Syllabus subtopic: Government policies and interventions for development in various sectors and issues arising out of their design and implementation.

Prelims and Mains focus: about the RTI Act, 2005 and issues related to its abuse; office of Information Comissioners and the controversy around their appointment.

News: Flagging “fears” over the “abuse” of the Right to Information (RTI) Act, the Supreme Court Monday observed “there have been innumerable cases of blackmail, extortion in its working” which it wanted to address.

The remarks were made by a bench of Chief Justice of India S A Bobde and Justices B R Gavai and Surya Kant. The bench was hearing a plea by RTI activist Anjali Bharadwaj seeking direction to the Centre and states to implement the court’s direction earlier this year to appoint information commissioners (ICs) without further delay.

Background

- In the past, SC has warned against a situation where 75% of the staff of public authorities spends 75% of the time answering RTI queries.

- At other times, it has also acknowledged information officers have evaded answers to queries. What SC says will invariably influence how public information officers respond to RTIs.

Court’s directive to the Centre

- The bench asked the Centre and states to fill the vacancies within three months.
- It also asked the Centre to upload on the official website names of members of the Search Committee for selection of ICs of the Central Information Commission within two weeks.

What did the court say regarding the abuse of RTI?
Guidelines should be laid down to check the locus of the RTI applicant and put a “filter” on the kind of requests made under the 2005 Act.

There is the serious problem of people filing RTI requests with malafide intentions, people set up by rivals.

The RTI Act had become a source of criminal intimidation by people with an axe to grind. “Criminal intimidation is a nice word for ‘blackmail.”

People who call themselves “RTI activists” and were in no way concerned with the issues on which they file RTI requests had impeded government functioning,

The court is willing to hear arguments on the locus of people who filed RTIs and also about setting up a “filter which can be rightfully employed.”

Right to Information (Amendment) Act, 2019

Term of Information Commissioners: Under the Act, Chief Information Commissioner (CIC) and Information Commissioners (ICs) are appointed at the national and state level to implement the provisions of the Act. The Act states that the CIC and other ICs (appointed at the central and state level) will hold office for a term of five years. The Bill removes this provision and states that the central government will notify the term of office for the CIC and the ICs.

Determination of salary: The Act states that the salary of the CIC and ICs (at the central level) will be equivalent to the salary paid to the Chief Election Commissioner and Election Commissioners, respectively. Similarly, the salary of the CIC and ICs (at the state level) will be equivalent to the salary paid to the Election Commissioners and the Chief Secretary to the state government, respectively.

The Bill seeks to amend these provisions to state that the salaries, allowances, and other terms and conditions of service of the central and state CIC and ICs will be determined by the central government.

Deductions in salary: The Act states that at the time of the appointment of the CIC and ICs (at the central and state level), if they are receiving pension or any other retirement benefits for previous government service, their salaries will be reduced by an amount equal to the pension.
Previous government service includes service under: (i) the central government, (ii) state government, (iii) corporation established under a central or state law, and (iv) government company owned or controlled by the central or state government.

The Bill removes these provisions.

**RTI vs Right to Privacy**

- Conceptually, RTI and the right to privacy are both complementary as well as in conflict to each other.
- While RTI increases access to information, the right to privacy protects it instead.
- At the same time they both function, as citizen rights safeguarding liberty, against state’s overreach.
- When the question of harmonising the contradicting rights arises, it should:
  1. give justice to the larger public interest
  2. advance the public morality

**RTI vs Official Secrets Act, 1923**

- The OSA was enacted in 1923 by the British to keep certain kinds of information confidential, including, but not always limited to, information involving the affairs of state, diplomacy, national security, espionage, and other state secrets.
- Whenever there is a conflict between the two laws, the provisions of the RTI Act override those of the OSA.
- Section 22 of the RTI Act states that its provisions will have effect notwithstanding anything that is inconsistent with them in the OSA.
- Similarly, under Section 8(2) of the RTI Act, a public authority may allow access to information covered under the OSA, “if the public interest in disclosure outweighs the harm to the protected interest”.

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