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THE GENESIS AND EVOLUTION OF RIGHT TO INFORMATION ACT

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ABSTRACT

This paper examines the importance of the Right to information act, its evolution, amendments as well as tell us about RTI being a fundamental right. This data extract information from various websites and the Right to Information Act, 2005. Further, this paper indicates that how several RTIs were filed and how they revolved around the scams. It tells us the importance of transparency of information to the public and gives suggestions to improve the implementation of the same in this democratic country.

Keywords - Right to information, transparency, democratic.

INTRODUCTION

“Where a society has chosen to accept democracy as its creedal faith, it is elementary that the citizens ought to know what their government is doing.” - Justice P N Bhagwati

A democratic country is a country where a person requires informed citizenry and transparency of information. In order to promote transparency and accountability in every working of public authority ‘Right to Information Act’ was made. Right to Information (RTI) Act was passed on 11th May 2005 in Lok Sabha and on 12th May 2005 in Rajya Sabha. After getting published in Gazettes of India on 21st June 2005 it came into force on 12th October 2005¹ with total 150 amendments which were applicable to states as well. It came into force after replacing the Freedom of Information Act, 2002. Every Citizen in India has the right to information as stated in Sec. 3 of the RTI Act. Public authorities are ought to maintain records, appropriate to be computerized which are connected to a network all over the country to facilitate RTI. It includes particulars of organization, functions, powers and duties of employees. Also, rules and regulations, names and manuals are used by employees in the public entity. Directory of officers, remuneration received by every employee per month, the budget allocated, subsidy programs including permits and authorization information are ought to be given to all those who urge to know. The revelation of information can cause conflict with other public interests like the efficient operation of the government, optimum use of fiscal resources and the preservation of confidentiality of sensitive

¹Right to Information Act,2005, No. 22 of 2005.

information but it is the duty of government to give information to all those who want while harmonizing the conflicting interest.² It is also a person's fundamental right to know information under Article 19(1) Of the Indian Constitution, 1950 which says that "Every citizen has the protection of certain rights regarding freedom of speech, etc."³

EVOLUTION OF RTI ACT, 2005

Right to Information was a demand that resonated across the country. It was believed that it is completely unfair to hide the basic facts and figures from the public. In **1977**, the Janata Government Party which was headed by Moraji Desai seeing the need of giving the required information to the public which they want to know modified the Official Secrets Act, 1923 by constituting a working group. Official Secrets Act was applicable to government servants and citizens. This act was mainly framed for dealing with espionage, sedition and other potential threat to the nation. Under this Act, spying, sharing secrets and also approaching or inspecting over prohibited government sites was an offense and one who did it was punished with imprisonment of 14 years. Instead of modification in the Official Secrets Act, there still existed some of the drawbacks as it was enacted in the British rule. It is much like the sedition law, left behind by the British people.

*"Rule of Law, Access to Justice and Financial transparency happens by design not an accident"*⁴ and keeping that in mind it was held in the case Mr. Kulwal v. Jaipur Municipal Corporation⁵, **1986** that Freedom of Speech and Expression provided under Article 19 of the Indian Constitution clearly gives the right to information to the public as without information there cannot be complete use of freedom of speech and expression.

In **1990**, Prime Minister V.P. Singh laid down the foundation of emphasis on the Right to Information Act. He stressed the need of the RTI Act and tried to make it legislative right but due

² Right to Information Act, 2005

³ Mr. Kulwal v. Jaipur Municipal Corporation, AIR 1988 Raj 2, 1986 (1) WLN 134.

⁴ By Winnie Byanyima- Executive Director of the Joint United Nations Programme on HIV/AIDS.

⁵ AIR 1988 Raj 2, 1987 (1) WLN 134.

to some political instability his initiative didn't get passed and he was removed from the office from Prime Minister's post in 1990 because his party lost a *confidence vote*⁶ in Lok Sabha.

In **1994**, Majdoor Kisan Shakti Sanghatan was a campaign instrumental in the pathway of the RTI Act. It demanded information concerning development workers in rural Rajasthan especially transparency of official records, a social audit of government spending and redressal machinery for people who had not been given their due. Aruna Roy⁷ has been one of the most famous faces in these types of a campaign of that time and she has been fighting for the right of poor people since then.

In **1996**, under the guidance of chairman Justice PB Sawant, the RTI Press Council of India was renamed as The Press Council – National Campaign for People's Right to Information (NCPRI) – the freedom of information act, 1997 with an objective to get legislation on Right to information.

In the next consecutive year **1997**, Tamil Nadu became the first state to pass laws on the Right to information. Instead of waiting for the central government to pass legislation regarding the Right to information, many states put their step forward in drafting and passing legislation before the central government. In the same year, Madhya Pradesh Government issued an executive order to 36 departments, later increased to 50 in order to implement RTI. Also, the United Front Government-appointed working group to draft the Freedom of Information Bill, 1997 under the guidance of HD Shourie the Chairperson. Meanwhile, Goa passed legislation to enact laws on the same after Tamil Nadu and became the second state to do so.

In **1998**, the freedom of information bill which was tabled in Madhya Pradesh didn't become law because the governor of that time denied putting his assent on it.

In **1999**, PIL was filed in order to declare S. 5 of Official Secrets Act⁸ as unconstitutional because it was unsuitable for proper legislation. OSA is pre-constitutional enactment which no longer

⁶ A confidence vote is a motion of support proposed by a government in a parliament or other assembly of elected representatives to give members of parliament (or other such assembly) chance to register their confidence in a government.

⁷ Indian Activist

⁸ Official Secrets Act, § 5 cl.1- "A person who is or has been- (a) a part to a contract with a Minister or State authority or with any person on behalf of a Minister or State authority, or (b) employed by such party, shall not communicate to any third party any information related to contract. (2) A person to whom subsection (1) applies shall take reasonable care to avoid any unlawful communication of such information. (3) It shall be good defense to prosecution for contravention of this section to prove that the communication was authorized in writing by Minister or State authority."

enjoys the presumption constitutionality as it is a creature of non-democratic process. S. 22 of Right to Information currently over-writes OSA now. S. 5 of OSA gives carte blanche to the executive to prosecute, anyone disclosing information.⁹ Also, it still provides sanctions related to disclosure of classified information which is not there in RTI.

In **2000**, the Freedom of Information Bill was introduced in the parliament and was referred to a selected committee. It was introduced to make provisions for the disclosure of information held by public authorities or by the person providing service for them to amend the Data Pro. Act 1998 and the Public Record Act 1958 and for more connected purposes. In this bill, there was a provision that allowed ministers to veto applications to create a get-out clause. Though this bill was a huge disappointment as it proposed a more restrictive regime than previously promised. It was criticized for replacing the White paper test. It also failed to serve the purpose of providing the governmental cultural change required for a truly open information regime.¹⁰

In **2001**, NCT Delhi passed a law on Right to Information and in the next year **2002**, a report of the select committee came regarding the freedom of information bill, 2000. It was passed by both houses. Also, the Maharashtra government passed an RTI Ordinance that over-wrote the RTI Act, 2000 of Maharashtra.

In **2003**, the Freedom of Information Bill, 2002, Act no. 5 of 2003 was enacted and in the year 2004, NCPRI formulated amendments forwarded to NAC¹¹. The main reason of criticism of this act was that it was tabled by the UPA government and was only applicable to the central government. No such rights were given to raise a question against the state government.

In **2005**, the Right to information, 2005 was passed with 150 amendments and was applicable to the state as well. It came into force with effect from 12th October 2005 (Act No. 22 of 2005). Clearly, it was a very important day for the people of India as they were successful in getting that right for which they have been struggling for decades.

⁹Utkarsh Kumar Sonkar& Harpreet Singh Gupta, Time to scrap it, DECCAN HERALD (Mar. 25,2019, 22:15 IST [UPDATED : Mar. 26, 2019, 00:04 IST) <https://www.deccanherald.com/opinion/main-article/time-to-scrap-it-725105.html>

¹⁰Freedom of Information Act, 2000, THE GUARDIAN (May18,2009, 15:39 BST) <https://www.theguardian.com/commentisfree/libertycentral/2009/may/18/freedomofinformation-information-commissioner>

¹¹ National Academy of Construction.

CHANGE IN GOVERNMENT BROUGHT CHANGE IN FORTUNE

In May, 2004 United Progressive Alliance (UPA) government came to the national level which was led by Congress Party replacing Bhartiya Janata Party led by National Democratic Alliance (NDA) government. The UPA government in order to bring a corruption-free, transparent, accountable government and Right to Information Act; in order to change the fate of the country brought the Common Minimum Programme (CMP). A National Advisory Council was also set up to see the monitoring of CMP. More amendments were needed in the Freedom of Information Bill, 2000 to make it more compatible and transparent to common people. The government stroked back and worked on the amendments in a way that no drawback should come. Damage control measures were taken and a much stronger bill was introduced which became law. The enactment of RTI was done successfully but in less than a year rumors came that the government is going to make more amendments to it. Unfortunately, the government tried to perpetuate the myth that, in amending the RTI Act, they were actually trying to strengthen rather than weaken the act.¹² In a letter addressed to the noted RTI activist Anna Hazare, the Prime Minister states: “File noting was never covered in the definition of ‘information’ in the RTI Act passed by Parliament. In fact, the amendments being currently proposed to expand the scope of the Act to specifically include file nothings’ relating to development and social issues. The overall effort is to promote even greater transparency and accountability in our decision-making process”¹³. Unfortunately, no amendments were introduced in the parliament and after so much of chaos and struggle, the government thought to leave it as enacted in 2005 but that too till 2019. In 2019, again there was the government of the Bhartiya Janata Party who came up with the amendment in Section 13 of the RTI Act, 2005 which seems to be giving all the powers to Central and State Government and making the officials work at their will.

RTI was proposed to change the tenure and salary of CIC and ICs in 2019. Before the amendment, the CIC or ICs used to hold the office for the term of five years and were not eligible for re-appointment. Also, the salaries and allowances of ICs, CIC were the same as of Election Commissioner and they may not vary in any case which means in conclusion they had fixed salary

¹²Shekhar Singh, The Genesis and Evolution of Right to Information Regime in India, RESEARCH GATE (Jan. 2010)https://www.researchgate.net/publication/265242501_The_Genesis_and_Evolution_of_the_Right_to_Information_Regime_in_India

¹³Letter dated July 27, 2006.

and tenure of office as mentioned in under Sec. 13 of RTI, 2005. But after the amendment was done in 2019 it was stated that the Central/State Government will notify the term of office for the CIC and ICs which means there would be no fixed tenure. In addition, the salaries, allowances and other terms and conditions of the services will also be decided by the Central/ State Government.

RIGHT TO INFORMATION ACT, 2005

RTI Act is an index which tells us about the functioning of the government. Till 2005 there was no such rights for Indians, no accessibility was there in the work of public authority. The enactment of the RTI Act, 2005 built a stage to get things transparent and corruption-free. It clearly tells us to what extent a person can access information about public authorities, what actually information means and what is the ambit of it.

Section 2 of the RTI Act tells us about the actual meaning of government, Central Information Commission, Central Public Information Officer and competent authority, etc. The same are as follows in the same words as written in the RTI Act, 2005-

In this Act, unless the context otherwise requires,—

(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 subsection

(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;

(d) "Chief Information Commissioner" and "Information Commissioner" mean the Chief Information Commissioner and Information Commissioner appointed under sub-section (3) of section 12;

(e) "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;

V) "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;

(g) "prescribed" means prescribed by rules made under this Act by the appropriate Government or the competent authority, as the case may be;

(h) "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 organization substantially financed, directly or indirectly by funds provided by the appropriate Government;

(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.

References have been also made in some cases like KhanapuramGandaiah v. Administrative Officer and Ors¹⁴, Dr. Celsa Pinto, Ex-Officio Joint Secretary (School Education) v. The Goa State Information¹⁵, Divakar Yadav v. Respondent: CPIOBabasahebBhimraoAmbedkar University¹⁶ and in The Public Information Officer and others v. The Central Information Commission¹⁷ about the ambit of information and shows that the public can get any time, any type of information easily mentioned under the law. But at the same time, it was held in the case of the Hon'ble Supreme Court of India in CBSE v. AdityaBandopadhyay that "It is also not required to provide 'advice' or 'opinion' to an applicant, nor required to obtain and furnish any 'opinion' or 'advice' to an applicant. The reference to 'opinion' or 'advice' in the definition of 'information' in section 2(f) of the Act, only refers to such material available in the records of the public authority. Many public authorities have, as a public relation exercise, providing advice, guidance and opinion to the citizens. But that is purely voluntary and should not be confused with any obligation under the RTI Act."¹⁸

RIGHT TO INFORMATION AND OBLIGATION OF PUBLIC AUTHORITIES

Central Public Information Officer (CPIO) or State Public Information Officer (SPIO) deals with the person seeking information and render assistance. CPIO/ SPIO of a public authority plays an important role in the effective implementation of the provisions of the Right to Information Act, 2005. At the same time, he is liable for a penalty in case of default in performance of duties

¹⁴ Special Leave Petition (Civil) No. 34868 of 2009

¹⁵ 2008 (110) Bom L R 1238

¹⁶ RTI Application filed in 2017

¹⁷ W.P. No. 26781 of 2013 and M.P. No. 1 of 2013

¹⁸ Civil appeal no. 6454 of 2011

assigned to him by the Act. It is, therefore, crucial for a CPIO/SPIO to study the Act carefully and understand its provisions correctly. Though CPIO and SPIO can seek help from any other officer if they feel that they cannot process in the way required.¹⁹

One who desires to obtain information shall make a request in writing or through electronic media. The language to request must be English/ Hindi or the language of the area in which the request is made. The one who is not capable to make the request in writing, guidance is provided by SPIO OR CPIO. The person who makes a request should not be asked for the reason behind the same and no personal question should be entertained by the one who makes the request.²⁰ If the request made belongs to the ambit of another public authority, the same is informed to the applicant and the request is transferred to the responsible authority within 5 days. Within the time period of 30 days, CPIO/SPIO has to give a decision no matter they accept it or reject it, the applicant should be informed about the same. If in case, they fail to inform, the request would be deemed to be rejected. The fee for making the request should be the same as under the law, no extra fee should be charged by the applicant and also no person below the poverty line is deemed to pay such fee for access to information. If CPIO or SPIO fails to comply with the time limit, the applicant will not be charged and will get free access to the information they want to know. SPIO or CPIO has to either give information with a fee within 30 days or have to give the reason for rejection of the same. If the information is concerned with the life/liberty of the person, CPIO/SPIO will be obliged to give information within 48 hours. If for any reason they reject the request, they have to give a reason, particulars of the appellate authority, the period within which an appeal against such rejection may be preferred and that should be informed to the person who makes the request. Also, when information is provided, it should be provided keeping in mind the safety and security of the record. Information can be rejected only in the case, where it involves an infringement of copyright subsisting in a person other than the state.²¹

¹⁹ SECTION 4 OF RTI ACT, 2005

²⁰ SECTION 6 OF RTI ACT, 2005

²¹ SECTION 7 OF RTI ACT, 2005

EXEMPTION FROM DISCLOSURE OF INFORMATION

The right to information gives information to the general public but in some situations, it is difficult to provide information under RTI as it can harm the integrity and serenity of the country. There are sometimes request for information related to supreme power or the preamble of the constitution which may harm the sovereignty of the country. There may be a question related to the third part, national security, a judicial system that cannot be answered completely. Also, in the cases where there is a question to the functioning of government, there are certain exemptions as stated in the case Dinesh Trevedi v. Union of India²². Democratic forms of government require accountability and transparency but that cannot be possible in all circumstances. In the Central Act, Section 8(1) consists of all the exemption which are discussed as below on a general basis²³-

National Security or Sovereignty - there is information related to national security which cannot be published seeing the security of the country like if there is going to be any war, the government cannot be published what is the exact plan of theirs', the no. of soldiers working at the border or where they are positioned. However, it would not be appropriate to use this exemption simply to keep a contract for the purchase of an air force fighter jet secret. This is common commercial information that should be made public to reduce the likelihood of corruption tainting the procurement process and should not be withheld simply because it relates to defense.

National Economic Interest - lower-level economic and financial information can be shared but not information about exchange rates, tax rate, foreign investment, banking and other financial institution's proposals for expenditure etc. cannot be shared in every case because sometimes it can harm the national economy.

Relation with foreign state - there are times when it is sensitive to share information related to foreign policies, their relation and candid assessment etc. which are not ought to be shared. However, this exemption should not be used simply to hide political deals between players, which are not in the public interest and can never justify non-disclosure of information which discloses a breach of national law.

²² (1977) 14 SCC 306

²³ Right to Information: User Guide – What type of information are you not able to access? , HUMAN RIGHTS INITIATIVE, https://www.humanrightsinitiative.org/programs/ai/rti/india/user_guide/info_not_access.htm

Law enforcement and Judicial Process - Whenever there is any case going on, the evidence, witness and crucial information need to be protected. No one can request information in that case. Also, a discussion between the client and the lawyer is also kept confidential even if the lawyer is attorney general and the client is government. These exemptions should not be used though, to protect police and judicial officers from having their own conduct scrutinized, particularly if a victim is seeking information about whether their case is being/has been properly handled.

Cabinet and other decision-making documents - Cabinet papers which include a record of deliberation, secretariat and council of ministers are kept confidential until the decision is made because the decision-making process in the parliament needs some level of privacy. However, all the information and records should be disclosed once the decision is made.

Trade secret and commercial confidentiality - It is already recognized in the law that private companies should keep their stock records confidential to some level for minimizing the risk in the commercial competition.

Individual safety and privacy - Nothing shall be shared with the public which harms and endangers the life physical safety and privacy of the person. The right to privacy²⁴ have always bigger ambit than the right to information act. The disclosure of information about someone's private life which has no relation with the public is exempted.

Besides these, whenever we talk about exemption from disclosure of information, section 24 of the RTI Act, 2005 becomes important to be mentioned. It is written over there in the second schedule that information cannot be requested which is related to some of the organization. These organizations are the Intelligence department, Cabinet secretariat, Directorate of revenue, Central Economic Intelligence Bureau, Directorate of enforcement, Narcotics Central Bureau, Special frontier force, Border Security force, Central reserve police force, Indo-Tibetan border force, Central industrial force, National security force, Assam rifle, Shashtraseemabal, Andaman and Nicobar CID-CB, CID-CB Dadar and Nagar Haveli, Special branch- Lakshadweep police, Special Protection Group, Defense research and development organization, Border road development road, Financial Intelligence Unit- India. These are the 22 organizations related to which no information can be asked and if someone does that, no information would be provided from the government.

²⁴ Constitution of India, 1950.

RIGHT TO INFORMATION AS A FUNDAMENTAL RIGHT

Since the Right to information has been passed it is a hallmark in the democracy of our country. The Supreme Court has always ruled in the favor of Right to information of the public. The Right to information has been ruled as a fundamental right in many cases by the Supreme Court under Part III of the Indian Constitution. All those who have been fighting for the RTI Act, it has been a sign of relief for everyone. There are several cases that show the inheritance of RTI into fundamental rights. The right to information has been recognized implicit in article 19(1)(a) and Article 21 of the Indian constitution. In the case People Union for civil liberties vs. Supreme Court of India²⁵, it was held that the Right to information is part of freedom of speech and expression and it is undisputedly a fundamental right. In the case, Bennett Coleman and Company vs. Union of India²⁶, it was held that the Right to information will be included in the fundamental right. In Indira Gandhi vs. Raj Narain²⁷, the court stated that it is the duty of the officials to justify their acts which is the safeguard against corruption. Also, in the case Indian Express Newspaper Pvt. Ltd. vs. India²⁸, the court remarked that the basic purpose of freedom of speech and expression is that all members may be able to communicate with each other and ask questions which is in sum right to know²⁹. The fundamental implementation of the Right to information not only strengthens the act but also tells that no one can deny from this right of the person until there is a reasonable justification.

THE CENTRAL PART OF TRANSPARENCY

There are separate bodies to hear complaints and appeal under RTI Act, 2005. The Central Information Commissioner and State Information Commission are there to exercise the power and perform the function under this act. For the central level, there is a Central Information Commissioner and for the state level, there is State Informational Commissioner. CIC includes

²⁵Writ Petition (Civil) No. 196 of 2001

²⁶ 1973 AIR 106 1973 SCR (2) 757 1972 SCC (2) 788

²⁷ 1975 AIR 865, 1975 SCR (3) 333

²⁸1953 I.L.R. 32 Pat. 688

²⁹Dipali Singh, Impact of the Right to Information, 2005 in Institutionalizing Transparency and Accountability in Indian Government, CENTRAL INFORMATION COMMISSION (Aug. 23,2019)

https://www.humanrightsinitiative.org/programs/ai/rti/india/user_guide/info_not_access.htm

Chief Information Commissioner and other 10 Central Information Commissioner which are appointed by President. Chief Information Commissioner should not be a Member of Parliament or legislature of any State or Union Territories. Also, they may not hold any office of profit or connected with any political party or carrying any business or pursuing any profession. CIC's headquarters is in Delhi. The tenure of CIC is 5 years and before that, he can only be removed by President in case, he is incapable to do the work. The tenure of SIC is also the same as CIC and both cannot be reappointed to their post.³⁰

UNCOVERED SCAMS

- 1) **Adarsh Society Scam**³¹- Adarsh Housing Society was 21 story upscale residential complexes in Colaba, Mumbai. This was apartment made for war heroes and war widows who lost their spouses during 1999 Kargil war. Occupants of the apartment were bureaucrats and relatives of politicians. They were exposed by RTI activists Simpreet Singh and Yogacharya Anand. It was found out that land never belonged to the state government; it was of the Ministry of Defence. CAG also submitted a report on this scandal. It was found in the report that Society didn't obtain a NOC from the Ministry of Environment and Forest; it had the permission of only 6 floors to be built. Most of the floors were occupied by ministers and society got permission when these ministers occupying floors were in power. Everyone who cleared the file for granting permission to the society was given a floor. CBI investigation was brought up. Several documents when investigated were missing. The CM of Maharashtra Ashok Chavan then was also involved in this case. He was culminated to resign from his post. Jiraj Pathak, Ramanand Tiwari, T.K. Paul, A.R. Kumar, M.M. Wanchoo, KanhaiyalalGidwani, J.K. Jagiasi and Mandar Goswami are arrested so far. As a result, Membership of 25 owners who were found ineligible was canceled by Maharashtra Government including Suresh Prabhu, Mr. Chavan's relatives and Indian Diplomat Devyani Khobragde and MOEF ordered the demolition of illegally constructed floors.

³⁰ Section-13,14,15,16 of RTI ACT, 2005.

³¹Deepalakshmi K., Adarsh Scam: The story of a posh high- rise with not- so- posh occupants, THE HINDU(Apr. 29,2016, 17:53 IST |UPDATED : Mar. 25, 2017, 10:08 IST) www.thehindu.com/news/national/adarsh-scam-backgrounder/article14264528.ece

- 2) **2G Scam**³²- 2G Scam is a combination of 3 cases; one by Enforcement Directorate and 2 by CBI. There is a report by CAG that 2G or second-generation licenses for the mobile network were given at throwaway prices instead of carrying free and fair auction. Charges were denied by Telecom Minister A. Raja and he said that decisions were made apprising Manmohan Singh. RTI was filed by activist Subash Agarwal. In this case, A. Raja was alleged for allocating airwaves and licenses for cell phone networks in exchange of bribes. Top ministers were also allegedly colluded to undercharge certain mobile phone companies while the allocation of frequencies. As a result, A. Raja resigned and Kapil Sibal took charge of the telecom ministry and came up with zero loss theory in 2011. Also, everyone involved in this scam was successfully arrested.

- 3) **Common Wealth Game Scam**- This scam happened in the year 2010 in New Delhi. The main accused was Suresh Kalamadi, the chairman of the organizing committee of the Commonwealth Games³³. RTI was filed by a non- profit organization and allegation was raised that Delhi government had diverted 744 crores from funds earmarked for the welfare of the Delhi community to the Commonwealth Game. Non-profit housing and land rights network-found most of the diverted funds.³⁴The game spawned a maze of corruption deals involving inflated contracts. Kalamadi was accused of handing out a rupees 141 crore contract to Swiss Timing for timing Equipment.³⁵

- 4) **Demonetization announced without a nod**³⁶ - Central board of RBI met less than two and a half hours prior to PM Narendra Modi before the announcement of demonetization. PM didn't wait for the bank's formal approval. Minutes of the Meeting (Mom) showed that

³²What was the 2G spectrum scam? 10 things to know, INDIA TODAY (Dec. 21,2017,16:03 IST)<https://www.indiatoday.in/fyi/story/what-is-2g-scam-in-india-2g-scam-verdict-upa-a-raja-cbi-judge-op-saini-verdict-things-to-know-1113444-2017-12-21>

³³ The Commonwealth Games Scam- 2010, INDIAN MIRROR, <https://www.indianmirror.com/indian-industries/indian-scams/commonwealth.html>

³⁴Lovina B. Thakkar, Right To Information Act,2005:All You Need To Know, LIVE LAW (July7,2020,10:11 IST) <https://www.livelaw.in/know-the-law/right-to-information-act-2005-all-you-need-to-know-159485>

³⁵Top 10 facts about Kalmadi's Commonwealth Games Scandal,NDTV(Jan.19,2012,17:45 IST) <https://www.ndtv.com/india-news/top-10-facts-about-kalmadis-commonwealth-games-scandal-568261>

³⁶Demonetisation was done without RBI's Formal Approval: RTI, THE LOGICAL INDIAN (Mar, 11, 2019)<https://thelogicalindian.com/news/rbi-demonetisation-rti-centre/>

the bank didn't buy the center's justification of demonetization curbing black money and the circulation of counterfeit money. RBI Governor- Urjit Patel approval was sent 38 days after denomination of 500 and 1000 rupees were banned. RTI in this scam was filed by activist Venkatesh Nayak. It was found out that Mom was received after 28 months which showed that the RBI Governor was never in the favor of this demonetization. RBI director opined that most of the black money in India comes from gold and mines, not from ash and demonetization would never harm those assets but plummet down the economy.

RTI PLEAS WHICH ARE UNFORGATABLE

- 1) **Graduation of PM Narendra Modi³⁷**- Various RTI was filed in 2015 which was refused by DU and PMO. An affidavit of the general election said that he took his UG degree from DU in 1978 and did MA from Gujarat University in 1983. Neeraj Sharma activist filed RTI to bring out a list of passed out students in 1978 from DU but Inspection Commissioner Shridhar in this case was removed by CIC RK Malhotra. Again, an RTI was filed by a Delhi-based lawyer Mohd. Irshad but citing privacy reason DU rejected the RTI query. The mystery is that if DU feels it as private information, under RTI Act, then why didn't they write to PM and took permission to make it public when Amit Shah and Arun Jaitley has already made it public.
- 2) **PMO Rejects RTI plea seeking Ranjan NPA list details**- This RTI was filed to know the details about bad loans which was submitted by RBI Governor. PMO said that the asked query does not come under the ambit of definition of information in the RTI Act and termed it as roving inquiry.

³⁷Ians, Delhi University rejects RTI query over Modi degree, THE HINDU(June19,2016, 20:19 IST |UPDATED : Oct. 18, 2016, 14:40 IST)<https://www.thehindu.com/news/national/Delhi-University-rejects-RTI-query-over-Modi-degree/article14431913.ece#>

- 3) **Meghalaya RTI activist murdered**- Meghalaya Youth leader, RTI activist and President of Jaintia Youth Federation was killed in coal belt in the hill state's East Jaintia Hill district. He was suspected to misuse his powers and have paid the price for exposing the nexus between heads of Jaintia Hill Autonomous District Council (JHADC) and cement companies.

- 4) **PM Cares Fund – ‘Not a Public Authority’**- Central Government said “All funds other than the funds stipulated under Section 46 of the Disaster Management Act, 2005 are separate, different, distinct and are created separately under separate provisions”. Various PILs and RTI were filed to find out the authentication of PM Cares Fund but PMO refused to disclose any information on the creation and operation of PM Fund stating that it accepts voluntary donation and this inquiry doesn't come under the ambit of S. 2(h) of RTI Act, 2005. They also said that PM Cares Fund is not a public authority and is set up only to provide relief during the Covid-19 Pandemic.³⁸

CONCLUSION

It took years to push out this remarkable piece of legislation but still when we look out for proper functioning India lacks in that place where RTI needs to be respected and the government needs to be restored. John F. Kennedy once said “A nation that is afraid to let its people judge the truth and falsehood in an open market is afraid of its people”, we have come a long way to provide the right to information to the public but we still need proper implementation, execution and the challenges faced should be solved wisely. The manner to file RTI should be more simplified because the literacy rate of India is 77.7% which means there are people who are not literate and filing RTI with such a procedure will be difficult for them in any way. Secondly, the usability and effectiveness of this right should be known to a person who definitely requires a proper campaign through which awareness can be spread. Also, to ensure proper functioning, corruption, mismanagement and administrative malpractices should be targeted. One should be encouraged to

³⁸Sanya Talwar, [PM CARES Fund vs NDRF] Mere Existence of Statutory Fund No Bar To Create Separate Fund For Voluntary Donations : Centre Tells SC, LIVE LAW (July 9,2020, 19:24 IST) <https://www.livelaw.in/top-stories/pm-cares-fund-vs-ndrf-statutory-fund-no-bar-create-separate-fund-voluntary-donations-159644>

use the Right to Information act as a step forward towards good governance and the responsive nature of the public which is the basic premise of democracy.