



## RTI and Judiciary - SC Ruling

### What is the issue?

- The Supreme Court (SC) recently declared the office of the Chief Justice of India as a public authority under the RTI Act in the Subhash Agarwal RTI issue. Click [here](#) to know more.
- In this regard, here is a look at the complexities involved in 'RTI and judiciary' and at the role of the courts in RTI proceedings so far.

### What are the challenges in RTI implementation?

- The relationship of the RTI with the judiciary has been challenging from the beginning.
- The RTI Act conferred powers on the chief justice of the Supreme Court and the chief justices of HCs of states for carrying out its provisions.
- So, these courts framed their own rules.
- The Supreme Court adopted the RTI-friendly rules of the central government for itself.
- However, several high courts framed extremely unfriendly rules, making it almost impossible to get any information.
- E.g. the Allahabad High Court had wanted the citizen to deposit Rs 500 for each piece of information sought.
- This was in contrast to Rs 10 fixed by the Supreme Court for seeking any number of information.
- There were many restrictions, some of which were not even contemplated in the RTI Act.
- Over the years, the courts have softened those rules.
- However, even now, they continue to be restrictive, preventing easy disclosure of information.

### What has the role of the courts been?

- The RTI Act makes the information commissions the final appellate authorities in their respective jurisdictions.
- But, that does not stop public authorities, government entities, from going to

the High Courts and the Supreme Court in writs.

- Some orders passed by the central information commission had reached the Supreme Court eventually.
- In most such cases, the Court's interpretation of the exemption provisions of the RTI was contentious.
- They have not upheld the rights of the citizens to get information from the government.
- Instead, they have reinforced the resolve of the public authorities not to disclose uncomfortable information.
- E.g. the Girish Deshpande case
- In this, the Supreme Court ruled that the relationship between the government and its employees was a personal one.
- It thus said that no information about a government employee could be disclosed unless the information seeker could prove that it was in public interest.
- This interpretation of Section 8(1)(j) of the RTI Act made information seeking challenging.
- Even information about disciplinary proceedings against a government employee could not be disclosed by the information officer without putting it to the public interest test.
- This was irrespective of how serious the allegations against him/her might be.
- The Court's order has become very popular among information officers and many RTI applications are being rejected by citing it.
- There are many such orders passed by the courts, which have shrunk the citizen's right to seek information and strengthened the government's hands.

### **What is the concern with the current SC order?**

- A lot of information held by public authorities about the appointment, performance, conduct, complaints and inquiries against public servants, is personal in nature.
- Moreover, the CPIO (Chief Public Information Officer) has to refer to the principles laid down in this order to decide if the information should be disclosed or not.
- In case the information relates to courts or judges, the problem is further compounded.
- This is because, here, the impact of disclosure on the independence of the judiciary is also to be considered.
- This calls for great judicial insight, which is rarely to be expected from the level of officers who become CPIOs.
- Most CPIOs would choose to steer clear and refuse disclosure by invoking

Section 8(1)(j) of the RTI Act.

- This would leave the information seekers to appeal against their orders.

### **What could have been done?**

- The present order by SC is likely to be used by information officers to block disclosure of all such information of a personal nature.
- The Court could have spelt out more clearly those items of personal information, of the executive or the judiciary.
- This would have made it easier for the CPIOs to decide on disclosure without adjudication of its benefits for the general public.

**Source: Indian Express**



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