

The *SEMINAR* on
Right to Information
Act , 2005

(6 Chapters, 31 Sections and 2 Schedules)

Organizational Structure for RTI

- HQ Level :

Appellate Authority	-	AGM
Nodal CPIO	-	DGM/G

- Unit/Deptt. Level :

Appellate Authority	-	SAG level officer
PIO	-	JAG level officer

OBJECTIVES

- ✓ To provide a 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 .
- ✓ Informed citizenry and *transparency of information contain corruption* and hold Government and their instrumentalities *accountable to the governed* .

INFORMATION [S.2(f)]

- **Information** means any material in any form including *records, documents, memos, e-mails, opinions, advices, press releases, circulars, 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 .
- File noting is also an information .
- Information is not to be created.

RECORD [S.2(i)]

Record means :-

- 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*.

SCOPES OF RIGHT TO INFORMATION [S.2(j)]

❑ Access to information held by or under the control of any public authority 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.

Obligations of Public Authorities

[S.4& 5]

- (a) To maintain all the records duly *catalogued and indexed* to facilitates the right to information , all *records to be computerised* and connected through a network all over the country so that *access to such records is facilitated*; within a *reasonable time* and subject to *availability of resources*. (4.1.a)
- (b) *Publish all relevant facts* while formulating important policies or *announcing the decisions* which affect public. (4.1.c)
- (c) *Proactive disclosure regarding particulars of organization and designate Central Public Information Officer and CAPIOs, and update every year.* (4.1.b.xvii)
- (d) Provide reasons for administrative or quasi-judicial decisions to affected person. (4.1.d)

DISPOSAL OF REQUEST^[S.7]

- Information concerns the life or liberty of a person shall be provided within 48 hours.(7.1)
- Provide the information as expeditiously as possible and in any case within 30 days on payment of fees.(7.1)
- Reject the request for any of the reasons specified in section 8 and 9 of the Act.(7.1)
- No response on application within the time limit is deemed refusal.
- *Prescribed Fees to be paid* along with the application.
- *No fee for persons below the poverty line.(7.5)*
- Further fees, towards cost of providing information, to be intimated by the Public Information Officer .
- *Information shall be provided free of cost in case of failure to comply time limits.(7.6)*

- In case *if a request regarding information has been rejected then-*
 - ✓ the *reasons for such rejection*;
 - ✓ the *period within which an appeal against such rejection may be preferred*; and
 - ✓ the *particulars of the appellate authority*shall be communicated to the person making the request. (7.8)
- 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 . (7.9)

Time Schedule

- **Public Information Officer**

(within the date of receipt of the request)

Concerned to life or liberty (7.1) 48 Hrs.

Transfer (6.3) 05 days

3rd party notice 05 days

3rd Party response 10 days

Information 30 days

Information involving 3rd party 40 days.

- **First Appeal** (19.1) 30 days *

- Disposal of 1st Appeal 30 days

extendable upto 45 days with recording reasons.

- **Second Appeal (CIC)** (19.3) 90 days *

*Delay may be condoned on sufficient reasons.

Fees

(DoPT-Notification dated: 16.09.2005)

- For Supply Of Information

Application fee: Rs.10.

Cost of stationery: Rs. 2/each page of the information in A4/A3 size of paper and actual cost in case of larger size of paper.

Cost per floppy/CD: Rs. 50.

- For Inspection Of Records

No fee for first hour.

Rs.5 for each subsequent hour and fraction thereof.

EXEMPTIONS [S.8(1)]

- a) Information which would prejudicially affect sovereignty and integrity of India, security/ strategic/ scientific/ economic interests of the State, relation with foreign State or lead to incitement of an offence. (8.1.a)
- b) Information which is forbidden by a court or tribunal or constitute contempt of court. (8.1.b)
- c) Information that causes a breach of privilege of the Parliament and the State Legislature. (8.1.c)

- 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 larger public interest warrants disclosure.* (8.1.d)
- (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; (8.1.e)
- (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 physical safety of any person or identification the source of information or assistance given in confidence for law enforcement or security purposes.(8.1.g)
- (h) *Information would impede the process of investigation or apprehension or prosecution of offenders.*(8.1.h)
- Information during the *inquiry & investigation* may not be disclosed. (Shri Vinod Kumar Jain Vs. Directorate General of Central Excise Intelligence, New Delhi Appeal No. CIC/AT/A/2010/000969/SS).
 - Information during the *quasi –judicial proceeding* may not be disclosed. (Shri Vijay Kamble Vs Customs Department, Mumbai (F.No.CIC/AT/A/2008/01466 dated 23.03.2009)).

(i) *Cabinet papers including records of deliberations of the Council of Ministers, Secretaries and officers:* provided that the decision , reasons and the material on the basis of which the decisions were taken shall be made public after the decision has been taken and matter is complete.^(8.1,i)

(j) *Personal information* which has no relationship to any public activity or interest or cause unwarranted invasion of the privacy of the individual unless larger public interest warrants disclosure.^(8.1,j)

REJECTION TO ACCESS

[S.9]

- *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 may be rejected.*

SEVERABILITY [S.10]

- 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.(10.1)
- *Public Information Officer shall give a notice to the applicant informing (10.2) –*
 - a) that partial information is being provided;*
 - b) the reasons for the decision ;*
 - c) The name & designation of the person giving the decision;*
 - d) details of required fee;*
 - e) Rights to review including the particulars of appellate authority .*

THIRD PARTY INFORMATION [S.11]

- *“Third party” means a person other than the citizen making a request for information and includes a public authority. (2.n)*
- *“Third party information” means an information relates to or has been supplied by a third party and has been treated as confidential by that third party.(11.1)*
- In case of request related to third party information, if Public information officer intends to disclose shall give a *written notice to third party within 5 days to make a submission. (11.1)*

- *Third party make submission within ten days.* (11.2)
- Decision about disclosure may be taken considering the submission of third party. (11.1)
- Public information officer shall give a *written notice to the third party towards the decision within 40 days.* (11.3)
- Notice shall include a statement regarding entitlement to file appeal against the decision. (11.4)
- *Third party may prefer appeal.* (11.4)
- *Information may be provided after finality of decision.*

APPEALS [S.19]

- *First appeal to the Appellate Authority, an officer senior to Public Information Officer within 30 days of decision.* Appeal to be disposed of within a period of 30 days extendable up to a total of 45 days. (19.1)
- *Second appeal to Central Information Commission within 90 days* of decision of Appellate Authority. (19.3)
- *Decision of the CIC is final and binding.* (19.7)

PENALTY [S.20]

- Central Information Commissioner empowered to impose penalty *for delaying information, incomplete, incorrect or misleading information* . (20.1)
- Central Information Commissioner may also *recommend disciplinary action against the Public Information Officer.* (20.2)
- Penalty shall be imposed of Rs.250/- each day till application is received or information is furnished so however, the total amount of such penalty shall not exceed Rs.25000/- .

Important Judgements

<https://cic.gov.in/sites/default/files/court%20orders/SCF.pdf>

MISCONCEPTION

- Hon'ble Supreme Court in the matter of **Central Board of Secondary Education & Ans vs Aditya Bandopadhyay & Ors** expressed serious concern towards the **indiscriminate and impractical demands** or directions under RTI Act for disclosure of all and sundry information which has no relevancy with transparency and accountability in the functioning of public authorities.

- Information in the nature of **seeking explanations** about **why they acted in a certain manner** and not the other and why they never acted accordance with the information seeker (Shri Gautam Mukherjee V/s DGCEI No. CIC/AT/A/2009/000077 dated 28-1-2010).
- The information seeker, being an employee of the respondent, is a part of the information provider. Under the RTI, the **employees are not expected to question the decisions of the superior officers** in the garb of seeking information. (Dr. K.C. Vijayakumaran Nair Vs Department of Post).
- **RTI cannot be turned into tool for vendetta by an employee against organization** for some grievances. (Smt. Uma Kanti & Shri Ramesh Chandra Vs. Navodaya Vidhyalaya No. CIC/OK/C/2007/00362 & 367 dated 5.01.2008).

- The CPIO should be responsible to furnish information only **that is available in his office**. (Shri Jai Kishan Vs. Reserve Bank of India, Mumbai, (F. No. 216/IC/(A)/2006-F. No. CIC/MA/A/2006/00608 dated 31.08.2006)
- **CPIO is not supposed to interpret information ; or to furnish replies to situational queries ; or to furnish clarifications.** An information seeker cannot expect the public authority **to take certain action or initiate action** as desired by him (Avinash Agarwal vs CPIO, Indian Overseas Bank, Chennai, CIC/IOVBK/A/2017).

- Any information can be accessed through the **mechanism provided under another statute** , then the provisions of RTI Act cannot be resorted to as there is absence of the very basis for invoking the provisions of RTI Act, namely , lack of transparency.
- Right to information Act **do not provide additional mode for accessing information** with the public authorities which has already formulated rules and schemes for making the said information.

{Registrar , Supreme Court vs R.S.Mishra (2017 SCC Online Del 118110)}

- The competent authorities under the RTI Act will have to maintain a proper balance so that while achieving transparency , the demand for information does not reach unmanageable proportions affecting other public interests which includes efficient operation of public authorities and government, preservation of confidentiality of sensitive information and optimum use.

(The Insitute of Chatered Accountants of India Vs Shaunak H Satya & Ors ,AIR 2011 SC 336)

THANK YOU

ABHISHEK KUMAR
DGM/G
E.C .Railway, HJP