

**MANIDHANAHEYAM FREE IAS ACADEMY – TNPSC GROUP II & IIA**  
**UNIT - III**

**Right to Information**

**1. Right to Information Act of 2005**

The act is one of the most important acts which empowers ordinary citizens to question the government and its working. This has been widely used by citizens and media to uncover corruption, progress in government work, expenses related information, etc.

All constitutional authorities, agencies, owned and controlled, also those organisations which are substantially financed by the government comes under the purview of the act. The act also mandates public authorities of union government or state government, to provide timely response to the citizens' request for information.

**Objectives of the RTI Act**

1. Empower citizens to question the government.
2. The act promotes transparency and accountability in the working of the government.
3. The act also helps in containing corruption in the government and work for the people in a better way.
4. The act envisages building better-informed citizens who would keep necessary vigil about the functioning of the government machinery.

**Important provisions under the Right to Information Act, 2005**

- Section 2(h): Public authorities mean all authorities and bodies under the union government, state government or local bodies. The civil societies that are substantially funded, directly or indirectly, by the public funds also fall within the ambit of RTI.
- Section 4 1(b): Government has to maintain and proactively disclose information.
- Section 6: Prescribes a simple procedure for securing information.
- Section 7: Prescribes a time frame for providing information(s) by PIOs.
- Section 8: Only minimum information exempted from disclosure.
- Section 8 (1) mentions exemptions against furnishing information under the RTI Act.
- Section 8 (2) provides for disclosure of information exempted under the Official Secrets Act, 1923 if the larger public interest is served.

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- Section 19: Two-tier mechanism for appeal.
- Section 20: Provides penalties in case of failure to provide information on time, incorrect, incomplete or misleading or distorted information.
- Section 23: Lower courts are barred from entertaining suits or applications. However, the writ jurisdiction of the Supreme Court of India and high courts under Articles 32 and 226 of the Constitution remains unaffected.

### **Significance of the RTI Act**

- The RTI Act, 2005 empowers the citizen to question the secrecy and abuse of power practised in governance.
- It is through the information commissions at the central and state levels that access to such information is provided.
- RTI information can be regarded as a public good, for it is relevant to the interests of citizens and is a crucial pillar for the functioning of a transparent and vibrant democracy.
- The information obtained not only helps in making government accountable but also useful for other purposes which would serve the overall interests of the society.
- Every year, around six million applications are filed under the RTI Act, making it the most extensively used sunshine legislation globally.
- These applications seek information on a range of issues, from holding the government accountable for the delivery of basic rights and entitlements to questioning the highest offices of the country.
- Using the RTI Act, people have sought information that governments would not like to reveal as it may expose corruption, human rights violations, and wrongdoings by the state.
- The access to information about policies, decisions and actions of the government that affect the lives of citizens is an instrument to ensure accountability.
- The Supreme Court has, in several judgments, held that the RTI is a fundamental right flowing from Articles 19 and 21 of the Constitution, which guarantee to citizens the freedom of speech and expression and the right to life, respectively.

### **2. RTI act amendment 2019**

The government recently introduced in Lok Sabha the Right to Information (Amendment) Bill, 2019.

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#### What are the key changes proposed?

- The Bill primarily amends Sections 13 and 16 of the Right to Information (RTI) Act, 2005.
- Term - Section 13 of the original Act sets the term of the central Chief Information Commissioner (CIC) and Information Commissioners (ICs) at 5 years (or until the age of 65, whichever is earlier).
- Likewise, Section 16 sets the term for state-level CICs and ICs at 5 years (or 65 years of age, whichever is earlier).
- The amendment now proposes that the appointment for both will be “for such term as may be prescribed by the Central Government”.
- Salary, etc - Under Section 13, salaries, allowances and other terms of service of the CIC shall be the same as that of the Chief Election Commissioner.
- Those of an Information Commissioner shall be the same as that of an Election Commissioner.
- Similarly, under Sec 16, the original Act prescribes salaries, allowances and other terms of service of the state CIC and state ICs as the same as that of an Election Commissioner and Chief Secretary to the State respectively.
- The amendment proposes that the salaries, allowances and other terms of service of both CIC and ICs at both central and state levels shall be such as may be prescribed by the Central Government.

#### What is the government’s rationale?

- The mandate of Election Commission of India and Central and State Information Commissions are different.
- Hence, their status and service conditions need to be rationalised accordingly.
- The Central Information Commissioner has been given the status of a Supreme Court judge.
- But, his judgments can be challenged in the High Courts, which is inconsistent.
- Besides, the RTI Act did not give the government rule-making powers, which the amendment proposes to correct.

#### How significant is the RTI Act?

- Introduced almost 14 years ago, the RTI Act is regarded as one of the most successful laws of independent India.

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- Corruption and the arbitrary use of power is a widespread phenomenon in the country.
- Given this, the RTI has been a constant challenge to the misuse of power, arbitrariness, privilege, and corrupt governance.
- It has been a breakthrough in creating mechanisms for public vigilance that are fundamental to democratic citizenship.
- It has resulted in a fundamental shift, empowering ordinary citizens and giving them access to power and decision-making.
- The key issues where RTI has been instrumental in ensuring accountability include the Rafale fighter aircraft deal, non-performing assets, appointment of the Central Vigilance Commissioner, etc.
- According to estimates, nearly 60 lakh applications are being filed every year, by citizens as well as the media.
- It is also to be noted that more than 80 RTI users have been murdered because their determination in using the RTI had been a challenge to unaccountable power.
- Given the above, the amendments seem to be diluting the very purpose of the RTI Act.

### **What are the concerns with the amendments?**

- The Right to Information (Amendment) Bill is a twin attack on accountability and the idea of federalism.
- **Federalism** - The separation of powers is a concept which underscores independence and is vital to India's democratic checks and balances.
- The Commission which is vested by law with status, independence and authority, will now function like a department of the Central government.
- When power is centralised and the freedom of expression threatened, it affects the fundamental federal fabric.
- **Independence** - The original Act had quantified the tenures, and defined the salaries in terms of existing benchmarks.
- The existing institutional architecture thus ensures that the RTI authorities function in an independent and effective manner.
- The amendments empower the Central government to unilaterally decide the tenure, salary, allowances and other terms of service.
- These will now be decided on a case-to-case basis by the government.
- This is more likely to take away the independence of the RTI authorities.

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- **Amendment Process** - The amendments were pushed through without any citizen consultation, bypassing examination by the standing committee.
- The mandatory pre-legislative consultative policy of the government has been ignored.
- Preserving the fundamental nature and purpose of the RTI Act is crucial to guarantee democratic citizenship in India, and so the amendments need a relook.

### 3. Limitations of RTI act

Information that would affect India's sovereignty and integrity, national security, military capability, scientific or economic interests, relations with a foreign country, or be an inducement to criminal activity;

Information that is expressly prohibited by a court or tribunal or that disclosure of that information would constitute contempt of court;

Information that would constitute a breach of parliamentary or state legislative privilege;

Any information which the Government deems necessary for the greater good of the public and information which is detrimental to the competitive position of third parties such as business credibility, trade secrets, intellectual property;

Reliable information received by an individual which is considered by the Government to be necessary in the interest of the public;

Confidential information received from a foreign government;

Information that may be obtained by means and sources of assistance for the purpose of national security and law enforcement;

Information that may endanger the life and limb of an individual;

Information that, if disclosed, would impede the investigation or apprehension of criminals or impede criminal prosecution;

Cabinet Papers including Minutes of Consultations of Ministers, Group Secretaries and other officers. However, the decisions taken in the Council of Ministers, the reasons thereof and the basis on which those decisions were taken, may be made known to the general public after the decision has been taken;

Where the benefit of disclosing the information outweighs the harm to the protected interests, the information may be accessed notwithstanding any exemptions permitted under the Official Secrets Act 1923 (9/1923) or under section 8 of the Right to Information Act 2005;

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Information relating to an incident, event or thing that happened 20 years prior to the date of an application, falling within the categories in section 8 subsection 1 (a, c and I) of the Information Act 2005, must be disclosed to the person making the request. Subject to the appellate procedures prescribed under this Act, the decision of the Central Government shall be final in case of any dispute as to the calculation of the period of 20 years;

Where the request for information comes from a non-governmental individual, the request may be refused, without prejudice to the procedures set forth in Section 8 of this Act.

#### 4. Central information commission

- The **Central Information Commission** was established in 2005 as part of the Right to Information Act.
- The Central Information Commission is a powerful independent organisation that investigates complaints and makes decisions on appeals.
- It hears complaints and appeals related to Central Government and Union Territories offices, financial institutions, public sector organisations, and so on.
- The Commission has authority over all Central Public Authorities.
- In the parent law, the **RTI Act of 2005** outlined the tenure, terms of service, and remuneration of the Chief Information Commissioner (CIC) and Information Commissioners (ICs) at the national and state levels.
- The **RTI (Amendment) Act of 2019** repealed these clauses, stating that the central government will declare the duration and quantity of remuneration via rules.

#### Power and Functions

- To receive and inquire into a complaint from any person regarding information requested under the RTI act.
- It can order an inquiry into any matter if there are reasonable grounds (suo-moto power).
- While inquiring, the Commission has the powers of a civil court in respect of summoning, requiring documents, etc.
- Adjudication in the second appeal for giving information;
- Direction for record-keeping

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- Imposition of penalties and Monitoring and Reporting including preparation of an Annual Report.

#### **Vision and Mission of Central Information Commission**

To play a dynamic role in ensuring effective and efficient participation of all the stakeholders as envisaged by the RTI Act, through the exercise of powers conferred on, and by performing functions assigned to the Central Information Commission in an accountable, responsive, and transparent manner.

CIC's mission is to ensure smoother and greater access to information envisaged under the RTI Act, to Indian citizens through a citizen-centric approach

#### **Key objectives of CIC**

- To receive and inquire into complaints from any citizen as provided in RTI Act.
- To receive and decide upon the second appeal from any citizen as provided in the RTI Act, and RTI rules 2012.
- To exercise the powers conferred on CIC under the RTI Act.
- To perform the duty of Monitoring and Reporting as provided in Section 25 of the RTI Act.

#### **Issues**

- The transparency in the functioning of CIC has been causing concern.
- There is a huge backlog of cases as CIC takes more than a year to resolve complaints or appeals.
- It has been shown that CIC is reluctant to take action against government personnel.
- The CIC is mostly understaffed and the vacancies are not filled up.

#### **5. State Information Commission**

The State Information Commission will be constituted by the State Government through a Gazette notification. It will have one State Chief Information Commissioner (SCIC) and not more than 10 State Information Commissioners (SIC) to be appointed by the Governor.

The Right to Information Act, 2005 provides for the creation of State Information Commission at the State level.

#### **Composition of State Information Commission**

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The Commission consists of a State Chief Information commissioner and ten State Information Commissioners. They are appointed by the Governor on the recommendation of the committee consisting of the Chief Minister as Chairperson, the Leader of the Opposition in the Legislative Assembly and a state Cabinet Minister nominated by the Chief Minister. They should be person of eminence in public life and should not hold any other office of profit or connected with any political party or carrying on any business or pursuing any profession.

### Objective

- To empower the citizens
- To promote transparency and accountability
- To contain corruption
- To enhance people's participation in democratic process.

### Powers and Functions

- The commission submits and annual report to the state government on the implementation of the provisions of this act. The state government places this report before the state legislature.
- The commission can order inquiry into any matter if there are reasonable grounds.
- The commission has the power to secure compliance of its decisions from the public authority.
- It is the duty of the commission to receive and inquire into a complaint from any person
- During the inquiry of a complaint, the commission may examine any record which is under the control of the public authority and no such record may be withheld from it on any grounds.

### 6. Tamilnadu Information Commission

The Right to Information Act aims to provide citizens with the right to access information under the control of public authorities and to promote transparency and accountability in the functioning of every public authority. It reveals the true spirit of democracy embodied in the virtues of transparency and accountability at various levels of governance.

Based on this the Right to Information Act 2005 is implemented by the State Information Commission.

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Also, all the departments are voluntarily publishing all the public welfare programs and other public important details carried out in their respective departments.

The Tamil Nadu Information Commission was established on 07.10.2005 under the Right to Information Act, 2005. The Information Commission is functioning with a Chief Information Commissioner and six Information Commissioners.

The Public Information Officer is responsible for expeditiously providing the information requested by the petitioner under the Right to Information Act. The Appellate Authority is at the second level in deciding the first appeal filed by the petitioner under the RTI Act. The State Information Commission is at the third level to ensure the provision of information when a second appeal complaint/petition is filed.

All information under the control of any public authority may be obtained under the Right to Information Act. Further, the Act empowers every citizen to inspect deeds, documents and records and obtain certified copies.

**Internet Routing Service**

Provision has been made to gradually provide these services online so that the above right can be easily obtained.

Accordingly, a facility has been established to file petitions under the Right to Information Act and first appeal petitions online ([www.rtionline.tn.gov.in](http://www.rtionline.tn.gov.in)) on payment of fee.

From 25.06.2021, petitions and first appeal petitions are being received online and information is being provided in Human Resource Management Department.

This facility has been implemented from 15.02.2022 in five departments namely Municipal Administration (M) Drinking Water Supply, Rural Development (M) Panchayat, Medical (M) People's Welfare, Revenue (M) Disaster Management and School Education.

Following this, e-commerce service has been implemented in 11 departments from 20.04.2022. It will be extended to other sectors as well.

Second appeals are also available to be filed online. The relevant case lists and results are uploaded on the website of the Commission ([www.tnsic.gov.in](http://www.tnsic.gov.in)). Also, these petitions are being heard by the commission through virtual mode.

Orders of the Commission are issued in Braille format on request of visually impaired persons. This service is provided in coordination with “National

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Institute for Empowerment of the Blind” located in Chennai. In this kind of event, this commission is a pioneer in the country.

A Help Desk is functioning in the premises of the Tamil Nadu Information Commission to provide necessary assistance to the general public and Public Information Officers regarding various procedures related to submission of applications and provision of information. Also, it helps to check the status of second appeals before the Commission.

To fully fulfill the objective of this Act and to reduce the backlog of petitions, Public Information Officers and Appellate Officers across the State are trained from time to time to dispose of petitions and appeals received under the RTI Act. The annual report of the Commission is placed in the State Legislative Assembly every year.

#### **Sustainable Development Goals**

“Over 3 lakh RTI petitions are received annually across the state and are dealt with by Public Information Officers as per RTI provisions.

"In order to achieve the objective of keeping the general public aware of the activities of the government, relevant data has been published on the website by the government departments themselves. Therefore, people's regular access to public authorities will decrease, and the number of applications will also decrease (Code No.16.6.3).

Instructions have been issued to the Public Information Officers to provide information requested by the public within the time limits specified in the Act. Hence the compliance percentage of information details will rise (Code Nos.16.6.2 and 16.10.1).