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[2017-10-31](#)

12:00 AM, October 31, 2017 / LAST MODIFIED: 12:00 AM, October 31, 2017

RIGHT TO INFORMATION

Giving people a sense of empowerment



Prashanto Chandra Sen

*Prashanto Chandra Sen is an Advocate practicing in the Supreme Court of India and Delhi High Court for 19 years. His practice encompasses Civil, Commercial and Infrastructure related litigation and pro-bono work concerning Right to Information (RTI). He was involved in the drafting of The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 which recognises rights of tribals in forest land. Recently **Emraan Azad** from Law Desk talks to him on the following issues:*

Law Desk (LD): Please tell us about RTI (Right to Information) application procedure in India.

Prashanto Chandra Sen (PCS): The RTI procedure in India is basically regulated by the Right to Information Act of 2005, but the procedure varies from one State to another. Seeking information, one needs to apply to the concerned authority in a prescribed form after paying certain fees fixed by the law. Each authority brings out certain formats on

which the application has to be made. Sometimes the amount of fee varies depending upon the extent and weight of the information that has been sought to be shared with the applicant. The legal basis of information authority is well-defined in the RTI Act of 2005. In other words, the duty to provide information arises under this Act. When an application is refused by the information officer, the applicant has an option to go the appellate authority and subsequently, if needed, to the central information authority. Besides in required situations, the applicant can challenge the decision of the central information authority to the High Court under writ jurisdiction and then can go to the Supreme Court of India.

LD: As you regularly appear in RTI cases for the clients who come from below poverty line, what does basically motivate you to do so for them?

PCS: I believe, one of the ways to contribute to the democratic processes of the nation is to assist the marginalised population of the country to protect their rights guaranteed in the constitution. It gives a lot of satisfaction to a legal practitioner like me. That is one main reason, why I work pro bono for such matters besides my regular private law practice. Secondly there is always opportunity of contributing to the development of law and legal system in RTI jurisprudence. Even in cases which involve persons who come from below poverty line, the litigation may raise issues which have deep legal significance, and that can be intellectually challenging for a lawyer to deal with. So, the motivation that I have is both emotionally satisfying and intellectually challenging. We are trying to build up a network of lawyers who would regularly take up RTI cases on various important issues of RTI which are raised and even if people do not have the resources to follow up, the network of lawyers would take care of for them. That's what we are now planning.

LD: How do you evaluate the presence of the Indian RTI Act?

PCS: Often the population do not know why the government is doing or not doing something. For example, why the ration is not coming to the people who are entitled to receive. To get all the information, the RTI Act is a means for the population. It empowers them and as a matter of right they can ask for the information. It is true that many times the information officer would not entertain the application which is asking for some information. Even though it may take time, however, here is at least a legal process which empowers the citizen and enables them to ask questions to the government. And imparts a sense of empowerment that they get, on account of being able to seek information through a process.

LD: How do people know about RTI in India?

PCS: There are many NGOs creating awareness about RTI among slum dwellers and rural population. These NGOs assist individuals to file RTI applications and suits. And then as words spread around that some RTI applications have been successful, it also

encourages people to file RTI applications. All these factors together results in to make people being able to approach the RTI authority.

LD: Are you involved in any RTI awareness movement?

PCS: Not too much. I usually confine myself to the court. I can maximise my contribution to the RTI movement through engagement in legal discourse on RTI issues.

LD: How do you get yourself engaged in RTI litigations? Where do you find the clients who cannot afford the cost of litigation?

PCS: There is an organisation called National Campaign for People's Right to Information (NCPRI) which often refers to me the clients who cannot afford fighting in the court. The aim is to take up issues which are critical for the RTI movement but which cannot be pursued legally because of lack of resources by the person who filed the RTI. Then there are private clients or organizations which approach me directly.

LD: What is the role of Indian judiciary on the issue of RTI movement?

PCS: It's mixed. Many times it has been pro-active and many times conservative on some issues. Right to know is something which is part of the constitution and legal ethos. So it is not something new to the judges. But RTI is something different where authorities are obliged to give information and there is a process in which everything has to be done. There is an instance where a High Court made rules not strictly in consonance with the RTI Act, for example, when the Court itself was required or asked to share information. At the same time, the Delhi Court in a landmark judgment took a decision that the judges themselves must declare details of their assets. This issue is now pending before a five-judge bench of the Supreme Court whether judges are required to disclose the information concerning the details of their asset. This is yet to be decided but till then the law declared by Delhi High Court stands.

LD: How optimist you are about the future of RTI movement in India? Do you see any challenges?

PCS: I am very optimist about RTI movement in India. We want to see it grow more. Because the more empowered the people will begin to feel, the more they will get involved in democratic practices. That is the beauty of democracy and this way, I feel, our democracy will mature. But there is one danger for the RTI activists. There are cases of some being physically attacked and killed. This is an area of concern. We need to be very careful to deal with this scenario and I believe the government has a big role play in this situation.

LD: Thank you for your time.