



## Delays in Appointing Information Commissioners

**For Prelims:** [Supreme Court](#), [Right to Information Act, 2005](#), [Freedom of Information Act, 2002](#), [Bharatiya Sakshya Adhinyam](#), [CEC](#), [Election Commissioner](#), [Digital Personal Data Protection Act, 2023](#), [Central Information Commission \(CIC\)](#), [RTI \(Amendment\) Act, 2019](#), [Statutory Body](#), [Leader of Opposition](#), [Office of Profit](#), [Cooperatives](#).

**For Mains:** Issues undermining RTI's effectiveness and way forward

[Source: TH](#)

### Why in News?

The [Supreme Court](#) expressed **strong criticism** of the **chronic delay** shown by the **Centre and States** in appointing **Information Commissioners (ICs)** under the [Right to Information Act, 2005](#). (RTI Act, 2005)

- Delays in appointing ICs **undermine** citizens' ability to exercise their **right to information**, with thousands of cases pending.

### What are the Concerns Regarding the RTI Act, 2005?

- **Delay in Appointment:** As of 2024, the [Central Information Commission \(CIC\)](#) has **8 vacancies** in the posts of **ICs** with **23,000 pending appeals** filed by citizens.
  - Several **Information Commissions in States** have been **defunct since 2020**, and some have **stopped accepting petitions** under the **RTI Act, 2005**.
  - Dissatisfaction with RTI responses from **Public Information Officers (PIOs)** often prompts citizens **to file first appeals** with the designated Appellate Authority.
- **Subordinate Rules:** The RTI Act's implementation **varies across states** due to **different rules**. E.g., Some states **lack online portals** or have inconsistent registration, complicating the process.
- **Lack of Transparency:** The majority of appointees to the position of ICs are **former bureaucrats** raising concerns about **impartiality and transparency** in the decision-making process.
  - In *Anjali Bhardwaj and Ors v. Union of India Case, 2019*, the Supreme Court highlighted the need to **appoint people from diverse backgrounds**.
- **Personal Data Disclosure:** The RTI Act, 2005 allows **personal data disclosure** by the government if there's a **public interest**. However, The **DPDP Act, 2023**, changed this to a **complete ban** shielding powerful public officials from accountability.
- **Unilateral Amendments:** The [RTI \(Amendment\) Act, 2019](#) granted the Union Government the **sole authority** to determine the **tenure and salaries** of ICs potentially compromising their **autonomy**.

**Note:** [Digital Personal Data Protection Act, 2023](#) imposed a **blanket ban on personal data disclosure**, which could hinder public audits and accountability. Earlier, it **prevented** the government

from **disclosing** citizens' personal data unless there's a **strong public interest**.

## What are Key Facts About the RTI Act, 2005?

- **About:** RTI Act, 2005 was enacted to empower citizens with the **right to access information** from public authorities.
  - It aims to promote **transparency, accountability, and good governance** in the functioning of government bodies and public authorities.
- **Origin:** The RTI Act originated from a **1980s grassroots movement in Rajasthan**, where villagers demanded **accountability, and access to records**.
- **Key Provisions:**
  - The Act applies to **all levels of government**, including central, state, and local bodies.
  - **Section 8(2)** allows for the disclosure of information when the **public interest outweighs confidentiality** of information.
  - **Section 22** ensures that the RTI Act takes **precedence** over any inconsistencies with other laws.
- **Exemptions:** The **Official Secrets Act (OSA), 1923** allows bureaucrats to **withhold information** to maintain the **confidentiality** of official documents.
  - Other laws, like the **Indian Evidence Act, 1872 (Bharatiya Sakshya Adhinyam)** and **All India Services Conduct Rules, 1968** allow officials to restrict information under the **RTI Act, 2005**.
- **Key Amendments in RTI Act, 2005:**
  - **Right to Information (Amendment) Act, 2019:** Under RTI Act, 2005, the term of the **Chief Information Commissioner (CIC)** and **ICs** is fixed at **5 years or until the age of 65**, whichever is earlier. After the Right to Information (Amendment) Act, 2019, the term is decided by the **Central Government**.
    - Originally, the **CIC's salary and terms of service** align with the **CEC**, and the **IC's** with an **Election Commissioner**. After amendments, **salaries, allowances, and terms of service** for both the CICs and ICs are prescribed by the **Central Government**.

## What is the Central Information Commission?

- **Establishment:** It was established under the **RTI Act, 2005**, as a **statutory body** (not a constitutional body).
- **Composition:** The **Central Information Commission** shall consist of the **Chief Information Commissioner (CIC)** and such number of **Central Information Commissioners not exceeding 10** as may be deemed necessary.
- **Appointment:** Members are appointed by the **President of India** based on the recommendations of a committee comprising:
  - The **Prime Minister** (Chairperson).
  - The **Leader of Opposition in the Lok Sabha**.
  - A **Union Cabinet Minister** nominated by the Prime Minister.
- **Eligibility and Exemption:** Eminent individuals with experience in **law, science, technology, social service, management, journalism, or governance**.
  - Must **not be MPs, MLAs**, or hold any **office of profit**.
  - No political affiliations, business, or professional engagements.
  - They are **not eligible for reappointment**.
- **Powers of the CIC:** Summoning witnesses, inspecting documents, requisitioning public records, and issuing summons for examination.
- **Functions:** Its primary role is to ensure the effective **implementation of the RTI Act, 2005** and uphold citizens' right to information.
  - It deals with cases involving **offices, financial institutions, public sector undertakings**, and other entities under the **Central Government and Union Territories**.

## Way Forward

- **Addressing Vacancies:** Expedite appointments to fill vacancies in Information Commissions for **timely appeal resolution** and maintain citizens' trust in the RTI framework.
  - **Broaden the selection criteria** to include professionals from diverse fields as recommended by the Supreme Court.
- **Enhanced Coverage:** Include **public-private partnerships (PPPs), sports bodies, and cooperatives** under the RTI Act, 2005 to ensure greater transparency, particularly in the handling of public funds.
  - Bring **political parties** under the **RTI Act** to ensure financial transparency.
- **Digital Integration:** Allow all post offices to accept **post-free RTI applications**, particularly for citizens in **rural areas**.
  - Encourage all states to adopt a unified, **National Informatics Centre (NIC)-designed RTI portal** to make it easier for citizens to file requests.
- **Accountability:** Public authorities should be **more accountable to the public** by providing **regular updates and reports** on how they are handling RTI requests.

### **Drishti Mains Question:**

Discuss the current issues with the Right to Information (RTI) Act, 2005 and suggest measures to strengthen it for better governance.

## UPSC Civil Services Examination, Previous Year Question (PYQ)

### **Mains**

**Q.** The Right to Information Act is not all about citizens' empowerment alone, it essentially redefines the concept of accountability." Discuss. (2018)

PDF Reference URL: <https://www.drishtiias.com/printpdf/delays-in-appointing-information-commissioners>