'Known Unknowns' of RTI
Legitimate Exemptions or Conscious Secrecy?

PANKAJ K P SHREYASKAR

After almost more than eight years of the Right to Information Act being in force, the process of accessing information still faces impediments. The flow of information is restricted either due to various public institutions not coming within the ambit of the Act or the information being exempt under various clauses of the Act. This article examines select judgments/orders of the Central Information Commission and the superior courts' exhibits to show how the exemption clauses have been utilised to camouflage the disclosure norms including that of negating the applicability of RTI by several organisations. It also presents the contingency model for the RTI Act, 2005.

Views are personal.

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"What's wrong with open government? Why shouldn't the public know more about what's going on?"
"My dear boy, it's a contradiction in terms. You can be open, or you can have government."
"But surely the citizens of a democracy have a right to know?"
"No They have a right to be ignorant. Knowledge only means complicity and guilt, ignorance has a certain dignity." [1]

Sir Humphrey's preachment about knowledge and ignorance provides me with enough motivation to investigate its veracity in the light of the Right to Information (RTI) Act. The Act has been enacted

> to provide for setting out the practical regime of right to information for citizens to secure access to information under the control of public authorities, in order to promote transparency and accountability in the working of every public authority, the constitution of a Central Information Commission and State Information Commissions and for matters connected therewith or incidental thereto (RTI Act 2005).[2]

Further the RTI Act, 2005 envisages

> And whereas revelation of information in actual practice is likely to conflict with other public interests including efficient operations of the Governments, optimum use of limited fiscal resources and the preservation of confidentiality of sensitive information; And whereas it is necessary to harmonise these conflicting interests while preserving the paramountcy of the democratic ideal (ibid).[3]

It is in the name of preserving the confidentiality of information and the paramountcy of the democratic ideals that the organisations have advocated the exemption clauses vociferously and strategically, in some cases.

Prashant Sharma (2012) in his thesis observes that

> The RTI Act has been widely hailed as a landmark piece of legislation both within and beyond the country, primarily for three reasons. First, the fact of enacting a right to information law is a radical departure from the access to information regime that existed prior to the enactment of this law. Previously, under the Official Secrets Act (OSA) of 1923, all information held by public authorities was considered secret by default, unless the government itself deemed it otherwise. The second reason is the specific nature of the Act – it is generally considered to be a very strong one within the context of access to information laws anywhere in the world, and is considered to be a transformatory piece of legislation which is fundamentally altering the citizen-state relationship in the country. Finally, the narrative describing the process leading to the enactment of this Act traces it to a 'grassroots' struggle, which locates the vocabulary and the representation of the RTI discourse within a framework of 'real' and 'meaningful' democracy with respect to both the process and its outcome.[4]

The OSA 1923 was enacted by the British to keep the ruled away from the ruler in India. T S R Subramanian in *The New Indian Express* (29 April 2013) notes

> Despite wide-ranging changes in the situation since then, particularly after Independence, the regimen, of marking files as 'Confidential', 'Secret', or 'Top Secret', has remained by and large unchanged. Indeed the attempt made in 1997 to dilute the rigours of the Official Secrets Act fell by the wayside, suffering the same fate as so many other attempted reforms, due to system inertia. Meanwhile the Right to Information Act, which, not by coincidence also originated from 1997, brought in the concept of transparency and openness in government practices and procedures.[5]

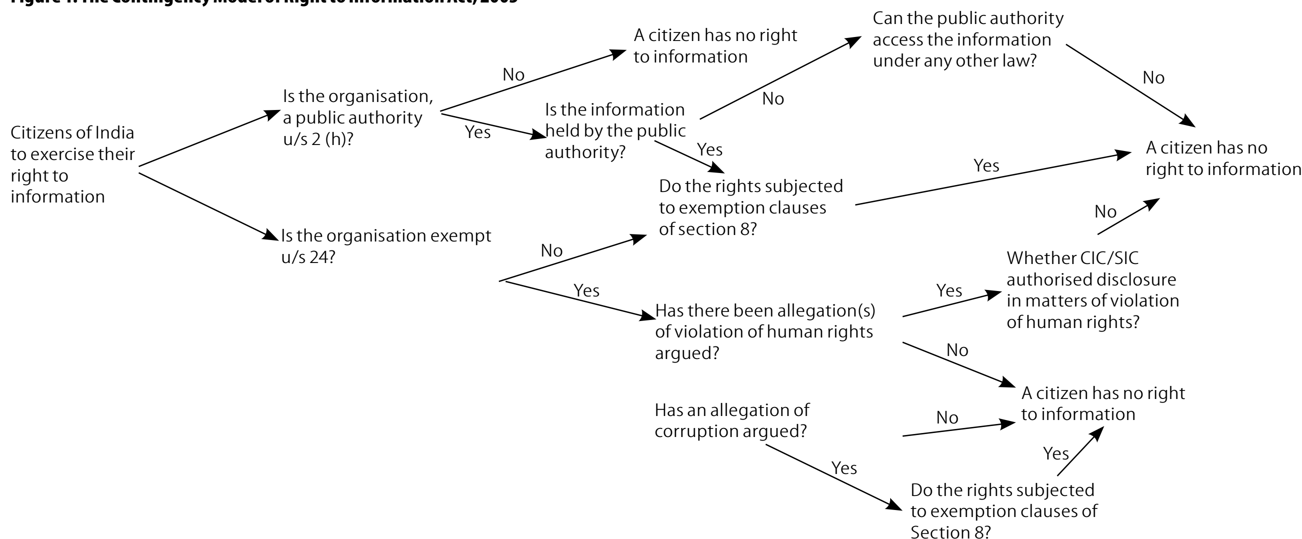
The popular belief is that the path-breaking RTI Act has tremendous potential to bring about necessary systemic reforms in the functioning of public organisations. However, this potential cannot be realised effectively, unless there is support through other systemic reforms.

Contingency Model

Let us understand the existing schemes of the rights and disclosure of information in the RTI Act through the contingency model (Figure 1, p 33). I have followed the contingency model of transparency mechanisms for services to exhibit the contingencies as envisaged in the Act.[6]

A citizen is entitled to enforce his/her right to ask for information only from a

Figure 1: The Contingency Model of Right to Information Act, 2005



"public authority" as defined in Section 2(h) and not from bodies that are not public authorities.

Justice Sanjiv Khanna in the *National Stock Exchange of India Limited vs Central Information Commission and Ors* noted that

> Section 2(h) of the Act consists of two parts. The first part states that public authority means any authority or body or institution of self-government established or constituted by or under the Constitution, by any enactment made by the Parliament or the State Legislature or by a notification issued or order made by the appropriate Government. The second part starts from the word 'includes' and states the term 'public authority' includes bodies which are owned, controlled or substantially financed directly or indirectly by funds provided by the appropriate Government and non-Government organisations substantially financed directly or indirectly by the funds provided by the appropriate Government.[7]

If a public authority can access information from a private body under any other law for the time being in force, it shall be obliged to consider an application for disclosure of this information, if sought for under the RTI Act. In other words, if some information about a private sector bank can be accessed by the Reserve Bank of India (RBI) under the RBI Act, 1935 or the Banking Regulations Act, 1949, the information seeker would be entitled to get this information from the RBI. The Supreme Court in *Aditya Bandopadhyay and Ors* observed that

> Certain safeguards have been built into the Act so that the revelation of information will not conflict with other public interests which include efficient operation of the governments, optimum use of limited fiscal resources and preservation of confidential and sensitive information. The RTI Act provides access to information held by or under the control of public authorities and not in regard to information held by any private person. The Act provides the following exclusions by way of exemptions and exceptions (under sections 8, 9 and 24) in regard to information held by 'public authorities':
> (i) Exclusion of the Act in entirety under section 24 to intelligence and security organisations specified in the Second Schedule even though they may be public authorities (except in regard to information with reference to allegations of corruption and human rights violations.[8]
> (ii) Exemption of the several categories of information enumerated in section 8(1) of the Act which no public authority is under an obligation to give to any citizen, notwithstanding anything contained in the Act [however, in regard to the information exempted under clauses (d) and (e), the competent authority, and in regard to the information excluded under clause (j), Central Public Information Officer/State Public Information Officer/the Appellate Authority, may direct disclosure of information, if larger public interest warrants or justifies the disclosure].[9]
> (iii) If any request for providing access to information involves an infringement of a copyright subsisting in a person other than the State, the Central/State Public Information Officer may reject the request under section 9 of RTI Act.[10]

The proviso to Section 24(1) of the RTI Act deals with the disclosure of information in respect of allegations of violation of human rights; the information shall only be provided after the approval of the Central Information Commission (CIC) or the State Information Commission (SIC) as the case may be.

Section 8(1) deals with exemption from disclosure of information and some of them are encapsulated in one of the judgments in *UOI vs Central Information Commission and Ors* of the Delhi HC. It has noted that

> Section 8(1) of the RTI Act begins with a non-obstante clause and stipulates that notwithstanding any other provision under the RTI Act, information need not be furnished when any of the clauses (a) to (j) apply. Right to information is subject to exceptions or exclusions stated in section 8(1) (a) to (j) of the RTI Act. Sub-clauses (a) to (j) are in the nature of alternative or independent sub clauses. Section 8(1)(e) protects information available to a person in his fiduciary relationship. As per Section 3(42) of the General Clauses Act, 1897 the term 'person' includes a juristic person, any company or association or body of individuals, whether incorporated or not. Section 8(1)(e) adumbrates that information should be available to a person in his fiduciary relationship. The 'person' in Section 8(1)(e) will include the 'public authority'. The word 'available' used in this Clause will include information held by or under control of a public authority and also information to which the public authority has access to under any other statute or law. The sub-clause 8 (1) (i) protects Cabinet papers including records of deliberations of the Council of Ministers, Secretaries and other officers. The first proviso however stipulates that the prohibition in respect of the decision of the Council of Ministers, the reasons thereof and the material on the basis of which decisions were taken shall be made public after the decision is taken and the matter is complete or over.[11]

A division bench of the Delhi HC in *Supreme Court of India vs Subhash Chandra Agarwal* observed that

> the conflict between the right to personal privacy and the public interest in the disclosure of personal information was recognised by the legislature by exempting purely personal information under Section 8(1)(j) of the Act. Section 8(1)(j) says that disclosure may be refused if the request pertains to 'personal information the disclosure of which has no relationship to any public activity or interest, or which would cause unwarranted invasion of the privacy of the individual.' Thus, personal information including tax returns, medical records etc. cannot be disclosed in view of Section 8(1)(j) of the Act. If, however, the applicant can show sufficient public interest in disclosure, the bar (preventing disclosure) is lifted and after duly notifying the third party (i e, the individual concerned with the information or whose records are sought) and after considering his views, the authority can disclose it.[12]

Section 9 provides that without prejudice to the provisions of Section 8, a request for information may be rejected if such a request for providing access would involve an infringement of copyright. Sections 10 and 11 are the procedural aspects of dealing with disclosure of information in relation to severability and third parties.

The following section presents the status of disclosure of information in some of the public authorities/organisations consequent upon decisions of the CIC and/or superior courts. Some of the decisions of the CIC, where the disclosure norms or principles have been laid down have been stayed in the superior courts and the fate of RTI applications in such organisations/sectors are in limbo. In other cases the decision of the CIC itself negates the disclosure. Further, this section also presents some incidents wherein the public authorities denied the disclosure on frivolous grounds.

Status of Disclosure

The CIC while adjudicating on an appeal in the matter of *Sarbajit Roy vs Delhi Electricity Regulation Commission, Delhi* (2006) declared that

> Both from the point of view of their being created by a government notification and the finances received directly or indirectly from Government of NCT of Delhi, DISCOMS are public authorities within the meaning of Right to Information Act and, because the matter was raised in appeal before us and has been closely argued in this hearing they are so declared by this Commission in the present proceedings. The DISCOMS will however proceed to set up the necessary infrastructure for servicing applications under the RTI Act, 2005, to be fully operational within sixty days from the date of issue of this decision.[13]

The matter was challenged through a civil writ petition (CWP) No 544/2007 before the Delhi HC by the BSES Rajdhani Power Limited (BRPL), one of the electricity distribution companies of Delhi and since then the issue of applicability of RTI in the DISCOMS is under stay. The Delhi HC in its order 30 January 2013 observed that

> issue raised in the petition before them is a common issue pertaining to the determination of the question as to whether the petitioner falls within the definition of a public authority as contained in the RTI Act, 2005. Interim orders to continue.

The plight of the information seekers in any of the DISCOMS of Delhi at present is in limbo. When they approach the public information officers (PIOs) of the DISCOMS, a response stating the position of the pendency of the writ (supra) is conveyed to them. The CIC also disposes all matters arising from the responses of any of the agencies of DISCOMS by reiterating its earlier stand. The information seeker has no option but to keep out from the disclosure regimes in relation to the functioning of DISCOMS in Delhi.

The CIC while adjudicating on an appeal in a certain matter pronounced that

> Every authority or institution which is a 'state' has to be a public authority under Section 2(h) of the Right to Information Act, 2005. Even a non-governmental organization if substantially financed directly or indirectly by funds provided by the Government may be a public authority. Even a private institution substantially financed by an appropriate Government can also be a 'public authority' but such non-governmental bodies or such private institutions or bodies may not be categorised as 'state' but they would be public authorities within the meaning of Section 2(h) of the RTI Act. There is enough merit in these submissions and the Commission agrees that an authority or an institution or a body if it is a 'state' within the meaning of Article 12 of the Constitution of India, it cannot claim that it is outside the purview of the Right to Information Act, 2005.[14]

The single bench of the Delhi HC while dismissing the CWP No 4748/2007 against the impugned order of the CIC held that

> Some arguments were addressed on the question whether the Central Government owns National Stock Exchange in view of the shareholding pattern. SEBI in their counter affidavit has stated that more than 50% of the shares of the petitioner stock exchanges are owned by Government of India or government companies. The petitioner is a 'public authority' as it is an 'authority or institution of self-government' constituted or established by notification or order issued by the appropriate Government. It is also held that the petitioner is controlled by the appropriate Government.[15]

The petitioners moved a letters patent appeal (LPA) before the Delhi HC. They argued that it is neither a government body nor financed by the government and therefore they are not within the ambit of RTI Act. A division bench of the Delhi HC held that "there will be a stay of operation of the impugned order of the single bench as well as the order of the CIC dated 7 June 2007".[16]

Therefore, at the time of writing this article no information is being disclosed by the stock exchanges and no RTI regime is in position. However, the hyperlink "About Us" of the NSE website says that "The Exchange has brought about unparalleled transparency, speed and efficiency, safety and market integrity. It has set up facilities that serve as a model for the securities industry in terms of systems, practices and procedures".[17] It is difficult to understand how an organisation can claim to have brought about unparalleled transparency when it is playing truant as far as the RTI Act is concerned.

In another case, an appellant Veena Sikri of Jorbagh, New Delhi submitted applications under the Act to the central public information officers (CPIOs) of the prime minister's office (PMO), the cabinet secretariat, department of personnel and training (DOPT) and the Ministry of External Affairs (MEA) requesting access/inspection to/of documents and files regarding rules, principles and rationale governing the selection and appointment of the foreign secretary.

The CIC while adjudicating on an appeal in the matter of *Veena Sikri vs DOPT, PMO, MEA and Cabinet Secretariat* held that

> There is no doubt that information collated during selection may include some personal information the disclosure of which may cause invasion of privacy of other individuals who have not been eventually selected. Moreover, these individuals are not party to the present appeal. But then the information can still be made available by applying the doctrine of severability enshrined in section 10 of the RTI Act, as mentioned in our decision quoted above. Government can, in that case, allow access to information as requested by appellant by providing access to that part of the record which does not contain any information which is exempt from disclosure under the Act and which can be reasonably severed from any part that contains exempt information, in due accordance with section 10 of the Act. Information which concerns other individuals and which will cause unwarranted invasion to the privacy of such individual cannot be subjected to disclosure. On the other hand, it is for the concerned competent authority to still allow access to this information if it were satisfied that the larger public interest justified disclosure of such information. But in this case, the competent authority has clearly decided otherwise. The Commission, therefore, has a duty to see as to whether disclosure is possible without causing unwarranted invasion of privacy of other candidates who were considered and not selected and, if so whether such disclosure will necessitate application of procedure prescribed under Section 11(1) as the information is or may concern third parties. In view of this and in light of the ruling of the Apex Court cited at the conclusion of para 20 above, the Commission will examine the file and accordingly, we call upon the concerned public authority which in this case is the Cabinet Secretariat to produce all relevant documents from the initiation to the culmination of the process of appointment of Foreign Secretary.[18]

The impugned order of the commission was challenged through the CWP in the Delhi HC. The court had stayed the order of the commission. The process and rationale of making appointments of a diplomat to the senior most position in India thus remains out of bounds for a citizen under the RTI Act.

The CIC while adjudicating on an appeal in the matter of *Kuldip Nayar, Ex-MP vs Ministry of Defence (MOD)* regarding disclosure of the Henderson-Brooks report on the China-India War in 1962 held that

> There is no doubt that the issue of the India-China Border particularly along the north-east parts of India is still a live issue with ongoing negotiations between the two countries on this matter. The disclosure of information of which the Henderson Brooks report carries considerable detail on what precipitated the war of 1962 between India and China will seriously compromise both security and the relationship between India and China, thus having a bearing both on internal and external security.[19]

On the other hand Nayar argued that the subject is 43 years old and should have been available in the archives of India, some 30 years after the report was submitted to the government.

The representatives of the MOD argued before the commission that

> the report prepared by Lt Gen Henderson Brooks and Brig Prem Bhagat was a part of internal review conducted on the orders of the then Chief of Army Staff Gen Choudhary. Reports of internal review are not even submitted to government, let alone placed in the public domain.[20]

Madbhushi Sridhar in his article "Official Secrecy Power vs Citizen's Access Right" observed that

> Neville Maxwell in 2001 has already divulged details of how things went wrong in 1962. CIC might have taken a right decision because of internal and external security of India is linked with certain sensitive aspect of the Report. Still those parts including the reasons for not submitting the report to the government should be brought to the notice of the public by the CIC.[21]

The commission in yet another matter of *Sandeep Unnithan vs Integrated HQ, Ministry of Defence (Navy)* (2007) wherein one of the members of the bench was the chief information commissioner, as he then was (also a member in the Kuldip Nayar case (supra)) argued

> that armed forces of free, democratic nations should have a proper disclosure of vital information policy especially in respect of events connected with engagement of our armed forces with the forces of other countries in theatres of war. Such voluntarily disclosed information, of course without compromising national security, saves unnecessary speculation about the causes and effects of an event. It also saves the armed forces the odium of attempting to hide failures behind excessive secrecy – an odium, which in fact may be wholly undeserved. A rational disclosure policy refurbishes the image of the armed forces and only helps enhance confidence in their capability in the eyes of the people of the country whose security, it is the forces duty to ensure. All great armed forces of the world voluntarily give out information about their successes as well as their failures and are none the worse for it. Most information about the sinking of the British Navy's Warship H M S Sheffield during Falkland War (1982) stands fully disclosed. While we have no observations to make on the assertion of Admiral Cheema that because compliance of the two Navies are completely different, the readiness of the Royal Navy to disclose information on the Falkland War is not replicable in India, we still find that having no further information than has been admitted to be held by the Indian Navy on a disaster of the magnitude of the sinking of INS Khukri, on the basis of rescue operation regarding which Navy personnel have been honoured with awards is inadequate and will not only impair healthy self criticism, it will prevent authentic recording of the history of the Indian Navy for future generations.[22]

The bench of the commission thus recommended that the Indian Navy and, in fact the Indian armed forces should build up their storehouse of information, as mandated under Section 4(1) of the RTI Act, 2005 for disclosure at the appropriate time for benefit of students of India's defence and to enhance the people's trust in the armed forces undoubted capacity to ensure national security.

It is relevant to mention here that the UK government has very recently decided that government files from 1983 would be the first records to be declassified under the new "20-year rule" which means that official papers will be made public sooner. The Right to Information Act, 2007 of Nepal, under Sections 27 (2) and (4) provides for a mechanism regarding classification of the government records in terms of the years that they may be kept confidential. In India, Section 8 (3) of the RTI Act requires the public authority to provide the information sought for under Section 6 of the Act subject to the provisions of the clauses of (a), (c) and (i) of sub-section (1) of Section 8, if the event has occurred 20 years before the date on which any request is made under this Act. However, any institutional

arrangements in the public offices to ensure this are not in place.

The CIC while adjudicating on an appeal in the matter of *R K Jain vs Department of Revenue* (2012), wherein the disclosure of notifications 12/2012 – Customs was prayed for, directed the public authority to produce the file before the commission so that it can satisfy itself as to whether the requested documents are a part of the budget-making process and whether disclosure thereof would adversely affect the economic interests of the state. The representative of the department of revenue informed the commission that

> the competent authority has decided not to produce these documents before it. The Commission observed that without the scrutiny of these documents it was not possible for the bench to decide the matter one way or the other, it directed the registry to put up the matter before the another bench.[23]

Section 18(4) of the Act empowers the CIC to examine any record to which this Act applies and which is under the control of the public authority. No such record may be withheld from it on any grounds. Further, as per Section 19(7) of the Act, the decision of the commission is binding. The public authorities are duty-bound to comply with the decision of the commission unless the decision is legitimately negated. In the present case however, the Tax Research Unit (TRU), the department of finance decided not to produce the documents called for without getting any stay against the impugned order of the CIC from the superior courts. This kind of attitude displayed by a public authority will only serve to attenuate the RTI Act in the years to come.

The full bench order of the commission (15 November 2010), under Section 19(8) (a), directed public authorities to ensure compliance of suo motu disclosures as laid down in Section 4, within a stipulated time. While adjudicating in the matter the CIC noted that

> it has now become necessary that the top echelons of the public authorities are sensitised about seriously addressing the several aspects of discharging their Section 4 commitments, including progressive digitisation of data and use of other available technologies, to not only make transparency the hallmark of their functioning, but also to create the right conditions for the public to access the information through painless and efficient processes that shall be put in place.[24]

It further noted that

> Transparency has not become such a good idea because of the presence of the RTI Act, but it is good because transparency promotes good governance. Of the records, documents and files held by public authorities, a very large part can be made available for inspection, or be disclosed on request to the citizens, without any detriment to the interest of the public authority. This has not been done, or has still not been systematically addressed, largely because of an intuitive acceptance of secrecy as the general norm of the functioning of public authorities. This mental barrier needs to be crossed, not so much through talks and proclamation of adherence to openness in governance, but through tangible action – small things, which cumulatively promote an atmosphere of openness.[25]

The commission directed the public authorities to ensure compliance with Section 4 obligations by uploading them on a portal set-up exclusively for this purpose by the CIC, to designate one of their senior officers as "Transparency Officer" (TO) (with all necessary supporting personnel), whose task will be to oversee the implementation of the Section 4 obligation by public authorities, and to apprise the top management of its progress and to help promote congenial conditions for positive and timely response to RTI-requests by CPIOs, deemed-CPIOs.

This order of the commission may be termed as an avant-garde for ensuring maximum disclosure through efficient means. For the first time suo motu disclosure of all the public authorities would be available at one place. This would be extremely useful for monitoring not only the quality of the suo motu disclosures but also the defaulters. The order was welcomed by all the stakeholders. The CIC provided a portal where each of the public authorities could provide a link of their suo motu disclosures. This would be the first time that a senior officer would be designated as TO, accountable for reporting compliance of the suo motu disclosure by the public authorities.

The impugned order of the commission was challenged before the Delhi HC

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after a year and half of its pronouncement. Union of India, the petitioner argued before the HC that "the Commission has passed this order without having any jurisdiction in the matter" (2012). It was also argued that the "CIC cannot direct the public authorities to designate a TO as has been done in the impugned order. The operation of the impugned order has been stayed".[26]

The CIC while adjudicating on an appeal in the matter of *Chandrachur Ghose vs Ministry of Home Affairs* regarding disclosure of the exhibits listed in Appendix II of the report of the Justice Mukherjee Commission of Inquiry on the alleged disappearance of Netaji Subhas Chandra Bose. The commission held that

> With regard to the information sought, MHA is indeed the nodal Ministry in that it holds custody. It is for this Ministry to decide as to the application of exemption from disclosure u/s 8(1). If as a matter of courtesy the Ministry wishes to refer the issue of disclosure to the originating departments under the OM described in the hearing, it is, of course, up to the discretion of the Ministry of Home Affairs so to do which is also compliance with the OM. Nevertheless, exemption from disclosure cannot be sought on grounds other than mentioned in any of the sub sections of Sec 8(1). In this case, in the response, or lack of it, of other public authorities from which clearance has been sought, not one of them has raised an objection citing any of the above mentioned sub-sections. Moreover, sub sec (3) of Section 8 is clear in that it calls for disclosure of 'any information relating to any occurrence, event or matter which has taken place or occurred or happened twenty years before the date of any request is made u/s 6', providing only that this will not apply to exemption under clauses (a), (c) and (i) of sub sec (1), the application of none of which has been pleaded in the present case. Under the circumstances, the orders of Ministry of Home Affairs withholding part of the information sought are set aside.[27]

The joint secretary, representing the home ministry during the hearing before the CIC had stated that "the ministry had no problem in disclosing the documents pertaining to it, but it was not possible to provide papers of other ministries, PMO and some State governments mentioned in the report as they wanted their records back." [28]

This was an extremely surprising stand taken by the MHA that it could not provide documents since the state governments and other central ministries were demanding them back!

This examination of rulings and orders will not be complete without mentioning the decision of the CIC regarding the applicability of the RTI Act in the case of political parties in *Subhash Chandra Agarwal and Anil Bairwal vs AICC and others* (2011). The decision of the CIC in the political parties (supra) case is a laudable one for it can be a significant beginning towards ensuring electoral transparency in India. The commission held that the

> INC, BJP, CPI(M), CPI, NCP and BSP have been substantially financed by the Central Government under section 2(h)(ii) of the RTI Act. The criticality of the role being played by these Political Parties in our democratic set up and the nature of duties performed by them also point towards their public character, bringing them in the ambit of section 2(h). The constitutional and legal provisions discussed herein above also point towards their character as public authorities.[29]

It directed "the Presidents, General/Secretaries of these Political Parties to designate CPIOs and the Appellate Authorities at their headquarters in 06 weeks time. It further observed that the CPIOs so appointed will respond to the RTI applications extracted in this order in 04 weeks time".[30] It also directed that besides, "the Presidents/General Secretaries of the above mentioned Political Parties they are to comply with the provisions of section 4(1) (b) of the RTI Act by way of making voluntary disclosures on the subjects mentioned in the said clause".[31]

The DOPT vide its confidential note (already in public domain at http://persmin.gov.in) of 23 July 2013 proposed amendment of the RTI Act. It reads as under:

> The Right to Information Act, 2005 shall be amended as below:
> (A) Amendment of Section 2 by adding explanation to the definition of Public Authority in clause (h):
> In Section 2 of the Right to Information Act, 2005 (hereinafter referred to as the principal Act), in clause (h), the following Explanation shall be inserted, namely:-
> Explanation – The expression 'authority or body or institution of self-government established or constituted' by any law made by Parliament shall not include any association or body of individuals registered or recognised as political party under the Representation of the People Act, 1951.
> (B) Insertion of new section 32 to give overriding effect:
> After section 31 of the principal Act, the following section shall be inserted, namely:-
> 32. Notwithstanding anything contained in any judgment, decree or order of any court or commission, the provisions of this Act, as amended by the Right to Information (Amendment) Act, 2013, shall have effect and shall be deemed always to have effect, in the case of any association or body of individuals registered or recognised as political party under the Representation of the People Act, 1951 or any other law for the time being in force and the rules made or notifications issued there under.
> This Act shall be deemed to have come into force on the 3rd day of June, 2013.[32]

The fate of operation of the judgment of the commission (supra) is pending the outcome of the recommendation of the Parliamentary Standing Committee for the purpose.

There are several references that may be analysed. However, I wish to conclude my arguments on the basis of the analyses of the cases referred to above.

Conclusions

The RTI Act echoes the homily of James Medison who said, "A people who mean to be their own governors must arm themselves with power that knowledge gives". It goes without saying that the RTI has done great service to the nation by empowering citizens to access information without being subjected to provide reasons for seeking the information. A large class of information is now accessible due to the Act. However, this may be sufficient only to provide a sense of satisfaction to the information seekers but is surely not adequate to bring in systemic reforms which the complex governance space requires. On the one hand, the credit for unearthing several modern day scams goes to the RTI but perhaps the Act alone may not preclude the occurrence of similar events in future. The march from darkness of secrecy to dawn of transparency cannot be completed without the support of many other reforms.

The number of cases analysed above for proving or rejecting my hypothesis

may not be significant but the veracity and the magnitude that the cases thrust upon us gives me sufficient reasons to believe that the conscious mindset of the public authorities is set on holding on to secrecy in their functioning through the legitimate exemptions under the RTI Act.

The mindset of the public authorities which is clouded by suspicion and secrecy needs to undergo a change to ensure any form of transparency in India.

NOTES

1 Conversation between Bernard Woolley, private secretary to the minister for administrative affairs, Sir Arnold Robinson, cabinet secretary, and Sir Humphrey Appleby, permanent secretary at the department of administrative affairs, in the episode titled "Open Government" in the iconic BBC television series of the 1980s, *Yes Minister*.
2 Excerpts from the preamble to RTI Act, 2005.
3 Ibid.
4 Sharma (2012).
5 Subramanian (2013).
6 Lindsay and Lodge (2001).
7 *National Stock Exchange of India Limited vs Central Information Commission & Others*, WP (C) 4748/2007, High Court of Delhi at New Delhi.
8 *Central Board of Secondary Education & Anr vs Aditya Bandopadhyay & Ors*, CIVIL APPEAL NO 6454 OF 2011 [Arising out of SLP [C] No 7526/2009], Supreme Court of India at New Delhi.
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