

Rajasthan Information Commission: A Sentinel of Transparency

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ABSTRACT:

A Democratic country can be a democracy in true sense when there is accountability, transparency, representativeness in the governance. These principles are hard to achieve. There must be some mechanisms to achieve them. One such mechanism is Right to Information Act 2005, which provides citizens to access to Information from Public Authorities. As per the provisions of the Act, Centre Information Commission and States Information Commissions have been set up to implement the Act.

The focus of this paper is to discuss about the powers, function and working of the Rajasthan State Information commission. The paper has also discussed about what changes state information commission has brought in the governance. The paper also highlights the importance of such mechanism in a democratic country like India.

KEY WORDS: DEMOCRACY, TRANSPARENCY, GOVERNANCE

RAJASTHAN INFORMATION COMMISSION: A SENTINEL OF TRANSPARENCY

Democratic Governance develops on the foundation of accountability and transparency. The concept of governance can be ensured only by administrative accountability and administrative transparency. In 1990, the World Bank in its document 'Governance and Development' has considered accountability and transparency as essential for good governance. Administrative accountability is very important to measure the democratic administrative culture. Right to Information is a fundamental requirement for maintaining this special form of Democracy. Right to Information is a basic requisite of good governance. Even the Administrative Reform Commission II regards it as an important tool to strengthen participatory democracy.¹

Transparency in government organisations makes them function more objectively there by enhancing predictability. Information enables citizens to participate in the governance process effectively. In a fundamental sense, right to information is a basic necessity of good governance.²

Sweden was the first country to introduce right to receive information to the citizens in 18th century. In 1766, Sweden gave a systematic form to this right. Finland in 1955, Denmark in 1947, united states in 1974 provided right to receive information to the Public. In 1982, the governments of Australia and New Zealand made this right available to the public.³

There has been a movement for the right to information in India since 1990s. In the year 2004, the central government constituted the National Advisory Council with the objective of making Right to Information more progressive, participatory based and meaningful. In this council the main supporters of the Nation Right to Information Public Campaign were included on the basis of whose opinions the recommendations for amendment in the freedom of Information Act were submitted to the government in August 2004.

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In the same year the right to information bill was introduced in the parliament. The Lok Sabha passed this bill in May 2005. It was passed by parliament on 12th May 2005 and received the assent of President on 15th June, 2005. Some sections of the Act came into effect immediately and remaining sections became effective from 2nd October, 2005 across the country.

The Bill was passed after about 150 amendments were introduced in the original draft. The act replaces relatively weak and ineffective legislation Freedom of Information Act, 2002 passed during NDA regime. The legislation confers on all citizens a right to seek information and correspondingly makes it the duty of Public authorities to disseminate information for better governance and accountability. The law has widest possible reach covering central and state governments, Panchayati Raj Institutions (PRI), local bodies and recipients of government grant. Moving the Bill the Prime Minister said that the Bill would usher in a new era of performance and transparency to benefit the common man in the complex Modern world and empower the people to Judge if the government was functioning in Public Interest.⁴

The Right to Information Act of 2005 provide for the creation of not only the Central Information Commission but also a State Information Commission at the state level. Accordingly, all the states have constituted the State Information Commission through official Gazette Notification.⁵

Rajasthan Information Commission has been constituted in pursuance of Section 15 of the Right to Information Act in Rajasthan. The Chief Information Commissioner can be appointed as per the requirement in the commission Thus Rajasthan Information Commission was constituted on April 18, 2006. Shree M.D. Kaurani was the first state Chief Information Commissioner of Rajasthan.⁶ Information commission is functioning in the newly constructed building on Jhalana Link Road near Rajasthan Institute of Public Administration (RIPA).

Functions and Powers of the Commission

Section 18, 19 and 20 of the Right to Information Act 2005 describes the functions and powers of the information commission. The commission can investigate the complaints received from the citizens, execute them, and give decision as appellate officer in appeals, punish the guilty officers as well as provide necessary instructions to the public authorities for the efficient implementation of the Act. The commission submits its annual report of the implementation of Act to the State Government. State Government presents it on the floor of the house.²

Some Important Functions are:-

1. It is the duty of the commission to receive and inquire into a complaint from any person,
 - a. who has not been able to submit an information request because of non-appointment of a Public Information Officer;
 - b. who has been refused information that was requested;
 - c. who thinks information given is incomplete, misleading or false;
 - d. any other matter relating to obtaining information.
2. The commission can order inquiry into any matter if there are reasonable ground (Suo-Moto power)
3. Commission also has the power of civil court in following matter:
 - a. summoning and enforcing attendance of persons and compelling them to give oral or written evidence on oath and to provide documents or things;
 - b. requiring the discovering and inspection of documents;⁶
 - c. receiving evidence on affidavit;
 - d. issuing summons.
4. The commission has the power to secure compliance of its decision from the public authority. This includes,
 - a. providing access to information in a particular form;
 - b. directing the public authority to appoint a public information officer where none exists;
 - c. publishing information or categories of information;

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- d. imposing penalties under this Act.
5. Appellate Powers of the State Information Commission: - In pursuance of section 19(1) of the Act, the information commission has the right to hear the second appeal from the decision given by the appellate officer under section 19(3). Second appeal before the information commission can be made within 90 days from the date of passing the first appeal orders or receipt of the copy of the order. Even after the expiry of this period, if the information commission is satisfied with the reasons for the delay pointed out by the appellant, it may file the appeal for hearing.
6. Penalty imposition powers of information commission: - If the State Information Commission at the time of deciding a complaint or appeal is of the opinion that the state Public Information officer has
 - a. Without any reasonable cause refused to receive application for information or has not furnished information within time specified under section 7(1) or
 - b. Malefice denied request for information or
 - c. Knowingly gives incorrect information or
 - d. Obstructed in any manner in furnishing information.

It shall imposed a penalty of Rs 250 each day till application is received or information is furnished, however the total amount of penalty shall not exceed Rs 25000.

Thus we can say that with the implementation of the Right to Information Act and consequent setting up of state information commission as per the Act there has been a transformation in how Government and Public Authorities work.

A democracy is based on the consent of the citizens. This means that the government informs citizens about its activities and recognizes their right to participate. A properly informed electorate and an accountable government are integral parts of an effective and representative democracy.

We have discussed about the working, powers, functions of the Right to Information Act and the Rajasthan State Information Commission. It has also been observed that this Act has able to bring transparency and accountability in the governance. But the Right to Information Act, 2005 and the Rajasthan State Information Commission are not free from challenges. Some of the associated challenges are highlighted;

- A. There have been complaint about misuse of the Act by petitioners due to non-requirement of giving reasons for seeking information.
- B. There is still low public awareness about the Act and working of Information Commission.
- C. Due to insufficient number of information commissioners at the state level, there is high backlog and delay in the hearing of the cases.
- D. State Information Commission suffers from ineffective record management system.
- E. The act doesn't give adequate authority to the information commission to enforce their decisions.⁶

Way Forward: -

In spite of the above shortcomings State Information Commission has so far able to achieve its objective of transparent and open government. Some following suggestions may prove to be helpful.⁷

- A. Government institution should adopt open data policy and put all disclosable information on their respective website.
- B. There must be a provision in the act regarding reason for filling the information, so that its misuse can be prevented.
- C. State Information Commissions should have sufficient fund for creating awareness about the Right to Information Act, 2005.

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Democracy is all about governance of the people, by the people and for the people and Right to Information Act, 2005 is a tool to achieve this.⁷

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