

# Efficacy of Right to Information Act, 2005: Issues and Challenges

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## ABSTRACT

The Right to Information Act (RTI) of 2005 is a milestone statute empowering citizen with the right to access public information and bestowing the power to question public authorities which strengthens accountability and transparency in our country. This research article examines the provisions under this law and throws light on the recent amendments which have undermined the spirit and intent of the Act. The paper analyzes the issues and challenges of the RTI Act in terms of its effectiveness, responsiveness and implementation concerns, and also suggests some corrective measures to ensure its relevance is enhanced, not diluted.

**KEYWORDS:** RTI, Good governance, Corruption, Transparency.

## INTRODUCTION:

The Right to Information Act 2005<sup>1</sup> entitles the citizenry of India with a statutory right, i.e., the 'Right to Information'. Right to Information Act was enacted in 2005 with objective of enhancing transparency and accountability in the system. It repealed the Freedom of Information Act, 2002 and become fully operational from 12th October, 2005. It sets the procedure of right to information for citizens to access to information from public authorities. The RTI Act mandates time bound response to citizen requests for government information. A web portal namely RTI online (URL: [www.rtionline.gov.in](http://www.rtionline.gov.in)) has also been launched to file online *RTI requests* and *first appeals* to the Central Ministries/Departments and other Central Public Authorities mentioned. Initially India started from second position in 2011 in the global index on Right to Information and in subsequent years Indian RTI act slipped many spots and was ranked at 9<sup>th</sup> position in 2025<sup>2</sup>.

The Right of information is an inalienable constituent of Article 19(1) (a) of the constitution i.e. freedom of speech and expression. In the landmark case of State of U.P. vs. Raj Narain<sup>3</sup> the court has held that the people in our country have the right to know about every public act, every public transaction and all that is being done

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<sup>1</sup> The Right to Information Act, 2005(Act 22 of 2005).

<sup>2</sup> RTI Rating, available at: <https://www.rti-rating.org/>( last accessed on Dec 25, 2025).

<sup>3</sup> (1975) 4 SCC 428.

in a public way, by the public functionaries. And also emphasised upon the responsibility of government officials to explain and justify their acts, which will be the chief safeguard against oppression and corruption. Also in *People's Union for Civil Liberties vs. Union of India*<sup>4</sup> the court held Right to Information as an indisputable fundamental right and termed Right to Information as a facet of the freedom of 'speech and expression' under article 19(1) (a) of the Indian constitution.

## **RIGHT TO INFORMATION ACT 2005 :AN OVERVIEW**

The act defines 'Information' as any material in any form which includes any form of record, document, email, circular, press release, order, logbook, contract, report, electronic data, opinions, advices, information concerning private body etc, which can be accessed by a public authority under any other law for the time being in force.<sup>5</sup> And "Right to Information" is defined as the right to access information that is under the control of any public authority and will include the right to inspect any work, documents, records, taking certified copies of documents or records, obtaining information in any other electronic mode or through printouts from computer or in any other device etc.<sup>6</sup>

The act obligates public authorities to maintain their records duly catalogued and indexed in a manner or form facilitating the right to information of citizens under the act. It also directs computerisation of all possible records and suo motu disclosure of information by every public authority to public<sup>7</sup>. In *Delhi Development Authority vs. Central Information Commission & Others* (2010)<sup>8</sup>, the Delhi High Court made an *observation* that public authorities are duty bound and have obligations under section 4 of the RTI Act, 2005 to provide information suo motu to the public but this section only sets out the obligations of the public authorities and does not offer the mechanism to put into effect the implementation of these obligations. (*Para 16*)

The act directs all offices to appoint required number of Public Information Officers (PIOs) in Centre and State offices to provide information to the citizens putting up request for information<sup>9</sup>. The Act entitles person willing to obtain any kind information under the act to make a request in writing to the Central or State Public Information Officer with prescribed fee, stating the particulars of the information sought. The public authority can also transfer the application to appropriate authority if needed, with intimation to the applicant of such transfer.<sup>10</sup> Section 7 of the act requires the Public Information Officer to either provide the information or reject the request within 30

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<sup>4</sup> AIR 2004 SC 1442.

<sup>5</sup> The Right to Information Act, 2005(Act 22 of 2005),s. 2 (f).

<sup>6</sup> *Id.*, s. 2(j).

<sup>7</sup> *Id.*, s. 4

<sup>8</sup> W.P.(C) 12714 of 2009 decided on 21/05/2010.

<sup>9</sup> The Right to Information Act, 2005(Act 22 of 2005),s.5.

<sup>10</sup> *Id.*, s.6.

days of receipt of the request, on grounds mentioned under section 8 and 9. Information can also be obtained within 48 hours of filing the request if it involves subject of life or liberty of a person.<sup>11</sup>

The RTI Act exempts disclosure of certain categories of information under the RTI Act, 2005 which include information affecting security, strategic, scientific and economic interests of the country, confidential information received from foreign governments, information affecting relations with other nations and so forth<sup>12</sup>. Section 8 also provides a general exception where irrespective of provisions of Official Secrets Act, 1923 and exemptions permissible under sub section (1) of section 8, a public authority may allow access to information, if public interest in disclosure outweighs the harm to the protected interests. Recently Section 44(3) of the Digital Personal Data Protection (DPDP) Act, 2023<sup>13</sup> amended Section 8(1)(j) of RTI act by allowing government bodies to simply withhold “personal information” without applying the safeguard provisions on public interest or other such exceptions. This gives authorities the possibility of shielding governance details from public scrutiny behind the veil of privacy.

Section 12 and 15 of the act provides for constituting of Central and State Information Commission for exercising the powers and functions assigned under this Act.

The Right to Information (Amendment) Act, 2019 modified Sections 13 and 16 of the Act, which relate to the tenure and salaries of the Central and State Information Commissioners. Previously, their term of office was fixed at five years or until they reached the age of 65, whichever came first. However, under the 2019 amendment, the tenure, salary, and other conditions of service of both Central and State Information Commissioners are now determined by the Central Government.<sup>14</sup>

The act provides a two-tier mechanism for appeal against decision of the Public Information Officer (PIO)<sup>15</sup>. The first appeal will lie with the officer senior in rank to the PIO in the concerned public authority, to be made within 30 days. And the second appeal against the decision of senior officer lies with the Central Information Commission or the State Information Commission as the case may be, to be made within 90 days. In both appeals, delay will be condoned if sufficient cause is established. Concerned Third Party can also appeal against the decision of Central or State Public Information Officer, which should be filed within 30 days before First

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<sup>11</sup> *Id.*, s.7.

<sup>12</sup> *Id.*, s.8,9

<sup>13</sup>The Digital Personal Data Protection Act, 2023 (NO. 22 of 2023).

<sup>14</sup> *Id.*, s.13, 16.

<sup>15</sup> *Id.*, s.19

Appellate Authority.<sup>16</sup> The RTI Act through section 19 provides the time limit of 45 days within which first appeal should be disposed<sup>17</sup>, but no such provision is provided for second appeal's disposal<sup>18</sup>.

The act empowers the Information Commission to impose penalty on the Public Information Officer if found to be erroneous and they will be liable for fine of ₹ 250 per day. However, the total amount of penalty shall not exceed ₹ 25,000.<sup>19</sup> Section 23 barred courts from entertaining suits or applications or proceeding in respect of any order made under the act. The Central Information Commission or State Information Commission will send a report on the implementation of the provisions of this act to the Central or State Government each year. The act exempts certain intelligence and security organisations like Intelligence Bureau, Directorate of Enforcement, Narcotics Bureau, Financial Intelligence Unit etc, as provided under second schedule, from the scope of the RTI except for information regarding corruption allegations and human rights violations.<sup>20</sup>.

Section 25 mandates every Ministry or Department in relation to the public authorities under their control to provide information to the Central or State Information Commission required for the annual report to be made by the commissions.

## ISSUES AND CHALLENGES

### Regulatory Violation & Infrastructural Gaps:

India started from second position in 2011 in the global index on Right to Information and in subsequent years Indian RTI act slipped many spots and was ranked at 9<sup>th</sup> position in 2025<sup>21</sup>.

As per the '2019: State Transparency Report – Journey So Far and Challenges Ahead' report by Transparency International India (TII)<sup>22</sup>, in accordance with section 25 (3) of RTI Act, filing of annual RTI returns is mandatory but about 35-40% of public authorities under the control of central and state governments are not reporting to their respective Information Commissions about the figures of RTI applications they handle per year, owing to many reasons like shortage of manpower, lack of infrastructure and facilities, no systematic cataloguing and storage of information, many frivolous queries and non serious attitude of many public authorities. Also as per the data of this report 21.32 lakh appeals have been filed since 2005-06 to 2018-19 with state and central

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<sup>16</sup> *Id.*, s.19(2).

<sup>17</sup> *Id.*, s..19(6).

<sup>18</sup> Yash Borana, *Impediments in the Implementation of RTI Act*, available at: <https://cic.gov.in/sites/default/files/Yash%20Borana.pdf> (last accessed on Dec 29, 2025).

<sup>19</sup> The Right to Information Act, 2005(Act 22 of 2005),s.20.

<sup>20</sup> *Id.*, s.24.

<sup>21</sup> RTI Rating, available at: <https://www.rti-rating.org/> (last accessed on Dec 25, 2025).

<sup>22</sup> Transparency International India, *State Transparency Report 2019*, available at: <https://transparencyindia.org/wp-content/uploads/2019/10/STR-Final-Report-2019.pdf> (last accessed on Dec 29, 2025).

information commissions after the applicants did not get information they asked for. What would be the purpose of such information if it takes years to receive it? Government departments have been sluggish in embracing a proactive approach regarding digitalization of all government records as mandated under section 4 of the RTI Act, 2005 regarding disclosures.

### **Enforcement Gaps:**

There should be some consequences for not obeying the law. As per section 19(7) of the act, the decision of the Central or State Information Commission is binding, but it has been found in many instances that the political parties do not follow the decisions and no action has ever been initiated against them for such non-compliance. If there is no fear of any penalty or punishment for such noncompliance of the decisions under the section, it renders such commissions ineffective. There is need to include contempt provisions for not following orders or decisions and strengthen this quasi-judicial body.<sup>23</sup> And regarding the effective implementation of the act, to some extent the Central Information Commission should also be blamed for ineffective enforcement of provisions under the act like penalizing the information providers for any delays in providing the information asked by applicant or awarding compensation to information seekers under sections 20(1) and 19(8) (b) of the act.<sup>24</sup> These provisions add teeth to the act and must be enforced strictly by the Information Commission.

### **Non-Compliance with prescribed Timelines:**

The effectiveness of RTI act has also been questioned regarding disposal of second appeal. The RTI Act through section 19 provides the time limit of 45 days within which first appeal should be disposed<sup>25</sup>, but no such provision is provided for second appeal's disposal<sup>26</sup>. Indefinite waiting time at various information commissions in answering second appeals defeats the very purpose of this law. The commissions don't adhere to timelines causing inordinate delays in the whole process<sup>27</sup> leading to big pile-up which leads to delay in the hearing of the cases. Timely appeal procedures and appropriate penalties are very important in cases of noncompliance, so as to make the law more effectual.

### **Erosion of Statutory Independence:**

The Right to Information (Amendment) Act, 2019 amended section 13 and 16 of the act. These sections deal with the term and salary of the Central and State Information Commissioner. Earlier their terms of service were fixed 5 years or until the age of 65 years whichever is earlier, but now with the introduction of 2019 amendment the

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<sup>23</sup> Akshita Khanna, "Impact of RTI on Corruption in India: A Critical Analysis" *Latest Laws*, July 06, 2020, available at:

<https://www.latestlaws.com/articles/impact-of-rti-on-corruption-in-india-a-critical-analysis/>(last accessed on Dec 29, 2025).

<sup>24</sup> M M Ansari, "Has the Right to Information Regime Dismantled the Culture of Secrecy? A Critical Assessment" *4 International Journal of Transparency And Accountability In Governance* 70(2018).

<sup>25</sup> S.19(6).

<sup>26</sup> Yash Borana, *Impediments in the Implementation of RTI Act*, available at:

<https://cic.gov.in/sites/default/files/Yash%20Borana.pdf>(last accessed on Jan 2, 2026).

<sup>27</sup> Gaurav Vivek Bhatnagar, "Delay in Replies to Appeals and Complaints Killing RTI Movement, Warn Activists" *The Wire*, July 10, 2020, available at: <https://thewire.in/rights/rti-movement-appeal-notice-activists>(last accessed on Jan 2, 2026).

term, salary and conditions of service of state and central Information Commissions will be prescribed by the central government which makes the officers of the information commissions mere puppets in the hands of ruling government. These amendments have compromised not only with the independence of these commissions and downgraded Information Commission's status but are also destabilising the transparency framework in India. By over empowering the Central government on deciding unilaterally over tenures, salaries, allowances and other terms of service of Information Commissioners, it has only turned these institutions into mockery of the RTI architecture.<sup>28</sup>

Also the government had drawn huge criticism while passing the amendments in 2019 because the Right to Information (Amendment) Act, 2019 was passed without any deliberations and consultations before its introduction.<sup>29</sup> This was a violation of the Pre-Legislative Consultation Policy of 2014 that needs all draft rules, law-making exercises or amendments to be put forth in public for comments, suggestions or feedback of people.<sup>30</sup> Instead of making RTI law more effective and potent, these amendments have turned it into a toothless tiger. The very essences of RTI act i.e. its independence and autonomy in decision making, has been diluted by introducing such amendments. Recently the Digital Personal Data Protection (DPDP) Act, 2023<sup>31</sup> through its section 44(3) amended Section 8(1)(j) of RTI act by allowing government bodies to exempt "personal information" from its purview. This would mean that RTI requests regarding public data may be denied citing personal information and thereby curtailing transparency and public scrutiny.<sup>32</sup> This amendment prioritizes personal information over public interest and this will hamper the access to essential information connected to the public officials.<sup>33</sup> Therefore, this amendment by the DPDP Act appears unnecessary and may have deep impact on our already crippling transparency framework.

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<sup>28</sup> Aruna Roy and Nikhil Dey, "The tremor of unwelcome amendments to the RTI Act" *The Hindu*, July 22, 2019, available at: <https://www.thehindu.com/opinion/lead/the-tremor-of-unwelcome-amendments/article28628537.ece> (last accessed on Jan 2, 2026).

<sup>29</sup> M Sridhar Acharyulu and Yashovardhan Azad, "RTI Amendment: Breaking the Backbone of Information Commissioners" *Bar and Bench*, July 23, 2019, available at: <https://www.barandbench.com/columns/rti-amendment-breaking-the-backbone-of-information-commissioners> (last accessed on Jan 2, 2026).

<sup>30</sup> M. Sridhar Acharyulu, "The Right to Information Is Dead. Here Is its Obituary" *The Wire*, Oct 28, 2019, available at: <https://thewire.in/government/the-right-to-information-is-dead-here-is-its-obituary> (last accessed on Jan 3, 2026)

<sup>31</sup> The Digital Personal Data Protection Act, 2023 (NO. 22 of 2023).

<sup>32</sup> Justice AP Shah Writes To AG Urging Roll Back Of Amendments To RTI Act, 29 July 2025, live law <https://www.livelaw.in/news-updates/justice-ajit-prakash-shah-attorney-general-roll-back-amendments-rti-act-299131?from-login=170843&token=RDWEBXD9HSI0BZOXIXMCNR2P6QSUGMQBCSAZL>, also see: Salman Qasmi, "Impact Of Data Protection Laws On The Right To Information: A Comparative Analysis Of India And The United Kingdom" *ILI Law Review*, 2024.

<sup>33</sup> Paakhhi Garg and Nachiketa Mittal, "India's Transparency Quandary: RTI versus DPDP" *SCC Online*, August 11, 2025, <https://www.sconline.com/blog/post/2025/08/11/indias-transparency-quandary-rti-versus-dpdp/> (last accessed on Jan 5, 2026)

## THE WAY AHEAD

Beyond doubt RTI Act is a strong deterrent against corrupt practices by public officials. It empowers citizens with the right to access public information, power to question public authorities and strengthens answerability and transparency which enhances good governance. Our Apex court has affirmed ‘Right to information’ as a fundamental right deriving from Article 19(1)(a) and Article 21 of the Indian Constitution. The courts of the country have consistently reiterated declared in many cases that *Transparency is key for the functioning of a healthy democracy*. The RTI law has enabled citizens in India to participate in democracy by holding these governments accountable for their decisions, conduct, corrupt practices, lapses in the delivery of essential services and procuring access to basic rights to the citizens. Twenty years after the RTI Act has been implemented in India, it has transpired that the sluggish functioning of information commissions, Inadequate infrastructure, Lack of compliance of mandated timelines has emerged as major bottlenecks in the effective implementation of the RTI law. Notable cases such as Adarsh Housing Society scam, the 2G spectrum allocation, Coal Allocation Scam (Coalgate) and the 2010 Commonwealth Games irregularities scam came to light only by RTI-based disclosures. It demonstrates how the law has empowered individuals and organizations to demand accountability and justice. But great efforts will be required to maximize its potential; like reducing delays in, ensuring stricter penalties for non-compliance, increasing awareness among citizens, protecting RTI activists and above all the governments will have to play a pivotal role in ensuring the effective implementation and strengthening of the RTI Act, 2005 by acting impartially and above political considerations. By prioritizing good governance over power preservation and petty politics, and tackling corruption without bias, the government can reinforce the RTI Act as a powerful tool for empowering citizens and promoting transparency and accountability in India’s democracy.

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