



Misuse of section 8 exemptions under The Right to Information Act, 2005: An empirical study of rejection trends and the failure of public interest overrides

Anthony Savio Herminio da Piedade Fernandes

Co-Founder, Agriculture, Farming Industry, Philu's Farm, Goa, India

Abstract

The Right to Information Act, 2005 (RTI Act) was enacted to operationalize transparency and accountability as enforceable democratic rights in India. While the Act establishes disclosure as the norm, exemptions under Section 8 were intended to operate narrowly and exceptionally. Over time, however, these exemptions have increasingly been misused by Public Information Officers (PIOs) as routine instruments for denying information. This empirical study examines patterns in the invocation of Section 8 exemptions, with particular emphasis on rejection trends and the limited effectiveness of the public interest override under Section 8(2). Drawing upon Central Information Commission (CIC) annual reports, selected State Information Commission (SIC) databases, and an analysis of over 10,000 appellate decisions between 2019 and 2025, the study identifies a marked rise in RTI denials following the 2019 amendments affecting Information Commissions. The findings reveal that exemptions under Section 8(1)(j) (personal information) account for approximately 35% of rejections, frequently applied without the mandatory harm–public interest balancing test. Public interest overrides succeed in only 5–10% of appeals, largely due to inadequate training of PIOs, institutional risk aversion, and significant appellate backlogs. The paper argues that the prevailing exemption culture has inverted the RTI Act's foundational presumption of disclosure. It concludes by proposing legal, administrative, and technological reforms—including mandatory reasoned orders, structured harm assessment matrices, strengthened penalties, and AI-assisted scrutiny of RTI denials—to restore the Act's democratic and constitutional promise.

Keywords: RTI Act 2005, Section 8 exemptions, public interest override, transparency, CIC, misuse of discretion

Introduction

The Right to Information Act, 2005 represents one of the most significant statutory interventions in India's post-constitutional democratic governance. Enacted after sustained civil society advocacy, the Act sought to dismantle the entrenched culture of secrecy inherited from colonial governance and reinforced by the Official Secrets Act, 1923. Transparency under the RTI framework was envisioned not merely as administrative efficiency but as a substantive democratic right essential to participatory governance, accountability, and the prevention of corruption.

Section 3 of the RTI Act confers upon all citizens the right to access information held by public authorities, subject only to limited exemptions. Disclosure, therefore, is the rule; non-disclosure is the exception. Section 8, which enumerates ten categories of exempt information, was designed as a protective mechanism to balance transparency with competing interests such as national security, commercial confidence, and individual privacy.

In practice, however, Section 8 has increasingly become the principal mechanism through which RTI applications are rejected. Empirical data from Information Commissions indicates that between 5% and 25% of RTI requests are either explicitly rejected or effectively defeated through deemed refusals, delayed responses, or vague replies. This pattern undermines public confidence in the RTI regime and dilutes its accountability-enhancing potential.

The situation has deteriorated further in the post-2019 period. Amendments affecting the tenure, salaries, and independence of Information Commissioners coincided with a sharp rise in pendency and a corresponding decline in deterrent oversight. Appeals increased by nearly 40%

between 2019 and 2024, while disposal rates stagnated. In this institutional environment, PIOs increasingly invoke Section 8 exemptions reflexively and without detailed justification, often in violation of Section 7(8), which mandates reasoned rejection orders.

This paper undertakes an empirical examination of the misuse of Section 8 exemptions, focusing on rejection trends and the limited application of public interest overrides under Section 8(2). Anchored in national and state-level data, the study seeks to answer three core questions:

1. Which Section 8 exemptions are most frequently invoked and misused?
2. How effective is the public interest override in appellate practice?
3. What institutional and cultural factors sustain exemption misuse?

Review of Literature

Academic and policy-oriented literature consistently recognizes Section 8 as the most contested provision of the RTI Act. Early doctrinal writings emphasized its necessity in balancing transparency with legitimate state and private interests. However, subsequent empirical studies reveal a steady drift toward overuse and mechanical application.

A 2023 SSRN study analyzing approximately 500 CIC orders found that nearly 45% of rejection orders invoking Section 8 failed to provide adequate reasoning, directly contravening Section 7(8). Similarly, the Indian Journal of Integrated Research in Law (2025)^[3] documents the blanket application of Section 8(1)(j) to deny access to information concerning public servants' assets, service records, and disciplinary proceedings, despite repeated judicial

clarification that such information may warrant disclosure when public interest is involved.

Media-based legal scholarship, particularly Moneylife’s sustained investigative reporting, characterizes Section 8 exemptions as a “convenient shield” used to block scrutiny of public procurement, infrastructure projects, and regulatory decisions. CIC annual reports from 2022 and 2023 reinforce these critiques, noting that over 60% of exemption-based denials lack any documented harm analysis.

Judicial precedent offers a mixed corrective. In *Girish Ramchandra Deshpande v. CIC* (2012), the Supreme Court restricted disclosure of personal information in the absence of demonstrated public interest. However, subsequent rulings—most notably *CPIO vs. Subhash Chandra Agarwal* (2019)—clarified that privacy is not absolute and must be balanced against transparency, especially where public office and public funds are involved.

Despite this jurisprudential evolution, administrative practice remains resistant to change. The literature reveals a clear gap: while doctrinal principles are well-articulated, empirical analysis of exemption trends and override efficacy—particularly at the state level—remains limited. This study addresses that gap.

Research Methodology

1. Research Design

The study adopts a descriptive-empirical research design based exclusively on secondary data analysis.

2. Data Sources

- Central Information Commission Annual Reports (2019–2025)
- State Information Commission portals (Maharashtra, Uttar Pradesh, Kerala)
- Right to Information Wiki (appellate decision database)

3. Sample: The dataset comprises more than 50,000 RTI applications and rejection orders, including detailed analysis of over 10,000 appellate decisions.

4. Analytical Tools: Quantitative trend analysis was conducted using spreadsheet-based computation of rejection ratios and exemption frequencies. Qualitative content analysis was employed to identify recurring patterns of exemption misuse, such as absence of harm analysis or failure to consider severability under Section 10.

5. Limitations: The study relies on publicly available data, which may underreport deemed refusals. Absence of primary surveys limits insight into PIO motivations. Nonetheless, triangulation across multiple sources enhances reliability.

Legal Framework: Section 8 and Public Interest Overrides

Section 8(1) of the RTI Act enumerates ten exemptions, including national security [8(1)(a)], commercial confidence [8(1)(d)], fiduciary relationships [8(1)(e)], and personal information [8(1)(j)]. These exemptions are explicitly qualified by Section 8(2), which mandates disclosure where public interest outweighs potential harm. The statutory design thus establishes a balancing framework rather than

an absolute bar. Judicial interpretation consistently reinforces this approach. CIC guidelines, including *SUYOG v. Ministry of Home Affairs* (2022), require PIOs to undertake a three-step analysis: identification of harm, assessment of public interest, and proportional disclosure. In practice, however, this framework is rarely applied. Exemptions are invoked without reference to harm or public interest, effectively converting discretionary safeguards into absolute prohibitions.

Empirical Analysis of Rejection Trends

CIC data for 2022–23 indicates that approximately 5–7% of RTI applications were formally rejected under Section 8. However, when refusals and non-responses deemed are included, effective denial rates rise to 20–25%.

Table 1: Exemption-Wise Rejection Trends (CIC Data)

Clause	2019 (%)	2023 (%)	Trend
8(1)(a)	12	15	Increasing
8(1)(d)	20	22	Stable
8(1)(j)	25	35	Sharp Increase
8(1)(e)	15	12	Declining
Others	28	16	Variable

Section 8(1)(j) emerges as the most misused exemption. Over 55% of denials under this clause were overturned on appeal, indicating systemic overreach. State-wise disparities are notable: Uttar Pradesh recorded rejection rates as high as 18%, while Kerala reported rates below 10%.

Rural local bodies and panchayats exhibited higher rejection rates, often citing poor record maintenance as justification—an approach inconsistent with the Act’s disclosure mandate.

Factors Driving Misuse of Section 8

Multiple systemic factors contribute to exemption misuse:

- **Training Deficits:** Approximately 70% of PIOs lack formal RTI training.
- **Institutional Backlogs:** Over 3.15 lakh appeals pending nationwide reduce accountability.
- **Administrative Culture:** Colonial-era secrecy norms persist.
- **Post-2019 Amendments:** Reduced independence of Information Commissions discourages assertive oversight.

Public Interest Override: A Dormant Safeguard

Despite its centrality, Section 8(2) is invoked in only about 15% of appeals, with success rates of 30–35%. States investing in systematic PIO training, such as Tamil Nadu, demonstrate measurable reductions in exemption misuse, underscoring the role of institutional capacity.

Recommendations

1. Mandatory harm–public interest assessment matrices
2. AI-enabled scrutiny of repetitive exemption usage
3. Compulsory RTI certification for PIO appointments
4. Enhanced penalties for habitual misuse
5. Quarterly CIC audits of exemption trends

Conclusion

The empirical evidence demonstrates that misuse of Section 8 exemptions poses a structural threat to India’s

transparency regime. The routine denial of information, coupled with the marginalization of public interest overrides, has inverted the RTI Act's presumption of disclosure. Unless corrective reforms are implemented, the Act risks devolving into a procedural formality rather than a substantive democratic safeguard. Reinvigorating Section 8(2) is essential to restoring the RTI Act's constitutional and democratic purpose.

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