

● RIGHT TO INFORMATION ACT: A WEAPON TO STRENGTHEN GOOD GOVERNANCE AND FIGHTING AGAINST CORRUPTION

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Abstract

Governance experiences show that there has always a vital need for improving government administration. Governance is considered as the process or system ensuring certain activities to be carried out, managed or controlled within the parameters of accountability, legitimacy and transparency. Good governance works on the concept of positive, responsive and sensitive administration and considered as a value-laden which emphasize forcibly on the public interest, public welfare, public service and public goods. Today in our country there is unprecedented corruption at all levels and the feeling is pinching but corruption is roaring high. The main cause behind such corruption is secrecy, which was considered as the tool of faithfulness towards the government is past era. In order to have the transparency in the governance, there is a need to crack the walls of the secrecy and to ensure the good governance. It is in this content the present paper argues that Right to Information Act is a weapon to strengthen the good governance and also examines its role in fighting against corruption in India.

Key words

Right to Information, Administration, Good Governance, and Corruption.

I. INTRODUCTION

Good governance is prerequisite for any democracy that includes some of the factors as transparency, accountability, rule of law and people's participation. Governance and good governance at time have become the main theme and matter of discussion and deliberations. As the government is playing a vital role in the life of a man and the act and process by which a government governs our people is called governance. The requirement of good governance is universally accepted. Good governance always constitutes the cornerstone of every democracy. Good governance includes wide range of issues like economic, political, administrative and judicial as well. Governance is considered as a process or system that ensures certain activities to be carried out, managed or controlled within the parameters of accountability, legitimacy and transparency. Good governance rest on positive, responsive and sensitive administration. Today in our country there is unprecedented corruption at all levels and the feeling is pinching but corruption is roaring high. The main cause behind such corruption is secrecy, which was considered as the tool of faithfulness towards the government is past era. In order to have the transparency in the governance, there is a need to crack the walls of the secrecy and to ensure the good governance. It is in this content the present paper argues that Right to Information Act is a weapon to strengthen the good governance and also examines its role in fighting against corruption in India.

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II. RIGHT TO INFORMATION AND GOOD GOVERNANCE

The concept of governance is as old as human civilization and defined as the process of decision making and includes the process by which the decisions taken are to be implemented or any act or process by which the government governs the people. The concept of good governance includes some of factors as transparency, accountability, rule of law and people participation. The need of good governance is universally accepted and prerequisite for democracy. India is also one of the democratic countries so there is a need of good governance and transparency. The government played an important role in the life of a common man as the state and its machinery should work for the welfare of the peoples. Good governance also includes within its ambit the wide range of issues as economic, political, judiciary and administrative as well and constitutes the cornerstone of every democracy.¹

This Act provides an opportunity to the common people of the country to interact with the official and institutions. This Act is also considered as a potent missile to fight against corruption, arbitrariness and misuse of the power and having a noteworthy bearing on the good governance and development. Transparency and the accountability are the two very facets of the good governance and in the absence of any one the other cannot be in existence. To ensure the good governance there should be maximum disclosure and minimum confidentiality. The main thrust of such law is to transform the traditions of secrecy, red tapism and detachment that have long plagued India's monolithic and opaque bureaucracy.²

Accordingly to the World Bank, good governance entails sound public sector management (efficiency, effectiveness and economy), accountability, exchange and free flow of any information (transparency), and a legal framework required for the progress (justice, respect for human rights and liberties).³ In seeming agreement with the World Bank, the Overseas Development Administration of the United Kingdom of Great Britain and Northern Ireland (now the Department for International Development), defines good governance by focusing on four major components namely legitimacy (government should have the consent of the governed), accountability (ensuring transparency, being answerable for actions and media freedom), competence (effective policy making, implementation and service delivery), and respect for law and protection of human rights.⁴ The basic premise behind the rule of Right to Information is, since the government is for the people, it should be open, accountable and should not conceal anything from the people.

"Good governance" means the efficient and effective administration in a democratic framework. It involves high level organizational efficiency and effectiveness corresponding in a responsive way in order to attain the predetermined desirable goals of society. Good governance is essential dovetailing policies which the respective states must ensure while formulating their policies, necessary vary according to the particular

¹ Shilpa, "Right to Information: A Tool to Strengthen Good Governance and Tackling Corruption", *2 International Journal of Humanities and Social Science Invention*, 2013, pp. 46-51

² *Ibid.*

³ Available at: <http://www.ifad.org/gbdocs/eb/67/e/EB-99-67-INF-4.pdf>

⁴ "Taking Account of Good Governance", London. 1993

circumstances and needs of different societies. Simultaneously the responsibility for determining and implementing such practices, based on transparency and accountability. According to the World Bank document viz. Governance and Development the parameters of good governance are as follows:⁵

- Legitimacy of the political system. This implies limited and democratic government.
- Freedom of association and participation by various social, economic, religious, cultural and professional groups in the process of governance.
- An established legal framework based on the rule of law and independence of judiciary to protect human rights, secure social justice and guard against exploitation and abuse of power.
- Bureaucratic accountability including transparency in administration, public policies, decision-making, monitoring and evaluation of government performance.
- Freedom of information and expression required for formulation of public policies, decision-making, monitoring and evaluation of government performance.
- A sound administrative system leading to efficiency and effectiveness.
- Co-operation between government and civil society organizations.

Actually good governance has eight major facets including participatory, consensus oriented, accountable, transparent, responsive, effective, efficient and equitable and also follow the rule of law. Good governance is an ideal which is difficult to achieve in its totality. However to ensure sustainable human development action must be taken to work towards achieving this ideal. The RTI is one of the important method by which the success in good governance may be achieved.⁶

The first and foremost task appears to attempt for a fundamental redefinition of governance, to change the mind set of bureaucracy, to overcome to colonial hang-over of the persistent notion of the Rulers and the Ruled, Governors and Governed, Government and the People, the us and they. The interaction between the administration and the citizen needs to be enhanced by the awareness of and respect for the constitutional rights of the people. Interaction is essential between free and self governing people and the agents appointed by them. Massive and sustained participation of civil society initiatives, self-help groups, voluntary organization etc is necessary to achieve a faster pace of socio socio-economic development and for building a more just caring and equitable society as envisioned by the constitution. The movement must be from governance to self-governance. This requires a radical re-shaping of policies so as to create an enabling and facilitating environment in which effective interaction between the government and the institutions of civil society becomes possible.⁷

III. MAJOR COMPONENTS OF GOOD GOVERNANCE

As per the World Bank, the united nation commission on human rights and Asian

⁵www.worldbank.org [visited on 20-11-2015]

⁶Caesar Roy, "Right to Information and its Significant to Ensure Good Governance in India", 2(3) Nyaya Deep, 2012, at 90

⁷The National Commission to Review the working of the Constitution paper on Enlargement of Fundamental Rights, Ministry of Law and Justice, GoI, New Delhi (2000), para 11

development bank the good governance includes some attributes and some of them are discussed here:

a) Transparency and Openness

Transparency is always considered as the information is freely available and directly accessible to all those who will be affected by any decision and their enforcement. Access to any information is a great enabler of transparency and the citizens right to Information is considered as the soul of the transparency that improves the quality, ethics and the decision making power of the concerned authorities. In the perspective of governance, transparency refers to availability of information to the common public and clearness about functioning of government institutions. Without transparency that is unfettered access to timely and reliable information on decisions and performance, it would be difficult to call the general public sector entities to account as failure to supply information on any matter is a major problem with most of the legal system of the developing world. Without the concept of accountability, transparency would be of little value. The existence of both accountability and transparency is a precondition to effective, competent and equitable management in public institutions.⁸

b) Accountability

Power corrupts and absolute power corrupts absolutely. Right to Information attempts to lose the power syndrome of those entities that control the communication, gathering, processing, distribution and storage of information system because they will lose their power if such information is transferred from such power group to the common man. By transferring the information from such power groups to the common people they will be made accountable as the notion of democracy prescribed that the government is for the benefit of the common people at large and for the few of the chosen ones. Modern democracy embraces a wider and more direct concept of accountability as that goes beyond the traditionally well deified principle of accountability of the executive towards the legislature. Accountability is possible only when common people have access to information relating to the functioning of the government agencies.⁹ Hence not only government institution but all private and civil organizations must be accountable to the public and to their institutional stakeholders. Accountability is one of the prerequisites of democratic or good governance. Accountability may be categorized into four broad types:¹⁰

- (a) Accountability is associated with the idea of answerability, based on the premise that individual identity is determined by one's position in a structured relationship;
- (b) Liability, a second form of accountability, sees individual identity rooted in more-formalized expectations developed through rules, contracts legislation and similar relationships based on legalistic standing;
- (c) Accountability is associated with role-based expectations. Such roles foster blameworthiness as a basis for shaping and directing one's behaviour;

⁸The United Nations Development Programme, Transparency and Accountability in the Public Sector in the Arab Region, New York, 2004

⁹"Working Group Report on the Right to Information and Promotion of Open and Transparent Government", Government of India, 1997, Para 2.2

¹⁰Definition of basic concept and terminologies in governance and public administration, the United Nations Economic and Social Council, January 2006

- (d) Accountability expectations are derived from an individual's perceived status in a community where attributions come into play.

c) Participation

Good governance requires that civil society has the opportunity to participate during the formulation of development strategies and that directly affected communities and groups should be able to participate in the design and implementation of programmes and projects. Even where projects have a secondary impact on particular localities or population groups, there should be a consultation process that takes their views into account. This aspect of governance is an essential element in securing commitment and support for projects and enhancing the quality of their implementation.¹¹

d) Public Accountability

Public accountability is a facet of administrative efficiency and the publication of any information serves as an instrument for the oversight of citizens. Information is considered as one of the means for fighting against the corruption therefore the government that creates or produces the trustworthy flow of information creates greater openness, transparency and accountability. International experience also shows that countries allow their citizen's access to public information held by the government, have checked on the reduction of the corruption and this resulted into the substantial increase in the administrative efficiency.

The public accountability is a part of the governance and the Government consist of public servant is accountable to the public for their service. Therefore accountability and governance is the part and parcel of the government, which acts as principle and the agent and make an impact on the public. When any government agency translates any government policy into any programme, the success of such transaction is very much dependent on a clear understanding and outcome of the result that was sought. There is no surprising fact that the history of accountability and governance within the public has shifted from measuring inputs to measuring outputs and matching outputs to identifying outcomes. The only point that weakens the accountability or the effectiveness of the government or the public sector is the lack of information on any matter.¹²

e) Responsibility of Public Authority

Public authority is responsible to maintain its records and if possible on computer.¹³ The authority is to publish within the time period of four months from the enactment of the Act some of the following information:

- The particulars of its organisation, function and duties.
- Powers and duties of its officers and employees.
- Procedure followed in the decision making process including supervision and accountability.

Public authority is to designate some of the officers to provide information to the

¹¹Supra note 1

¹²Liann Datzel, "Governance and Accountability in the Public Sector", 2003, available at: www.scoop.co.nz visited on 20-11-2015

¹³The Right to Information Act, 2005, Section 4

citizens.¹⁴ Request for seeking the information can be made in Hindi, English or in any other official language of the area.¹⁵ Such application is too accompanied with the prescribed fee and no fee is to be charged by any person of below poverty line. The application for information can be made to the Central or State office accordingly and the reason for seeking need not to be provided. On receiving the application the concerned is to provide the information within a time period of 30 days or otherwise may reject the application and in case where the information sought relating to the life or liberty of any person shall be provided within 48 hours only. This is the most comprehensive right and includes many things in its ambit for the benefit of the common people of the country.

IV. RIGHT TO INFORMATION AND FIGHT AGAINST CORRUPTION

The right to information, likely to reduce the corruption and increase administrative efficiency in so far as it provides every citizen of the country an enforceable right to question, examine, audit, review and assess government acts and decisions to ensure that these are consistent with the principles of public interest, integrity.

Different aspects of the importance of the right to information are discussed in a different way as: Abraham Lincoln, the very first President of the USA, understood the importance of right to information, when he rightly said, Government is of the people by the people and for the people. The first part of the people includes participative management the second by the people includes openness and transparency for the people and the third part for the people includes accountability, which means participation, minimizing corruption and good governance by sensitization of bureaucracy and bringing efficiency in the system. Right to Information Act, 2005 was accepted with the objectives of:¹⁶

- Greater Transparency in functioning of public authorities.
- Improvement in accountability and performance of the government.
- Decision making process: and
- Reduction in corruption in the government departments.

The philosophy of secrecy rests on the ground that governance is not the business of the common people; however, in a democracy barring people from access to information smacks and sows the seeds of fascism. Granting maximum access to governmental materials and limiting confidentiality to minimum are a way for developing into a global jurisprudence of open government. It is important that locking up informational sources needs to be looked down, in the new world over.

Since law serves life, informational law has therapeutic value for the already anaemic Human Rights and people. Such a law is anathema for those in power. Power to the people implies their Right to Know and denies to government the right to hide. It "We the people" are final masters and performance auditors of bureaucracy, and then need for free access to all public information, argues for itself. How can Stockholm resolutions for environment conservation or "Health for all" or any other social welfare project may be

¹⁴Id., Section 5

¹⁵Id., Section 6

¹⁶M.M. Ansari, "Impact of Right to Information on Development: A Perspective on India's Recent Experiences" paper presented at the UNESCO Lecture, Paris, May 15, 2008

meaningful, if full disclosure and processing of facts is not made into a human right? No people's struggle or workers fight for fair employment terms, or women organizations fighting for equality against gender discrimination, or effort of the disabled to be a part of the mainstream, or the displaced seeking relief and rehabilitation can achieve success in the absence of this right.¹⁷

Right to Information Act has become a reality consistent with the objectives of having a stable, honest, transparent and efficient government. True governments are not elected just by holding elections but from informed franchise. Efficient government cannot be run, by its mystic babu but from the enlightened participation of its populace in public affairs. Now the government will have to move fast a few steps further, as free flow of information for the citizens and non government institutions still suffers from several bottlenecks, for example existing legal framework, lack of understanding, the philosophy at the grass root level, and mind set of middle level employees for secrecy. To bring a change in attitude and mindset of civil servants, explicit change is required in the old rules so that it become a locomotive for human progress. Non obstinate clause in Section 14 of the Freedom of Information Act may not be sufficient to motive the bureaucracy to make access to information, and more liberal. The Act ensures free flow of information to the public, while inter alia protecting the national interest, sovereignty and integrity of India and friendly relations with foreign states.

Right to Information has been declared in truly sense as the concept of human rights and apart from the reactionary statutes like Prevention of Terrorism Act, 2002(POTA), police terror, misinformation and disinformation are the methods adopted by the States to conceal its crimes. Official secrecy being a shelter for the Government and ignorance of facts or their distortion becomes a tranquilizer for the public. Sometimes even the parliament is kept in the dark. Truth has no chance when it is stifled at birth. Freedom of information is fundamental of freedoms. The human essence fails to find expression under the legalized repression and the society is in itself fails to protest or dissent if the right to know is gagged by secrecy. Humanity is unable to manifest itself when sources of information are frozen beyond common access and the voices of resistance are terrorized into muteness or corrupted into silence.¹⁸

A fundamental postulate in a democratic polity means where the common people possess as a public right all the information affecting the matters of public concern, without which the business of the government or the private operations cannot intelligently be directed, controlled, mould, monitor or superintend. Without having the information on any matter the participation with absolute responsibility in the process of decision making cannot be taken by the common people of the country either directly or indirectly. In the quest for universal answer to this persistent malaise, it is much important to identify the main sources of the corruption inherent within the character of the state machine that include a determined denial of transparency, accessibility, accountability, cumbersome and confusing procedures.

¹⁷Harsh Mander and Abba Joshi, "The Movement for Right to Information in India: People's Power for the Control of Corruption", available at: www.humanrightinative.org/rti/India/articles/the%20Movement2 visited on 15-11-2015

¹⁸Justice V.R. Krishna Iyer, *The Dialectics and Dynamics of Human Rights in India: Yesterday, Today and Tomorrow* (Eastern Law House, Calcutta, 1999) pp.15-16

As the information is considered a power of the common man and the executive at all the level attempts to withhold the information from the reach of such common man in order to increase its scope for control, patronage, arbitrary, corrupt and unaccountable exercise of power. Therefore demystification of rules and regulations, procedures, complete transparency and pro- active dissemination of the relevant information amongst the common public is potentially much strong safeguard against the corruption. Ultimately the most effective check on the corruption is that where the citizens of the country themselves have the right for seeking the information from the state and thereby to enforce the transparency and accountability.¹⁹

Information is the currency and every citizen requires it into their life as necessary for governance of the society, the greater the access of the citizen to information the greater would be the responsiveness of government towards the community and the greater restriction are placed on access, the greater feeling of powerlessness are held. Without the proper information common people cannot adequately exercise their rights and responsibilities as the citizens or make any informed choice. The information kept by the Government is the national resources, neither the particular government of the day nor any public officials creates those information for their own benefit but such information is created in order to discharge their legitimate duties and for the service of the public for whose benefit the institution of the government exist. It follows that the government and their officials are the trustees of such information created for the common people.²⁰ The Right to Information enables the members of the public to access the information contained into the documents that may otherwise be available only at the discretion of the government.

There are a numerous ways in which the information kept by the government is at least in theory accessible to the citizens of the country and the parliamentary system promotes such kind of procedure by transferring the information from the government to the parliament or to the respective legislatures and from there to the people, members of the public can also seek information on the concern matters from their elected representatives. Annual reporting, different committee reports, publication of the information and the requirements of the administrative law also increase the flow of information from the government to the common people.

However in practice the overwhelming culture of the bureaucracy remains as that of the secrecy, distance and mystification and not fundamentally different from the colonial times. In fact this preponderance of the bureaucratic secrecy is usually legitimized by a colonial law, the Official Secrets Act, 1923 that made the disclosure of any official information to the common public by any public servant an offence.

There is an expectation from the Right to Information laws in order to improve the quality of the decision making by the public authorities in both policy and administrative matters by removing the unnecessary secrecy that surrounded the decision making process. It also enables the groups and individuals to be informed about the criteria applied by the government agencies in making their decisions. It is hoped that this would enhance the quality of the participatory political democracy by providing all the

¹⁹Supra note 16

²⁰Minal M. Bapat, "Right to Information: Its Scope and Need", AJHC, 2008, pp. 14-15

citizens an opportunity to participate in a more full and informed way. By securing access to the relevant information and knowledge, the citizens of the country be enabled to understand the government performance and the cumulative impact of such procedure will be the control on the corruption and the arbitrary exercise of the power.

V. CONCLUSION

Good governance is one of the prerequisite for democracy and India being a democratic country required good governance and transparency like any other democratic country. Today in India there is unprecedented corruption at all levels and the main factor behind such corruption is secrecy. For making the transparency in the governance, there was a need to crack the corruption by removing the secrecy. In such direction the government of India introduced a new era of good governance by enactment of the Right to Information Act, 2005 that provides an opportunity to interact with the officials and institutions. This Act is a potent weapon in the hand of the common people of the country to fight against corruption, arbitrariness and misuse of the power simultaneously a tool for good governance. The main thrust of the RTI law is to change the culture of the secrecy, red tapism and aloofness in the country.

