

What is Right to Information and how to use it?

Courtesy: www.righttoinformation.org

What is RTI?

RTI stands for Right to Information. Right to Information is a part of fundamental rights under Article 19(1) of the Constitution. Article 19 (1) says that every citizen has freedom of speech and expression. As early as in 1976, the Supreme Court said in the case of Raj Narain vs State of UP, that people cannot speak or express themselves unless they know. Therefore, right to information is embedded in article 19. In the same case, Supreme Court further said that India is a democracy. People are the masters. Therefore, the masters have a right to know how the governments, meant to serve them, are functioning. Further, every citizen pays taxes. Even a beggar on the street pays tax (in the form of sales tax, excise duty etc) when he buys a piece of soap from the market. The citizens therefore, have a right to know how their money was being spent. These three principles were laid down by the Supreme Court while saying that RTI is a part of our fundamental rights.

If RTI is a fundamental right, then why do we need an Act to give us this right?

This is because if you went to any Government Department and told the officer there, “RTI is my fundamental right, and that I am the master of this country. Therefore, please show me all your files”, he would not do that. In all probability, he would throw you out of his room. Therefore, we need a machinery or a process through which we can exercise this fundamental right. Right to Information Act 2005, which became effective on 13th October 2005, provides that machinery. Therefore, Right to Information Act does not give us any new right. It simply lays down the process on how to apply for information, where to apply, how much fees etc.

When did RTI Act come into force?

The Central Right to Information Act came into force on the 12th October, 2005. However, before that 9 state Governments had passed state Acts. These were J & K, Delhi, Rajasthan, Madhya Pradesh, Maharashtra, Karnataka, Tamil Nadu, Assam & Goa.

What rights are available under RTI Act 2005?

1. Right to Information Act 2005 empowers every citizen to
2. Ask any questions from the Government or seek any information
3. Take copies of any government documents
4. Inspect any government documents.
5. Inspect any Government works
6. Take samples of materials of any Government work

Who is covered under RTI?

The Central RTI Act extends to the whole of India except the State of Jammu and Kashmir. All bodies, which are constituted under the Constitution or under any law or under any Government notification or all bodies, including NGOs, which are owned, controlled or substantially financed by the Government are covered.

What is “substantially financed”?

This is neither defined under RTI Act nor under any other Act. So, this issue will evolve with time, maybe through some court orders etc.

Are Private bodies covered under the RTI Act?

All private bodies, which are owned, controlled or substantially financed by the Government are directly covered. Others are indirectly covered. That is, if a government department can access

information from any private body under any other Act, the same can be accessed by the citizen under the RTI Act through that government department.

Isn't Official Secrets Act 1923 an obstacle to the implementation of RTI Act?

No. Sec 22 of the RTI Act 2005 clearly says that RTI Act would over ride all existing Acts including Officials Secrets Act.

Can the PIO refuse to give me information?

A PIO can refuse information on 11 subjects that are listed in section 8 of the RTI Act. These include information received in confidence from foreign governments, information prejudicial to security, strategic, scientific or economic interests of the country, breach of privilege of legislatures, etc.

There is a list of 18 agencies given in second schedule of the Act to which RTI Act does not apply. However, they also have to give information if it relates to matters pertaining to allegations of corruption or human rights violations.

Does the Act provide for partial disclosure?

Yes. Under Section 10 of the RTI Act, access may be provided to that part of the record which does not contain information which is exempt from disclosure under this Act.

Can access be denied to file notings?

No. File notings are an integral part of the government file and are subject to disclosure under the Act. This has been clarified by the Central Information Commission in one of its orders on 31st Jan 2006.

How to use Right to Information

How do I locate the full Act?

The full Act in Hindi and English is available on the website of Department of Personnel and Training www.persmin.nic.in and on the RTI website <http://righttoinformation.gov.in/rtiact.htm>.

Who will give me information?

One or more existing officers in every Government Department have been designated as Public Information Officers (PIO). These PIOs act like nodal officers. You have to file your applications with them. They are responsible for collecting information sought by you from various wings of that Department and providing that information to you. In addition, several officers have been appointed as Assistant Public Information Officers (APIOs). Their job is only to accept applications from the public and forward it to the right PIO.

Where do I submit application?

You can do that with the PIO or with APIO. In the case of all Central Government Departments, 629 post offices have been designated as APIOs. This means that you can go to any of these post offices and submit your fee and application at the RTI counter in these post offices. They will issue you a receipt and acknowledgement and it is the responsibility of that post office to deliver it to the right PIO. The list of these post offices is given at <http://www.indiapost.gov.in/rtimanual16a.html>

Is there any fee? How do I deposit that?

Yes, there is an application fee. For Central Government Departments, it is Rs 10. However, different states have prescribed different fee. For details see rules framed by the states on this website. For

getting information, you have to pay Rs 2 per page of information provided for Central Government Departments. It is different for different states. Similarly, there is a fee for inspection of documents. There is no fee for first hour of inspection, but after that, you have to pay Rs. 5 for every subsequent hour or fraction thereof. This is according to Central Rules. For each state, see respective state rules. You can deposit fee wither in cash or through a DD or bankers cheque or postal order drawn in favor of that public authority. In some states, you can buy court fee stamps and affix it on your application. This would be treated as if you have deposited the fee. You can then deposit your application either by post or by hand.

What should I do if the PIO or the concerned Department does not accept my application?

You can send it by post. You should also make a formal complaint to the respective Information Commission under section 18. The Information Commissioner has the power to impose a penalty of Rs 25,000/- on the concerned officer who refused to accept your application.

How can I apply for information?

Draft your application using the form below and submit it by post or in person to the Public Information Officer (PIO). [Remember to keep a copy of the application for your personal reference]

Is there an application form for seeking information?

For Central Government Departments, there is no specific form and you can use the one provided below. You should apply on a plain sheet of paper like an ordinary application. However, many states and some ministries and departments have prescribed formats. You should apply in these formats. Please read rules of respective states to know. For all other situations, use the following basic format:

How can I deposit my application fee?

Every state has a different mode of payment for application fee. Generally, you can deposit your application fee via:

1. In person by paying cash [*remember to take your receipt*]
2. By Post through:
 - Demand Draft
 - Indian Postal Order
 - Money orders (only in some states)
 - Affixing Court fee Stamp (only in some states)
 - Banker's cheque
 - Some state governments have prescribed some head of account. You are required to deposit fee in that account. For that, you can either go to any branch of SBI and despoist cash in that account and attach deposit receipt with your RTI application. Or you can also send a postal order or a DD drawn in favour of that account alongwith your RTI application.

Please see respective state rules for complete details.

Can I submit my application only with the PIO?

No, in case the PIO is not available you can submit your application with the Assistant PIO or any other officer designated to accept the RTI applications.

Where can I locate the concerned PIO?

A list of PIOs/APIOs and Appellate Authorities for all Central and State departments/Ministries is available online at www.rti.gov.in

What if I can not locate my PIO or APIO?

In case you have problems locating your PIO/APIO you can address your RTI application to the PIO C/o Head of Department and send it to the concerned public authority with the requisite application fee. The Head of Department will have to forward your application to the concerned PIO.

Do I have to personally go to deposit my application?

Depending on your state rules for mode of payment you can deposit your application for information from the concerned departments of your state government via post by attaching a DD, Money Order, Postal Order or affixing Court fee Stamp

For all Central government departments the Department of Posts has designated 629 postal offices at the national level. The designated officers in these post offices work as Assistant PIOs and collect the application to forward to the concerned PIO. A list is available on <http://www.indiapost.gov.in/rticontents.html>

Is there a time limit to receiving information?

Yes. If you file your application with the PIO, you must receive information within 30 days. In case you have filed your application with Assistant PIO then information has to be made available within 35 days. In case the matter to which the information pertains affects the life and liberty of an individual, information has to be made available in 48 hours.

Do I have to give reasons why I want a particular information?

Absolutely not! You are not required to give any reasons or additional information other than your contact details (i.e., Name, Address, and Phone No.). Sec 6(2) clearly says that no information other than contact details of the applicant shall be asked.

Can the PIO refuse to accept my RTI application?

No. The PIO can not refuse to accept your application for information under any circumstances. Even if the information does not pertain to his/her department/jurisdiction, s/he has to accept it. If the application does not pertain to that PIO, he would have to transfer it to the right PIO within 5 days under sec 6(2).

Why is it that RTI works when no other law has worked?

There have been many good laws in this country but none of those laws worked. Why do you think this law would work?

This law is already working. This is because for the first time in the history of independent India, there is a law which casts a direct accountability on the officer for non-performance. If concerned officer does not provide information in time, a penalty of Rs 250 per day of delay can be imposed by the Information Commissioner. If the information provided is false, a penalty of a maximum of Rs 25,000/- can be imposed. A penalty can also be imposed for providing incomplete or for rejecting your application for malafide reasons. This fine is deducted from the officer's personal salary.

Has any penalty been imposed so far?

Yes, some officers have been penalized by the Central as well as State Information Commissioners.

Does the Applicant get the amount fined to the PIO?

No. The amount fined is deposited in the government treasury. However, under sec 19, the applicant can seek compensation.

What should I do if I do not receive satisfactory information

What can I do if I do not receive information?

If you do not receive information or are dissatisfied with the information received, you can file an appeal with the first appellate authority under section 19 (1) of the right to Information Act.

Who is a First Appellate authority?

Every public authority must designate a First Appellate Authority. This officer designated is the officer senior in rank to your PIO.

Is there a form for the first appeal?

No, there is no form for filing a first appeal (but some state governments have prescribed a form). Draft your appeal application on a blank sheet of paper addressed to the First Appellate Authority. Remember to attach a copy of your original application and a copy of the reply in whatever form (if received) from the PIO.

Do I have to pay a fee for the first appeal?

No. You are not required to pay any fee for the first appeal. However, some state governments have prescribed a fee.

In how many days can I file my first appeal?

You can file your first appeal within 30 days of receipt of information or within 60 days of filing RTI application (if no information received).

What if I do not receive the information after the first appeal process?

If you do not receive information even after the first appeal then you can take the matter forward to the second appeal stage.

What is a second appeal?

A second appeal is the last option under the RTI Act to get the information requested. You can file second appeal with the Information Commission. For appeals against Central Government Departments, you have Central Information Commission (CIC). For every state Government, there is a State Information Commission.

Is there a form for the second appeal?

No there is no form for filing a second appeal (but some state governments have prescribed a form for second appeal too). Draft your appeal application on a normal sheet of paper addressed to the Central or State Information Commission. Carefully read the appeal rules before drafting your second appeal. Your second appeal application can be rejected if it does not comply with the appeal rules.

Do I have to pay a fee for the second appeal?

No. You are not required to pay any fee for the second appeal. However, some states have prescribed a fee for that.

In how many days can I file my second appeal?

You can file your second appeal within 90 days of disposal of first appeal or within 90 days of the date, by when first appeal was to be decided.

How does this law help me in getting my work done

How does this law work so effectively for pending works i.e. why is it that the government officials end up doing your work which they were not doing earlier?

Let us take the case of Nannu. He was not being given his ration card. But when he applied under RTI, he was given a card within a week. What did Nannu ask? He asked the following questions:

1. I filed an application for a duplicate ration card on 27th January 2004. Please tell me the daily progress made on my application so far. i.e. when did my application reach which officer, for how long did it stay with that officer and what did he/she do during that period?
2. According to the rules, my card should have been made in 10 days. However, it is more than three months now. Please give the names and designations of the officials who were supposed to take action on my application and who have not done so?
3. What action would be taken against these officials for not doing their work and for causing harassment to the public? By when would that action be taken?
4. By when would I get my card now?

In normal circumstances, such an application would be thrown in a dustbin. But this law says that the Government has to reply in 30 days. If they don't do that, their salary could be deducted. Now, it is not easy to answer these questions.

The first question is – please provide the daily progress made on my application.

There is no progress made. But the government officials cannot write in these many words that they have not acted for so many months. Else that would be admission of guilt on paper. The next question is – please provide the names and designations of the officers who were supposed to take action on my application and who had not done so

If the government provides names and designations of the officials, their responsibility gets fixed. Any officer is most scared of fixing of responsibility against him in this manner. So, the moment one files such an application, his/her pending work is done.

What should I do after getting information?

There cannot be one answer for that. It depends on why you asked for that information and what type of information is it. Often a lot of things start falling in place just by asking for information. For instance, you would get your passport or a ration card just by your asking for the status of your application. In many cases, roads got repaired as soon as the money spent on its repairs in the last few repairs was asked. So, seeking information and questioning the government is an important step, which in itself is complete in many cases.

But suppose you expose some corruption or wrongdoing using RTI. Then, you can complain to vigilance agencies, CBI or even file an FIR. But it is seen that the Government does not take any action against the guilty even after repeated complaints. Though one can keep up the pressure on vigilance agencies by seeking to know the status of complaints under RTI, however, the wrongdoings can also be exposed through media. However, experience has not been very encouraging at getting guilty punished. But one thing is certain. Seeking information like this and exposing wrongdoings does improve the future. The officials get a clear message that the people of that area have become alert and any wrongdoings in future would not remain hidden as they were in the past. So, their risks of getting caught increase.

Won't I be victimized if I used RTI? Have people been victimized who used RTI and exposed corruption?

Yes, there have been some instances where people were physically harmed when they sought information which exposed large scale corruption. But this does not mean that ever applicant faces such a threat. Filing application to seek status of your grievance or for knowing other similar routine matters does not invite any retaliation. It is only when information is likely to expose bureaucratic-contractor nexus or any kind of mafia that there could be a possibility of retaliation.

Then why should I use RTI?

The entire system has become so rotten that if all of us individually and together do not do our bit, it will never improve. If we don't do it, who will? Therefore, we have to act. But we should do that with a strategy and minimize risks. And with experience, there are some safeguards and strategies available.

What are these strategies?

Please go ahead and file RTI application for any issue in the first instance. Normally, anyone would not attack you immediately. They would first try to cajole you or win you over. So, the moment you file any inconvenient application, someone would approach you very politely to request you to withdraw that application. You should gauge the seriousness or the potential of the person approaching you. If you consider it to be serious enough, ask 15 of your friends to immediately apply to the same public authority asking for same information. It would be better if these 15 friends were from different part of India. Now, it would be most difficult for anyone to target all of your 15 friends all across the country. And if they threaten anyone from amongst the 15, let more people file similar applications. Your friends from other parts of India can file their applications by post. Try and give it wide media publicity. This will ensure that you will get the requisite information, and you would have sufficiently minimized risks.

Bureaucracy's fears -- can't people blackmail government servants by obtaining information?

Let us ask ourselves – what does RTI do? It just brings truth in public domain. It does not create any information. It just removes curtains and brings truth in public domain. Is that bad? When can it be misused? Only if an officer has done something wrong and if that information comes out in public. Is it bad that wrongdoings within the Government should become public and be exposed rather than keeping it under wraps. Yes, once such information is obtained by someone, he could go and blackmail that officer. But why do we wish to protect wrong officers. If any officer is blackmailed, he/she has options available under Indian Penal Code to go register an FIR against a blackmailer. Let that officer do that. However, we can even avoid the possibility of any individual officer from being blackmailed by any individual complainant by putting all information, sought by any applicant, on the website. An applicant is able to blackmail an officer only when that applicant is the only person who obtained that information and threatens to make that public. But if all information sought by him were to be put on website, the possibility of blackmail would be substantially reduced.

Won't Government get flooded with RTI applications and won't it jam government machinery?

These fears are hypothetical. There are more than 65 countries in the world, which have RTI laws. There are nine states in India, who had RTI laws, before this law was passed by the Parliament. None of these Governments were flooded with applications. Such fear emanates from an assumption that the people do not have anything to do and are totally free. Filing an RTI application and pursuing it takes time, energies and resources. Unless a person really wants any information, he/she does not file it.

Let us consider some statistics. In Delhi, 14,000 applications have been filed in 120 departments in more than 60 months. This means less than 2 applications per Department per month. Can we say that Delhi Government got flooded with RTI applications? In sharp contrast, US Government received 3.2 million applications under their RTI Act during 2003-04. This is despite the fact that unlike India, most of the Government information is already available on the net and there should be much less need for the people to file applications. But US Government is not contemplating scrapping the RTI Act. On the contrary they are setting aside more and more resources to implement it. During the same year, they spent \$ 32 million to implement it.

Won't it require huge amount of resources to implement RTI Act?

Any amount of resources required to implement RTI Act would be well spent. Most countries like the US have realized it and are already spending huge resources to make their governments transparent. Firstly, all the cost spent on RTI gets more than recovered the same year by the amounts of money that the Government saves due to reduction in corruption and malpractices. For instance, there is strong evidence to show how leakages in drought relief program in Rajasthan and Public Distribution System in Delhi substantially reduced due to extensive use of RTI.

Secondly, RTI is very essential for democracy. It is a part of our fundamental right. For people to participate in governance, the pre-requisite is that they first know what is going on. So, just the way we treat all expenses made on the running of our Parliament as essential, we have to treat all expenses made in the implementation of RTI as essential.

But often people file applications to settle personal scores etc?

As written above, RTI simply brings truth in public domain. It does not create information. Any attempt at hiding truth or putting a cover over it is not in the best interests of society. Rather than serving any useful purpose, any attempt at promoting secrecy would only increase the scope for corruption and wrongdoing. Therefore, our entire efforts should be to make governance completely transparent. However, if anyone blackmails someone subsequently, there are ample provisions under law to address that. Secondly, there are sufficient safeguards under sec 8 of RTI Act. It states that

any information, which relates to private affairs of any individual and has no public interest would not be disclosed. Therefore, the existing laws have sufficient provisions available to address genuine concerns of the people.

How to avoid people from filing frivolous applications?

THERE IS NO FRIVOLOUS APPLICATION. What is frivolous? My pending water connection could be the most critical issue for me, but it could be treated as frivolous by a bureaucrat. Some vested interests within the bureaucracy have raised this bogey of frivolous applications. Right now, RTI Act does not permit any application to be rejected on the ground that it was frivolous. But some section of bureaucracy want the PIO to be empowered to reject any application if he feels that it was frivolous. If that happens, every PIO will declare every other application to be frivolous and reject it. It would mean a death knell to RTI.

File notings should not be made public as that would prevent honest officers from rendering honest advice?

This is wrong. On the contrary, every officer would now know that whatever he writes on the file would be subject to public scrutiny. This would force him to write things which are in best public interest. Some honest bureaucrats have admitted in private that RTI has helped them immensely in warding off political and other undue influences. Now, the officers simply say that if they did the wrong thing, they might get exposed if someone asked for that information. Therefore, officers have started insisting that the seniors gave directions in writing. The Government is learnt to be contemplating removing file notings from the purview of RTI Act. For the above reasons, it is absolutely essential that file notings should be allowed to be covered under RTI Act.

Civil servant has to make decisions under many pressures and the public will not understand this?

As discussed above, on the contrary, possibility of exposures to illegitimate pressures would reduce.

Government records are not in proper shape. How could RTI be implemented?

RTI would force the system to start maintaining records properly now. Else the officials would face a penalty under the Act

Applications seeking voluminous information should be rejected?

If I seek for some information, which runs into a lakh of pages, I would do that only if I need it because I will have to pay Rs 2 lakhs for that. This is an automatic deterrent. If application were rejected only on this account, the applicant could break his application and file 1000 applications seeking 100 pages through each application, which would not benefit anyone. Therefore, applications should not be rejected only on this pretext.

Sec 6(2) of RTI Act clearly says an applicant cannot be questioned why he/she were asking for any information. In any case, RTI flows from the fact that people pay taxes, This money belongs to them and therefore, they have a right to know how their money were being spent and how they were being governed. So, people have a right to know everything about every sphere of governance. They may or may not be directly related to the matter. So, even a person living in Delhi can ask for any information from say, Tamil Nadu.