

**DIVISIONAL JUDICIAL SEMINAR FOR ALL JUDICIAL OFFICERS IN DURG  
DIVISION (DISTRICT DURG, KABIRDHAM, RAJNANDGAON, BALOD AND  
BEMETARA) ON 09/07/2022 AT DURG**

**RIGHT TO INFORMATION ACT, 2005: WITH SPECIAL REFERENCE TO DISTRICT  
COURT RIGHT TO INFORMATION RULES (TO BE PRESENTED ON BEHALF OF  
DISTRICT BEMETARA)**

**EMERGENCE AND OBJECTIVE OF THE CONCEPT OF RIGHT TO INFORMATION  
ACT:**

Information empowers and enables people; pushes them towards exercising their legal, social, economic and political rights. Almost every society has recognised the same by way of putting in place the mechanisms for free flow of information and ideas so that people can access them whenever it is required without too many procedural, or otherwise, hassles.

We are all aware how "absolute power corrupts absolutely" and we can safely assume that it is not a mere philosophical phrase. The journey from a demand of information to it becoming a Bill to finally a lawful right has been in phases – from resistance to disclose any information whatsoever, to state-level Right To Information Acts, to a roughly-made, protective of public authorities Freedom Of Information Act in 2002 and finally, arriving at what exists as the Right To Information Act today. The Right To Information can be derived from Article 19(1)(a) and Article 21 of the Constitution of India. In 1976, in the **Raj Narain vs the State of Uttar Pradesh case**, the Hon'ble Supreme Court ruled that Right to information will be treated as a fundamental right under article 19. The Hon'ble Supreme Court also held that in Indian democracy, people are the masters and they have the right to know about the working of the government.

The Act aims at promoting transparency and accountability in the working of every public authority and provides a platform for the citizens to secure access to information under the control of public authorities.

**WHAT IS RIGHT TO INFORMATION:**

Right to information as defined under Section 2(j) of the Act means the right to information accessible under this Act which is held by or under the control of any public authority and includes the right to--

- (i) inspection of work, documents, records;
- (ii) taking notes, extracts or certified copies of documents or records;
- (iii) taking certified samples of material;
- (iv) obtaining information in the form of diskettes, floppies, tapes, video cassettes or in any other electronic mode or through printouts where such information is stored in a computer or in any other device.

The term “information” as defined under Section 2(f) means any material in any form, including records, documents, memos, e-mails, opinions, advices, 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.

### **WHO HAS THE RIGHT TO INFORMATION (SECTION 3):**

Subject to the provisions of this Act, all citizens shall have the right to information.

### **WHO ARE COVERED UNDER THE ACT:**

All constitutional authorities, agencies, owned and controlled, also those organisations which are substantially financed by the government comes under the purview of the act. The act also mandates public authorities of union government or state government as defined under Section 2(h) of the Act, to provide timely response to the citizens’ request for information.

### **OBLIGATIONS UNDER THE ACT (SECTION 4):**

Every public authority has to maintain all its records duly catalogued and indexed in a manner and the form which facilitates the right to information under this Act and ensure that all record that are appropriate to be computerised are, within a reasonable time and to publish the details provided under section 4(1)(b) of the Act within one hundred and twenty days from the enactment of the Act.

### **HEIRARCHY UNDER THE ACT (SECTION 12, 15):**

Central Government constituted a body naming Central Information Commission which consist of the Chief Information Commissioner and a maximum of 10 Central Information Commissioner, as necessary. It will have its headquartes at Delhi.

The Chief Information Commissioner and Information Commissioners shall be appointed by the President on the recommendation of a committee consisting of—

- (i) the Prime Minister, who shall be the Chairperson of the committee;
- (ii) the Leader of Opposition in the Lok Sabha; and
- (iii) a Union Cabinet Minister to be nominated by the Prime Minister.

The general superintendence, direction and management of the affairs of the Central Information Commission shall vest in the Chief Information Commissioner who shall be assisted by the Information Commissioners. There are qualifications and disqualifications for such appointment as in the Chief Information Commissioner and Information Commissioners shall be persons of eminence in public life with wide knowledge and experience in law, science and technology, social service, management, journalism, mass media or administration and governance and shall not be a Member of Parliament or Member of the Legislature of any State or Union territory or hold any other office of profit or connected with any political party or carrying on any business or pursuing any profession.

A parallel body at the State level is also constituted named as State Information Commission.

With regard to all the public authorities coming within the purview of the Act, every public authority is under obligation to designate as many officers as the **Central Public Information Officers or State Public Information Officers, as the case may be**, in all administrative units or offices under it as may be necessary to provide information to persons requesting for the information under this Act.

The public authorities at each sub-divisional level or other sub-district level shall also designate as a **Central Assistant Public Information Officer or a State Assistant Public Information Officer** to receive the applications for information or appeals under this Act for forwarding the same to the Central Public Information Officer or the State Public Information Officer.

#### **EXEMPTIONS UNDER THE ACT (SECTION 8):**

**Under the Act, there is absolute bar to disclosure of certain documents and a few conditinal bar also.**

**There is absolute bar to provide information with regard to following:**

- a) 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 foreign State or lead to incitement of an offence;
- (b) 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;
- (c) information, the disclosure of which would cause a **breach of privilege of Parliament or the State Legislature**;
- (d) information received in **confidence from foreign Government**;
- (e) 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**;
- (f) information which would **impede the process of investigation or apprehension or prosecution of offenders**.

**There is conditional bar to provide information with regard to following:**

- (1) information including **commercial confidence, trade secrets or intellectual property**, the disclosure of which would harm the competitive position of a third party, unless the competent authority is satisfied that larger public interest warrants the disclosure of such information;
- (2) information available to a person in his **fiduciary relationship**, unless the competent authority is satisfied that the larger public interest warrants the disclosure of such information;
- (3) cabinet papers including records of deliberations of the Council of Ministers, Secretaries and other officers:

Provided the decisions of Council of Ministers, the reasons thereof, and the material on the basis of which the decisions were taken shall be made public after the decision has been taken, and the matter is complete, or over.

- (4) Information which relates to **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 unless 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:

**(5)The information which cannot be denied to the Parliament or a State Legislature shall not be denied to any person.**

#### **APPLICATION UNDER THE ACT (SECTION 6):**

1. Application by the person desiring to obtain information can be in writing or through electronic means and may be in Hindi or English or the official language of the area.
2. Prescribed fees should be affixed thereto.
3. Application be made to the **Central Assistant Public Information Officer or the State Assistant Public Information Officer.**
4. It should specify details of the information sought by the person.
5. Reason for need of such information need not be mentioned.

#### **MANDATORY LIMITATION PERIOD FOR DISPOSAL PRESCRIBED UNDER THE ACT (SECTION 7):**

1. On receipt of the application, as expeditiously as possible, **within 30 days**, either the information has to be provided on payment of prescribed fees or the request be rejected.
2. If the information sought concerns the life or liberty of the person, it shall be provided **within 48 hours.**
3. If the Central Assistant Public Information Officer or a State Assistant Public Information Officer fails to give decision within 30 days, **it shall be deemed to have refused the request.**
4. Where a decision is taken to provide the information on payment of any further fee representing the cost of providing the information, the Central Public Information Officer or State Public Information Officer shall **send an intimation to the person making the request**, giving—
  - (a) **the details of further fees** representing the cost of providing the information requesting him to deposit the required fees, and the **period intervening between the despatch of the said intimation and payment of fees shall be excluded** for the purpose of calculating the period of thirty days
  - (b) information concerning his or her right with respect to **review the decision as to the amount of fees charged including the particulars of the appellate authority, time limit, process and any other forms.**
5. Where a request has been rejected, the Central Public Information Officer or State Public Information Officer shall communicate to the person making the request,—
  - **the reasons for such rejection;**
  - **the period within which an appeal against such rejection may be preferred; and**

- **the particulars of the appellate authority.**

#### **SEVERABILITY CLAUSE (SECTION 10):**

Where a request for access to information is rejected on the ground that it is in relation to information which is exempt from disclosure, then **access may be provided to that part of the record which does not contain any information which is exempted from disclosure under this Act and which can reasonably be severed** from any part that contains exempted information.

Where such access is granted, a Central Public Information Officer or a State Public Information Officer shall **give notice to the applicant informing the part to which access is allowed**, reason for such decision, name and designation of the person giving the decision, details of the fees, **his right to review the decision regarding non-disclosure of part of information**, amount of fee charged etc.

#### **THIRD PARTY INFORMATION (SECTION 11):**

(1) Where a Central Public Information Officer or a State Public Information Officer intends to disclose any information or record which relates to a third party and has been treated as confidential by that third party, the Central Public Information Officer or State Public Information Officer shall, **within five days from the receipt of the request, give a written notice to such third party and invite the third party to make a submission in writing or orally**, regarding whether the information should be disclosed, and such submission of the third party shall be kept in view while taking a decision about disclosure of information.

(2) Where a notice is served by the Central Public Information Officer or State Public Information Officer to a third party in respect of any information or record, the third party shall, **within ten days from the date of receipt of such notice, be given the opportunity to make representation against the proposed disclosure.**

(3) The Central Public Information Officer or State Public Information Officer, **within forty days after receipt of the request**, if the third party has been given an opportunity to make representation, make a decision as to whether or not to disclose the information or record or part thereof and give in writing the notice of his decision to the third party.

#### **POWERS AND FUNCTIONS OF THE INFORMATION COMMISSIONS (SECTION 18):**

It shall be the duty of the Central Information Commission or the State Information Commission to receive and inquire into a complaint from any person:

(a) who has been **unable to submit a request** to a Central Public Information Officer or State Public Information Officer either by reason that **no such officer has been appointed under this**

**Act**, or because the Central Assistant Public Information Officer or State Assistant Public Information Officer **has refused to accept his or her application for information or appeal** under this Act.

(b) who has been **refused access to any information requested** under this Act.

(c) **who has not been given a response to a request for information** or access to information within the time limit specified under this Act.

(d) who has been **required to pay an amount of fee which he or she considers unreasonable**.

(e) who believes that he or she has been given **incomplete, misleading or false information** under this Act and

(f) in respect of any other matter relating to requesting or obtaining access to records under this Act.

**The Central Information Commission or State Information Commission shall have the same powers as are vested in a civil court while trying a suit under the Code of Civil Procedure.**

#### **APPEALS (SECTION 19):**

Any person who, does not receive a decision within the time specified or is aggrieved by a decision of the Central Public Information Officer or State Public Information Officer may **within thirty days from the expiry of such period or from the receipt of such a decision prefer an appeal** to such officer who is senior in rank to the Central Public Information Officer or State Public Information Officer in each public authority.

An appeal is preferred against an order made by a Central Public Information Officer or a State Public Information Officer to disclose third party information, the appeal by the concerned third party shall be made within **thirty days** from the date of the order.

**A second appeal against the decision shall lie within ninety days from the date on which the decision should have been made or was actually received**, with the Central Information Commission or the State Information Commission.

In any appeal proceedings, **the onus to prove that a denial of a request was justified shall be on the Central Public Information Officer or State Public Information Officer who denied the request.**

**The appeal shall be disposed of within thirty days of the receipt of the appeal or within such extended period not exceeding a total of forty-five days** from the date of filing, with reasons recorded in writing. The decision of the Central Information Commission or State Information Commission shall be binding.

In its decision, the Central Information Commission or State Information Commission has wide powers including power to require the public authority to compensate the complainant for any loss or other detriment suffered, impose any of the penalties provided under this Act, reject the application. The Central Information Commission or State Information Commission, as the case may be, shall give notice of its decision, including any right of appeal, to the complainant and the public authority.

**Penalties:**

Where the Central Information Commission or the State Information Commission at the time of deciding any complaint or appeal is of the opinion that the Central Public Information Officer or the State Public Information Officer **has without any reasonable cause, refused to receive an application for information or has not furnished information within the time specified or malafidely denied the request for information or knowingly given incorrect, incomplete or misleading information or destroyed information which was the subject of the request or obstructed in any manner in furnishing the information,** it shall impose a penalty of **two hundred and fifty rupees each day till application is received or information is furnished,** so however, the total amount of such penalty **shall not exceed twenty-five thousand rupees.**

The **burden of proving** that he acted reasonably and diligently shall be on the Central Public Information Officer or the State Public Information Officer. Where the Central Information Commission or the State Information Commission at the time of deciding any complaint or appeal is of the opinion that the Central Public Information Officer or the State Public Information Officer **has, without any reasonable cause and persistently, failed to receive an application for information or has not furnished information within the time specified or malafidely denied the request for information or knowingly given incorrect, incomplete or misleading information or destroyed information which was the subject of the request or obstructed in any manner in furnishing the information,** it shall recommend for **disciplinary action against the Central Public Information Officer or the State Public Information Officer,** under the service rules applicable to him.

**BAR OF JURISDICTION (SECTION 23):**

No court shall entertain any suit, application or other proceeding in respect of any order made under this Act and no such order shall be called in question otherwise than by way of an appeal under this Act.

### **ACT NOT APPLICABLE TO CERTAIN ORGANISATIONS (SECTION 24):**

1. The Act shall not apply to **the intelligence and security organisations specified in the Second Schedule**, being organisations established by the Central Government or any information furnished by such organisations to that Government.
2. **Provided that the information pertaining to the allegations of corruption and human rights violations shall not be excluded and in the case of information sought for is in respect of allegations of violation of human rights**, the information shall only be provided.
3. **Condition being that after the approval of the Central Information Commission such information shall be provided within forty-five days from the date of the receipt of request.**

### **REFERENCE TO DISTRICT COURT INFORMATION RULES, 2005:**

They have been formulated under Section 28 of the Act by the Hon'ble Chief Justice of the High Court of Chhattisgarh. It came into force on 02<sup>nd</sup> January, 2006. The rules are also available on the official website of Hon'ble High Court of Chhattisgarh and can be accessed there. Office Hours has been prescribed to be between 10:30 am to 05:30 pm.

### **PROCEDURE FOR APPLICATION AND ITS DISPOSAL**

To get information under the Right to Information Act, a self-signed application in **Form- A** shall be produced before the Public Information Officer affixing **court fees of Rs. 12/- (Rupees Twelve only)** on the said application. If the applicant desires to get the information by post, he shall send a self addressed registered envelope, bearing necessary postal stamps along with the application.

### **PROCEDURE TO BE ADOPTED AFTER PRESENTATION OF APPLICATION:**

1. The application submitted before the Public Information Officer shall be **registered in the register available in the office.**
2. Secondly the records regarding the information desired in the application shall be requisitioned in his office.
3. Thirdly, the applicant shall be instructed to appear on **the 5th day from the date of submission of application.**

2. After receipt of record from the concerning section and after having confirmed that the desired information **can/cannot** be given to the applicant, the Public Information Officer shall accordingly inform.
3. If the information desired by the applicant can be provided or the inspection of record can be carried out as per rules.
4. The Public Information Officer shall inform the applicant in **Form-B about the fee prescribed** for supplying of such information before providing the desired information. In case the application is received by post, the Public Information Officer shall inform the applicant about the prescribed fee in Form-B through the envelope received along with the application and the desired information or record shall be supplied for inspection only after the deposit of requisite fees.
5. To get the information by post, applicants shall submit self-addressed Registered envelope with necessary postal stamps along with the requisite fees.
5. **If the said fee is not deposited within 15 days, the application shall stand rejected.**
6. After receipt of fee, **a date not exceeding seven days shall be fixed for preparation and providing information to the applicant.** So far as possible, arrangement shall be made to provide the desired information by the said date. If for any reason the information could not be provided on the prescribed date, next date shall be given to the applicant, **and the intervening period of above two dates shall not exceed 7 days.**
7. If even on the said date, due to any reason, the information could not be supplied to the applicant public Information Officer shall fix another date, **but the total extended period shall not be more than 30 days. The information shall necessarily be provided within 30 days from the date of receipt of fees.** With respect to application received by post, the information shall necessarily be sent within 30 days of receipt of fee.
8. If in respect of furnishing information, the Public Information Officer finds that it is not possible to give information, he shall inform the applicant about rejection of said application in **Form-C.** If the information is to be sent by post, the applicant shall bear the postal expenses .
9. In this regard, a Register shall be maintained in the office of Public Information Officer which shall be in **Form D** containing following particulars, date of Receipt of application, name and complete address of the applicant, date of appearance of the applicant, details of the desired information, Source of information, date of dispatch of application to the concerning department, date of receipt of information, date of disposal of application, decision/note of Public Information

Officer on the application, Mention of fees affixed on the application, applicant's signature which shall be the acknowledgment, order of first appeal, order of second appeal, remarks.

10. After preparation of the desired information, Public Information Officer shall **certify it by putting his signature**. Seal along with following details and information shall be supplied to the applicant after taking entries in it, namely, number and date of submission of application. The date fixed for appearance of the applicant, date of appearance of applicant, date of preparation of information, date of supply of information, details of fee, signature of officer preparing information.

11. If the applicant seeks any information with respect to Third party he/she shall lie shall send/submit an application with said details, bearing court fee stamp of Rs. 12/- (Rs. Twelve only) along with a registered envelope bearing necessary postal stamps, name and complete address of the said other person to the public Information Officer.

12. On receipt of such application, Public Information officer shall register the application in the register maintained in his office for that purpose. The Public Information Officer shall then send the copy of said application to that other person and on receipt of his reply, shall dispose of the application after providing opportunity of hearing to both the parties. If the information desired by the applicant can be provided, the public Information Officer shall inform the applicant about necessary fee for the desired information and on receipt of necessary fee along with the registered envelope bearing address of the applicant. The information shall necessarily be sent to applicant within 30 days if not present in person. If it is not possible to supply the information desired by the applicant, the applicant shall be intimated in **Form-C** for which the applicant has to give self-addressed envelope.

**Provided that if information, which includes certified copy desired by the applicant is regarding judicial procedure or record, he shall obtain the information as per the procedure of Chapter 23 Civil Court Rules and Orders and Chapter 26 of Rules and Orders( Criminal).**

#### **PROCEDURE FOR INSPECTION OF RECORDS:**

1. If after having considered the application filed by applicant, the Public Information Officer finds appropriate that the applicant can be granted permission to inspect the records and if he grants permission, the Public Information Officer shall requisition the record desired by applicant for

perusal, from the concerning sections and shall give to applicant to inspect in his presence, in the office hours, between 02:00 pm and 04:00 pm.

2. During inspection of record, applicant shall be allowed to **use the pencil only. Information desired by the applicant shall be noted with pencil only. If the applicant brings any other writing instrument other than pencil, he shall deposit the same with Public Information Officer thereafter he shall initiate the inspection of record.**

3. During inspection, applicant shall not have any right to make any note or put any mark on the record. During inspection of record, if applicant wishes to make notes, he shall note on plain paper and after inspection, **he shall show the note to Public Information Officer**, who after being satisfied that applicant has not tampered the record in any way, shall return the note of applicant to him.

**Provided the applicant shall submit application for inspection of record related to Court as per Chapter 17 of Civil Court Rules and Orders and Chapter 21 of Rules and Orders (Criminal).**

#### **APPEALS:**

1. Any person who does not get any decision within the time prescribed under Section 7 of the Act or is aggrieved with the decision of the Public Information Officer or Assistant Public Information Officer, may prefer appeal in writing to **the District Judge of the District who is the First Appellate Authority.**

2. The memo of the said appeal shall contain in brief, the particulars regarding the case and the grounds of appeal.

3. With the appeal filed in such manner, certified copy of order passed by Public Information Officer shall be annexed, which shall be disposed of by the District Judge after providing opportunity of hearing to the parties. **The order of appeal shall be intimated to the appellant.**

4. A register shall be maintained in the office of the District Judge, for this, the appeal preferred by applicant shall registered and the following details shall be entered in it, namely registration no., name and particulars of the applicant/appellant, name and particulars of the respondent/non-applicant, details of the order of public information officer against which appeal is

preferred, date of order, decision, remark. After the disposal of the appeal preferred by applicant/appellant, he shall be made aware of the decision in appropriate manner.

5. **The applications received for information shall be kept safe for 6 months from the date of application, after the said period, it shall be destroyed by burning after receiving order from the Public Information Officer.**

The information/copy/inspection with respect to the cases pending in Court shall be obtained from the Court as per M.P. High Court Rules and Orders. The Public Information Officer shall have the right to make the work distribution amongst the Assistant Public Information Office.

### **JUDICIAL APPROCH PERTAINING TO RIGHT TO INFORMATION ACT:**

**Public Information Officer, High Court of Chhattisgarh, Bilaspur (C.G.) Versus Chhattisgarh Information Commission, Through the State Chief Information Commissioner and Anr. (Writ Petition (C) No.1667 of 2009) decided on 30/11/2017.**

**Brief Facts:** In this particular case, Respondent No. 2 made an application under Section 6(1) of the Right to Information Act, 2005 for getting certain information, to the Public Information Officer / petitioner herein. The information was supplied to him, but dissatisfied with the order of the Public Information Officer, he filed first appeal before the first appellate authority.

The first appellate authority by its order dated 17-12-2007 allowed the appeal and directed furnishing of certain more information, but respondent No.2 was not satisfied with the order of the first appellate authority leading to filing of second appeal before the State Information Commission.

The State Information Commission by its order dated 11-9-2008 directed the petitioner to allow respondent No.2 to inspect further documents / information to be supplied to him and on a list being supplied by him **within three days**, the information be supplied to him free of cost within further 15 days.

It is the case of the petitioner that in compliance of that order, respondent No. 2 did not appear before the Public Information Officer / petitioner herein and when the matter was taken up before the State Information Commission on 26-11-2008, the Commission has passed the impugned order holding that the information has not been supplied to respondent No.2 without there being any reasonable cause and also imposed a cost of ₹ 300/- upon the petitioner in exercise of power

conferred under Section 19(8)(b) of the RTI Act. Being aggrieved against that order, this writ petition has been filed.

The Hon'ble Chhattisgarh High Court made a reference to the matter of **NTPC Ltd. v. Mohammad Samad Khan (Delhi High Court) in which it was discussed under para 17 that:**

"17. The ambit of the power under Section 19(8)(b) has to be determined by the scope of the powers of the CIC generally under Section 19, and as an Appellate Authority in terms of Section 19 (1) to (8). The compensation payable under Section 19(8)(b) is "for any loss or other detriment suffered", on account of the **denial of the information under the RTI Act and not just about any loss or detriment suffered by the applicant.**

Relying on such judgment of the Hon'ble Delhi High Court, it was held that:

“What flows from Section 19(8)(b) of the RTI Act and decision of the Delhi High Court in Mohd. Samad Khan's case is that the Commission has authority and jurisdiction to impose compensation only on account of **denial of information under the RTI Act**, whereas in the instant case, the Commission has **imposed compensation upon the petitioner without recording such finding and without there being any reasonable cause, which is unsustainable and bad in law.**”

**SUBHASH CHANDRA AGRAWAL v. SUPREME COURT OF INDIA**

**CIC decision on 14 August, 2020:**

**The sequence of Events Backdrop:**

On November 11, 2007, RTI Activist Mr. Subhash Chandra Agarwal, filed a plea in the Supreme Court of India requesting information on the assets of judges. But the same was refused to be revealed by the court. In response, the first appeal stood filed at the Supreme Court's registry and this request too got denied. Mr. Agarwal, then, approached the Central Information Commission which thereafter, in 2009, asked the SC to disclose information of judges' assets, for the office of the Chief Justice of India, came under RTI. The Supreme Court, on receiving this order, went to the Delhi High Court challenging its validity which led to a temporary stay of the CIC order.

**Arguments given by SC:**

The Supreme Court was of the view that asset declaration by the Judges would come under Personal Information so that was not liable to be declared under the RTI Act as there are necessary provisions

in the act which exempts one from disclosing personal information. They further reckoned that Judges could not be treated the same way as the politicians when it came to asset declaration. Also, it was argued that bringing Judiciary under RTI and allowing too much of transparency could eventually take away the independent nature of the Judicial Organ.

### **Verdict of the HC:**

On September 2, 2009, single-judge bench of the Hon'ble Delhi High Court came up with the decision that CJI's Office is accountable under the RTI Act and thus, the assets need to be declared under the law. This verdict got challenged by the Supreme Court before the division bench of the Delhi HC in response to which a 3-judge bench was constituted. Thereafter, this special bench observed that the declaration of assets by the judges to the CJI was binding on them. Finally, on January 12, 2010, the ruling was delivered stating that the Office of CJI was under the ambit of RTI.

### **Onset of the 2019 SC Judgement:**

In 2010 itself, after the Delhi HC judgement, Secretary-General of the Supreme Court along with Central Public Information Officer (CPIO) went on to file appeals against the Central Information Commission and High Court orders. The matter, later on, was referred to the Constitutional Bench by the Supreme Court. And, **on November 13, 2019, the Supreme Court's final verdict came upholding the Delhi HC judgement thereby stating that the Office of the Chief Justice of India comes under the definition of Public Authority and hence, it is bound by the RTI.**

### **Importance of the Supreme Court Judgement**

This landmark judgement given in Central Public Information Officer; Supreme Court of India v. Subhash Chandra Agarwal is crucial to understand for it ended the constant debate that revolved around the inclusion of Judiciary under the ambit of RTI. The court pronounced that the need to have transparency did not undermine judicial independence and stated that independence and accountability go hand in hand in the case of judiciary.

Additionally, it held that the decision to go for **public disclosure** must be taken on a case by case basis taking into consideration the competing public interest claims and weighing them along with the privacy concerns. On the question of whether the **Supreme Court and the Office of the CJI** were two separate public authorities under RTI, the court observed that the Supreme Court of India i.e. a public authority, in view of Article 124 of the Constitution, necessarily includes the office of the CJI as well other judges. It was further held that the offices together constitute the Supreme Court and are therefore, part and parcel of the Supreme Court (as a body, authority and institution).

With regards to the fiduciary relationship, the Supreme Court rejected the existence of such a connection between the judges and the CJI. The appellants, in view of section 8(e) of the RTI Act (that provides an exemption from disclosure of information held under fiduciary relationship by a person) had contended that the information on judges' assets held by the CJI was in a fiduciary relationship. The Court, while declining such claims, observed that such a relationship could arise in certain situations only.

## **ABOUT THE STATE OF IMPLEMENTATION OF RIGHT TO INFORMATION ACT AND CONCLUSION:**

The Right to Information Act provides us with a priceless opportunity to redesign the processes of governance, particularly at the grassroots level where the citizens' interface with government is maximum. It faces certain impediments due to various procedural issues and mismanagement. Even though there is still lack of awareness with regard to RTI among the rural and uneducated population, there have been instances of misuse of RTI for their personal interests. The Hon'ble Supreme Court, in the matter of **CBSE & Anr vs Aditya Bandhopadhyay and Others in 2011**, held that: **The nation does not want a scenario where 75% of the staff of public authorities spends 75% of their time in collecting and furnishing information to applicants instead of discharging their regular duties.** The various authorities under the RTI along with the citizens bear a great responsibility on their shoulders that the right given to the citizens be exercised with utmost precision and not be misused in any manner as rightly been observed by the Hon'ble Delhi High Court that misuse of the RTI Act has to be appropriately dealt with; otherwise the public would lose faith and confidence in this "sunshine Act".

I would conclude my session and leave the auditions with the thought reflected in the following quote of Mahatma Gandhi

**“REAL SWARAJ WILL COME NOT BY THE ACQUISITION OF AUTHORITY BY A FEW BUT BY ACQUISITION OF CAPACITY TO RESIST AUTHORITY WHEN ABUSED.”**

