



## RIGHT TO INFORMATION (RTI) ACT IN THE CONTEXT OF ASSAM UPAMA SAIKIA

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### ABSTRACT

India is a democratic country. People are the masters; therefore masters have a right to know how the government meant to serve them are functioning. Thus, freedom of information is directly related to this connotation of democracy. RTI is an institutional reality of freedom of information which has been taken by the Indian Parliament. RTI ACT 2005 is a significant landmark that gives Indians access to government records. This legislation is a radical improvement on the relatively weak and ineffective statute which seeks to replace the Freedom of Information Act, 2002. Hence, RTI ACT 2005 is an important mechanism with its aim and objectives to bring transparency and accountability, which made competent to each and every citizen the right to define and choose their public domain. The present paper will highlight the journey of RTI ACT 2005 in India and Assam in particular. This paper also deals with the challenges faced in the efficient operation of RTI ACT 2005 and giving some recommendations for effective working of RTI in Assam.

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## INTRODUCTION

The Right to Information Act 2005 (RTI) is an ACT of Parliament of India. It is the implementation of freedom of information legislation in India on a national level "to provide for setting out the practical regime of the right to information for citizen". Although right to know is not explicitly spelt out in the Constitution, but this right is inherent in the right to Freedom of Speech and Expression (Article 19) as well as the Right to Life and Liberty (Article 21). The act applies to all States and Union Territories of India, except the state of Jammu and Kashmir which is covered under a state law. Under the term of the act, any person may request information from a 'public authority' (a body of government or instrumentality of state) which is expected to reply expeditiously or within thirty days. The act also requires every public authority to computerise their records for wide dissemination and to proactively publish certain categories of information, so that the citizens need minimum recourse to request for information formally. This law was passed by Parliament on 15 June 2005 and came into force on 13 October 2005. Now in India, nine states namely - Delhi, Maharashtra, Tamil Nadu, Rajasthan, Karnataka, Jammu and Kashmir, Assam,

Goa and Madhya Pradesh have laws on the Right to Information to show their commitment for building a dynamic and prosperous society by involving the people in governance and decision making process.

The RTI Act specifies that the citizens have right to:

- Inspect work, documents and records.
- Take notes, extracts or certified copies of documents or records.
- Take certified samples of materials.
- Obtain information in the form of printouts, diskettes, floppies, tapes, video cassettes or any other electronic mode or through printouts.

**Historical background of RTI act 2005:** The historical background of RTI ACT 2005 governed by a law enacted during the British rule, the Official Secrets Act of 1889. Though the intent of this law was to secure only information related to security of the foreign states, it contained provisions which could make it a crime to disclose even non classified information. In 1975, the Supreme Court delivered a judgment which held that "the people have a right to know every public act, everything that is done in a public way, by their public functionaries". The central government appointed a working group under H.D. Shourie and assigned them to the

responsibility of drafting the legislation in this context. The Shourie draft was the basis of Freedom of Information (FOI) Act, 2002. The act has been criticised for various loopholes. The ineffectiveness of FOI act 2002 led to better RTI enactment. In 1990s a grass root organisation in Rajasthan named Mazdoor Kishan Shakti Sangathan (MKSS) initiated a right to information movement. In 1996, the National Campaign for People’s Right to Information (NCPRI) stated a nationwide campaign for RTI in the country. In 1997, in a conference of Chief Ministers, it was decided that the central and the state government would work together on transparency and the RTI. It was in 2002, that the Freedom of Information Bill was passed in the parliament. Finally, it was in 2005, that the right to information act was passed by parliament and the act came into force from October 13, 2005.

**Assam right to information act, 2001:** Assam is the only state of North East India which enacted Right to Information Act. This act is called as the Assam Right to Information Act 2001. The RTI ACT 2005 covers all central, state & local bodies and will apply to public authorities in Assam.

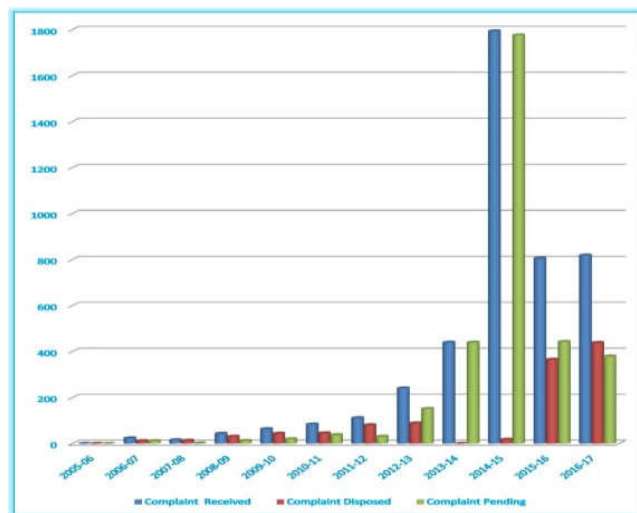
**Procedure of Information**

1. Under the act, all authorities covered must appoint their Public Information Officer (PIO).
2. Any person may submit a request to the PIO in writing or through electronic means in English or Hindi or in the Official language of that area along with a fee, as prescribed in form.
3. The applicant is not required to disclose any information or reasons other than his name and contact particulars to seek the information.
4. Information may be obtained within 30 days from the date of request in a normal case. The person, who has not received any communication within the period of 30 days from the date of the application under section 5, can prefer an appeal before the controlling officer. If any person aggrieved by the order of controlling officer, may prefer second appeal to Assam Administrative Tribunal.
5. 48 hours for information concerning the life or liberty of a person.
6. If any difficulty arises, in giving effect to the provisions of this act, the state government may, by an order make such provisions not inconsistent with the provisions of this act.
7. The state government may make rules for carrying out the purpose of this act.

**Scenario of Assam RTI**

**Table 1. Complaint Cases**

Year	No. of complaint received	No. of complaint disposed	No. of complaint pending
2005-06	0	0	0
2006-07	24	12	12
2007-08	16	14	2
2008-09	44	31	13
2009-10	64	44	20
2010-11	84	46	38
2011-12	112	81	31
2012-13	241	89	152
2013-14	440	0	440
2014-15	1794	18	1776
2015-16	806	366	443
2016-17	819	439	380



**Figure 1. Bar diagram showing year wise disposal of complaint petitions**

**Challenges**

The Assam RTI ACT 2002 has been facing severe challenges. Some of these are listed below –

- **Lack of awareness:** Major challenge before successful implementation of RTI Act is low level of awareness among the people as well as the public officials.
- **Problems related to officials:** Another threat posed in the effective operation of RTI Act is the lack of cooperation and coordination among the state information commissioners and the PIO.
- **Misuse of public funds:** State government allocates numerous funds for publicity of RTI Act but it is not properly used. In Assam, the Assam Shramik Krishak Kalyan Parishad has created awareness among the masses, as there is misuse of the funds earmarked for flood control by the officials.
- **Pending cases:** A total of 6220 cases of RTI complaints and appeals are pending in the Office of Assam Information Commission. The waiting time in Assam was 2 years 8 months in 2014 which has now shot up to 30 years. If anyone files an RTI in Assam today, they could well have to wait for 30 years.
- **Out-dated records of departments:** Most of the government department websites are not updated. So people do not get proper information of the concerned subjects.

**Recommendations**

- **Campaigning of awareness programme:** Awareness campaign started among the people of all sections of the society so that they can have proper knowledge about the RTI Act and the effective use of it.
- **Development of IT sector:** Fast and proper data should be uploaded through the development of Information Technology. For that, the public officials should be properly trained so that they can use technology in the best way.
- **Establishment of agency:** To get modern and digitalized information of the applicants, there should be establishment of efficient and scientific record keeping agency.

- **Provision of application of department wise only:** RTI online application should be organised department wise at the state level, so that people have the easy access of information of concerned department.
- **Proper use of public funds:** Bureaucrats have adopted strict observation that the funds of the state government should be used properly.

### Conclusion

Observing above scenario of RTI ACT 2005 and Assam RTI ACT 2001, it is palpable that this scenario is not so encouraging. The RTI Act has opened up the democratic system of the country. This Act has compelled the government to furnish all malafiedre main within its ambit. It can be said that RTI contributes towards minimisation of the cases relating to corruption and the misuse of official funds, machinery. The Assam Chief Information Commissioner Himangshu Sekhar Das expressed his opposition to any change in the RTI Act; rather he favoured altering the rules so that the disposal of information is faster and more accurate. Efforts are being made by the progressive individual, civil society organisations, NGOs', Bureaucrats and the researchers to assess the effective implementation of RTI Act which has brought more transparency and efficient decision-making process of government in a positive way that has appreciated by all.

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