanges i.e. Jaipur stock exchange Ltd. and the National Stock exchange of India Ltd. are public authorities or not under the ambit of Section -2(h) of the Right to Information Act, 2005. Actually she filed a RTI regarding the status of the amount of different deposits in Jaipur Stock Exchange and they didn't reply to her RTI.

In the judgement Commission said in respect of the public authority that it has been defined under section 2(h) of the Right to Information Act, 2005 and with this in the case of SEBI Government control can be inferred from some of the provisions of the Securities Contracts (Regulation) Act, 1956 which are enumerate as mentioned in different provisions of the said act i.e. section-4, 5, 6, 7 & 9. These are the provisions related to the grant of recognition to stock exchanges & withdrawal of the recognition, related to the periodic returns or can direct the enquiries, or furnish the annual reports to the Central Government. These provisions also grant power to the stock exchanges to make the bye-laws.

### ***Suo-motu Publication***

In the case of Mr.Harpal Singh Rana Vs Mr. Pushkar Sharma PIO Municipal Corporation of Delhi Office of the Superintending Engineer Civil Lines Zone<sup>5</sup> In this case the appellant seek information from Municipal Corporation of Delhi regarding the departments & offices, appointment of the employees and the officers, vacancies in the department, details about the income and the expenses on various offices and departments in wards, detailed information about related to the civil zone area, about the development work like description, amount of work, status of the work, work of excavation for the proposal of road making. In reply of the information seek by the appellant in 9 points but the CPIO answered only 4.

The CIC in the Judgement said that the information which has been wanted by the appellant is of that nature that it should be provided by the public authorities Suo-motu. These are the basic duties mentioned under the Section -4 of the Right to Information Act which has not been fulfilled by the MCD. The CPIO even can't provide the information within time and also not comply the First appellate authority's direction. The CIC issued directions to make sure the compliance of Section -4 of RTI must be done and the information of this nature should be made available by the MCD.

### ***Purposes of the Right to Information Act, 2005***

The purposes of the RTI is mentioned in the preamble of the Act itself and that is to promote the accountability of the public authorities and the transparency in their actions. And from the provisions of the Act other purposes are-

- This act assures to have access to Information to the individuals
- This encourages transparency through providing information.
- This act encourages transparency in administration.
- This act by giving the access to information avoids arbitrary actions of the government.
- This act avoids corruption by keeping transparency.
- The citizens are well informed regarding the actions of the government organisations.

### ***Main features of Right to Information Act, 2005***

The main features of Right to Information are mentioned below –

1. The citizens can seek and examine government records regarding the actions of the government.
2. The citizens can get data and information from the public officers of different government institutions or organisations.
3. As per the Right to Information act officials have been appointed as Public Information officer (PIO), who accepts application forms of the citizens seeking information and these PIO have to provide the information seek by the citizen.
4. The Assistant Public Information officers (APIO) are appointed in every district or divisional stage and would accept the application form seeking information and provide the information to the citizens seek.
5. If the PIO failed to provide data within the mentioned time in the act, then the information seeker has right to file complaints against PIO.
6. If PIO failed to provide information requested by the information seeker, the PIO will get punished as mentioned in the act.

## **Information and Record Management**

Information and record management system plays an important role in the implementation of provisions of the RTI Act. The management and supervision of records, either in digital form or paper records, irrespective of the format is known as Record management. All activities which include the formation, acceptance, maintenance, usage and discarding of records is records management.

### ***Meaning of Records***

As per Section-2(i) of Right to Information Act, 2005

"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."

### ***Meaning of Record Management***

Records management is the process by which an organisation:

- Establish and decide that which kind of information will be considered as records.
- Helps in decide that in which way and how long records will be retained to fulfil the needs of businesses, organisations, government institutions.
- It accomplishes the tasks related to placement of records or disposing of records and keeping or maintaining the records for future use as evidence in cases.

- To determine the new improved technologies by researching and implementing those for the record management to save the cost of managing the records.
- The documents which are still in use, handling those at this time and determining this that how it should be managed after declaring those as records.

### ***Importance of keeping records***

The importance of keeping records or managing records relies on manages the information which remained in creating, receiving, maintaining and dispose of the document. In addition to these keeping records means overseeing the records through their lifespan, which includes submission with set preservation procedures.

### ***Record Preservation***

Preserving records aids in controlling and managing the important records, it aids the protection of essential records with attention and caution, it also aids in disposing of the unusable records.

### ***Aids in assessing growth***

The growth of any institution or organization would be evaluated with the aid of the records. The records related to the previous transaction or data of the organisation would help the organisation to proceed in progressive direction. It supports in discovering the strength and weaknesses of the organisation.

### ***Eases assessment***

The management of the records eases the assessment and evaluation of any organisation's progress, which helps in comparing between times or past or present of the organisation.

### ***Helpful in decision-making***

The keeping of the records is helpful for any organisations for decision making. Records are the collection or recollection of the work of the organisations. The records related to the past activities of the organisations would always be useful to show the directions for the future whenever it is needed.

### ***Efficacy in process***

With the help of the management of records, information will be provided not even speedily but also accurate. It also helps in making office work competently and effectually which is useful for the efficacy of the office.

### ***Evidence***

The one important use of records is that it can be used as evidences in the time of clashes. It can be used as the proof in the courts.

### ***Stages of Record Management***

There are different stages of Record management system and for the purpose of the study the lifecycle of a record can be broadly divided into 5 stages. These stages are –

- Creation of the records
- Storage of records
- Use of records
- Disposal of records
- Archival of records



### ***Relationship Between Right To Information And Record Management***

The Right to Information and Record management both are connected to each other. There is no use of this right without proper management of records. As per Section-4 (1) (a) of Right to Information “Every public authority shall 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”.

In the base of the Right to Information Act is “Information” which is available in and as “Records” which includes –documents, files, notes, materials etc. It means the core of RTI is record, without an effective record management system to create, manage, or to store or archive records the application of the provisions of Right to Information Act is not possible. The Right to Information is available to the citizens as a fundamental right under the ambit of Article-19(1). The Right to Information act helps the citizens to get the Information they seek from the public officials, but it is actually tough for the public officers to reply and to provide the information regarding the same without proper record management. If the record management system is not appropriate then it will be harder for the officials to provide information within time that has been mentioned in the Right to Information Act, in fact sometimes records are kept and stored in such bad conditions which are not in that state to be copied or inspect. The requirement as per section – 4(1) (a) of the Right to Information Act is to manage records in proper way so that it helps in facilitating the access of the records. It is essential to keep record management system appropriate so it can meet the needs of RTI.

As per the above discussion we can understand the need of managing the records for the proper functioning of RTI Act and for achieving the object of the same act, in practical we need a regular re-examine or assessment of the present record management system. Record management is not only related to the storage of the records but also related to the archival or the disposal of the records. With the development of the new technologies and as per the requirement of the act it is required to keep as many as records in computerised or digitized form which can be connected to all over the country so that they can be easily accessible. For access of the records easily or within time, it is important to mention clear guidelines about maintaining records on every stage from documentation to disposal or archival of the records of record management system.

In the case of Shri Ishwar Lal Vs Indian Oil Corporation Ltd.<sup>6</sup>

In this case Shri Ishwar Lal has filed a RTI to IOCL to get the information regarding the allotment of dealership under defence category of Rohtak. The appellant approach the IOCL and the Ministry of Petroleum & Natural Gas several times to get the information regarding the same but didn't get any response. In response to the RTI of the appellant CPIO has furnished partial information and refused the remaining information by saying that the files which are relevant to the information are not traceable and the records which are in question are too old. In the judgement commission said that the partial information which has been provided by the CPIO and remaining has been refused by saying that files are not traceable is not acceptable. As per Section- 4 (1) (a) of RTI Act, every public authority is required to ‘maintain all its records duly categorized and indexed in a manner and the form which facilitates the right to information’. This kind of refusal on the basis of unavailability of records is not acceptable and CPIO was held liable for the violation of Act.

Shri Suresh Chand Meena v. Central Public Information Officer<sup>7</sup>, The Commission with regards to the issue of untraceable records, directs the Secretary, SCC to inquire into the matter of the 'missing' records as the plea of Central Public Information Officer, SSC regarding weeding out of records is not tenable because as per the Revised Record Retention Schedule of SSC, records are maintained for 7 year and the appellant had filled the RTI application in 2013. The Secretary, SCC shall also, if it is required, then take suitable departmental action against those officers who are accountable for the misplacement of the records.

In the application of the RTI Act in India across a wide range of Central and state level activates. Using ICTs- Website, chasing system, status of appeals through messages, Chhattisgarh- E-Panchayat Project, Bihar: Project "Jaankari", Haryana Helpline for RTI, etc. Implementation of Section 4 – Karnataka: The Bhoomi Project, Proactive discloser by Zila parishad Ludhiana, Meghalaya MLA, M.P. Panchayats, Nagaland Public Authorities, A.P. IT&C Dept.; Uttarakhand: Ranking of Public Authorities on indicators including maintenance of records etc.<sup>8</sup>

Akshay Kumar Malhotra vs Department of Forest & Wild Life<sup>9</sup>

The court observed as per Sec. 4(2) of the Right to Information Act commands every public authority to provide as much material and evidence Suo- motu to the public at systematic intermissions by different ways of discussions, together with the Net, so that the public need not an option of RTI Act.

## Conclusion

The above discussion about the objectives, purposes and the importance of the Right to Information Act and its relationship with Record Management system shows the requirement and importance of keeping the information in different form of records. It also shows that the current system needs to implement new and appropriate technologies to keep the records safe for future use. As Right to Information Act imposes an obligation on public authorities to share the information with the citizens which makes public authorities even more accountable and responsible not only to preserve, keep and manage the records but also for monitoring and regulating the records time to time.<sup>10</sup> By proper record management system, we can actually achieve and fulfil the objective and purpose of the Right to Information Act. The main objective of the Act is make the officials accountable for their work, their actions must be transparent. This not only keeps the concept of the Governance but also controls the corruption. The suo-moto publication of the information by the officials is a good practice mentioned in the Right to Information Act, 2005. This will increase the faith of the citizens towards the democratic set-up and in the actions of the Government.

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