

UNIT – 5

Judicial Response and Best Practices

SC & HC Decisions • Best Practices • Sectoral Decisions • Way Forward

Right to Information

Unit Overview

This unit studies the judicial response of the Supreme Court and High Courts to the RTI Act, and examines best practices and important decisions of the Central and State Information Commissions in key sectors – Police, Revenue, PWD, Irrigation, Secretariat, BSNL, Posts, Banks, CPWD, Income Tax, Central Excise and Local Authorities.

What You Will Learn

01 SC Jurisprudence

Analyse major Supreme Court decisions on RTI

02 High Courts

Understand High Court approaches to RTI disputes

03 Best Practices

Identify good practices emerging from Commission decisions

04 Sectoral

Study decisions in police, revenue, works and other departments

05 Banks & PSUs

Examine RTI application to banks and public sector undertakings

06 Way Forward

Reflect on challenges and the future of RTI

Supreme Court on RTI – Major Themes

The Supreme Court has consistently upheld the constitutional foundation of RTI while also delineating the boundaries of exemptions, especially concerning judicial independence, national security and privacy.

Constitutional Status

RTI is part of Article 19(1)(a); the Act is a tool to effectuate the right

Judicial Independence

Special protection for judicial records and appointments in certain contexts

Public Interest

Repeated emphasis on the public interest override

Implementation

Directions for better functioning of Commissions and proactive disclosure

Privacy Balance

Girish Ramchandra Deshpande and subsequent cases on personal information

HIGH COURTS

High Court Decisions – Trends

Writ Jurisdiction

Extensive use of Article 226 to enforce Commission orders and correct errors

Penalty

High Courts have both upheld and set aside penalties depending on facts

Public Authority

Cases on whether particular bodies fall within Section 2(h)

Exemptions

Detailed scrutiny of Section 8 claims

Delay

Criticism of chronic delay by both public authorities and Commissions

BEST PRACTICES

Best Practices Emerging from Commissions

Proactive Disclosure

Departments that maintain comprehensive Section 4 manuals face fewer requests

Single Window

Some states have created effective online portals and tracking systems

Training

Regular training of PIOs and FAAs improves quality of first-level decisions

Record Management

Digitisation and proper indexing dramatically improve response time

Citizen Charters

Linking RTI with citizen charters and grievance redressal

RTI and Police – Key Issues

FIRs	Generally accessible; exceptions for sensitive investigations
Investigation	Ongoing investigation can be protected under Section 8(1)(h)
Disciplinary	Information about police personnel – balance between transparency and privacy
Best Practice	Some police departments publish crime statistics and status of complaints proactively

Revenue, PWD, Irrigation, Secretariat

Land Records

High demand; digitisation has improved access

PWD / Irrigation

Contract documents, bills, quality reports – frequently sought

Secretariat

File notings, decision-making process – core transparency area

Common Issue

Claims of “file not traceable” – Commissions have imposed penalties

BSNL, Posts, Scheduled Banks, CPWD

BSNL / Posts

Service-related information, contracts, recruitment

Scheduled Banks

Public sector banks are public authorities; private banks generally not

CPWD

Works contracts, tenders, quality and payment details

Commercial Confidence

Frequently claimed; Commissions apply the public interest test strictly

TAX DEPARTMENTS

Income Tax and Central Excise

Assessee Information

Personal tax information is protected; aggregate and policy information is open

Search & Seizure

Sensitive operational information may be exempt

Refunds & Scrutiny

Procedural information is generally accessible

Best Practice

Some tax departments have improved proactive disclosure of circulars and manuals

LOCAL BODIES

Local Authorities – Municipalities and Panchayats

High Demand

Building permissions, contracts, beneficiary lists, budgets

Capacity

Many local bodies lack trained PIOs and record systems

Commission Role

SICs have played a major role in improving local-level transparency

Best Practice

Some municipalities publish all contracts and payments online

LANDMARK

Landmark Judicial and Commission Decisions

CBSE v. Aditya Bandopadhyay	Answer sheets are information; students can access
RBI v. Jayantilal	RBI cannot claim blanket fiduciary exemption
Thalappalam	Co-operative societies – substantial financing test
Girish Deshpande	Personal information of public servants – nuanced approach
Commission Decisions	Thousands of orders developing the practical jurisprudence of RTI

Salient Features of the Judicial Response

Supportive

Courts have largely strengthened the RTI regime

Balancing

Privacy, national security and judicial independence are protected

Enforcement

Writ jurisdiction is an important backstop

Sectoral

Commissions have developed rich sector-specific jurisprudence

Challenges

Pendency, quality of orders, and occasional judicial over-restriction

ESSENTIALS

Core Points

SC Constitutional foundation + careful balancing of exemptions

HC Primary enforcers via writ jurisdiction

Best Practices Proactive disclosure, digitisation, training

Sectors Police, revenue, works, banks, tax, local bodies – each has distinct issues

Commissions Developed practical case law through thousands of orders

Future Need for stronger record management and faster disposal

The Continuing Challenge of Implementation

Even after nearly two decades, RTI faces challenges of pendency in Commissions, uneven quality of PIOs, poor record management, and occasional political or bureaucratic resistance. The judicial response has been largely positive, but the ultimate success of RTI depends on administrative culture and continuous civil-society vigilance.

HIGHLIGHTS

Key Highlights

SC Cases

Aditya Bandopadhyay, RBI, Thalappalam, Girish Deshpande

Best Practices

Proactive disclosure + digitisation + training

Police

FIR access vs investigation exemption

Banks

Public sector banks covered; commercial confidence limited

Local Bodies

High demand; capacity constraints

Way Forward

Record management, faster Commissions, OSA reform

The Future of RTI in India

Digitisation

Complete digitisation of records and online proactive disclosure

Commission Capacity

Adequate staffing, infrastructure and independence

OSA Reform

Modern, narrow secrecy law

Whistle-blower

Effective protection to encourage disclosure

Citizen Use

Continued civil-society and media use of RTI as a tool of accountability

Must-Remember Points

- The Supreme Court and High Courts have largely strengthened the RTI regime while balancing competing interests.
- Information Commissions have developed rich practical jurisprudence across sectors.
- Best practices include strong proactive disclosure, digitisation and continuous training of PIOs.
- Different sectors (police, revenue, works, banks, tax, local bodies) present distinct transparency challenges.
- Implementation gaps – pendency, record management, resistance – still need attention.
- The future of RTI depends on administrative culture, judicial support and civil-society vigilance.

Key Takeaways

1. Judicial response has been a major source of strength for RTI.
2. Sector-specific Commission decisions provide practical guidance.
3. Proactive disclosure and record management are the real long-term solutions.
4. Challenges of pendency and uneven implementation remain.
5. RTI continues to be one of the most powerful tools of democratic accountability in India.

This completes the five units of Right to Information.