

Right to Information (RTI)

Why in News?

The Chief Justice of India Sharad Arvind Bobde recently called for a “filter” to check abuse of the Right to Information (RTI) Act.

What did the CJI say?

- He said that there was a paralysis and fear about the RTI Act, due to which people are not taking decisions.
- He also added that we want to find a way to stop the abuse of RTI Act.
- Bobde’s remarks came a month after the Supreme Court (SC) declared the office of the CJI a public authority under the ambit of the RTI.
- Over the years, the SC has stressed the importance of transparency under RTI at times, and also remarked on its overuse at other times.

What does the RTI Act say?

- **Section 6(2)** of the Act says: “An applicant making request for information shall not be required to give any reason for requesting the information or any other personal details except those that may be necessary for contacting him.”
- **Section 8(1)(j)** says: “The information which cannot be denied to the Parliament or a State Legislature shall not be denied to any person.”
- In 2007, the Delhi High Court observed that the access to information, under Section 3 of the Act, is the rule and exemptions under Section 8, the exception.
- Section 8 being a restriction on this fundamental right, therefore, must be strictly construed.
- It should not be interpreted in manner as to shadow the very right itself.

What is the genesis of the law?

- **SC’s remark** - It was the SC that had sown the seeds of the RTI Act when, in 1975, in State of Uttar Pradesh vs Raj Narain.
- The SC observed that the people of this country have a right to know every public act, everything that is done in a public way by their public functionaries.
- They are entitled to know the particulars of every public transaction in all its

bearing.

- Their right to know is a factor which should make one wary when secrecy is claimed for transactions which can at any rate have no repercussion on public security.
- **Reaction** - Since that remark, the country saw many demands for an RTI Act.
- 12 states had enacted their own transparency laws before it was passed as a central legislation and implemented in 2005.

What was done in the past for a stronger RTI?

- **Denial of Information** - In Jayantilal vs RBI case 2015, the SC observed that the Public Information Officers shouldn't deny the public their access to the information that they are entitled to.
- It said that the ideal of 'Government by the people' makes it necessary that people have access to information on matters of public concern.
- The free flow of information about affairs of Government paves way for debate in public policy and fosters accountability in Government.
- **NGOs under RTI** - In DAV College Trust vs DPI case 2019, the SC declared that NGOs are not beyond the RTI Act.
- This was based on an examination of the question whether NGOs are substantially financed by the government.
- The SC observed that in its view, substantial means a large portion and not necessarily has to mean a major portion or more than 50%.
- No hard and fast rule can be laid down in this regard. Substantial financing can be either direct or indirect.
- Whether an NGO or body is substantially financed by the government is a question of fact which has to be determined on the facts of each case.
- Because of this observation, the spotlight falls on several NGOs that have been getting public money and were not covered under the RTI.
- There are societies directly controlled by politicians, but fighting cases that they are not covered under the transparency law.

What is so critical of overuse?

- **Time consumed in replying** - In CBSE vs Aditya & Ors case in 2011, the SC said that the nation doesn't want a scenario where 75% of the public authorities' staff spends 75% of their time in collecting and furnishing information to applicants.
- According to estimates, nearly 60-70 lakh RTI applications are filed in India every year.
- Activists have questioned whether addressing these would require 75% of the time of government staff.

- Several public authorities have used this observation while denying information, ignoring the fact in the same case, the SC had ordered disclosure of the requisite information.
- **Personal and public** - In *Girish vs Central Information Commission & Ors* case 2012, the SC observed that an employee's performance in an organisation is a matter between the employee and the employer.
- It also added that normally those aspects are governed by the service rules which fall under the expression personal information, the disclosure of which has no relationship to any public activity or interest.
- On the other hand, the disclosure of which would cause unwarranted invasion of privacy of that individual.
- In a given case, if the Central or State Public Information Officer of the Appellate Authority is satisfied that the larger public interest justifies the disclosure of such information, appropriate orders could be passed.
- But the petitioner cannot claim those details as a matter of right.
- Various public authorities have used this order to deny information on cases/inquiries going on against government officials.

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