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RIGHT TO INFORMATION

B.P.A.E.- 141

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Based on

C.B.C.S. (Choice Based Credit System) Syllabus of

I.G.N.O.U.

& Various Central, State & Other Open Universities

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**Sample Preview
of the
Solved
Sample Question
Papers**

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QUESTION PAPER

June – 2023

(Solved)

RIGHT TO INFORMATION

B.P.A.E.-141

Time: 3 Hours]

[Maximum Marks: 100

Note: Answer any **five** questions by selecting atleast **two** questions from each section. All questions carry equal marks.

Section-I

Q. 1. Discuss the major achievements of the Right to Information Act, 2005.

Ans. Ref.: See Chapter-1, Page No. 2, 'Right to Information', 'Achievements'.

Q. 2. On what grounds, appeal for information can be refused under the RTI Act, 2005?

Ans. Ref.: See Chapter-2, Page No. 18, Q. No. 4 and Page No. 15, 'Non-disclosure Clause'.

Q. 3. Describe briefly the provisions regarding the appointment, removal and suspension of the members of the State Information Commission.

Ans. Ref.: See Chapter-5, Page No. 46, 'The State Information Commission' and Page No. 53, Q. No. 3.

Q. 4. What are the major constraints in implementation of the RTI Act at the district level?

Ans. Ref.: See Chapter-8, Page No. 80, 'Implementation of the RTI Act at District Level: Major Constraints'.

Section-II

Q. 5. Examine the major issues and challenges in conducting social audit.

Ans. Ref.: See Chapter-14, Page No. 141, 'Social Audit: Issues and Challenges'.

Q. 6. Discuss the significance of the Right to Information Act, 2005 for media.

Ans. Ref.: See Chapter-9, Page No. 89, 'Importance of RTI for Media'.

Q. 7. "Bridging the gap between the RTI and its enforceability is necessary for effective implementation of the Act." Examine.

Ans. Ref.: See Chapter-15, Page No. 153, 'Bridging the Gap between the Right to Information and Its Enforceability'.

Q. 8. Write short notes on each of the following:

(a) Proactive disclosure of information.

Ans. Ref.: See Chapter-13, Page No. 131, 'Proactive Disclosure of Information'.

(b) Initiatives for generating public awareness on RTI.

Ans. Ref.: See Chapter-13, Page No. 132, 'Initiatives for Generating Public Awareness'.



QUESTION PAPER

December – 2022

(Solved)

RIGHT TO INFORMATION

B.P.A.E.-141

Time: 3 Hours]

[Maximum Marks: 100

Note: Answer any **five** questions by selecting atleast **two** questions from each section. All questions carry equal marks.

SECTION – I

Q. 1. What are the powers and functions of the State Information Commission?

Ans. Ref.: See Chapter-5, Page No. 48, 'The SIC: Powers and Functions'.

Q. 2. Discuss the measures taken by the Government for making the RTI Rules, 2012 more effective.

Ans. Ref.: See Chapter-3, Page No. 27, Q. No. 3.

Q. 3. Highlight the provisions regarding appointment, removal and suspension of members of the Central Information Commission.

Ans. Ref.: See Chapter-4, Page No. 38, 'Qualification for Appointment of the CIC and Other Members' and Page No. 40, Q. No. 3.

Q. 4. What are the major challenges before the Public Authorities in India in implementation of RTI Act?

Ans. Ref.: See Chapter-7, Page No. 69, 'Challenges Before the Public Authority'.

SECTION – II

Q. 5. Enumerate the major constraints in implementation of the RTI Act at the district level

and suggest necessary measures to remove roadblocks.

Ans. Ref.: See Chapter-8, Page No. 83, Q. No. 3 and Page No. 84, Q. No. 4.

Q. 6. Examine the role of Civil Society Organizations in evolution of right to information.

Ans. Ref.: See Chapter-10, Page No. 99, 'Role of Civil Society Organizations in the Evolution of RTI'.

Q. 7. Highlight the innovative practices in conducting the social audit and bring out necessary measures for its effective conduct.

Ans. Ref.: See Chapter-14, Page No. 143, 'Social Audit: Innovative Practices and a Way Forward?'

Q. 8. Write short notes on each of the following:

(a) Role of Press Council of India in framing the RTI Law

Ans. Ref.: See Chapter-9, Page No. 87, 'Role of Press Council of India in Framing the RTI Law'.

(b) Project 'SARATHI'

Ans. Ref.: See Chapter-13, Page No. 134, 'Project SARATHI'.

Sample Preview of The Chapter

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RIGHT TO INFORMATION

BLOCK-1: RIGHT TO INFORMATION: AN INTRODUCTION

Right to Information: Evolution, Concept, Achievement and Limitations



INTRODUCTION

Present age is the age of information. The technological revolutions have brought us to an era where information is easily transmitted from one corner of the world to another. However, there is an inherent unwillingness amongst government servants to part with information regarding the workings of the government. However, over the last few years, there has been an increasing demand for greater accessibility of information.

In democratic societies, information acts as power in the hands of common people. The democracy expects openness and openness is associated with free society. This is possible only if the right to know, can be exercised by the people. In democratic societies, people have right to know what their representatives are doing. So, information is indispensable for transparent and accountable functioning of a true democratic government which also provides safeguards against abuses, mis-management and corruption. Government is also benefited with it as openness and transparency in decision-making process help in developing citizen's trust in its action. Freedom of speech, freedom of the press, freedom of expression and freedom of information are four different notions, though related to each other.

CHAPTER AT A GLANCE

RIGHT TO INFORMATION: EVOLUTION

The term 'Freedom of information' owes its origins to the United States. In the later part of the 20th Century, US Supreme Court interpreted the First Amendment to the Constitution and included the right to access of information. Right to information can be traced through the cases of *United States vs. The Progressive Inc* (467F. Supp.990(1979)) and *New York Times Co. vs. United States* (403 U.S. 713 (1971)), in which District Court Judge Robert W. Warren Granted a Preliminary injunction against publication of an article. He

concluded, "This court can find no plausible reason why the public needs to know the technical details about the hydrogen bomb construction to carry on an informed debate on this issue". So, Sweden became the first country to enshrine the right to access of information in 1766. The oldest freedom of information law is called the Swedish Freedom of Press Act, though its rights to access provisions are not limited to the press at all. Right to information became popular in the world only after two centuries.

In a democratic form of Government, disclosure of information with regard to the function of government must be the rule. So, Indian constitution provides it under Article 19(1) (a). The freedom of speech and expression includes right to acquire information and disseminate it. It helps people to share their views to debates on social and moral issues. It is the key of political discourse that is very essential to democracy. Freedom of speech and expression includes freedom of the press which includes the right to circulate and to determine the volume of such circulation.

In India, many agencies and groups raised their demands for right to information such as Mazdoor Kisan Shakti Sangathan (MKSS), National Campaign for People's Right to Information (NCPRI), Press Council of India (PCI). After Passing the Freedom of Information Act, 2002 by Parliament, this right was recognized by the legislature of India. However, as it was not notified by the government it could not become a statute. This act was replaced by The Right of Information Act, 2005 which is a significant development in the realm of constitutional and administrative law and means of social audit in India. The RTI Act of 2005 mandates timely reply to citizens' request for government-information. RTI is a part of fundamental rights under Article 19(1) of the Constitution which specifies that every citizen has the freedom of speech and expression. Citizen of India as well as non-resident can file Right to Information requests from all over India including Jammu and Kashmir.

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According to RTI Act, 2005 Right to Information means the information accessible under this Act, which is held by or under the control of any public authority includes the right to:

1. Inspection of work, documents, records,
2. Taking notes, extracts or certified copies of documents and records,
3. Taking certified samples of material and
4. Obtaining information in the form of diskettes, floppies, tapes, videocassettes or in any other electronic mode or through printouts where such information is stored in a computer or in any other device.

Thus, Right to Information Act is a process, a tool, a concept and a cultural approach to life.

**RIGHT TO INFORMATION:
CONCEPTUAL ANALYSIS**

The term 'information' is derived from the Latin words 'Formation' and 'Forma' which means giving shape to something and forming a pattern, respectively. Information is something which removes vagueness from ideas and adds something new to our awareness. According to Finnis method of doubt, it is pre-supposed that data and information is to acquire knowledge for the clarification of doubt that one has. Unless we have access to information, we cannot acquire knowledge and there can be no wisdom without knowledge. According to John Locke, people who do not have access to information cannot judge right or wrong because their mind cannot be nurtured properly. For this reason information is essential to enrich human mind. John Stuart Mill wrote "without information or resources to nourish the mind no one can judge something as right or wrong".

According to Thomsom Emerson, meaningful participation in democratic processes requires informed participants. Informed participation is possible only if there is an access to information.

John developed the concept of information wisely. He conceptualized information as:

1. Information is an activity.
2. Information is a life form.
3. Information is a relationship.

Information is power and absence of it can collapse economies, cripple government and paralyse societies. A strong nation depends on good governance of the nation. The principles that strengthen good governance are openness, participation, accountability, effectiveness and coherence. Informed people are more vigilant that contributes in making the democracy more vibrant.

The concept of right to information, backed by people's will and definite legal base empowers people

for social transformation in the direction of good governance.

RIGHT TO INFORMATION: ACHIEVEMENTS

The Right to Information Act, 2005 has been very effective in its brief and crisp construction. Every citizen is benefited from it. The applicant can apply in writing or through electronic means in English or Hindi or in official language of an area to the PIO specifying the particulars of the information they sought to for. The applicant is not obliged to give any reasons for asking the information. The applicant has to make an application alongwith prescribed fee. However, no fee is to be paid by a person living below the poverty line. It structures and strengthens many litigations that gave birth to many RTI activists. In 15 years of its implementation, reels of pages have been photocopied and reached citizens through the RTI. The achievements of RTI are as follows:

1. Means of Social Audit: Right to Information serves as a means of social audit. It empowers to perform social audit of governmental organizations by getting records on work done and that prevailing on the ground to find out the gaps in provisions of services. Additionally, it reveals acts of omissions and commissions along with instances of inaction, harassment, extortion, corruption and abuse of power and authority of various departments of government and undertaking or owned or financed by the government including NGOs.

2. Tool of Social Transformation: Transformation in a society can only be possible by its informed citizens. RTI is a tool through which information can be gathered regarding policies and programs of the Government. 'Right to information is not only a human right but also an essential tool of democracy'. It helps to fight corruption and misuse of power and brings good governance through accountability, transparency and strengthens democracy. Judiciary played a key role in bringing out social dimension of the RTI by protecting rights of deprived sections of the society.

Central Information Commission (CIC) partly allows a wife's appeal seeking information about her husband's income under this act.

3. Uncovers Scams and Anomalies: Adarsh Society Scam was a case from Colaba, Mumbai. A six storey building was supposed to be resided by widows of soldiers who fought in Kargil War, 1999. It was found to be a 31 storeyed building, serving as an abode to politicians, bureaucrats and top military officers. This case was brought to light by RTI activists Simpreet Singh and Yogacharya Anand revealing that the piece of land doesn't belong to the state government but the Union Ministry of Defense and culminated in resignation of Ashok Chavan, the then Chief Minister of Maharashtra.

Delhi Demolitions by MCD

An NGO, Parivartan demanded records of the process of demolition by the Municipal Corporation of Delhi (MCD). It noted that some structures were being completely razed whereas some were lifted with minor damage and some were let off with just sealing. With the help of RTI, it was asked—What guidelines govern such decisions? The MCD had to make its stand clear on all these issues as people have a right to know all these information under the RTI Act.

RIGHT TO INFORMATION: STATUTORY LIMITATIONS

According to Right to Information Act, certain information cannot be disclosed as it may affect the national interest of the country adversely.

■ **Article 19(2) of the Constitution:** The Right to Information (RTI) has been accepted as a fundamental right of citizens under Article 19(1) (a). The fundamental right can be limited only by reasonable restrictions under a law made for the purposes mentioned in Article 19 (2) of the Constitution. The restrictions are meant for protecting sovereignty and integrity of India, friendly relations with foreign countries, public order, decency and morality.

■ **Non-disclosure Clause:** Section 8 of the RTI Act, 2005- Non-disclosure clause of Section 8 of the RTI discharges public authorities from obligation to provide information to the citizens. This section is general and can be interpreted in either of the following ways.

- (i) Sub-section (1) lists out certain specific exemptions to disclosure, namely, information that a citizen requests may not claim as a matter of right.
- (ii) Sub-Section (2) provides for disclosure of even exempt information when public interest in disclosure outweighs harms to the protected interest.
- (iii) Sub-Section (3) limits operation of seven out of the ten exemptions up to 20 years for a given set of records. Exemption relating to national security, relations with foreign Governments, Parliamentary and Legislative privileges and Cabinet documents apply for an indefinite period of time.

The complete text of section 8 alongwith its provision is given below:

There shall be no obligation to give any citizen,

(a) Information, disclosure of information which could prejudicially affect sovereignty and integrity of India; security, strategic, scientific or economic interests of the state, relation with foreign state or information that may lead to incitement of an offence.

(b) Information which has been expressly forbidden to be published by any court of law

or tribunal or disclosure of information which may constitute contempt of court.

(c) Disclosure of Information which could cause a breach of privilege of Parliament or the State Legislature.

(d) Information including commercial confidence, trade secrets or intellectual property, disclosure of which could harm competitive position of a third party, unless the competent authority is satisfied that larger public interest warrants the disclosure of such information.

(e) Information available to a person in his/her fiduciary relationship, unless the competent authority is satisfied that the larger public interest warrants disclosure of such information.

(f) Information received in confidence from foreign governments.

(g) Information, the disclosure of which could endanger life and physical safety of any person or identity, source of information or assistance given in confidence for law enforcement or security purposes.

(h) Information which could impede the process of investigation, apprehension or prosecution of offenders.

(i) Cabinet papers including records of deliberations of Council of Ministers, Secretaries and other officers.

Provided that decision of Council of Ministers, the reasons thereof and the material on the basis of which decisions were taken shall be made public after the decision has been taken and the matter is complete or over;

Provided that those matters, which come under the exemptions specified in this section, shall not be disclosed.

(j) Information, which relates to personal information, disclosure of which has no relationship to any public activity or interest, or which could cause unwarranted invasion of privacy of an individual, unless they are Central Public Information Officer or State Public Information officer or belongs to the appellate authority, as the case may be, as satisfied that the larger public interest justifies the disclosure of such information.

(k) Notwithstanding anything in Official Secrets Act, 1923 (19 of 1923) nor any of the exemptions permissible in accordance with sub-section(1), a public authority may allow access to information, if public interest in disclosure outweighs harms to the protected interests.

(l) Subjects to the provisions of clauses (a), (c) and (i) of sub-section (1), any information relating to any occurrence, event or matter which has taken place, occurred or happened twenty years before the date on

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which the request is made under section 6, shall be provided to any person making such a request.

Non-obstante clause; Section 22 of RTI Act, 2005

To ensure that other laws and constraints could not be used to deny information to citizens, legislature has enacted a Non-obstante clause in Section 22 of the RTI Act. This means that RTI will prevail over all laws and rules including the Official Secrets Act as far as providing information under RTI is concerned.

(b) Limitations under Other Statutes

Limitations under Official Secrets Act (OSA), 1923 are:

The Official Secrets Act was first enacted in 1923 as India's Anti-Espionage Act. This law is applicable to government servants and citizens. It provides framework for dealing with espionage, sedition and other potential threats to the integrity of our nation. The law makes spying, sharing 'secret' information, unauthorized use of uniforms, withholding information, interference with the armed forces in prohibited/restricted areas, among others, punishable offences.

Indian Evidence Act 1872

This Act provides that evidences relating to affairs of the state, official records and professional communications are restricted for disclosure to the general public. Section 123 of this Act says that no one shall be permitted to give any evidence derived from unpublished official records relating to affairs of the state, except with the permission of the officer at the Head of Department concerned, who shall give or withhold such permission as he or she thinks is fit. Section 124, 125, 126 of the Indian Evidence Act provides for privileged communications:

- (i) Section 124 says that no public officer shall disclose communications made to him in official capacity, if he considers public interest would suffer by such a disclosure.
- (ii) Section 125 bars communication of information by a Magistrate, any Police Officer or the Revenue Officer relating to the offences committed by any person.
- (iii) Section 126 deals with professional communication relating to the professional persons such as Barrister, Attorney, Pleader or Vakil to their clients.

Central Civil Services (Control) Rules and All India Service (Conduct) Rules

Unauthorized communication of information by any government servant is prohibited. The Central Civil Services (Control) Rules and All India Services (Conduct) Rules have same version.

The Atomic Energy Act, 1962

Section 18(1) puts restriction on disclosure of certain information relating to document, drawing,

photograph, plan, model of an existing or proposed plant used for the purpose of producing, developing or using atomic energy or methods of operation of any such plant.

The Information Technology Act, 2000

This Act was meant to regulate electronic data. Data collected through computers about any organization should be maintained and saved properly and the same may not be disclosed without taking their consent otherwise it could be treated as a punishable offence. Section 72 of this Act prescribes penalty for breaching confidentiality and privacy of data.

APPRAISAL

There are several provisions in the Indian Constitution regarding Right to Know and Right to Information and there are number of legislations, where Right to Information and disclosure of public policy has been explained. A separate RTI Act was also enacted in 2005 as provisions existing under the Constitution and other legislation including Freedom of Information Act, 2002 were not very effective. Though the RTI Act, 2005 have restrictions under section 8, these are less complex and more in number than under the Freedom of Information Act, 2002. Section 8 deals with exemptions to the right to information. To counter corruption, it is essential that there should be complete transparency in all kinds of public dealings. Transparency in government functioning can help hold people accountable for their mishandling of public time and money.

CHECK YOUR PROGRESS

Q. 1. Discuss the origin of right to information in India.

Ans. RTI is a tool of empowerment for common people. Before the introduction of RTI in India, people did not have a say in the socio-political decisions made by the government. So, people felt excluded and ignorant and indifferent towards the decisions of the government. Due to the sense of secrecy for policies, people felt they were being ignored and eventually wanted their voices to be heard as they were sufferers of consequences of the same.

In United States, the right to information can be traced through the cases of United States vs. the Progressive Inc. and New York Times Co. vs. United States. Sweden was the first country to introduce the right to access of information in 1766. The oldest freedom of information law is called as Swedish Freedom of the Press Act but its rights to access provisions are not limited to the press at all.

In a democratic form of Government, disclosure of information with regard to functioning of government must be the rule. Indian constitution provides it under