Challenges in Effective Implementation of RTI

Why in News?

Recently, Supreme Court of India questioned the large number of vacancies in the central and some State Information Commissions.

What is RTI Act 2005?

- **Definition** – Section 2(j) of the RTI Act defines "right to information," as the right to information accessible under this Act which is held by or under the control of any public authority.
- It mandates *timely response to citizen requests* for government information.
- **Legality** – Apart from being a statutory right, it is also a ***fundamental right under Article 19 (1) (a)*** of the Constitution.
- **Nodal agency for implementation** – Department of Personnel and Training under Ministry of Personnel, Public Grievances & Pensions.
- **Information commissions** – They *hear appeals from members of the public* who have been denied access to information or have failed to elicit a response from designated information officers.
- **Coverage** – Only those private bodies or organizations which are owned, controlled, or substantially financed by the Government are directly covered.

What are the objectives and rights under RTI Act?

- **Objectives** – It is to empower the citizens, *promote transparency and accountability* in the working of the Government.
- It aims to *contain corruption*, and make our democracy work for the people in real sense.

Rights under RTI act
• Seek any information which is held by any public authority. • Take copies of government documents. • Inspect works, documents, and records of government. • Take notes, extracts, or certified copies of government documents or records. • Take certified samples of Government work. • Obtain information in the form of diskettes, floppies, tapes, video cassettes, or in any other electronic mode or through printouts.

- **Significance** – It empowered the citizens to seek information from the government, with dignity and respect.
- An informed citizen is better equipped to keep necessary *vigil on the instruments of governance* and make the government more accountable to the governed.

RTI Portal Gateway *is to enable the citizens to access to RTI related information / disclosures published on the web by various Public Authorities under Union and State Governments. It gives for quick search of information on the details of first Appellate Authorities, PIOs etc. amongst others.*

What are the issues in effective implementation of RTI?

- **Vacancy of posts** – The governments *delayed appointing commissioners*, which only increased the backlogs.
    - There are 8 vacancies in Information Commissioners in the Central Information Commission (CIC).
- **Lack of responsible personnel** – Most of the 'information commissioner' were taken up by retired bureaucrats, many of whom look at these jobs as post-retirement sinecures.
- **Lack of CIC autonomy** – The government *removed the fixed 5-year tenure*.
- **Lack of time limit** – While the law mandated 30 days for the information and the same period for the first appellate authorities, it did *not specify any time limit for the commissioners*.
- **Pendency of cases** – The national average of disposal of cases by the commissioners was lesser than the potential.
- Many commissions began to have pendency of over a year.
    - There are 23,000 appeals are pending before the information commissions.
- **Toothless body** – While the act has penal provisions, most information commissioners were reluctant to use them.
- **Exemptions from RTI** – ***Section 8*** of the Act deals with the exemption from disclosure of information.

In ***CBSE & Anr. vs Aditya Bandopadhyay & Ors 2011****, the Supreme Court had held that section 8 of RTI Act should be construed strictly, literally and narrowly.*

- **Right to deny information –** In *Girish Ramchandra Deshpande vs Cen. Information Commr. & Ors., in 2012,* court had denied RTI using the exemption under Section 8(1) (j).

Section 8(1) (j) of RTI *exempts information relates to personal information the disclosure of which has no relationship to any public activity or interest, or which would cause unwarranted invasion of the privacy of the individual.*

- It is to note that the information which would not be denied to Parliament or legislature would not be denied to any person.

The Girish Ramchandra Deshpande case has been used as a precedent in 6 subsequent Court judgments and has become the gold standard to convert RTI into an RDI, or Right to Deny Information.

What lies ahead?

- Centre and States shall have definite timelines for completion of the appointment

process when there is a vacancy in the Information Commission.
- Citizens and the media must take up the responsibility to discuss and defend it.

To solve Mains question –Click here

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References

1. The Hindu| SC directs Government to fill vacancies in CIC
2. The Hindu| Issues in Implementation of RTI

