



drishti

Chief Justice of India under the Ambit of the RTI Act

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This article is based on **“Open, all the same: On CJI office and RTI Act”** which was published in The Hindu on 15/11/2019. It talks about the implications of recent Supreme Court judgement on bringing Chief Justice of India under the ambit of the Right to Information Act.

Recently, the Constitution Bench of the Supreme Court of India (SC) ruled that the office of the Chief Justice of India (CJI) would come under the ambit of the **Right to Information Act, 2005** (RTI Act), as CJI is a **public authority** under the RTI Act.

The declaration of assets by ministers and legislators provide the citizenry with more relevant information about their representatives. However, before this judgement, the judges of the Supreme Court had refused to share information on their personal assets.

Definition of Public Authority

- **Under Section 2(f) of the RTI Act**, 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”.
- **"Public authority"** means any authority or body or institution of self-government established or constituted by or under the Constitution; by any other law made by Parliament/State Legislature and by a notification issued or order made by the appropriate Government.

Significance of the Verdict

- Through the judgement, the SC upheld the **Delhi High Court judgment (2010)** which ruled that the CJI and the other justices of SC are liable to disclose information as in the case of other public authorities under the purview of the RTI Act.
- The outcome is that the office of the CJI will now entertain RTI applications.

- It opens the doors for transparency in the judiciary. Higher judiciary in India has been criticized for its opaqueness under the doctrine of the independence of the judiciary.
- The verdict underlines the balance Supreme Court needs between transparency and protecting its independence.

While ruling that the office of the CJI is a public authority, the Supreme Court held that RTI cannot be used as a tool of surveillance and that judicial independence has to be kept in mind while dealing with transparency.

- It can give a boost to Good Governance, as now judiciary, executive, legislature, all come under the ambit of RTI Act.
- The key takeaway from the judgment is that disclosure of details of serving judges personal assets is now not a violation of their right to privacy.

Challenges

- **Lack of clarity:** The SC argued that the right to know under the RTI Act was not absolute and this had to be balanced with the right of privacy of judges. **However, the public interest is nowhere defined.**

Therefore, RTI requests have to be decided after very careful consideration of a whole range of issues, balancing disclosure with privacy.

- **Dilution of RTI Act:** The potency of the RTI Act is under the scanner after **recent amendments done in the RTI Act.**
 - The Amendment empowers the Central government to decide tenure, salary, allowances and other terms of service of Information Commissioners.
 - The Commission which is vested by law with status, independence and authority, will now function as a department of the Central government.
- **Administrative burden:** The RTI Act, 2005 did not create a new bureaucracy for implementing the law. It tasked and mandated officials in every office for dealing with RTI requests. **However, this adds to the administrative burden of the bureaucracy.**

Way Forward

- **Need for more transparency:** After bringing SC judges under the ambit of RTI, the next logical step would be to remove opaqueness about appointments of the judges, made through the collegium system in the SC.
- **A screening committee of RTI Act:** In order to reduce the administrative burden of bureaucracy (pertaining to RTI requests), a screening committee (**comprised of civil society members**) can be formed, which can weed out **frivolous RTI requests.**
- **Strengthen RTI:** RTI Act can be strengthened with **a strong Whistleblower Protection Act.**

- **Expand ambit of RTI:** The SC judgment paves the way for greater transparency. Therefore it is now the turn of other institutions such as registered political parties to be brought under the RTI Act.

The RTI Act is a strong weapon that enhances accountability, citizen activism and, consequently, participative democracy. In this context, the judgement can give a fillip to people's quest for transparency and accountability.

Drishti Mains Question

The recent judgement of the Supreme Court that brings the office of Chief Justice of India under the ambit of the Right to Information Act will give a fillip to people's quest for transparency and accountability. Comment