

Anassessment Of Central Information Commission (Cic) Duringpandemic

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Abstract:

In today's world information is the basic pre-requisite for safe and sound life. Having proper information helps to deal with everyday dynamics. In case of liberal democratic country like India, it is not wrong to say that information is directly related to empowerment. With this intent the Parliament passed the Right to Information Act on 15th June 2005 and it come into effect on 12th October 2005. Under Right to Information act information commissions are the final appellate authorities to decide on apples and complaint of citizens who have been denied their right to information under the law. Information Commission have been set up at the Central level i.e. Central Information Commission. This paper will examine the performance of information commission and implementation of this RTI act during Covid 19 pandemic and before. Finally the remarkable innovative step initiated by the state government and suggestion of some measure towards its effective use and execution.

Key Words: RTI, CIC, Pandemic, Information.

INTRODUCTION:

Knowledge is power where as information is the fuel for knowledge. In case of liberal democratic country like India, it is not wrong to say that information is directly related to empowerment. The empowerment of the people is possible by providing them adequate and appropriate information support. The information enables the citizen to appropriately use and exercise their rights. Keeping in view the importance of information, more or less every society has made venture by way of setting down number of mechanism, So that free flow of ideas and information can access by every citizens whenever they feel it required. The rights to information procure momentum after it was acknowledge by international discernment such as UDHR (1948), ICCPR (1966) etc. The Right to Information Act 2005 is considered a notable act in the record of Indian democracy. The Parliament passed the legislation on 15th June 2005 and it come into effect on 12th October 2005. The aim of the act is to promote accountability and transparency. According to this law it is compulsory on the side of the government authorities to come out with information sought by citizens. Under Right to Information act information commissions are the final appellate authorities to decide on apples and complaint of citizens who have been denied their right to information under the law. Information Commission has been set up at the Central level i.e. Central Information Commission. Under section 12 of the RTI Act 2005 The Central Government shall, by notification in the Official Gazette. Constitute a body to be known as the Central Information Commission to exercise the powers conferred on, and to perform the functions assigned to, it under RTI Act. Which is the Final Affiliate Authority where citizen can appeal and registered their complaint, who have been denied their right to information under the RTI law.

LITERATURE REVIEW :-

Rajivs Dhaka. *The Information Commissions in India: A Jurisprudential Explication of Their Powers and Functions*. This paper highlight the most empowering and intensifying legislation passed by India after independence. Which has provided powerful weapon in the hands of citizens for ensuring government department or public authorities accountability and transparency to accommodate corruption. The RTI act enables the citizen to acquires and access of information. It also established fast appellate authority to provide certain information under RTI act. It also has provision for the establishment information commission at the state level and at the Central level to hear the second appeal, So as to ensure proper implementation of the act. The paper also made an attempt to explain the information commissions power in relation with judiciary with reference to supreme court verdict in 'Namita Sharma v\ s union of India 2012' that the order of the commission are subject to judicial review by supreme court and by high court. In case of power of information commission section 18 and 19 of the RTI act need to be read together. Section 18 deals with the fast appellate authority and section 19 deals with the second complaint which is against the action of FAA. Paper also analysis the power and scheme of penalty related to delay in saving problem. The paper also deals with the decisions of commission which is limited under this act. It cannot resolve the dispute and differences between the various parties arising from information held the CICs and SICs in the exercise of their supervisory jurisdiction over Public Authorities. Some criticism that he mentioned like the mood of appointments of information commissioners. Which is jam-packed with retired bureaucrats, who had been in good book of the Government the power that assign to information commissioner very limited because of the confusion in the section 18 to 20 which has compelled the court to give Harsh judgment against the information commissioner and the decision of information commissioner also very contradictory in character. In some cases the decisions are very hard to the public officer and in some cases unduly merciful towards them which restricted the citizens and resulted people have been approaching to High court and supreme court very often.

Khanwalker. *The Right to Information act in India: Its Connotation and Implementation*. This paper highlights in modern liberal democracy citizen has right to acquire information about government affairs. Which is elected by the common citizens. It says for a healthy democratic country the most important thing is the existence of well informed and enlighten citizens. In order to promote openness, accountability and transparency it is prerequisite that each citizen has the right to information about public authorities. It also mentioned that the fundamental right of Indian constitution also guaranteed the right to free speech and expression under the article 19. The prerequisite for experiencing this right is knowledge and authentic information. Supreme Court in his many verdict held that the right to freedom of speech and expression, include the right to receive and impart information. The paper also mention various international resolutions like- United Nation adopted a charter of human rights providing everyone the right to seek and revived information and ideas through and medium media and regardless of frontiers other covenant of 1966/1968 etc. Accordingly Right to Information act 2005 an historic act in Indian democracy. This act aim at promoting accountability and transparency, earlier the right to information was restricted by official secrets act 1889 and amended in 1923. Which has been replaced now by Right to Information Act 2005. This act was against the culture of official secrecy. In this paper writer focus on the connotation and implementation of this act and its theoretical aspect and the paper highlighted the difficulties in implementation. Finally, it mention some States Government remarkable innovative steps and measure towards the effective use of execution.

Dhaka. *Right to information act and good governance : operational problem and road ahead*. Writer in this article take talk about the importance of transparency and accountability of information to the general public and clarity about functioning of government institution in the context of governance. This article takes an overview of the sequence of event that added up to the

find enactment of RTI act 2005. He also recognized the growing trend of enactment of RTI by various countries. RTI has been widely recognized as a fundamental human right. He said for meaningful substantive democracy, the informed public participating is the basic requirement. Further he said that information are the instrument of transformation because they enable public to engaged their representatives and the bureaucracy to participate effectively in the formulation and implementation of policies and activities profoundly for their benefit. RTI not only enhance the governance but also developed a environment for the administration of industries and the corporate houses became more transparent and accountable in their respective jobs. He mentioned several factors and determinants for the evolution of RTI act 2005 in India. Which were Good Governance, The Global Trends, Peoples Participation, Democratization of Governance and Public Accountability and Rule of Law.

Agarwal., & Nair. *From Jan Sunwai to Rajasthan Right to Information Act 2012 : Fostering Transparency and Accountability Through Citizen Engagement*. 'The study examine how the public movement for ensures transparency in solving grievances and made public authorities accountable to the common people. It deals with three primary legislation related to a continuum in public struggle for transparency, like Right to Information act 2005, Rajasthan Guarantee Delivery of Public Service at (2011) and Right to Hearing Act (2012). The analysis of this three studies is very significant because this act together gradually changes the administrative centric Indian polity into citizens centre one. This Study was actually concerned with the movement that carry out for transparency in Rajasthan Since the enactment of the RTI act. This movements were resulted in the two more legislation for proper implementation of RTI act 2005. This two Act were significant because these demonstrate that the movement for transparency has not lost its steam and rather it has evolved into a movement of the right to grievances redress hold public officials accountable to the people. This study mainly focuses on to fill the research gap by linking right to hearing with the movement for transparency grievance redresser and accountability in a modest way. It does so by laying out the catalytic role of Jan Sunwai or public hearing the struggle for transparency and draws attention to how digital technology has transferred the manner in which the government is hearing the grievances of the people. The study begins with an analysis of dynamics and significance of public hearing held in Rajasthan in last decade of the 20th century. It explain how the jan sunwai acted as a trigger for the peoples movement for the right to information and then proceeds to outline the key element of Rajasthan Guarantee Delivered Public Rervice and RTH.

He mentioned Jan Sunwai or public hearing originated from the village of Rajasthan between December 1994 and April 1995. It was initiated by MKSS. MKSS was pioneered to this particular model. Later on this model lead to the formation of National Campaign for People Right to Information in 1996 and this National campaign of converted common people trust for information into parliamentary legislation process leading to up to the RTI act 2005. This idea of the public hearing Jan Sunwai started during wrestle for lower level of wages on village public work and famine relief program. This moment for Jan Sunwai, bureaucrats and public representatives on matter attached to expenditure on public work was the empirical fulfillment of the concept of social audit and this move revealed the gap of large scale corruption and this jan sunwai enable those are the grassroot level to convey they are injustice individually. Jan Sunwai created what 'James Manor' described as horizontal and vertical accountability as a result of to Jan sunwai authority return the Steal fund, incomplete project were swiftly completed. This study further examine the functioning and nature of the Jan Sunwai and ground for its success as practiced by MKSS in Rajasthan in 1990s. This Jan Sunwai was effective in many ways like. Jan Sunwai empowered the common people by realising or assisting the villagers there citizenship right. Jan Sunwai set of the people's movement for clearness in government as a result of which RTI act was passed in 2005.

Dhavan (2005). *The Information and Democracy in India*. Author said everything is known and yet not known it is written down but not revealed, if revealed restricted, if not restricted distorted. There

is a right to be informed but not too much. There is right to know but no right to make know. He mention A Democratic Country which mint to provide free and equal opportunity to all ignorant. If it fail to provide information to its people and he said about the tendency of this democratic country followed as “He said this kind of light and shade encourage shady politics and black economy”. In this report he also mention various enactment that made for British India that had been nothing but just copy cut of British legislation that made for the purpose of the Britain. For example ‘British enacted - The official secret act 1889’ to apply to the British territory. Under that secrecy act if it was found that the confidential of Indian administrative services were violated by officials than they would be penalize. There also author mention about the secret act 1923 which was functioning so far with a motive of squiring and safeguarding national security and not to prohibit access to official document. But as we shall see later new campaign for a freedom of information statute began in 1990s, which resulted in the freedom of information act 2002 to celipse aspects of the official secret legislation to that extent. But, in all other respect the official secrets Act, 1923 is alive aid well and regularly enforced in practice without too much recourse to the law courts.

There has been number of reason for and against official secrecy. Originally this enactment was meant for deal with matters relating to espionage, security issues and foreign affairs. During war time specially. But it was the war themselves gave the rice of government patronage and causes for corruption. In this background Indian government to passes the prevention of corruption act 1947, which is continued till the enactment of prevention of corruption act 1988. However during that time also in the name of welfare scheme large scale corruption had been taken place. The provisions to deal with corruptions were weak. In this paper author define the meaning of chief information officer as the senior executive responsible for establishing corporate information policy and management control over all corporate information resources. In this study writer tries to define the role of Chief Information Officer in an organization. The study was completely and secondary one. Writer consult or review 98 studies that published during the three decades.

OBJECTIVE:

- To investigate the role of Central Information Commission functions during Covid19 pandemic.
- To comprehend the institutional prestige of CIC as a information dissemination board.
- To give some recommendation to the Central Information Commission to enhance it’s productivity.

RESEARCH QUESTION :-

- How CIC can contribute towards attaining the goal on accountability and transparency in Government functionaries?
- How the Central Information Commission functions during Covid19?
- What is the role of CIC in securing people trust on RTI act 2005?
- How central information commission work in dissemination information to common citizens?

RESEARCH METHODOLOGY:

For the purpose of the study of ‘How the Central Information Commission functions during Covid19 pandemic and how far it was successful in empowering the citizen by disseminating or providing information to citizens’ here descriptive method is followed. For the study of this topic material have been collected by secondary sources. Secondary material and data have been collected from different books, journals, internet sources, published research papers and articles, newspaper etc.

INFLUENCE OF PANDEMIC IN THE FLOW OF INFORMATION:

We all remember the absolute Mayhem that happen in the second wave of covid19 in the country,

with peoples running after around from one hospital to another looking for bad with oxygen with ventilators and many people collapses on the way. We also remember getting up every morning and hearing depressing news about hospital running out of Oxygen and people losses life. But whenever parliament and common citizen was asking question about the number of death due to oxygen shortage, the response from the government that they had no information about dying of patient due to the lack of oxygen. This was not a only thing where the government said they had no information. Whenever government is ask the number of worker who died while walking back during log down the Government said they had no information. The government said it has no information on the unemployment in the country, we are facing also no information is available about the consumption expenditure index. So essentially whenever information has been asked to the government, about things that are inconvenient for the government. Than government respond their has been is no information, no information basically means no account ability.

In such a situation there supposed to be information commission that are supposed to function on behalf of the people to make sure that government give information on the demand of citizens and direct them to disclose information even it is inconvenient for them to give the information but what we have seen is that instead of empowering these information commission and allowing them and having framework where they can function autonomously independently they are independent is being under mine.

This study on Function of Central Information Commission has huge significance in this current scenario when there is growing dissatisfaction with government functioning or growing cases of corruption and lack of transparency in government decision making etc. This study will highlight the importance of CIC in dissemination of information to citizen and how far it is successful in functioning since it is inception and specially during this pandemic period.

TRENDS IN FUNCTIONING OF CENTRAL INFORMATION COMMISSION

The RTI Act provides for setting up of the practical regime of Right to Information for citizens to secure the right to access to information held by or under the control of public authorities. The legislative intent behind the enactment of the RTI Act is to foster transparency and accountability in the working of every Public Authority, to bridge the gap between the information provider and the information seeker, to enhance efficiency in administration of public authorities and to mitigate corruption and promote good governance.

As per section 25 of the RTI Act, there is a legal requirement for the PAs to submit Quarterly Returns to the Commission. Due to efforts made by the Commission, 97.17% PAs have submitted all the four Quarterly Returns during the 2019-2020 year.

BACKLOG AND DELAY IN THE CENTRAL INFORMATION COMMISSION DURING 2020-2021 :-

The most prominent and well tested parameter of assessing the effectiveness and efficiency of any legal authority and institution is to test the performance and the capacity to resolve any case/complaint. There is popular maxim that “justice delayed is justice denied”. Therefore information will be meaningful if it is provided within a reasonable time frame.

Generally the poor and marginalized section, who used RTI act to get to know their basic right, like subsidized ration, old age pension, medical facilities in hospital and minimum wage etc. But if there is delay in disposal of information by information commission then the relevance of information deteriorate and law became ineffective. However the stipulated time period for disposal of second appeal by information commission are not defined in the RTI act. Whereas the RTI act mention 30 days (ordinarily) for the disposal of information request and for first appeals minimum 45 days. The database regarding registration/disposal of the cases during the reporting year in the CIC is as follows:

| | |
|--|-------|
| Number of Second Appeals/Complaints Registered during reporting year. | 19183 |
| Number of Second Appeals/Complaints disposed during reporting year | 17017 |
| Number of Second Appeals/Complaints pending for disposal as on 1 st April of reporting year | 38116 |

TIME TAKE BY THE CIC COMMISSION TO DISPOSE ANY CASE:-

It has been found from an assessment that information commission takes more than a year from the day that it was file before the commission to disposal of Appeal/complaint. The more strange thing is that for the final disposal of any case Central information commission has take number of days, which range from 24 days to 1552 days (which is more than 4 year). However the reason for this delay in disposal are also not clear.

However, here it is necessary to mention that under RTI act section 7 (1) Public Information Officers (PIO) are instructed to provide information to within 48 hour in case, where information sought for concern of life and liberty of a person. But for such exceptional cases central information commission made no provision for hearing complaints/appeal on urgent basis.

These backlogs of appeal/complaint in information commission is one of the most serious concerned in actualization of right to information act and these delay in disposal is actually against the basic objective of right to information act. The main reason for these delay disposal of cases can be traced largely to the failure of Central government to fill the vacancies in the commission in due time. Currently Central information commission is functioning with eight (8) commissioner out of the total strength of 11 (eleven). Estimated time required for disposal of an appeals/complaints.

| SL.NO. | Information commissioner | Time before appeal filed on 2020 is disposed. | Time before appeal filed on 2021 is disposed. |
|--------|--------------------------|---|---|
| 1 | CIC | 2 year and 1 month | 1 year and 11 month |

Backlog of Appeal and complaints in commission from 2020-2021.

| SL NO. | IC | 2020 | 2021 |
|--------|-----|--------|--------|
| 1 | CIC | 38,590 | 36,788 |

Appeal/complaints returned by commission without passing orders between 2020-2021.

| Information | No of appeal/complaints returned |
|-------------|----------------------------------|
| CIC | 11,989 |

However in this regard in Feb 2019 judgment given by the Supreme Court to a PIL submitted regarding the non appointment of information commissioner. Supreme Court ruled that it was very crucial for effective functioning of right to information act, that information commissioner has to work with adequate number of information commissioner based on the necessity and workload, there may up to a chief commissioner and 10 information commissioner. Court also said if commission not able to solve cases properly with existing number of information commissioner than the very purpose of right to information act would be neglected.

Further court also ruled that commission should work hard and try to dispose cases within the stipulated time period keeping with the spirit of right to information act and decide the appeal/complaint within the shortest time as possible. Supreme Court also gave direction to make sure the timely appointment of information commissioner. The Court held that it would be pertinent and suitable, if the process of filling of vacancies in 1 to 2 month before the date on which the vacancy is likely to occur. However three post of commissioner continue to be vacant in Central information commission as of October 2021 even though the backlogs of Apple/complaint has been

steadily increasing and Stands at nearly 36800.

Central information commission was established under RTI act to ensure the citizen that their fundamental right i.e. the right to freedom of information (article 19) would be secure in any condition. CIC to some extent has trying to fulfill the commitment of RTI act and the attempts are also visible in functioning of commission during covid19 crisis, when other state information commission suspended their hearing of appeal for long period but in such crisis time it was CIC continued the hearing appeals/complaints regularly.

Major Findings:

- 1) It obligatory for=central government to fill the vacancies of central information commission in timely manner. As it is mentioned under RTI act that central information commission should consist of a chief central information commissioner and up to 10 central information commissioner and they are appointed by the President of India. But it was found from the analysis that the appointment of commissioner are not made timely, maximum time appointments are made under the outside pressure. Right now when this study was carried out three seats central information commission is vacant.
- 2) As a result of Non appointment of Information commissioner in due time, central information commission is functioning at reduced capacity. For example, In the CIC three posts of commissioners continue to be vacant even though the backlog of appeals/complaints is continuously increasing and currently it stands at nearly 36,800 cases.
- 3) Hearing and disposal of appeals and complaints become very problematic during the COVID 19. Due to lockdown and other restriction commission unable to function in its full capacity. This is clear from the number of case commission disposed during this period. For example, CIC in 2011 had set an annual norm for disposal of 3200 cases but analysis of this year's data shows that the annual disposal of cases is 2583 which is much lower than the set norm. One more thing that came out from this analysis shows that near about 65% of total complaints were returned by commission without proper discloser of reason of discloser.
- 4) From the analysis of data shows that the rate of conversion of appeal from ordinary RTI appeal to first appeal and then second appeal is bit concerning. Because the average conversion of complaints of top 20 ministries shows on an average 12% of RTI appeal move for first appeal and after that 20% of first appeal applicants move for second appeal towards CIC.
- 5) It has been found from an assessment that information commission takes more than a year from the day that it was file before the commission to disposal of Appeal/complaint. The more strange thing is that for the final disposal of any case by Central information commission has take number of days, which range from 24 days to 1552 days (which is more than 4 year). However the reason for this delay in disposal is also not clear.
- 6) The poor implementation of section 4 of the RTI act, which instruct proactive discloser of information by public authority. It was very unfortunate that the violation section 4 RTI Act by public authority is not properly tackle by CIC. Though CIC was empowered with all the immunity but CIC hesitate to invoke its power. An analysis of random sample of RTI application filed throughout the country have shown that nearly 70% of appeal that are made by citizen are actually not beyond the information which were Public authority obliged to voluntary or proactively release before citizen demanded.
- 7) Miss use of section 8(1) of RTI act by CIC in returning of appeals and complaints.
- 8) Taking that as the annual estimate of number of RTI applications filed, the data on the number of appeals and complaints registered annually suggests that ICs are petitioned in only about 5% of the total RTI applications filed. However, this does not mean that in 95% of the cases people got access to the information they sought. The RaaG & CES 2014 assessment estimated that only about 45% of RTI applications were successful in terms of obtaining information requested. Therefore, of the remaining 55%, less than 10% actually end up filing a second appeal.

Recommendations :-

1. Effective and timely disposal of cases: Although challenges thrown up by the crisis are immense, it is absolutely critical for information commissions to conduct hearings and dispose cases to ensure that people can exercise their fundamental right to information. Therefore, information commissions have the obligation to put in place mechanisms, including people friendly technological solutions. The backlog of appeals and complaints was already large in information commissions even before the Covid19 crisis, resulting in inordinate delays in disposal of cases. If commissions are not functional, the backlogs will further increase rendering the law meaningless for many.
2. Categorization of cases that deals with information related to life and liberty: Section 7(1) of the RTI Act states that information concerning the life or liberty of a person has to be supplied within 48 hours of the request being received. Research has repeatedly shown that most commissions have not adopted any specific procedures for fast-tracking appeals/complaints for such matters. Therefore, the commissions would require to setup systems to identify and fast track such cases. Further provision must be made for atleast taking up urgent matters and those related to life and liberty. Otherwise this would be resulted irresponsible tag to commission and these appeals/complaints enter the regular cycle and are disposed after many months or years, depending on the backlogs in the commissions.
3. Proper implementation of section 4 on RTI act. Commissions must instruct pro-actively disclose pertinent information under Section 4 of the RTI Act in local languages by PAs and in the most approachable manner. Further information require to made available on government websites, as well as other off-line modes are need use while discloser of basic information like sms and public announcements and important poster/boards/wall paintings in villages and slums and at points of spending such as ration shops, banks and hospitals to ensure that those without access to the internet are also able to obtain the necessary information. Commissions must also disclose directly money received and spend under various relief funds. A very large percentage of the population does not have the resources to file an RTI application to ask for information and follow up with appeals/complaints in case of denial. For them, the most effective way to obtain information is though meaningful pro-active disclosures by public authorities.
4. Urgent requirement computerization of records and proper record management through E-governance. From the very beginning government spending larger amount of public fund for E-governance over the years for digitization of records and information. This covid19 crisis has exposed serious breach in the digitization of public records. This inefficiency in E-governance resulted for not being able to conduct hearings of appeals and complaints by commissions during crisis. Therefore ICs must undertake proactive initiative for building proper infrastructure to audit of record each public authority and use their powers under the law including in sections 19(8) and 25(5), to ensure public authorities undertake urgent and appropriate steps for digitization.
5. Timely Appointment of information commissioners: There are number of time a complain has been attached with commission that government did not make timely appointment of information commissioner which causes delay and increase backlogs . currently three seats in CIC is vacant. Therefore, the central governments must immediately ensure appointment of adequate number of commissioners in keeping with the Supreme Court's judgment.
6. Facility for online filing of RTI applications and appeals. Governments should put in place a mechanism for online filing of RTI applications. Online portals should also provide facilities for electronic filing of first appeals and second appeals/complaints. This is will facilitate peoples' right to information and encourage common citizen living in far backward places.
7. Bringing awareness to people about RTI act and Right to access information:- RTI act was passed in 2005, which was near about two decade but its very unfortunate that even after this long period of implementation large number of people are still remain unaware about this act and

their right, through organizing various public awareness campaign and publishing advertisement in offline and online sources. Therefore, its become an legal and moral responsibility of the government to bring awareness among the citizen about the RTI act so that they use it and make the Public Authority/executive responsible to common public.

CONCLUSION :-

Central information commission was established under RTI act 2005. This body was established to address the public grievances regarding the functioning of Public Authorities, when their appeals and complaints were not properly dealt by First Appellate Authority (FAA) within specified time. In this study the functioning of information commission is thoroughly discussed in the above chapters. The major point that came out from the analysis of information commission during pandemic (Covid19) are shows a mixed picture of Central Information

Commission or in other word both positive and negative sides of Central Information Commission (CIC). Talking about negative(Limitation of functioning of commission) side of information commission, like

- Huge Number of backlogs and delay in disposal of appeals/complaints
- Non-appointment of commissioner in timely manner.
- Ignorance towards pro-active discloser (section-4) of information by PAs
- Misuse of section 8(1) by commission in returned of appeals/complaints.

However there are some noticeable good things about the functioning of commission are also highlighted in study. Like the proper hearing of appeals during pandemic period, when other Information commissions suspended their hearing. However study also realizes the importance of Central Information Commission in dissemination of information to citizen in realization of their fundamental right i.e. right to information. Which is necessary for the establishment of free and fair egalitarian society. It also shows proper functioning of commission in dissemination of information is basic pre requisite for making executive i.e. Public Authorities and Government functionaries responsible to common people and bring transparency and accountability in government functionaries.

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