

## Last chance for RBI to give info on bank inspection reports under RTI: SC

SC holds RBI in contempt of court, but gives it one last chance to withdraw disclosure policy, follow 2015 orders

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The  
Supreme  
Court on  
Friday

*A general view of the Supreme Court | Photo: Aashish Aryan*

reprimanded the Reserve Bank of India (RBI) for refusing to disclose information pertaining to the annual inspection report on banks under the Right to Information (RTI) Act, and warned that any further attempts by the banking sector regulator to hold back such information “shall be viewed seriously by the court”.

Though the apex court held the RBI in contempt of court, it gave the regulator “one last opportunity” to withdraw the disclosure policy related to the annual inspection report on banks. The RBI, the court held, was “duty-bound under the law” to provide such information, which was otherwise exempted under law. “Though we could have taken a serious view of the respondents continuing to violate the directions issued by this court, we give them a last opportunity to withdraw the disclosure policy insofar as it contains exemptions which are contrary to the directions issued by this court,” a two-judge Bench of Justice L Nageswara Rao and Justice M R Shah said in their judgment.

Last month, the court had warned the RBI of contempt proceedings for failing to disclose information and given it one week’s time to comply with the directions or “be ready to face the consequences”. The court had

in January issued a notice to the RBI on a contempt petition alleging the central bank had not provided information about the inspection conducted on some banks, said to be involved in irregularities inside the Sahara group. The petitioner alleged that the RBI had denied information regarding the inspection report on ICICI Bank, Axis Bank, HDFC Bank, and State Bank of India (SBI) despite clear orders of the top court.

## RBI VS RTI: HOW IT UNFOLDED

**2010:** Petitioner files RTI, seeking information on losses on foreign derivative contracts

▪ **RBI denies information;** petitioner moves SC against RBI

**2015:** Apex court rules RBI cannot withhold information citing fiduciary relation with banks

▪ **Another RTI filed** seeking RBI's

inspection report on ICICI, Axis, HDFC Bank, SBI

▪ **RBI denies information,** says have fiduciary relation with the banks

**2016:** RBI uploads new disclosure policy, says not bound to reveal all information

**2019:** SC rules that not revealing information in future will be 'serious contempt of court'



The RBI had refused to provide information to the petitioner, claiming “fiduciary relationship” between itself and the banks in question. Such information, the regulator had then said, was exempted from being revealed under Section 8(1) (d) and (e) of the RTI Act. Section 8 allows the government to withhold from public some information in order to “guard national security, sovereignty, national economic interest, and relations with foreign states”.

The information to the petitioners was denied by the RBI despite orders from the Central Information Commissioner (CIC) to do so.

However, in January 2015, a two-judge bench of the then Justices M Y Eqbal and C Nagappan, while rejecting this argument by the RBI, had held that the banking sector regulator was supposed to “uphold public interest and not the interest of banks”. The RBI, the Bench had said, was thus “clearly not in any fiduciary relationship with any bank”. “The RBI has no legal duty to maximise the benefit of any public sector or private sector bank, and thus there is no relationship of ‘trust’ between them,” the top court had then said. This behaviour of the banking sector regulator of denying information under RTI would “only attract more suspicion and disbelief in them”, the two-judge Bench had said.

One of the petitioners who had sought the information from the RBI under RTI had claimed that there was a loss of nearly ~32,000 crore to the nation due to foreign derivative contract cases. The petitioner had sought a bank-wise breakup of the mark-to-market losses due to these contracts. Another petitioner, who had approached the top court after being denied information by the RBI, had sought to know the details of show-cause notice and fines imposed on various banks.

On June 30, 2016, the RBI uploaded a disclosure policy under which it claimed that the “Public Information Officers (PIO) were directed not to disclose virtually all kinds of information”. One of the exemptions under the new policy was related to the department of banking regulation and said that “information relating to specific supervisory issues emanating from inspection or scrutiny reports received from other supervisory departments” were exempted from disclosure.

The RBI had again come out with a new disclosure policy on April 12, 2019. The new policy mentions that information available to a person in his fiduciary relationship can be withheld by the RBI. The RBI said that “each application received under the RTI Act would be examined in light of the provisions of the Act and any decision with respect to non-disclosure by the Bank will be supported by citing the relevant exemption provisions of the RTI Act”.

People familiar with the working of the banking sector regulator, however, said that since the SC order is now in effect and is the stronger of the two, it will be followed.

“The respondents (RBI) are duty-bound to furnish all information relating to inspection reports,” the Friday judgment says.

The information sought is from Annual Financial Inspection reports, which the RBI prepares as supervisor of banks. These reports focus on statutorily mandated areas of solvency, liquidity and operational health of the

bank. It covers areas like capital adequacy, asset quality, management, earning, liquidity and system and control.