

OPEN, ALL THE SAME: ON CJI OFFICE AND RTI ACT

Relevant for: Indian Polity | Topic: Judiciary in India: its Structure, Organization & Functioning, Judges of SC & High Courts, Judgments and related Issues

The adage, “sunlight is the best disinfectant” is often used to delineate the need for disclosure of matters related to public interest through the Right to Information mechanism. The declaration of assets by ministers and legislators, besides electoral candidates, has gone a long way in shedding light on public authorities and provided the citizenry more relevant information about their representatives. Yet, judges of the Supreme Court had hitherto refused to share information on their personal assets, citing the express lack of public interest. The welcome ruling by a five-member Constitution Bench of the Supreme Court that the office of the Chief Justice of India is a “public authority” under the RTI Act, as much as the apex court itself, now enables the disclosure of information such as the judges’ personal assets. The judgment’s majority opinion, written by Justice Sanjiv Khanna, emphasised the need for transparency and accountability and that “disclosure is a facet of public interest”. In concurring opinions, Justice D.Y. Chandrachud asserted that judicial independence was not secured by secrecy while Justice N.V. Ramana argued for the need of a proper calibration of transparency in light of the importance of judicial independence. The Bench unanimously argued that the right to know under the RTI Act was not absolute and this had to be balanced with the right of privacy of judges. But the key takeaway from the judgment is that disclosure of details of serving judges’ personal assets was not a violation of their right to privacy.

The main opinion also argued that information related to issues such as judicial appointments will also be subject to the test of public interest and procedures mandated in the RTI Act that specify that views of third parties (in this case, judges) must be sought. While laying out the importance of the assessment of public interest in any RTI query besides bringing the office of the CJI under the purview of the Act, the decision has gone on to uphold the Delhi High Court verdict in 2010. The RTI Act is a strong weapon that enhances accountability, citizen activism and, consequently, participative democracy, even if its implementation has come under strain in recent years due mainly to the Central government’s apathy and disregard for the nuts and bolts of the Act. Yet, despite this, the Supreme Court judgment paves the way for greater transparency and could now impinge upon issues such as disclosure, under the RTI Act, by other institutions such as registered political parties. This is vital as political party financing is a murky area today, marked by opacity and exacerbated by the issue of electoral bonds, precluding citizens from being fully informed on sources of party incomes.

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