

Usage Patterns and Effectiveness of Right To Information (RTI) Act in India in Corporate Segment

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Abstract

Right to Information (RTI) is an act of the Parliament of India which sets out the rules and procedures regarding citizens' right to information. It replaced the former Freedom of Information Act, 2002. Under the provisions of RTI Act, any citizen of India may request information from a "public authority" (a body of Government or "instrumentality of State") which is required to reply expeditiously or within thirty days. In case of matter involving a petitioner's life and liberty, the information has to be provided within 48 hours. The Act also requires every public authority to computerize their records for wide dissemination and to proactively publish certain categories of information so that the citizens need minimum recourse to request for information formally. The RTI Bill was passed by Parliament of India on 15 June 2005 and came into force with effect from 12 October 2005. Every day on an average, over 4800 RTI applications are filed. In the first ten years of the commencement of the act over 17,500,000 applications had been filed.

Keywords: Right To Information, RTI Act of India, RTI Against Corruption

Introduction

Right to Information Act empowers every citizen to seek any information, take notes, extracts or certified copies of documents or records, take certified samples of material. The RTI Act extends to the whole of India (except the State of Jammu and Kashmir), all bodies, which come under Government notification including NGOs, which are owned, controlled or are substantially financed by the Government [1].

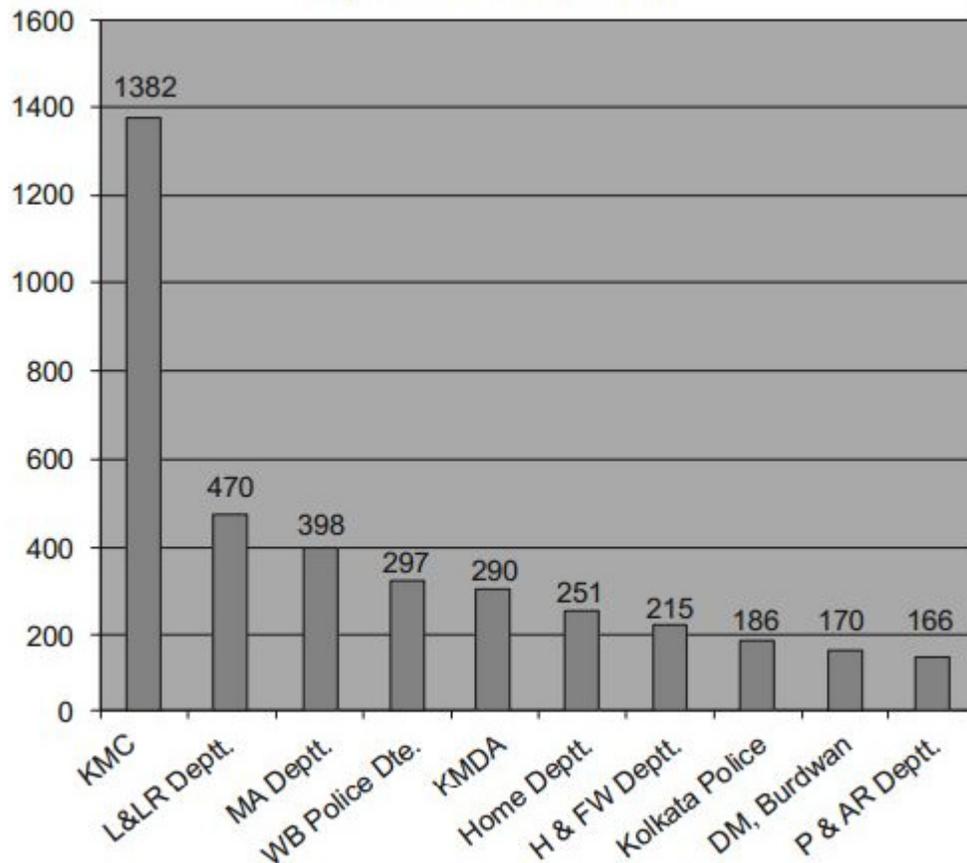


Table 1 : Top 10 Public Authorities under RTI Queries

Although Right to Information is not included as a Fundamental Right in the Constitution of India, it protects the fundamental rights to Freedom of Expression and Speech under Article 19(1)(a) and Right to Life and Personal Liberty under Article 21 guaranteed by the Constitution. The authorities under RTI Act 2005 are called public authorities. The Public Information Officer (PIO) or the First Appellate Authority in the public authorities perform quasi judicial function of deciding on the application and appeal respectively. This act was enacted in order to consolidate the fundamental right in the Indian constitution 'freedom of speech'. Since RTI is implicit in the Right to Freedom of Speech and Expression under Article 19 of the Indian Constitution, it is an implied fundamental right [2, 3].

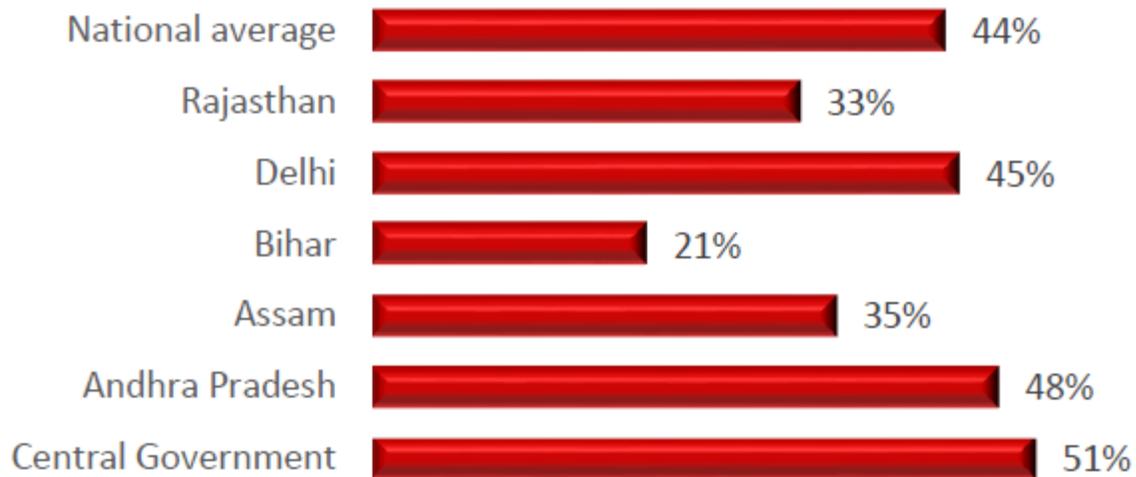


Figure 2 : Information Provided

RTI Act confers right to access to information held by a Public Authority. In case, you have been denied the access to information you may file Appeal / Complaint before the Central Information Commission (CIC) using the CIC Online.

The basic object of the Right to Information Act is to empower the citizens, promote transparency and accountability in the working of the Government, contain corruption, and make our democracy work for the people in real sense. An informed citizenry will be better equipped to keep necessary vigil on the instruments of government and make the government more accountable to the governed. The Act has created a practical regime through which the citizens of the country may have access to information under the control of public authorities [4].

Information is any material in any form. It includes records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material held in any electronic form. It also includes information relating to any private body which can be accessed by the public authority under any law for the time being in force.

Right to Information under the Act

1. A citizen has a right to seek such information from a public authority which is held by the public authority or which is held under its control. This right includes inspection of work, documents and records; taking notes, extracts or certified copied of documents or records; taking certified samples of material held by the public authority or held under the control of the public authority.

2. The public authority under the RIT Act is not supposed to create information; or to interpret information; or to solve the problems raised by the applicants; or to furnish replies to hypothetical questions. Only such information can be had under the Act which already exists with the public authority.
3. A citizen has a right to obtain information in the form of diskettes, floppies, tapes, video cassettes or in any other electronic mode or through print-out provided information is already stored in a computer or in any other device from which the information may be transferred to diskettes.
4. The information to the applicant shall ordinarily be provided in the form in which it is sought. However, if the supply of information sought in a particular form would disproportionately divert the resources of the public authority or may cause harm to the safety or preservation of the records, supply of information in that form may be denied [5].
5. The Act gives the right to information only to the citizens of India. It does not make provision for giving information to Corporations, Associations, Companies etc. which are legal entities/persons, but not citizens. However, if an application is made by an employee or office-bearer of any Corporation, Association, Company, NOG etc. who is also a citizen of India, information shall be supplied to him/her, provided the applicant given his/her full name. In such cases, it will be presumed that a citizen has sought information at the address of the Corporation etc.

Exemptions from Disclosure

The right to seek information from a public authority is not absolute. Sections 8 and 9 of the Act enumerate the categories of information which are exempt from disclosure. At

the same time Schedule II of the Act contains the names of the Intelligence and Security Organisations which are exempt from the purview of the Act. The exemption of the organization, however, does not cover supply of information relating to allegations of corruption and human rights violations.

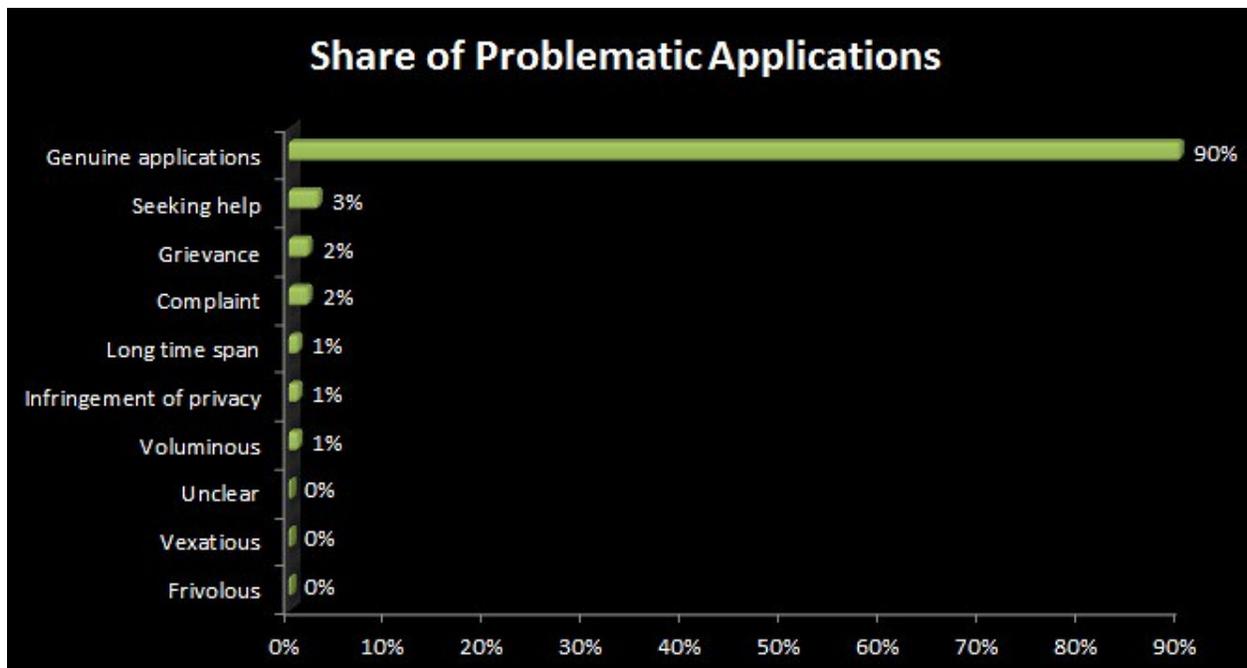


Figure 3 : Scope of RTI Applications

The applicants should abstain from seeking information which is exempt under Section 8 and 9 and also from the organizations included in the Second Schedule except information relating to allegations of corruption and human right violations.

Central Public Information Officers

Application for seeking information should be made to an officer of the public authority who is designated as Central Public Information Officer (CPIO). All the public authorities have designated their Central Public Information Officer and have posted their particulars on their respective web-sites. This information is also available on the 'RTI PORTAL' (www.rti.gov.in). Persons seeking information are advised to refer to the web-site of the concerned public authority of the 'RTI PORTAL' for ascertaining the name of the concerned CPIO. If it is found difficult to identify or locate the concerned Central Public Information Officer of a public authority, application may be sent to the Central Public Information Officer without specifying the name of the CPIO at the address of the public authority [6].

Assistance Available From CPIOs

The Central Public Information Officer shall render reasonable assistance to the persons seeking information. If a person is unable to make a request in writing, he may seek the help of the CPIO to write his application. Where a decision is taken to give access to a sensorily disabled person to any document, the Central Public Information Officer, shall provided such assistance to enable access to information, including providing such assistance to the person as may be appropriate for the inspection.

Suo Motu Disclosure

The Act makes it obligatory for every public authority to make suo-motu disclosure in respect of the particulars of its organization, functions, duties etc. as provided in section

4 of the Act. Besides, some public authorities under the Central Government have published other information and have posted them on their websites.

Positive changes in administration due to RTI Act

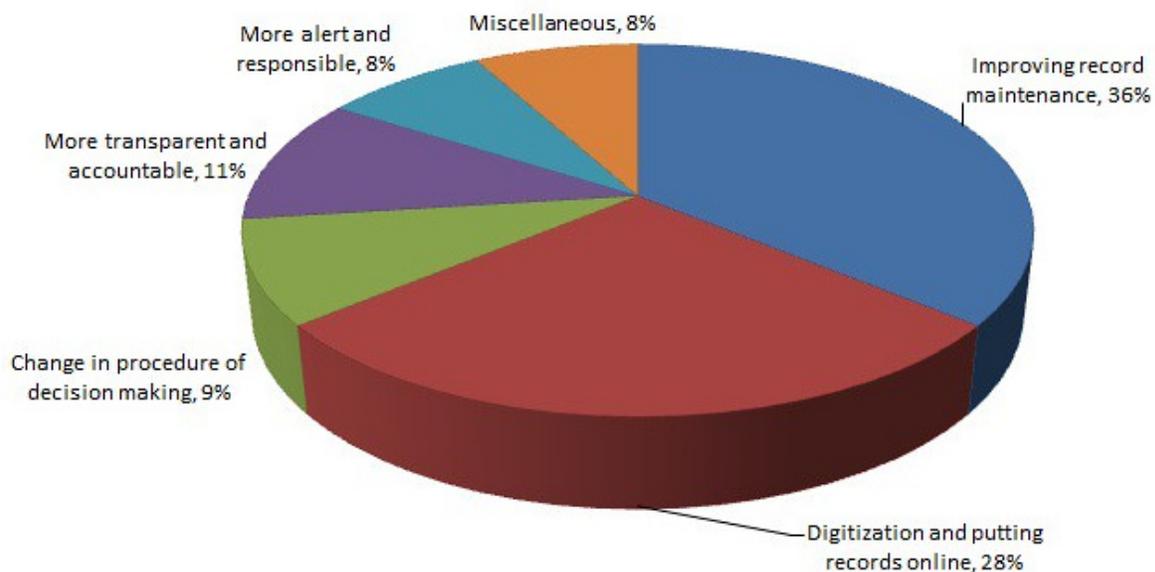


Figure 4 : Analytics Patterns

Method of Seeking Information

A citizen who desires to obtain any information under the Act, should make an application to the Central Public Information Officer (CPIO) of the concerned public authority in writing in English or Hindi or in the official language of the area in which the application is made. The applicant can send the application by post or through electronic means or can deliver it personally in the office of the public authority. The application can also be sent through a Central Assistant Public Information Officer appointed by the Department of Post at sub-divisional level or other sub-district level [7].

Fee for Seeking Information

The applicant, along with the application, should send a demand draft or a banker's cheque or an Indian Postal Order of Rs10/- (Rupees ten), payable to the Accounts Office of the public authority as fee prescribed for seeking information. The payment of fee can also be made by way of cash to the Account Officer of the Public authority or to the Central Assistant Public Information Officer against proper receipt.

The applicant may also be required to pay further fee towards the cost of providing the information, details of which shall be intimated to the applicant by the CPIO as prescribed by the Right Information (Regulation of Fee and Cost) Rules, 2005. Rates of fee as prescribed in the Rules are given below:

- a. rupees two (Rs.2/-) for each page (in A-4 or A-3 size paper) created or copied;
- b. actual charge or cost price of a copy in large size paper;
- c. actual cost or price for samples or models;
- d. for inspection of records, no fee for the first hour; and a fee of rupees five (Rs.5/-) for each subsequent hour (or fraction thereof);
- e. for information provided in diskette or floppy rupees fifty (Rs.50/-) per diskette or floppy; and
- f. for information provided in printed form at the price fixed for such publication or rupees two per page of photocopy for extracts from the publication.

If the applicant belongs to below poverty line (BPL) category, he is not required to pay any fee. However, he should submit a proof in support of his claim to belong to the below poverty line. The application not accompanied by the prescribed fee of Rs.10/- or proof of the applicant's belonging to below poverty line, as the case may be, shall not be

a valid application under the Act and therefore, does not entitle the applicant to get information [8].

Format of Application

There is no prescribed form of application for seeking information. the application can be made on plain paper. The application should, however, have the name and complete postal address of the applicant. Even in cases where the information is sought electronically, the application should contain name and postal address of the applicant.

The information seeker is not required to give reasons for seeking information.

Disposal of the Request

1. The CPIO is required to provide information to the applicant within thirty days of the receipt of a valid application. If the information sought for concerns the life or liberty of a person, the information shall be provided within forty-eight hours of the receipt of the request. If the CPIO is of the view that the information sought for cannot be supplied under the provisions of the Act, the CPIO would reject the application. However, while rejecting the application, he shall inform the applicant the reasons for such rejection and the particulars of the appellate authority. He would also inform the applicant the period within which appeal may be preferred.
2. If an applicant is required to make payment for obtaining information, in addition to the application fee, the Central Public Information Officer would inform the applicant about the details of further fees along with the calculation made to arrive at the amount payable by the applicant. After receiving such a communication from the CPIO, the applicant may deposit the amount by way of cash against

proper receipt or by Demand Draft or by Banker's cheque or by Indian Postal Order in favour of the Accounts Officer of the concerned public authority. The CPIO is under no obligation to make available the information if the additional fee intimated by him is not deposited by the applicant.

3. Where an additional fee is required to be paid, the period intervening between the dispatch of the intimation regarding payment of additional fee and payment of fee by the applicant shall be excluded for the purpose of computing the period of thirty days within which the CPIO is required to furnish the information.
4. If the CPIO fails to send decision on the request on the information within the period of thirty days or forty-eight hours, as the case may be, the information may be deemed to have been refused.

First Appeal

If an applicant is not supplied information within the prescribed time thirty days or 48 hours, as the case may be, is not satisfied with the information furnished to him, he may prefer an appeal to the first appellate authority who is an officer senior in rank to the CPIO. Such an appeal, should be filed within a period of thirty days from the date on which the limit of 30 days of supply of information is expired or from the date on which the information or decision of the CPIO is received.

The appellate authority of the public authority shall dispose of the appeal within a period of thirty days or in exceptional cases within 45 days of the receipt of the appeal [9].

Second Appeal

If the appellate authority fails to pass an order on the appeal within the prescribed period or if the appellant is not satisfied with the order of the first appellate authority, he may prefer a second appeal with the Central Informational Commission within ninety days from the date on which the decision should have been made by the first appellate authority or was actually received by the appellant. The appeal made to the Central Informational Commission should contain the following information:-

- i. Name and address of the appellant;
- ii. Name and address of the Central Public Information Officer against the decision of whom the appeal is preferred;
- iii. Particulars of the order including number, if any, against which the appeal is preferred;
- iv. Brief facts leading to the appeal;
- v. If the appeal is preferred against deemed refusal, particulars of the application including number and date and name and address of the Central Public Information Officer to whom the application was made; Prayer or relief sought;
- vi. Grounds for prayer or relief;
- vii. Verification by the appellant; and
- viii. Any other information, which the Commission may deem necessary for deciding the appeal.

The appeal made to the Central Informational Commission should be accompanied by the following documents:

- i. Self-attested copies of the order or documents against which appeal is made;

- ii. Copies of the documents relied upon by the appellant and referred to in the appeal; and
- iii. An index of the documents referred to in the appeal.

Complaints

If any person is unable to submit a request to a Central Public information Officer either by reason that such an officer has not been appointed by the concerned public authority; or the Central Assistant Central Public information Officer has refused to accept his or her application or appeal for forwarding the same to the Central Public information Officer or the appellate authority, as the case may be; or he has been refused access to any information requested by him under the RTI Act; or he has not been given a response to a request for information within the time limit specified in the Act; or he has been required to pay an amount of fee which he considers unreasonable; or he believes that he has been given incomplete, misleading or false information, he can make a complaint to the Central information Commission.

Disposal of Appeals and Complaints by the CIC

The Central information Commission decided the appeals and complaints and conveys its decision to the appellant/complainant and first appellate authority/CPIO. The Commission may decide an appeal/complaint after hearing the parties to the appeal/complaint or by inspection of documents produced by the appeal/complaint and CPIO or such senior officer of the public authority who decided the first appeal. If the Commission will inform of the date of hearing to the applicant or the complainant at least seven clear days before the date of hearing. The appeal/complaint has the discretion to be present in person or through his authorized representative at the time of hearing or may opt not to be present [10].

Important Web-sites

Given below are the addresses of some important web-sites which contain substantial information relevant to the right to information:

- i. Portal of the Government of India (<http://indiainimage.nic.in>).
- ii. Portal on the Right to Information (www.rti.gov.in).
- iii. Website of the Central Information Commission (<http://cic.gov.in>)

Exempted Organisations

The List of 22 exempted organizations is given below:

- Intelligence Bureau, Ministry of Home Affairs
- Directorate of Revenue Intelligence, Ministry of Finance
- Central Economic Intelligence Bureau, Ministry of Finance
- Directorate of Enforcement, Ministry of Finance
- Narcotics Control Bureau
- Aviation Research Centre
- Special Frontier Force
- Border Security Force, Ministry of Home Affairs
- Central Reserve Police Force, Ministry of Home Affairs
- Indo-Tibetan Border Police, Ministry of Home Affairs
- Central Industrial Security Force, Ministry of Home Affairs
- National Security Guard, Ministry of Home Affairs
- Research & Analysis Wing of The Cabinet Secretariat
- Assam Rifles, Ministry of Home Affairs
- Sashastra Seema Bal, Ministry of Home Affairs

- Special Protection Group
- Defence Research and Development Organisation, Ministry of Defence
- Border Road Development Organisation
- Financial Intelligence Unit, India
- Directorate General Income Tax (Investigation)
- National Technical Research Organisation
- National Security Council Secretariat

The Right to Information (RTI) Act is a regulation enacted by the Parliament of India to present for setting out the realistic regime of right to information for the citizens. It was approved by Parliament on 15 June 2005 and came fully into force on 13 October 2005. The RTI Act mandates opportune retort to citizen requests for government information. It applies to all States and Union Territories of India, excluding the State of Jammu and Kashmir, which is covered under a State-level law.

The Act relaxes the Official Secrets Act of 1889 which was amended in 1923 and assorted other special laws that restricted information disclosure in India. In other words, the Act explicitly overrides the Official Secrets Act and other laws in force as on 15 June 2005 to the extent of any inconsistency.

Under the provisions of the Act, any citizen (excluding the citizens within J&K) may request information from a 'public authority' (a body of Government or 'instrumentality of State') which is required to reply expeditiously or within thirty days. The Act also requires every public authority to computerize their records for wide dissemination and

to proactively publish certain categories of information so that the citizens need minimum recourse to request for information formally.

The RTI Act specifies that citizens have a right to: request any information (as defined); take copies of credentials; inspect documents, works and records; take certified samples of materials of work; and obtain information in the form of printouts, diskettes, floppies, tapes, video cassettes or in any other electronic mode.

At the national level, given the experience of state governments in passing practicable legislation, the Central Government appointed a working group under H.D. Shourie to draft legislation. The Shourie draft, in an extremely diluted form, became the basis for the Freedom of Information Bill, 2000 which eventually became law under the Freedom of Information (Fol) Act, 2002. The Fol Act, however, never came into effective force as it was severely criticized for permitting too many exemptions, not only under the standard grounds of national security and sovereignty, but also for requests that would involve 'disproportionate diversion of the resources of a public authority'. Further, there was no upper limit on the charges that could be levied and there were no penalties for not complying with a request for information.

The failure of Fol Act led to sustained pressure for a better National RTI enactment. The first draft of the Right to Information Bill was presented to Parliament on 22 December 2004. Subsequently, more than a hundred amendments to the draft Bill were made before the bill was finally passed. The Law is applicable to all constitutional authorities, including the executive, legislature and judiciary; any institution or body established or constituted by an act of Parliament or a state legislature.

Bodies or authorities established or constituted by order or notification of appropriate government including bodies "owned, controlled or substantially financed" by government, or non-Government organizations "substantially financed, directly or indirectly by funds" provided by the government are also covered by the Law. While private bodies are not within the Act's ambit directly, in a landmark decision of 30 November 2006 (Sarbjit Roy versus DERC) the Central Information Commission reaffirmed that privatized public utility companies continue to be within the RTI Act their privatization notwithstanding.

Conclusion

India's RTI Act is internationally recognized as a strong and effective law. Over the last six years, the RTI has been used extensively by ordinary Indian citizens to demand a vast range of information from their government. Unlike many countries where RTI laws have been used primarily by journalists and the media, in India this law has a broad base of users. Collective studies showed that nearly two million RTI requests were filed in implementation of Act's first three years, in different parts of country. As far we have seen benefits of RTI. After the implementation of this act, it helped in solving many cases and helped in making justice to many.

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