

Right to Information Law

Course Code :

“Democracy is government by the people for the people
and of the people”

-Abraham Lincoln

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Constitutional Aspect of The Right to Information

Article 19(1) (a) of the Indian Constitution says that – All Citizens shall have the right to freedom of speech and expression. But without access to information this right was incomplete
Evolution of Public authority and the governance is impossible without factual, updated and primary information

In Bennett Coleman v. Union of India AIR 1973 SC 60 Supreme Court held that right to information to be **included** within the right to freedom of speech and expression
Right to freedom of speech and expression is incomplete without right to information.

The Role of Indian Judiciary in Right to Information

In State of U.P. V. Raj Narayan (1975) 4 SCC 428 the Supreme Court Observed that the people of this country have a right to know every public act, every thing that is done in a public way by their public functionaries. Further it is not in the interest of public to cover with a **veil of secrecy** the common routine business.....the responsibility of officials to explain and to justify their acts is the chief safe guards against oppression and corruption'

In S.P.Gupta V. Union of India AIR 1982 SC 149 S.C. It was for the first time that a ruling was given by the Supreme Court in 1982 to the effect that '**Disclosure of Information as regards the functioning of Government must be the rule and secrecy an exception**'. .

In PUCL V. Union of India AIR (2003) 4 SCC 399 S.C. held that true democracy can not exist unless the citizen have a **right to participate** in the affairs of the policy of the country. The right to participate in the affairs of the country is meaningless unless the citizens are well informed on all sided issues in respect of which they are called upon to express their views.

Right to Information: Global Perspective

The earliest reference to the Right to Information is found in **Sweden** where in **1776** a convention of granting Right to Information to all its citizens was passed. Sweden is a **least corrupt country**.

The UN general assembly passed a resolution in 1948 declaring freedom of information as fundamental human right thus recognizing people's right to have access to official information

Laws that prohibited implementation of right to information

In the history of RTI Act 2005 in India, there were various challenges to overcome. Since British times, there have been many laws that prohibited implementation of right to information. These are given below-

The Official Secrets Act, 1923: This law was the most important challenge in the history of RTI Act, 2005 in India because it prohibited all public servants from disclosing any information to the public

Parliamentary Privilege.

Contempt of Court.

Section 123 of the Indian evidence Act 1872:

No one shall be permitted to give any evidence derived from **unpublished official records** relating to any affairs of State, except with the permission of the officer at the **head of the department** concerned, who shall give or withhold such permission as he thinks fit.

Oath by the Public Servant:

Before joining duty, public servant swears that the information is a state secret

Rule 11 of The Central Civil Services (Conduct) Rules, 1964:

No Employee of the Secretariat shall, except in accordance with any general or special order of the Secretariat or in the performance in good faith of the duties assigned to him/her, communicate, directly or indirectly, any official document or any part thereof or information to any Employee of the Secretariat or any other person to whom he/she is not authorized to communicate such document or information

Rule 9 of The All India Services (Conduct) Rules, 1968:

No member of the Service shall except in accordance with any general or special order of the Government or in the performance in good faith of duties assigned to him, communicate directly or indirectly any official document or part thereof or information to any Government servant or any other person to whom he is not authorized to communicate such document or information

Archives Policy Resolution of 22 December 1972: States that all documents are classified for 30 years and thereafter only non confidential material is available to a restricted range of people. Even unclassified material cannot be communicated to anyone outside the government without permission.

The above mentioned prevalent laws are considered main hurdles to right to information in the history of RTI Act 2005 in India.

References

- Constitution of India
- Bennett Coleman v. Union of India AIR 1973 SC 60
- State of U.P. V. Raj Narayan (1975) 4 SCC 428
- PUCL V. Union of India AIR (2003) 4 SCC 399 S.C
- S.P.Gupta V. Union of India AIR 1982 SC 149
- Right to Information Act,2005
- Indian Evidence Act,1872