BLOGS

Notes on the Right to Information Act 2005

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Introduction

Citizens now have the legal right to request information from public authorities thanks to the Right to Information (RTI) Act. The act promotes transparency and accountability in governance.

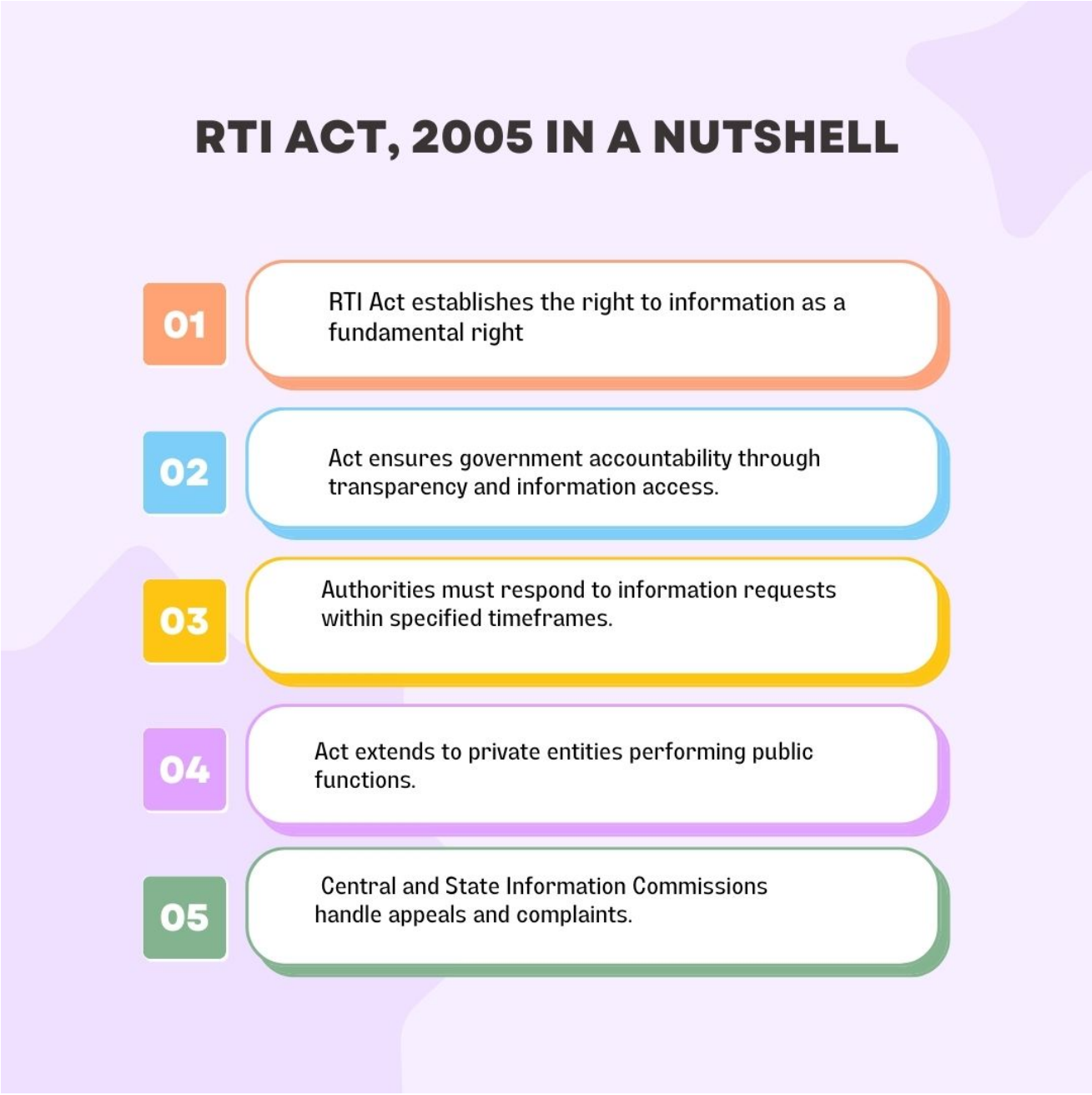
The Right to Information Act, 2005 sets out the rules and procedures that deals with citizens' right to information. It replaced the former Freedom of Information Act, 2002. The Act has the potential to transform democracy and empower citizens, and this can be better appreciated by gaining a thorough understanding of its legal complexities.

This article will cover the legislative basis of RTI, its significant components, the extent of its coverage, any exclusions, and the judiciary's responsibility in guaranteeing its successful execution.

Constitutional Basis for the implementation of the Right to Information Act

The legal basis for the Right to Information Act is rooted in the constitutional right to freedom of speech and expression. This includes the right to access information. The Indian Constitution's Article 19(1)(a) ensures the protection of this essential entitlement. The right to information is considered an integral part of the right to freedom of speech and expression.

The Right to Information (RTI) Act was passed in 2005 to facilitate citizens' access to public information. This act serves as a legal framework that enables citizens to exercise their constitutional right to access public information.



The Information Commission under RTI Act

The Information Commission, as established by the Act, is an independent body that operates at both the central and state levels. Its primary function is to adjudicate on appeals and complaints.

In situations where a public authority refuses or neglects to furnish information, individuals have the option to submit an appeal to the appropriate Information Commission.

The Code of Civil Procedure, 1908, has conferred upon the Central Information Commission (CIC) the authority of a civil court. As such, the CIC is empowered to summon individuals and enforce their attendance, as well as compel them to furnish evidence or documents for inspection as necessary.

Powers of the Central Information Commission

The Central Information Commission possesses the authority to levy a penalty on public information officers under certain circumstances such as where a public information officer declines to accept an RTI application, fails to respond within the designated time frame as stipulated by the act, engages in a malicious refusal of the RTI application, deliberately provides inaccurate, inadequate, or deceptive information, destroys the information that was requested, or obstructs the provision of information in any way.

The meaning of “Public Authorities” under the Act

The RTI Act is legislation that creates a strong system for individuals to request and receive information. The policy requires that all individuals, regardless of their residency status, have the right to submit a formal request to public entities in order to obtain information.

The definition of public authorities under the Act is comprehensive and includes government departments, ministries, agencies, and organisations that receive significant funding from the government.

Responsibility of Public Authorities under the RTI

The Act places importance on the responsibility of public authorities to keep records in a way that enables convenient accessibility. The provision allows citizens to exercise their right to access public records by facilitating their inspection, note-taking, and copying at a minimal fee. It is mandatory for public authorities to disclose specific types of information through various channels, such as websites, manuals, or other means, to promote transparency.

How to make a request under the RTI Act?

The Act allows citizens to make requests either in writing or electronically and mandates that public authorities provide a response within a period of 30 days. In situations where an individual's life or freedom is at stake, it is imperative that the necessary information be disclosed within a 48-hour timeframe.

What if the requested information is not received within a period of 30 days?

In the event that the information requested through the Right to Information (RTI) is not received within a period of 30 days from the date of filing the RTI, or if the information received is deemed to be incomplete, the applicant may choose to file an appeal with the First Appellate Authority (FAA) within a period of 30 days from the date of receiving the information, provided that the applicant is of the opinion that the information provided is incomplete.

In the event that the individual does not receive any information within a period of 60 days subsequent to filing the Right to Information (RTI), they may proceed to file an appeal with the First Appellate Authority (FAA). The (FAA) is required to issue an order within a 30-day period, which may be extended to 45 days upon submission of written justification for the delay.

In addition, in the event that the FAA to furnish the requested information subsequent to the submission of an appeal or if the information is not provided within the designated timeframe, the petitioner may initiate a secondary appeal with either the State or Central Information Commission. The filing of this appeal is subject to a 90-day time limit from the issuance date of the most recent order. The Central Information Commission (CIC) serves as the supreme appellate authority in accordance with the provisions of the Right to Information (RTI) Act.

Striking a balance between transparency and privacy of individuals

The RTI Act acknowledges the importance of transparency but also acknowledges the need to balance it with other factors. The non-disclosure of specific types of information is necessary to protect national security, defence, sovereignty, and strategic interests. The protection of personal information that could potentially infringe on an individual's privacy is safeguarded, but with reasonable limitations.

The Act includes provisions that exempt certain types of information from disclosure. These exemptions apply to information that could potentially hinder ongoing investigations, pose a threat to the safety of individuals, or cause harm to commercial interests. The Act's Sections 8 and 9 define exemptions that serve as safeguards against the inappropriate use of sensitive information.

Supreme Court of India and the RTI Act

The impact of the Supreme Court's interpretations and judgements on the implementation of the RTI Act cannot be overstated. The decisions made by the judges have played a crucial role in providing guidance to public authorities, information commissions, and citizens. This has resulted in a consistent and effective application of the Act.

Union of India v. Association for Democratic Reforms

The present case pertains to the deliberations of the Supreme Court of India on the matter of the entitlement to access information pertaining to candidates vying for electoral positions in the Parliament or State Legislature.

The judiciary determined that electors possess an essential entitlement to be informed about the personal and professional histories of aspirants. The Election Commission received a directive to obtain affidavits from candidates, which would contain information pertaining to their criminal charges, convictions, punishments, and other pertinent details.

The aforementioned ruling resulted in the compulsory revelation of candidates' criminal records, academic credentials, and possessions in accordance with the Representation of the People's Act of 1951.

Subhash Chandra Agarwal vs. the Central Public Information Officer of the Supreme Court of India

The present scenario involves an activist who has invoked the Right to Information Act, 2005 (RTI Act) to obtain details pertaining to the assets of judges serving in the Supreme Court and several high courts.

As per the recent directive of the Central Information Commission (CIC), the disclosure of information pertaining to the assets of judges has been mandated. The CIC has asserted that the Chief Justice of India (CJI) is deemed to be a public authority under the Right to Information (RTI) Act.

The Delhi High Court has affirmed the decision of the Central Information Commission (CIC), which deemed the disclosure of asset declarations as personal information that can be accessed under the Right to Information (RTI) Act.

Subhash Chandra Agarwal vs. Indian National Congress & Ors.

The complainants approached the Central Information Commission (CIC) with a request for information pertaining to the accounts, funding sources, and fulfilment of commitments made by prominent political parties, namely the Indian National Congress and the Bharatiya Janata Party (BJP).

According to the CIC's determination, the political parties in question are considered public authorities under the RTI Act as a result of their responsibilities and functions within the democratic framework. The Central Information Commission (CIC) instructed the concerned parties to appoint Chief Public Information Officers (CPIOs) for the purpose of addressing requests made under the Right to Information (RTI) Act.

Reserve Bank of India vs. Jayantilal Mistry

The matter at hand pertained to the permissibility of the Reserve Bank of India and other financial institutions to withhold information on the grounds of economic interest, commercial confidentiality, or fiduciary obligations.

As per the ruling of the Supreme Court, it is incumbent upon the Reserve Bank of India, in its capacity as a statutory body, to adhere to the regulations outlined in the Right to Information Act. The court dismissed the contention that data could be withheld on the grounds of fiduciary associations with other banks, affirming that the Reserve Bank of India (RBI) does not consider such data to be confidential.

Central Public Information Officer, Supreme Court of India vs. Subhash Chandra Agarwal

Subhash Chandra Agarwal, an activist, submitted a request for information pertaining to the decision-making procedures of the Supreme Court Collegium under the Right to Information (RTI) Act. The Central Information Commission (CIC) mandated the disclosure of communications exchanged between the Collegium and the government, with particular emphasis on the nomination of specific judges.

The order of the CIC was suspended by the Supreme Court, and subsequently, the matter was referred to larger benches. Subsequently, the issue was referred to a Constitution Bench comprising five judges, who, after hearing arguments, reserved their judgement.

The aforementioned cases pertain to matters concerning the entitlement to access information, the divulgence of assets, the transparency of political parties, fiduciary associations, and the revelation of the decision-making mechanisms within the Supreme Court Collegium.

It is the opinion of the author that the Supreme Court's rulings have played a significant role in both defining and broadening the reach of the Right to Information Act. The court's interpretations of the RTI Act have resulted in increased transparency, accountability, and access to information for citizens. This has made the Act an effective means of promoting good governance and empowering individuals in India.

Conclusion

The Right to Information Act is a significant legislation that ensures citizens have the right to access public information and encourages transparency and accountability. The Act has had a significant impact on society by granting citizens more power, ensuring that public authorities are responsible for their actions, and promoting a culture of openness and honesty.

The RTI Act is a crucial aspect of democratic governance, as it allows citizens to access information and the judiciary to enforce its implementation. The judiciary has demonstrated a commitment to preserving the public's right to obtain information and has implemented measures to ensure that the Act is enforced efficiently.

The Act has been subject to interpretation and expansion by the Supreme Court of India, which has issued significant rulings to prevent any attempts to weaken its provisions and ensure their wide-ranging applicability.

As long as citizens continue to exercise their right to information and the judiciary remains effective in its role, the RTI Act will remain a cornerstone of democratic governance.