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RIGHT TO INFORMATION

India is a democratic country. It is necessary for a democratic society that people have access to information held by public authority. Democracy means government of the people, for the people and by the people. In this type of government, people have chosen the representatives to govern the country. But the common people did not have any right to know about the public policies and expeditors until people have right to know under the umbrella Article 21 i.e. right to life and personal liberty. It neither bind to public authorities and nor prescribe any punishment for not providing any information to the common people. For a genuine democracy it is essential that accessibility of information at all level for a common people without doing any discrimination our constitution provides us the freedom to speech and expression under article 19(1)(a) .

RTI means that citizens can request for information from state or central government departments and offices. And such request should be processed in a timely way as mandated by the RTI Act¹. To fulfill the requirement of right to know and right to obtain information from public authorities Right to Information Act, 2005 was enacted. By using this right it is possible to insure good governance and get our rights. Some leading cases on the right to know are as under:

In **Bennett Coleman and Co. v. Union of India**², the right to information was held to be included within the right to freedom of speech and expression guaranteed by Art. 19(1)(a).³

Union of India v. Association for democratic Reforms⁴ the court held that all candidates for election to Parliament and to the legislative assemblies were required to furnish information about the candidates criminal record, if any, his or her assets and liabilities and educational qualification. The court held that the requirement o disclose this information arose from every citizen's fundamental rights to information which flows from the right to free speech and

¹ <http://blog.onlinerti.com/2016/11/28/what-is-rti-how-it-started-everything-you-should-know-about-rti> visited on 18/9/2020, time- 4:00 pm

² AIR 1973 SC 106

³ Srivastava Dr. S.S., Right to information, Central law agency, First edition(2012) P.7

⁴ AIR 2002 SC 2112

expression under Article 19(1)(a).The court relied on a number of previously decided cases where the SC interpreted the right to free speech and expression to include the public's right of knowledge on public affairs.

The government promptly responded with an ordinance professing to introduce electoral reforms but which was really aimed at undoing the effect of the Supreme court judgment.

Section 33B of the Representation of the People (3rd Amendment) Act, 2002:

Notwithstanding anything contained in any judgment, decree or order of any court or any direction, order or any other instruction issued by the Election Commission, no candidate shall be liable to disclose or furnish any such information, in respect of his election, which is not required to be disclosed or furnished under this Act or the rules made thereunder.

Fortunately, the matter did not end there. The Supreme Court came to the rescue of citizens once again and struck down the amendment under Section 33-B of the ordinance. This amendment is ultra virus because of violating the fundamental right U/A 19 (1)(a)⁵.

In **People's Union for Civil Liberties v. Union Of India**⁶ the Supreme court ruled that the legislature's power to interfere with a fundamental right U/A 19(1)(a) was limited to the grounds provided under Article 19(2) and that section 33-B was beyond legislative competence⁷.

In **Jyoti Basu v. Debi Ghosal**⁸ the Hon'ble Apex court held that securing information on basic details concerning the candidates contesting for elections to Parliament or the State Legislature promotes freedom of expression and therefore the right to information forms an integral part of Article 19(1)(a) of the constitution of India⁹.

Justice Sabyasachi Mukherji in **Reliance Petrochemicals Ltd. V. Proprietors of Indian Express Newspapers Bombay Ltd. & Others**¹⁰, held the right to Information as a Fundamental Right under Article 21 of the Constitution. He observed:-

⁵ Divan Madhavi Goradia, Facets of Media Law, EBC, Second Edition, 2013, P. 328-329.

⁶ AIR 2003 SC 2363

⁷ Jain M.P, Indian Constitutional Law, Lexis Nexis, seventh Edition (2014), P.1022

⁸ (1982) 1 SCC 691 32

⁹ <http://ceojammukashmir.nic.in/pdf/LandmarkJudgementsVOLII.pdf>, visit on 6/10/2020 time:1:12 pm

¹⁰ [1959] SCR 12

“ WE must remember that the people at large have a right to know in order to be able to take part in a participatory development in the industrial life and democracy . Right to know is a basic right which citizens of a free country aspire in the broader horizon of the right to live in this age in our land under Article 21 of our Constitution. That right had reached new dimensions and urgency. That right puts greater responsibility upon those who take part themselves in the responsibility to inform¹¹.”

This principle was even more clearly enunciated in a later case in **Indian Express Newspapers (Bombay) Pvt. Ltd. v. India**¹² where the court remarked, “The basic purpose of freedom of speech and expression is that all members should be able to form their beliefs and communicate them freely to others. In sum, the fundamental principle involved here is the people’s right to know.”

In **State of Punjab v. Sodhi Sukhdev Singh**¹³ the Supreme court gave a very narrow interpretation about right to information . Court said if head of the department does not give permission for their production, the court can not compel the state to produce them. Once the court came to the conclusion that the document involved fell into category of “affairs of state” than it would be left to the head of department to decide whether its production should be permitted or not¹⁴.

In **State of U.P Vs. Raj Narain**¹⁵ the Supreme Court has held that Article 19 (1) (a) not only guarantees freedom of speech and expression , it also ensure and comprehends the right of the citizen to know, the right to receive information regarding matter of public concern. The Court also said, “While there are overwhelming arguments for giving to the executive the power to determine what matters may prejudice public security, those arguments give no sanction to giving the executive exclusive power to determine what matters may prejudice the public interest. Once considerations of national security are left out there are few matters of public interest which cannot be safely discussed in public”.(emphasis added) Justice K.K.Mathew went further to say, “ In a government of responsibility like ours, where all the agents of the public

¹¹ Srivastava Dr. S.S., Right to information, Central law agency, First edition (2012) P.7

¹² (1985) 1 SCC 641)

¹³ AIR 1961 SC 493

¹⁴ Divan Madhavi Goradia, Facets of Media Law, EBC, Second Edition ,2013, P. 332

¹⁵AIR 1975 SC 865

must be responsible for their conduct, there can be but few secrets. The people of this country have a right to know every public act, everything that is done in a public way, by their public functionaries¹⁶.

In **S P Gupta v. Union of India**¹⁷, the right of the people to know about every public act, and the details of every public transaction undertaken by public functionaries was described. It was admitted that whenever disclosure of a document is clearly contrary to the public interest it is immune from the disclosure. But the decision on such immunity will rest with the court and not with the head of the department¹⁸.

In **M. C. Mehta v. UOI**¹⁹ the court encouraging the concept of right to information, the apex Court gave specific directions to the management of Sriram Foods and Fertiliser Industries from which the leakage occurred. Thousands of workers suffered and one of them succumbed to the injuries. The Court further directed the managements to take effective steps in spreading information among the workers. Directions was also given permitting certain persons to inspect the plant in order to collect relevant information and also asked the management to display an information chart both in English and in Hindi in each section and gates of the plant providing necessary information about the affect and treatment of any leakage of the gas and to install loudspeakers for timely information of any apprehended or actual leakage²⁰.

Dinesh Trivedi v. Union of India²¹ involved the question of the disclosure of the Vohra Committee report based on an investigation of crime syndicates in the country. The Supreme court again acknowledged the importance of open government in a participative democracy and observed that in modern constitutional democracies, it is axiomatic that citizen have a right to know about the affairs of government which is elected by them²².

¹⁶ Jain M.P, Indian Constitutional Law, Lexis Nexis, seventh Edition(2014), P.1024

¹⁷ AIR 1982 SC 149

¹⁸ Singh M.P., Constitution of India, Eastern Book Company, 12th Edition (2008) P. 140.

¹⁹ AIR 1987 SC 965

²⁰ Nanda Dr. Sukanta K., Media Law, Central Law Publication, First Edition (2014) P.61

²¹ (1997) 4 SCC 306

²² Jain M.P, Indian Constitutional Law, Lexis Nexis, seventh Edition(2014), Page No.- 1024

The right to know or the right to information was uniformly recognized by the court in a number of cases as an aspect of freedom of speech and expression in Article 19 (1) (a) until it was incorporated in the right to information Act, 2005 and give full mechanism for its realization.

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