DEEMED GOVERNMENT COMPANIES – ARE THEY AMENABLE TO RIGHT TO INFORMATION ACT, 2005?

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ABSTRACT**

While the applicability of the RTI Act, 2005, an empowering legislation enabling the common people to access information held by the government authorities, largely depends on the touchstone of interpretation of the expression 'public authority' and in most of the times deemed government companies have a narrow escape. Though such deemed government companies had survived the crucial transformation from the Companies Act, 1956 to the Companies Act, 2013, information locked under them still enjoy the warmth of protective hand of their in-house counsels and advising law firms in keeping safe distance from the RTI applications. Such pretexts range from 'not substantially financed by the Government' to 'no control in day-to-day management by the Government' en route 'Government is only an investor/share holder'. Thus, deemed government companies, a legal creature begotten by the erstwhile section 619B of the Companies Act, 1956 remained an eternal fugitive even after a decade of enforcement of the RTI Act. Significantly, as per a CAG Audit Report, as on March 2014, equity participation by the central and state government entities in a total of 144 deemed government companies in India is more than Rs. 16,000 Crore. This paper dwells deep into the formative significance of the deemed government companies vis-a-vis the efficacy of the RTI Act, 2005, particularly from the eligibility aspect of 'public authority' as defined under section 2(h) of the RTI Act, 2005. Certain judicial pronouncements have been analysed in order to reach up to the very root of the issue. Ultimately, the author has suggested some sharp features for the decade-old protagonist so that its reach to the corporate ventures of the government does no more remain a futility.

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1. RTI ACT, 2005 – A Brief Introduction and Analysis

India follows the model of participatory democracy and in a democracy it is most essential that the citizen must know about the activities of their Government, on whom they repose trust through electoral mechanism. In a democracy, citizens deserve transparent and accountable governance and one of the very rudimentary pillars of such accountability is free and unbiased information about the nature of functioning of the Government. Success of democracy, thus, largely depends on fair functioning of the Government, which undoubtedly casts a reciprocal obligation on the citizens to act responsibly. Thus, it goes beyond saying that free and unbiased public information or in other words the 'right to know' by the public at large paves the road for an accountable governance and meaningful democracy.

Significantly, such right to know is a part of the fundamental right of freedom of speech and expression guaranteed under Article 19(1)(a) of Constitution of India, though subjected to reasonable restrictions as prescribed under Article 19(2) thereof.

Democracy recognises 'freedom of speech' as its lifeline and an essential element of social justice. In England, freedom of speech is treated as a safety valve to check abuse of power in the hands of the Government. Thus, empowerment of the common people at large vis-à-vis the freedom of speech and expression got a real momentum in India when the Right to Information Act, 2005 ('RTI Act') was enacted by the Indian Legislature thereby substituting the erstwhile Freedom of Information Act, 2002. Under the RTI Act, any citizen may request any public authority to disclose a particular information, when such public authority would be under a statutory mandate to reply expeditiously within 30 days. Such speedy response, that too by public authorities, unequivocally requires digitalisation of such data, which may also be treated as a positive outcome of enactment of the RTI Act. Various Government and public sector companies largely dealing with public money are now acting under the framework of the RTI Act, thereby, keeping the relevant information handy for access by the common people, on a case-to-case basis, which was unthinkable earlier, as Government officials had found to be inherently reclusive in answering the questioning public. Such data and statistics lying with Government, at times, appear to be critical for completing project documentations/policy papers for various people-centric social endeavours. Thus, in such a backdrop introduction of RTI Act was the need of the hour.

While analysing the anatomy of RTI Act, it appears that much efficacy of this Statute depends heavily on the key definitions and provisions, casting statutory obligations on public authorities in particular. In the definition segment (Chapter I), important terminologies such as 'information', 'public authority', 'right to information', 'competent authority,' etc., have been carefully defined whereas in Chapter II obligations cast upon public authorities vis-à-vis maintenance of proper books of records and procedure relating to request for information have been elaborately dealt with. In order to maintain a balance regarding information which are not desired to be disclosed to the public, certain exceptions have also been captured, which are mentioned hereunder as a ready reference for the readers.

Information, disclosure of which may affect –

(a) Sovereignty and integrity of India;
(b) Prohibitory order passed by any competent Court of Law;
(c) Breach of privilege of Parliament or State Legislature;
(d) Intellectual property, commercial confidence, competitive position of a third party unless the competent authority opines otherwise;
(e) Fiduciary relationship unless the competent authority opines otherwise;
(f) Confidence of Foreign Government;
(g) Individual information critical from law enforcement or security perspective;
(h) Investigation or prosecution of offenders;
(i) Cabinet, Ministerial and Secretarial records;
(j) Invasion in the private space of an individual.

The above exceptions clearly spelt out in the RTI Act, not only enables the public at large to make queries relevant to the mode of functioning of public bodies, but also makes functioning of the public information officers (PIOs) of the Government bodies less complicated.

While the RTI Act prescribes an elaborate procedure for obtaining information from the concerned public body and in turn public bodies are under an obligation to appoint a PIO, who is required to act as the interface between the answering public body and the querist individual. The application should precisely mention the querist individual's name, contact

details and relevant query. In the event of absence of PIO in a particular public body, the querist can exercise option to file the application either with the Central Information Commission (CIC) or State Information Commission (SIC). RTI Act sets certain specific timeline for reply to the query, same are mentioned herein below for ready reference of the readers.

- In case an application is filed with the PIO, reply time is 30 days from the date of receipt of the application;
- If the application is filed with the Central/State Assistant PIO, reply time is 35 days from the date of receipt of the application;
- In case of information pertaining to Life or Liberty of a person, reply time is 48 hours from the time of receipt of the application;
- In the event of transfer of the application by one public authority to another public authority, the reply time is 30 days from the date on which the transferred application is received by the concerned or second public authority;
- Any information pertaining to human rights violation or corruption by any Schedule II listed agency, the reply time is 45 days, subject to prior approval of the CIC.

RTI Act has also been taken to the digital platform so that people may invoke the same with much ease with the help of information technology. In spite of making paper application to the concerned RTI authority, similar application may be done online through the designated Government portal by creation of an user account and payment of fees as nominal as INR 10/-. Such online government portal may be accessed at https://rtionline.gov.in/

At the above backdrop, certain thumb rules of making a proper RTI application may be summarised as below:

- The querist must be a citizen of India;
- The query should be specific with material particulars;
- Proof of fee payment should accompany the query;
- The correct address of the querist must be clearly mentioned.

The fact remains that human beings are manipulative by nature and it's no wonder that individuals entrusted with various Government functions would exercise such skill either individually or at times jointly, unless an effective monitoring window is kept wide open.

Successful implementation of the RTI Act may lead to the opening of such window for setting the vigilant eyes of the common people on functioning of various Government or public bodies. Corporate ventures enjoying Governmental patronage, either through equity participation or by substantial financial support, should also not escape the radar of the RTI Act.

A country such as India which has to fight, round the clock, against natural calamities, abject poverty, illiteracy, inadequate health services, 'Freedom of Expression' and more particularly 'Freedom of Speech' of the people at large undoubtedly holds an iota of hope for its success as one of the emerging democracies. It goes beyond saying that in infusing such hope to the people, RTI Act is a welcome move, particularly from the aspect of empowering people with their right to know about the functioning of various wings of the Government and diverse public bodies. While state largesse and public money are operated principally through the Government and its diverse wings, the public at large can become a vigilant guard of such public wealth through the successful implementation of the RTI Act.

2. Public Authority – The Acid Test or Midas Touch:

From the above discussion, it goes unsaid that the most crucial aspect on which the applicability of RTI Act to an organisation depends is on its distinct characteristics akin to a 'Public Authority.' Thus, the scope of the term public authority is synonymous with the larger right of the Indian population towards public information.

Section 2(h) of RTI Act defines public authority as follows:

Public authority means any authority or body or institution of self-government established or constituted

(a) by or under the Constitution;

(b) by any other law made by the Parliament;

(c) by any other law made by the State Legislature;

(d) by notification issued or order made by the appropriate Government, and includes any—

(i) body owned, controlled or substantially financed;

(ii) non-government organisations substantially financed, directly or indirectly by funds provided by the appropriate Government;

Further the expression 'appropriate Government' has also been defined under Section 2(a) of the RTI Act, which reads as follows:

Appropriate Government means in relation to a public authority which is established constituted, owned, controlled or substantially financed by funds provided directly or indirectly—

(i) by the Central Government or the Union Territory administration, the Central Government;

(ii) by the State Government, the State Government;

Undoubtedly while playing a crucial role in making an entity amenable to RTI Jurisdiction, the terminology 'public authority' has undergone the scanner of judicial interpretation time and again.

In this regard it is important to consider the observations of Supreme Court on the formational aspect of the definition of 'public authority' as discussed in *Thalappalam Service Coop. Bank Ltd. v State of Kerala*[1].

In *Thalappalam Service Coop. Bank Ltd.,* (which may be considered as an umbrella ruling of the Hon'ble Apex Court on identification of public authority vis-à-vis RTI Act) the Apex Court went on observing that the legislative intent while defining the terminology 'public authority' under section 2(h) was quite unique. Categories of specifically included entities mentioned under section 2(h) have been qualified both under 'means' and 'includes'. Interestingly, when 'means' in its usual connotation is 'restrictive' but 'includes' makes any definition prima facie extensive. Thus, in case both 'means' and 'includes' are being used conjointly, the categories mentioned therein would exhaust themselves. For the meaning of the expressions 'means' and 'includes' assistance was sought from another Apex Court Judgment in *DDA v Bhola Nath Sharma*[2] where it was observed that in case of usage of such expressions, they may make an exhaustive case specific explanation of the purport of the words to be qualified, in alignment of the Act itself.

[1] *Thalappalam Service Coop. Bank Ltd. v State of Kerala* (2013) 16 SCC 82.
[2] *DDA v Bhola Nath Sharma* [(2011) 2 SCC 54.

Further, from the definition of 'public authority' in sec 2(h) of the RTI Act, Apex Court gave much stress on the control aspect vis-à-vis eligibility of an entity to be considered as a public authority. Hon'ble Court observed that while a body owned by the appropriate Government clearly falls within the four corners of the definition of public authority, a body controlled by the appropriate Government has certain vacillating traits.

The Hon'ble Court extensively considered various aspects of such control aspect by the appropriate Government on an entity. While neither of the expressions 'control' or 'controlled' are defined under the RTI Act, the Hon'ble Apex Court remained solely dependent on various judicial observations on such terminologies, however, keeping safe distance from the Constitutional aspect of 'control' which is critical for identification of an entity as 'State' under Article 12 of the Constitution vis-à-vis amenability of such entity to writ jurisdiction under Article 226 of the Constitution.

Furthermore, the Apex Court tried to gather more clarity into the understanding of the expression 'controlled' from its specific usage (like whether placed before or after) vis-à-vis two other expressions 'body owned' and 'substantially financed.' The Apex Court placed reliance on the observation relating to control as made in its earlier Judgment passed in *State of WB v Nripendra Nath Bagchi*[3] where while interpreting the scope of Article 235 of the Constitution of India, which deals with control of High Court over District Courts, the Apex Court observed that the terminology 'control', inter alia, includes the power to initiate disciplinary action. Another very significant observation in *Nripendra Nath Bagchi* was that the terminology 'control' is also at times used synonymously with superintendence, management or authority to direct, restrict or regulate by a superior authority in exercise of its supervisory power.

Thus, the meaning of the expression 'controlled' which figures in between the words 'body owned' and 'substantially financed' in Sec 2(h), the control by the appropriate Government must be a control of a substantial nature. The mere 'supervision' or 'regulation' as such by a statute or otherwise of a body would not make that body a public authority within the meaning of Section 2(h)(d)(i) of the RTI Act.

[3] *State of WB v Nripendra Nath Bagchi* AIR 1966 SC 447.

The Hon'ble Apex Court also consulted the dictionary meaning of the expressions 'questions of law' and 'substantial questions of law' from Black's Law Dictionary (6th edn), where the word 'substantial' is defined as

> "Substantial.— Of real worth and importance; of considerable value; valuable. Belonging to substance; actually existing; real; not seeming or imaginary; not illusive; solid; true; veritable. … Something worthwhile as distinguished from something without value or merely nominal. … Synonymous with material."

Thus, merely providing subsidies, grants, exemptions, privileges, etc. as such, cannot be said to be providing funding to a substantial extent, unless the record shows that the funding by the appropriate authority either directly ot through its instrumentality was so substantial to the body which practically runs by such funding and but for such funding, it would struggle to exist.

To summarise, while 'control' of the appropriate government enabling the application of the RTI Act is clearly 'instance specific,' it is intrinsically linked 'with body owned or substantially financed' by the appropriate Government. The next hurdle that comes is that the expression substantially financed is also not defined under the RTI Act and, hence, there is hardly any alternative but to borrow judicial observations on that aspect.

Evidently, the test of public authority appears neither an 'acid test' for the organisations enjoying financial or other support from the appropriate Government nor a 'Midas Touch' for the public at large, who are reasonably in necessity of information about such organisations. On the other way round, each instance of such public authority needs to pass through the touchstone of adequate control and financial supervision by the appropriate authority.

3. Formational Significance of Deemed Government Companies

Deemed Government companies have not been defined either under the Companies Act, 1956 or under the Companies Act, 2013. Section 619B of the Companies Act, 1956 has indicated deemed Government companies as companies whose ownership or control lies with two or more Government companies or corporations, etc., in the manner written in Section 619B. The most significant aspect of deemed Government companies is that they are subject

to audit by the Controller of Auditor General of India (C&AG). Section 619B of the erstwhile Companies Act is set out herein below for ready reference:

619B. Provisions of section 619 to apply to certain companies

The provisions of section 619 shall apply to a company in which not less than fifty-one per cent of the paid-up share capital is held by one or more of the following or any combination thereof, as if it were a Government company, namely: -

(a) the Central Government and one or more Government companies;

(b) any State Government or Governments and one or more Government companies;

(c) the Central Government, one or more State Governments and one or more Government companies;

(d) the Central Government and one or more corporations owned or controlled by the Central Government;

(e) the Central Government, one or more State Governments and one or more corporations owned or controlled by the Central Government;

(f) one or more corporations owned or controlled by the Central Government or the State Government;

(g) more man one Government company.

Deemed Government companies are corporate ventures by Central or State Governments where public money are invested in suitable corporate entities, generally not directly by the Central or State Governments but through Public Sector Enterprises (PSEs) or nodal authorities such as Industrial Promotion Bodies. In most of the cases, it is seen that these deemed Government companies are companies where such PSEs are either Promoters or Joint Venture (JV) Partners or Portfolio/Strategy Investor or holding a Public Private Partnership (PPP) with some significant private business group. These companies operate in almost every sectors of the economy including manufacturing, finance and infrastructure.

Some very significant instances of such JV are one between National Thermal Power Corporation (NTPC) and Nuclear Power Corporation (NPCIL) for development of Nuclear Reactors. Similarly JV between State run Oil Major Indian Oil Corporation (IOC) and NTPC for production of bio-diesel and lubricants. On the other hand, in the coal sector, similar JV between Coal India Limited (CIL) and NTPC & others for acquisition of coal assets in India and abroad. Significantly though a State run company is regulated by the DPE, the entity formed out of a JV, often called a deemed government company, does not come under the department.[4]

As mentioned in the above newspaper reporting, though state-owned companies, e.g., Government companies (ref. section 617 of the erstwhile Companies Act, 1956 or section 2(45) of the Companies Act, 2013) are regulated under the Department of Public Enterprises (DPEs), forming a part of the Ministry of Heavy Industries & Public Enterprises, Government of India, but deemed Government companies do not fall under the control of DPEs. In the past, initiatives were made to bring such deemed Government companies under DPEs, but it appears that till date the same did not materialise.[5]

As mentioned in the above newspaper reporting, though State-owned Companies, e.g., Government Companies (ref. section 617 of the erstwhile Companies Act, 1956 or section 2(45) of the Companies Act, 2013) are regulated under the Department of Public Enterprises (DPE), forming a part of the Ministry of Heavy Industries & Public Enterprises, Government of India, deemed Government companies do not fall under the control of DPE. In the past, initiatives were made to bring such deemed Government companies under DPE, but it appears till date same did not materialise.

[4] Shruti Srivastava, 'JVs of public sector firms may come in govt ambit' *Financial Express* (24 June 2010) <http://archive.indianexpress.com/news/jvs-of-public-sector-firms-may-come-in-govt-ambit/637848/> accessed 5 March 2018.

[5] Gunjan Pradhan Sinha, 'Deemed govt companies likely to come under DPE ambit' *Financial Express* (17 December 2010) <http://www.financialexpress.com/archive/deemed-govt-companies-likely-to-come-under-dpe ambit/554556/> accessed 6 March 2018.

The list of deemed Government companies as available on internet is quite back-dated, i.e., List of Deemed Central Government Companies for the year 2003-04 as a part of CAG Report No. 2 of 2005 (PSU).[6] The CAG report on Financial Performance of Central Public Sector Enterprises,[7] significant data are reproduced as ready reference:

In total, 144 deemed Government companies, share capital of

- **Central Govt., Central Govt. Companies & Corporations: Rs. 12,344 Crore**
- **State Govt., State Govt. Companies & Corporations: Rs. 3,727 Crore**

Now the question arises whether these deemed Government companies would be treated as public authority vis-a-vis the control and supervision, exercised by the appropriate Government commonly by equity participation. Thus, admittedly, the mute question which arises here is whether deemed Government companies being corporate venture by the appropriate Government, that too by investing public money through Government agencies, will fall under the four corners of the definition of public authority under the RTI Act, 2005 or not. Significant to note while both under Section 619B of the Companies Act, 1956 and Section 139(5) and Section 139(7) of the Companies Act, 2013, audit by C&AG had been made mandatory for the deemed Government Companies but no appropriate provisions have been made in the RTI Act to bring those corporate ventures with the Government within the ambit of RTI Act.

4. If CAG Audit for Good Governance then why not RTI Applicability for Transparency in Deemed Government Companies?

While from the aspect of public authority as discussed above, deemed Government companies, having Government Equity participation of at least 51% will not, ipso facto, become public authority, however, undoubtedly there will be a very strong presumption in that regard. However, significantly, a deemed Government company may not be a State under Article 12 of the Constitution but might become a public authority within the meaning of the RTI Act.

[6] Report no 2 of 2005 (PSUs), Appendix II < http://www.cag.gov.in/sites/default/files/old_ reports/union/union_compliance/2004_2005/Commercial_Audit/Report_No_2/App_II.pdf> accessed 17 March 2018.

[7] Report of Comptroller and Auditor General of India for the year ended March 2014, ch 7 <http://www.cag.gov.in/sites/default/files/audit_report_files/Union_Compliance_Commercial_2_2015.pdf> accessed 17 March 2018.

The submission made on behalf of Securities Exchange Board of India (SEBI) in this respect before the CIC in *Raj Kumari Agrawal v Jaipur Stock Exchange Ltd*[8] is very significant and same is reproduced hereunder for ready reference.

"……it has been submitted on behalf of the SEBI that the term 'public authority' is broader and more generic than the word 'state' under Article 12 of the Constitution of India. Every authority or institution which is a 'state' has to be a public authority under Section 2(h) of the Right to Information Act, 2005. Even a non-governmental organisation if substantially financed directly or indirectly by funds provided by the Government may be a public authority. Even a private institution substantially financed by an appropriate Government can also be a public authority but such non-governmental bodies or such private institutions or bodies may not be categorised as 'state' but they would be public authorities within the meaning of Section 2(h) of the RTI Act. There is enough merit in these submissions and the Commission agrees that an authority or an institution or a body if it is a 'state' within the meaning of Article 12 of the Constitution of India, it cannot claim that it is outside the purview of the Right to Information Act, 2005."

Now post repeal of the Companies Act, 1956, it appears that Section 139(5) and section 139(7) of the Companies Act, 2013, deal with such deemed Government companies, in line with the said repealed section 619B of the 1956 Act. Now for ready reference above referred section 139(5) and 139(7) of the Companies Act, 2013 are set out hereunder:

"(5) Notwithstanding anything contained in sub-section (1), in the case of a Government company or any other company owned or controlled, directly or indirectly, by the Central Government, or by any State Government or Governments, or partly by the Central Government and partly by one or more State Governments, the Comptroller and Auditor-General of India shall, in respect of a financial year, appoint an auditor duly qualified to be appointed as an auditor of companies under this Act, within a period of one hundred and eighty days from the commencement of the financial year, who shall hold office till the conclusion of the annual general meeting.

(6) ……..

[8] *Raj Kumar Agarwal v Jaipur Stock Exchange Ltd*. 2007 SCC OnLine CIC 1816, [2017] CIC 1816.

(7) Notwithstanding anything contained in sub-section (1) or sub-section (5), in the case of a Government company or any other company owned or controlled, directly or indirectly, by the Central Government, or by any State Government, or Governments, or partly by the Central Government and partly by one or more State Governments, the first auditor shall be appointed by the Comptroller and Auditor-General of India within sixty days from the date of registration of the company and in case the Comptroller and Auditor-General of India does not appoint such auditor within the said period, the Board of Directors of the company shall appoint such auditor within the next thirty days; and in the case of failure of the Board to appoint such auditor within the next thirty days, it shall inform the members of the company who shall appoint such auditor within the sixty days at an extraordinary general meeting, who shall hold office till the conclusion of the first annual general meeting."

In the meantime, the Ministry of Corporate Affairs, Government of India vide General Circular No. 33/2014 dated July 31, 2014[9] has clarified certain significant aspects of the deemed Government Companies under the 2013 Act.

Two most important clarifications offered by the above General Circular dated July 31, 2014 are set out hereunder:

"2. …… it is clarified that the new Act does not alter the position with regard to audit of such deemed Government companies through C&AG and, thus, such companies are covered under subsection (5) and (7) of Section 139 of the New Act;

3. Further, it has also been observed that the words "any other company owned or controlled, directly or indirectly …… by the Central Government or partly by one or more State Governments" appearing in sub-sections (5) and (7) of section 139 of the New Act are to be read with the definition of control in section 2(27) of the New Act. Thus, documents alike articles of association and shareholders agreements, etc., envisaging control under section 2(27) are to be taken into account while deciding whether an individual company, other than those referred in paragraph 1-2 above, is covered under section 139(5)/139(7) of the New Act."

[9] Clarification with regard to the applicability of provisions of section 139(5) and 139(7) of the Companies Act 2013 (General Circular No. 33/2014) <http://www.mca.gov.in/Ministry/pdf/General_Circular_332014_310 72014.pdf> accessed 16 March 2018.

Significantly, above referred control being a newly introduced definition under section 2(27) of the Companies Act, 2013, says as follows:

control shall include the right to appoint majority of the directors or to control the management or policy decisions exercisable by a person or persons acting individually or in concert, directly or indirectly, including by virtue of their shareholding or management rights or shareholders agreements or voting agreements or in any other manner;

From the above definition of control under section 2(27) of the Companies Act, 2013, additional parameters signifying control (besides equity participation, shareholding or voting rights) of the appropriate Government on a corporate entity, which might led the same to a deemed Government company as follows:

(a) right to appoint majority of the directors; or
(b) to control the management or policy decisions;

It is beyond any iota of doubt that this 'control' under the Companies Act, 2013 in case of a deemed Government company will bring it more closer to the presumption of a public authority within four corners of the RTI Act.

To summarise while for a deemed Government company, the presumption of same being a public authority under the RTI Act will be very strong, but the same will ultimately depend on a case-to-case basis, however, with weightage on the following control elements of the appropriate Government:

(a) Equity participation;
(b) Shareholding;
(c) Voting rights;
(d) Right to appoint majority of its Directors on the Board;
(e) Management control;
(f) Ability to take policy decision;
(g) Deep and pervasive financial control.

5. An Anecdotal Illustration:[10]

Mr. A, an individual RTI querist formally approached X Ltd., a deemed Government company asking for the material details of equity participation of the appropriate Government in X Ltd. Such appropriate Government infused equity in X Ltd. through one of its nodal agencies namely Y Ltd. and holds shares of X Ltd. issued in favour of Y Ltd. X Ltd. opposed to such RTI application on the pretext that it is not a public authority under the provisions of 2(h) of the RTI Act and, hence, replied to Mr. A that his application cannot be entertained. Being refused by X Ltd., Mr. A approached Y Ltd. with the same query. While Y Ltd., being one of the nodal agencies of the appropriate Government and a public authority, had no other alternative but to answer Mr. X against his query. Therefore, Mr. A out of his sheer intelligence and awareness on the RTI Act, could access the desired information in spite of the denial by X Ltd. And, thus, objectives of RTI Act were achieved.

6. Strengthening the Decade-old Protagonist, RTI Act

While RTI Act is undoubtedly a much coveted democratic strength in the hand of public at large, making the same a time-tested social tool is the responsibility cast upon each and every citizen of India. Applying this democratic tool in case of deemed Government companies, which are much ambitious commercial ventures of the Central and State Government bodies with investment of public money, is the need of the hour, particularly when the stake of public money involved is quite substantial.

While both 'control' and 'substantially finance' need to be specifically defined under the RTI Act, elements of such control should also include the parameters as laid down under the above referred definition of control under section 2(27) of the Companies Act, 2013. This is essential, in the greater interest of creating an empowered RTI regime across the nation.

Deemed Government companies, which all through remained a borderline case vis-à-vis the presumption of they being construed as public authority under the RTI Act, though operating in all critical commercial sectors of the Country with huge investment of public money, need not be provided with any statutory seepage, particularly when its near-relative Government companies (ref. section 617 of the erstwhile Companies Act, 1956 and section

[10] While the author takes assistance of 'anecdotal illustration' to narrate a fictional incident related to request for information made to a deemed Government Company, it is clarified that such illustration is merely in aid of explaining the subject and not intended to mean or indicate anything otherwise.

2(45) of the Companies Act, 2013) are public authorities under the RTI Act. More so, in not-so-distant past, initiatives to bring such deemed Government companies under the Department of Public Enterprises, Government of India, cannot be lost sight of.