

Right to Information Act

The Right to Information Act, 2005, gives the citizens the right to obtain information from the government and government controlled organisations. In a democracy, the government is accountable to the people. The people can make the government accountable to them only if they have adequate information on its functioning and that of its organisations. The objectives of the Act, thus, are tied to the principles of democracy, accountability and governance. The preamble to the Act provides that:

An Act 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 ... democracy requires an informed citizenry and transparency of information which are vital to its functioning and also to contain corruption and to hold Governments and their instrumentalities accountable to the governed...

It would not be possible for the government to function effectively and efficiently if it were to make all information public. For instance, disclosing sensitive information pertaining to the security of the State would be prejudicial. Similarly, disclosing some information may deter the State in the effective enforcement of the law. Thus, the Act does not create an unlimited right to information. It strikes a balance between the right to information of an individual and the public interest in withholding the information. The important themes in relation to the Act are: who has the right to information; the organisations against which the right can be enforced; what constitutes 'information'; the nature of information which can be refused; and the mechanism for seeking remedy if information is denied.

Citizen, Information and Public Authority

The Act gives the right to information to only citizens of India. Incorporated bodies, like companies, societies and co-operatives, and statutory bodies, are legal persons but not citizens. Only natural persons are citizens. Thus, the right is confined to natural persons. The right is available against 'public authorities', which include the Central Government and state governments; bodies created by the Constitution, for example, the Election Commission; bodies created by an Act of the Parliament or the State Legislatures; and bodies created by a notification or order of the Central or state governments. Further, it includes 'body owned, controlled or substantially financed' by the government. This brings all public sector organisations, whether company, society or co-operatives, in its ambit. Even further, non-government organizations, substantially financed, directly or indirectly, by the government, are also 'public authority'.

The Act, however, exempts security agencies, listed in the Second Schedule to the Act, from its purview.

Examples of such organisations are the Intelligence Bureau (IB), Research and Analysis Wing, Directorate of Revenue Intelligence, Central Economic Intelligence Bureau, Directorate of Enforcement, Narcotics Control Bureau, Special Frontier Force, BSF, CRPF, ITBP, CISF, NSG, Assam Rifles, Special Service Bureau and Special Branch (CID).

The Act uses the term 'information' in a comprehensive sense. Section 2(f) defines it to include records, documents, memos, e-mails, opinions, advice, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models and data in electronic form. The means of accessing information, consistent with the diverse nature of the information, is also varied. A person can inspect works, documents, records; take notes, extracts or certified copies of documents or records; take certified samples of material; obtain information in form of printouts, diskettes, floppies, tapes, video cassettes or in any other electronic mode. Section 8 exempts the 'public authority' from furnishing certain kinds of information. The exemption can be grouped into three categories. One, furnishing the requested information is prohibited by a court or the Parliament. Two, information the disclosure of which would affect the security of India, economic interest of the State or its relations with a foreign State. Three, information on a third party. The details of the first two categories are as follows:

1. Information, disclosure of which would prejudicially affect the sovereignty and integrity of India, the security, strategic, scientific or economic interests of the State, relation with a foreign State or lead to incitement of an offence.
2. Information which has been expressly forbidden to be published by any court of law or tribunal or the disclosure of which may constitute contempt of court.
3. Information, the disclosure of which would cause a breach of privilege of the Parliament or a state legislature;
4. Information, the disclosure of which would endanger the life or physical safety of any person or identify the source of information or assistance given in confidence, for law enforcement or security purposes.
5. Information which would impede the process of investigation or apprehension or prosecution of offenders.
6. Cabinet papers including records of deliberations of the Council of Ministers, Secretaries and other officers.

The information held by a 'public authority' on a third party is also 'information'. Subject to the exemption under Section 8, this information has to be furnished. Section 8 makes the following two exemptions in relation to third parties:

1. Commercial confidence, trade secrets and intellectual property of a third party. The 'public authority', however, can disclose the information if the disclosure is in the larger public interest.
2. '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. However, information, which cannot be denied to the Parliament or a state legislature, would not be denied to the applicant under the Act. The Act makes elaborate procedures to protect the interests of the third party. If the public authority intends to disclose information on a third party, it has to give a notice to the third party and seek its objections to the intended disclosure.

Enforcement and Penalty

The Act requires every 'public authority' to designate an officer as the Public Information Officer (PIO). A citizen can make an application to the PIO. The application can be in writing or in electronic form, specifying the particulars of the information sought. The applicant is not required to mention the reason for seeking information. However, the applicant has to pay a reasonable fee to obtain the information. The PIO, within 30 days of the making of the application, has to either furnish the information or communicate rejection of the request for application. If the application is rejected, the PIO must also furnish the grounds for the rejection of the application. If the PIO fails to make any communication within 30 days, it is taken as a rejection of the application.

The Act creates a body called the Central Information Commission (CIC) based in Delhi. The Commission includes a Chief Information Commissioner and up to 10 Information Commissioners. The CIC is notified by the Central Government and the Information Commissioners are appointed by the President of India. The jurisdiction of the CIC is over the public authorities connected with the Central Government. The Act creates a similar body, the State Information Commission, in each of the states. The jurisdiction of the State Information Commission is over the public authorities connected with the state government.

The Act creates a mechanism for appealing against the decision of a PIO to refuse the requested information. The first appeal is to the officer senior in rank in the public authority to the PIO. The appeal can be made within 30 days of the receipt of the decision not to give the information. If the PIO makes no communication, the appeal can be made in the next 30 days. The next appeal can be made to the CIC or

SIC, depending on the nature of the public authority. The Central Information Commission/State Information Commission has the duty to receive a complaint from a citizen in the following cases:

1. A public authority has not designated a PIO.
2. Requested information has been refused.
3. The applicant has not received any response to the application within the specified time period.
4. The applicant is of the opinion that the information given is incomplete or false or misleading.

The Commissions have the powers of a civil court to adjudicate on the complaint made before it. This includes the power to summon witnesses, records, receive evidence and affidavits. The judicial process is followed by the Commission giving directions to the public authority, which could include payment of penalty. Every PIO is liable for a fine up to a maximum of Rs. 25,000, for any of the following breaches:

1. Not receiving an application.
2. Delaying the furnishing of the requested information without reasonable cause.
3. Malafide refusal to furnish information.
4. Knowingly furnishing incorrect, incomplete or misleading information.
5. Destroying requested information.

The CIC/SIC also has the power to recommend disciplinary action for violation of the law against the PIO.

The Act supplements the right of a citizen to get information from a public authority by requiring every public authority to make disclosures on its own, among others, on the particulars of its organisation, functions, duties, budgets and plans. The detailed information available on the websites of government bodies is their effort to give effect to Section 4 of the Act. The section requires numerous details to be made accessible to the public.

Having developed an overview of the Act, we would further explore the provisions of the Act with the following cases. Understandably, organisations have attempted to escape from the application of the law by

claiming to not be a 'public authority' under the definition of 'public authority'. The courts have interpreted the definition of 'public authority' as given in Section 2(h).

Public Authority

The Act applies to only a body which is a 'public authority' within the meaning of the Act. Section 2(h) defines 'public authority' as follows:

2(h) "Public authority" means any authority or body or institution of self-government established or constituted, -

(a) by or under the Constitution;

(b) by any other law made by Parliament;

(c) by any other law made by State Legislature;

(d) by notification issued or order made by the appropriate Government, and includes any -

(i) body owned, controlled or substantially financed;

(ii) non-Government organization substantially financed, directly or indirectly by funds provided by the appropriate Government.

Refusal of Information

The definition of information is very broad. Section 2(f) defines it as follows:

Section 2(f) - Information means any material in any form, including records, documents, memos e-mails, opinions, advice, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material held in any electronic form and information relating to any private body which can be accessed by a public authority under any other law for the time being in force;

The public authority is bound to give the requested information other than in the cases where it can justify refusal on the specific exemptions given under Section 8. The courts have recognised the right to information liberally and interpreted the exemptions strictly.

Rights of Third Party

The question of disclosure on third parties involves a balancing of two competing claims: on the one hand, of the right of an individual to privacy and on the other hand, of the rights of a citizen to have information. The Right to Information Act itself is based on giving effect to a Fundamental Right. In *Secretary Ministry of Information and Broadcasting, Govt. of India and Others v. Cricket Association of Bengal*, the Supreme Court remarked about this right in the following terms:¹

The right to freedom of speech and expression includes the right to receive and impart information. For ensuring the free speech right of the citizens of this country, it is necessary that the citizens have the benefit of plurality of views and a range of opinions on all public issues. A successful democracy posits an 'aware' citizenry. Diversity of opinions, views, ideas and ideologies is essential to enable the citizens to arrive at informed judgements on all issues touching them.

The Act gives effect to the Fundamental Right. Section 8, by providing that a piece of information cannot be denied to an applicant if it cannot be denied to the Parliament or the state legislature, has tilted the scale in favour of the applicant. The following cases bring out the position of the courts.

We will explore the scope and working of the provisions with a review of judgment of the Supreme Court.

Court Case: Board of Secondary Education and Anr. v. Aditya Bandopadhyay, 2011 AIR SCW 4888

An examinee asked under the RTI Act to view and inspect her evaluated answer sheet and be given a certified copies of the answer sheet. The Central Board of Secondary Education, the examining body declined to give the documents and claimed that the relationship between CBSE and the examinee was a fiduciary relationship and CBSE was exempted under Section 8(1)(e) of the RTI Act. The dispute came before the Supreme Court.

The Supreme Court noted:

What arises for consideration is the question whether the examinee is entitled to inspect his evaluated answer-books or take certified copies thereof. This right is claimed by the students, not with reference to the rules or bye-laws of examining bodies, but under the RTI Act which enables them and entitles them to have access to the answer-books as 'information' and inspect them and take certified copies thereof. Section 22 of RTI Act provides that the provisions of the said Act will have effect, notwithstanding anything inconsistent therewith contained in any other law for the time being in force. Therefore, the provisions of the RTI Act will prevail over the provisions of the bye-laws/rules of the examining bodies in regard to examinations. As a result, unless the examining body is able to demonstrate that the answer-books fall under the exempted category of information described in clause (e) of section 8(1) of RTI Act, the examining body will be bound to provide access to an examinee to inspect and take copies of his evaluated answer-books, even if such inspection or taking copies is barred under the rules/bye-laws of the examining body governing the examinations.

¹ Secretary Ministry of Information and Broadcasting, Govt. of India and Others v. Cricket Association of Bengal, AIR 1995 SC 732.

The Supreme Court, exploring the meaning of fiduciary concluded:

The term 'fiduciary' refers to a person having a duty to act for the benefit of another, showing good faith and candor, where such other person reposes trust and special confidence in the person owing or discharging the duty. The term 'fiduciary relationship' is used to describe a situation or transaction where one person (beneficiary) places complete confidence in another person (fiduciary) in regard to his affairs, business or transaction/s. The term also refers to a person who holds a thing in trust for another (beneficiary). The fiduciary is expected to act in confidence and for the benefit and advantage of the beneficiary, and use good faith and fairness in dealing with the beneficiary or the things belonging to the beneficiary. If the beneficiary has entrusted anything to the fiduciary, to hold the thing in trust or to execute certain acts in regard to or with reference to the entrusted thing, the fiduciary has to act in confidence and expected not to disclose the thing or information to any third party. There are also certain relationships where both the parties have to act in a fiduciary capacity treating the other as the beneficiary. Examples of these are : a partner vis-a-vis another partner and an employer vis-a-vis employee. An employee who comes into possession of business or trade secrets or confidential information relating to the employer in the course of his employment, is expected to act as a fiduciary and cannot disclose it to others. Similarly, if on the request of the employer or official superior or the head of a department, an employee furnishes his personal details and information, to be retained in confidence, the employer, the official superior or departmental head is expected to hold such personal information in confidence as a fiduciary, to be made use of or disclosed only if the employee's conduct or acts are found to be prejudicial to the employer.

The Supreme Court applied it to the relationship between CBSE and the examinee:

In a philosophical and very wide sense, examining bodies can be said to act in a fiduciary capacity, with reference to students who participate in an examination, as a Government does while governing its citizens or as the present generation does with reference to the future generation while preserving the environment. But the words 'information available to a person in his fiduciary relationship' are used in section 8(1)(e) of RTI Act in its normal and well recognized sense, that is to refer to persons who act in a fiduciary capacity, with reference to a specific beneficiary or beneficiaries who are to be expected to be protected or benefited by the actions of the fiduciary - a trustee with reference to the beneficiary of the trust, a guardian with reference to a minor/physically/infirm/mentally challenged, a parent with reference to a child, a lawyer or a chartered accountant with reference to a client, a doctor or nurse with reference to a patient, an agent with reference to a principal, a partner with reference to another partner, a director of a company with reference to a shareholder, an executor with reference to a legatee, ... an employer with reference to the confidential information relating to the employee, and an employee with reference to business dealings/transaction of the employer. We do not find that kind of fiduciary relationship between the examining body and the examinee, with reference to the evaluated answer-books, which come into the custody of the examining body.

The court further noted:

We may next consider whether an examining body would be entitled to claim exemption under section 8(1)(e) of the RTI Act, even assuming that it is in a fiduciary relationship with the examinee. That section provides that notwithstanding anything contained in the Act, there shall be no obligation to give any citizen information available to a person in his fiduciary relationship. This would only mean that even if the relationship is fiduciary, the exemption would operate in regard to giving access to the information held in fiduciary relationship, to third parties. There is no question of the fiduciary withholding information relating to the beneficiary, from the beneficiary himself. One of the duties of the fiduciary is to make thorough disclosure of all relevant facts of all transactions between them to the beneficiary, in a fiduciary relationship. By

that logic, the examining body, if it is in a fiduciary relationship with an examinee, will be liable to make a full disclosure of the evaluated answer-books to the examinee and at the same time, owe a duty to the examinee not to disclose the answer-books to anyone else. If A entrusts a document or an article to B to be processed, on completion of processing, B is not expected to give the document or article to anyone else but is bound to give the same to A who entrusted the document or article to B for processing. Therefore, if a relationship of fiduciary and beneficiary is assumed between the examining body and the examinee with reference to the answer-book, section 8(1)(e) would operate as an exemption to prevent access to any third party and will not operate as a bar for the very person who wrote the answer-book, seeking inspection or disclosure of it.

CBSE employed examiners to assess and evaluate answer sheets. The court explored whether there was a fiduciary relationship between CBSE and the examiner:

This takes us to the crucial issue of evaluation by the examiner. The examining body engages or employs hundreds of examiners to do the evaluation of thousands of answer-books. The question is whether the information relating to the 'evaluation' (that is assigning of marks) is held by the examining body in a fiduciary relationship. The examining bodies contend that even if fiduciary relationship does not exist with reference to the examinee, it exists with reference to the examiner who evaluates the answer-books. On a careful examination we find that this contention has no merit. The examining body entrusts the answer-books to an examiner for evaluation and pays the examiner for his expert service. The work of evaluation and marking the answer-book is an assignment given by the examining body to the examiner which he discharges for a consideration. Sometimes, an examiner may assess answer-books, in the course of his employment, as a part of his duties without any specific or special remuneration. In other words the examining body is the 'principal' and the examiner is the agent entrusted with the work, that is, evaluation of answer-books. Therefore, the examining body is not in the position of a fiduciary with reference to the examiner. On the other hand, when an answer-book is entrusted to the examiner for the purpose of evaluation, for the period the answer-book is in his custody and to the extent of the discharge of his functions relating to evaluation, the examiner is in the position of a fiduciary with reference to the examining body and he is barred from disclosing the contents of the answer-book or the result of evaluation of the answer-book to anyone other than the examining body. Once the examiner has evaluated the answer books, he ceases to have any interest in the evaluation done by him. He does not have any copyright or proprietary right, or confidentiality right in regard to the evaluation. Therefore it cannot be said that the examining body holds the evaluated answer-books in a fiduciary relationship, qua the examiner.

We, therefore, hold that an examining body does not hold the evaluated answer-books in a fiduciary relationship. Not being information available to an examining body in its fiduciary relationship, the exemption under section 8(1)(e) is not available to the examining bodies with reference to evaluated answer-books. As no other exemption under section 8 is available in respect of evaluated answer-books, the examining bodies will have to permit inspection sought by the examinees.

The bye laws of CBSE provided for maintaining the answer sheets for three months and in some cases for six months. The Supreme Court noted on this aspect:

The right to access information does not extend beyond the period during which the examining body is expected to retain the answer-books. In the case of CBSE, the answer-books are required to be maintained for a period of three months and thereafter they are liable to be disposed of/destroyed. Some other examining bodies are required to keep the answer-books for a period of six months. The fact that right to information is available in regard to answer-books does not mean that answer-books will have to be maintained for any longer period than required under the rules and regulations of the public authority.

The obligation under the RTI Act is to make available or give access to existing information or information which is expected to be preserved or maintained. If the rules and regulations governing the functioning of the respective public authority require preservation of the information for only a limited period, the applicant for information will be entitled to such information only if he seeks the information when it is available with the public authority. For example, with reference to answer-books, if an examinee makes an application to CBSE for inspection or grant of certified copies beyond three months (or six months or such other period prescribed for preservation of the records in regard to other examining bodies) from the date of declaration of results, the application could be rejected on the ground that such information is not available. The power of the Information Commission under section 19(8) of the RTI Act to require a public authority to take any such steps as may be necessary to secure compliance with the provision of the Act, does not include a power to direct the public authority to preserve the information, for any period larger than what is provided under the rules and regulations of the public authority.

On behalf of the respondents/examinees, it was contended that having regard to sub-section (3) of section 8 of RTI Act, there is an implied duty on the part of every public authority to maintain the information for a minimum period of twenty years and make it available whenever an application was made in that behalf. This contention is based on a complete misreading and misunderstanding of section 8(3). The said sub-section nowhere provides that records or information have to be maintained for a period of twenty years. The period for which any particular records or information has to be maintained would depend upon the relevant statutory rule or regulation of the public authority relating to the preservation of records. Section 8(3) provides that information relating to any occurrence, event or matters which has taken place and occurred or happened twenty years before the date on which any request is made under section 6, shall be provided to any person making a request. This means that where any information required to be maintained and preserved for a period beyond twenty years under the rules of the public authority, is exempted from disclosure under any of the provisions of section 8(1) of RTI Act, then, notwithstanding such exemption, access to such information shall have to be provided by disclosure thereof, after a period of twenty years except where they relate to information falling under clauses (a), (c) and (i) of section 8(1). In other words, section 8(3) provides that any protection against disclosure that may be available, under clauses (b), (d) to (h) and (j) of section 8(1) will cease to be available after twenty years in regard to records which are required to be preserved for more than twenty years. Where any record or information is required to be destroyed under the rules and regulations of a public authority prior to twenty years, section 8(3) will not prevent destruction in accordance with the Rules. Section 8(3) of RTI Act is not therefore a provision requiring all 'information' to be preserved and maintained for twenty years or more, nor does it override any rules or regulations governing the period for which the record, document or information is required to be preserved by any public authority.

The court concluded with explain the objecting and nature of the act:

The Act seeks to bring about a balance between two conflicting interests, as harmony between them is essential for preserving democracy. One is to bring about transparency and accountability by providing access to information under the control of public authorities. The other is to ensure that the revelation of information, in actual practice, does not conflict with other public interests which include efficient operation of the Governments, optimum use of limited fiscal resources and preservation of confidentiality of sensitive information. The preamble to the Act specifically states that the object of the Act is to harmonise these two conflicting interests. While sections 3 and 4 seek to achieve the first objective, sections 8, 9, 10 and 11 seek to achieve the second objective. Therefore, when section 8 exempts certain information from being disclosed, it should not be considered to be a fetter on the right to information, but as an equally important provision protecting other public interests essential for the fulfilment and preservation of democratic ideals.

When trying to ensure that the right to information does not conflict with several other public interests (which includes efficient operations of the Governments, preservation of confidentiality of sensitive information, optimum use of limited fiscal resources, etc.), it is difficult to visualise and enumerate all types of information which require to be exempted from disclosure in public interest. The legislature has, however, made an attempt to do so. ... The Courts and Information Commissions enforcing the provisions of RTI Act have to adopt a purposive construction, involving a reasonable and balanced approach which harmonises the two objects of the Act, while interpreting section 8 and the other provisions of the Act.

At this juncture, it is necessary to clear some misconceptions about the RTI Act. The RTI Act provides access to all information that is available and existing. This is clear from a combined reading of section 3 and the definitions of 'information' and 'right to information' under clauses (f) and (j) of section 2 of the Act. If a public authority has any information in the form of data or analysed data, or abstracts, or statistics, an applicant may access such information, subject to the exemptions in section 8 of the Act. But where the information sought is not a part of the record of a public authority, and where such information is not required to be maintained under any law or the rules or regulations of the public authority, the Act does not cast an obligation upon the public authority, to collect or collate such non-available information and then furnish it to an applicant. A public authority is also not required to furnish information which require drawing of inferences and/or making of assumptions. It is also not required to provide 'advice' or 'opinion' to an applicant, nor required to obtain and furnish any 'opinion' or 'advice' to an applicant. The reference to 'opinion' or 'advice' in the definition of 'information' in section 2(f) of the Act, only refers to such material available in the records of the public authority. Many public authorities have, as a public relation exercise, provide advice, guidance and opinion to the citizens. But that is purely voluntary and should not be confused with any obligation under the RTI Act.

The Supreme Court allowed the examinees to inspect their answer-books subject to 'clarifications regarding the scope of the RTI Act and the safeguards and conditions subject to which 'information' should be furnished.'

Girish Ramchandra Deshpande v. Central Information Commissioner, AIR 2012 SC (Supp) 690

An applicant sought information from the Regional Provident Fund Commissioner (Ministry of Labour, Government of India) on an employee who was an Enforcement Officer. The information sought copies of memos, show cause notices and punishment awarded to the employee by the employer. It also sought details of movable and immovable properties owned by the employee. This information mostly found place in the income tax return of the employee. The question before the Supreme Court was whether the information sought qualifies to be "personal information" as defined in clause (j) of Section 8(1) of the RTI Act. The Supreme Court ruled that it qualified to be 'personal information'. The court noted:

The performance of an employee/officer in an organization is primarily a matter between the employee and the employer and normally those aspects are governed by the service rules which fall under the expression "personal information", the disclosure of which has no relationship to any public activity or public interest. On the other hand, the disclosure of which would cause unwarranted invasion of privacy of that individual. Of course, in a given case, if the Central Public Information Officer or the State Public Information Officer of the Appellate Authority is satisfied that the larger public interest justifies the

disclosure of such information, appropriate orders could be passed but the petitioner cannot claim those details as a matter of right.

The details disclosed by a person in his income tax returns are "personal information" which stand exempted from disclosure under clause (j) of Section 8(1) of the RTI Act, unless involves a larger public interest and the Central Public Information Officer or the State Public Information Officer or the Appellate Authority is satisfied that the larger public interest justifies the disclosure of such information.

Reserve Bank of India v. Jayantilal N. Mistry, AIR 2016 SUPREME COURT 1

The Reserve Bank of India carries out inspections of banks and financial institutions on a regular basis and produces reports containing a wide array of information. It collects the information in a fiduciary capacity. The question before the Supreme Court was whether the Reserve Bank of India and other Banks can deny information on the ground of economic interest, commercial confidence, fiduciary relationship with other Banks.

The Supreme Court noted:

In the instant case, the RBI does not place itself in a fiduciary relationship with the Financial institutions (though, in word it puts itself to be in that position) because, the reports of the inspections, statements of the bank, information related to the business obtained by the RBI are not under the pretext of confidence or trust. In this case neither the RBI nor the Banks act in the interest of each other. By attaching an additional "fiduciary" label to the statutory duty, the Regulatory authorities have intentionally or unintentionally created an in terrorem effect.

RBI is a statutory body set up by the RBI Act as India's Central Bank. It is a statutory regulatory authority to oversee the functioning of the banks and the country's banking sector. Under Section 35A of the Banking Regulation Act, RBI has been given powers to issue any direction to the banks in public interest, in the interest of banking policy and to secure proper management of a banking company. It has several other far-reaching statutory powers.

RBI is supposed to uphold public interest and not the interest of individual banks. RBI is clearly not in any fiduciary relationship with any bank. RBI has no legal duty to maximize the benefit of any public sector or private sector bank, and thus there is no relationship of 'trust' between them. RBI has a statutory duty to uphold the interest of the public at large, the depositors, the country's economy and the banking sector. Thus, RBI ought to act with transparency and not hide information that might embarrass individual banks. It is duty bound to comply with the provisions of the RTI Act and disclose the information sought by the respondents herein.

The baseless and unsubstantiated argument of the RBI that the disclosure would hurt the economic interest of the country is totally misconceived. In the impugned order, the CIC has given several reasons to state why the disclosure of the information sought by the respondents would hugely serve public interest, and non-disclosure would be significantly detrimental to public interest and not in the economic interest of India. RBI's argument that if people, who are sovereign, are made aware of the irregularities being committed by the banks then the country's economic security would be endangered, is not only absurd but is equally misconceived and baseless.

The exemption contained in Section 8(1)(e) applies to exceptional cases and only with regard to certain pieces of information, for which disclosure is unwarranted or undesirable. If information is available with

a regulatory agency not in fiduciary relationship, there is no reason to withhold the disclosure of the same. However, where information is required by mandate of law to be provided to an authority, it cannot be said that such information is being provided in a fiduciary relationship. As in the instant case, the Financial institutions have an obligation to provide all the information to the RBI and such an information shared under an obligation/ duty cannot be considered to come under the purview of being shared in fiduciary relationship. One of the main characteristic of a Fiduciary relationship is "Trust and Confidence". Something that RBI and the Banks lack between them.

The court further noted:

Furthermore, the RTI Act under Section 2(f) clearly provides that the inspection reports, documents etc. fall under the purview of "Information" which is obtained by the public authority (RBI) from a private body. Section 2(f), reads thus:

"information" means any material in any form, including records, documents, memos, e-mails, opinions, advice, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material held in any electronic form and information relating to any private body which can be accessed by a public authority under any other law for the time being in force;

From reading of the above section it can be inferred that the Legislature's intent was to make available to the general public such information which had been obtained by the public authorities from the private body. Had it been the case where only information related to public authorities was to be provided, the Legislature would not have included the word "private body". As in this case, the RBI is liable to provide information regarding inspection report and other documents to the general public.

Summary

1. The Right to Information Act, 2005 gives the rights to citizens to obtain information from the government and government controlled organisations.
2. The Act gives the right to information to only citizens of India. Incorporated bodies, like companies, societies and co-operatives, and statutory bodies, are legal persons but not citizens.
3. 'Information' includes records, documents, memos, e-mails, opinions, advice, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models and data in electronic form.
4. A 'public authority' is exempt from furnishing the requested information if disclosing the information is prohibited by a court or the Parliament.
5. A 'public authority' need not furnish an information the disclosure of which would affect the security of India, the economic interest of the State or its relations with a foreign State.

6. The information held by a 'public authority' on a third party is also 'information'. Subject to the exemption under Section 8, this information has to be furnished. The exemption includes, trade secrets and intellectual property of a third party; and personal information the disclosure of which has no relationship to any public activity or interest.

7. The Central Information Commission and State Information Commissions, created under the Act, facilitate the implementation of the Act.

