

DETAILED POWER POINT PRESENTATION ON RTI ACT 2005 GIVING FULL BACKGROUND, PHILOSOPHY & SALIENT FEATURES:

HISTORICAL BACKGROUND:-

In the life of Indian Republic, the first political commitment to the citizen's right to information came up on the eve of Lok-Sabha Elections in 1977 as a corollary to public resentment against suppression of information, press censorship and abuse of authority during internal emergency of 1975-77. In its Election manifesto of 1977, Janta Party promised "An Open Government" and declared that it would not misuse the intelligence services and government authority for personal and partisan ends. Pursuant to this commitment, Janta Govt. headed by Sh. Morar Ji Desai constituted a working group to ascertain if Official Secrets Act, 1923 could be modified so as to facilitate greater flow of information to the public. The working group recommended that the act of 1923 should be retained without change. This no change recommendation was far from political expectations.

The National Front Government renewed commitment to this right was the outcome of the people's frustration over the earlier Government's reluctance to part with the information relating to Bofors and other deals. In its 1989 Lok Sabha Manifesto, the National Front committed itself to "Open Government" and declared that "people's right to information shall be guaranteed through constitutional provisions". Then the Prime Minister V.P. Singh, in his first broadcast to the Nation in Dec, 1989 said, "We will have to increase access to information. If the Government functions in full public view, wrong doings will be minimised. To this end, Official Secrets Act will be amended and we will make the functioning more transparent. Right to Information will be enshrined in our constitution."

There was actually no headway due to the early fall of the National Front Government. Subsequently, the National Agenda for Governance of the multi-party coalition called National Democratic Alliance declared, "Our first commitment to the people is to give a stable, honest, transparent and efficient Government capable of accomplishing all-round development." In pursuance with this commitment, the NDA Government introduced the Freedom of Information Bill, 2000 in the Parliament. The bill was finally passed by the Parliament on 4th Dec, 2002 and it received the assent of the President of India on 6th Jan, 2003. The Freedom of Information Act, however, never came into effective force as it was severely criticised for permitting too many exemptions, absence of an appellate machinery with investigating powers to review decisions of the Public Information Officers and no panel provisions for failure to

provide information as per law etc. This act also did not provide the constitution of Central Information Commission and State Information Commission.

In order to ensure greater and more effective access to information, the UPA Government resolved that the Freedom of Information Act, 2002 needs to be more progressive, participatory and meaningful. The National Advisory Council constituted by the UPA Government deliberated on the issue and suggested certain important changes to be incorporated in the existing act to ensure smoother and greater access to information. The Government examined the suggestions made by the National Advisory Council and others and there after the first draft of the Right to Information Bill was presented to the Parliament on 22 Dec, 2004. Subsequently, more than a hundred amendments to the draft bill were made before the bill was finally passed and it received the assent of President of India on 15-06-2005 and published in the Gazette of India on 21-06-2005.

PHILOSOPHY:-

The Hon'ble Supreme Court, in absence of any statutory law, observed in the case of Secretary, Ministry of Information and Broadcasting, Govt. of India and ors V Cricket Association of Bengal in Case No. (1995) 2 SCC161 held as under:

The democracy can not exist unless all citizens have a right to participate in the affairs of the polity of country. The right to participate in the affairs of the country is meaningless unless the citizens are well informed on all sides of the issues, in respect of which they are called upon to express their views. One-sided information, disinformation, misinformation and non-information, all equally create and uninformed citizenry which makes democracy a farce when medium of information is monopolized.

In the light of the law guaranteeing the Right to Information, the citizens have fundamental right to know what the Government is doing in its name. The freedom of the speech is the life blood of democracy. The free flow of information and ideas informs political growth. It is a safety valve. The Right to Information was harnessed as a tool for promoting development, strengthening the democratic governance and effective delivery of socio-economic services. Information and knowledge are critical for realising all human aspirations such as improvement in the quality of life.

The Right to Information is a right incidental to the constitutionally guaranteed right to freedom of speech and expression. The International movement to include it in the legal system gained prominence in 1946 with the General Assembly of the United Nations declaring freedom of information to be a fundamental human right

and a touchstone for all other liberties. It culminated in the United Nation conference on Freedom of Information in Geneva in 1948.

The basic object of the Right to Information Act is to empower the citizens, to promote transparency and accountability in the working of the Government, to contain corruption and to enhance peoples participation in democratic process thereby making our democracy work for the people in real sense. It goes without saying and informed citizen is better equipped to keep necessary vigil on the instruments of governance and make the Government more accountable to the governed. The act is a big step towards making the citizens informed about the activities of the Government.

SALIENT FEATURES OF THE RIGHT TO INFORMATION ACT 2005 :-

- a) The short title of the legislation has been changed from 'The Freedom of Information Act' to 'Right to Information Act'.
- b) Provides a very definite day for its commencement, i.e. 120 days from enactment.
- c) It defines 'appropriate Government' as meaning, in relation to a "Public Authority" established, constituted or owned or substantially financed by funds provided directly or indirectly or controlled –
 - i) By the Central Government
 - ii) By the State Government
- d) It shall apply to "Public Authorities" which means any authority or body or Institution of self-government established or constituted by or under the Constitution; by any law made by the appropriate Government or, any other body owned, controlled or substantially financed or indirectly by the Government.
- e) The ambit covers the two Houses of Parliament, State Legislature, the Supreme court / High Court / Subordinate Courts including their administrative offices, Constitutional Authorities like Election Commission, Comptroller & Auditor General, Union Public Service Commission etc.
- f) All Citizens shall have the right to information, subject to the provisions of the Act.
- g) It casts an obligation on Public Authorities to grant access to information and to publish certain categories of information within 120 days of the enactment. The responsibility about suo-motu disclosure / publication by public authorities has been considerably enlarged.
- h) The Act lays down the machinery for grant of access to information. The Public Authorities are required to designate Public Information Officers and Assistant

Public Information Officers within 100 days of the enactment and whose responsibility it is to deal with requests for information and also to assist persons seeking information.

- i) Provision has been made for transfer of a request by a public authority to another public authority wherein the subject matter/information is held by the latter.
- j) At time limit of 30 days has been prescribed for compliance with requests for information under the Act, which, can be extended to 40 days where third-party interests are involved.
- k) On a request for information being refused, the applicant can prefer an appeal to the prescribed authority within 30 days to the decision; the time for disposal of appeal being also 30 days extendable.
- l) Fee to be reasonable. No fee to be charged from persons who are below poverty line. Further, information to be provided free of charge where the response time-limit is not adhered to.
- m) Certain categories of information have been exempted from disclosure under section 8 and 9 of the Act. The Categories, by way of illustration, include, inform
- n) ation likely to affect security of the State, strategic, scientific or economic interests of the State, detection and investigation of offences, public order, conduct of international relations and cabinet papers. Trade or commercial secrets, information the disclosure of which would cause breach of privilege of Parliament and State Legislature and Personnel information which has no relationship with public activity and could cause unwarranted invasion of the privacy of any person, are also exempted from disclosure. However, exemptions provided are not absolute and withholding of information must be balanced against disclosure in the public interest. Information to be released event if harm is shown to the public authority if the public benefit in knowing the information outweighs the harm that may be caused by disclosure.
- o) Subject to 3 exceptions; the Act contains a provision for reveal of information, which is otherwise, exempted from disclosure under section 8 on completion of 20 years after the completion of the event.
- p) The Act also incorporates the principle of severability.
- q) Envisages creation of an independent non-judicial machinery, viz, Central Information Commission and State Information Commissions comprising a Chief Information Commissioner and Information Commissioners to decided 2nd Stage appeals.
- r) Legal frame work of exercise of powers by the Commission defined in the Act.

- s) The Act also provides a two-tier Appellate Forum. First appeal to departmental officer senior to the public information officer and second appeal to the commission.
- t) Intelligence and security agencies specified in Schedule – II to the Act have been exempted from being covered within the ambit of the Act. However, the exemption is not absolute; agencies shall have the obligation to provide information in matters relating to corruption and human rights violations.
- u) The jurisdiction of subordinate courts has been barred expressly by section 23 of the Act.
- v) The provisions of the proposed Act have been made overriding in character, so that the scheme is not subverted through the operation of other minors Acts.
- w) Monitoring and reporting – Act makes a provision to produce statistics to assess its implementation so that improvements could be effected.
- x) Central Information Commission and State Information Commissions to monitor the implementation of the Act and prepare an Annual Report to be laid before Parliament / State Legislature.
- y) Central Government to prepare programmes for development of 'information' regime.
- z) FOI Act, 2002 to be repealed.