



LOK SATTA

People Power

August 26th, 2001

Jubilee Hall, Hyderabad

Crisis

- All pervasive corruption and failure of governance

Resolution

- Electoral reforms
- Decentralization of power
- Judicial reforms
- Instruments of accountability

Instruments of Accountability

- Right to Information
- Citizen's Charters
- Local government empowerment
- Stakeholder empowerment
- Independent crime investigation
- Independent appointment of constitutional functionaries
- Independent and effective anti-corruption agency

Legal Basis for this Right

Art. 19 (1) (a): “All citizens shall have this right to freedom of speech and expression”

Art. 19 (2) : Reasonable Restraints:

- Security of the state
 - Friendly relations with foreign states
 - Public order, decency or morality
 - Contempt of court
 - Incitement to an offence
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- Article 21 & 22: Right to Life & Liberty: Supreme Court extended this to cover Right to Information

Universal Declaration of Human Rights (UDHR)

Article 19:

“Everyone has a right to freedom of opinion and expression. This right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.”

International Covenant on Civil and Political Rights

Landmark Decisions of Supreme Court

- 1973 SC783 Bennet Coleman & Co. Vs Union of India
- 1975 SC865 State of UP Vs Raj Narain
- 1980s SP Gupta Vs Union of India
- 1989 Manubhai Shah Vs LIC of India

Right to Information in Developed Countries

- US - 1966
- Scandinavia - 1970
- France - 1978
- Australia - 1982
- New Zealand - 1982
- Canada - 1983
- Greece - 1986
- South Africa - 1997
- Ireland - 1998
- United Kingdom - 2001

Right to Information

Two facets to this:

- Right to have access to information
- Right to be informed

Information

- On all matters involving exercise of public authority
 - Public money & utilization
 - public works, target oriented schemes, beneficiaries, taxation, expenditure
 - Laws and enforcement
 - Policies and decisions
 - eg: environmental impact of projects
 - power purchase agreements
 - Employees
 - Delivery of services

Key Requirements of RTI Law

- Realizable instrument
- Minimal specific exemptions
- Conformity with 19 (2) of the Constitution
- Simple procedures
- Wide dissemination
- Nominal or no charge
- Limited time-frame

contd..

Key Requirements of RTI Law

- Specific provisions for emergencies (arrest etc)
- Suo moto disclosure
- Independent appeal
- Judicial remedy
- Strict penalties for violations
- Protection for public interest disclosure

Indian Experience

Union:

- No legislation at the Union level
- Several drafts from different groups
- GOI draft pending

States:

- Goa - 1997
- MP - 1998 (awaiting president assent)
- Tamil Nadu - 2000
- Rajasthan - 2000 (legislation introduced due to public pressure)
- Karnataka - 2000
- Mahatashtra - 2000

Features of Other Bills

- TN & Maha : Too many exemptions
- TN, MP, Raj, Karn, Maha : No provision for urgent requests
- Goa, TN : No Suo Motu disclosure
- TN, MP : No independent appeal
- All states : Long time limits (30 days)
- TN, Maha : No penalties
- Goa, Maha : Regulatory agency

Defects of the GOI Bill

- Time frame too loose
- No independent appeal
- No penalty
- No whistleblowers' protection
- All information accessible to legislature not available to the people
- Omnibus exemptions

Key Features of LOK SATTA's Draft Bill

- Periodic reporting
- Proactive disclosure
- Reasonable time-frame
- Reasonable fee
- Automatic appeal
- Independent appellate process

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Key Features of LOK SATTA's Draft Bill

- Penalties for non-compliance
- Clearly defined minimum exemptions
- Access to all information available to the legislature
- Protection of public interest disclosures
- Strictly limited to-state subjects (List II of Seventh schedule)

Action Plan

- Information on Legislators' assets and income
- Information on Legislators' criminal antecedents
- Monthly face-to-face programs in municipalities
- Information allocation of essential commodities - shop-wise
- Transparent, uniform, simple system of property taxation
- Display of information on employees, expenditure, schemes and beneficiaries at each office

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Action Plan

- Information on toilets for every household program and verification
- Citizen's Charter for municipalities - effective implementation
- Monitor uniform and transparent implementation of BRS scheme
- Obtain Citizen's Charters with penalties for delay for all public services