

A Stakeholders' Guide  
on  
**RTI**

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**Rajvir S. Dhaka**

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## FOREWARD

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The enactment of the Right to Information Act (2005) was a great landmark in the deepening of democracy in India. The Constitution of India had established parliamentary democracy in the centre and the states, the 73<sup>rd</sup> and the 74<sup>th</sup> Constitutional amendments (1992) had decentralized the democracy by according constitutional states to the Panchayati Raj Institutions and Urban Local Bodies and by making these Institutions of Self Government, but the RTI Act has laid the foundation of participatory democracy by empowering every citizen of India to seek information from the public authorities.

The Act not only covers the public sector but also the NGOs and, to some extent the private sector. In addition to this, it has other positive features like provision of First and Second Appellate Authorities. It is also one of the toughest legislations in the world, as it is the only RTI Act that imposing penalty for the contravention of the provisions of the Act. After the completion of ten years of its implementation, the response of this Act has been found to be very positive and it has received very wide and warm welcome from the people. They are learning the importance of the power of information. That is why the persons from every section have been seeking information from the different authorities. As a result, Public Authorities and Public Information Officers are becoming increasingly aware of their responsibilities. It has, in fact been a learning experience for each entity involved in its working. The RTI Act has exposed so many scandals both at the Central and State levels. It has been of great help to the investigation agencies for detecting the corrupt practices. It has helped in ushering an era of honest and visionary regime at the Centre as well as Haryana.

We are also very happy that HIPA is publishing this compendium. We would also be bringing out many more such compendium, handbooks and books which would be of great use for our trainees and even for other stake holders. I congratulate Dr. Rajvir S. Dhaka, the author of this crisp Compendium on RTI for putting best efforts in writing as per the need of the stakeholders and also for incorporating the latest interpretations of the Act. I am confident it would be of great relevance for all those who are stakeholders in the good governance of India which has been rightly recognized as the largest democracy in the world.

Dr. G. Prasanna Kumar, IAS (Retd.)  
Director General,  
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## PREFACE

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The enactment of the Right to Information (RTI) Act, 2005 is indeed a laudable step. After the completion of 11 years of its implementation, the response of this Act has been very positive. It has received very wide and warm welcome from the people. It has been, as a matter of fact, a great learning experience for each entity involved in its working. However, there are many operational problems in the implementation of this Act. The governments, with a view to overcome the problems in its effective use, need to take steps to propagate this Act among the illiterate population living in the villages. Effective operationalisation of the RTI requires capacity building of both information providers and seekers. The cutting edge level functionaries who are the key element particularly badly need it.

To ensure that the RTI regime is in tune with the spirit and philosophy of the Act institutional mechanism must ensure healthy government -citizen interface.

Keeping in view the importance of the RTI and its increasing use to redress the grievances of the people, effective steps too are urgently required.

I am confident that this compendium will prove useful for the government servants, social activists and the students having an interest in the RTI regime.

I am grateful to Director General, HIPA, Dr. G. Prasanna Kumar for writing the foreward. I express my gratitude to Prof. Ranbir Singh (retd.) of Kurukhetra University, for editing it and for giving valuable suggestions for enhancing its quality. I especially indebted to all those from whose sources I have taken help. The help of CIC and Supreme Court judgements, CHRI, YASHADA (Pune), CGG (Hyderabad), DOPT Guidelines, Sh. Pankaj KP Shreyaskar book on RTI and PRIA (New Delhi) material on RTI Act needs to be acknowledged in this context. I also thankful to Mr. Devanshu, Mr. Rajnish Dhiman, Mr. Bharat Bhushan, Mr. Puneet Kumar and Mr. Bhupender for their assistance in the completion of this exercise.

Rajvir S. Dhaka

# 1. 11 Years of RTI Act in India Problems and Way Forward

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## Introduction

In recent years, the Right to Information (RTI) has acquired a universal status/ recognition. The intergovernmental organisations, civil society and many sections of the people have immensely contributed to this epoch making development. RTI is now being widely recognised as a Fundamental Human Right. It not only upholds the inherent dignity of all human beings, but also forms the crucial underpinning of participatory democracy, ensuring accountability and promotes good governance.

It is now widely recognized that democracy to be meaningful ought to be based on the notion of an informed public participating thoughtfully in its own governance. Information and knowledge are the instruments for transformation because these enable public to engage their representatives and the bureaucracy on an ongoing basis and to participate effectively in the formulation and implementation of policies and activities purportedly for their benefit. An empowered citizenry tends to make administration more accountable and participatory. It also ensures greater transparency and acts as a deterrent against the arbitrary exercise of official powers.

The RTI has not only improved governance but also made the administration of the corporate houses and industries, which operate for profit more transparent and accountable. That is why it has now been recognized as an essential requirement of good governance. Even international organizations such as World Bank, International Monetary Fund, United Nations Development Programme and Asian Development Bank prescribe RTI as a remedy to administrative ills.

As transparency sustains democratic governance, the access to information is specified by approximately fifty countries in their constitutions, another 80 countries have passed self standing access to information laws<sup>1</sup> and many more are in the process of doing so. The enactment of RTI Act in India in 2005 marked a paradigm shift in Indian democracy. The experience of ten years shows that the response to it has been very positive. A wide spectrum of people from various strata of society have been seeking different types of information from various authorities.

The Genesis of the RTI Act (2005) may be attributed to the following factors:

- 1. Good Governance** - The access to information is deemed to be cardinal for achieving the goals of good governance as it ensures good governance by promoting transparency and public accountability in the working of government functionaries
- 2. The Pressure of the Donor Agencies** - The World Bank, the International Monetary Fund and other donors have also been pressing the recipient countries to enact laws to enable access

to information for increasing transparency and reducing corruption.

3. **Enhanced stress on People's Participation** - Governance in a democracy requires that, in order to participate effectively in the process of governance the citizens must have necessary information to make informed decisions. The RTI Act has been enacted for achieving that objective.
4. **Need for Democratization of Governance** - Access to information fulfills a basic requirement for democratization of governance. It helps in checking misuse of administrative authority for private gains and in the process promotes justice and equity by making it accountable.
5. **Ensuring Rule of Law** - The RTI seeks to ensure rule of law by ensuring transparency and by promoting accountability in the process of governance.
6. **Quest for Combating Corruption** - The RTI also aims at reducing corruption. It provides every citizen the enforceable right to question, examine, audit, review and assess government acts and decisions for this purpose.
7. **To create mechanism for checking misuse of discretionary powers** - Since the officers have a tendency of can abusing their discretionary powers to misappropriate public funds to promote political or vested interests, the RTI aims at to checking the same.
8. **Need for Promoting Administrative Efficiency**- The RTI seeks to promote administrative efficiency in Government by checking unnecessary delays. It has forced the actors in administration to remain vigilant in this context because they can be questioned by citizens through RTI.
9. **The Quest for Promoting Civil Liberties** - The RTI is also deemed as essential for protecting liberties of citizens by making it easier for Civil Society Groups to monitor wrong-doings like custodial deaths and misuse of preventive detention legislation.
10. **The Need for Reducing Poverty** - Legislation on RTI is also necessary for eradication of poverty. Information can be helpful in empowering poor communities to fight their battle.
11. **Ensuring Effective Implementation of Government Schemes** - Numerous central and state schemes for providing food, housing, employment and education are being implemented in rural areas. Availability of information on schemes and access to records concerning their utilization would certainly improve their implementation.
12. **The Need for Reforming Administration**- The RTI aims at providing a mechanism for fixing the responsibility on the Government servant. Hence it can significantly help in improving governance.
13. **Right to Information as a Fundamental Right**- RTI is a fundamental right flowing from Article 19(1)(a) of the Constitution. Over the years, the Supreme Court has consistently ruled in favour of the citizens Right to Know that the citizens of this country have the Right to Freedom and Speech under Article 19(1) (a) of the Constitution but it is meaningless unless the citizens have the Right to know. The RTI ensures the same.
14. **Movement for Transparency** - The RTI has been made possible by continuous struggles by many activists' and citizens' groups'. The Mazdoor Kissan Shakti Sangthan (MKSS), movement led by Aruna Roy, in a backward region of Rajasthan's Bhim Tehsil in 1990 was to assert their

Right to Information by asking for copies of bills and vouchers and names of persons who have been paid wages mentioned in muster-rolls for the construction of school, dispensaries, small dams and community centers. It spread quickly to other areas of Rajasthan and other States. The attempts of Harsh Mandar the Divisional Commissioner of Bilaspur, Madhya Pradesh in 1996 to throw open the registers of Employment Exchanges and the records of Public Distribution System to the citizens and the agitation led by Anna Hazare in Maharashtra in 2001 are some of the examples.

Consequently, the National Campaign for People's Right to Information (NCPRI), which became a broad-based platform for action, was formed in the late 1990s. As the campaign gathered momentum, it became clear that the RTI is to be made legally enforceable. This is what culminated in the enactment of RTI Act (2005). Its genesis may be attributed to the following factors.

**Main Provisions of the RTI Act, 2005 are as under:**

- ◆ All the citizens have the RTI, subject to the provisions of the Act and it extends to the whole of India except Jammu and Kashmir.
- ◆ It covers all the three tiers of government i.e. central, state and local governments and all the three branches i.e. legislative, executive and judiciary of the government.
- ◆ It applies to "Public Authorities" which are owned, controlled or substantially financed directly or indirectly by the appropriate Government and the NGOs and private bodies substantially financed by the government.
- ◆ The Act provides that information of the third party can also be accessed after following the due procedure.
- ◆ It casts an obligation on Public Authorities to proactively disclose information about itself. They are also supposed to maintain records in an indexed and cataloged manner.
- ◆ The Act provides for the designation of PIO/APIO for giving information.
- ◆ Provision has also been made for transfer of a request by a public authority to another one: wherein the information is held by the latter.
- ◆ A time limit of 30 days has been prescribed for compliance with requests for information under the Act for normal information, 48 hours for life and liberty related information, 40 days for 3rd party information and 45 days for corruption and human rights related information of the listed organisations.
- ◆ The Act excludes the time taken for calculation and intimation of fees from the time frame.
- ◆ It provides that in case a PIO rejects the application, he/she is bound to give reasons for the same. The period within which an appeal against such rejection may be preferred as well as the particulars of the appellate authority have also to be given by his/her.
- ◆ The Act prescribes for a reasonable fee for providing information.
- ◆ No fee to be charged from persons below poverty line.
- ◆ Information has to be provided free of charge if it is given after the time limit.
- ◆ Certain categories of information have been exempted from disclosure. However, these can be

given if public interest is greater than the protected interest.

- ◆ The Act contains a provision for revealing an information, which is otherwise, exempted from disclosure, on completion of 20 Years of the incident.
- ◆ The Act incorporates the principle of severability in the exempted category of information.
- ◆ It provides for a two-tier Appellate Forum. First Appeal is to be made to departmental officer senior to the Public Information Officer. The Second Appeal has to be made to the Commission.
- ◆ The Central and State' Information Commissions have the status of an independent non-judicial machinery.
- ◆ While inquiring into any matter, the Commission has the same powers as are vested in a civil court while trying a suit under the Code of Civil Procedure.
- ◆ The Act prescribes for the procedure to be followed by APIO/PIO, FAA and IC while carrying out their duties and responsibilities.
- ◆ It defines legal framework for exercise of powers by the Commission.
- ◆ It also prescribes the time limit for preferring an appeal to FAA and IC.
- ◆ In case of a grievance at PIO level, a provision has been made in it for directly making complaint directly to the Commission
- ◆ The decisions of the Commission have been made binding by the Act.
- ◆ Listed agencies in its Schedule II have been kept out of its ambit. However, the exemption is not absolute in matters relating to corruption and human rights violations.
- ◆ The jurisdiction of subordinate courts has also been barred by the Act.
- ◆ Its provisions have been made overriding in character.
- ◆ The CIC/SIC can impose a penalty of Rs.250/- per day on PIO. This penalty can go upto a maximum of Rs.25000/- under the provision of the Act.
- ◆ There is also a provision of disciplinary action against the PIO its any persistent contravention.
- ◆ The Act provides that there is no criminal liability of the PIO and the PIO and they have been made immune from the actions done in good faith.
- ◆ The Central and State Information Commissions to monitor its implementation and to prepare an Annual Report to be laid before Parliament/State Legislature.
- ◆ For its effective operationalisation, the Act gives rule making power to the appropriate government and the competent authorities.

### **Some Deficiencies in the RTI Act**

Despite being exhaustive and positive in content, the RTI Act suffers from followings weaknesses:

- (i) **Missing Definitions:** The following ailments are conspicuous by their absence:
- (a) **Substantial Financing** - The Act does not define the words "substantially financed" and "indirectly financed: which have been used several items in it. It has resulted in creation of confusion and

led to its improper implementation.

- (b) **Life and Liberty** - Similarly the Act does not define information falling under "Life and Liberty" and "Public Interest".
- (ii) **No Provision has been made for Ensuring the Fulfillment of Obligations by Public Authorities** - The Act imposes certain obligations on public authorities in Section 4. Primarily, these relate to (a) proper maintenance and upkeep of records and (b) suo moto dissemination of information through publication of information about the functions and functioning of each public authority. However no penalty clause has been for their violation. Hence, the task is not viewed as an obligation by them.
- (iii) **Confusion about First Appellate Authority** - The Section 19(1) provides for the designation of an Appellate Authority at the Public Authority level who has to be an officer senior in rank to the PIO. However, powers and functions of the First Appellate Authority have not been spelled out. This has led to confusion about their role and responsibilities .

Moreover, the Act does not, make the First Appeal mandatory when it says that any person aggrieved by the decision of the PIO may prefer an appeal to such officer who is senior in rank to her/him. This has resulted in creation of unnecessary confusion among the information seekers. Instead of approaching the First Appellate Authority, some of them file an appeal with the Information Commission. It has been further confounded by the fact that some Information Commissions directly entertain an appeal even when the first appeal has not been made by the appellant. As a matter of fact there also prevails a great deal of confusion about the status of the First Appellate authority vis-a.-vis the Information Commissioner as both have been appellate authorities under the Act. However, Supreme Court of India in Namit Sharma vis a vis Union of India on 13.09.2012 has made it abundantly very clear that complainant will have to exhaust first appeal before approaching Information Commission.

- (iv) **Appeal Procedure** - Section 19(9) of the Act states that the Information Commission shall give notice of its decision, including right to appeal to the complainant and the public authority. It does not clarify whether the Right to Appeal can be exercised at the commission level itself. It would have been better if the cases and situations in which the Review petitions may be filed for reconsideration of the decision of a Single Commissioner Bench or by two or more Commissioners' Bench or by a full Commission had been specified.
- (v) **Overlapping of the Grounds of Appeal and Complaints** - The grounds of a complaint under Section 18 and for an appeal under Section 19 are overlapping. Separate grounds should have been made for appeals and complaints. Three clauses of Section 18 (1) i.e. Clause (b) relating to refusal of access to information; (c) relating to no response to the request for information within the stipulated time; and (e) relating to giving incomplete, misleading or false information should have been deleted from the Act as these grounds are basically for exercising appellate powers u/s 19.
- (vi) **Absence of Contempt Provisions** - Its Section 19(7) states that the decision of the Information

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and Roadmap Commission shall be binding. But it has not been supported by 'Contempt of Court' provision for enforcing compliance of its decision by the public authority.

- (vii) **No Time Limit for IC to Decide the Appeals** - Unlike the time limit for the First Appellate Authority for giving decisions on appeals, the Act does not provide for any time limit for decision on the appeal at the level of Second Appellate Authority.

### **Operational Problems**

There are following operational problems in the Act:

1. **Poor Suo Moto Disclosure** - The obligation of public authorities under Section 4(1)(b) for self disclosure of information is rarely followed. Their websites are either non-existent or are rarely updated. Even the names, phone numbers and addresses of their PIOs, APIOs and the appellate authorities are generally not put in public domain.
2. **Non Enlisting of the Public Authority**- In the absence of a proper definition of public authority or individual or substantially financed self-governing institutions etc., the Act cannot be properly implemented.
3. **Poor Record Maintenance** - Improper indexing, maintenance of records, absence of annual statements and reports etc by some of the offices are also a main hurdle in its implementation.
4. **Junior Officers have been Appointed as PIOs in some Organisations** - They are not able to get cooperation of their colleagues and support of their superiors for gathering information requested by the applicants.
5. **No free hand to PIOs for Discharging their Duties** - The PIOs seek approval from their bosses before disclosing the information. Consequently, in most cases, they follow the letter of the RTI Act but violate its spirit. Since views of both PIOs and FAAs are same, and applicants do not get any relief at the level of public authority the number of appeals has increased at the IC level.
6. **Poor Infrastructural Facilities with the PIOs/SPIOs** - PIOs/SPIOs have not provided adequate infrastructure like photocopier, fax, accommodation, separate office, secretarial assistance, computers, Internet facilities etc
7. **Overburdened PIOs** - The PIOs have to perform their role in addition to their role as employees in public authorities. Hence they feel overburdened due to increase in volume of work.
8. **No Additional Payment to PIOs** - No provision has been made by additional payment to PIOs for the performance of their role. Hence they take little interest in it and perform their role in a formal manner.
9. **Insensitive PIOs/APIOs** - It has been reported that some of them are reluctant to receive the application by hand on the payment of fee in cash or through IPO. They insist on payment of fee in the form of bank draft. This causes unnecessary harassment to information seekers.
10. **Tendency to Shift Responsibility upon APIOs** - Most of the PIOs tend to treat APIOs as their assistants and very often expect them to handle RTI applications. This is in violation of Sections 5(3) and 5(2). Superiors in public authority also support PIO.

- 11. Poor Knowledge of the Act** - Most of the PIOs and APIOs do not have adequate knowledge about the act and the rules as training policy is conspicuous by its absence.
- 12. Appointment of Inadequately Educated PIOs/ APIOs** - The problem has been compounded by the appointment of such officials as SPIOs and APIOs as are devoid of the needed academic and professional background such as Illiterate Sarpanches, Gram Sachives most of whom are not graduates.
- 13. Difficulties in Locating the PIO office at the District Level** - A lot of difficulty is being experienced by information seekers in locating their offices some of these are functioning from private buildings.
- 14. Appellate Authority only at the State Capital** - People in rural areas find the appeal process expensive as they have to go to the state capital for the hearings. Unlike the CIC, there is no provision of video conferencing in most of the states for hearing the cases.
- 15. Inadequate Strength and Lack of Autonomy of the Commission** - Though the strength of the ICs has been increased at the centre and state levels, even then it is far lesser than the earmarked strength.
- 16. Question mark on the Composition of Information Commissions** - Voices have also been raised against the composition of the State Information Commissions. Most of the ICs have been packed by those retired bureaucrats who had been in the good books of their political masters.
- 17. Misuse of Exemption for BPL Information Seekers** - The information seekers from BPL families have been exempted from payment of fee and other charges. The provision is being misused by unscrupulous persons. Infact, in some cases the BPL information seekers have been used by them for hiding their identity and for escaping payment of fee and other charges.
- 18. Confusion about the Exemption for BPL Information Seekers** - Many PIOs/APIOs are of the view that only RTI application fee is exempted and not the xerox, CD and floppy charges in case of the BPL applicant. This confusion often deprive those information seekers who cannot pay for these charges.
- 19. Problems regarding the details on First Appeal Authority** - Identification of First Appeal Authority has been found difficult particularly in those cases, where applicants do not receive information within the stipulated time frame and have to file the First Appeal. Under Section 7(8) of the Act, PIOs are duty bound to provide details on the Appellate Authority to the applicant in case of refusal of information and the third party in case of disclosure of the information of the third party. But this mandate is generally not followed.
- 20. Confusion about treating Subordinate Staff as Official PIOs (Deemed PIOs)**- Some of the ICs are not treating the Superintendents, Assistants and clerks etc as deemed PIO under the Sections 5(4) & 5(5) vide. This is in of contravention of the RTI Act according to which the subordinate employee can be designated PIO. Many ICs are of the view that as the word 'officer' has been used in Sections 5(4) & 5(5), therefore, subordinate officials are not officers, and hence cannot be treated as PIOs. This has not created a very difficult situation but also a great deal of confusion.
- 21. Delays in the Disposal of Appeals by the Commission** - There have been inordinate delays

in the disposal of appeals by the Commission. Although the Act has fixed the time limit for the PIOs and the appellate authorities for deciding the cases, no such time frame has been made for the Commission.

- 22. Reluctant use of Penalty Clause** - The reluctance of the Information Commissioners to use the penalty clause against officials providing wrong information or for their failure to provide information has been an issue of discontent. The Commissioners feel that indiscriminate use of this clause may lead to collapse of the administrative machinery. Thus, an impression has been created that the government departments need not take this Act seriously. Moreover, the government departments also do not always comply with the orders of the Information Commission. The powers under the Act for enforcing the Commission's orders are limited. Hence, there have been instances of recalcitrance by public authorities.
- 23. Lack of Awareness** - Awareness is lacking both among the information seekers and information providers. Guidelines for them have not been widely disseminated. Moreover, awareness seems to much less in rural areas than the urban area..
- 24. Demand for Irrelevant or Frivolous Information** - The RTI is also being misused by some mischievous persons for harassing their colleagues and blackmailing the authorities. Moreover, there are numerous instances of applicants demanding irrelevant or frivolous information.
- 25. Suffering from Railway Coach Syndrome** - Spreading of awareness on RTI Act is also suffering from "Railway Coach Syndrome" wherein the passengers of an overcrowded Railway Coach are reluctant to let the new passengers get in and once a new passenger gets in, he also shows the same behaviour. Similarly, a person who has undergone training and has knowledge of the RTI Act, she/ he is not willing to disseminate it to others.
- 26. Problems on the part of Judiciary** -The judiciary is also expected to frame its own rules for dissemination of information under the Act. Though some High Courts have framed RTI rules, others have not taken steps in this direction. The judgments of some of of some of the High Courts have added to the problem. For illustration Stay Order given by Delhi High Court on disclosure of assets of SC Judges created a lot of doubt about the future of transparency regime. Fortunately, several judges have disclosed their assets on their websites of their High Courts after a clarification from the Supreme Court.
- 27. Lack of Uniformity of in Rules** - There is no uniformity in RTI rules and fee structure among different states of the country. Some states have even made rules which contravene the RTI Act. For example, Haryana has prescribed time limit for depositing additional fee.
- 28. Heavy Cost of Information** - A major hurdle in the way of the success of the information regime is the heavy cost that information seekers are required to bear. For illustration the fee charged in Haryana is Rs. 50. However, it is only Rs. 10 per application at the center. Besides, the cost for the supply of information per page or in the form of disc and floppy is so high that it dampens the enthusiasm of information seekers.

### **Roadmap for the Future**

Despite the deficiencies and operational shortcomings, the RTI Act is a major step towards a participatory and transparent developmental process in the country. It is, indeed, what Amartya

Sen describes as "a momentous engagement with the possibilities of freedom". Some of steps, required for its effective implementation and operationalisation are being discussed as under:

1. **Activating Public Authorities**-To remove ambiguity pertaining to Public Authorities, the competent authorities should notify all public authorities under Section 2(h) of the Act. The CIC and SICs should act pro-actively in this context. There should also be frame time-bound action plan, with outcome budget and clear-cut physical targets with accountability for not fulfilling the obligations under Sections 4 and 5. They should also play a pro-active role in disclosing information as mandated under Section 4. The details about the APIO/PIO and First Appellate Authority must be on the Notice Boards. Moreover, the task of RTI implementation should not be left to the PIO alone. The Public Authority and the First Appellate Authority should also be made accountable for it.
2. **Proper Management and Computerization of Records** - Section 4(1) (a) of the Act requires records management policies and procedures to be made compatible with the RTI Act. The Public Authorities should, therefore, initiate measures so that all the decisions are mandatorily disclosed on its website. Extensive computerisation, networking and budgeting support is essential for this task.
3. **Effective Suo Moto Disclosures by the Public Authorities**- Disclosures under Section 4(1)(b) should be printed and updated periodically. It should be obligatory for the Public Authorities to publish the disclosures in their Annual Reports. The scope of "suo moto" disclosure of information by public authorities needs to be expanded to minimize citizen's resort to RTI for getting the information needed by them. Citizen's Charter should therefore from an integral part of Section 4(1)(b) disclosures.  
Extensive use of Information Technology need to be resorted to for addressing the obligations related to suo-moto disclosures.  
The penal provisions should also be invoked against Public Authorities for not doing disclosure under Section 4(1)(b).
4. **Effective Record Management** - The State Information Commission should be made powerful enough to ensure that public authorities take initiative in this regard. All of them must quickly review the existing Weeds Rules framed under the Destruction of Records Act, 1917. Records in the Government offices need to be digitized and indexed for easy retrieval. Clear cut accountability must be fixed for delays or non-traceable list of any document with reference to the Weeding Rules.
5. **Appointment of APIOs/PIOs by Public Authorities** -Effective steps should also be taken by the ICs and concerned governments so that all the Public Authorities designate PIO/APIOs not only at the headquarter level but also at the district and block levels. Furthermore for better coordination with PIOs of the other departments one officer in each line department could be designated as Nodal PIO. Details of all RTI Act functionaries should be available at one place and these should be displayed on their notice boards etc.
6. **The PIOs need to be a Senior rank Officer and they be Provided with Adequate**

**Infrastructure-** To ensure effective implementation of the RTI, the PIOs need to be of a sufficiently senior rank. The organisation must also provide them adequate budgeting support and infrastructure such as photocopier, fax and accommodation for enabling them to handle the responsibilities under the Act.

7. **Proper Training to the PIOs-** Adequate training is needed to sensitize the PIOs to the needs of people and about their functions. Training techniques such as distance education, computer training etc. should be used for this purpose.
8. **Separate Cadre of the PIOs-** They should be relieved of the extra burden to reduce in volume of work they have to perform. To avoid the problem of their frequent transfers and for their better sensitization on RTI Act, a separate cadre in civil services like IPS, IAS may be formed and named Indian Public Information service.
9. **Incentive for Work -** Since the PIOs are required to handle challenging work, they should be given incentives in the form of perks or extra allowances so that they are able to perform their duties gladly and effectively.
10. **Working of ICs be made more Effective -** Disposal of the cases in the ICs should be made faster. The CIC and SICs should constitute benches of two or more than one Commissioner to review of the decisions made by a Single Commissioner. Video Conferencing too may be used extensively for hearing the appeals. A time-limit should be put by the Commissions for taking up of the cases suo moto for ensuring disclosure of important information through their websites. The appeals and complaints under the Act should not be dismissed due to non-appearance of appellants/complainants and give another chance for appearance before them. Alternatively, they could decide the case on merit.
11. **Autonomy of the Commissions-**The ICs at the centre as well as in the states should have financial autonomy so that they are not compelled to go to the Finance Department or to the concerned Administrative Department for funds.
12. **Need for Performance Monitoring under the Act -** The Central Information Commission and the State Information Commissions must use the monitoring and reporting powers given to them under Section 25 of the RTI Act to ensure satisfactory compliance. The Second Administrative Reforms Commission has also recommended this in its report.  
For this the Commissions also need to be given a separate set up with adequate staff. They may also be authorized to engage the services of retired officers and renowned members of the Civil Society for this purpose.
13. **Contempt Power with the ICs-** The Information Commission have the powers of a Civil Court for only limited purposes. This should be widened so as to enable them to deal appropriately deal with contempt matters. The Commissions should also be empowered to enforce their decisions including those of penalising the heads of the Public Authorities for continued contempt of their orders. Till that is done the Commissions may use Section 19(8)b compensation clause against the non-cooperating heads of public authorities.
14. **Moderate Fee and Simple Modes of Payment-** To avoid confusion in depositing fee, there

should be a receipt head in every public authority to which the application fee is to be credited. Instead of bank drafts prescribed in some States, which cause undue extra burden, payment by way of Postal Orders, cheques and non judicial stamps, banks debit and credit cards should be allowed as modes of fee payment.

- 15. Uniformity of Rules and Procedures** - It is necessary that uniformity is maintained in formulating the rules and devising procedures by the competent authorities at different levels of Government. The Department of Personnel and Training, Government of India should conduct the audit of RTI rules of all the states so that aberrations especially the rules contravening the Act such as the time limit of 15 days for depositing the additional fee, as has been prescribed in Haryana, could be removed.
- 16. Pro-Active Role of Judiciary**- The judiciary also needs to initiate measures for effective implementation of the RTI. It should frame rules, as required under the Act for this purpose. It could also consider giving priority to the disposal of cases where public authorities have with hold Information by getting stay against the orders of Commissions.
- 17. Enlisting the help of Civil Society for training and Social Audit of PIOs**- There is need for formal involvement of intermediary civil society organisations to train the PIOs and the APIOs in collaboration with other government nodal agencies. Social audit of certain public authorities by NGOs, Citizens Forum and Civic Bodies of repute would help in fighting corruption and effective implementation of the RTI Act.
- 18. Awareness Generation and Capacity Building**- Capacity building of officials too is needed to meet information requirements of the citizens. Besides in addition to creation of awareness empowerment in citizens. Capacity Building of the cutting edge level functionaries forms the key element in this context as this level facilitates the first interface with the citizens. A massive round of training of PIOs/APIOs must be undertaken to achieve the Objective of Maximum Disclosure and Promotion of Open Governance. The following steps may be taken for it:
  - i) The RTI Act should be included in the syllabi at the Secondary school and College level education.
  - ii) The RTI User guide/ Guidelines and Directory of PIOs/APIOs/FAAs should be published in English as well as local language and these be circulated widely by the government.
  - iii) Effective training programmes for both the information seekers and the information providers should be organised by Administrative Training Institutes and NGOs at different level.
  - iv) Multimedia, especially the TV Channels, should be used for the information dissemination.
  - v) Best practices in RTI should be documented and show-cased.
  - vi) Though Department of Personnel and Training, Government of India has declared second week of October as RTI week for spreading awareness about the Act but awareness about it is very poor among people. However, it seems to be only Central Government affair, State Governments are not taking effective steps in this direction.
  - vii) Nukkad Nataks, Talk Shows etc should be organized regularly by various forms of media.
  - viii) Other modes such as Kala Jathas and puppet shows could also be used for this purpose.

- 19. The use of Common Service Centre (CSCs) and Call Centers as APIOs-** For facilitating the access to information, the concept of RTI Call Centers needs to be introduced. As per the concept, information seekers are to make calls on these centres and operators at these centres would convert oral request of the information seeker into written forms. Then it would be sent to the PIO of the concerned public authority. This is being practiced in Bihar to some extent. There the Government hires such Call Centres. Few states have also established Common Service Centres (CSCs) in the rural and urban level area respectively. These CSCs could also be used as APIOs for receiving and for forwarding RTI applications to the PIOs of the concerned Public Authorities. However, these are yet to be operational many states.
- 20. Single Window Service at the E-Disha Centres in the District Headquarters-** A counter can be opened at the E-Disha centre of every district to help information seekers. An officer may be specifically designated as APIO under the Act to collect applications meant for Public Information Officers of the district and sub-divisional headquarters. The fee may also be got deposited and the application be forwarded by her/him to the concerned Public Information Officer in the district.
- 21. Use of Post Offices as APIOs-** The state governments in consultation with the Post Master General of the State can have a similar arrangement as has already been adopted by the Central Government. It has designated certain specified post offices in the country as APIOs to collect applications on behalf of the Public Authorities of the Central Government and forward them to the concerned PIOs. Fee can also be easily paid there through postal orders
- 22. Confederation of ICs and Nodal Officers of RTI Cells-** A Confederation of Information Commissions and Nodal Officers of RTI Cells of National/State Training Academies may also be formed. It can hold regular meetings for having better coordination among the Commissions and cohesion in their decisions. This may also ensure exchange of information relating to Annual Confidential Reports (ACRs), Answer Sheets, Annual Property Returns (APRs) and Income Tax Returns etc.
- 23. Priority to Public Interest First -** Information Commissions should prioritize second-appeals / complaints, of public interest, over the ones which are self-centric and self-serving. Moreover, information sought by the applicants in public interest should be used for the purpose of furtherance that cause.

### **Conclusion**

The enactment of the RTI Act (2005) has to be recognized as a laudable step indeed. It has proved to be a strong weapon in the hands of people for ensuring transparency and accountability in government departments and for containing corruption. India's RTI Act has been widely acclaimed, as one of the best law in the world. It has also an excellent implementation track record. It is undoubtedly, one of the most empowering and progressive legislations that have been enacted in the post Independent India.

The Act not only covers the public sector but also, to some extent, the NGOs and the private sector as well. It has many positive features like provision for the First and the Second Appellate Authorities. It is also one of the strongest legislations globally, that provides for the imposition of

penalty for the contraventions of its provisions. During the one decade of its implementation, the response to it has been very positive. The people are gradually learning the importance of the power of information. The persons of every section have been seeking information from the different authorities. The Act has made a significant impact on the quality of the life of the poor and the marginalised. It has indeed, brought about positive changes in the level of administrative accountability. The disclosure of various vital informations has helped in checking corrupt practices in the delivery of services and in ensuring the reach of entitlements to the poor. Public authorities and Public Information Officers are increasingly becoming aware of their responsibilities. As a matter of fact, it has been a learning experience for all the stakeholders.

However, there have been many instances of misuse of the Act for blackmailing of the officers. It has also added to burden on government exchequer. Besides there have been many operational impediments in the effective implementation of the Act such as non-designation of RTI functionaries in several organizations. Moreover, many Public Authorities, particularly those at the district level, do not display names and details of PIOs on their notice boards. Besides, very junior officers are often appointed as PIOs who are unable to collect information from their seniors. Although, only the PIOs can be penalised under the Act, they have not been provided adequate infrastructure for performing their duties and discharging their responsibilities.

More ever, on account of the absence of penal consequence, Public Authorities are yet to give shape to any time-bound action plan for the implementation of the RTI Act in general and for making the suo moto disclosures in particular.

Experience regarding seeking information too has not been very encouraging. Fees charged and the manner of payment are not uniform. There is a great deal of confusion about the head of accounts to which the application fee and other charges are to be credited. Most of the PIOs at state and district levels are also not cooperative and sometimes they even force the applicants to withdraw applications.

People in rural areas particularly find the appeal process rather expensive. Many times, there is just one First Appellate Authority for the whole department and that too is located in the capitals of states. The BPL exemptions are also being widely misused by unscrupulous elements.

The Information Commissioners often generally do not use the penalty clause against those officials who provide wrong information or deny it altogether. As a result, an impression has been widely created that the government departments need not take this Act very seriously. They sometimes even do not comply with the orders of the Information Commissions, who have not been provided with enough teeth and adequate infrastructure. The Commissions' autonomy too is often compromised as they have to rely on the government for infrastructure and financial support. The awareness is, as a matter of fact, lacking both among the information seekers and information providers in urban as well as rural areas.

To overcome the hurdles in its effective use, the governments should take effective steps to propagate this Act among the illiterate people living in the villages. The states should also increasingly use IT/e-governance. Records in the Government offices also require to be digitized and indexed for easy retrieval. Video Conferencing needs to be used extensively for hearing the appeals. Proactive disclosure of public authorities should be audited by a team of Government officials and NGOs.

Penal provisions, as stipulated under the Act for malicious and unreasonable refusal of information, by the Information Commission too should be strictly implemented. Compulsory training of the officers of central and state governments on RTI should be organized on a continuous basis. What is most important at the present juncture is the Act be given an honest chance to operate smoothly without creating negative stumbling blocks and bottlenecks. This casts a special duty upon the organizations of civil society for remaining vigilant to ensure that the objectives of the Act are not get frustrated through the bureaucratic manipulations. This also necessitates attitudinal change in bureaucracy. At the same time, there is a dire need to initiate suitable amendments in the Conduct Rules for the public servants. Efficient information management system needs to be created without delay in this context. More frequent use of this Right by the citizens can go a long way in achieving the objectives of the Act.

Presently, the RTI regime in India is passing through a decisive phase. Much more needs to be done to streamline it. It can be made effective only through active involvement of the people. Much is going to depend on the seriousness of Central and State governments and Public Authorities in fulfilling their obligations under the Act for ensuring its operationalisation. Finally, it may be said that the enactment of RTI Act has indeed been a bold step and it is likely go a long way in creating participatory democracy in India. But those at the helm of the must arise to the occasion and create, without delay, the enabling environment for this epoch making measure.

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## 2. Role and Responsibilities of APIOs and PIOs

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The RTI Act is admired for its comprehensive approach in introducing a regulatory system to ensure information to the people. Section 5 (1) of the Act requires a Public Authority (PA) to designate as many "officers as Central Public Information Officer or the State Public Information Officer, as the case may be, in all administrative units and offices under it as may be necessary to provide information to persons requesting for the same. They have to be designated within 100 days of the enactment of the Act.

Similarly, Central or State Assistant Public Information Officers are to be designated at each sub-divisional level or other sub-district level" to receive applications or appeals and forward them on to the concerned Public Information Officers, Designated Appellate Officers and the Information Commission [Section 5(2)]. This is to ensure that the concern person can apply for information in their own local areas without the need for travelling long distances to the offices of the Public Information Officers.

### **Duties and Responsibilities**

The Act provides for the duties and responsibilities of a Public Information Officer (PIO), Assistant Public Information Officer (APIO) and other officers as follows:

#### **Public Information Officer**

To deal with requests from persons seeking information and render reasonable assistance to the persons seeking such information, taking the assistance of any other officer, if considered necessary by her/him for the proper discharge of duties [Section 5(3) & 5(4)];

- .. To render 'all reasonable assistance', where request for information cannot be made in writing, to the person making the request orally to reduce the same into writing [Section 6(1)];
- .. To dispose request for information under the Act, either providing the information requested on payment of prescribed fee or rejecting the request for reasons to be specified within the time period stipulated under the Act [Section 7(1)].

#### **Assistant Public Information Officer**

- .. To receive applications for information or appeals under the Act for forwarding the same forthwith to the Central Public Information Officer or the State Public Information Officer or Appellate Officer or the Central Information Commission or the State Information Commission as the case may be [Section 5 (2)].

#### **Officer whose Assistance is Sought**

- .. To render all assistance to the Public Information Officer who sought his or her assistance;
- .. To be treated as a Public Information Officer for the purposes of any contravention of the provisions of the Act. [Section 5 (5)]

### **Procedure for Request for Information**

Section 6 of the Act stipulates that the request for information may be made to the Central Public Information Officer or State Public Information Officer, as the case may be, of the concerned public authority or given to the Central Assistant Public Information Officer or State Assistant Public Information Officer, as the case may be.

The request for information can be made as follows:

- .. In writing or through electronic means in English or Hindi or in the official language of the area in which the application is being made;
- .. Oral request to be reduced to writing with assistance sought from Public Information Officer, where such request cannot be made in writing;
- .. To specify the particulars of the information being sought by the applicant;
- .. To be accompanied by fee as prescribed under the rules made under the Act;
- .. Applicant not to be required to give reason for requesting the information or any other personal details except those that may be necessary for the purpose of contacting.
- .. RTI application format for 'Application' (Form A) is given under the Haryana Right to Information Rules, 2009 in the Annexure-IV at page number 323-24.

#### **Deposit of Further Fee**

- .. On receipt of an application the PIO/APO shall give a receipt in token thereof to the applicant.
- .. On receipt of the application the PIO/APO shall scrutinize the application and shall assess how much fee is required to be paid by the applicant for obtaining the information.
- .. The fee assessed shall be informed to the applicant by the PIO/APO in (Form B -Given under Haryana RTI Rules, 2009 in the Annexure-IV) expeditiously, from the date of receipt of the application.
- .. In case the applicant fails to deposit the requisite fee within a period of fifteen days after the issuance of the intimation given to her/him it shall be constructed that the applicant is no longer interested in obtaining the information sought for and her/his application be deemed to have been filed.
- .. There is no time limit for depositing the additional fee at the Centre level.

#### **Disposal of Request for Information**

Section 7 of the Act makes provisions regarding the disposal of request for information as follows:

- .. request for information shall be disposed by the Public Information Officer within ;
- .. 30 days of receipt in general cases and 48 hours of receipt in cases where the information sought for concerns the life or liberty of a person [section 7(1)];
- .. a period of 5 days shall be added in computing the response time where an application for information is given to an Assistant Public Information Officer [Section 5(2)];
- .. request to be deemed to have been refused by the Public Information Officer, if decision on the request for information is not given within the period specified as above [Section 7(2)];
- .. where a decision is taken to provide the information on payment of any further fee representing the cost of providing the information, the Public Information Officer shall send an intimation in

Form B to the person making the request, giving: (a) the details of further fees representing the cost of providing the information as determined by her/him, together with the calculations made to arrive at the amount in accordance with fee prescribed, requesting her/him to deposit that fees, and the period intervening between the dispatch of the said intimation and payment of fees shall be excluded for the purpose of calculating the period of 30 days, and (b) information concerning the right of the person making request with respect to review the decision as to person to whom access is to be provided is sensorily disabled, the Public Information Officer shall provide assistance to enable access to the information, including providing such assistance as may be appropriate for the inspection [Section 7(4)];

- “ where access to information is to be provided in the printed or in any electronic format, the applicant shall pay the fee prescribed [Section 7(5)];
- “ before taking any decision to provide information, the Public information Officer shall take into consideration the representation made by a third party [Section 11(1)];
- “ where a request has been rejected, the Public Information Officer shall communicate to the person making the request-
  - (i) the reasons for such rejection
  - (ii) the period within which an appeal against such rejection may be preferred; and
  - (iii) the particulars of the appellate authority [Section 7(8) ].

Fees and Costs to be Charged

The Act prescribes the following fees and costs to be charged

from persons making request for information:

- 1) Cost: Section 4 (4) - Cost of medium: electronic or print or print cost price.
- (2) Fee: Section 6 (1) - Fee accompanying application of request for information.
- (3) Fee: Section 7 (1) - Fee as prescribed under rules for furnishing information.
- (4) Fee: Section 7(3) - Further fee representing the cost of providing the information requested as determined by PIO.
- (5) Fee: Section 7 (5) - Fee prescribed under rules for supply of information in printed or electronic format. [Fees under Section 7 (3) and Section 7 (5) can be charged together.] Other charges and costs, if any, need to be specified while disposing requests for information. No fee shall be charged from the persons who are of Below Poverty Line (BPL) as may be determined by the appropriate Government [Section 7(5)]; Further, the person making request for information shall be provided the information free of charge where a public authority fails to comply with the stipulated time limits for disposal of request applications [Section 7(6)].

### **The Fee Structure:**

A citizen who desires to seek some information from a public authority is required to send, along with the application, a demand draft or a bankers cheque or an Indian Postal Order of Rs.10/-

(Rupees ten), payable to the Accounts Officer of the public authority as fee prescribed for seeking information. The payment of fee can also be made in cash to the public authority or to the APIO, against a proper receipt. The payment of fee to the Central Ministries/departments can also be made online through internet banking of State Bank of India or through Master/ Visa Debit/credit cards.

The applicant may also be required to further pay the cost of providing the information, details of which have to be intimated to the applicant by the PIO as prescribed by the Central Right to Information Rules, 2012. Rates of fee as prescribed in the Rules are given below:

- (a) Rupees two (Rs. 2/-) for each page (in A-3 or smaller size paper) ;
- (b) Actual cost or price of a photocopy in larger size paper;
- (c) Actual cost or price for samples or models;
- (d) Rupees fifty (Rs.50/-) per diskette or floppy; and
- (e) Price fixed for a publication or rupees two per page of photocopy for extracts from the publication.
- (f) So much of postal charges involved in supply of information that exceeds fifty rupees.

However, in Haryana the application fee is Rs 50 and can be paid in cash, IPO, bank draft and treasury challan. Other charges are at par with Centre except for CD and inspection

A citizen has the right to inspect the records of a public authority. For inspection of records, the public authority shall charge no fee for the first hour. But a fee of rupees five (Rs.5/) for each subsequent hour (or fraction thereof) shall be charged.

As per Haryana RTI Rules 2009, fee structure is almost at par with centre except the fee for inspection and for CD charge.

#### **Fee Structure in Haryana is as under:-**

Application fee Haryana

10/-

Xerox copy of A3/A4 size paper 2/-

Larger than A3/A4 Actual Cost

CD 50/-

Floppy 50/-

In Haryana, no fee for inspection of record, if any, provided under any section of this act is made for one hour only.

However, for more than one hour of inspection, Rs. 5/- shall be charged for every subsequent hour or part there of (Haryana RTI Rules. Rule 5 (5)).

\*There is no fee (Application or other additional fee for xerox copy, CD and Floppy etc.) for citizens below poverty line. Sec 7 (5)

\*\*Postal charges are also to be charged from the information seeker (Haryana RTI Rules, Form A). In Haryana, additional fee has to be deposited within 15 days from the issuance of intimation in this

regard.

If the applicant belongs to the Below Poverty Line (BPL) category, she/he is not required to pay any fee. However, she/he should submit a proof in support of his/her claim of belonging to this category. If the application is not accompanied by the prescribed fee of Rs.10/- or proof of the applicant's belonging to BPL category, as the case may be, it shall not be a valid application under the Act. It may be pointed out that there is no bar on the public authorities to supply information in response to such applications. However, provisions of Act would not apply to such cases.

### **(Procedural Forms to Access Information)**

Section 7 (9) provides that information shall ordinarily be provided in the form in which it is sought unless it would "disproportionately divert the resources of the public authority or would be detrimental to the safety or preservation of the record in question".

The information provided to an applicant, to the extent possible, has to be in the form which is easily understandable by her/him. The information becomes more meaningful if the same is given in the local language.

An aspect to be considered here is: whether any information supplied under this Act could be properly stamped as, for example, 'supplied under RTI Act' for easy identification of such material supplied.

### **Time Limits for Disposal of Requests**

Section 7 (1) requires that the information requested by an applicant to a PIO shall be furnished as expeditiously as possible. The time limits prescribed under the Act for disposal of requests for information are as follows:

#### **Information up to 20 Years**

Section 8(3) of the Act stipulates that subject to exemptions relating to information linked to sovereignty, integrity and security matters, breach of privilege of Parliament or the State Legislature and cabinet papers, any information relating to any occurrence, event or matter which has taken place, occurred or happened 20 years before the date on which any request is made, shall be provided to any person making a request under the Act. However, where any question arises as to the date from which the period of 20 years has to be computed, the decision of the Central Government shall be final, subject to the usual appeals provided for in the Act.

### **Protection of Copyright**

Section 9 of the Act provides that a Public Information Officer may reject a request for information where such a request for providing access would involve an infringement of copyright subsisting in a person other than the State.

### **Access to a Part of the Record**

Section 10 provides that where a request for access to information is rejected on the ground that it is in relation to information which is exempt from disclosure, access may be provided to that part of the record "which does not contain any information which is exempt from disclosure under the Act" and "which can reasonably be severed from any part that contains exempt information". Where access is granted to a part of the record the Public Information Officer shall give a notice to the applicant under Section 10 (2), informing-

- (a) that only part of the record requested, after severance of the record containing information which is exempt from disclosure, is being provided;
- (b) the reasons for the decision, including any findings on any material question of fact, referring to the material on which those findings were based;
- (c) the name and designation of the person giving the decision;
- (d) the details of the fees calculated by her/him and the amount of fee which the applicant is required to deposit; and
- (e) his or her rights with respect to review of the decision regarding non-disclosure of part of the information, the amount of fee charged or the form of access provided, including the particulars of the Appellate officer or the Information Commission, time limit, process and any other form of access.

### **Third Party Information**

"Third Party" is defined under the Act to mean a person other than the citizen making a request for information and the public authority to which the request is made. It could be a private individual or a public authority [Section 2 (n)]. Section 11 of the Act requires that if the information sought by the citizen pertains to a record or part thereof relates to, or has been supplied by a third party and if it is not treated as confidential by that third party, the PIO is at liberty to provide the same to the applicant.

If, however, such above information is treated as confidential by that third party, the following steps will have to be taken:

- .. The PIO gives a written notice to the third party, within 5 days of receipt of the application, and conveys his intention to disclose the information or record while requiring the third party to make a submission, within 10 days from the date of receipt of such notice, regarding whether the information should be disclosed or not.
- .. The third party should, within 10 days from the date of receipt of notice from the PIO, make a representation in writing or orally against the proposed disclosure and give written notice to the third party.
- .. The third party is entitled to prefer an appeal against the decision of the PIO. Make a representation in writing or orally against the proposed disclosure and give written notice to the third party.
- .. The PIO can, within 40 days after the receipt of application for information, if the third party has

been given an opportunity to make representation, make a decision on disclosure and give a written notice to the third party.

.. the third party is entitled to prefer an appeal against the decision of the PIO.

Except in the case of "trade or commercial secret protected by law", disclosures involving third part information may be allowed, if the public interest in disclosure outweighs the importance of any possible harm or injury to the interests of such third party. If the third party is a private individual, the PIO has to be very cautious and properly weigh the consequences as privacy of an individual is important and protected under Section 8 (1) (j).

### **Steps for Disposal of Requests**

The procedure to be followed by the PIO right from the stag of receipt of application for information till the disposal involves a number of steps as follows:

- .. Receives application along with the application fee.
- .. Scrutinizes the application received and the fee prescribed.
- .. If required, renders reasonable assistance to the applicant by reducing the oral request in writing.
- .. Registers the application in the Inward Register.
- .. Issues acknowledgement/receipt to the applicant.
- .. Transfers the application/part of it to another public authority, if required.
- .. Informs the applicant about such transfers.
- .. Makes necessary entries in the Register being maintained.
- .. Considers the representations of a 'third party', if any.
- .. In case of rejection, conveys reason for it, the period within which the appeal may be preferred and the details of the Appellate Authority to whom appeal can be preferred.
- .. Sends intimation to the applicant, the further fee, representing the cost of providing the information, to be paid along with its calculations.
- .. Also intimates about the modalities of deposit of fee, the right of the applicant for review of the fees charged and appeal against the calculation or the form of access.
- .. Wherever required, provides assistance to citizens for inspection of works, documents, records and taking samples of material.
- .. Waives fees for citizens Below Poverty Line.
- .. Retains record on each application, disposal etc. so that materials as required may be furnished to Appellate Authorities in case first/second appeal is preferred.

### **Inspection of Work Record Taking Sample(s)**

Right to Information includes, inter alia, inspection of work, documents, records, taking notes, extracts and certified samples of material. In consultation with the concerned sections/ divisions/ offices in Government Departments, PIOs may fix a day or two of the week for applicants to take samples and for inspection of material. Such an arrangement may not disturb the work in the section/ division/ office and the citizen would also be aware of the days of visit to the PIO /PA. The General Clauses Act, 1897 defines 'document': shall include any matter written, expressed

or described upon any substance by means of letters figures or marks, or by more than one of those means which is intended to be used or which may be used, for the purpose of recording that matter.

#### Grounds for Rejection of Requests

- (a) Section 8 (1): Exemptions from disclosure of information. There is no obligation on the part of a PIO to give any citizen the following:
- (a) Information where disclosure would prejudicially affect the sovereignty and integrity of India, the security, strategic, scientific or economic interests of the State, relation with the foreign State or lead to incitement of an offence;
  - (b) Information expressly forbidden to be published by any court of law or tribunal or the disclosure of which may constitute contempt of court;
  - (c) Information, the disclosure of which would cause a breach of privilege of Parliament or State Legislature;
  - (d) Information including commercial confidence, trade secrets or intellectual property where disclosure would harm the competitive position of a third party, unless larger public interest warrants the disclosure of such information;
  - (e) Information available to a person in his fiduciary relationship, unless larger public interest warrants the disclosure of such information;
  - (f) Information received in confidence from a foreign Government;
  - (g) Information, the disclosure of which would endanger the life or physical safety of any person or identity the source of information or assistance given in confidence for law enforcement or security purposes;
  - (h) Information which would impede the process of investigation or apprehension or prosecution of offenders;
  - (i) Cabinet papers including records of deliberations of the Council of Ministers, Secretaries and other officers; and
  - (j) Personal information, which would cause unwarranted invasion of the privacy. The rejections in such cases may be allowed if it serves larger public interests. (The information which cannot be denied to the Parliament or State Legislature shall not be denied to a person making request

for the same). However, a PIO may allow access to information if public interest in disclosure outweighs the harm to the protected interest.

- (b) Section 9: Infringement of the copyright subsisting in a person other than the State. This is the only absolute exemption. Here, the PIO need not consider the public interest in disclosure.
- (c) Section 11: Third party information treated as confidential by the concerned and involving the case of trade or commercial secrets protected by law and other third party information where the public interest in disclosure does not outweigh the importance of any possible harm or injury to the interests of such third party.
- (d) Section 24: Information of exempted intelligence and security organisations except information pertaining to allegations of corruption and human rights violations.

### **Procedure for Rejection of Requests**

A PIO is required under the Act to either provide the information, on payment of the requisite fee or reject the request within the time limit prescribed. The Act stipulates that where a request for information is rejected by the PIO, the PIO will communicate the decision to the person making the request along with:

- (i) the reasons for rejection.
- (ii) the period within which an appeal against such rejection may be preferred (within 30 days of the date of the rejection)
- (iii) The particulars of the Appellate Authority.

### **Delays and Incomplete information**

In the case of delay in providing the requisite information to the person seeking the same or if the information provided is incomplete, such an eventuality could be a basis for appeal. Therefore, the PIO, in addition to maintaining registers for receipt of requests for information and disposal of such requests, will also have to develop checklists and keep a check on the pendency and/or completeness of the information provided. This is important because the burden of proving that the PIO acted reasonably and diligently would be solely on the PIO herself/himself and that would certainly require production of documentary evidence.

### **Check List for PIOs**

To enable the PIOs to discharge their functions effectively, it will be useful for the PIOs to be ready with the following:

- .. Full details of the administrative unit/office/ organisation.
- .. Full details of the department of which the public authority is a part.
- .. Information proactively published by the public authority.
- .. Information made available electronically.

- .. Annual report and other documents published by the public authority.
  - .. Names, addresses and other details of the Appellate Authorities.
  - .. Designated Appellate Officers and Information Commission.
  - .. the contact details of the other Public Authorities, PIOs and APIOs.
  - .. Performa for the receipt of application for request of information.
  - .. Forms for receipt of fees and acknowledgement, communication of decision including rejection.
  - .. Proper seating arrangements to facilitate easy accessibility of citizens to information handbooks, portals, websites, etc.
  - .. Register for receipt, acknowledgements-separately for inward and outward and roznama.
  - .. Checklist for monitoring the disposal, pendency and disposal of the applications for information.
- 
- .. Arrangements for inspection of records/taking samples by persons making requests and fix a particular day or two in the week for the above purposes and be ready with an appropriate contingency plan.

### **Some Important Tips for PIOs**

The PIOs need to constantly keep the following in mind:

- .. Information which cannot be denied to the Parliament or the State Legislature shall not be denied to any citizen.
- .. Notwithstanding the exemptions permissible under Section 8 (1) of the Act, access to information is to be allowed, if public interest in disclosure outweighs the harm to the protected interest.
- .. The Right to Information Act, 2005 overrides the Official Secrets Act, 1923.
- .. Any material relating to occurrence, event or matter, which has taken place, occurred or happened 20 years before the date of the application, has to be given to the applicant.
- .. Access to information should not involve an infringement of copyright subsisting in a person other than the state.
- .. Information supplied by a third party can be provided by the PIO subject to legal safeguards under Section 11.
- .. the burden is on the PIO to prove before the Information Commission in appeal that he acted reasonably and diligently. He has to support the same with documentary evidence.
- .. The PIO is personally liable to pay penalty if the same is imposed by the Information Commission while deciding on complaints and appeals.

### **Dealing with APIOs and Other Departments**

The PIO has to keep in constant touch with the APIOs. The appointment of APIOs has been

envisaged under the Act to enable citizens to make request for information from sub- district/ district levels to the place of location of the PIOs. Where an application or an appeal is received by the APIO, a period of 5 days is to be added in computing the time limit for response.

The APIOs need to inform the PIO from time to time about the status of the applications received along with date of receipt sent to PIOs, the fees paid, etc. Similarly, the PIO needs to inform the concerned APIOs about the information provided, information denied, the grounds for denial, applications wherein the decision has extended beyond the prescribed time limit, etc.

Public Information Officer (PIO) may transfer the request for information either in totality or partially to another public authority if the subject matter pertains to that other Public Authority. Similarly, a PIO could get a request transferred to her/him from another Public Authority. In both the cases, a period of 5 days is to be added in computing the time limit for response.

The responsibility of the PIO does not cease when a request is transferred to another public authority. While transferring she/he has to concurrently inform the applicant about the same. She/he is also required to keep a record of transfer in her/his Outward Register for future reference and monitoring. Coordination between the two public authorities in such cases would also enable the PIOs concerned to present the correct picture before the Appellate Officer or Information Commission, as the case may be, if and when the applicant prefers an appeal.

#### Dealing with Citizens

The successive governments and various judicial pronouncements have firmly saddled the Right to Information Act, 2005 in the governance of the country. Nobody can dare to oppose it, but it might be made cripple by various outside factors, which we have been discussing in detail. In normal functioning of any government departments, the people are now empowered to get documents, even the file details of the processing of any order, the secrecy or exemption is an exception.

There is also a need to understand that the citizens under this Act have now a right to information, not just records or documents. The word, "Information" is defined by the Act very broadly. Right to Information includes inspection, covering taking of samples by a citizen, keeping the importance attached to the citizens' Right to Information, the Act bars the courts from entertaining any suit application or other proceeding in respect of any order made under this Act and no such order shall be called in question otherwise than by way of an appeal under this Act. Seeking information is the citizen's right and an applicant making a request for information cannot be asked to give any reason for requesting the information or any other personal details except those that may be necessary for contacting that applicant. There is provision of compensation to the citizens.

An individual's right to privacy, however, is protected under the Act. The exemption accorded to private information under the Act reflects the underlying public interest to protect personal

privacy and prevent "unwarranted invasion" of the same. The PIOs are required to render reasonable assistance to applicants for information. The help from the PIO to citizens could be in any form as stated below:

“ Where a citizen is unable to make a request in writing, the PIO shall render assistance to the person making the request orally to present the same in writing.

In case the information concerns the life or liberty of a person the PIO shall take all steps to provide the required information within 48 hours of receipt of such request. In case, the person to whom the access to record is to be provided is sensorially disabled, the PIO shall provide necessary assistance to enable access to the information, including such assistance appropriate for the inspection. The right to information includes inspection of records; the PIO will reserve place and time for such inspection. Necessary arrangements have to be made to ensure that the citizen can carry out the inspection without any disturbance or distraction.

“ The PIO would also make necessary arrangements 'for giving material samples, wherever required.

It is often stated that “Justice delayed is justice denied”. There should not be any -undue delay in providing information sought by the public. The Act therefore, stipulates time limits for supply of information. If the requisite information is not provided to the applicant within the stipulated period, the same will be construed as deemed refusal under the Act and the applicant can prefer an appeal against it.

### **Dealing with Appellate Authorities**

The PIOs should be well conversant with the powers and functions of the Appellate Officer and the Information Commission as envisaged under the Act.

While conveying information or rejecting request for information or conveying the fee amount to be paid etc., the PIO is required to indicate the right to appeal and the details of the Appellate Authority to whom the applicant can appeal.

This amounts to paving the way for appeal to be preferred, if considered necessary by the applicant, and getting ready for meeting the requirements of the Appellate Authority. The State / Central Information Commission (as the case may be) is mandatorily required to impose a penalty on an erring PIO; if in its opinion the PIO has without any reasonable cause:

- (i) Refused to receive the application for information.
  - (ii) Not furnished information within the specified time, or
  - (iii) Denied the request for information due to some malafide reasons or
  - (iv) Destroyed the information which was the subject matter of the request
- or

(v) Obstructed in any manner the furnishing of the requested information.

In the event of the above, the Information Commission shall impose a penalty of Rs. 250 per day on the PIO till application is received or information is furnished subject to the total amount of such penalty not exceeding Rs.25000. The Information Commission shall recommend for disciplinary action against the PIO under the service rules applicable the concerned official in certain cases. If the said official persistently violates the provisions of the Act, without any reasonable cause, the Information Commission is legally bound to give an opportunity to the PIO to be heard before deciding to impose a penalty. Therefore, the PIO should be prepared to justify the refusal and also to prove that the decision not to give information was taken with due diligence and reason. In this context, the PIO is expected to keep public interest paramount while determining public interest versus private interest. He is expected that the PIO makes a decision after considering all possible aspects of the issues at hand - the pros and cons and the legal position.

#### **Guidelines for Authorities and Officers**

It will be proper for the appropriate Government/public authorities to prepare guides/ manuals for Public Authorities/Public Information Officers and Assistant Public Information Officers/ Appellate Officers. A simplified "Dos and Don'ts" list in official language of the area could be prepared by every public authority for use as a check list by the APIOs, PIOs and Appellate Officers.

As time proceeds, more and more information may be made available in the electronic form to citizens by the public authorities. All the APIOs, PIOs, and Appellate Officers may be provided access to computer facility and networks; and adequate training in the use of computers and information systems for retrieval of information may also be provided to them.

#### **Capacity Building Programmes**

The Public Information Officer plays a pivotal role in the implementation of the RTI. The compliance with various provisions of the Act requires a certain level of understanding of the law, the functioning of the government offices. There is a need to initiate orientation programmes for PIOs.

There is an urgent need to introduce a certain level of preparedness on the part of PIOs. A large number of applicants seeking government information get frustrated due to inability of the PUOs to grasp the issue and decide accordingly.

The practice of retired civil servants, eminent people of public life or media could have revolutionized the functioning of the government and could have made it more responsive. However, the purpose appears to have been lost due to the inadequate knowledge of office procedures and inability to understand the jungle of records and their correct management. With the massive

digital programme being undertaken in almost every government department, retrieval of information should not be difficult. It is also possible that the applicant might have asked some information, which is already available on the internet or website of the concerned department.

It should be remembered that the PIO is now a key institution which projects the government's commitment to transparency and accountability. The people holding this high office should be good in negotiations with the public, colleagues, third parties and others to ensure smooth interactions with all these stakeholders. It is not only that the duty in this regard is well done, but the impression should be that justice prevails. The PIO should also have good drafting skills so as to be able to issue well-reasoned orders, which not only convince the information seekers, but also survive the judicial scrutiny.

The tasks required to be performed as PIO, for an official, is in addition to the responsibility of the position held in the office. Therefore, efforts should be made that this additional work of the PIO is performed by judiciously apportioning of time available to the officer to ensure RTI work. The paucity of time cannot be a justification for delay in the disposal of requests for information or for supply of incomplete information, because it undermines the RTI Act. The PIOs need to be prepared, motivated and trained in right to information, office procedures, information management, good governance etc. from time to time. Similarly, Appellate Officers and other officers should be trained regularly. Simultaneously, training and awareness programmes need to be launched to address the demand side issues like mobilisation of people, civil society action, legal literacy etc.

### **Conclusion**

The Act is a marvel in role differentiation and functional specialization all. It has assigned separate role and responsibilities to the APIOs and PIOs. As per the mandate of the RTI Act, the APIOs are simply expected to perform the role of a post office or that of receiving and forwarding the applications and the appeals from the applicants and appellants and forward these to the PIOs and concerned AAs as the case maybe.

The use of the APIOs as assistants to the PIOs in various public authorities is against the spirit of the RTI Act. In many offices, they are seen even performing the duties for the PIOs i.e. collecting, compiling and supplying the information to the applicants. They have also been appearing before the Information Commissions on the behalf of the PIOs. Many a times, APIOs have also been panellized by the Commission for the contravention of the Act committed by the PIOs.

The PIOs are also not very comfortable in their position. First of all, in a number of public authorities (Pas), the junior rank employs have been designated as the PIOs. Although the PAs had designated many senior officers as PIOs including officers of IAS rank in the beginning but with the passage of time very junior officers, including superintendents and clerks, have been

designated as PIOs despite the fact they virtually have no command and control in the PAs.

Most of the PIOs too are not well versed with the various provisions of the Act and they have been trying to find short cut solutions for the RTI applications received in their respective offices. Frequent transfers of PIOs, lack of proper training, absence of any financial incentives, poor infrastructural facilities for the RTI cells and the lack of institutional support have further demoralized these junior rank PIOs. This has been dysfunctional of effective performance of duties by them. A PIOs sometimes resembles the legendary, 'Gulliver' on the island i.e. without any proper support or help from anybody in the PA. There are no standing

instructions from the heads of the PAs to their employees to promptly and effectively render the needed assistance to them. They are left alone, as if RTI is only their headache. There have been very few cases, where the deemed PIOs were penalized. Otherwise, only the designated PIOs have to face penalties even for the defaults of others employees or deemed PIOs.

The only solution for the effective disposal of the RTI requests seems to be the making of proper training arrangements for both functionaries-APIOs and PIOs in the PAs. Besides, PIOs need to be given adequate support in terms of infrastructure and financial incentives by the PAs.

Source: A Manual for Public Authorities Information Officers and Appellate Authorities, CGG, NIA, Capacity. Building for Access to Information, June 2006, DOPT Guidelines and Book on 'Right to information of Good Governance' By Dr. Rajbir Dhaka, modified as per Union and Haryana Governments Notifications.

### **3. Powers and Functions of the Appellate Authorities**

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The jurists across the world admire that in a bid to ensure that the mindset of the Indian government officials, this legislation has tried to make it as clear and as effective possible by providing elaborate details and administrative processes, does not sabotage the right to information. However, in spite of the provisions being detailed here, the official machinery continues to avoid information sharing, if not trying to refuse it on any pretext. The grievance redress mechanism is revolving around this theme.

The Act provides two channels of appeals against the decision of a PIO on the request for information by a citizen - an internal or 'first' appeal to a designated "officer senior in rank" to the PIO - the first appellate authority as notified by the Public Authority and a 'second' appeal to the Information Commission. The Act also provides for preferring complaints to the Information Commission regarding non-implementation of the legal provisions.

If an applicant is aggrieved by the decision of a PIO, an appeal to the Appellate Officer who, as required by law, would be an officer senior in rank" to the PIO. A second appeal, against the decision of the Appellate Officer, lies to the Information Commission.

#### **The First Appellate Authority**

The Act does not define the first appellate authority precisely, but the framers of this legislation might have left it to the common sense of the senior officials. Section 19 (1) refers to first appeal being made to 'such "officer who is senior in rank to the Central Public Information Officer or State Public Information Officer, as the case may be". The Information Commission is also the second appellate authority. Therefore, "Appellate Officer" connotes the appellate authority to whom first appeal could be preferred. It is indeed an intelligent provision to expect that the Appellate Officer must be an officer superior to the PIO; and since he holds higher position in the bureaucratic hierarchy, the official should be fully conversant with the work of the organization, the subjects and the related issues dealt by the official, and the functions discharged by various PIOs.

The number of designated Appellate Officers in a Public Authority could be small as compared to the number of PIOs. One Appellate Officer could easily meet the requirement of appeals arising out of the decisions of a number of PIOs. However, keeping the nature of responsibilities to be discharged under the Act and the structure and functions of the organisation at various levels in view, each Public Authority has to determine the number of senior officers to be designated as appellate authorities, the levels of such officers and the PIOs against whose decisions they

would hear appeals. As the Appellate Officers they could be transferred, they may be notified as appellate authorities by designation.

A question arises whether the head of a public authority himself or herself can be an appellate authority to hear first appeals.

There may be distinct advantages if the head of a public authority is also the Appellate Officer due to the following reasons; that the official

1. Is fully conversant with the functioning of the organisation.
2. Would be the best judge to command sources of information of the authority and meet the access requirements of the public.
3. Can present to the parent department a complete and correct picture regarding the state of implementation of the Act by the authority.
4. Would usually have firsthand knowledge of the operation of the Act within his/her organisation.
5. Would be in a position to explain to the next appellate authority, i.e. the Information Commission regarding the reasons behind the outcomes of first appeals.
6. The fact that the official is the Appellate Officer may inculcate a sense of responsibility on the part of PIOs authority to be responsive to the requests of citizens for information.

The head of the authority also may frequently analyse the type of information sought from the organization, because the top official could be in a better position to determine additional areas requiring proactive disclosure or publication of information in the public domain. The advantages listed above may be weighed against factors such as whether the head of the public authority would be in a position to devote time for deciding time-consuming appeals, given the nature and extent of the routine administrative workload. The departments concerned may take appropriate decisions weighing the pros and cons. However, it should be kept in mind that appeal lies to the Information Commission against the decisions of the Appellate Officers and therefore, the levels of the latter should be reasonably high.

### **Disposal of First Appeals**

Section 19 (1) and (2) of the Act stipulate that any person who, does not receive a decision on request for information within the stipulated time or is aggrieved by a decision of the Public Information Officer including communication of fees to be paid may within 30 days from the expiry of such period or from the receipt of such a decision prefer an appeal to the designated Appellate Officer, senior in rank to the Public Information Officer. The Appellate Officer may admit the appeal after the expiry of the period of 30 days if

he or she is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time. Where an appeal is preferred against an order made by a Public Information Officer to disclose third party information, the appeal by the concerned third party shall be made within 30 days from the date of the order.

The Act prescribes that the appeal shall be disposed of within 30 days of the receipt of the appeal or within such extended period not exceeding a total of 45 days from the date of filing thereof, as

the case may be, for-reasons to be recorded in-writing.

### **Information Commissions**

The Act provides detailed provisions for setting up a network of officials to deal the issues emanating from this request of information seekers. Section 12 and Section 15 of the Act provide for the Constitution of the Central Information Commission (CIC) and State Information authority to hear first appeals.

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#### Information Commissions

The Act provides detailed provisions for setting up a network of officials to deal the issues emanating from this request of information seekers. Section 12 and Section 15 of the Act provide for the Constitution of the Central Information Commission (CIC) and State Information Commission (SIC) respectively to exercise powers conferred on it by the Act (Chapter V, Sections 18-20). The setting up of these Commissions to ensure the effective implementation of right to information regime in the country is one of the most important provisions of the Act. Its importance can be judged from the fact that the long title of the Act itself makes a mention about the Commissions.

The key provisions for the Central and State Information Commissions relate to the following:

- .. the (Central/State) Information Commission shall consist of: (a) the Chief Information Commissioner/ State Chief Information Commissioner, and (b) such number of (Central / State) Information Commissioners, not exceeding 10, as may be deemed necessary [Section 12 (1) and Section 15 (1)];
- .. the Chief Information Commissioner/State Chief Information Commissioner and (Central/State) Information Commissioners shall be appointed by the President/Governor on the recommendation of a committee consisting of-
  - (i) the Prime Minister / Chief Minister, who shall be the Chairperson of the Committee;
  - (ii) the Leader of Opposition in the Lok Sabha / State Legislative Assembly; and
  - (iii) A Union Cabinet Minister / Cabinet Minister in the State to be nominated by the Prime- Minister/ Chief Minister (Section 12 (3) and Section 15 (3));
- .. each Commission would function as an autonomous body exercising the powers conferred on, and performing the functions assigned to it under the Act (Section 12 (4) and Section 15 (4));
- .. the general superintendence, direction and management of the affairs of the Commission shall vest in the Chief Information Commissioner/State Chief Information Commissioner who shall be assisted by the respective Information Commissioners (Section 12 (4) and Section 15 (4));
- .. the Chief Information Commissioner/State Chief Information Commissioner and every Information Commissioner shall hold office for a term of five years from the date of entering upon office or till attaining the age of 65 years whichever is earlier (Section 13 and Section 16);
- .. the Chief Information Commissioner/State Chief Information Commissioner or any Information Commissioner shall be removed from office only by order of the President/Governor on the ground of proved misbehaviour or incapacity after the Supreme Court, on a reference made to it by the President / Governor, has, on inquiry, reported that the Chief Information Commissioner

/State Chief Information Commissioner or any Information Commissioner, as the case may be, ought on such ground be removed (Section 14 (1) and Section 17 (1));

- the Central/State Government shall provide the Chief Information Commissioner/ State Chief Information Commissioner and the Information Commissioners with such officers and employees as may be necessary for the efficient performance of their functions under the Act and the salaries and allowances payable to and the terms and conditions of service of the officers and other employees appointed for the purpose of the Act shall be such as prescribed (Section 13 (6) and Section 16 (6)).

The Act empowers the Central Information Commission and State Information Commission, as the case may be, to receive and inquire into complaint from any person relating to access to information under the control of public authorities, including imposing penalties on the erring PIOs and recommending disciplinary action against them. They are the authorities to deal with and dispose of appeals against the decisions of the designated appellate officers, including imposing penalties on and recommending disciplinary action against the erring PIOs. They may also make recommendation to public authorities not conforming with the provisions or the spirit of the Act, specifying the steps to be taken for promoting such conformity.

The Right to Information Act, 2005 envisages that the Information Commissions play the role of "remedy provider", "enforcer" and "educator" as elsewhere in the world.

### **Inquiry into Complaints**

Section 18 (1) of the Act stipulates that the Information Commission shall receive and inquire into a complaint from any person:

- (a) who has been unable to submit a request to a Public Information Officer either by reason that no such officer has been appointed under this Act, or because the Assistant Public Information Officer has refused to accept his or her application for information or appeal under the Act for forwarding the same to the Public Information Officer or Appellate Officer or the Information Commission as the case may be;
- (b) who has been refused access to any information requested under the Act;
- (c) who has not been given a response to a request for information or access to information within the time limit specified under the Act;
- (d) who has been required to pay an amount of fee which he or she considers unreasonable;
- (e) who believes that he or she has been given incomplete, misleading or false information under the Act.
- (f) in respect of any other matter relating to requesting or obtaining access to records under the Act.

The Commission may initiate an inquiry with respect the complaint, if satisfied that there are reasonable grounds to inquire into the matter. Section 18 further stipulates that while inquiring into a complaint, the Commission shall have the same powers as are vested in a civil court while trying a suit under the Code of Civil Procedure, 1908, with respect to the following matters, namely:-

- (a) summoning and enforcing the attendance of persons and compel them to give oral or written

- evidence on oath and to produce the documents or things;
- (b) requiring the discovery and inspection of documents;
- (c) receiving evidence on affidavit;
- (d) requisitioning any public record or copies thereof from any court or office;
- (e) issuing summons for examination of witnesses or documents; and
- (f) any other matter which may be prescribed.

Further, the Commission, during the inquiry of any complaint under the Act, may examine any record to which the Act applies which is under the control of the public authority. No such record may be withheld from it on any grounds notwithstanding anything inconsistent contained in any other Act of Parliament or State Legislature, as the case maybe.

### **Disposal of Second Appeals**

Section 19 (3) of the Act provides that a second appeal against the decision of the Appellate Officer shall lie within 90 days from the date on which the decision should have been made or was actually received, with the Information Commission. The Information Commission may admit the appeal after the expiry of the period of 90 days, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time. If the decision of the Public Information Officer against which an appeal is preferred relates to information of a third party, the Information Commission shall give a reasonable opportunity of being heard to that third party.

### **Onus of Proof**

Section 19 (5) of the Act provides that in any appeal proceedings, the onus to prove that a denial of a request was justified shall be on the Public Information Officer who denied the request.

### **Decisions in Second Appeals**

The Act provides that appeal filed before the Information Commission shall be decided by it in accordance with the prescribed procedure and its decision shall be binding.

The Information Commission has the power to-

- (a) require the public authority to take any such steps as may be necessary to secure compliance with the provisions of the Act, including-
  - (i) by providing access to information, if so requested, in a particular form;
  - (ii) by appointing a Public Information Officer;
  - (iii) by publishing certain information or categories of information;
  - (iv) by making necessary changes to its practices in relation to the maintenance, management and destruction of records;
  - (v) by enhancing the provision of training on the right to information for its officials; and
  - (vi) by providing it with an annual report in compliance with clause (b) of subsection (1) of section 4;

- (b) require the public authority to compensate the complainant for any loss or other detriment suffered [Section 19 (8) b];
- (c) impose any of the penalties provided under the Act; and
- (d) reject the application [Section 19 (8)].

The Information Commission is legally bound to give notice of its decision, including any right of appeal, to the complainant and the public authority.

Though it is for the concerned Government to give appropriate operational and budgetary autonomy to the Central and State Information Commission (as the case may be), every public authority needs to gear itself to provide all required support to the Information Commission. Among other things, to enable the Commission to arrive at consistent decisions, the public authority's information base has to be comprehensive and available in easily retrievable form and in a format which is also understandable.

The number of second appeals preferred would be directly be proportional to the way public authorities identify appropriate officials as PIOs and Appellate Officers, designate them in adequate numbers, the way they publish information proactively and finally the extent and quality of training imparted to the Public Information Officers and the Appellate Officers.

In this regard, the Information Commissioners may have to be like 'roving' ambassadors and be on the move to see for themselves the manner in which the provisions of the Act are being implemented at various levels: State, District and Local.

### **Procedure to be followed in Deciding an Appeal**

The Haryana Right to Information Rules, 2005 prescribes the procedure for deciding appeal by the Information Commission. Accordingly before deciding an appeal the Commission shall :

- (a) serve notice to the concerned persons;
- (b) entertain any evidence in support of appeal, which may be oral or in writing form from the concerned persons;
- (c) examine on oath or by having affidavits from the persons concerned;
- (d) peruse or inspect the documents or any records or copies;
- (e) inquire through the authorized officer the facts of an appeal or may require facts in detail, if it so deems appropriate hear the PIO or any other senior officer who had decided the first appeal as the case may be; and
- (f) receive evidence on affidavits from the PIO or any senior officer who had decided the first appeal or from any other person from whom the evidence may be deemed necessary.

### **Mode of Serving Notice**

The Commission may serve notice to the persons concerned in any of the following modes;

- (a) by hand delivery through process server.

(b) by registered post with acknowledgement due.

(c) by publication in the newspaper.

Order by the Commission

The Rules require that the Order of the Commission shall be made in writing and pronounced in the presence of the concerned persons. The party concerned may obtain the copy of the order from the commission.

### **Imposition of Penalty**

Section 20 (1) of the Act provides that the Commission, while deciding a complaint or appeal, shall impose penalty on erring PIOs in cases where the PIO has, without any reasonable cause:

- .. refused to receive an application for information; or
- .. has not furnished information within the time specified [u/s 7(1)]; or
- .. malafidely denied the request for information; or
- .. knowingly given incorrect, incomplete; or misleading information; or
- .. destroyed information which was the subject of the request; or
- .. obstructed in any manner in furnishing the information.

The scale of the penalty to be imposed is Rs.250 each day till application is received or information is furnished subject to the total amount of such penalty not exceeding Rs.25,000. The Information Commission is legally bound to give the Public Information Officer a reasonable opportunity of being heard by the Commission before any penalty is imposed on him or her.

**There is a need to revise the penalty provisions provided in this legislation. Rs. 250 fine each day was quite a sum 11 years ago, but with the decline of the value of money it should not be less than Rs. 2500 per day and the limit of fine to Rs. 25000 may be enhanced to Rs. 2.5 lakhs. Another feature is needed that if the information is already available on the net, the information seeker may be asked to cough up a nominal fee of Rs. 100 to locate the information already available in the public domain.**

It also goes to the credit of the framers of this law that instead of asking the applicant to provide that the information is deliberately denied, the burden of proving that a Public Information Officer acted reasonably and diligently shall be on the official.

### **Disciplinary Action**

Section 20 (2) of the Act provides that the Commission shall, while deciding a complaint or appeal, recommend for disciplinary action against the Public Information Officer under the service rules applicable to him or her in cases where the PIO has, without any reasonable cause and persistently:

- .. failed to receive an application for information; or

- .. has not furnished information within the time specified; or
- .. malafidely denied the request for information; or
- .. knowingly given incorrect, incomplete; or misleading information; or
- .. destroyed information which was the subject of the request; or
- .. obstructed in any manner in furnishing the information.

#### Monitoring and Reporting

Section 25 (1) of the Act provides that the Central Information Commission or the State Information Commission shall after the end of each year prepare a report on the implementation of the provisions of this Act during that year and forward a copy to the appropriate government.

#### **Importance of Public Interest**

Under the Right to Information Act, the larger public interest will always be more important than private or protected interest. Only such Information which could lead to unwarranted invasion of the privacy of the individual may be denied by the PIO. Overall, if the public interest in disclosure to the citizen outweighs the harm to the protected interest, then the public authority will have to provide information and not reject the request for the same by the citizens.

The Appellate Authorities would need to give due consideration to 'public interest' as the predominant consideration for the supply of information to citizens where dealing with appeals, including cases where the PIOs might have erred in judging the privacy of individual.

#### **Action in Good Faith**

Under section 21 of the Act, any action taken in good faith is protected. The General Clauses Act, 1897 defines 'good faith' as "a thing ... deemed to be done in 'good faith', where it is in fact done honestly, whether it is done negligently or not." "No suit, prosecution or other legal proceeding lies against the person who has done or intended to do anything which is in good faith." That an action was done in good faith must, however, be proved based on documentary evidence.

The documents to be presented as proof to establish that a decision was taken in good faith cannot be got prepared overnight. It totally depends on how the records are maintained and whether they are complete in all respects. The registers maintained like receipt of application, acknowledgement, registers for transfer of application to other public authority and officers with dates and their acknowledgement, basis for decision, etc. would all be required. The entries in such registers have to be correct and complete.

Since the Information Commission is to hear evidence, peruse and inspect documents and receive evidence for arriving at a decision on an appeal, if a decision is taken in good faith by the PIO, he/she is to be provided ample opportunity to defend him/herself with supporting records.

**Well Reasoned Order**

It is good to talk about writing a well reasoned order, but the overall quality of Information Commissioners; many believe it may not be possible for them to write a comprehensive well reasoned order, which could sustain judicial scrutiny.

**It is suggested that the Information Commissioners must be given orientation programs before they assume the office.**

The law specifically says that where the Information Commission, at the time of deciding an appeal or complaint, is of the opinion that the PIO has, among others, malafidely denied the request for information it will then impose a penalty. However, before imposing the penalty, the Commission would give reasonable opportunity to the PIO of being heard. The onus to prove that a denial of request was justified is on the PIO, who denied the request.

Therefore, it is in the interest of the PIO that while providing requisite information or rejecting the request, the PIO has to issue well reasoned communications. The reasons are to be given in proper order and the rights of the citizen to appeal are to be explicitly stated. Such communication should clarify the position to the applicants and enable the Appellate Authority to identify the cause for rejection or basis for fee determination etc. It will also help the Commission in issuing its decision(s) wherever appeal(s) have been preferred.

**Principles of Natural Justice**

The procedure for deciding an appeal by an Appellate Authority or the Information Commission must take into account the application of the principles of natural justice. No person should be condemned unheard. Both the sides will have to be given opportunity to be heard and also to submit any document etc. for perusal and inspection by the concerned, during appeal. Fair play will thus be an essential ingredient of any decision taken. The procedure for deciding appeal prescribed under the Central Information Commission (Appeal Procedure) Rules, 2005 by the Government of India and Haryana RTI Rules, 2009 do not provide any scope for arbitrariness in arriving at a decision or in imposing a penalty. Necessary notices will have to be given by the Information Commission and the stipulated procedure framed under rules will have to be followed in the disposal of appeals.

**Conclusion**

Of the two AAs under the Act, the FAAs are the weakest link in the chain of the RTI implementation. A large number of RTI appeals and complaints have been pending in ICs clearly the reflect the manner in which the FAA in the public authorities have been functioning. Unlike its Right to Service Delivery Acts of various states, RTI Act does not prescribe any penalty on the FAAs in case they fail to discharge their obligations.

This one of the main causes for the indifferent attitude of the FAAs is that they rarely take the appeals and its statutory provisions seriously. They quite often, pass judgments on the appeals in a very casual manner. Many times they either totally agree with the PIOs' point of view and exceptional cases ask the PIO to explain the reasons for non-disclosure in the third party cases. Like the PIOs, the FAAs too are transferred frequently. As a result, the implementation of the Act and the concerns of the requesters are adversely affected. Hence they would not be transferred before completely three year tenure except in the cases of grave emergency or misconduct on their part. Moreover, they also need to be given training from time to time. Lastly, only quite often responsible officers should be designated as FAAs.

Information Commissions have been doing remarkable work for one decade in deepening the roots of RTI Act and in promoting regime. However, the Information Commissions have been subjected to a great deal of criticisms on account of the mode of their appointments, packing them by those retiring bureaucrats who had been in the good books of the governments, lack of knowledge among the Information Commissioners regarding the intricacies of the RTI Act, conflicting judgements and divergent interpretations. This has been happening primarily on account of two reasons- appointment of unsuitable persons as Information Commissioners and absence of training either before joining the office or during the course of their tenures.

#### **Harsh Judicial Observations:**

It is often noticed that there has been in the minds of Information Commissioners regarding the interpretations of the provisions of Sections 18-20. This has compelled the Courts to pass very harsh judgements against the decisions of the Information Commissioners which naturally makes their position very embarrassing. In this context, it is worthwhile to cite the following Supreme Court (SC) judgements:

1. Namit Sharma vis-a- vis Union of India; 2. Karnataka State information Commission & another vis-à-vis SPIO, Karnataka High Court (HC). The court observes that the decisions of the Information Commissions often paradoxical in character. In some cases, they have been rather harsh tough to the PIOs and have penalized them without giving them the due opportunity of defending themselves. On the other hand, there have been glaring cases of undue leniently towards them by the Information Commissions.

Aggrieved by the Information Commissioners' decisions people are approaching SC and HCs under articles 32 and 226 of the Constitution respectively. While, under article 227 of the Constitution concerned HCs have the powers of superintendence over the Tribunals in their jurisdictions. However, it has so far not been very clear whether the SC or HCs can consider the Information Commissions as Tribunals.

Last but not the least, some of the Information Commissions have created doubts about the very role of Information Commissions as custodian of RTI regime by giving judgements which appear to

be defending government instead of giving justice to the appellants. However, fortunately the number of such Information Commissioners is very insignificant and most of the Information Commissioners have added to the prestige and credibility of the Information Commissions by their fearless, fair and prompt judgements.

Source: A Manual for Public Authorities Information Officers and Appellate Authorities, CGG, NIA, Capacity . Building for Access to Information, June 2006, DOPT Guidelines and Book on 'Right to information of Good Governance' By Dr. Rajbir Dhaka ..

## 4. RTI Act and Rules : Issues and Concerns

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The Right to Information Act has completed ten years of its implementation. The response of this Act has been very positive and it has received very wide and warm welcome from the people. People are learning the importance of the power of information. That is why, the people of every section have been seeking information from the different authorities. This is increasingly contributing to the accountability and transparency in administration. Public Authorities and Public Information Officers are becoming increasingly aware of their full responsibilities. Beside it is providing learning experience for each entity involved in the working of the law. However, the Act still being in infancy, there are many questions in the minds of the information providers and seekers both. To overcome this problem, in this chapter most of the basic questions relating to the better understanding of the different provisions of the Act and Haryana RTI Rules have been explained.

### **Q.1. What is RTI?**

**Ans.** RTI stands for Right to Information. Right to Information is a part of fundamental rights under Article 19(1) of the Constitution. Article 19 (1) says that every citizen has freedom of speech and expression. As early as in 1976, the Supreme Court said in the case of Raj Narain vs State of UP, that people cannot speak or express themselves unless they know. Therefore, right to information is embedded in Article 19. In the same case, Supreme Court further said that India is a democracy. People are the masters. Therefore, the masters have a right to know how the governments, meant to serve them, are functioning. Further, every citizen pays taxes. Even a beggar on the street pays tax (in the form of sales tax, excise duty, etc) when he buys a piece of soap from the market. The citizens therefore, have a right to know how their money was being spent. These three principles were laid down by the Supreme Court while saying that RTI is a part of our fundamental rights.

### **Q.2. If RTI is a fundamental right, then why do we need an Act to give us this right?**

**Ans.** This is because if you went to any Government Department and told the officer there, "RTI is my fundamental right, and that I am the master of this country. Therefore, please show me all your files", he would not do that. In all probability, he would throw you out of his room. Therefore, we need a machinery or a process through which we can exercise this fundamental right. Right to Information Act 2005, which became effective on 12th October, 2005, provides that machinery. Therefore, Right to Information Act does not give us any new right. It simply lays down the process on how to apply for information, where to apply, how much fees etc.

### **Q.3. What are objectives of RTI Act?**

**Ans.(a)** to provide for setting out practical regime of right to information for citizens to secure access to information under the control of public authorities;

- (b) to promote transparency and accountability in the working of every public authority;
- (c) to set up Central Information Commission and State Information Commission and for matters connected therewith;
- (d) to contain corruption and to hold governments and their instrumentalities accountable to the people; and
- (e) to harmonise revelation of information with public interests, including efficient operations of the governments, optimum use of limited fiscal resources and the preservation of confidentiality of sensitized information.

**Q.4. When did RTI Act come into force?**

**Ans.** RTI Act came into force on the 12th October, 2005.

**Q.5. Who is covered under the RTI Act?**

**Ans.** The Act extends to the whole of India, except the State of Jammu and Kashmir.

**Q.6. What does information mean?**

**Ans.** Information means any material in any form including records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material held in any electronic form and information relating to any private body which can be accessed by a public authority under any other law for the time being in force.

**Q. 7. Can information be sought pertaining to oral advice given by experts to the Public Authority (PA)?**

**Ans.** No, the RTI Act covers only recorded information which is recorded on paper or in electronic form. However, the definition of information as per Section 2 (f) of the Act is as under Information means any material in any form, including records, documents, memos, e-mails, opinions, advices, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material held in any electronic form and- information relating to any private body which can be accessed by a public authority under any other law for the time being in force". Appearance of the word 'advice and opinion' create confusion in the minds of information seekers. Therefore, this issue needs to be clarified by the Information Commissions (ICs) and the Courts."

**Q.8. If the process of taking samples results in substantial damage to the public work concerned, can the Public Information Officer (PIO) issue a rejection order?**

**Ans.** This is another area where detailed guidelines are required for the PIO to take action. If taking samples from a public work results in damaging the structure, the PIO may mention the same in his rejection order. The State Information Commission (SIC) will give the PIO a reasonable opportunity to justify denial of the sample. If action is taken in good faith the PIO will not attract any penalty.

**Q.9. What does 'record mean?**

**Ans.** Record means: (a) any document, manuscript and file; (b) any microfilm, microfiche and facsimile copy of a document; (c) any reproduction of images embodied in such microfilm; and d) any other material produced by a computer or any other device.

**Q.10. Some applicants ask questions "why something was not done? Who is responsible?"  
Are such types of questions answerable under RTI Act?**

**Ans.** If it is covered under the definition of 'Information' / 'Record' then only it can be given, otherwise, it would be considered as creating the Information which is not required under the RTI Act.

**Q.11. In office procedure rules records are to be destroyed within some stipulated period.  
If such outdated records still exist in office and an applicant asks for these documents.  
Is it necessary to provide such information?**

**Ans.** Yes, before destroying the record, public authority should ensure that there is no pending RTI application.

**Q.12. What does Right to Information under the RTI Act mean?**

**Ans.** Right to Information means the right to: (a) inspect works, documents and records; (b) take notes, extracts or certified copies of documents or records; (c) take certified samples of material; (d) and obtain. information in form of printouts, diskettes, floppies, tapes, video cassettes or in any other electronic mode.

**Q.13. What does "public authority" mean?**

**Ans.** Public authority means any authority or body or institution of self-government which is established by: (a) the Constitution; (b) any other law made by Parliament or State Legislature; (c) by notification or order made by the appropriate Government and including anybody or NGO substantially financed by the Centre, State and Local Governments.

**Q.14. Who is 'Third Party'?**

**Ans.** The person whose information has been sought is the third party. The person applying for information is the first party; the public authority to whom application has been addressed is the second party.

**Q.15. What are the obligations of Public Authority (PA) ?**

**Ans.** PA is obliged to maintain its record in indexed and cataloged form. It should also try to ensure that record is computerized and ultimately connected through a network all through the country. Public authority is further supposed to publish the following details about itself:

- I. the particulars of its organization, functions and duties;
- II. the powers and duties of its officers and employees;
- III. the procedure followed in its decision-making process, including channels of supervision and accountability;
- IV. the norms set by it, for the discharge of its functions;
- V. the rules, regulations, instructions, manuals and records used by its employees for discharging its functions;
- VI. a statement of the categories of the documents held by it or under its control;
- VII. the particulars of any arrangement that exists for consultation with, or representation

by the members of the public, in relation to the formulation of policy or implementation thereof;

- VIII. a statement of the boards, councils, committees and other bodies consisting of two or more persons constituted by it. Additionally, information as to whether the meetings of these are open to the public, or the minutes' of such meetings are accessible to the public;
- IX. a directory of its officers and employees;
- X. the monthly remuneration received by each of its officers and employees! including the system of compensation as provided in its regulations;
- XI. the budget allocated to each of its agency, indicating the particulars of all plans, proposed expenditures and reports on disbursements made;
- XII. the manner of execution of subsidy programmes, including the amounts allocated and the details and beneficiaries of such programmes;
- XIII. particulars of recipients of concessions, permits or authorizations granted by it;
- XIV. details of the information available to, or held by it, reduced in an electronic form;
- XV. the particulars of facilities available to citizens for obtaining information, including the working hours of a library or reading room, if maintained for public use; and
- XVI. the names, designations and other particulars of the Public Information Officers.

**Q. 16. Is it enough to publish information under Sec. 4 only once at the time of the commencement of the RTI Act?**

**Ans.** Updating of information is under Sec. 4 of the RTI Act is a statutory requirement. The State Government has to come out with general instructions for time bound updating of all categories of information. Every PA may in turn issue detailed instructions for updating information specific to its functions.

**Q. 17. How much is the penalty, in case a department is not able to meet deadline for proactive disclosure?**

**Ans.** There is no penalty for not meeting this deadline. However, it is advisable to publish maximum information within the deadline and give it wide media publicity. This will reduce criticism from media and other quarters, as they will understand the sincerity of the Government in this regard. The IC also has powers {Sec. 19(8) (a) (vi) } to receive from a public authority, an annual compliance report in relation to Sec. 4. This reporting mechanism makes a public authority answerable to the IC for all acts of commission and omission in relation to proactive disclosure.

**Q. 18. If the information requested by a citizen has already been pro actively disclosed, can a PIO refuse to accept the request?**

**Ans.** There is nothing in the RTI Act that states that information disclosed proactively should not be provided to a citizen on request. Sec. 4 (4) requires that all material disseminated under this Act should be available with the PIO and as far as possible in electronic format. The objective

behind this is that the citizen need not wait for 30 days to get access to information that is already being proactively disseminated. If it is available in printed format the PIO can make copies of the same or provide photocopies of the relevant pages to the citizen. If such information is available only in electronic format the same may be provided on floppies, diskettes, CDs or in the form of printouts upon payment of fees at rates prescribed by the Government.

**Q.19. Who is Assistant Public Information Officer (APIO) and what are his duties?**

**Ans.** Public authority designates an officer as APIO at each sub-divisional or other sub-district levels. The duties of APIO are to receive the application for information/appeal from the applicant and to transfer the same to the PIO/FAA/IC.

**Q.20. Who is PIO?**

**Ans.** PIO is an officer designated by the public authority in all administrative units or offices under it to provide information to the applicants. For providing information PIO may seek the assistance of any officer, who is having the custody of records and documents In case of contraventions of the provisions of this Act, such officer shall be treated as a PIO.

**Q.21. In Information Officer is on long leave then who provides the information?**

**Ans.** The person handling his charge will have to provide such information.

**Q.22. Whether the APIO is an assistant to the PIO?**

**Ans.** No, the APIO is not an assistant to the PIO. Like PIO, he is also a functioning under the Act. Instead, he has the duty just to receive applications and appeals and transfer them to the PIO and appellate authority respectively.

**Q.23. What is the Application Procedure for requesting information?**

**Ans.** Application can be made to the PIO or APIO in writing or through electronic means. Reasons for seeking information are not to be given. Applicant should attach the prescribed application fee also.

**Q.24. Should a format of RTI application be prescribed by government?**

**Ans.** The RTI Act does not specify any such format. Sec. 6(2) states that the applicant need give only enabling information to contact him/her by the PIO. A format may be developed in the Rules that Central/State Governments are required to frame for implementing this Act for the convenience of the public. But insistence upon using a prescribed Performa may result in illegal profiteering by unscrupulous elements through the sale of application forms. Citizens are allowed to apply on plain paper giving their contact details and nature of information requested as per guidelines. An application whether made on plain paper or in a prescribed format may contain the following points:

- (i) name of the applicant.
- (ii) name of the father /husband (as the case may be) of the applicant.
- (iii) contact details of the applicant including complete postal address, telephone numbers and email address (if any).

- (iv) name of the public authority from whom the information is being requested.
- (v) nature and details of the information requested
- (vi) whether proof of payment of application fee is attached or not.
- (vii) if the applicant claims fee waiver whether proof of BPL status is attached or not.
- (viii) whether the applicant wishes to received the information by post?

**Q.25. If the same kind of information is sought by more than one person should it be made available to all such applicant?**

**Ans.** Every PA should assess the information needs of people who contact it from time to time. This will help the public authority ascertain what kind of information is requested by people frequently. All such information which has been requested by several applicants should be uploaded on the Internet and updated from time to time. Applicants who have access to internet facilities may be directed to access the information on the concerned website thereby saving PIOs valuable time. If such frequently requested information can be made available to the PIO in the Public Information Directory/Handbook required to be published under Section 4, a lot of time, energy and resources can be saved.

**Q.26. What are the duties of a PIO?**

**Ans.** PIO deals with RTI applications. In case of the inability in writing the application, PIO helps to write the application for the information seeker. If the demanded information is with some other public authority, the PIO transfers the application to the same within 5 days and inform the applicant immediately. PIO, on receipt of an application, either provides the information within the stipulated period or rejects it. In case of acceptance of application, PIO, will assess the requisite additional fee and inform the applicant expeditiously. In Haryana, PIO has to give a notice of 15 days for depositing the additional fee which is not the case at the Centre level and in any other State. After getting the additional fee, he provides the information within the stipulated period. If additional is not received within 15 days, it is construed that the applicant is not interested in the information, therefore, PIO may file the application. In case of rejection, PIO is to communicate to the applicant -

- (i) the reasons for such rejection,
- (ii) the 30 day appeal period within which an appeal against such rejection may be preferred, and
- (III) the particulars of the Appellate Authority. If information sought is of third party, the PIO within days from the receipt of the request has to give a 10 days written notice to the third party. He will take third party/s representation into consideration before giving third party information. Third party may make a representation in writing or orally before the PIa within 10 days from the date of receipt of such notice .Furthermore, the third party has a right to be heard in respect of application and appeal.

**Q.27. What is the time limit to get the information?**

**Ans.** Time limits are the followings:

(a) Normally 30 days for information from the date of application; (b) 48 hours for information concerning the life and liberty of a person; (d) 40 days in case of information pertaining to third party; (e) 45 days if information relates to allegation of human rights violation against, the listed intelligence and security organisations.\* 5 days shall be added to the application received by APIO, provided APIO's office is at the regional level and PIO's at the headquarter level.

\*\* Failure to provide information within the specified period is a deemed refusal.

\*\*\* If the information is provided after the specified time, it shall be given free.

**Q.28. Can PIO, his assistant or subordinate staff can be punished for delay in providing information? What if the situation is beyond his control?**

**Ans.** Under Section 5(5) of the Act any officer whose assistance has been sought by PIO is equally liable under the Act as the PIO? Under Section 21 of the Act action taken in good faith is protected, but it must be proved based on documentary evidence.

**Q.29. How does a PIO decide whether the information requested relates to the life and liberty of the individual?**

**Ans.** The Act does not define Life and Liberty related information, therefore, this category of information usually relates to the work of law enforcement and security agencies. Till Life and Liberty related information is defined in the Act, it should be defined in the RTI rules. The Central and State Governments will have to come up with guidelines for treating such information requests with due diligence and urgency.

**Q.30. How can addition fees be collected for providing information regarding the life and liberty of a person considering the fact that such information should be provided within 48 hours?**

**Ans.** The Government will have to issue clear guidelines regarding the procedure for providing information in such cases as there may not be enough time available for completing such procedures. It is advisable to provide such information immediately without charging any additional fees.

**Q.31. The RTI Act states that information must be provided free of cost if it is not given within specified the time limit. What is the process for refunding the money to the applicant?**

**Ans.** Yes, the applicant is entitled to information free of cost if it is provided after the lapse of the deadline stipulated in the Act. The State Government should prescribe the process for refunding the additional fees paid by the applicant. It should also specify whether the application fee will also be refunded to the applicant in such cases. This process of refund must take the convenience of the applicant into consideration.

**Q.32. Can Information be provided in the form, in which it is requested?**

**Ans.** Information is provided in the form in which it is sought unless it disproportionately diverts the resources of the Public Authority or is detrimental to the safety or preservation of the record in question.

**Q.33. Is there a limit to the quantum of information sought?**

**Ans.** The Act does not permit rejection of an application simply because it relates to a large number of documents. In any case, officials should consider the processing of applications as a cooperative activity, thus the applicant in getting the information. If a large number of records are involved, the PIO can contact for clarification on the exact requirement of information without unnecessarily burdening the PIO.

If the applicant is not easily accessible except by post, then the PIO may give detailed reasons in writing for not being able to meet the information request. This will indicate to the FAA or the IC that the PIO had taken action in good faith and had done all that was possible to honour the citizen's right to seek information if the applicant files an appeal. No penalty will be imposed on the PIO if it is evident that she/he has taken action in good faith. (Section 21) If some of the information requested relates to the work of other public authority within the same department or in other department, the PIO has the power to transfer those parts of the application to relevant public authority under Section 6(3).

**Q.34. Which information is not open to disclosure?**

**Ans.** Following kinds of information are not open to disclosure: (a) information relating to sovereignty & economic interest of the country ; (b) information forbidden by Courts and Tribunal; (c) information relating to privilege of Parliament and State Assemblies; (d) information relating to the commercial and trade secrets of the third party; (e) information available to a person in his trust relationship; (f) information shared with other country in confidence; (g) information endangering the life or physical safety of any person; (h) information impeding the process of investigation; and (i) cabinet papers and deliberations; and (j) personal information of an individual, and etc.

\* However, the above can be given if the public interest in disclosure is greater than the protected interests. At the same time, information, the disclosure of which, violates the copy right of the individual and information of intelligence and security organizations given in Schedule 2 of the Act, also cannot be given.

**Q.35. If a case is still under consideration (i.e. 'live' or 'current' file) for final decision can that file be made available to the a requester before the decision has been taken?**

**Ans.** Aspects of the file which are pending decision can be disclosed even if the matter is not complete. Information can be denied only if the file is having certain Information which are falling in the exempted category.

**Q.36. What do cabinet papers mean?**

**Ans.** Cabinet papers include the reasons, the material on the basis of which decision has been taken. They can be disclosed only after the cabinet decision has been taken and the matter is complete or over.

**Q.37. How old an information can be applied for?**

**Ans.** It depends on the record retention schedule of the public authority. In case of exempted information, except the information falling in sub-clauses a, c and i of Section 8(1) an information

relating to any occurrence of an event which has taken place 20 years before the date on which a request is made, can be provided.

**Q.38. What is the RTI fee structure in Centre and Haryana?**

**Ans.** Fee Structure at center and Haryana level is as under:

1. Application Fee-Rs. 10
2. A4&A3 Size papers- Rs. 2 per page
3. Bigger Size paper- Actual cost
4. CD/Floppy- Rs. 50
5. Price Document- At the printed price

No fee for inspection of record, if such an inspection is made for one hour only. However, for more than one hour of inspection, Rs. 5/- shall be charged for every subsequent hours or fraction thereof. Every fraction of, period above one hour shall be counted as a complete period of one hour.

- \* There is no fee ( Application or other additional fee for xerox copy, CD and Floppy, etc.) for citizens Below Poverty Line.

*At centre postal charges if more than Rs. 50/- is charged from the applicant while in Haryana complete postal charges are taken from the applicant.*

**Q.39. What are the modes of fee payment?**

**Ans.** Fee is payable to PIO in Haryana through Cash, Treasury Challan, Indian Postal Order and Demand Draft.

- \* At the Central Government level, modes of paying fee are cash, demand draft/bankers cheque and Indian Postal Order. Even electronic mood of fee payment is acceptable if the facility is available.

**Q.40. Who are the First and Second Appellate Authorities?**

**Ans.** First appeal means an officer who is senior in rank to the PIO. An appeal can be made to him within 30 days from the expiry of the prescribed time limit or from the receipt of the decision. First Appeal has to be disposed of within 30 days from the date of its receipt. Period is extendable by 15 days if necessary.

Second Appeal means the Central or the State IC as the case maybe. There is no hierarchy of Information Commissions. An appeal to the Commission can be made within 90 days of the date on which the decision was given or should have been made by the FAA. Delay may be condoned by the First and Second Appellate Authorities, if sufficient cause is shown. There is no time limit for the disposal of appeal by the Commission.

**Q.41. How- is Central Information Commission (CIC) constituted?**

- Ans.**
1. CIC is constituted by the Central Government through a Gazette Notification.
  2. Commission includes 1 Chief Information Commissioner and not more than 10

Information Commissioners who is appointed by the President of India.

3. Oath of Office will be administered by the President of India according to the form set out in the First Schedule.
4. Commission has its Headquarters in Delhi. Other offices can be established in other parts of the country with the approval of the Central Government.
5. Commission exercises its powers without being subjected to directions by any other authority.

**Q.42. What is the eligibility criteria and what is the process of appointment of CIC ?**

- Ans.** 1. Candidates for CIC must be persons of eminence in public life with wide knowledge and experience in law, science and technology, social service, management, journalism, mass media or administration and governance.
2. IC should not be a Member of Parliament or Member of the Legislature of any State or Union Territory. He shall not hold any other office of profit or connected with any political party or carrying on any business or pursuing any profession.
  3. Appointment Committee includes Prime Minister (Chair), Leader of the Opposition in the Lok Sabha and one Union Cabinet Minister to be nominated by the Prime Minister.

**Q.43. What is the term of office and other service conditions of Central Information Commissioner?**

- Ans.** 1. Central Information Commissioner is appointed for a term of 5 years from date on which he enters upon his office or till he attains the age of 65 years, whichever is earlier.
2. Central Information Commissioner is not eligible for reappointment.
  3. Salary is the same as that of the Chief Election Commissioner. This can be varied to the disadvantage of the Central Information Commissioner during service.

**Q.44. What is the term of office and other service conditions of Central Information Commissioner?**

- Ans.** 1. Central Information Commissioner holds office for a term of five years from the date on which he enters upon his office or till he attains the age of sixty-five years, whichever is earlier and cannot be eligible for reappointment as Central Information Commissioner.
2. Salary will be the same as that of the Election Commissioner. This is not to be varied to the disadvantage of the Central Information

***Commissioner during service.***

3. Central Information Commissioner is eligible for appointment as Central Information Commissioner but cannot hold office for more than a total of five years including her/his term as Central Information Commissioner

**Q.45. How is the SIC constituted?**

- Ans.** 1. The SIC is constituted by the State Government through a Gazette notification. It does have

one State Chief Information Commissioner and not more than 10 State Information Commissioners to be appointed by the Governor.

2. Oath of office is administered by the Governor -according to the form set out in the First Schedule.

3. The headquarters of the SIC is decided by the State Government. Other offices may be established in other parts of the State with the approval of the State Government.

4. The Commission exercises its powers without being subjected to any other authority.

**Q.46. What is the eligibility criterion and what is the process of appointment of State Chief Information Commissioner/State Information Commissioners?**

**Ans.** 1. The Appointments Committee is headed by the Chief Minister. Other members include the Leader of the Opposition in the Legislative Assembly and - one Cabinet Minister nominated by the Chief Minister.

2. The qualifications for appointment as State Chief Information Commissioner/State Information Commissioners is the same as that for Central Commissioners

3. The salary of the State Chief Information Commissioner is the same as that of an Election Commissioner. The salary of the State Information Commissioner is the same as that of the Chief Secretary of the State Government.

**Q.47. What are the powers and functions of Information Commissions?**

**Ans.** 1. The CIC/SIC has a duty to receive complaints from any person-

(a) who has not been able to submit an information request because a PIO has not been appointed;

(b) who has been refused information that was requested;

(c) who has received no response to his/her information request within the specified time limits;

(d) who thinks the fees charged are unreasonable;

(e) who thinks information given is incomplete or false or misleading; and

(f) any other matter relating to obtaining information under this law.

2. Power to order inquiry if there are reasonable grounds.

3. CIC/SICs have powers of Civil Court such as-

(a) summoning and enforcing attendance of persons, compelling them to give oral or written evidence on oath and to produce documents or things;

(b) requiring the discovery and inspection of documents;

(c) receiving evidence on affidavit;

(d) requisitioning public records or copies from any court or office;

(e) issuing summons for examination of witnesses or documents;

- (f) any other matter which may be prescribed.
- 4. All records covered by this law (including those covered by exemptions) are to be given to CIC/ SIC during inquiry for examination.
- 5. Power to secure compliance of its decisions from the Public Authority includes-
  - (a) providing access to information in a particular form;
  - (b) directing the public authority to appoint a PIO/APIO where none exists;
  - (c) publishing information or categories of information;
  - (d) making necessary changes to the practices relating to management, maintenance and destruction of records;
  - (e) enhancing training provision for officials on RTI;
  - (f) seeking an annual report from the public authority on compliance with this law;
  - (g) require it to compensate for any loss or other detriment suffered by the applicant;
  - (h) impose penalties under this law; and
  - (i) reject the application.

**Q.48. What procedures are followed by the ICs in deciding the appeal?**

**Ans.** ICs follows the following procedures while deciding the appeals:

1. Before deciding an appeal the Commission shall service notice to the concerned persons.
2. Entertain any evidence in support of appeal, which may be oral or in writing from the concerned persons.
3. Examine on oath or by having affidavits from the concerned persons.
4. Peruse or inspect the documents or any records or samples.
5. Inquire through the authorised officer the facts of an appeal or may require facts in detail, if so may hear the SPIO or any other senior officer who had decided the first appeal as the case may be.
6. Receive evidence on affidavits from the SPIO or any other senior officer who had decided the first appeal or from any other person from whom the evidence may be deemed necessary

**Q.49. What is the mode of serving the notice by the IC?**

**Ans.** The IC in Haryana may serve notice to the persons concerned in any of the allowing modes:

1. By hand through process server.
2. By registered post with acknowledgement due; or
3. By publication in the newspaper.

\* CIC in addition to the above serves notice by speed post and Under Postal Certificate (UPC).

**Q.50. Does the Haryana SIC make order in writing?**

**Ans.** Yes

1. The Commission shall make order in writing and pronounce the same in the presence of the concerned parties.
2. The party concerned may obtain the copy the order from the Commission.
3. The Commission shall make order in writing and pronounce the same in the presence of the concerned parties.
4. The party concerned may obtain the copy of the order from the Commission

**Q.51. What is the reporting procedure?**

- Ans.** 1. CIC will send an annual report to the Central Government on the implementation of the provisions of this law at the end of the year. The SIC will send a report to the State Government.
2. Each Ministry has a duty to compile reports from its PAs and send them to the CIC and SIC, as the case may be.
  3. Each report will contain details of number of requests received by each PA, number of rejections and appeals, particulars of any disciplinary action taken, amount of fees and charges collected, etc.
  4. Central Government will table the CIC report before Parliament after the end of each year. The concerned State Government will table the report of the State Information Commission before the Vidhan Sabha (and the Vidhan Parishad wherever applicable).

**Q.52. Can' an applicant directly make a complaint to the IC?**

**Ans.** Yes, in case of the following grounds, applicant can directly make a complaint to the IC; (a) if a PIO/APIO has not been appointed in any public authority; (b) if the PIO/APIO has/ refused to accept the application; (c) has not provided the information in time or has asked for unreasonable fee; (d) has provided misleading, false, incomplete information. And if the commission considers it appropriate the commission may accept the complaint and initiate an enquiry into the matter.

**Q.53. What are the penalty and disciplinary action provisions in the Act?**

**Ans.** The IC can impose a penalty of Rs. 250 per day till the information is provided. The penalty amount can be upto a maximum of Rs. 25000. The PIO is personally liable for the penalty. Penalty amount is deposited in government. exchequer.

Penalty is imposed for the following reasons:

- (a) not accepting an application;
- (b) delaying information;
- (c) rejecting application without reasonable cause;
- (d) malafidely denying information;
- (e) knowingly giving incomplete, incorrect, misleading information;
- (f) destroying information that has been requested and obstructing furnishing of information in any manner. The IC can also recommend disciplinary action under the

service rules for violation of the Act against an erring PIO.

\* Commission can also make provision of compensation for the applicant, which is to be borne by the concerned public authority.

**Q.54. Which organizations are not falling in the ambit of RTI Act?**

**Ans.** The following 6 intelligence and security organizations are out of the Act:

- (i) State Criminal Investigation Department (C.L.D.) including the Crime Branch;
- (ii) Haryana Armed Police;
- (iii) Security organizations of Police;
- (iv) Haryana Police Telecommunication Organization;
- (v) India Reserve Battalion;
- (vi) Commando.

\* Central Government has listed 25 such organizations.

\*\* However, if there is any allegation of corruption and human rights violations against the above organizations, then information of the above organizations will also have to be given.

**Q.55. As a second appellate authority, whether Information Commissioners' decisions are binding and compulsory? Whether interpretation in one case can be quoted as a ruling in other case on lines of SC decisions?**

**Ans.** According to Sec. 19 (7) of RTI Act 2005 the decisions of the Central and State ICs are final and binding. This will have to be dealt separately while framing the rules.

**Q.56. Can the absence of a time limit for disposing appeals by the IC undermine the appeals regime?**

**Ans.** It is a matter of concern that the RTI Act has no time limit for disposal of appeals by the IC, whereas the FAA is required to dispose off "appeals within 30 days. However, a time limit for IC appeal could still be provided for under the RTI Rules framed by the State. However, in the followings two circumstances, it is understood that the IC is time bound, though not written in the RTI Act :-

- ◆ To issue stay order, within the days left out of the 30 days time given by the PIO, in case of appeal by third party against the decisions of PIO and FAA to release information given by the third party to the PA in confidence; and
- ◆ Approval to the PIO of notified agencies within 45 days in cases where information sought has to do with allegations of corruption or human rights violation committed by any member of the intelligence or security organizations notified under Schedule 2 of the RTI Act (Section 24 (1)).

**Q.57. Will the APIO be punished for giving wrong or misleading information just as a PIO can be penalized under this Act?**

**Ans.** The APIO is not duty bound to give information to the applicant. However, if the information sought is under her/hir control then such information may be given upon payment of the prescribed

fees (if any). However, APIO is liable for penalty for providing wrong or misleading information even under other laws like the Indian Evidence Act and he Indian Penal Code.

**Q.58. What is the Jurisdiction of Courts?**

**Ans.** Lower Courts are barred from entertaining suits or applications against any order made under this Act. However, the writ jurisdiction of the Supreme Court and High Courts under Articles 32 and 226/227 of the Constitution remains unaffected. Therefore, one can approach High Court and Supreme Court against the decision of the IC.

**Q.59. Whether the information relating to matters which are pending in court, can be provided under the act?**

**Ans.** Yes, if it is not covered by any of the exemptions especially the ones related to contempt of court.

**Q.60. What is the role of Central/State Governments?**

**Ans.** 1. Develop educational programmes for the public especially disadvantaged communities on RTI.  
 2. Encourage PAs to participate in the development and organization of such programmes.  
 3. Promote timely dissemination of accurate information to the public.  
 4. Train officers and develop training materials.  
 5. Compile and disseminate a User Guide for the public in the respective official language.  
 6. Publish names, designation postal addresses and contact details of PIOs and other information such as notices regarding fees to be paid, remedies available in law if request is rejected, etc.

**Q.61. Who has the Rule making power?**

**Ans.** Central Government, State Governments and the Competent Authority are vested with powers to make rules to carry out the provisions of the RTI Act, 2005.

**Q.62. Who has the power to deal with the difficulties while implementing this act?**

**Ans.** If any difficulty arises in giving effect to the provisions in the Act, the Central Government may, by Order published in the Official Gazette, make provisions necessary/ expedient for removing the difficulty.

**Q.63. Can government officers get access to their Annual Confidential Reports (ACRs) under the RTI Act?**

**Ans.** ACRs are confidential documents. Opinion is divided as to whether an officer should be given a copy of her/his ACR under the RTI Act. Some believe that ACRs are personal documents and therefore enjoy the protection of exemptions to RTI under Section 8 (1) (j) unless it seems that public interest is better served by disclosing the ACR. Such cases are decided by the Information Commission on case to case basis.

**Q. 64. Can students ask for copies or inspection of their answer sheets?**

**Ans.** RTI Act does not prevent a student from accessing her/his answer sheets. Initially many ICs were of the views that answer sheets cannot be disclosed, as, it was considered personal

information and public authority being in fiduciary relation with the examiner. However, secrecy accorded to answer scripts evaluated in the context of public examinations cannot be justified. Perhaps the fear is that disclosure in such cases may lead to flood of demands for re-evaluation, thereby derailing the whole examination process. Many ICs have already given various judgments for showing the answer sheets by Staff Selection Commissions and other bodies. Most of the universities are not only showing but also giving xerox copies of answer sheets to the students. Government has to come out with clear guidelines on this matter keeping in mind the spirit of the RTI Act.

**Q.65. Some unscrupulous elements may tamper and misuse the copies of documents they get under the RTI Act. How does one prevent such misuse of information released under the RTI Act?**

**Ans.** The Government has to devise means of authenticating documents released under the RTI Act to ensure that they are not misused. One suggestion is to mark every page of such documents with a rubber stamp impression stating - "Document released under the RTI Act contains xx pages." If electronic files are requested the same may be 'provided in PDP or tiff format on floppies or CDs. This will also obviate the need for certifying the documents separately if the requestor 'wishes to use the same in some litigation.

### **Conclusion**

The RTI Act has completed 10 years of its operationalisation on October 12, 2015. But, despite a decade of its implementation, the awareness among all the stakeholders, irrespective of their seniority is not adequate. This state of affairs may mainly be attributed to the fact that the concern governments and public authorities have not taken RTI Act and its implementation seriously. Proper training arrangements for the functionaries of the public authorities have also not been made. These have also failed to organize awareness campaign among the masses. This explains the hesitation of many stakeholders in exercising this precious right. The misuse and wrong use of the RTI too may be attributed to this factor.

Consequently, the APIOs and PIOs have been rushing to various experts for solution to the RTI requests in a piece meal manner instead of developing their expertise in the subject. DOPT, Govt. of India is very liberal and has been funding RTI Training and other awareness programmes through the various State Training Academies. But the State Governments have not shown any enthusiasm in this direction as if the baby is only that of the Central Government. As a result, there, persists lack of awareness among all the stakeholders and they keep on asking even the very basic questions from the various resource persons. An effort has been made in this chapter to provide readymade solutions to some of the lurking problems. But a lot more need to be done in this direction. Apart from training, such FAQs need to be made available at the reception counters or the main entrances of the public authorities.

## 5. The Right to Information Act, 2005

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[15th June, 2005]

An Act to provide for setting out the practical regime of right to information for citizens to secure access to information under the control of public authorities, in order to promote transparency and accountability in the working of every public authority, the constitution of a Central Information Commission and State Information Commissions and for matters connected therewith or incidental thereto.

Whereas the Constitution of India has established democratic Republic;

And whereas democracy requires an informed citizenry and transparency of information which are vital to its functioning and also to contain corruption and to hold Governments and their instrumentalities accountable to the governed;

And whereas revelation of information in actual practice is likely to conflict with other public interests including efficient operations of the Governments, optimum use of limited fiscal resources and the preservation of confidentiality of sensitive information;

And whereas it is necessary to harmonise these conflicting interests while preserving the paramountcy of the democratic ideal;

Now, therefore, it is expedient to provide for furnishing certain information to citizens who desire to have it.

Be it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:-

### CHAPTER I

#### Preliminary

- 1 (1) This Act may be called the Right to Information Act, 2005.
- (2) It extends to the whole of India except the State of Jammu and Kashmir.
- (3) The provisions of sub-section (1) of section 4, sub-sections (1) and (2) of section 5, sections 12, 13, 15, 16, 24, 27 and 28 shall come into force at once, and the remaining provisions of this Act shall come into force on the one hundred and twentieth day of its enactment.
- 2 In this Act, unless the context otherwise requires,-
  - (a) "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;
  - (b) "Central Information Commission" means the Central Information Commission constituted under sub-section (1) of section 12;

- (c) "Central Public Information Officer" means the Central Public Information Officer designated under sub-section (1) and includes a Central Assistant Public Information Officer designated as such under sub-section (2) of section 5;
- (d) "Chief Information Commissioner" and "Information Commissioner" mean the Chief Information Commissioner and Information Commissioner appointed under sub-section (3) of section 12;
- (e) "competent authority" means-
  - (i) the Speaker in the case of the House of the People or the Legislative Assembly of a State or a Union territory having such Assembly and the Chairman in the case of the Council of States or Legislative Council of a State;
  - (ii) the Chief Justice of India in the case of the Supreme Court;
  - (iii) the Chief Justice of the High Court in the case of a High Court;
  - (iv) the President or the Governor, as the case may be, in the case of other authorities established or constituted by or under the Constitution;
  - (v) the administrator appointed under article 239 of the Constitution;
- (f) "information" means any material in any form, including records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material held in any electronic form and information relating to any private body which can be accessed by a public authority under any other law for the time being in force;
- (g) "prescribed" means prescribed by rules made under this Act by the appropriate Government or the competent authority, as the case may be;
- (h) "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 Parliament;
  - (c) by any other law made by 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 organization substantially financed, directly or indirectly by funds provided by the appropriate Government;
- (i) "record" includes-
  - (a) any document, manuscript and file;
  - (b) any microfilm, microfiche and facsimile copy of a document;
  - (c) any reproduction of image or images embodied in such microfilm (whether enlarged or not); and
  - (d) any other material produced by a computer or any other device;
- (j) "right to information" means the right to information accessible under this Act which is held by or under the control of any public authority and includes the right to-
  - (i) inspection of work, documents, records;

- (ii) taking notes, extracts or certified copies of documents or records;
- (iii) taking certified samples of material;
- (iv) obtaining information in the form of diskettes, floppies, tapes, video cassettes or in any other electronic mode or through printouts where such information is stored in a computer or in any other device;
- (k) "State Information Commission" means the State Information Commission constituted under sub-section (1) of section 15;
- (l) "State Chief Information Commissioner" and "State Information Commissioner" mean the State Chief Information Commissioner and the State Information Commissioner appointed under sub-section (3) of section 15;
- (m) "State Public Information Officer" means the State Public Information Officer designated under sub-section (1) and includes a State Assistant Public Information Officer designated as such under sub-section (2) of section 5;
- (n) "third party" means a person other than the citizen making a request for information and includes a public authority.

## **CHAPTER II**

### **Right to information and obligations of public authorities**

- 3 Subject to the provisions of this Act, all citizens shall have the right to information.
- 4 (1) Every public authority shall-
  - (a) maintain all its records duly catalogued and indexed in a manner and the form which facilitates the right to information under this Act and ensure that all records that are appropriate to be computerised are, within a reasonable time and subject to availability of resources, computerised and connected through a network all over the country on different systems so that access to such records is facilitated;
  - (b) publish within one hundred and twenty days from the enactment of this Act,-
    - (i) the particulars of its organisation, functions and duties;
    - (ii) the powers and duties of its officers and employees;
    - (iii) the procedure followed in the decision making process, including channels of supervision and accountability;
    - (iv) the norms set by it for the discharge of its functions;
    - (v) the rules, regulations, instructions, manuals and records, held by it or under its control or used by its employees for discharging its functions;
    - (vi) a statement of the categories of documents that are held by it or under its control;
    - (vii) the particulars of any arrangement that exists for consultation with, or representation by, the members of the public in relation to the formulation of its policy or implementation there of;

- (viii) a statement of the boards, councils, committees and other bodies consisting of two or more persons constituted as its part or for the purpose of its advice, and as to whether meetings of those boards, councils, committees and other bodies are open to the public, or the minutes of such meetings are accessible for public; after the end of each year, cause a copy of the report of the Central Information Commission or the State Information Commission, as the case may be, referred to in sub-section (1) to be laid before each House of Parliament or, as the case may be, before each House of the State Legislature, where there are two Houses, and where there is one House of the State Legislature before that House.
  - (ix) a directory of its officers and employees;
  - (x) the monthly remuneration received by each of its officers and employees, including the system of compensation as provided in its regulations;
  - (xi) the budget allocated to each of its agency, indicating the particulars of all plans, proposed expenditures and reports on disbursements made;
  - (xii) the manner of execution of subsidy programmes, including the amounts allocated and the details of beneficiaries of such programmes;
  - (xiii) particulars of recipients of concessions, permits or authorisations granted by it;
  - (xiv) details in respect of the information, available to or held by it, reduced in an electronic form;
  - (xv) the particulars of facilities available to citizens for obtaining information, including the working hours of a library or reading room, if maintained for public use;
  - (xvi) the names, designations and other particulars of the Public Information Officers;
  - (xvii) such other information as may be prescribed and thereafter update these publications every year;
- (c) publish all relevant facts while formulating important policies or announcing the decisions which affect public;
- (d) provide reasons for its administrative or quasi-judicial decisions to affected persons.
- (2) It shall be a constant endeavour of every public authority to take steps in accordance with the requirements of clause (b) of sub-section (1) to provide as much information suo motu to the public at regular intervals through various means of communications, including internet, so that the public have minimum resort to the use of this Act to obtain information.
- (3) For the purposes of sub-section (1), every information shall be disseminated widely and in such form and manner which is easily accessible to the public.
- (4) All materials shall be disseminated taking into consideration the cost effectiveness, local language and the most effective method of communication in that local area and the information should be easily accessible, to the extent possible in electronic format with the Central Public Information Officer or State Public Information Officer, as the case may be, available free or at such cost of the medium or the print cost price as may be prescribed.

**Explanation.**—For the purposes of sub-sections (3) and (4), "disseminated" means making known or communicated the information to the public through notice boards, newspapers, public announcements, media broadcasts, the internet or any other means, including inspection of offices of any public authority.

5 (1) Every public authority shall, within one hundred days of the enactment of this Act, designate as many officers as the Central Public Information Officers or State Public Information Officers, as the case may be, in all administrative units or offices under it as may be necessary to provide information to persons requesting for the information under this Act.

(2) Without prejudice to the provisions of sub-section (1), every public authority shall designate an officer, within one hundred days of the enactment of this Act, at each sub-divisional level or other sub-district level as a Central Assistant Public Information Officer or a State Assistant Public Information Officer, as the case may be, to receive the applications for information or appeals under this Act for forwarding the same forthwith to the Central Public Information Officer or the State Public Information Officer or senior officer specified under sub-section (1) of section 19 or the Central Information Commission or the State Information Commission, as the case may be:

Provided that where an application for information or appeal is given to a Central Assistant Public Information Officer or a State Assistant Public Information Officer, as the case may be, a period of five days shall be added in computing the period for response specified under sub-section (1) of section 7.

(3) Every Central Public Information Officer or State Public Information Officer, as the case may be, shall deal with requests from persons seeking information and render reasonable assistance to the persons seeking such information.

(4) The Central Public Information Officer or State Public Information Officer, as the case may be, may seek the assistance of any other officer as he or she considers it necessary for the proper discharge of his or her duties.

(5) Any officer, whose assistance has been sought under sub-section (4), shall render all assistance to the Central Public Information Officer or State Public Information Officer, as the case may be, seeking his or her assistance and for the purposes of any contravention of the provisions of this Act, such other officer shall be treated as a Central Public Information Officer or State Public Information Officer, as the case may be.

6 (1) A person, who desires to obtain any information under this Act, shall make a request in writing or through electronic means in English or Hindi or in the official language of the area in which the application is being made, accompanying such fee as may be prescribed, to-

(a) the Central Public Information Officer or State Public Information Officer, as the case may be, of the concerned public authority;

(b) the Central Assistant Public Information Officer or State Assistant Public Information Officer, as the case may be, specifying the particulars of the information sought by him or her: Provided that where such request cannot be made in writing, the Central Public

Information Officer or State Public Information Officer, as the case may be, shall render all reasonable assistance to the person making the request orally to reduce the same in writing.

- (2) An applicant making request for information shall not be required to give any reason for requesting the information or any other personal details except those that may be necessary for contacting him.
  - (3) Where an application is made to a public authority requesting for an information,-
    - (i) which is held by another public authority; or
    - (ii) the subject matter of which is more closely connected with the functions of another public authority, the public authority, to which such application is made, shall transfer the application or such part of it as may be appropriate to that other public authority and inform the applicant immediately about such transfer: Provided that the transfer of an application pursuant to this sub-section shall be made as soon as practicable but in no case later than five days from the date of receipt of the application.
- 7 (1) Subject to the proviso to sub-section (2) of section 5 or the proviso to sub-section (3) of section 6, the Central Public Information Officer or State Public Information Officer, as the case may be, on receipt of a request under section 6 shall, as expeditiously as possible, and in any case within thirty days of the receipt of the request, either provide the information on payment of such fee as may be prescribed or reject the request for any of the reasons specified in sections 8 and 9:
- Provided that where the information sought for concerns the life or liberty of a person, the same shall be provided within forty-eight hours of the receipt of the request.
- (2) If the Central Public Information Officer or State Public Information Officer, as the case may be, fails to give decision on the request for information within the period specified under sub-section (1), the Central Public Information Officer or State Public Information Officer, as the case may be, shall be deemed to have refused the request.
  - (3) Where a decision is taken to provide the information on payment of any further fee representing the cost of providing the information, the Central Public Information Officer or State Public Information Officer, as the case may be, shall send an intimation to the person making the request, giving-
    - (a) the details of further fees representing the cost of providing the information as determined by him, together with the calculations made to arrive at the amount in accordance with fee prescribed under sub-section (1), requesting him to deposit that fees, and the period intervening between the despatch of the said intimation and payment of fees shall be excluded for the purpose of calculating the period of thirty days referred to in that sub-section;
    - (b) information concerning his or her right with respect to review the decision as to the amount of fees charged or the form of access provided, including the particulars of the appellate authority, time limit, process and any other forms.

- (4) Where access to the record or a part thereof is required to be provided under this Act and the person to whom access is to be provided is sensorily disabled, the Central Public Information Officer or State Public Information Officer, as the case may be, shall provide assistance to enable access to the information, including providing such assistance as may be appropriate for the inspection.
- (5) Where access to information is to be provided in the printed or in any electronic format, the applicant shall, subject to the provisions of sub-section (6), pay such fee as may be prescribed: Provided that the fee prescribed under sub-section (1) of section 6 and sub-sections (1) and (5) of section 7 shall be reasonable and no such fee shall be charged from the persons who are of below poverty line as may be determined by the appropriate Government.
- (6) Notwithstanding anything contained in sub-section (5), the person making request for the information shall be provided the information free of charge where a public authority fails to comply with the time limits specified in sub-section (1).
- (7) Before taking any decision under sub-section (1), the Central Public Information Officer or State Public Information Officer, as the case may be, shall take into consideration the representation made by a third party under section 11.
- (8) Where a request has been rejected under sub-section (1), the Central Public Information Officer or State Public Information Officer, as the case may be, shall communicate to the person making the request,-
  - (i) the reasons for such rejection;
  - (ii) the period within which an appeal against such rejection may be preferred; and
  - (iii) the particulars of the appellate authority.
- (9) An information shall ordinarily be provided in the form in which it is sought unless it would disproportionately divert the resources of the public authority or would be detrimental to the safety or preservation of the record in question.
- 8 (1) Notwithstanding anything contained in this Act, there shall be no obligation to give any citizen,-
  - (a) information, disclosure of which would prejudicially affect the sovereignty and integrity of India, the security, strategic, scientific or economic interests of the State, relation with foreign State or lead to incitement of an offence;
  - (b) information which has been expressly forbidden to be published by any court of law or tribunal or the disclosure of which may constitute contempt of court;
  - (c) information, the disclosure of which would cause a breach of privilege of Parliament or the State Legislature;
  - (d) information including commercial confidence, trade secrets or intellectual property, the disclosure of which would harm the competitive position of a third party, unless the competent authority is satisfied that larger public interest warrants the disclosure of such information;
  - (e) information available to a person in his fiduciary relationship, unless the competent authority is satisfied that the larger public interest warrants the disclosure of such

information;

- (f) information received in confidence from foreign Government;
- (g) information, the disclosure of which would endanger the life or physical safety of any person or identify the source of information or assistance given in confidence for law enforcement or security purposes;
- (h) information which would impede the process of investigation or apprehension or prosecution of offenders;
- (i) cabinet papers including records of deliberations of the Council of Ministers, Secretaries and other officers:

Provided that the decisions of Council of Ministers, the reasons thereof, and the material on the basis of which the decisions were taken shall be made public after the decision has been taken, and the matter is complete, or over:

Provided further that those matters which come under the exemptions specified in this section shall not be disclosed;

- (j) information which relates to personal information the disclosure of which has no relationship to any public activity or interest, or which would cause unwarranted invasion of the privacy of the individual unless the Central Public Information Officer or the State Public Information Officer or the appellate authority, as the case may be, is satisfied that the larger public interest justifies the disclosure of such information:

Provided that the information which cannot be denied to the Parliament or a State Legislature shall not be denied to any person.

- (2) Notwithstanding anything in the Official Secrets Act, 1923 nor any of the exemptions permissible in accordance with sub-section (1), a public authority may allow access to information, if public interest in disclosure outweighs the harm to the protected interests.
- (3) Subject to the provisions of clauses (a), (c) and (i) of sub-section (1), any information relating to any occurrence, event or matter which has taken place, occurred or happened twenty years before the date on which any request is made under section 6 shall be provided to any person making a request under that section:

Provided that where any question arises as to the date from which the said period of twenty years has to be computed, the decision of the Central Government shall be final, subject to the usual appeals provided for in this Act.

- 9 Without prejudice to the provisions of section 8, a Central Public Information Officer or a State Public Information Officer, as the case may be, may reject a request for information where such a request for providing access would involve an infringement of copyright subsisting in a person other than the State.
- 10 (1) Where a request for access to information is rejected on the ground that it is in relation to information which is exempt from disclosure, then, notwithstanding anything contained in this Act, access may be provided to that part of the record which does not contain any information which is exempt from disclosure under this Act and which can reasonably be severed from any

part that contains exempt information.

- (2) Where access is granted to a part of the record under sub-section (1), the Central Public Information Officer or State Public Information Officer, as the case may be, shall give a notice to the applicant, informing-
- (a) that only part of the record requested, after severance of the record containing information which is exempt from disclosure, is being provided;
  - (b) the reasons for the decision, including any findings on any material question of fact, referring to the material on which those findings were based;
  - (c) the name and designation of the person giving the decision;
  - (d) the details of the fees calculated by him or her and the amount of fee which the applicant is required to deposit; and
  - (e) his or her rights with respect to review of the decision regarding non-disclosure of part of the information, the amount of fee charged or the form of access provided, including the particulars of the senior officer specified under sub-section (1) of section 19 or the Central Information Commission or the State Information Commission, as the case may be, time limit, process and any other form of access.
- 11 (1) Where a Central Public Information Officer or a State Public Information Officer, as the case may be, intends to disclose any information or record, or part thereof on a request made under this Act, which relates to or has been supplied by a third party and has been treated as confidential by that third party, the Central Public Information Officer or State Public Information Officer, as the case may be, shall, within five days from the receipt of the request, give a written notice to such third party of the request and of the fact that the Central Public Information Officer or State Public Information Officer, as the case may be, intends to disclose the information or record, or part thereof, and invite the third party to make a submission in writing or orally, regarding whether the information should be disclosed, and such submission of the third party shall be kept in view while taking a decision about disclosure of information:
- Provided that except in the case of trade or commercial secrets protected by law, disclosure may be allowed if the public interest in disclosure outweighs in importance any possible harm or injury to the interests of such third party.
- (2) Where a notice is served by the Central Public Information Officer or State Public Information Officer, as the case may be, under sub-section (1) to a third party in respect of any information or record or part thereof, the third party shall, within ten days from the date of receipt of such notice, be given the opportunity to make representation against the proposed disclosure.
  - (3) Notwithstanding anything contained in section 7, the Central Public Information Officer or State Public Information Officer, as the case may be, shall, within forty days after receipt of the request under section 6, if the third party has been given an opportunity to make representation under sub-section (2), make a decision as to whether or not to disclose the information or record or part thereof and give in writing the notice of his decision to the third party.
  - (4) A notice given under sub-section (3) shall include a statement that the third party to whom the

notice is given is entitled to prefer an appeal under section 19 against the decision.

### **CHAPTER III**

#### **The Central Information Commission**

- 12 (1) The Central Government shall, by notification in the Official Gazette, constitute a body to be known as the Central Information Commission to exercise the powers conferred on, and to perform the functions assigned to, it under this Act.
- (2) The Central Information Commission shall consist of-
- (a) the Chief Information Commissioner; and
  - (b) such number of Central Information Commissioners, not exceeding ten, as may be deemed necessary.
- (3) The Chief Information Commissioner and Information Commissioners shall be appointed by the President on the recommendation of a committee consisting of-
- (i) the Prime Minister, who shall be the Chairperson of the committee;
  - (ii) the Leader of Opposition in the Lok Sabha; and
  - (iii) a Union Cabinet Minister to be nominated by the Prime Minister.

**Explanation.-**For the purposes of removal of doubts, it is hereby declared that where the Leader of Opposition in the House of the People has not been recognised as such, the Leader of the single largest group in opposition of the Government in the House of the People shall be deemed to be the Leader of Opposition.

- (4) The general superintendence, direction and management of the affairs of the Central Information Commission shall vest in the Chief Information Commissioner who shall be assisted by the Information Commissioners and may exercise all such powers and do all such acts and things which may be exercised or done by the Central Information Commission autonomously without being subjected to directions by any other authority under this Act.
- (5) The Chief Information Commissioner and Information Commissioners shall be persons of eminence in public life with wide knowledge and experience in law, science and technology, social service, management, journalism, mass media or administration and governance.
- (6) The Chief Information Commissioner or an Information Commissioner shall not be a Member of Parliament or Member of the Legislature of any State or Union territory, as the case may be, or hold any other office of profit or connected with any political party or carrying on any business or pursuing any profession.
- (7) The headquarters of the Central Information Commission shall be at Delhi and the Central Information Commission may, with the previous approval of the Central Government, establish offices at other places in India.

- 13 (1) The Chief Information Commissioner shall hold office for a term of five years from the date

on which he enters upon his office and shall not be eligible for reappointment:

Provided that no Chief Information Commissioner shall hold office as such after he has attained the age of sixty-five years.

- (2) Every Information Commissioner shall hold office for a term of five years from the date on which he enters upon his office or till he attains the age of sixty-five years, whichever is earlier, and shall not be eligible for reappointment as such Information Commissioner:

Provided that every Information Commissioner shall, on vacating his office under this sub-section be eligible for appointment as the Chief Information Commissioner in the manner specified in sub-section (3) of section 12:

Provided further that where the Information Commissioner is appointed as the Chief Information Commissioner, his term of office shall not be more than five years in aggregate as the Information Commissioner and the Chief Information Commissioner.

- (3) The Chief Information Commissioner or an Information Commissioner shall before he enters upon his office make and subscribe before the President or some other person appointed by him in that behalf, an oath or affirmation according to the form set out for the purpose in the First Schedule.

- (4) The Chief Information Commissioner or an Information Commissioner may, at any time, by writing under his hand addressed to the President, resign from his office:

Provided that the Chief Information Commissioner or an Information Commissioner may be removed in the manner specified under section 14.

- (5) The salaries and allowances payable to and other terms and conditions of service of -

(a) the Chief Information Commissioner shall be the same as that of the Chief Election Commissioner;

(b) an Information Commissioner shall be the same as that of an Election Commissioner:

Provided that if the Chief Information Commissioner or an Information Commissioner, at the time of his appointment is, in receipt of a pension, other than a disability or wound pension, in respect of any previous service under the Government of India or under the Government of a State, his salary in respect of the service as the Chief Information Commissioner or an Information Commissioner shall be reduced by the amount of that pension including any portion of pension which was commuted and pension equivalent of other forms of retirement benefits excluding pension equivalent of retirement gratuity:

Provided further that if the Chief Information Commissioner or an Information Commissioner if, at the time of his appointment is, in receipt of retirement benefits in respect of any previous service rendered in a Corporation established by or under any Central Act or State Act or a Government company owned or controlled by the Central Government or the State Government, his salary in respect of the service as the Chief Information Commissioner or an Information Commissioner shall be reduced by the amount of pension equivalent to the retirement benefits:

Provided also that the salaries, allowances and other conditions of service of the Chief Information Commissioner and the Information Commissioners shall not be varied to their disadvantage after their appointment.

- (6) The Central Government shall provide the Chief Information Commissioner and the Information Commissioners with such officers and employees as may be necessary for the efficient performance of their functions under this Act, and the salaries and allowances payable to and the terms and conditions of service of the officers and other employees appointed for the purpose of this Act shall be such as may be prescribed.
- 14 (1) Subject to the provisions of sub-section (3), the Chief Information Commissioner or any Information Commissioner shall be removed from his office only by order of the President on the ground of proved misbehaviour or incapacity after the Supreme Court, on a reference made to it by the President, has, on inquiry, reported that the Chief Information Commissioner or any Information Commissioner, as the case may be, ought on such ground be removed.
- (2) The President may suspend from office, and if deem necessary prohibit also from attending the office during inquiry, the Chief Information Commissioner or Information Commissioner in respect of whom a reference has been made to the Supreme Court under sub-section (1) until the President has passed orders on receipt of the report of the Supreme Court on such reference.
- (3) Notwithstanding anything contained in sub-section (1), the President may by order remove from office the Chief Information Commissioner or any Information Commissioner if the Chief Information Commissioner or a Information Commissioner, as the case may be, -
- (a) is adjudged an insolvent; or
  - (b) has been convicted of an offence which, in the opinion of the President, involves moral turpitude; or
  - (c) engages during his term of office in any paid employment outside the duties of his office; or
  - (d) is, in the opinion of the President, unfit to continue in office by reason of infirmity of mind or body; or
  - (e) has acquired such financial or other interest as is likely to affect prejudicially his functions as the Chief Information Commissioner or a Information Commissioner.
- (4) If the Chief Information Commissioner or a Information Commissioner in any way, concerned or interested in any contract or agreement made by or on behalf of the Government of India or participates in any way in the profit thereof or in any benefit or emolument arising there from otherwise than as a member and in common with the other members of an incorporated company, he shall, for the purposes of sub-section (1), be deemed to be guilty of misbehavior.

#### **CHAPTER IV**

#### **The State Information Commission**

- 15 (1) Every State Government shall, by notification in the Official Gazette, constitute a body to be

known as the ..... (name of the State) Information Commission to exercise the powers conferred on, and to perform the functions assigned to, it under this Act.

- (2) The State Information Commission shall consist of-
  - (a) the State Chief Information Commissioner, and
  - (b) such number of State Information Commissioners, not exceeding ten, as may be deemed necessary.
- (3) The State Chief Information Commissioner and the State Information Commissioners shall be appointed by the Governor on the recommendation of a committee consisting of-
  - (i) the Chief Minister, who shall be the Chairperson of the committee;
  - (ii) the Leader of Opposition in the Legislative Assembly; and
  - (iii) a Cabinet Minister to be nominated by the Chief Minister.

**Explanation.**-For the purposes of removal of doubts, it is hereby declared that where the Leader of Opposition in the Legislative Assembly has not been recognised as such, the Leader of the single largest group in opposition of the Government in the Legislative Assembly shall be deemed to be the Leader of Opposition.

- (4) The general superintendence, direction and management of the affairs of the State Information Commission shall vest in the State Chief Information Commissioner who shall be assisted by the State Information Commissioners and may exercise all such powers and do all such acts and things which may be exercised or done by the State Information Commission autonomously without being subjected to directions by any other authority under this Act.
  - (5) The State Chief Information Commissioner and the State Information Commissioners shall be persons of eminence in public life with wide knowledge and experience in law, science and technology, social service, management, journalism, mass media or administration and governance.
  - (6) The State Chief Information Commissioner or a State Information Commissioner shall not be a Member of Parliament or Member of the Legislature of any State or Union territory, as the case may be, or hold any other office of profit or connected with any political party or carrying on any business or pursuing any profession.
  - (7) The headquarters of the State Information Commission shall be at such place in the State as the State Government may, by notification in the Official Gazette, specify and the State Information Commission may, with the previous approval of the State Government, establish offices at other places in the State.
- 16 (1) The State Chief Information Commissioner shall hold office for a term of five years from the date on which he enters upon his office and shall not be eligible for reappointment:  
 Provided that no State Chief Information Commissioner shall hold office as such after he has attained the age of sixty-five years.
- (2) Every State Information Commissioner shall hold office for a term of five years from the date on which he enters upon his office or till he attains the age of sixty-five years, whichever is

earlier, and shall not be eligible for reappointment as such State Information Commissioner:

Provided that every State Information Commissioner shall, on vacating his office under this sub-section, be eligible for appointment as the State Chief Information Commissioner in the manner specified in sub-section (3) of section 15:

Provided further that where the State Information Commissioner is appointed as the State Chief Information Commissioner, his term of office shall not be more than five years in aggregate as the State Information Commissioner and the State Chief Information Commissioner.

- (3) The State Chief Information Commissioner or a State Information Commissioner, shall before he enters upon his office make and subscribe before the Governor or some other person appointed by him in that behalf, an oath or affirmation according to the form set out for the purpose in the First Schedule.
- (4) The State Chief Information Commissioner or a State Information Commissioner may, at any time, by writing under his hand addressed to the Governor, resign from his office:  
Provided that the State Chief Information Commissioner or a State Information Commissioner may be removed in the manner specified under section 17.
- (5) The salaries and allowances payable to and other terms and conditions of service of-
  - (a) the State Chief Information Commissioner shall be the same as that of an Election Commissioner;
  - (b) the State Information Commissioner shall be the same as that of the Chief Secretary to the State Government:

Provided that if the State Chief Information Commissioner or a State Information Commissioner, at the time of his appointment is, in receipt of a pension, other than a disability or wound pension, in respect of any previous service under the Government of India or under the Government of a State, his salary in respect of the service as the State Chief Information Commissioner or a State Information Commissioner shall be reduced by the amount of that pension including any portion of pension which was commuted and pension equivalent of other forms of retirement benefits excluding pension equivalent of retirement gratuity:

Provided further that where the State Chief Information Commissioner or a State Information Commissioner if, at the time of his appointment is, in receipt of retirement benefits in respect of any previous service rendered in a Corporation established by or under any Central Act or State Act or a Government company owned or controlled by the Central Government or the State Government, his salary in respect of the service as the State Chief Information Commissioner or the State Information Commissioner shall be reduced by the amount of pension equivalent to the retirement benefits:

Provided also that the salaries, allowances and other conditions of service of the State Chief Information Commissioner and the State Information Commissioners shall not be varied to their disadvantage after their appointment.

- (6) The State Government shall provide the State Chief Information Commissioner and the State Information Commissioners with such officers and employees as may be necessary for the

efficient performance of their functions under this Act, and the salaries and allowances payable to and the terms and conditions of service of the officers and other employees appointed for the purpose of this Act shall be such as may be prescribed.

- 17 (1) Subject to the provisions of sub-section (3), the State Chief Information Commissioner or a State Information Commissioner shall be removed from his office only by order of the Governor on the ground of proved misbehaviour or incapacity after the Supreme Court, on a reference made to it by the Governor, has on inquiry, reported that the State Chief Information Commissioner or a State Information Commissioner, as the case may be, ought on such ground be removed.
- (2) The Governor may suspend from office, and if deem necessary prohibit also from attending the office during inquiry, the State Chief Information Commissioner or a State Information Commissioner in respect of whom a reference has been made to the Supreme Court under sub-section (1) until the Governor has passed orders on receipt of the report of the Supreme Court on such reference.
- (3) Notwithstanding anything contained in sub-section (1), the Governor may by order remove from office the State Chief Information Commissioner or a State Information Commissioner if a State Chief Information Commissioner or a State Information Commissioner, as the case may be,-
- (a) is adjudged an insolvent; or
  - (b) has been convicted of an offence which, in the opinion of the Governor, involves moral turpitude; or
  - (c) engages during his term of office in any paid employment outside the duties of his office; or
  - (d) is, in the opinion of the Governor, unfit to continue in office by reason of infirmity of mind or body; or
  - (e) has acquired such financial or other interest as is likely to affect prejudicially his functions as the State Chief Information Commissioner or a State Information Commissioner.
- (4) If the State Chief Information Commissioner or a State Information Commissioner in any way, concerned or interested in any contract or agreement made by or on behalf of the Government of the State or participates in any way in the profit thereof or in any benefit or emoluments arising therefrom otherwise than as a member and in common with the other members of an incorporated company, he shall, for the purposes of sub-section (1), be deemed to be guilty of misbehaviour.

## CHAPTER V

### **Powers and functions of the Information Commissions, appeal and penalties**

- 18 (1) Subject to the provisions of this Act, it shall be the duty of the Central Information Commission or State Information Commission, as the case may be, to receive and inquire into a complaint from any person,-
- (a) who has been unable to submit a request to a Central Public Information Officer or State

Public Information Officer, as the case may be, either by reason that no such officer has been appointed under this Act, or because the Central Assistant Public Information Officer or State Assistant Public Information Officer, as the case may be, has refused to accept his or her application for information or appeal under this Act for forwarding the same to the Central Public Information Officer or State Public Information Officer or senior officer specified in sub-section (1) of section 19 or the Central Information Commission or the State Information Commission, as the case may be;

- (b) who has been refused access to any information requested under this Act;
  - (c) who has not been given a response to a request for information or access to information within the time limit specified under this Act;
  - (d) who has been required to pay an amount of fee which he or she considers unreasonable;
  - (e) who believes that he or she has been given incomplete, misleading or false information under this Act; and
  - (f) in respect of any other matter relating to requesting or obtaining access to records under this Act.
- (2) Where the Central Information Commission or State Information Commission, as the case may be, is satisfied that there are reasonable grounds to inquire into the matter, it may initiate an inquiry in respect thereof.
- (3) The Central Information Commission or State Information Commission, as the case may be, shall, while inquiring into any matter under this section, have the same powers as are vested in a civil court while trying a suit under the Code of Civil Procedure, 1908, in respect of the following matters, namely:-
- (a) summoning and enforcing the attendance of persons and compel them to give oral or written evidence on oath and to produce the documents or things;
  - (b) requiring the discovery and inspection of documents;
  - (c) receiving evidence on affidavit;
  - (d) requisitioning any public record or copies thereof from any court or office;
  - (e) issuing summons for examination of witnesses or documents; and
  - (f) any other matter which may be prescribed.
- (4) Notwithstanding anything inconsistent contained in any other Act of Parliament or State Legislature, as the case may be, the Central Information Commission or the State Information Commission, as the case may be, may, during the inquiry of any complaint under this Act, examine any record to which this Act applies which is under the control of the public authority, and no such record may be withheld from it on any grounds.
- 19 (1) Any person who, does not receive a decision within the time specified in sub-section (1) or clause (a) of sub-section (3) of section 7, or is aggrieved by a decision of the Central Public Information Officer or State Public Information Officer, as the case may be, may within thirty

days from the expiry of such period or from the receipt of such a decision prefer an appeal to such officer who is senior in rank to the Central Public Information Officer or State Public Information Officer as the case may be, in each public authority:

Provided that such officer may admit the appeal after the expiry of the period of thirty days if he or she is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

- (2) Where an appeal is preferred against an order made by a Central Public Information Officer or a State Public Information Officer, as the case may be, under section 11 to disclose third party information, the appeal by the concerned third party shall be made within thirty days from the date of the order.
- (3) A second appeal against the decision under sub-section (1) shall lie within ninety days from the date on which the decision should have been made or was actually received, with the Central Information Commission or the State Information Commission:  
Provided that the Central Information Commission or the State Information Commission, as the case may be, may admit the appeal after the expiry of the period of ninety days if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.
- (4) If the decision of the Central Public Information Officer or State Public Information Officer, as the case may be, against which an appeal is preferred relates to information of a third party, the Central Information Commission or State Information Commission, as the case may be, shall give a reasonable opportunity of being heard to that third party.
- (5) In any appeal proceedings, the onus to prove that a denial of a request was justified shall be on the Central Public Information Officer or State Public Information Officer, as the case may be, who denied the request.
- (6) An appeal under sub-section (1) or sub-section (2) shall be disposed of within thirty days of the receipt of the appeal or within such extended period not exceeding a total of forty-five days from the date of filing thereof, as the case may be, for reasons to be recorded in writing.
- (7) The decision of the Central Information Commission or State Information Commission, as the case may be, shall be binding.
- (8) In its decision, the Central Information Commission or State Information Commission, as the case may be, has the power to-
  - (a) require the public authority to take any such steps as may be necessary to secure compliance with the provisions of this Act, including-
    - (i) by providing access to information, if so requested, in a particular form;
    - (ii) by appointing a Central Public Information Officer or State Public Information Officer, as the case may be;
    - (iii) by publishing certain information or categories of information;
    - (iv) by making necessary changes to its practices in relation to the maintenance, management and destruction of records;

- (v) by enhancing the provision of training on the right to information for its officials;
  - (vi) by providing it with an annual report in compliance with clause (b) of sub-section (1) of section 4;
- (b) require the public authority to compensate the complainant for any loss or other detriment suffered;
- (c) impose any of the penalties provided under this Act;
- (d) reject the application.
- (9) The Central Information Commission or State Information Commission, as the case may be, shall give notice of its decision, including any right of appeal, to the complainant and the public authority.
- (10) The Central Information Commission or State Information Commission, as the case may be, shall decide the appeal in accordance with such procedure as may be prescribed.
- 20 (1) Where the Central Information Commission or the State Information Commission, as the case may be, at the time of deciding any complaint or appeal is of the opinion that the Central Public Information Officer or the State Public Information Officer, as the case may be, has, without any reasonable cause, refused to receive an application for information or has not furnished information within the time specified under sub-section (1) of section 7 or malafidely denied the request for information or knowingly given incorrect, incomplete or misleading information or destroyed information which was the subject of the request or obstructed in any manner in furnishing the information, it shall impose a penalty of two hundred and fifty rupees each day till application is received or information is furnished, so however, the total amount of such penalty shall not exceed twenty-five thousand rupees:
- Provided that the Central Public Information Officer or the State Public Information Officer, as the case may be, shall be given a reasonable opportunity of being heard before any penalty is imposed on him:
- Provided further that the burden of proving that he acted reasonably and diligently shall be on the Central Public Information Officer or the State Public Information Officer, as the case may be.
- (2) Where the Central Information Commission or the State Information Commission, as the case may be, at the time of deciding any complaint or appeal is of the opinion that the Central Public Information Officer or the State Public Information Officer, as the case may be, has, without any reasonable cause and persistently, failed to receive an application for information or has not furnished information within the time specified under sub-section (1) of section 7 or malafidely denied the request for information or knowingly given incorrect, incomplete or misleading information or destroyed information which was the subject of the request or obstructed in any manner in furnishing the information, it shall recommend for disciplinary action against the Central Public Information Officer or the State Public Information Officer, as the case may be, under the service rules applicable to him.

## CHAPTER VI

### Miscellaneous

- 21 No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act or any rule made thereunder.
- 22 The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in the Official Secrets Act, 1923, and any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act.
- 23 No court shall entertain any suit, application or other proceeding in respect of any order made under this Act and no such order shall be called in question otherwise than by way of an appeal under this Act.
- 24 (1) Nothing contained in this Act shall apply to the intelligence and security organisations specified in the Second Schedule, being organisations established by the Central Government or any information furnished by such organisations to that Government:  
 Provided that the information pertaining to the allegations of corruption and human rights violations shall not be excluded under this sub-section:  
 Provided further that in the case of information sought for is in respect of allegations of violation of human rights, the information shall only be provided after the approval of the Central Information Commission, and notwithstanding anything contained in section 7, such information shall be provided within forty-five days from the date of the receipt of request.
- (2) The Central Government may, by notification in the Official Gazette, amend the Schedule by including therein any other intelligence or security organisation established by that Government or omitting there from any organisation already specified therein and on the publication of such notification, such organisation shall be deemed to be included in or, as the case may be, omitted from the Schedule.
- (3) Every notification issued under sub-section (2) shall be laid before each House of Parliament.
- (4) Nothing contained in this Act shall apply to such intelligence and security organisation being organisations established by the State Government, as that Government may, from time to time, by notification in the Official Gazette, specify:  
 Provided that the information pertaining to the allegations of corruption and human rights violations shall not be excluded under this sub-section:  
 Provided further that in the case of information sought for is in respect of allegations of violation of human rights, the information shall only be provided after the approval of the State Information Commission and, notwithstanding anything contained in section 7, such information shall be provided within forty-five days from the date of the receipt of request.
- (5) Every notification issued under sub-section (4) shall be laid before the State Legislature.
- 25 (1) The Central Information Commission or State Information Commission, as the case may be,

- shall, as soon as practicable after the end of each year, prepare a report on the implementation of the provisions of this Act during that year and forward a copy thereof to the appropriate Government.
- (2) Each Ministry or Department shall, in relation to the public authorities within their jurisdiction, collect and provide such information to the Central Information Commission or State Information Commission, as the case may be, as is required to prepare the report under this section and comply with the requirements concerning the furnishing of that information and keeping of records for the purposes of this section.
  - (3) Each report shall state in respect of the year to which the report relates,-
    - (a) the number of requests made to each public authority;
    - (b) the number of decisions where applicants were not entitled to access to the documents pursuant to the requests, the provisions of this Act under which these decisions were made and the number of times such provisions were invoked;
    - (c) the number of appeals referred to the Central Information Commission or State Information Commission, as the case may be, for review, the nature of the appeals and the outcome of the appeals;
    - (d) particulars of any disciplinary action taken against any officer in respect of the administration of this Act;
    - (e) the amount of charges collected by each public authority under this Act;
    - (f) any facts which indicate an effort by the public authorities to administer and implement the spirit and intention of this Act;
    - (g) recommendations for reform, including recommendations in respect of the particular public authorities, for the development, improvement, modernisation, reform or amendment to this Act or other legislation or common law or any other matter relevant for operationalising the right to access information.
  - (4) The Central Government or the State Government, as the case may be, may, as soon as practicable
  - 5) If it appears to the Central Information Commission or State Information Commission, as the case may be, that the practice of a public authority in relation to the exercise of its functions under this Act does not conform with the provisions or spirit of this Act, it may give to the authority a recommendation specifying the steps which ought in its opinion to be taken for promoting such conformity.

- 26 (1) The appropriate Government may, to the extent of availability of financial and other resources,-
- (a) develop and organise educational programmes to advance the understanding of the public, in particular of disadvantaged communities as to how to exercise the rights contemplated under this Act;
  - (b) encourage public authorities to participate in the development and organisation of programmes referred to in clause (a) and to undertake such programmes themselves;
  - (c) promote timely and effective dissemination of accurate information by public authorities about their activities; and
  - (d) train Central Public Information Officers or State Public Information Officers, as the case may be, of public authorities and produce relevant training materials for use by the public authorities themselves.
- (2) The appropriate Government shall, within eighteen months from the commencement of this Act, compile in its official language a guide containing such information, in an easily comprehensible form and manner, as may reasonably be required by a person who wishes to exercise any right specified in this Act.
- (3) The appropriate Government shall, if necessary, update and publish the guidelines referred to in sub-section (2) at regular intervals which shall, in particular and without prejudice to the generality of sub-section (2), include-
- (a) the objects of this Act;
  - (b) the postal and street address, the phone and fax number and, if available, electronic mail address of the Central Public Information Officer or State Public Information Officer, as the case may be, of every public authority appointed under sub-section (1) of section 5;
  - (c) the manner and the form in which request for access to an information shall be made to a Central Public Information Officer or State Public Information Officer, as the case may be;
- (f) all remedies in law available regarding an act or failure to act in respect of a right or duty conferred or imposed by this Act including the manner of filing an appeal to the Commission;
- (g) the provisions providing for the voluntary disclosure of categories of records in accordance with section 4;
  - (h) the notices regarding fees to be paid in relation to requests for access to an information; and
  - (i) any additional regulations or circulars made or issued in relation to obtaining access to an information in accordance with this Act.
- (4) The appropriate Government must, if necessary, update and publish the guidelines at regular intervals.

- 27 (1) The appropriate 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 cost of the medium or print cost price of the materials to be disseminated under sub-section (4) of section 4;
  - (b) the fee payable under sub-section (1) of section 6;
  - (c) the fee payable under sub-sections (1) and (5) of section 7;
  - (d) the salaries and allowances payable to and the terms and conditions of service of the officers and other employees under sub-section (6) of section 13 and sub-section (6) of section 16;
  - (e) the procedure to be adopted by the Central Information Commission or State Information Commission, as the case may be, in deciding the appeals under sub-section (10) of section 19; and
  - (f) any other matter which is required to be, or may be, prescribed.
- 28 (1) The competent authority 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:-
- (i) the cost of the medium or print cost price of the materials to be disseminated under sub-section (4) of section 4;
  - (ii) the fee payable under sub-section (1) of section 6;
  - (iii) the fee payable under sub-section (1) of section 7; and
  - (iv) any other matter which is required to be, or may be, prescribed.
- 29 (1) 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 or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, 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.
- (2) Every rule made under this Act by a State Government shall be laid, as soon as may be after it is notified, before the State Legislature.

- 30 (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removal of the difficulty: Provided that no such order shall be made after the expiry of a period of two years from the date of the commencement of this Act.
- (2) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.
- 31 The Freedom of Information Act, 2002 is hereby repealed.

**THE FIRST SCHEDULE**  
**[See sections 13(3) and 16(3)]**

Form of oath or affirmation to be made by the Chief Information Commissioner/the Information Commissioner/the State Chief Information Commissioner/the State Information Commissioner

"I, ....., having been appointed Chief Information Commissioner/Information Commissioner/State Chief Information Commissioner/State Information Commissioner swear in the name of God solemnly affirm that I will bear true faith and allegiance to the Constitution of India as by law established, that I will uphold the sovereignty and integrity of India, that I will duly and faithfully and to the best of my ability, knowledge and judgment perform the duties of my office without fear or favour, affection or ill-will and that I will uphold the Constitution and the laws."

**THE SECOND SCHEDULE**  
**(See section 24)**

Exempted Organisations

The List of 22 exempted organizations is given below:

- ◆ Intelligence Bureau, Ministry of Home Affairs
- ◆ Directorate of Revenue Intelligence, Ministry of Finance
- ◆ Central Economic Intelligence Bureau, Ministry of Finance
- ◆ Directorate of Enforcement, Ministry of Finance
- ◆ Narcotics Control Bureau
- ◆ Aviation Research Centre
- ◆ Special Frontier Force
- ◆ Border Security Force, Ministry of Home Affairs
- ◆ Central Reserve Police Force, Ministry of Home Affairs
- ◆ Indo-Tibetan Border Police, Ministry of Home Affairs
- ◆ Central Industrial Security Force, Ministry of Home Affairs
- ◆ National Security Guard, Ministry of Home Affairs
- ◆ Research & Analysis Wing of The Cabinet Secretariat
- ◆ Assam Rifles, Ministry of Home Affairs
- ◆ Sashastra Seema Bal, Ministry of Home Affairs
- ◆ Special Protection Group
- ◆ Defence Research and Development Organisation, Ministry of Defence
- ◆ Border Road Development Organisation
- ◆ Financial Intelligence Unit, India
- ◆ Directorate General Income Tax (Investigation)
- ◆ National Technical Research Organisation
- ◆ National Security Council Secretariat

**6. THE CENTRE RTI RULES, 2012**  
**MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS**  
**(Department of Personnel and Training)**  
**NOTIFICATION**  
**New Delhi, the 31st July, 2012**

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GS.R.603(E).-In exercise of the powers conferred by Section 27 of the Right to Information Act, 2005 (22 of 2005) and in supersession of the Central Information Commission (Appeal Procedure) Rules, 2005 and the Right to Information (Regulation of Fee and Cost) Rules, 2005 except as respects things done or omitted to be done before such supersession, the Central Government hereby makes the following rules, namely:-

**1. Short title and commencement -**

- (1) These rules may be called the Right to Information Rules, 2012.
- (2) They shall come into force on the date of their publication in the Official Gazette.

**2. Definitions -** In these rules, unless the context otherwise requires,-

- (a) "Act" means the Right to Information Act, 2005 (22 of 2005);
- (b) "Commission" means the Central Information Commission constituted under sub-section (1) of Section 12 of the Act;
- (c) "First Appellate Authority" means an officer in the public authority who is senior in rank to the Central Public Information Officer to whom an appeal under sub-section (1) of Section 19 of the Act lies;
- (d) "Registrar" means an officer of the Commission so designated and includes an Additional Registrar, Joint Registrar and Deputy Registrar;
- (e) "Section" means a Section of the Act; (Call other words and expressions used herein but not defined in these rules shall have the same meanings assigned to them in the Act.

**3. Application Fee.-**An application under sub-section (1) of Section 6 of the Act shall be accompanied by a fee of rupees ten and shall ordinarily not contain more than five hundred words, excluding annexures, containing address of the Central Public Information Officer and that of the applicant:

Provided that no application shall be rejected only on the ground that it contains more than five hundred words.

**4. Fees for providing information.-**Fee for providing information under sub-section (4) of Section 4 and sub-sections (I) and (5) of Section 7 of the Act shall be charged at the following rates, namely :-

- (a) rupees two for each page in A-3 or smaller size paper;
  - (b) actual cost or price of a photocopy in large size paper;
  - (c) actual cost or price for samples or models;
  - (d) rupees fifty per diskette or floppy;
  - (e) price fixed for a publication or rupees two per page of photocopy for extracts from the publication;
  - (f) no fee for inspection of records for the first hour of inspection and a fee of rupees 5 for each subsequent hour or fraction thereof; and
  - (g) so much of postal charge involved in supply of information that exceeds fifty rupees.
- 5. Exemption from Payment of Fee.**-No fee under rule 3 and rule 4 shall be charged from any person who, is below poverty line provided a copy of the certificate issued by the appropriate Government in this regard is submitted alongwith the application.
- 6. Mode of Payment of fee.**-Fees under these rules may be paid in any of the following manner, namely:-
- (a) in cash, to the public authority or to the Central Assistant Public Information Officer of the public authority, as the case may be, against a proper receipt; or
  - (b) by demand draft or bankers cheque or Indian Postal Order payable to the Accounts Officer of the public authority; or
  - (c) by electronic means to the Accounts Officer of the public authority, if facility for receiving fees through electronic means is available with the public authority.
- 7. Appointment of Secretary to the Commission.**-The Central Government shall appoint an officer not below the rank of Additional Secretary to the Government of India as Secretary to the Commission.
- 8. Appeal to the Commission.**- Any person aggrieved by an order passed by the First Appellate Authority or by non-disposal of his appeal by the First Appellate Authority, may file an appeal to the Commission in the format given in the Appendix and shall be accompanied by the following documents, duly authenticated and verified by the appellant, namely:
- (i) a copy of the application submitted to the Central Public Information Officer;
  - (ii) a copy of the reply received, if any, from the Central Public Information Officer;
  - (iii) a copy of the appeal made to the First Appellate Authority;
  - (iv) a copy of the Order received, if any, from the First Appellate Authority;
  - (v) copies of other documents relied upon by the appellant and referred to in his appeal; and
  - (vi) an index of the documents referred to in the appeal.
- 9. Return of Appeal.**-An appeal may be returned to the appellant, if it is not accompanied by the documents as specified in rule 8, for removing the deficiencies and filing the appeal complete in all respects.
- 10. Process of appeal.**-(1) On receipt of an appeal, if the Commission is not satisfied that it is a fit case to proceed with, it may, after giving an opportunity of being heard to the appellant and after recording its reasons, dismiss the appeal:

Provided that no appeal shall be dismissed only on the ground that it has not been made in the specified format if it is accompanied by documents as specified in rule 8.

- (2) The Commission shall not consider an appeal unless it is satisfied that the appellant has availed of all the remedies available to him under the Act.
- (3) For the purposes of sub-rule (2), a person shall be deemed to have availed of all the remedies available to him under the Act:
  - (a) if he had filed an appeal before the First Appellate Authority and the First Appellate Authority or any other person competent to pass order on such appeal had made a final order on the appeal; or
  - (b) where no final order has been made by the First Appellate Authority with regard to the appeal preferred, and a period of forty five days from the date on which such appeal was preferred has elapsed.

**11. Procedure for deciding appeals.-**The Commission, while deciding an appeal may.-

- (i) receive oral or written evidence on oath or on affidavit from concerned or interested person;
- (ii) peruse or inspect documents, public records or copies thereof;
- (iii) inquire through authorized officer further details or facts;
- (iv) hear Central Public Information Officer, Central Assistant Public Information Officer or the First Appellate Authority, or such person against whose action the appeal is preferred, as the case may be;
- (v) hear third party; and
- (vi) receive evidence on affidavits from Central Public Information Officer, Central Assistant Public Information Officer, First Appellate Authority and such other person against whom the appeal lies or the third party.

**12. Presence of the appellant before the Commission.-**

- (1) The appellant shall be informed of the date at least seven clear days before the date of hearing.
- (2) The appellant may be present in person or through his duly authorised representative or through video conferencing, if the facility of video conferencing is available, at the time of hearing of the appeal by the Commission.
- (3) Where the Commission is satisfied that the circumstances exist due to which the appellant is unable to attend the hearing, then, the Commission may afford the appellant another opportunity of being heard before a final decision is taken or take any other appropriate action as it may deem fit.

**13. Presentation by the Public Authority -** The public authority may authorise any representative of any of its officers to present its case.

**14. Service of notice by Commission.-**The Commission may issue the notice by name, which shall be served in any of the following modes, namely:-

- (i) service by the party itself;

- (ii) by hand delivery (dasti) through Process Server;
- (iii) by registered post with acknowledgement due;
- (iv) by electronic mail in case electronic address is available.

**15. Order of the Commission.-**The order of the Commission shall be in writing and issued under the seal of the Commission duly authenticated by the Registrar or any other officer authorised by the Commission for this purpose.

### **FORMAT OF APPEAL**

**(See Rule 8)**

1. Name and address or the appellant
2. Name and address of the Central Public Information Officer to whom the application was addressed
3. Name and address of the Central Public Information Officer who gave reply to the Application
4. Name and address of the First Appellate Authority Who decided the First Appeal
5. Particulars of the application
6. Particulars of the order(s) including number, if any, against which the appeal is preferred
7. Brief facts leading to the appeal
8. Prayer or relief sought
9. Grounds for the prayer or relief
10. Any other information relevant to the appeal
11. Verification/authentication by the appellant

## **7. Haryana RTI Rules 2009 & 2016 (Amendments) Notifications**

The 21st, December, 2009, No. S.O. 99./C.A. 22/2005/S. 27/2009 &  
5/4/2008-1AR dated 18.3.2016

Haryana Government, Administrative Reforms Department

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In exercise of the power'; conferred by sub-section (1) read with sub- section (2) of section 27 of the Right to Information Act, 2005 ( Act 22 of 2005), the Governor of Haryana hereby makes the following rules providing for information under the said Act, namely :--

### **1. Short title and commencement**

- (1) These rules may be called the Haryana Right to Information Rules, 2009,
- (2) They shall come into force from 1st January, 2010.

### **2. Definition**

- (1) In these rules, unless the context otherwise requires,
  - (a) "Act" means the Right to Information Act, 2005 (Act 22 of 2005)
  - (b) "Commission" means the Haryana Information Commission, constituted under section 15 of the Act.
  - (c) "Model Form" means a model form appended to these rules
  - (d) "section" means the section of the Act.
- (2) The words and expressions used in these rules, but not defined shall have the same meanings as respectively assigned to them in the Act.

### **3. Application for obtaining information sections 2(m), 6 and 27**

- (1) A person who desires to obtain any information admissible under the Act, shall make an application, preferably in Model Form 'A' to the State Public Information Officer and in his absence to State Assistant Public Information Officer along with fee as specified in sub-rule (1) of rule 5 of these rules
- (2) On the receipt of an application, made under sub- rule (1), the State Public Information Officer or State Assistant Public Information Officer as the case may be, shall give a receipt in token thereof to the applicant.

**4. Deposit of fee section 6**

- (1) The fee shall be deposited with the State Public Information Officer either in Cash against proper receipt, by Bank Draft, by Indian Postal Order or by Treasury Challan in the following Beads of Account-

Major Head	0070- Other Administrative Services
Sub Major Head-	60-Other Services
Minor Head	800-Other Receipts
Sub Head-	86--Fee under the Right to Information Act,2005.
Detailed Head-	"0070--Other Administrative Services -60- Other Services-800- Other Receipts-86-Fee under the Right to Information Act, 2005".

- (2) The amount of fee shall be credited to the account as referred in sub-rule (1) :  
Provided that the Boards, Corporations and other autonomous bodies of the State may get the amount of requisite fee deposited in their own accounts maintained by them.
- (3) On receipt of an application, submitted under sub-rule (1) of rule 3, the State Public Information Officer shall scrutinize the application and shall assess how much fee is required to be paid by the applicant for obtaining the information.
- (4) The fee assessed under sub-rule (3), shall be intimated to the applicant by the State Public Information Officer, expeditiously, in Model Form 'B' to ensure the delivery of information within time specified under sub section(1) of section 7 of the Act.
- (5) In case the applicant fails to deposit the requisite fee within a period of fifteen days after the issuance of the intimation given to him under subrule (4), it shall be construed that the applicant is no longer interested in obtaining the information sought for and his application shall be deemed to have been filed.

**5. Quantum of fee section 6 and 7**

Haryana RTI (Amendment) Rules vide notification 5/4/2008-1AR dated 18.3.2016

- (1) An application for obtaining any information under subsection (1) of the section (6) shall be accompanied with a fee of Rs. 10-/ and shall ordinarily not contain more than five hundred words, excluding annexures, address of the Public Information Officer and that of the applicant: Provided that no application shall be rejected only on the ground that it contains more than five hundred words.
- (2) For providing information under sub-section (1) of section 7, the fee shall be charged from the applicant at the following rates, namely:-
- Rs. 2/- for each page in A-4 or A-3 size paper, created or copied; and
  - If information is to be provided on a large size of paper than that specified in clause (a), the actual cost shall be charged.
- (3) For providing information under sub-section (5) of section 7, the fee shall be charged from the applicant at the following rates, namely:-

- (a) Rs. 50/- for providing information in a floppy;
  - (b) Rs. 50/- for providing information in diskette; and
  - (c) If information sought is of such a nature, which is contained in a printed document, of which a price has been fixed, then that information shall be provided after charging the price, fixed for that printed document. However, if only an extract or page of such a printed document is asked for, then a fee of Rs. 2/- per page shall be charged.
- (4) No fee for inspection of record shall be charged, if such an inspection is made for one hour only. However, if inspection is made for a period of more than one hour, then a fee of five rupees shall be charged for every subsequent hour or fraction thereof."

**6. Procedure for filing appeals. sections 19( I) and (3)**

- (1) The memorandum of appeal shall contain the following information, namely;-
- (a) name and address of the appellant, including the details of contact telephone/mobile Numbers/e-mail address, if any;
  - (b) official designation' and address of State Public Information Officer or State Assistant Public Information Officer, as the case may be;
  - (c) official designation and address of the Officer against the decision of whom the appeal is preferred;
  - (d) particulars of the order including number, if any, against which the appeal is preferred;
  - (e) brief facts leading to the appeal
  - (f) prayer or relief sought;
  - (g) grounds for the prayer or relief
  - (h) verification by the appellant; and
  - (i) any other information which the Commission may (kern necessary for deciding the appeal
- (2) The appellant shall submit three copies of the rnemorandurn of appeal for official purpose.
- (3) Every appeal made to the Commission shall be accompanied by the following documents, namely ;-
- (a) self attested copies of the Orders or documents against which the appeal is being preferred;
  - (b) copies of documents relied upon by the appellant and referred to in the appeal; and
  - (c) an index of the documents referred to in the appeal;
- Provided that in case complete documents are not furnished, the appeal shall not be rejected but the appellant shall be asked to complete the above formalities.

**7. Procedure for deciding appeal. section 19(10)**

Before deciding an appeal, the Commission shall,

- (a) serve notice to the concerned persons;
- (b) entertain any evidence in support of appeal, which may be oral or in writing from the

concerned persons;

- (c) examine on oath or an affidavits from the persons concerned;
- (d) examine the documents or any records or copies thereof;
- (e) inquire through the authorized office the facts of the appeal or may require facts in detail, if he so deems appropriate, hear the State Public Information Officer or any other senior officer who had decided the first appeal, as the case may be; and
- (f) receive evidence on affidavits from the State Public Information Officer or any senior officer who had decided the appeal or from any other person from whom the evidence may be deemed necessary.

**8. Serving notice. Section 19(10).**

The commission may serve notice to the person concerned in any of the following modes, namely:-

- (a) by hand delivery (dasti) through process server;
- (b) by Registered Post, Speed Post, Under Postal Certificate, Courier or such other means;
- (c) by electronic mail, if e-mail address is provided; or
- (d) by publication in the newspaper.

**9. Appearance of appellant/complainant Section 19.**

The appellant or the complainant as the case may be, shall in every case be informed of the date of hearing at least 15 clear days before that date. If the complainant/appellant fails to appear on the date of hearing, the Commission will decide the matter on merits:

Provided that where the Commission is satisfied that the circumstances exist due to which the complainant or appellant is being prevented from attending the hearing, then, he may afford the complainant or appellant another opportunity of being heard before taking a final decision.

**10. Order by Commission section 19(10).**

- (1) The Commission shall make order in writing and pronounce the same in the presence of the concerned parties.
- (2) The party concerned may obtain the copy of the order from the Commission.

**11. Repeal and Saving.**

The Haryana Right to Information Rules, 2005 are hereby repealed:

Provided that any order made or action taken under the rules so repealed shall be deemed to have been made or taken under the corresponding provisions of these rules.

**Model Form 'A'**  
**See rule 3(1)**

To,

The State Public Information Officer/State Assistant Public Information Officer  
------(Name of the office with address)

1. Full name of applicant.
2. Address.
3. Particulars of information required-
  - a. Subject matter of information\*
  - b. The period of which the information relates\*\*
  - c. Description of the information required\*\*\*
  - d. Whether information is required by post or in person (the actual postal charges shall be include in additional fee)
  - e. In case by post (Ordinary, Registered or Speed Post)

Place;

Date;

Signature of the applicant.

- \* Board category of the subject is indicated (such as grant/Government Land/Service Matters/Licenses etc.).
- \*\* Relevant period for which information is required to be indicated.
- \*\*\* Specific details of the information are required to be indicated.

**ACKNOWLEDGEMENT**

Received your application dated .....vide diary No .....  
dated.....

(Name of the Department/Office)  
Signatures of State Public Information Officer/  
State Assistant Public Information Office

**Model Form 'B'**

**See rules 4(4)**

From,

Designation of the State Public  
Information Officer.

To,

Name of the applicant  
Address of the applicant

Sir,

Please refer to your application dated..... addressed to the undersigned  
requesting for information under Right to Information Act, 2005.

1. The additional fee for supplying this information Rs.....
2. You are requested to pay the fee through any of the mode of payment i.e. either in Cash against proper receipt, by Bank Draft, by Indian Postal Order or by Treasury challan as mentioned in rule 4(1) of the Haryana Right to Information Rules, 2009 and send a copy of the proof thereof to this office so that the requisite information can be supplied to you
3. In case you are dissatisfied with the above estimate, you are requested to submit an appeal before the Appellate Authority, .....(Name of the department)

State Public Information Officer

**Annexure - C**  
**Appeal under section 19 (3) of the Right to Information Act, 2005**

From

Applicant's Name and Address.

To

Name/Designation/Address of the appellate authority.

1. Full Address of the appellant
2. Address
3. Particulars of the Public Information Officer
4. Date of receipt of the order appealed against
5. Last date for filing the appeal
6. Particulars of Information: -
  - i) Nature and subject matter of the information required.
  - ii) Name of the Office or Department to which the information relates:
  - iii) The grounds for appeal

Place

Signature of the Appellant

Date

The following agencies are exempted from RTI Act in Haryana State

1. State Criminal Investigation Department (CID) including the Crime Branch
2. Haryana Armed Forces
3. Security Organizations of Police
4. Haryana Police Telecommunication Organization
5. India Reserve Battalion
6. Commando