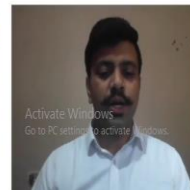


Right to Information and Good Governance
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Lecture No. 13
Legislating the Right to Information: Background and Challenges – IV

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**Judicial Exposition & Contribution to
Right to Information**

- Article 19
- *S.P. Gupta v. Union of India* [1982 SC]
- *Mr. Kulwal v. Jaipur Municipal Corporation* [1986 SC]
- *Reliance Petrochemicals Ltd v. Proprietors Of Indian Express* [1988 SC]
- *Union of India v. Association for Democratic reforms and another* [2001 SC]
- *PUCL v. Union of India* [2003 SC]



Prior to the right to information being enacted by the way of a legislation, it is pertinent to note that the judiciary has played a crucial role in formulating the right as a fundamental right. Part 3 to the constitution of India guarantees certain fundamental rights under article 19 of which the right to freedom of speech and expression in the article 19(1)(a) is very integral.

It is pertinent to note that the judiciary has held the right to information is one of the species of the right to freedom of speech and expression under article 19(1)(a). While they are fundamental in nature and cannot be abrogated, it is that reasonable restrictions can be placed on the exercise of these fundamental rights. One such restriction that you may know on the right to these freedoms is that it allows for the state to make a law that imposes restrictions on the interest of sovereignty and integrity of India with regard to the security of the state, their friendly relations with foreign states, the public order, decency and others.

Now, when it comes to these reasonable restrictions, it is material that the rights of many are not allowed to be subjugated to the rights of few. As such, the public interest shall remain over creating

restrictions to the exercise of the fundamental rights. The Supreme Court of India has been one of the crusaders of this right of information. It may be observed through an array of cases wherein this right has been given the primordial requirement for every citizen. In *S.P. Gupta versus Union of India*, there were certain government orders that were passed by the central government on the appointment and transfer of judges.

It is pertinent to note here that the central government sought for secrecy and confidentiality of all communications that were made by these governmental orders. Justice P. N Bhagwati, one of India's remarkable Supreme Court judges, had rejected the government's claim for protection against the disclosure and had directed the Central government to disclose the documents containing the correspondences that were made in these governmental orders.

He anointed that an open and effective participatory democracy requires that accountability and access to information from for the public is set across on the functioning of the government. It is noted that in matters relating to the appointment of judges where the entire integrity of the institution is put to stake where these governmental orders were not disclosed to the public and their disclosure will only ensure a clean and healthy administration and will act as a powerful check on oppression, corruption and abuse of authority.

The second matter for discussion *L. K. Kulwal versus Jaipur Municipal Corporation* and represented also by the state of Rajasthan. It is another case where environmental information was sought for by the petition. It is pertinent here that the query that arose with regard to the implementation of Rajasthan municipalities act. There was a provision that required the municipalities to ensure sanitation within the state and the areas which came under the local municipality.

It so happened that the information was not granted to Mr. Kulwal and as such he came across with a writ petition seeking for the enforcement of the same. On this note it was observed by the Supreme Court that every citizen has a right to know about the activities of the same, which instrumentalities and department. A privilege of secrecy is something that should not be allowed as a particular restriction in disclosure of the facts to the citizen which are not compared.

And therefore, under article 19(1)(a) it was ensured that under the right to freedom of speech and expression also included within itself the right to know. And this right cannot be denied especially then it relates to the personal sanitation and hygiene of every individual.

