

**Right to Information and Good Governance**  
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**Lecture No. 24**  
**Salient Features of the RTI Act - VI**

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**THE SUO MOTU DISCLOSURE (*on its own motion*):**



- The public authorities are obliged to disclose *suo motu* information on the items mentioned from (i) to (xvii) of section 4(1)(b) of the RTI Act, like comprehensive detail of the establishment of organization, functions, procedure, rules, powers and duties of its officers and employees, decision making process accountability, norms for discharging functions, binding law and bye-law, documents according to classification, methods of formulation of policy, constituted bodies, directories of its officers and employees, remuneration and compensation received by its officers and employees, budget allocation etc. Manner of execution of subsidy programmes, particulars of recipients of concessions, permits or authorizations, information held by public authority, particulars of facilities available to citizens for obtaining information, complete detail of public information officer, other information and their updation.



We will continue our discussion on Section 4 of the Right to Information Act with the possibilities of discussing suo moto Disclosure. The term ‘suo moto’ means on its own motion. If one observes the Right to Information Act which established obligations on public authorities one would see Section 4(1)(b) which states that there is a duty that has to be imposed upon the public authorities.

To make constant endeavors to take all steps to provide as much information as possible suo motu to the public at regular intervals through various means of communication this includes the internet and hence the public have to resort to minimum effort in terms of applying under the Right to Information Act. You will notice that every information pertinent to the functioning of the public authority should be disseminated widely by the public authority on its own motion. That is what suo motu disclosure actually means.

It also means very importantly that the RTI Act accepted that this suo motu disclosure could be achieved within 120 days of the enactment of the Act. However, it is a continuous process in which updation is to be done and hence that kind of an update is something that public authorities must do from time to time. The public authorities are actually obligated not only to disclose the 17 sets of manual information which establishes comprehensive details of the establishment functions, procedures, rules, powers and duties and functions of officers and employees but also they are obligated to put out the decision making process in the public domain.

I think this clearly establishes the process of accountability of discharging information. This clearly puts some information in public domain so that it can be accessed worldwide and then in turn bring about a regime of openness rather than secrecy and a sense of non-disclosure which was practiced before 2005. I think overall the suo motu disclosure law under Section 4 is an important norm and I believe that it will establish a new set of dimension, of public functions and public authorities and I think if the sense and purpose of this is achieved it will go long way in creating a robust, transparent and accountable regime which probably is one of the objectives that has been stated in the preamble of the Right to Information Act.

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### *Suo Motu disclosure*

- In *Canara Bank v. The Central Information Commission, Delhi the Kerala High Court, 2007* held that the information mentioned in Section 3 is not circumscribed by Section 4 at all. Obligations of the public authorities under Section 4 are to be compulsorily performed apart from the other liability on the part of the public authority to supply information available with them as defined under the Act subject of course to the exceptions laid down in the Act. The information detailed in Section 4 has to be compulsorily published by the public authority on its own without any request from anybody.
- The Supreme Court in the case of *Central Board of Secondary Education and Another v. Aditya Bandopadhyay and Others, 2011* held that the provisions of the Act should be enforced strictly and all efforts should be made to bring into light the necessary information under Section 4, which relates to securing transparency and accountability in the working of public authorities and in discouraging corruption.



In two cases that we have before us, one is a Canara Bank versus the Central Information Commission. The Kerala High Court has held that information that is mentioned in Section 3 and Section 4 they go hand in hand. The obligations of the public authorities under section 4 are to compulsorily perform apart from the other liabilities that are part of public authority which in turn goes about in supplying information.

And hence, while the citizens have Right to Information, Section 4 establishes the duty that the public authorities do have in disseminating the said information to the citizens and hence the details of information that Section 4 requires are to be compulsorily published and hence you will notice it in no way takes away the right to information that citizens can still apply under the RTI Act.

And hence, the obligations under section 4 are independent. The right under Section 3 is equally protected and just because a public authority justifies that it has proactively disclosed all information under Section 4 it does not take away the right of citizens to apply for additional information or for the send information in different forms. So, Section 3 does not circumvent section 4 and it only establishes different roles and responsibilities for different stakeholders under the Right to Information Act.

Section 4 of the RTI Act imposes only certain obligations. It does not impose all the obligations and very often than not, these obligations are not fairly executed. And hence the option of filing an RTI application should still be opened up. The terminologies that are generally used in Section 4 is that every public authority shall and that means that it is not optional, it is mandatory for the public authorities to publish suo motu proactive information and I think that clearly establishes the role that public authorities have under the Right to Information Act.

So, if the mandatory obligation of the public authorities is not performed, the public authorities will be held accountable for the violation of the basic duties and obligation under Section 4. You would notice that in the CBSE case, the Supreme Court, this is the popular case of Aditya Bandopodhyay, held that the provisions of the Act should be strictly enforced and effort should be made to bring the necessary information up front proactively suo moto under Section 4.

This would then reduce the number of applications, reduce the cumbersome process in providing the said information and this will only ensure a transparent and accountable legal system and definitely would discourage corruption. So, the purpose behind having the obligation under Section 4 are to establish a robust legal system in this country and that purpose cannot be lost in the way and manner in which public authorities may probably circumvent the process under the RTI Act.

What does Section 4 do? I think, it allows citizens an insight into one organization. It allows a citizen a birds eye view about the functioning of the organization, what processes are in place, what procedures are followed, what schemes are being floated and this will largely benefit citizens, it would largely benefit the legal system and I think facts that affect the public should be notified to the public without being transformed.

And hence, there is a larger public interest in fulfilling the obligations under section 4 and hence it is important that such kinds of schemes, policies, subsidies are disclosed and this should be achieved to greater extent by public authorities. They should have a campaign to fulfill the obligations of Section 4 and keep it constantly updating so that it would contribute effectively to the implementation of the purpose and object of the Right to Information Act.

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*Sec. 4 (c) publish all relevant facts while  
formulating important policies or announcing  
the decisions which affect public*



- This is to ensure transparency in the policy making. The public authority is required to publish all relevant facts while formulating the important policies and decisions affecting the public at large.
- If it is honestly done, it will fortify the faith of the people in the functioning of the public authority and to some extent public approval and support for such policy would be generated, but this is possible only in the case of an honest attempt strictly in public interest and not in case of committed decisions for political or other interests than the public interest.



Section 4 (1)(c) states that it is the duty of public authorities to publish all relevant facts while formulating important policies or announcing the decisions which affect the public. Now you will notice the dissemination of information is some kind of measure that is very relevant in a country like India which is so vast. Its economy is always growing, probably it has the second biggest population.

And hence, dissemination of information about government activities and functions is very-very important and the government must take extra steps and measures to actually consciously bring about a change that would be required in the legal system by providing information about such policies or such decisions which affect public proactively suo moto.

So, publishing relevant facts are very-very crucial and important because if it is going to affect a particular community, I am sure they have the right to know and that is something that has to be insisted upon. There are large scale policy decision that are taken from time to time. The policy decisions generally about are of developmental activity.

For example, it could be about building of a dam at a particular place which would involve displacement of a large section of community. The community that is supposed to be displaced due to the dam building activity probably has the right to know the policy of the government. Why the dam is required? What is the purpose? Will it serve the larger public interest and why

the displacement is displacement inevitable?

I think the people have definitely the right to inform and they are the right to participate in the decision making process. And I think reasons and justifications are something the government is obligated to provide for. And it is the interest of a legal system that the government is forthcoming with reasons and justifications and it must establish a democratic setup so that the interest of the people and the interest of the government both are balanced and protected as they go forward.

So, one cannot over emphasize the requirement of Section 4 in general and Section 4(1)(c) in particular as we are discussing the slide about important policies and decisions that affect the public. It is honestly believed that what will implementation of Section 4 do, it will fortify the faith of the people in the functioning of the public authorities. And to that extent public approval and support for such policies would only increase.

And this would strictly adhere to the public interest test rather than the political interest test or the interest of certain sections in the community. So, whenever the public interest test is involved the public have the right to know, they have the right to participate, they have the right to be informed and that is exactly precisely what Section 4(1)(c) mandates under the Right to Information Act.

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*Sec. 4 (d) provide reasons for its administrative or quasi-judicial decisions to affected persons.*

- The administrative or quasi-judicial decisions affecting the individuals have to be transparent. If the persons affected are not given an opportunity to understand the reasons and logic behind such decisions, it would be against the principles of natural justice.
- The Supreme Court in the case of ***Raghunath Laxman Makadwada v. State of Maharashtra, 1986*** held that the courts, tribunals or quasi-judicial bodies should make a speaking order when finally adjudicating the matter. The courts, tribunals or quasi-judicial bodies should not dismiss any application without giving reasons thereof. However, if a speaking order is made, it will be most helpful to this Court in dealing with applications under Article 136 of the Constitution.



Next comes Section 4(1)(d) and Section 4(1)(d) as you all are aware of and as I have said earlier, clearly stipulates a mandate for providing reasons for administrative and quasi-judicial decisions that affect communities and the public. The purpose of Section 4(1)(d) is disclosure of reasons and disclosure of reasons you notice is a principle of natural justice and it is one of the cardinal principles of administrative law or how administration is to be done in a democratic system.

And an individual who is a victim or is going to be affected by such decisions, be it administrative or quasi-judicial has the right to be told the reasons for the same. And this again is a reiteration of the different facades of responsibilities or obligations that public authority often have though this is a matter of practice that they should generally follow.

But the Right to Information Act has established this as a firm duty towards citizens and a firm duty to put this reason even before it is asked for or even before is applied for. And I think it is important that this extra mile be taken by the public authorities so that the overall purpose objectives and the success of the Right to Information Act is ensured.

And this will also improve the credibility of the organization, this will also improve the strength of the organization because it believes in openness, it believes in accountability and reasons for decision only enhances that kind of accountability. The courts have held that whenever tribunals or quasi-judicial bodies make a decision it must be a reasoned order, it must be a speaking order.

And it should not be an order that cannot find enough justifications too. So, this is something very important that all orders that are passed are based on solid reasons, are based on solid justifications and hence the citizens does not feel aggrieved and does not pursue the matter any further to know why a decision has been taken and why such a order was pass in the very first case.

So, all of these I think are crucial and you will notice that Section 4 is all about the obligations of the public authorities about what they should do to make the RTI movement, the RTI Act a far more successful one. With this we complete the discussion on Section 4(1), Section 4(1) has a, b, c, d and the d is something that has been put up on slide right now. Next we should move on to Section 4(2).

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## Sec. 4(2)

- *(2) It shall be a constant endeavour of every public authority to take steps in accordance with the requirements of clause (b) of sub-section (1) to provide as much information suo motu to the public at regular intervals through various means of communications, including internet, so that the public have minimum resort to the use of this Act to obtain information.*
- **SUO MOTU DISCLOSURE REITERATED:**
- It has to be updated *suo motu* after regular intervals and to be displayed to the public through all possible means including the internet. The basic purpose of this exercise is to enable the people to know everything without any effort at individual level. If this is done, the need to resort to the provisions of the Act would be proportionally reduced.



Now section 4(2) states that it shall be the constant endeavor of every public authority to take steps in accordance with the requirements of clause b of section 1. To provide as much information suo motu is the public at regular intervals through various means of communication. Now the various means of communication often if the public authorities do not upgrade, adopt, change, especially the ones that are in relation to technology, I think they will be far from the citizens that are there.



Today I think the internet is a very good means of establishing that communication and a lot of public authorities are now reaching out to citizens through not only their websites but also creating an app which will actually deliver the kind of services and information to the citizens at their fingertip. So, a lot of public authorities have developed those kinds of apps and have been providing not only information but also the relevant services that a citizen may expect from the government as well.

Now I think communication through the internet reduces a lot of public inconvenience that may otherwise be caused if it is only provided at the public authority physically. May be through their notice board or may be through their annual report physically or may be through inspections. Now, once the communication is done through the internet, then the citizens can seek the information or access the information at their doorstep and they do not have to take the physical pain of travelling to the public authority. And there is a larger outreach that the public authority can actually get into.

So, the suo motu disclosure norm is insisted on the internet and I think this in turn also strengthens the E-governance model that the government wants to adopt and wants to follow in this country as well. It is important to reinforce the fact that the provisions of Section 4 both Section 4(1) and Section 4(2) also talk about continuous updation and incorporation of the latest detail and latest technology if necessary.

And please note hence, the implementation of Section 4 is not a one time job, the implementation of Section 4 is not to just put the 17 sets of information or the basic set requirements under Section 4 (1)(c) and d at one point of time I think unless there is a continuous process of upgrading, updation, I think Section 4 would fail and hence I think it is the duty of the public authority to try and look at RTI as a continuous duty or continuous function or which they have to invest time and resources so that there is a effective communication between the government and citizens

So, all possible means have to be used, all possible means of communication also has to be used

and I think the efforts of the public authority here has to be probably evaluated from time to time by the information commission. Because I personally believe that the implementation of section 4 is with the public authorities it is the duty of the public authorities.

However, who will monitor whether the public authorities have complied with Section 4 or not? And I think the responsibility of monitoring the functioning of the public authority under Section 4 squarely lies with the information commission which means those public authorities that come within a state the monitoring of implementation of Section 4 should be with a state information commission. Those public authorities that deal with central government or accountable being established by the central government,` the monitoring of implementation of Section 4 should with the central information commission.

So, I think it is duty of the information commission to check whether the obligations are met and if not advice appropriate actions and if remedial actions are not being followed by the public authorities probably the central information commission may be duty bound to impose any kind of fine as to where pass any of the order that may be required for the implementation of Section 4.

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Next we move on to Section 4(3) and you will notice that Section 4(3) says that every information shall be disseminated widely and in such formal manner which is easily accessible to the public. So, the form and the manner should be decided by the public authority but it should be justifiable so that it reaches the public at large. So, Section 4(3) describes that every information must be disseminated widely so it is not only to the RTI applicant.

So, just because I have put in an application does not mean the information is relevant for me, it has to be relevant to everybody who may be concerned with said information and it you know it kind of stresses upon the practical implementation of the suo motu proactive disclosure process. And it takes a very practical approach in the sense that the information that is there in the government must be used to disseminate the same and must be used for the benefit of the people and such kind of an exercise must be taken by the public authorities and they must put out this

information through websites, through internet, through apps, they much reach out through pamphlets, leaflets advertisements.

And especially concerning those in the rural areas, I think this is a very important point. An outreach program for dissemination of information is something that they have to undertake. So, I think public authorities would do well in putting information on notice boards, newspapers, poster campaigns, public announcements, internet, websites, app paste or probably sending just a message through WhatsApp or any other that would be relevant and important in this context in terms of the implementation of the Right to Information Act.



### Sec. 4(3)

- *(3) For the purposes of sub-section (1), every information shall be disseminated widely and in such form and manner which is easily accessible to the public.*
- **EASY ACCESSIBILITY TO BE ENSURED:**



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### Sec. 4(4)

- *(4) All materials shall be disseminated taking into consideration the cost effectiveness, local language and the most effective method of communication in that local area and the information should be easily accessible, to the extent possible in electronic format with the Central Public Information Officer or State Public Information Officer, as the case may be, available free or at such cost of the medium or the print cost price as may be prescribed.*
- While disseminating the material to the people, efforts should be made to get it published in the language of the people. The language which is commonly understood by the people would only be able to communicate properly to extend the benefit to the maximum number of people.



The next provision is Section 4(4). Section 4(4) states that on materials shall be disseminated taking into consideration the cost effectiveness. If you have tackle corruption, the Right to Information movement should not result in an escalated cost. So, cost effectiveness is very important. That is what is the mandate under Section 4(4). Second mandate is local language very-very important because we cannot use either English or Hindi always unless Hindi is the local language. So, that you know this is where the effective means of communication of information is established.

So, I think the RTI is trying to bring about an attitudinal change and the shift that is very much required in public authorities and its functioning. So, while you know it is not about only citizens seeking information and the public information officer providing it. Here there is a duty of the public authority it is the institutional responsibility here that is being emphasized, it is not just the right that is being debated or discussed here. The duty of the institution of public authority is to put that information, disseminate that information in effective cost mechanism in local language and the most effective method of communication that local area must be actually followed.

So, I think what Section 4(4) also says is that if possible, information should be available free of cost or at such cost that may be prescribed from time to time. So, you will notice that in case Section 4 information is sought generally this information if it is there in the public domain people can access it freely, you do not have to pay for it necessarily. When you apply under the RTI act you have to pay for that information.

So however, please note, under Section 4 also there can be a prescription of fee if required or the print cost may be prescribed from time to time by the state or by the public authority or under the RTI rules. So, Section 4 (4) again re-emphasizes the role and responsibility of the public authority and talks about the cost that we have to be required to be page in case of information that is sought under this section.

So, maximum reach is something that has been emphasized in this is what I firmly believe in, I believe in this section trying to suggest communication, communication in local language and in

the most cost effective method. So, the cost effective method electronically is something that one can appreciate because that is something that is freely available and that can be passed through emails, WhatsApp, messages or it could be in terms of kind of an audio message that can be transmitted to citizens as well.

So, I think these do fortify the RTI purpose, the RTI objective and I think the obligations under Section 4 are very-very critical in fulfilling the objectives of the Right to Information Act.

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### Sec. 4(4) contd.

- Either a nominal price may be fixed or it may be provided free of cost depending upon the resources of the concerned public authority.
- Keeping in view the socio-economic conditions of the country, a mass awakening to the right to information has to be created and generated through concerted efforts.



I think nominal price or the cost of information is something that we are all concerned about, though under the Right to Information act the cost of the information has been kept at the very minimal price and I think public authorities must continue that because I do not think RTI is a mechanism of earning revenue or generating that kind of income for public authority.

And hence, the cost should be basic, the cost should be something that only creates a value to the work and creates a value to the duty and it should not be anything more than what citizens cannot afford to do. You will notice that the Right to Information in India is kind of a result of mass awakening of the right and if you consider the socio-economic conditions in India currently I think right should not be chargeable, the right should not be profitable.

And it is important for public authorities to refrain from using the Right to Information Act to create a revenue model and to rather the attitude should be facilitating the right, the attitude must be share the information rather than to generate income or money from the same, so that is I think an important message that one can opt from reading of Section 4 of the right to information act.

I think what Section 4 do is that while it facilitates the right to information one must not forget the fact that the compliances under Section 4 only enhances the educational value of the public

authority and its functioning. So, it is about providing that kind of a mass information to the citizens and that mass information is not something that is always thought for it can be something that can be given without being asked for that is I think an important aspect in terms of dealing with the aspect of Section 4.