

Asset declaration bill to be hot topic at CJI's meet today

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NEW DELHI: Though RTI is not on its agenda, the two-day conference of chief justices starting on Friday will be held under the shadow of the embarrassing withdrawal in the recent session of Parliament of the Bill seeking to keep the declarations of assets by judges out of the public domain.

Rather than focusing only on quantitative issues such as arrears and delays, the conference to be chaired by CJI K G Balakrishnan would do well to spare a thought for growing qualitative concerns such as deficiencies in transparency and integrity. The gap between the judiciary traditionally insular self-image and the public rising expectations of accountability from all institutions is evident from the rather surprising interpretation made by the SC and some of the HCs on the nature of information that would fall under the ambit of RTI.

Making a mockery of this much-vaunted legislation, these courts have made out on their administrative side that the only kind of information that can be accessed by citizens under RTI is what is already in the public domain.

When it challenged the Central Information Commission's direction on the declaration of assets by judges, SC in its petition before the Delhi HC earlier this year claimed that RTI's definition "shows that the information which is required to be given must be information in the public domain."

Accordingly, it argued that the application regarding declarations of assets by judges under a 1997 resolution of SC judges was not maintainable in as much as the information sought for was neither in the public domain nor was it required to be given or maintained under any statute or law. If SC's interpretation of the definition of information were to be valid, none of the public authorities should have been, for instance, disclosing file-notings because, given the confidential manner in which they are written by bureaucrats and ministers during decision making, they are clearly not in the public domain.

It is the operation of RTI that has brought into the public domain all manner of information that would have otherwise remained behind the official veil of secrecy.

The wide-ranging definition of information contained in Section 2(f) of RTI does not bear out SC's claim that it is limited to material lying in the public domain. In fact, SC seems to have imported the expression "in the public domain" into its petition on the basis of the rules framed by Delhi HC.

For, under the rules framed by it in 2006, the Delhi HC assumed the power to withhold "such information which is not in the public domain or does not relate to judicial functions and duties of the court." Some of the rules were clearly designed to keep information relating to the appointment and accountability of judges beyond the reach of citizens.