

BP-505T (UNIT-5)

The enactment of the Indian Patents Act (IPA), 1970 was a revolutionary step taken by the then Government with Late Smt. Indira Gandhi as the Prime Minister of the country. This Act was aimed at giving an impetus to the industrial and economic growth within the country by adopting process-patent strategy.

Intellectual Property : It is a class of property emanating from human intellectual abilities and means Patents, Designs Copyrights, Geographical Indications, Trademarks, etc. The legal rights pertaining to Intellectual Property are summed up as Intellectual Property Rights (IPR).

For example cocacola bottle:

- The logo *Coca-Cola* is an example for TRADEMARK.
- Shape of the bottle – an INDUSTRIAL DESIGN.
- PATENTS may have been obtained in respect of bottling equipment.
- COPYRIGHT - in respect of the text, database or artistic work appearing on its website.

WHAT IS AN INVENTION

- Any new or useful
- Process or method
- Machine or apparatus
- Article of manufacture
- Improvements of any of the above

PATENT

It is a grant in form of a document by the Government for disclosing a new invention by applicant/so.

or

The word patent originates from the Latin **patere**, which means "to lay open" (i.e., to make available for public inspection). which was a royal decree granting exclusive rights to a person, predating the modern patent system. Similar grants included land patents, which were land grants by early state governments in the USA, and printing patents, a precursor of modern copyright.

In modern usage, the term patent usually refers to the right granted to anyone who invents any new, useful, and non-obvious process, machine, article of manufacture, or composition of matter.

A patent is an exclusive monopoly grant by the govt. of an inventor over his invention for limited period of time.

Or

A patent may be defined as a statutory privilege granted by the government to inventors, and to other persons deriving their rights from the inventor. It is a legal monopoly granted to the owner of new invention, which is capable of industrial use, for a limited period of time. The owner can sell, or grant licenses to other only to use it, its form of industrial property.

1856 - The act of 1856 on protection of invention

1911 -Indian patents and design act

1970 -Patents act -only process patents [14 years, 7 years (food,/drug)]

1999 -India sign TRIPS -process and product patents in all fields

1999 -2002,2004 Amendment's for the efficacy of the act

2005- Indian patents act, 2005 -process and product patents [20 years patent period]

TYPES OF PATENTS

There are three types of patents: —

- 1) Utility patents may be granted to anyone who invents or discovers any new and useful process, machine, article of manufacture, or composition of matter, or any new and useful improvement thereof;
- 2) Design patents may be granted to anyone who invents a new, original, and ornamental design for an article of manufacture; and
- 3) 3) Plant patents may be granted to anyone who invents or discovers and asexually reproduces any distinct and new variety of plant.
- 4) Reissue patents

WHAT CAN BE PATENTED?

Any invention which must be-

Novel

Non-obvious

Capable of industrial application

That not be declared as non-patentable under the patent act

WHAT CAN NOT BE PATENTED?

- Any artistic creation
- Mathematical methods
- Business schemes
- Anything against universal law

STAGES TO OBTAIN A PATENT

1. Filing an application for patent -

Application is required to be filed according to the territorial limits where the applicant or the first mentioned applicant in case of joint applicants, for a patent normally resides or has domicile or has a place of business or the place from where the invention actually originated.

The four patent offices are located at Kolkatta, Mumbai, Delhi, Chennai.

2. Examination

Early request for exam- No application for patent will be examined if no request is made by the applicant or by any other interested person in Form-18 with prescribed fee of Rs.2,500/- or Rs.10,000/- for natural person and other than natural person respectively, within a period of 48 months from the date of priority of the application or from the date of filing of the application

3. First Examination Report (FER): stating the objections/requirements is communicated to the applicant according to the address for service ordinarily within six (06) months from the date of request for examination or date of publication whichever is later. Application or complete specification should be amended in order to meet the objections/requirements within a period of 12 months from the date of First Examination Report.

4. Withdrawal - The application for patent can be withdrawn at least 3(Three) months before the first publication.

The application withdrawn after the date of publication, cannot be refiled as it is already laid open for public inspection

4. Grant of patent -The patent is granted, after 6 months from the date of publication under section 11 A

Opposition

1. Pre grant opposition
2. Post grant opposition

Term and date of patent – a. Term of every patent will be 20 years from the date of filing of patent application.

b. Date of patent is the date on which the application for patent is filed.

BENEFICIARIES OF PATENT GRANT:

1. PATENTEE- To develop a business to prevent competition of copying during the term of patent.

Allow others to use it at a price mutually agreed

Sell it.

2. SOCIETY: -Newer, better and cheaper products available to the public

-As a database for further invention

-Freely available technology after expiry of patent

WHAT RIGHTS DOES PATENT BRING?

A bargain between patentee and government -

- a. Patentee gets exclusive rights to his invention
- b. Government gets rights to publish the full invention

A negative right - Patentee may exploit the invention

Patentee gets rights to take legal action against the **infringement**

PATENT INFORMATION: Information related to inventions disclosed in a patent document-

Which information does a patent document provide?

- I. What is the technology field of the invention?
- II. Which technical problem is solved and how?

- III. Who is the inventor?
- IV. What is the prior art?
- V. When and where the application for patent was filled?
- VI. Name and the address of the inventor

Complete Specification of patent

Submission of complete specification is necessary to obtain a patent. A patent specification discloses the details of the invention for which the patent protection is sought. The legal rights in a patent are based on the disclosures made in the specification.

The complete specification has following elements:

- Title of Invention
- Field of Invention
- Background
- Summary of Invention
- Brief description of drawings
- Description of invention
- Examples if any
- Specific embodiments if any
- Abstract
- Claims
- Drawing / diagram / flow-chart

Sample of IPO format:

(12) PATENT APPLICATION PUBLICATION

(21) Application No.3206/DEL/2011 A

(19) INDIA

(22) Date of filing of Application :11/11/2011

(43) Publication Date : 17/05/2013

(54) Title of the invention : A NOVEL RESEALED ERYTHROCYTES LOADED WITH REPAGLINIDE BIONANOPARTICLES

(51) International classification

:B64D

(71)Name of Applicant :

(31) Priority Document No

:NA

1)N.V. SATHEESH MADHAV

(32) Priority Date

:NA

Address of Applicant :DIT-FACULTY OF PHARMACY,
VILL: MAKKAWALA, MUSSOORIE DIVERSION ROAD,

(33) Name of priority country

:NA

DEHRADUN Uttaranchal India

(86) International Application No

:NA

Filing Date

:NA

(72)Name of Inventor :

(87) International Publication No

:NA

1)N.V. SATHEESH MADHAV

(61) Patent of Addition to Application Number

:NA

2)NIHARIKA CHAUHAN

Filing Date

:NA

(62) Divisional to Application Number

:NA

Filing Date

:NA

(57) Abstract :

The current invention discloses the novelistic method for formulating resealed erythrocytes loaded with Repaglinide bionanoparticles. The biopolymer was separated from Citrus sinensis and It was characterized for its physicochemical properties. The spectral studies were performed and it contains alkanes, alcohols, aliphatic aldehydes and nitro group. This invention was also discloses a method for preparing nanoparticles along with resealing of it into goat blood. The formulation showed promising prolongability for 56 hrs apart from this it also showed promising emulsifying ability, retardability and film forming ability which was confirmed by suitable formulations. Conclusion was drawn that this is a novelistic approach significantly delivering the drug for prolonged period and the biopolymer was served as a promising excipient for delivering dosage forms.

No. of Pages : 18 No. of Claims : 10

IMPORTANCE OF PATENT INFORMATION

To identify suitable technologies for adaptation.

To increase production.

To improve existing technology

To keep up to date with developments in technology field

NEW AMENDMENTS IN PATENT ACT

There are many important and policy amendments that are made by The Patents (Amendment) ACT, 2005 and The Patents (Amendment) Rules 2005 which come into force from 1st Jan 2005. These changes have been brought to comply with India's obligation to amend its Intellectual property Laws in consonance with International standards, like that of TRIPS, WTO, WIPO.

The major policy changes are as follows:

1. The most far reaching change is the shortening of time of grant of patents. Earlier it used to take min 4-5 years for a patent to be granted. Now with introduction of new rule that allows the applicant to apply for publication of the application.

Earlier the applicant had to apply for examination of the patent application to the controller. This way done for administrative convenience of the patent office to deal with those patent application where the application is serious & desirous to get patent. After request for examination the application was published to invite oppositions if any from public.

PATENT PROCESS

Now the new procedure for filling and grant of patents is as under.

I) An application for patent is made in form 1 including for Indian and patent application for patent cooperation Treaty route. Earlier there was form 1A for PCT route which has been done away with. The fees is Rs 5000 for legal person, Rs 1500 for individual.

If one is filing provisional specification (without claims, drawings, etc) then complete specification has to be filed within 12 months from date of filing of provisional application. Now no extension of time is allowed.

II) Then the applicant has to make to the controller a request for publication of the application in Form 9 which is optional and the applicant may choose to file for an early application to expedite the patent process with fee of Rs 2500 for natural person and Rs 10,000 for other than legal person. Under ordinary and normal circumstances an application is not published within 18 months after date of application or priority date whichever ever being earlier. But nevertheless an applicant can make request for publication of his application.

III) After the Application is published then two simultaneous and parallel procedures begin. Firstly the publication of application opposition are invited from public. At this stage any person get make representation before opposition board created under the Act as regards novelty, patentability, industrial application, prior knowledge in prior art etc. This is done with a view that if any applicant files a

frivolous patent that the rigorous exercise to be undertaken is saved. And public time in examining that application is saved.

IV) After the application is published then the applicant has to make a request for examination U/S 11 B of The Patent Act, 1970 in form 1 & with a fees of Rs 2500 for natural person and Rs 10,000 for other than natural person.

Request for examination has to be made within 36 months of date of filing of Patent application or priority date, whichever being earlier.

V) After request for examination is made the controller makes a reference to a patent examiner (No time frame for reference from date of request of examination is being provided). The patent examiner shall furnish a first Examination report in one month. These objections are communicated to patentee or his authorized agent. These objections have to be removed to the satisfaction of the controller within 6 months from the date of communication.

VI) Then soon after the objections are removed and the application has been found to be in order for grant of order and application has not been refused by the controller and application is not in contravention of any provisions of the Act then U/S 43 (1) the patent shall be granted as expeditiously as possible to the application. Then with the seal of the patent office the date on which it is granted and entered in the register of patent.

Another important change is that patent that is granted by the controller, if the changes or amendments are substantive then the same shall be advertised by the controller.

2. Another very important change is in section 3, which specifies what inventions can not be patented. In clause (d) earlier new use for a known substance or process or machine was not eligible for patents. But after amendment if there is new use of the existing substance, process, machine resulting in a new product or having at best one new reactant can be patented now.

3. Similarly the most controversial amendment was deleting the contents of clause (l) which paves way for patenting of product patents in chemicals, bio-technology, food processing, drugs and pharmaceuticals. Earlier only process was allowed to be patented in field of chemicals, drugs, pharmaceuticals etc. Thus any medicine could be prepared by different process without any infringement. But now once product patent regime is in force one can not make the patented product at all.

The Indian Copyright Act, 1957

The Copyright Act, 1957, along with the Copyright Rules, 1958, is the governing law for copyright protection in India.

Copyright laws serve to create property rights for certain kinds of intellectual property, generally called works of authorship. Copyright laws protect the legal rights of the creator of an 'original work' by preventing others from reproducing the work in any other way.

Kinds of Intellectual Property:

Modern copyright laws serve to protect a variety of intellectual property ranging from songs and jingles to computer software and proprietary databases. The intellectual property protected under copyright laws can be classified as follows:

Literary Works:

These cover published works including books, articles, journals, and periodicals, as well as manuscripts. Even adaptations, translations, and abridgements are taken as original works and are protected under copyright law. Very importantly, these also cover computer programs and computer databases.

Dramatic Works:

A dramatic work is a work capable of being physically performed. It need not be fixed in writing or otherwise. Some examples of dramatic works are a piece of recitation, choreographic work, elements of a dance or ballet, costumes, and scenery associated with a drama, etc.

Musical Works:

A musical work means a work consisting of music and it includes graphical notation of such a work. The words in a song and the music have separate rights and the rights cannot be merged.

Artistic Works:

Artistic works are works such as paintings, sculptures, drawings, engravings, photographs, and architectural works, irrespective of judgements on their artistic quality.

Cinematographic Films and Sound Recordings:

Cinematography covers any method used to record moving images, including video recording and recordings of short clips using webcams and cell-phones. Soundtracks of movies also come under cinematography. Similarly, stand-alone sound recordings are also protected under copyright laws.

Registration of Copyright:

Though the Indian Copyright Act provides for a procedure for registration of copyright, registration is not necessary for acquiring a copyright. In fact, it is not advisable to go through the trouble of registering a copyright.

In Indian laws, a copyright is created when the original work is created and unlike laws in the US, registering it does not confer any special rights. The particulars with the Registrar of Copyrights will serve as evidence of

existence of the work on the date of registration. Many creators of original work use other methods to prove existence of their work on a particular date such as depositing manuscripts in a bank locker.

Copyright Protection:

There are four basic concepts central to the idea of copyright protection as discussed here.

Idea vs. Expression:

It is necessary to fix the boundary between the idea and the expression contained in the original work. It is important to note that copyright applies only to the expression and not to the idea. But what constitutes the idea and not the expression can be a source of great legal debate.

Originality:

To get protection under copyright laws, it is important to establish that the work originates from the author and is not a copied work.

Fixation:

Copyright can exist only if the work is represented in a material form. It is only if the book is written, the sound is recorded, or the painting or sculpture is executed, that the work is eligible for protection under copyright laws.

Fair Use:

Copyright holders are deemed to consent to fair use of their work by others. Fair use is not defined but can include use in the course of news reporting, commenting, scientific research, etc.

Copyright Term:

In most cases, the term of copyright is the lifetime of the author plus 60 years thereafter. There are some notable exceptions as given below:

1. Broadcasting organization has rights with respect to their broadcasts. The term of this right is 25 years from the beginning of the calendar year following the year in which the broadcast is made.
2. Performers have some special rights in relation to their performance. These rights are for a period of 50 years from the beginning of the calendar year following the year of the first performance.
3. In case of posthumous publications, the rights stand for a period of 60 years after the publication.

Infringement of Copyright:

A copyright grants protection to the creator of an original work and prevents such work from being copied or reproduced without consent. The creator of a work can prohibit anyone from

- i. Reproducing the work in any form, such as print, sound, video, etc.,
- ii. Recording the work in compact disks, cassettes, etc.,
- iii. Broadcasting it in any form,
- iv. Translating it into other languages, and
- v. Using the work for a public performance, such as a stage drama or musical performance.

A copyright is infringed when someone, without the permission of the copyright holder, does any of the above, which only the copyright holder has the exclusive right to do.

The Copyright Act provides for both civil and criminal remedies for infringements of copyrights. On proving an infringement, the copyright owner is entitled to remedy by way of injunctions and order for seizure and destruction of infringing articles. The offending parties may also be asked to pay damages.

The Registrar of Copyrights has the power to prevent the import of infringing copies. On receiving a complaint, the Registrar can enter ships, docks, or warehouses, housing the alleged infringing material and examine them. In case the infringing material is found, it is handed over to the copyright holder.

Copyright Protection for Computer Programs:

In 1994, the definition of the term literary work in the Copyright Act was amended to include 'computer programs, tables and compilations, including computer databases.'

Owners of computer programs get protection under copyright laws. A computer program can be registered with the Registrar of Copyrights by giving the first 25 and the last 25 lines of the source code. Here again, it is preferred to establish date of development by submitting logbooks detailing development work, etc.

Making copies of legally obtained computer programs for purposes of making back-up copies as a temporary protection against damage or destruction is permitted. Knowingly making use of an infringing copy of a computer program is a punishable offence.

The penalty for such an offence is imprisonment (minimum of seven days and maximum of three years) and a fine (Rs. 50,000 to Rs. 2, 00,000). If the offender pleads and proves that he/she used the infringing copy for personal use and not in the course of trade, court is likely to take a lenient view of the matter and impose the minimum fine of Rs. 50,000.

APPENDICES

Appendix-I

Form IV - Application for Registration of Copyright

To

The Registrar of Copyrights

Copyright Office

New Delhi- 110 001.

Sir,

In accordance with Section 45 of the Copyright Act, 1957 (14 of 1957), I hereby apply for registration of Copyright and request you that entries may be made in the Register of Copyrights in the enclosed Statement of Particulars sent herewith in triplicate.

I also send herewith completed the Statement of Further Particulars relating to the work.

(For Literary, Dramatic, Musical and Artistic works only)

2. In accordance with Rule 16 of the Copyright Rules, 1958, I have sent by prepaid registered post copies of this letter and of the enclosed Statement(s) to other parties concerned, as shown below:

Name and addresses of the parties Date of dispatch

See columns 7, 11, 12 and 13 of the Statement of Particulars and the party referred in Col. 2 (e) of the Statement of Further Particulars.)

3. The prescribed fee has been paid, as per details below:-

4. Communications on this subject may be addressed to: -

5. I hereby declare that to the best of my knowledge and belief, no person, other than to whom a notice has been sent to as per paragraph 2 above has any claim or interest or dispute to my copyright of this work or to its use by me.

6. I hereby verify that the particulars given in this Form and in the Statement of Particulars and Statement of Further Particulars are true to the best of my knowledge, belief and information and nothing has been concealed therefrom.

Yours faithfully,

Signature by the applicant

List of enclosures:

Place:

Date:

Statement of Particulars

(to be sent in triplicate)

1. Registration No. (to be filled in by the Copyright Office)
2. Name, address & nationality of the Applicant
3. Nature of the Applicant's interest in the Copyright of the work
4. Class and description of the work
5. Title of the work
6. Language of the work
7. Name, address & Nationality of the Author and if the author is deceased, the date of decease
8. Whether the work is published or unpublished
9. Year and Country of first publication (Name, address and nationality of the publisher)
10. Years and countries of subsequent publications if any, and name, addresses and nationalities of the publishers
11. Names, address and nationalities of the owners of various rights comprising the copyright in the work and the extent of rights held by each, together with the particulars of assignments and licence, if any
12. Names, addresses and nationalities of other persons if any, authorised to assign or licence the rights comprising the copyrights
13. If the work is 'Artistic' the location of the original work, including name and address and nationality of the person in possession of the work, (in case of an architectural work, the year of completion of the work should also be shown).
- 13A. If the work is an Artistic work which is used or is capable of being used in relation to any goods, the application should include a certification from the Registrar of Trade Marks in terms of the proviso to Sub-Section (i) of Section 45 of the Copyright Act, 1957.
14. Remarks, if any

Signature of the Applicant

Place:

Date:

INTELLECTUAL PROPERTY ACT – TRADE MARKS ACT, 1999

Q1. What is trade mark? State its Function and Object?

A1.

Introduction & Meaning

A trade mark is a visual symbol in the form of a word, a device, or a label applied to articles of commerce with a view to indicate to the purchasing public that they are the goods manufactured or otherwise dealt in by a particular person as distinguished from similar goods manufactured or dealt in by other persons. A person who sells his goods under a particular trade mark acquires sort goods. Such a right acquired by use is recognized as a form of property in the trade mark.

Statutory definition of trade mark-section 2(1) of the 1999 act

- Trade mark must be a mark which includes a device, brand, shape of goods, packaging or combination of colors or any combination thereof— s. 2(1) (m).
- The mark must be capable of being represented graphically.
- It must be capable of distinguishing the goods or services of one person from those of others.
- It may include shape of goods, their packaging and combination of colours.
- It must be used or proposed to be used in relation to goods or services.
- The use must be for the purpose of indicating a connection in the course of trade between the goods or services and some persons having the right as proprietor to use the mark.
- The right to proprietorship of a trade mark may be acquired by registration under the Act or by use in relation to particular goods or services.
- The right of proprietorship acquired by registration is a statutory right which requires no actual user but only an intention to use the mark.

Function of a trade mark

Under modern business conditions a trade mark performs four functions: (1) it identifies the product and its origin, (2) it guarantees its unchanged quality, (3) it advertises the product, and (4) it creates an image for the product.

The object of trade mark law

The object of trade mark law is to deal with the precise nature of the rights which a person can acquire in respect of trade marks, the mode of acquisition of such rights, the method of transfer of those rights to others, the precise nature of infringement of such rights, and the remedies available in respect thereof.

Q2. What is a good trade mark?

A2. Apart from distinctiveness or capable of distinguishing a good trade mark should possess the following attributes:

- It should be easy to pronounce and remember, if the mark is a word.
- In the case of device mark the device should be capable of being described by a single word. -.

- It must be easy to spell correctly and write legible.
- It should not be descriptive but may be suggestive of the quality of the goods,
- It should be short,
- It should appeal to the eye as well as to the ear.
- It should satisfy the requirements of registration.
- It should not belong to the class of marks prohibited for registration. In general a manufacturer of goods is free to adopt any mark to distinguish his goods.

Q3. Explain the procedure for Registration of Trade Marks?

A3.

Trade marks registry- sections 5 and 6

An office called the Trade Marks Registry has been established for the purpose of registration of trade marks, maintenance of the register and matters incidental thereto. The Head Office of The Registry is at Mumbai. It has branch office at Kolkata, Delhi, Chennai and Ahmedabad. The Trade Mark Registry has a seal.

The Trade Mark Registry is under the charge of the Registrar of Trade Marks who is also the Controller - General of Patents, and Designs. He is assisted by a joint Register, Deputy Registers, Assistant Registrars, Examiners of Trade Marks and a Complement of Clerical staff.

Procedure for registration

The procedure for registration of trade marks is contained in sec. 18-24 of the Trade Mark Act 1999.

Step 1: Preliminary advice and search

Before or after applying for registration he may also request for the Registrar's opinion as to the distinctive-character of the mark. The Registrar's search report or opinion is not, however, binding on him.

Step 2: Examination and objections

The Registrar will cause the application to be examined and communicate to the applicant any objection to the mark which mainly relates to distinctive character and similarity with already registered marks. The applicant can put forward his case either in writing or at a hearing. If the application is accepted, it will be advertised in the Trade Marks Journal. If refused, the applicant may go on appeal to the Appellate Board.

If the application is refused on the ground of lack of distinctive character, the applicant may, after some years of use, make a fresh application.

Step 3: Opposition to registration – section 21

Every application accepted will be advertised in the Trade Marks Journal (an official publication.) any person may object to the registration by following the procedure for the prescribed purpose. The Registrar may either accept-the application; with or without condition or limitations or refuse the application. Conditions are in the form of disclaimer of certain parts of the mark or as to mode of use. Limitations may be in the form of amendment of the goods or as to area of the use of the mark or as to mode of use.

Step 4: Onus

The onus of establishing a case for registration is on the applicant.

Step 5: Duration and renewal of registration- sections 25 and 26

If the application for registration after its advertisement is unopposed; or if opposed decided in favor of registration the mark will be registered as of the date of the application for

THE MEDICAL TERMINATION OF PREGNANCY ACT, 1971 ACT NO. 34 OF 1971

[10th August, 1971.] An Act to provide for the termination of certain pregnancies by registered medical practitioners and for matters connected therewith or incidental thereto. BE it enacted by Parliament in the Twenty-second Year of the Republic of India as follows:—

1. Short title, extent and commencement.—(1) This Act may be called the Medical Termination of Pregnancy Act, 1971. (2) It extends to the whole of India except the State of Jammu and Kashmir. (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. Definitions.—In this Act, unless the context otherwise requires,— (a) “guardian” means a person having the care of the person of a minor or a 2 [mentally ill person]; 3 [(b) “mentally ill person” means a person who is in need of treatment by reason of any mental disorder other than mental retardation;] (c) “minor” means a person who, under the provisions of the Indian Majority Act, 1875 (9 of 1875), is to be deemed not to have attained his majority; (d) “registered medical practitioner” means a medical practitioner who possesses any recognised medical qualification as defined in clause (h) of section 2 of the Indian Medical Council Act, 1956 (102 of 1956), whose name has been entered in a State Medical Register and who has such experience or training in gynaecology and obstetrics as may be prescribed by rules made under this Act.

3. When pregnancies may be terminated by registered medical practitioners.—(1) Notwithstanding anything contained in the Indian Penal Code (45 of 1860), a registered medical practitioner shall not be guilty of any offence under that Code or under any other law for the time being in force, if any pregnancy is terminated by him in accordance with the provisions of this Act. (2) Subject to the provisions of sub-section (4), a pregnancy may be terminated by a registered medical practitioner,— (a) where the length of the pregnancy does not exceed twelve weeks, if such medical practitioner is, or (b) where the length of the pregnancy exceeds twelve weeks but does not exceed twenty weeks, if not less than two registered medical practitioners are, of opinion, formed in good faith, that— (i) the continuance of the pregnancy would involve a risk to the life of the pregnant woman or of grave injury to her physical or mental health; or (ii) there is a substantial risk that if the child were born, it would suffer from such physical or mental abnormalities as to be seriously handicapped. Explanation I.—Where any pregnancy is alleged by the pregnant woman to have been caused by rape, the anguish caused by such pregnancy shall be presumed to constitute a grave injury to the mental health of the pregnant woman. Explanation II.—Where any pregnancy occurs as a result of failure of any device or method used by any married woman or her husband for the purpose of limiting the number of children, the anguish caused by such unwanted pregnancy may be presumed to constitute a grave injury to the mental health of the pregnant woman. (3) In determining whether the continuance of a pregnancy would involve such risk of injury to the health as is mentioned in sub-section (2), account may be taken of the pregnant woman’s actual or reasonably foreseeable environment. (4) (a) No pregnancy of a woman, who has not attained the age of eighteen years, or, who, having attained the age of eighteen years, is a 1 [mentally ill person], shall be terminated except with the consent in writing of her guardian. (b) Save as otherwise provided in clause (a), no pregnancy shall be terminated except with the consent of the pregnant woman. 2 [4. Place where pregnancy may be terminated.—No termination of pregnancy shall be made in accordance with this Act at any place other than— (a) a hospital established or maintained by Government, or (b) a place for the time being approved for the purpose of this Act by Government or a District Level Committee constituted by that Government with the Chief Medical Officer or District Health Officer as the Chairperson of the said Committee: Provided that the District Level Committee shall consist of not less than three and not more than five members including the Chairperson, as the Government may specify from time to time.] 5. Sections 3 and 4 when not to apply.—(1) The provisions of section 4, and so much of the provisions of sub-section (2) of section 3 as relate to the length of the pregnancy and the opinion of not less than two registered medical practitioners, shall not apply to the termination of a pregnancy by a registered medical practitioner in a case where he is of opinion, formed in good faith, that the termination of such pregnancy is immediately necessary to save the life of the pregnant woman. 3 [(2) Notwithstanding anything contained in the Indian Penal Code (45 of 1860), the termination of pregnancy by a person who is not a registered medical practitioner shall be an offence punishable with rigorous imprisonment for a term which shall not be less than two years but which may extend to seven years under that Code, and that Code shall, to this extent, stand modified. (3) Whoever terminates any pregnancy in a place other than that mentioned in section 4, shall be punishable with rigorous imprisonment for a term which shall not be less than two years but which may extend to seven years. (4) Any person being owner of a place

which is not approved under clause (b) of section 4 shall be punishable with rigorous imprisonment for a term which shall not be less than two years but which may extend to seven years. Explanation 1.—For the purposes of this section, the expression “owner” in relation to a place means any person who is the administrative head or otherwise responsible for the working or maintenance of a hospital or place, by whatever name called, where the pregnancy may be terminated under this Act. Explanation 2.—For the purposes of this section, so much of the provisions of clause (d) of section 2 as relate to the possession, by registered medical practitioner, of experience or training in gynaecology and obstetrics shall not apply.] 6. Power to make rules.—(1) The Central Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:— (a) the experience or training, or both, which a registered medical practitioner shall have if he intends to terminate any pregnancy under this Act; and (b) such other matters as are required to be or may be, provided by rules made under this Act.

(3) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule. 7. Power to make regulations.—(1) The State Government may, by regulations,— (a) require any such opinion as is referred to in sub-section (2) of section 3 to be certified by a registered medical practitioner or practitioners concerned, in such form and at such time as may be specified in such regulations, and the preservation or disposal of such certificates; (b) require any registered medical practitioner, who terminates a pregnancy, to give intimation of such termination and such other information relating to the termination as may be specified in such regulations; (c) prohibit the disclosure, except to such persons and for such purposes as may be specified in such regulations, of intimations given or information furnished in pursuance of such regulations. (2) The intimation given and the information furnished in pursuance of regulations made by virtue of clause (b) of sub-section (1) shall be given or furnished, as the case may be, to the Chief Medical Officer of the State. 1 [(2A) Every regulation made by the State Government under this Act shall be laid, as soon as may be after it is made, before the State Legislature.] (3) Any person who wilfully contravenes or wilfully fails to comply with the requirements of any regulation made under sub-section (1) shall be liable to be punished with fine which may extend to one thousand rupees. 8. Protection of action taken in good faith.—No suit or other legal proceeding shall lie against any registered medical practitioner for any damage caused or likely to be caused by anything which is in good faith done or intended to be done under this Act.

RIGHT TO INFORMATION ACT

The right to information act was passed in the year 2005. This law empowers Indian citizens to seek any accessible information from a Public Authority and makes the Government and its functionaries more accountable and responsible. During the period of the implementation of the RTI Act i.e. October 2005 onwards, it has become evident that there are many issues to be addressed at various ends for effective implementation of the Act. There have been discussions and debates about the effectiveness and impact of the Act. The Civil Society Organizations and Government agencies have been engaging themselves in the debate over various aspects of the Act and its effectiveness and interpretations. There is a broad consensus that the implementation of the Act needs to be improved to achieve the objectives. At the same time the information seekers too have to learn how to use the Act more effectively. Therefore, this study has been undertaken to identify the problems plaguing the system and suggest remedial measures so as to enable better access of information and uphold the spirit of the act. The basic objective of the act was to increase the transparency and increase the accountability of the government offices. Notwithstanding the improvement requirements, the following achievements are undisputable: – The basic tenets of the Act have been implemented and the institutional mechanism is in place and is in use by citizens – Civil society organizations and the media have started using the Act for bringing in transparency and objectivity – Centre and State

Government departments have initiated the training of key functionaries to assume the responsibilities of PIOs and FAAs - Government employees/Public Authorities are aware of the basic elements of the Act - Various State Governments have taken up initiatives, which go beyond the stipulations of the Act, and further the spirit of the Act. It is acknowledged by Department of Personnel and Training (DoPT), the nodal Department that some changes need to be brought in. It recognizes that there are various constraints involved in achieving the objective of the act on the part of both the information seekers and information providers. 2 The commencement of the RTI regime 7 years ago marked the dawn of a new era. Different stakeholders have played a crucial role in carrying forward the regime and have helped the government in inculcating a culture of transparency and accountability in the working of public authorities. It has been observed that information seekers face problems in making use of the act and the officers of the public authorities face problems in implementing the provisions of the act. Therefore, this study also focuses to identify the problems plaguing the system and suggest remedial measures so as to enable better access of information and uphold the spirit of the act. Under this program that has been undertaken the interns were attached to the ministry of department of personnel and training wherein they were required to interact with the officers involved in the implementation of the RTI regime and consolidate and document its experience in the implementation of RTI, its successes, its constraints in implementation, identify areas which need more attention, address the gap areas and suggest what more had to be done to help achieve the objectives of the act. Then finally for the researchers this is an exercise which familiarised them with the process of seeking information and enabling access to information under RTI regime.