

Information belongs to 'THIRD PARTY'

The passing of the Right to Information Act, 2005 was seen as giving an empowering tool in the hands of the citizens of India, six years post its implementation, loopholes have surfaced with misuse of the many fundamental concepts, which have yet not been defined to allow for a consistent pattern of decisions.

Among many problems that emerge with the Act, **a major problem is defining the extent to which an individual has access to other people's information.** While most of us tend to think that asking for other people's phone numbers, personal details like passport number or IT returns are private and would be kept so, under the RTI Act and as seen in the Central Information Commission (CIC) decisions, all of these details can be availed of by someone who doesn't know you at all!

'Third Party' means, According to section 2 (n) of the RTI Act, 2005, 'third party' means a person other than the citizen making a request for information and includes a 'public authority'. This implies that the term 'third party' includes anyone other than the appellant or the respondent.

In matters where an appellant is seeking information not regarding his or her own activities, or is asking for details of shared records that list details of several persons other than him or her, information cannot be provided until the 'third party' consents to disclosure and subsequently until the Central

Public Information Office (CPIO), after considering the implications of such disclosure allows it.

Procedure to access “Third Party Information” –

Section 11 (1) the Act provides the procedure to access third party information wherein the appellant needs to request for the third party’s consent after which the CPIO will produce a written request to the 'third party' and within a stipulated time period obtain their response. However, it is not the information bearer (third party) who holds the key to disclosure. The power, by the RTI Act, 2005, is vested in the public information officer who will then, either see a 'larger public interest', or otherwise allow disclosure based on the merits of the case.

Who can and who cannot access your information- In such a situation, it is interesting to see who the Central Information Commission (CIC) regards as 'third party'. While going through the judgments delivered by the CIC, one comes across several judgments that tell you who can and who cannot access your information.

While a son or daughter naturally inherits his/her father’s wealth, land or other possessions, they do not inherit his position for obtaining information. This is just one instance. Similar holds true for access to information of a deceased kin. Unless the public information officer sees a ‘larger public

interest' in disclosure of such information, it cannot be revealed even to the deceased's wife, husband or children unless they hold a power of attorney specifically to a right to access information.

What is in 'larger public interest'- What is in 'larger public interest' and what information can be delivered to anyone for this cause is the discretion of PIO under RTI Act, 2005. Moreover, there is no clear definition to the 'larger public interest' or 'invasion of privacy'. In several judgments, the committee upholds principles of natural justice to justify instance of public good but these cannot be upheld for all decisions.

Third party position is a problematic one as it only goes so far as to define the state-mediated interaction between two subjects in relation to each other through legal machinery that holds massive discretionary powers to disclose or withhold information. Hence, while, in relation to 'third party', a subject may need to justify his larger benevolent interests, the State finds no problems revealing or disclosing information for its own good.

In **Shri Rajender Kumar Arya vs Dy. Commissioner of Police (DCP)**, (4 March 2009), the commission ruled that they now have the decision of the Madras High Court in the context of right to privacy in light of the RTI Act. The Madras High Court observed that with the advent of the Right to Information Act,

section 3 of the Act entitles a citizen to the right of information. Section 4(2) of the said Act obliges a public authority to disclose information to common people. Even personal information or information, which may otherwise amount to an invasion of privacy, may also be disclosed if the larger public interest so warrants. The court in fact came to the conclusion that the right to privacy virtually fades out in front of the 'Right to Information' and 'larger public interest'. This tells us that 'third party' is a mere negotiating position from which the State itself regulates information flow to citizens and can revoke these privileges as and when needed.

What comes under the purview of 'public information'- It is also interesting to see what comes under the purview of 'public information'.

1. Your age, birth date, place you belong to, your marks, the rank that you hold, the salary you get, the returns you file or subsequently any of this information regarding your children. As upheld in [Madhulika Rastogi vs Regional Passport Office, New Delhi](#), on 4 February 2009, [M. Rajamannar vs PIO, AC Division, Indira Gandhi National Open University](#) on 18 February 2009 and [A.V.Subrahmanyam vs BSNL, Hyderabad](#) on 16 February 2009 — the judgments illustrate that information submitted to public authorities at any point in time whether to get admitted to school, to get a license, to

pass a public services examination or even file a divorce;
all qualify for access to other people because they have been knowingly submitted to the public domain.

2. A lot of sensitive information like passport details, telephone call records and medical records that can map intimate interactions of a person's daily life can also be obtained if larger public interest is proven.

Hence, it is important to avail information of third party that there is an involvement of larger public interest behind seeking that information and it is on the party who seeks information to prove and satisfy the authority (PIO) that the information is required for the benefit of public at large.