RTI and Judiciary - SC Ruling

What is the issue?

- The Supreme Court (SC) recently declared the office of the Chief Justice of India as a public authority under the RTI Act in the Subhash Agarwal RTI issue. Click here to know more.
- In this regard, here is a look at the complexities involved in 'RTI and judiciary' and at the role of the courts in RTI proceedings so far.

What are the challenges in RTI implementation?

- The relationship of the RTI with the judiciary has been challenging from the beginning.
- The RTI Act conferred powers on the chief justice of the Supreme Court and the chief justices of HCs of states for carrying out its provisions.
- So, these courts framed their own rules.
- The Supreme Court adopted the RTI-friendly rules of the central government for itself.
- However, several high courts framed extremely unfriendly rules, making it almost impossible to get any information.
- E.g. the Allahabad High Court had wanted the citizen to deposit Rs 500 for each piece of information sought.
- This was in contrast to Rs 10 fixed by the Supreme Court for seeking any number of information.
- There were many restrictions, some of which were not even contemplated in the RTI Act.
- Over the years, the courts have softened those rules.
- However, even now, they continue to be restrictive, preventing easy disclosure of information.

What has the role of the courts been?

- The RTI Act makes the information commissions the final appellate authorities in their respective jurisdictions.
- But, that does not stop public authorities, government entities, from going to the High Courts and the Supreme Court in writs.
- Some orders passed by the central information commission had reached the Supreme Court eventually.

- In most such cases, the Court's interpretation of the exemption provisions of the RTI was contentious.
- They have not upheld the rights of the citizens to get information from the government.
- Instead, they have reinforced the resolve of the public authorities not to disclose uncomfortable information.
- E.g. the Girish Deshpande case
- In this, the Supreme Court ruled that the relationship between the government and its employees was a personal one.
- It thus said that no information about a government employee could be disclosed unless the information seeker could prove that it was in public interest.
- This interpretation of Section 8(1)(j) of the RTI Act made information seeking challenging.
- Even information about disciplinary proceedings against a government employee could not be disclosed by the information officer without putting it to the public interest test.
- This was irrespective of how serious the allegations against him/her might be.
- The Court's order has become very popular among information officers and many RTI applications are being rejected by citing it.
- There are many such orders passed by the courts, which have shrunk the citizen's right to seek information and strengthened the government's hands.

What is the concern with the current SC order?

- A lot of information held by public authorities about the appointment, performance, conduct, complaints and inquiries against public servants, is personal in nature.
- Moreover, the CPIO (Chief Public Information Officer) has to refer to the principles laid down in this order to decide if the information should be disclosed or not.
- In case the information relates to courts or judges, the problem is further compounded.
- This is because, here, the impact of disclosure on the independence of the judiciary is also to be considered.
- This calls for great judicial insight, which is rarely to be expected from the level of officers who become CPIOs.
- Most CPIOs would choose to steer clear and refuse disclosure by invoking Section 8(1)(j) of the RTI Act.
- This would leave the information seekers to appeal against their orders.

What could have been done?

- The present order by SC is likely to be used by information officers to block disclosure of all such information of a personal nature.
- The Court could have spelt out more clearly those items of personal information, of the executive or the judiciary.
- This would have made it easier for the CPIOs to decide on disclosure without adjudication of its benefits for the general public.

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