



A HANDBOOK ON

**RIGHT TO
INFORMATION
ACT, 2005**



Yashwantrao Chavan Academy of
Development Administration,
Pune

About Yashada

With the aim of preparing administration people oriented and more responsive the Administrative Staff College (ASC) was established in Mumbai as far back as 1963. In order to have more space for further development, the ASC was shifted to the expansive environs of the Raj Bhavan campus at Pune in 1984 and renamed as "Maharashtra Institute of Development Administration" (MIDA). MIDA was envisioned as an apex training institute for promoting and developing modern management practices in the field of development administration. By 1990, the institute had matured into an academy. Aptly enough, it was renamed "Yashwantrao Chavan Academy of Development Administration" (YASHADA), as a tribute to the pioneering spirit of the late Shri. Y. B. Chavan, former Chief Minister of Maharashtra and Deputy Prime Minister of India, who had inspired the setting up of the ASC. Incidentally the acronym 'YASHADA' means the provider of success. YASHADA endeavours for success of Development Administration in the State.

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- ❑ Center for Infrastructure Development (CIM)
- ❑ Center for Human Development (CHD)
- ❑ Center for Public Policy (CPP)
- ❑ Center for Media and Publication (CMP)

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While all efforts have been made to make this reading material handbook as accurate and elaborate as possible the information given in this Handbook is merely for reference and guidelines other than the Text of Right to Information Act, 2005 and Rules there under must not be taken as binding in any way. This Handbook is intended to provide guidance to the readers. It cannot be a substitute for the Act and the Rules made there under.

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PREFACE

A revolutionary piece of legislation, Right to Information Act came into force on 12th October, 2005. This Act empowers the citizens of our country to actively participate in the governance of the society and give a befitting reply to corruption. RTI Act enables the common man to closely monitor the functioning of all the departments under the purview of either the Central or State government or any other body which is created as per Constitution of India or by an Act of Parliament or Act of State legislature. Even the private organizations who are not directly under the purview of the RTI Act have some obligations.

YASHADA, Pune an apex training Institute of state of Maharashtra has always been on the forefront of capacity building of all stakeholders of Right to Information Act right since March 2004. YASHADA has set up a special cell for RTI. This Cell is presently under our Center for Public Policy and had been instrumental in working as National Implementing Authority in Capacity Building for Access to Information Project (CBAI) in partnership with DoPT Government of India, Center for Good Governance, Hyderabad and UNDP.

Center for Right to Information has developed variety of reading material and designed number of courses for capacity building of various stakeholders including a 3 month duration Distance Course in Right to Information open for all.


Section 26(2) of Right to Information Act mandates preparing of Handbooks by Appropriate Government for empowerment of all stakeholders. Yashada took initiative in bringing out handbook and reading material both in English and Marathi languages.

A Handbook on Right to Information was first prepared and published as reading resource for trainers, officers and readers immediately when the Right to Information Act 2005 came into force in October 2005. This was revised during Capacity Building for Access to Information Project (CBAI) in December 2009 and it was well received by all readers and stakeholders.

I am very happy to share this Handbook as reading material for capacity building of officers and employees working for Right to Information Act 2005. This Handbook is a brief manual of principles, practice and procedures to be adopted by officers while implementing this Act. This is updated and revised taking into account all guidelines issues by DoPT the nodal department responsible for implementation of RTI Act in India.

This revised Handbook is a result of efforts and handwork of all Officers and staff who have worked in RTI Cell since its inception and those who are presently working in Center for Right to Information. I hope this Handbook will be a very useful resource for all readers.

Pune
2nd January 2012


(Dr. Sanjay Chahande)
Director General

Acknowledgement

This handbook has been prepared and revised by Center for Right to Information at Yashwantrao Chavan Academy of Development Administration (YASHADA), Pune. The Centre for Right to Information team comprised :

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1.1 Introduction

- 1.1.1 The basic object of the Right to Information Act is to empower the citizens, promote transparency and accountability in the working of the Government, contain corruption, and make our democracy work for the people in real sense. The Act has created a practical regime through which the citizens of the country may have access to information under the control of public authorities.
- 1.1.2 The citizen of the country should know what is Right to Information under the Act. A citizen has a right to seek such information from a public authority which is held by the public authority or which is held under its control. This right includes inspection of work, documents and records; taking notes, extracts or certified copies of documents or records; taking certified samples of material held by the public authority or held under the control of the public authority.
- 1.1.3 A citizen can ask for information which already exists with the public authority. The public authority under the RTI Act is not supposed to create information; or to interpret information; or solve the problems raised by the applicants; or to furnish replies to hypothetical questions. This needs to be clearly understood by the citizen.
- 1.1.4 The citizen shall ordinarily be provided information in the form in which it is sought. However, if the supply of information sought in a particular form would disproportionately divert the

resources of the public authority or may cause harm to the safety or preservation of the records, supply of information in that form may be denied.

1.2 Exemptions from Disclosure

- 1.2.1 Sections 8 and 9 of the Act enumerate the categories of information which are exempt from disclosure. At the same time Schedule II of the Act contains the name of the Intelligence and Security Organizations which are exempt from the purview of the Act. The applicants may abstain from seeking information which is exempt under Sections 8 and 9, also from the organizations included in the Second Schedule, except information relating to allegations of corruption and human rights violations.

1.3 How to apply for information

- 1.3.1 Application for seeking information should be made to an officer of the public authority who is designated as Public Information Officer (PIO). There is no prescribed form of application for seeking information. The application should, however, contain the name of the applicant and his complete postal address. Application may be sent without specifying the name of the PIO at the address of the public authority.
- 1.3.2 If a citizen is unable to make a request in writing, he may seek the help of the PIO to write his application.
- 1.3.3 A citizen who desires to obtain any information under the Act, should make an application in writing in English or Hindi or in the official language of the area in which the application is made. The

applicant can send his application by post or through electronic means or can even deliver it personally in the office of the public authority. The application can also be sent through a Central Assistant Public Information Officer appointed by the Department of Post at sub-divisional level or other sub-district level.

1.3.4 Most importantly, the applicant is not required to give reasons for seeking information.

1.4 Fee for procuring Information

1.4.1 The citizen, along with the application, should send application fee in the form of a demand draft or a banker's cheque or an Indian Postal Order of Rs. 10/- (Rupees ten), payable to the Accounts Officer of the public authority. The payment of fee can also be made by way of cash against proper receipt.

1.4.2 The applicant may also be required to pay further fee towards the cost of providing the information, as intimated to the applicant by the PIO as prescribed by the Right to Information (Regulation of fee and cost) Rules, 2005. Rates of fee as prescribed in the Rules are given below:

- (a) rupees two (Rs.2/-) for each page (in A-4 or A-3 size paper) created or copied;
- (b) actual charge of cost price of copy in larger size paper;
- (c) actual cost or price for samples of models;
- (d) for inspection of records, no fee for the first hour; and a fee of rupees five (Rs.5/-) for each subsequent hour (or fraction thereof);

(e) for information provided in diskette or floppy rupees fifty (Rs.50/-) per diskette or floppy; and

(f) for information provided in printed form at the price fixed for such publication or rupees two per page of photocopy for extracts from the publication.

These rates may vary for public authorities under State Governments.

1.4.3 If the citizen belongs to below poverty line (BPL) category, he is not required to pay any fee. The application not accompanied by the prescribed fee of Rs. 10/- or proof of the applicant's belonging to below property line, as the case may be, shall not be a valid application under the Act and therefore, does not entitle the applicant to get information.

1.5 Disposal of Request

1.5.1 The PIO is required to provide information to the applicant within thirty days of the receipt of a valid application. If the information sought for concerns the life or liberty of a person, the information shall be provided within forty-eight hours of the receipt of the request. If the PIO is of the view that the information sought for cannot be supplied under the provisions of the Act, he would reject the application. However, while rejecting the application, he shall inform the applicant the reasons for such rejection and the particulars of the appellate authority. He would also inform the applicant the period within which appeal may be preferred.

1.5.2 If an applicant is required to make payment for obtaining information, in

addition to the application fee, the Public Information Officer would inform the applicant about the details of further fees along with the calculation made to arrive at the amount payable by the applicant. The PIO is under no obligation to make available the information if the additional fee intimated by him is not deposited by the applicant.

- 1.5.3 If the PIO fails to convey decision on the request for information within the period of thirty days or forty-eight hours, as the case may be, the information may be deemed to have been refused.

1.6 First Appeal

- 1.6.1 If the citizen is not supplied information within the prescribed time of thirty days or 48 hours, as the case may be, or is not satisfied with the information furnished to him, he may prefer an appeal to the first appellate authority who is an officer senior in rank to the PIO. Such an appeal should be filed within a period of thirty

days from the date on which the limit of 30 days of supply of information is expired or from the date on which the information or decision of the PIO is received. The appellate authority is required to dispose of the appeal within a period of 30 days (or 45 days in exceptional cases) of the receipt of appeal.

1.7 Second Appeal

- 1.7.1 If the appellate authority fails to pass an order on the appeal within the prescribed period or if the appellant is not satisfied with the order of the first appellate authority, he may prefer a second appeal with the Information Commission within ninety days from the date on which the decision should have been made by the first appellate authority or was actually received by the appellant.
- 1.7.2 The rules framed under the Act details out the procedure for preferring the appeal and also the documents to accompany the appeal.



2.1 Definition:

2.1.1 "Public Authority" is defined in Sec. 2 (h) of the Right to Information Act, 2005 which reads: "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.

2.1.2 It is an umbrella term covering all those owned, controlled or substantially financed and also NGOs substantially financed directly or indirectly by the concerned government.

2.2 Criteria for determination

2.2.1 The first important step in the implementation of the Act is to determine which is a public authority and which is not. The definition given in the Act (Sec 2(h)) is very exhaustive and covers virtually all the organizations / bodies / institutions.

2.2.2 Public authorities could be at various levels:

- At State/Secretariat level
- At District level
- At Sub-district and cutting edge level.

2.2.3 Separate identity determines the number of public authorities and not their size.

2.2.4 Some of the bodies, authorities and institutions themselves may not

genuinely be aware that they come under the category of 'public authority'. Therefore, even though the Act does not specifically mention, it is in the fitness of things that the departments should identify and publish the full list of public authorities. Such list will require to be updated also.

2.2.5 The Government of India (Department of Personnel and Training) has accepted the following recommendations made by the Second Administrative Reforms Commission:

(i) At the Government of India level, the Department of Personnel and Training has been identified as the nodal department for implementation of the RTI Act. This nodal department should have a complete list of all Union Ministries/Departments, which function as public authorities.

(ii) Each Union Ministry/Department should also have an exhaustive list of all public authorities, which come within its purview. The public authorities coming under each Ministry/Department should be classified into (i) constitutional bodies (ii) Line agencies (iii) statutory bodies (iv) public sector undertakings (v) bodies created under executive orders (vi) bodies owned, controlled or substantially financed and (vii) NGOs substantially financed by the Government. Within each category an up-to-date list of all public authorities has to be maintained.

(iii) Each public authority should have the details of all public authorities subordinate to it at the immediately next level. This should continue till the last level is reached. All these details should

be made available on the websites of the respective public authorities, in a hierarchical form.

- (iv) A similar system should also be adopted by the states.

2.3 Public Authority-The main Facilitator

2.3.1 Public authorities are the repository of information which the citizens have a right to have under the Right to Information Act, 2005. The Act casts important obligations on public authorities so as to facilitate the citizens of the country to access the information held under their control. The obligations of a public authority are basically the obligations of the head of the authority who should ensure that these are met in right earnest.

2.3.2 There is no mention in the Act about who should declare public authorities. Particularly, regarding those organizations which disclaim to be public authorities. Logically, Appropriate Government, as defined in S.2(a), should publish a list of public authorities that come under the purview of the Act, but there is no provision of 'Declaration' by the Government. Even Information Commission is not empowered to 'declare' list of public authorities under the law. The Act envisages that a public authority will identify itself as public authority and comply with the provisions of the Act. In case it doesn't happen, citizens can use tool given by S.18 i.e. Complaint to Information Commission. One of the grounds mentioned in S.18, is regarding not appointing Central or State Public Information Officer.

2.3.3 The 'Appropriate Government' needs to

clarify particularly on two terms mentioned in the definition clause of the Act namely,

1. 'Controlled' and
2. 'Substantially

Unless and until the 'Appropriate Government' clarifies these two terms, the issue of coverage of the Act in terms of definition of 'Public Authority' cannot be resolved. Further, it is linked with proactive disclosure under section-4 also because; the organizations, which are not publishing their information under section-4, are doing so on the ground that they are not covered under these two terms.

2.4 Obligations of Public Authority

2.4.1 Sections 4 and 5 of the RTI Act lists various obligations cast on the public authorities. The Act casts these obligations on the public authorities so as to facilitate the reach of people to information held by them.

2.4.2 Sec. 4(1)(b) of the Act lists information to be proactively published by public authorities. This list is comprehensive and broad. The Act clearly expresses that it shall be a constant endeavour of every public authority to take steps in accordance with the requirement of Sec. 4(1)(b) to provide as much information suo-moto 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. However, proactive publication of information itself may generate more and different requests for information

2.4.3 Section 4(1)(b) of the Act, in particular, requires every public authority to publish following sixteen categories of information :

1. the particulars of its organizations, functions and duties;
2. the powers and duties of officers / employees;
3. the procedure followed in decision making process, including channels of supervision and accountability;
4. the norms set by it discharge of functions;
5. the rules, regulations, instructions, manuals, records held by it or under its control or used by its employees for discharging its functions;
6. a statement of categories of documents that are held by it or under its control;
7. 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 thereof;
8. a statement of 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 are accessible for the public;
9. directory of officers and employees;
10. the monthly remuneration received by each of its officers and employees, including the system of compensation as provided in its regulations
11. the budget allocated to each of its agency, indicating the particulars of all plans, proposed expenditures and reports on

disbursements made

12. the manner of execution of subsidy programmes, including the amounts allocated and the details of beneficiaries of such programmes;
13. particulars of recipients of concession, permits or authorizations granted by it;
14. details in respect of the information, available to or held by it, reduced in an electronic form;
15. 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
16. the names, designations and other particulars of the Public Information Officers;

2.4.4 Besides the categories of Information enumerated above, the appropriate Government may prescribe other categories of information to be published by any public authority. It need be stressed that publication of the information as referred to above is not optional. It is a statutory requirement which every public authority is bound to meet

2.4.5 An another important point to note is that it is not sufficient to publish the above information once. The public authority is obliged to update such information every year. It is advisable that, as far as possible, the information should be updated as and when any development takes place. Particularly in case of publication on the internet, the information should be kept updated all the time.

2.4.6 The fact that the public authority proactively publishes information and a comprehensive list is included for this purpose in the Act, it does not prevent the

public authority from carrying on its existing publishing activities like bringing out periodicals, annual reports etc. In other words, there is no need to 'reinvent the wheel' again. The public authorities may continue with their existing activities of publishing information with them and add what has been further provided under the Act.

- 2.4.7 All such printed material should continue to be made available to the public, if necessary, at a price.
- 2.4.8 For various areas of information listed out in the Act [Sec. 4(1)(b)], for easy reference and for uniformity, a set of templates were prepared and circulated. (Annexed to the Handbook) The templates were prepared for guidance. However, the public authorities may consider and determine their own formats as per their suitability and the nature of functions performed by them.
- 2.4.9 The public authority should widely disseminate the information. Dissemination should be done in such form and manner which is easily accessible to the public. It may be done through notice boards, newspapers, public announcements, media broadcast, the internet or other means. The public authority should take into consideration the cost effectiveness, local language and the most effective method of communication in the local area while disseminating the information

2.5 Publication of facts about policies and Decisions

- 2.5.1 Public authorities formulate policies and take various decisions from time to time. As provided in the Act, while formulating

important policies or announcing decisions affecting the public, the public authority should publish all relevant facts about such policies and decisions for the information of public at large.

- 2.5.2 The public authorities take various administrative and quasi-judicial decisions, which affect the interest of certain persons. It is mandatory for the concerned public authority to provide reasons for such decisions to the affected persons. It may be done by using appropriate mode of communication.

2.6 Records Management

- 2.6.1 The very first activity highlighted under the operational part of the Act requires public authorities to "ensure that all records that are appropriate to be computerized are, within a reasonable time and subject to availability of resources, computerized and connected through a network all over the country on different systems so that access to such records is facilitated" [Sec.4(1)(a)].
- 2.6.2 In the above context, it is pertinent to point out the observation of the Second Administrative Reforms Commission, that the weakest link in the information system is the neglect of record keeping. The ARC has recommended that, as a one time measure, the Government of India should earmark 1% of the funds of all Flagship programmes for a period of five years for updating records, improving infrastructure, creating manuals and establishing the Public Records Offices. The Department of Personnel and Training, therefore requested all the public authorities to update their records, improve their infrastructure and bring out



necessary manuals from within their resources. The Department advised the public authorities to make specific budgetary provision for the purpose as per their requirement.

- 2.6.3 The provisions of the Act do not necessitate review of existing retention periods for different categories of records. What is required perhaps is proper cataloging and indexing of records.

2.7 Identification and Designation of PIOs /APIOs

- 2.7.1 The public authorities are required under Sec. 5(1) to designate, within 100 days w.e.f. 15th June, 2005 as many officers as Central PIOs or State PIOs as the case may be, in all their administrative units and offices.

- 2.7.2 Every public authority is required to designate Public Information Officers in all administrative units or offices under it and to publish the details of the PIOs. Every public authority is also required to designate Assistant Public Information Officers at each sub-divisional level. The Government decided that Central Assistant Public Information Officers (CAPIOs) appointed by the Department of Posts would act as the CAPIOs for all the public authorities under the Government of India.

- 2.7.3 The sub-section (1) of Section 5 of the Act mandates all public authorities to designate as many Public Information Officers as necessary to provide information under the Act. The Second Administrative Reforms Commission has observed that where a public authority designates more Public Information

Officers (PIO), an applicant is likely to face difficulty in approaching the appropriate Public Information Officer, and the applicants would also face problem in identifying the officer senior in rank to the PIO i.e Appellate authority to whom an appeal under sub-section (1) of Section 19 of the Act can be made. The commission has, inter-alia, recommended that all Ministries/Departments/ Agencies/ Offices with more than one PIO, should designate a Nodal Officer with the authority to receive requests for information on behalf of all PIOs.

- 2.7.4 The DOPT has, therefore, requested that all public authorities with more than one PIO should create a central point within the organization where all the RTI applications and the appeals addressed to the first Appellate Authorities may be received. An officer should be made responsible to ensure that all the RTI applications/appeals received at the central point are sent to the concerned PIOs/Appellate Authorities, on the same day.

- 2.7.5 There cannot be a standard scale for the number of PIOs. The Number and level of officers designated as PIOs would vary from authority to authority.

- 2.7.6 Since the PIOs are the custodians of the right to information, the level of officers to be designated assumes greater importance. If they are relatively senior officers then they can take quick decisions and are not hesitant in providing information. As against the above, if PIOs are relatively junior officers, they may not be able to take proper decision on the admissibility or otherwise of the request received for information.

2.7.7 There can not be a readymade solution to the level of officers to be designated as PIOs. There has to be balancing act and decision may be taken by the concerned public authority.

2.7.8 When an officer is designated at sub-divisional level or sub-district level, such an Officer would be known as 'Central Assistant Public Information Officer' or 'State Assistant Public Information Officer' as the case may be. The APIOs would, inter alia, receive applications for Information and forward the same to the concerned PIOs for further action on them. The concerned public authority has to take a conscious decision whether it really needs to appoint APIO(s).

2.7.9 Since the government officers may be transferred from time to time, it may be better to designate the PIOs by designation rather than by names.

2.8 Appellate Authority

2.8.1 The public authority also has important function of appointing Appellate Authority. It also needs to provide necessary support to them in taking consistent decisions.

2.8.2 The Appellate Authority is an officer 'senior' in rank to the PIO. Generally, such Authority may be an officer immediately above the PIO and is fully conversant with the work of the organization and the subjects dealt with by it. The public authority could also help the Appellate Authority in discharge of his duties under the Act by developing guidance notes, process manuals etc. (DoPT, for instances, has prepared guide for the Appellate Authorities)

2.8.3 The number of Appellate Authorities could be smaller as compared to the number of PIOs. An Appellate Authority could easily meet the requirement of a number of PIOs and facilitate the discharge of their duties under the Act.

2.8.4 Keeping the nature of responsibility assigned under the Act and the structure of the organisation itself, each and every public authority has to determine the number of senior officers to be designated as Appellate Authority and also the levels at which they are identified, and designated as such.

2.8.5 A question arises whether the head of the organization himself can be the Appellate Authority. It is not defined whether it could be done. However, there are certain advantages if the head of the public authority is the Appellate Authority.

- (1) He knows the organisation fully.
- (2) He would have compassion for citizen at his level.
- (3) He would be the best judge to assess the requirements of the public.
- (4) He can report to the department the correct picture.
- (5) He would have first hand knowledge of the operation of the Act with in his organisation.

2.9 Transfer of Applications

2.9.1 It was brought to the notice of the Department of Personnel and Training that PIOs of some public authorities transfer the applications received under the Act to the Prime Minister's office in a routine manner when there is a mention of the Prime Minister or the Prime Minister's Office in the application. The PIO receiving the application should carefully



see the subject matter in the RTI application and transfer it, if need be, to the concerned public authority and not to the PMO simply because the applicant has made reference to the PM or PMO. The information in such cases would be available with the concerned public authority and not with the PMO.

- 2.9.2 The Act provides that if an application is made to a public authority requesting for an information, which is held by another public authority, or the subject matter of which is more closely connected with the functions of another public authority, the public authority, to which such applications is made, shall transfer the application or the relevant part of it to the other public authority within five days from the receipt of the application. The public authority should sensitize its officers about this provision of the Act least the public authority is held for delay.

2.10 Acceptance of Fees

- 2.10.1 According to the Act (Regulation of Fee and Cost) Rules, 2005 as amended from time to time an applicant can make payment of fee in cash or by demand draft or banker's cheque or Indian Postal Order payable to the Accounts officer of the public authority. The public authority should ensure that payment by any of the above modes is not denied or the applicant is not compelled to draw IPO etc. in the name of any officer other than Accounts Officer. If the public authority does not have any Accounts Officer, an officer may be designated as such for the purpose of receiving fee under the rules.
- 2.10.2 The information to the applicant, to the extent possible, has to be in the form,

which is easily understandable to him. However, the Act does not deal with the cost of translation of the material to be provided. The information provided to a citizen becomes more meaningful to him if the same is given in the regional language. The cost involved, if any, on translation cannot be included for computation of fees to be charged. This could pose a problem over a period of time to the public authorities and also the citizens.

- 2.10.3 The public authority should prepare and circulate general guidelines for determining fees to be charged from the public seeking information.

2.11 Accounting procedure for the fees collected

- 2.11.1 Fees are collected from the public requesting for information at two stages:
- A request for obtaining information under Sec. 6 (1) is accompanied by application fee.
 - When information is provided under Sec. 7(1) fee as determined is charged.
- Such collected fee amount has to be properly accounted for.
- 2.11.2 Again fee may be collected by way of cash, demand draft, banker's cheque, postal orders. The 'appropriate' Government may decide to confine to the four ways indicated by Central Government or delete/add any other mode. Suffice is to say that the citizen should find it simpler to adopt the procedure and travel cost should be minimum.
- 2.11.3 The amount collected in cash may require to be deposited with the treasury through

challan with out delay. Otherwise a separate account has to be opened with a Bank for depositing cash, demand draft and bankers cheque. At the end of the specified period consolidated statement has to be prepared for monitoring purpose.

- 2.11.4 The 'appropriate' Government has to decide the modality and make necessary rules to be followed by the public authorities. An important activity to be initiated by the 'appropriate' Government would be to create separate budget heads for receiving the fee amounts, properly depositing in the appropriate Government account and also consolidating.

2.12 Guidelines for Information Officers

- 2.12.1 The public authority may issue a functionary manual for Public Information Officers and Assistant Public Information Officers.
- 2.12.2 A simplified "Dos and Dont's" in local language could be prepared by public authority which could be used as a check list by the PIOs and by the APIOs.
- 2.12.3 To the extent feasible, information may be converted and to put in electronic form by the public authority. All the PIOs and APIOs may have access to computer facility and adequate training in use of computers for retrieval of information.

2.13 Non-Applicability of the Act to certain Organisations

- 2.13.1 As per the provisions of the Sec. 24(1) of the Act, the Act does not apply to certain intelligence and security organisations as specified in the Second Schedule to the Act. These are the organisations established by the Central Government

and the information furnished by them to the Government also does not come under the purview of the Act.

- 2.13.2 Similarly the Act would not apply to such intelligence and security organisations, if set up by the state Government and specified by the state Government by notification in the Official Gazette. However, any information pertaining to the allegation of corruption and human rights violation shall not be excluded even for such organisations.

2.14.1 Compliance with the orders of CIC

- 2.14.1 While deciding an appeal, the Central / State Information Commission, may require the concerned public authority to take such steps as may be necessary to secure compliance with the provisions of the Act. In this regard the Commission may pass an order to provide information to an applicant in a particular form; appoint a Public Information Officer; publish certain information or categories of information; make necessary changes to its practices in relation to the maintenance, management and destruction of records; enhance the provision of training for its officials; provide an annual report as prepared in compliance with clause (b) of subsection (1) of Section 4 of the Act.
- 2.14.2 The Commission has power to pass orders requiring a public authority to compensate the complainant for any loss or other detriment suffered by him. It also has power to impose penalty on the Public Information Officer as provided in the Act. It may be noted that penalty is imposed on the Public Information Officer, which is to be paid by him.

However, the compensation, ordered by the Commission to be paid to an applicant would be paid by the public authority.

2.14.3 The decisions of the Commission are binding. The public authority should ensure that the orders passed by the Commission are implemented. If any public authority is of view that an order of the Commission is not in consonance with the provision of the Act, it may approach the High Court by way a Writ Petition.

2.15 Material for the Annual Report of the CIC/SIC

2.15.1 The Central Information Commission, at the end of each year, is required to prepare a report on the implementation of the provisions of the Act during that year. Each Ministry or department is required, in relation to the public authorities within its jurisdiction, to collect and provide information to the Central Information Commission for preparation of the report. The report of the commission, inter-alia, contains following information 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 request, the provisions of the Act under which these decisions were made and the number of times such provisions were invoked;
- (c) particulars of any disciplinary action taken against any officer in respect of the administration of the Act;
- (d) the amount of charges collected by each public authority under the Act; and

(e) any fact which indicates an effort by the public authorities to administer and implement the spirit and intention of the Act.

2.15.2 Every public authority should send necessary material to its administrative Ministry/Department soon after the end of the year so that Ministry/Department may send the information to the Commission and the Commission may incorporate the same in its report.

2.15.3 If it appears to the Central/State Information Commission that a practice of a public authority in relation to the exercise to its functions under the Act does not conform with the provisions or spirit of the Act, it may give a recommendation to the authority specifying the steps ought to be taken form promoting such conformity. The concerned public authority should take necessary action to bring its practice in conformity with the Act.

2.16 Development of Programmes

2.16.1 It is expected of each public authority that it would develop and organize educational programmes to advance the understanding of the public, in particular of disadvantaged communities, as to how to exercise the rights contemplated under the Act; and ensure timely and effective dissemination of accurate information about their activities. Training of Public Information Officers and other Officers of a public authority is very important for meeting these expectations and effective implementations of the provisions of the Act. The public authorities should, therefore, arrange for training of their officers designated as Public Information

Officer/First Appellate Authority and other officers who are directly or indirectly involved in the implementation of the provisions of the Act.

2.17 Non-Implementation of various provisions of the RTI Act

2.17.1 It has been brought to the notice of the Department of Personnel & Training that;

- 1) Some public authorities have not designated Public Information Officers and/ or Assistant Public Information Officers under the Act so far,
- 2) Some public authorities do not accept fee by way of Indian Postal Orders;
- 3) Some public authorities do not accept demand drafts/bankers cheques/Indian Postal Orders drawn in the name of their Accounts Officer and insist that these should in name of Drawing and Disbursing officer or the Under Secretary or the Section Officer etc; and
- 4) Some public authorities do not accept applications submitted by the applicant and insist that applications for seeking information should be submitted in a particular format prescribed by them.

2.17.2 In view of this, the Department of Personnel & Training has desired all the public authorities may ensure that;

- 1) Central Public Information Officers/ Central Assistant Public Information Officers are designated immediately, if it

has not been done so far. Details of these officers may also be posted on the website;

- 2) Fee paid by any of the modes prescribed in the Rules including by way of Indian Postal Order is accepted;
- 3) Demand draft/Banker's Cheques/IPOs made payable to the Account Officer of the public authorities are accepted; and
- 4) Applications submitted by the applicants are not refused on the ground that it has not been submitted in prescribed format.

2.18 SUM-UP

2.18.1 To sum-up, the RTI Act stipulates that every public authority shall :

Maintain all its record catalogued, indexed, computerized and connected through network [Sec.4(1)(a)].

Proactively disclose stipulated information [Sec.4(1)(b),(c)and (d)]

Provide information suo motto at regular intervals and disseminate the same widely.[Sec.4(2),(3) and (4)]

Designate Public Information Officers and Asstt. Public Information Officers [Sec.5(1) and (2)]

Make information accessible with Public Information Officers.[Sec.4 (4)]

Implement the decisions of the Information Commission which are binding under Sec.19(7).



3.1 Duties and responsibilities

- 3.1.1. The Right to Information Act, 2005 empowers citizens to get information from any 'public authority'. The Public Information Officers (PIOs) of a public authority plays a pivotal role in making the right of a citizen to information a reality. The Act casts specific duties on him and makes him liable for penalty in case of default. It is, therefore, essential for a PIO to study the Act carefully and understand its provisions correctly. Public Information Officers (PIOs), at Central and State level, as the case may be are designated in all administrative units and offices of public authority to provide information to persons requesting for the information under the Act.
- 3.1.2 Assistant Public Information Officers (APIOs) are designated at each sub-divisional/sub -district level to receive applications and appeals for passing them on to the concerned PIOs and Appellate Authority respectively. This ensures that the public can apply for information in their own local areas.
- 3.1.3 The Department of Personnel and Training has advised all the organizations specified in the second schedule of the RTI Act, 2005 (intelligence and security organizations) to designate PIOs early, if it has not already been done. These organizations were also advised by the DoPT to specify the first Appellate Authorities within the organization and publish the details of the PIOs and the Appellate Authorities.
- 3.1.4 The PIOs are expected to deal with the

requests for information and also provide 'reasonable' assistance to those needing the same.

- 3.1.5 The PIO may seek the assistance of another officer for the discharge of his/her duties. In such eventuality, the other officer would be treated as PIO (Deemed PIO), under Sec 5 (5) of the Act. According to the Act, however, it is the responsibility of the officer who is designated as the PIO by the public authority to provide information to the applicant or reject the application for any reasons specified in Sections 8 and 9 of the Act. The Act enables the PIO to seek assistance of any other officer to enable him to provide information to the information seeker, but it does not give him authority to designate any other officer as PIO and direct him to send reply to the applicant. The import of subsection (5) of Section 5 is that, if the officer whose assistance is sought by the PIO, does not render necessary help to him, the Information Commission may impose penalty on such officer or recommend disciplinary action against him the same way as the Commission may impose penalty or recommend disciplinary action against the PIO.
- 3.1.6 The Public Information Officer's duties include:
- Dealing with the requests from persons seeking information and where the requests cannot be made in writing, to render reasonable assistance to reduce the same in writing.
 - If the information requested for is held by or is a subject matter closely connected

with the functions of another authority, the PIO shall transfer, within 5 days, that request to the other public authority and inform the applicant immediately.

- The Public Information officers may seek the assistance of any other officer as he or she considers necessary for the proper discharge of his or her duties. The officer, whose assistance is so sought by the PIO, would render all assistance to him. Such an officer shall be deemed to be a Public Information Officer and would be liable for contravention of any provisions of the Act the same way as any other Public Information Officer. It would be advisable for the PIO to inform the officer whose assistance is sought, about the above provision, at the time of seeking his assistance.
- PIO, on receipt of the request, shall as expeditiously as possible, and in any case within 30 days of the receipt of the request, either provide the information on payment of such fee as may be prescribed along with the application or reject the request for any of the reasons specified in Sections 8 or 9.
- Where the information requested concerns the life or liberty of a person, the same shall be provided within 48 hours of the receipt of the request.
- Where a request has been rejected, the PIO shall communicate to the applicant, the reasons for such rejection, the period within which the appeal against such rejection may be preferred, and the particulars of the Appellate Authority.
- PIO shall provide information in the form in which it is sought unless it would be

disproportionately divert the resources of the public authority or would be detrimental to the safety or preservation of the record in question.

- In allowing partial access, the PIO shall give a notice to the applicant, informing:
 - 1) That only part of the record, after severance of the record containing information which is exempted from disclosure, is being provided.
 - 2) The reasons for the decisions, including any findings on any material, question of fact, referring to the material on which those findings were based.
 - 3) The name and designation of the person giving the information.
 - 4) The details of the fees calculated and the amount of fee which the applicant is required to deposit etc.
 - If information sought has been supplied by third party and the same is treated as confidential by that third party, the PIO shall give a written notice to third party within 5 days from the receipt of the request and take its representation into consideration.
 - Third party must be given a chance to make a representation before the PIO within 10 days from the date of receipt of such notice.
- ### 3.2 Onus on the PIO
- 3.2.1 Total onus rests with the PIO in providing the information sought within the stipulated period. He is the interface between the citizen and the organisation.
- 3.2.2 The applicant could be aggrieved
- (i) in the way the information is provided;



- (ii) the reasons for rejection of the application;
- (iii) time involved in the supply of requisite information;
- (iv) the quantum of amount charged as fees for supplying the information.

He can, thus, go in appeal to the Appellate Authority and later, if still not satisfied, to the Information Commission in second appeal.

3.2.3 An applicant under the Act has a right to appeal to the Information Commission and also to make complaint to the Commission. Where the Information Commission at the time of deciding any complaint or appeal is of the opinion that the Public Information Officer has without any reasonable cause, refused 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 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 subject to the condition that the total amount of such penalty shall not exceed twenty-five thousand rupees. The Public Information Officer shall, however, be given a reasonable opportunity of being heard before any penalty is imposed on him. The burden of proving that he acted reasonably and diligently and in case of denial of request that such denial was justified shall be on the Public

Information Officer.

3.2.4 Section 21 of the Act provides that 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 the Act or any rule made thereunder. A PIO should however, note that it would be his responsibility to prove that his action was in good faith. The burden is on the PIO to prove that he acted reasonably and diligently, before the Information Commission. He has to support the same with documentary evidence.

3.3 Understanding of the Information

3.3.1 'Information' means any material in any form including records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, log-books, contracts, reports, 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.

3.3.2 The word 'material' is all inclusive term. The Act provides total and complete right to 'information' and not to 'records' or 'documents' only. It permits the Public to inspect public works and also take samples of material. A citizen has a right to seek such information from a public authority which is held by the public authority or which is held under its control. This right includes inspection of work, documents and records; taking notes, extracts of certified copies of documents or record; and taking certified samples of material held by the public

authority or held under the control of the public authority.

- 3.3.3 A citizens has a right to get the material, inspect the material, take notes from the material, take extracts or certified copies of the material, take samples of the material, take the material in the form of diskettes etc. The PIO is required to supply such material to the citizen who seeks it. The Act, however, does not require the Public Information Officer to deduce some conclusion from the 'material' and supply the 'conclusion' so deduced to the applicant. The PIO is required to supply the 'material' in the form as held by the public authority and is not required to do research on behalf of the citizen to deduce anything from the material and then supply it to him.
- 3.3.4 Any information which cannot be denied to the Parliament or the State Legislature has to be provided by the PIO to the person seeking that information. The Act gives the right to information at par with the Members of Parliament and the Members of State Legislatures.
- 3.3.5 Except in the case of trade or commercial secrets, protected by law, the PIO may allow disclosures to the public, if the interest in the disclosure outweighs in importance any possible harm or injury to the interests of the third party.
- 3.3.6 It was clarified by the Department of Personnel & Training (Vide OM No. 1/20/2008-IR dated 23.6.2009) that file noting can be disclosed by the PIO except file noting containing information exempt from disclosure under Section 8 of the Act.

3.4 Getting set

- 3.4.1 The Public Information Officer is the most important functionary in the scheme of things. Virtually, the responsibility of the success of the Right to Information Act rests on him.
- 3.4.2 The PIOs should be ready with the following:
- Information available electronically.
 - Information proactively published by the public authority.
 - Full details of the organisation.
 - The details of the Appellate Authorities.
 - The contact details of the other PIOs and APIOs.
 - Proforma of the receipt of the application.
 - The forms for receipt of fees and Acknowledgement.
 - Proper seating arrangements for easy accessibility.
 - Register for receipt, acknowledgements- separately for inward and outward and roznama.
 - Checklist for monitoring the pendency, disposal of the applications.
 - Identify place for inspection of records/ taking samples
 - Fix a day in the week for the above.
 - Ready with the contingency plan.

3.5 Procedure and steps involved

- 3.5.1 Procedure to be followed by the Public Information Officer right from the stage of receipt of application for information till the disposal involves a number of steps. The time stipulated for completing these steps are : 30 days for providing information or for rejection or for



providing partial information/organize inspection of the material/sample etc.; 35 days from the time of application is received by the Asst PIO and finally disposed off; 40 days if a third party is involved.

3.5.2 Procedural channel may briefly be indicated as:

1. PIO receives application along with the application fee.
2. PIO scrutinizes the application received and the fees.
3. If required he renders reasonable assistance to the applicant by reducing the oral request in writing.
4. Issues acknowledgement/ receipt to the applicant.
5. Transfers the application / part of it to another public authority.
6. Informs the applicant about such transfers.
7. Makes necessary entries in the Special Register.
8. Considers the representations of the third party, if any.
9. In case of rejections, conveys reason for it, the period within which the appeal may be preferred and the details of the Appellate Authority.
10. Communicates to the applicant the fee amount to be paid along with its calculations.
11. Also intimates the right of the applicant for review the fees charged.
12. Wherever required provides assistance for inspection of the material.
13. Waives fees for citizens below 'Poverty line'/ information given beyond the

stipulated time period.

14. Retains record on each application, updates records etc.

3.5.3 The PIO also constantly keeps in view:

- The information which cannot be denied to the Parliament or the State Legislature should not be denied to any citizen

- Notwithstanding the exemptions permissible under the Act, access to information is allowed, if public interest in disclosure outweighs the harm to the protected interest.

- 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 upto twenty years before the date of the application has to be provided to the applicant.

- Access to information should not involve an infringement of copy right subsisting in a person other than the state.

3.6 Formats for use

3.6.1 In implementing the Act the concerned parties have to prepare formats for the different areas. If all the States could formulate common formats, it could help in easy checks and monitoring. They could be same or similar to those which the Central Government may develop for use by Central PIOs.

3.6.2 They would be required for application for information, formats for proactive disclosure, formats for directory of PIOs and APIOs, formats for Special Registers, formats for conveying rejections, formats for informing the quantum of fees, formats for conveying

the rights of the Public to appeal etc.

3.7 Dealings with the APIOs and other Departments.

- 3.7.1 The PIO has to keep in constant touch with the APIOs. The APIOs are there to avoid Public seeking information from the district, sub- district traveling to the place of posting of the PIOs. Where an application or an appeal is received by the APIO, a period of 5 days is added in computing the period for response. He does not directly deal with any of the applications.
- 3.7.2 The APIOs need to keep informed from time to time, the status of the application where information is provided, where information is denied, the fees charged and the basis for the same etc. along with the data on applications wherein the action taken has exceeded the prescribed time limit etc.
- 3.7.3 The formats for the various forms, registers etc could be improved upon over a period of time with due deliberations with the APIO's.
- 3.7.4 The PIO may transfer the requests for information either in total or partially to another organization/department as the subject matter pertains to the other department. Similarly Public Information Officer could get a request transferred to him from another organization/ department. In both the cases, a period of 5 days is added in computing the period of response.
- 3.7.5 The responsibility of the PIO does not cease when a request is transferred to another public authority, while

transferring he has to concurrently inform the applicant about the same. He would also require to keep a record of transfer in his outward register for future reference and monitoring.

- 3.7.6 The coordination between the two public authorities in such cases would also enable the concerned PIO to picture the correct position before the Appellate Authorities or Information Commission, as the case may be, when the applicant prefers appeal.

3.8 Right of the Citizen

- 3.8.1 With the Right to Information Act, 2005 in position disclosure is a rule and secrecy or exemption is an exception. The Act also enables principle of Human Right to be realized.
- 3.8.2 The Act confers a right to 'information' and not just 'records' or 'documents'. "Information" again stands for any material. It permits the inspection including taking of samples by a citizen.
- 3.8.3 An individual's right to privacy is protected in the Act. The privacy exemption included in the Act reflects underlying public interest in protecting personal privacy.
- 3.8.4 A citizen has a right to obtain an information in the form of diskettes, floppies, tapes, video cassettes or in any other electronic mode or through print-outs provided such information is already stored in a computer or in any other device from which the information may be transferred to diskettes etc.
- 3.8.5 The information to the applicant should ordinarily be provided in the form in



which it is sought. However, if the supply of information sought in a particular form would disproportionately divert the resources of the public authority or may cause harm to the safety or preservation of the records, supply of information in that form may be denied.

3.8.6 An applicant-making request for information is not required to give any reason for requesting the information or any other personal details except those that may be necessary for contacting him. Also, the Act or the Rules do not prescribe any format of application for seeking information. Therefore, the applicant should not be asked to give justification for seeking information or to give details of his job etc. or to submit application in any particular form.

3.8.7 The Act gives the right to information only to the citizens of India. It does not make provision for giving information to Corporation, Associations, Companies etc. which are legal entities/persons, but not citizens. However, if an application is made by an employee or office-bearer of any Corporation, Association, Company, NGO etc. indicating his name and such employee/office bearer is a citizen of India, information may be supplied to him/her. In such cases, it would be presumed that a citizen had sought information at the address of the Corporation etc.

3.8.8 Only such information is required to be supplied under the Act which already exists and is held by the public authority or held under the control of the public authority. The PIO is not supposed to

create information; or to interpret information; or to solve the problems raised by the applicants; or to furnish replies to hypothetical questions.

3.8.9 The High Court of Bombay at Goa in the writ petition No. 419 has held on 3.4.2008 that the term 'information' as defined in the Right to Information Act does not include answers to the question like 'Why'.

3.8.10 There could be situation where an applicant has multiplicity of questions in a single request. It could also be possible some of the questions may pertain to the areas allocated to other PIOs. Can he request the applicant to make more than one application and give them to the concerned PIOs and await responses from each one of them? The negotiating skill of the PIO, would play an important part to ensure that he does not become a mere 'Postman' and send copies of the request to others, await their responses for consolidation and then finally respond to the applicant

3.8.11 The PIO of the public authority to whom the application is transferred, should not refuse acceptance of transfer of the application on the ground that it was not transferred to him within 5 days.

3.8.12 Soon after receiving the application, the PIO should check whether the applicant has made the payment of application fee of Rs. 10 or whether the applicant is a person belonging to a Below Poverty Line (BPL) category. If application is not accompanied by the prescribed fee or the BPL Certificate, it cannot be treated as a valid application under the RTI Act and



may be ignored.

3.9 Types of help to be extended to the citizen

3.9.1 Every PIO is expected to deal with the requests from persons seeking information and render reasonable assistance to the person seeking such information. While providing information or rendering help to a person, it is important on the part of PIO to be courteous to the information seeker and to respect his dignity.

3.9.2 The help from the PIO could be in any form as below:

- Where a citizen is unable to make a request in writing the PIO will render assistance to the person making the request orally to reduce the same in writing;

- Where the information sought concerns the life or liberty of the a person the PIO will take all steps to provide the required information within 48 hours of receipt of such request.

- When the person to whom the access to record is to be provided is sensorily disabled, the PIO should provide assistance to enable access to the information, including such assistance appropriate for the inspection .

- The PIO will not charge fee for providing information to persons who are below the 'poverty line'

- When the right includes inspection of records, the PIO will reserve place and time for such inspection. Necessary arrangements have to be done to ensure the citizen can carry out the inspection

without any disturbance or distraction.

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

3.10 Time Frame

3.10.1 " Justice delayed is justice denied". Similarly, there should not be 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 applicant can prefer an appeal against it.

3.10.2 In the event of above, the Information Commission could impose a penalty. However, for the total amount of such penalty there is a ceiling. The Information Commission could also recommend disciplinary action against the PIO under the service rules applicable to him.

3.10.3 The time limits prescribed in regard to the supply of information etc. are :

- 30 days - On receipt of a request for information, the PIO has either to provide information of such fees as prescribed or reject the request with reasons for the same.

- 48 hours - If the information sought concerns the life or liberty of a person the same has to be provided immediately, in any case, within 48 hours.

- 5 days-Where PIO intends to disclose any information which relates to or has been supplied by a third party and has been treated as confidential by it, the PIO has to give a written notice to such third



party and to invite the third party to make a submission.

10 days - for third party to make a submission.

35 days - An additional 5 days are added if the application for information is received by the APIO.

35 days - Similarly an additional 5 days are added if the subject of the application pertains to another organization/department.

3.11 Exemptions

3.11.1 The information which, in normal course, is exempt from disclosure under sub-section (1) of Section 8 of the Act, would cease to be exempted if 20 years have lapsed after occurrence of the incident to which the information relates. However, the following types of information would continue to be exempt and there would be no obligation, even after lapse of 20 years, 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 the foreign State or lead to incitement of an offence.
- b) information, the disclosure of which would cause a breach of privilege of Parliament or State Legislature
- c) Cabinet papers including records of deliberations of the Council of Ministers, Secretaries and other officers, subject to the conditions given in proviso to clause (i) of sub-section of section 8 of the Act

3.11.2 Notwithstanding any of the exemptions listed in Section 8 (1) of the Act above a

public authority may allow access to information, if public interest in disclosure outweighs the harm to the protected interest.

3.11.3 The PIO can also 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.

3.11.4 Act also does not apply to the Intelligence and Security Organisations specified in Second Schedule to the Act. However, information pertaining to allegations of corruptions and human rights violation in these organizations is not excluded.

3.12 Third Party Information

3.12.1 Third Party in relation to the Act means a person other than the citizen who has made request for information. Any public authority other than the public authority to whom the request has been made shall also be included in the definition of third party.

3.12.2. If the information sought by the citizen pertains to a record or part thereof relates or has been supplied by the 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.

3.12.3 If the PIO intends to disclose the information, he should within five days from the receipt of the application, give a written notice to the third party that the information has been sought by the applicant under the RTI Act and that he intends to disclose the information. He should request the third party to make a submission in writing or orally, regarding

whether the information should be disclosed. The third party should be given a time of ten days, from the date of receipt of the notice by him, to make representation against the proposed disclosure, if any.

3.12.4 The Public Information Officer should make a decision regarding disclosure of the information keeping in view the submission of the third party. Such a decision should be taken within forty days from the receipt of the request for information. After taking the decision, the PIO should give a notice of his decision to the third party in writing. The notice given to the third party should include a statement that the third party is entitled to prefer an appeal under section 19 against the decision.

3.12.5 The third party can prefer an appeal to the First Appellate Authority against the decision made by the Public Information Officer within thirty days from the date of the receipt of notice. If not satisfied with the decision of the First Appellate Authority, the third party can prefer the second appeal to the Information Commission.

3.12.6 If an appeal has been filed by the third party against the decision of the PIO to disclose the third party information, the information should not be disclosed till the appeal is decided.

3.12.7 Except in the case of trade or commercial secrets protected by law, disclosures in such cases may be allowed, if the Public interests in disclosure outweighs the importance of any possible harm or injury to the interest of such third party.

3.12.8 If the third party is a private individual, the PIO has to be very cautious and properly weigh the consequences as Right to privacy of private individual is equally important and protected.

3.12.9 To summarise, refusal of a third party to consent to disclosure does not automatically mean that the PIO should decide that the application for information should be rejected. The final decision still rests with the PIO. In actual practice, the decision of the PIO may be;

i. If the third party does not make a representation despite the notice from the PIO, the PIO then can assume that the third party has no objection to disclosure. The PIO will provide the information to the applicant.

ii. If the third party informs the PIO that they have no objection to disclosure, then the PIO could disclose information to the applicant. The PIO will provide the applicant with the requested information.

iii. If the third party objects to the disclosure and the PIO also accepts the same in the light of the exemptions in section 8(1) and the public interest override in section 8(2) of the RTI Act, the PIO will reject the application. The PIO will communicate his decision alongwith details of appeal rights to the applicant.

iv. If the third party objects to the disclosure but with regard to sections 8(1) and 8(2) of the Act the PIO does not agree, then the PIO has to inform the third party of his decision to disclose the information to the applicant. This will be alongwith the details of appeal rights of the third party. The PIO will, however, not disclose to



the applicant until the appeal dealt with or the time limit for preferring an appeal is over. The PIO may also inform the applicant about the third party's right to appeal, relevant time limits for the same etc.

3.13 Rejections and steps involved.

3.13.1 The PIO is required under the Act to either provide the information, on payment of the requisite fee or reject the request within 30 days of the receipt of the request.

3.13.2 Grounds on which the PIO may reject the request for information are enumerated in sections 8 & 9 of the Act.

3.13.3 Where a request has been rejected, the following steps are involved:

Within 30 days of the receipt of the request 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.

Within 90 days from the date on which the decision should have been made or was actually received a second appeal can be preferred with the concerned Information Commission.

If a third party is involved the concerned Information Commission shall give a reasonable opportunity of being heard to the third party.

The onus to prove that a denial (i.e.,

rejection) of a request was justified is totally and exclusively on the PIO.

The decision of the Information Commission is binding.

3.13.4 If the PIO fails to give decision on the request for information within the prescribed period, the Public Information Officer shall be deemed to have refused the request. It is pertinent to note that if a Public authority fails to comply with the specified time limit, the information to the concerned applicant would have to be provided free of charge.

3.14 Appeals and Complaints

3.14.1 If an applicant is not supplied information within the prescribed time limit, or is not satisfied with the information furnished to him, he may prefer an appeal to the first appellate authority who is an officer senior in rank to the PIO. Such an appeal can be made within a period of 30 days from the date on which time limit for supply of information expires or the decision of the PIO is received. The appellate authority of the public authority is expected to dispose of the appeal within a period of thirty days or in exceptional cases within 45 days of the receipt of appeal. If the appellate authority fails to pass an order on the appeal within the prescribed period or if the appellant is not satisfied with the order of the first appellate authority, he may prefer a second appeal with the concerned Information Commission within ninety days from the date on which the decision should have been made by the first appellate authority or was actually received by the appellant.

- 3.14.2 If any person is unable to submit a request to a Public Information Officer either by reason that such an officer has not been appointed by the concerned public authority; or the Assistant Central Public Information Officer has refused to accept his or her application or appeal for forwarding the same to the Public Information Officer or the appellate authority, as the case may be; or he has been refused access to any information requested by him under the RTI Act; or he has not been given a response to a request for information within the time limit specified in the Act; or he has been required to pay an amount of fee which he considers unreasonable; or he believes that he has been given incomplete, misleading or false information, he can make a complaint to the Information Commission.
- 3.14.3 The PIO, in addition to maintenance of special registers for receipt of requests for information and disposal, has also to develop checklists to keep a check on the pendency and/or completeness of the information provided.
- 3.14.4 The above needs to be kept and updated because the burden of proving that he acted reasonably and diligently would be solely on the Public Information Officer.
- 3.14.5 The PIOs should be well conversant with the powers and functions of Appellate Authority and the Information Commission as vested under the Right to Information Act.

3.15 Receipt of fees

- 3.15.1 Refusal to accept an application on the ground that the demand draft/banker's

cheque /IPO submitted by the applicant has been drawn in the name of the Accounts officer may amount to refusal to accept the application. It may result into imposition of penalty by the Information Commission under section 20 of the Act. The PIO may not, therefore, deny payment of fee by demand draft/bankers cheque/IPO made payable to the Accounts Officer

3.16 Consolidation and Monitoring

- 3.16.1 The final responsibility of monitoring implementation of the Act rests with the Information Commission and the Government. This requires maintenance of proper data of all applications, appeals, how they had been dealt with. It is, therefore, necessary that the PIO, in particular, follows clear processes and systems.
- 3.16.2 To start with the PIO may maintain Special Registers for Inward and Outward movements, checklists to keep a tab on the timely disposal of applications etc.
- 3.16.3 Each Government, Centre or State, as the case may be has a duty to compile from its public authority data pertaining to requests received for information and send them to the concerned Information Commission. Only PIOs can supply details of the number of requests received, by each public authority, the number of rejections and appeals, particulars of disciplinary action taken, amount of fees charged and collected etc. for incorporation/consolidation in such reports.
- 3.16.4 The success of monitoring system



depends upon the quality and quantity of data maintained and supplied at appropriate time by the PIOs

3.17 Special Skills of PIOs

- 3.17.1. The Public Information Officer plays a pivotal role in the implementation of the Act. The various provisions of the Act expects minimum skill to be possessed by the PIO in various areas.
- 3.17.2. The PIO should have complete knowledge and experience of office procedure. He should have adequate knowledge of record management prevailing with the public authority.
- 3.17.3. The PIO needs to know the structure and delegation of powers within the organization. He should be well versed

with organization chart, levels of disposal of cases etc.

- 3.17.4. The PIO should be good in negotiations with the public, colleagues, third party and others so that he could attend to his duties as PIO smoothly.
- 3.17.5. Most importantly he should be good at managing time. The work of PIO is additional to the work he performs as an officer of the public authority. He should be able to apportion time available with him on various activities entrusted to him. Availability of inadequate time cannot be the basis for delay in disposal of requests for information or for supply of incomplete information.





4.1 Introduction

4.1.1 The Right to Information Act, 2005 provides two channels of appeals primarily against the decisions of a Public Information Officer on the request for information by a citizen viz;

1. The First Appellate Authority – An officer senior in rank to the PIO, who has been so designated by the public authority.

2. A second appeal to the Information Commission

4.1.2 The Act does not define the first Appellate Authority precisely. Under Section 7(b), it refers to “appellate authority” to whom appeal can be made by a person whose request has been rejected. 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.

4.1.3 The Appellate Authority is an officer senior in rank to the PIO and he is fully conversant with the work of the organization, the subjects dealt with by it and the functions discharged by various PIOs. The number of designated Appellate Authorities in a public authority could be small as compared to the number of PIOs. One Appellate Authority could easily meet the requirement of appeals arising out of the decisions of number of PIOs

4.2 Who should be the Appellate Authority?

4.2.1 Each public authority has to determine the number and level of officers to be

designated as Appellate Authorities. The public authority may notify/designate senior officers as Appellate Authorities by designation and not by name. This is because in many of the public authorities, officers are transferred frequently.

4.2.2 This leads to another question – can the head of the public authority be the Appellate Authority in that organization. There could be certain advantages if the head of the organization himself is the Appellate Authority like:

- (1) Knows the total functioning of the organization;
- (2) Can oversee the state of implementation of the Act by the authority;
- (3) Can have first hand knowledge of the operation of the Act within the organization.
- (4) Would be in better position to put up the details, if required to the Information Commission regarding the reasons behind the outcomes of first appeals.
- (5) The PIOs in the authority may be more attentive and responsive to the requests of citizens for information.

4.2.3 If the head of organization is the Appellate Authority, then he would be in a better position to determine additional areas specific to the organization to be included in proactive disclosure and publication.

4.3 Areas to be conversant with

4.3.1 The Appellate Authority should know what is 'information' and what is 'Right to Information', under the Act. He should also appreciate that a citizen cannot be denied any information, which cannot be denied to Members of the Parliament or a

State Legislature.

4.3.2 However only such information is required to be supplied under the Act, which already exists and is held by the public authority or held under the control of the public authority. It is beyond the scope of the Act to create information; or to solve the problems raised by the applicants; or to furnish replies to hypothetical questions.

4.3.3 Sub-section (1) of Section 8 and Section 9 of the Act enumerate the categories of information, which is exempt from disclosure. Sub-section (2) of Section 8, however, provides that information exempted under sub-section (1) or exempted under the Official Secrets Act, 1923 can be disclosed if the public interest in disclosure outweighs the harm to the protected interest. Further, sub-section (3) of section 8 provides that information exempt from disclosure under sub-section (1), except as provided in clauses (a), (c) and (i) thereof, would cease to be exempted after 20 years from the date of occurrence of the related event etc.

4.3.4 The Appellate Authority would be aware of the fee rates for supply of information. He may be fully aware of the rules framed under the Act on the subject. This requirement is due the fact that this could be ground for the applicant to appeal

4.4 First Appeal

4.4.1 If the applicant does not receive information or decision about rejection of request or communication about payment of additional fee within specified time, he can make an appeal to the First Appellate

Authority. Appeal can also be made if applicant is aggrieved by the decision of the PIO regarding supply of information or quantum of fee decided by the PIO.

4.4.2 The third party can also prefer an appeal to the First Appellate Authority against the decision made by the Central Public Information officer. This has to be within thirty days from the date of the receipt of notice from the PIO. If not satisfied with the decision of the First Appellate Authority, the third party can prefer the second appeal to the Central Information Commission.

4.4.3 If an appeal has been filed by the third party against the decision of PIO to disclose the third party information, the information should not be disclosed till the appeal is decided.

4.5 Time Limits

4.5.1 The first appeal may be made within 30 days from the date of expiry of the prescribed period or from the receipt of communication from the PIO. If the Appellate Authority is satisfied that the appellant was prevented by sufficient cause from filing the appeal, the appeal may be admitted after 30 days also. This is a discretionary power with the Appellate Authority.

4.5.2 The appeal should be disposed off within 30 days of receipt of the appeal. In exceptional cases, the Appellate Authority may take 45 days for its disposal. However, in cases where disposal of appeal takes more than 30 days, the Appellate Authority should record in writing the reasons for such delay in deciding the appeal.



4.6 Disposal of Appeal

4.6.1 Deciding appeals under the RTI Act is a quasi-judicial function. It is, therefore, necessary that the appellate authority should see it that the justice is not only done but it should appear to have been done. In order to do so, the order passed by the Appellate Authority should be a speaking order giving justification for the decision arrived at.

4.6.2 If an Appellate Authority comes to a conclusion that the appellant should be supplied information in addition to what has been supplied to him by PIO, he may either (i) pass an order directing the PIO to give such information to the appellant; or (ii) he himself may give information to the appellant while disposing off the appeal. In the first case the Appellate

Authority should ensure that the information ordered by him to be supplied is supplied to the appellant immediately.

4.6.3 As per the RTI Act, the Appellate Authority would be an officer senior in rank to the PIO. Therefore, he would be an officer in a commanding position vis-avis the PIO. If, however the PIO does not implement the order passed by the Appellate Authority and the Appellate Authority feels that intervention of higher authority is required to get his order implemented, he should bring the matter to the notice of the officer in public authority competent to take action against PIO. Such competent officer shall take necessary action so to ensure implementation of the provisions of the RTI Act.





5.1 Introduction

5.1.1 This chapter deals specifically with reference to Central Information Commission.

5.1.2 Section 12 and Section 15 of the Act provide for the constitution of the Central Information Commission (CIC) and the State Information Commission (SIC) respectively to exercise powers conferred on it by the Act.

5.1.3 Each Commission functions as an autonomous body exercising the powers conferred on, and performing the functions assigned to it under the Act.

5.1.4 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. They also dispose of appeals against the decisions of the designated appellate authorities, including imposing penalties on and recommending disciplinary action against the erring PIOs. They may also make recommendations to public authorities not conforming with the provisions or the spirit of the Act, specifying the steps to be taken for promoting such conformity.

5.2 Procedure for Appeal

5.2.1 An appeal to the Commission shall contain the following information, namely:-

- (1) name and address of the appellant;
- (2) name and address of the Central Public Information Officer against the decisions of whom the appeal is preferred.
- (3) Particulars of the order including number,

if any, against which the appeal is preferred;

- (4) brief facts leading to appeal;
- (5) if the appeal is preferred against deemed refusal, the particulars of the application, including number and date and name and address of the Central Public Information Officers to whom the application was made;
 - (1) prayer or relief sought;
 - (2) grounds for the prayer or relief;
 - (3) verification by the appellant; and
 - (4) any other information which the Commission may deem necessary for deciding appeals.

5.2.2 Every appeal made to the commission shall be accompanied by the following documents, namely:-

- (1) self-attested copies of the Orders or documents against which the appeal is being preferred;
- (2) copies of documents relied upon by the appellant and referred to in the appeal; and
- (3) an index of the documents referred to in the appeal.

5.2.3 In deciding the appeal the Commission may,-

- (1) hear oral or written evidence on oath or on affidavit from concerned or interested person;
- (2) peruse or inspect documents, public records or copies thereof;
- (3) inquire through authorized officer further details or facts;
- (4) hear Public Information Officer, Assistant Public Information Officer or such person against whom the complaint is made, as the case may be;

- (5) hear third party; and
- (6) receive evidence on affidavits from Public Information Officer, Central Assistant Public Information Officer, such senior Officer who decided the first appeal, such person against whom complaint lies or the third party.

5.3 Penalties

5.3.1 If the information commission comes to the view that the PIO has:

- Refused to receive an application without any reasonable cause or
- Has not furnished information within the specified time or
- Has given incorrect, incomplete or misleading information knowingly or
- Destroyed the information which was sought or
- Obstructed in any manner in furnishing information it could impose a penalty of Rs. 250/- per day till application is received or information is provided. However, the total amount levied may not exceed Rs. 25,000/-

5.3.2 The Information Commission may also recommended disciplinary action against the PIO, under the service rules applicable to him. Such recommendation is given only if it is of the opinion that the PIO has, without any reasonable cause and persistently, failed to receive an application or has not furnished information within specified time or knowingly given incorrect, incomplete or misleading information or destroyed information or obstructed information in any manner in furnishing the information.

5.4 Co ordination and Monitoring

5.4.1 The Information Commission, as per the provisions of the Act, shall prepare a report on the implementation of the provisions of the Right To Information Act for each year and forward a copy thereof to the appropriate Government.

5.4.2 Each ministry/ Department shall also collect information in relation to the public authorities within their jurisdiction and provide the same to the Information Commission for preparing the report required under the Act.

5.4.3 The report for each year will relate to :

- (a) The number of request received by each public authority
- (b) Number of cases in which the applicants were denied access to the documents, the sections under which the decisions were taken and the number of times provisions were revoked.
- (c) Number of appeals to Information Commission for review, nature of appeals and their outcomes.
- (d) Disciplinary action taken, if any, against any officer
- (e) Amount of charges collected by each public authority
- (f) Facts indicating that the efforts made by public authority to implement the spirit and intention of the Act.
- (g) Recommendations for reform and the areas for reforms. This could include amendment to the Act or other legislation or common law or other matter relevant for operationalizing the right to access information.

5.4.4 The process of monitoring system would ultimately depend, to a great extent upon the quality and quantity of data maintained and monitored by the PIOs.



5.4.5 The concerned Government, at the end of each year, should lay a copy of the report of the Information Commission before each House of Parliament or each House of State Legislature, as the case may be.

5.4.6 Information Commission may give a report recommending specific steps to be taken for promoting conformity to the provisions or spirit of the Act, if it comes to the conclusion that a public authority in relation to the exercise of its function had not conformed to the provisions or spirit of the Act.

5.5 Public interest

5.5.1 There is a paradigm shift now with the Right To Information Act, 2005. It is an Act which will be implemented by the people and acted upon by the Government. The public is supreme so is his interest.

5.5.2 Public interest is more important than private interest. Only such information, which could lead to unwarranted invasion of the privacy of the individual, may be denied by the PIO.

5.5.3 Over all, if the disclosure to citizen outweighs the harm to the protected interest, then the PIO may provide information and not reject the request. However, line of demarcation between Public and Private interests is very thin and would pose problems to the PIO in taking appropriate decision.

5.6 Action in Good faith

5.6.1 Under section 21 of the Act, any action taken in good faith is protected. An action in good faith is one which is honestly done. No suit, prosecution or other legal proceeding lies against the person who has done or intended to do anything

which is in good faith. However, such action is done on good faith must be proved based on documentary evidence.

5.6.2 The delay in providing information may be condoned if the PIO can prove with documentary evidence that the situation was beyond his control and there was no deliberate delay on his part in providing information.

5.6.3 The documents to be presented as proof to establish that the 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, registers of Roznama would all be required. The entries in such registers have to be correct and complete.

5.6.4 Since the Information Commission hears evidence, peruse and inspect documents and receives evidence for arriving at a decision on an appeal, if a decision is taken on good faith by the PIO, ample opportunity is provided and due note is taken care of.

5.7 Well Reasoned Order

5.7.1 Where the Information Commission, at the time of deciding an appeal or complaint, is of the opinion that the PIO has, among others, 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.

5.7.2 The onus to prove that a denial of request



was justified is on the PIO, who denied the request. This burden of proof under Sec. 19 (5) has to be supported by documentary evidence.

5.7.3 As per the provision of Sec. 7 (8) of the Act, the PIO, when rejecting a request has to communicate to the person making a 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

5.7.4 Similarly, for the requests where information is provided, he is required to indicate fee amount to be paid, the calculation details of fees levied, the right of the citizens to appeal against the fee, details of Appellate Authorities and the period within which the appeal could be preferred.

5.7.5 While providing requisite information or rejecting the request, the PIO issues well reasoned communications. The reasons are given in the order and the rights of the citizen to appeal are also not suppressed. Such communications clarify position to the applicants and enable the Appellate Authorities to identify the cause for rejection or basis for fee calculation etc. It also helps the commission in their final orders wherever appeals have been preferred.

5.7.6 Some of Government Departments dealing with quasi-judicial functions may find it easy to write a well-reasoned order. However, for the other departments or

offices special training will be required for PIOs as well as Appellate Authorities for drafting skills to write a well reasoned order.

5.8 Principles of Natural Justice.

5.8.1 The central Government, through the Central Information Commission (Appeal Procedure) Rules, 2005 has prescribed the procedure for deciding the appeal by the Central Information Commission. It clearly demonstrates the application of principles of natural justice. It also clarifies that no person would be condemned unheard. Both the sides will be given opportunity to be heard and also submit any document etc. for perusal and inspection by the Central Information Commission.

5.8.2 Fair play is an essential ingredient of any decision taken. The procedure for appeal avoids any scope for arbitrariness in arriving at a decision or in levying penalty.

5.8.3 Necessary notices will be given by the Information Commission and laid down procedure will be followed in disposal of appeals. For this purpose, it is being suggested that the Information Commissioners may be like 'Roving' ambassadors. They may undertake tours to observe themselves how the various functionaries are performing their duties and whether the citizen is actually allowed to exercise his right. This would definitely help the Commission in up holding principle of natural justice.

Annexure - I

**List of Circulars and Notifications regarding RTI Act
issued by Department of Personnel and Training, GoI**



Annexure - I

List of Circulars and Notifications regarding RTI Act issued by Department of Personnel and Training, GoI

Sr.No.	Subject	O. M. Order
1	Designation of Central Assistant Public Information Officers (CAPIOs)	O. M. No. 34012/13(S)/2005-Estt.(B) Dt.: 06/10/2005
2	Fees for Inspection of records	Gazette Notification No. 442 Dt.: 28 th October 2005
3	Notification (RTI-Regulation of Fee and Cost Rules, 2005).	No. 34012/8(S)/2005-Estt.(B) Dt.: 17/05/2006
4	Clarification regarding format in which information should be supplied under the RTI Act, 2005	No.11/2/2008-IR Dt.: 10/07/2008
5	Notification (RTI - Regulation of Fee and Cost Rules, 2005)	No. 34012/8(S).2005-Estt.(B) Dt.: 16/09/2005
6	Appeal Rules	No. 1/4/2005-IR Dt.: 28/10/2005
7	Special Civil Application No. 23305 of 2007 - Ahmedabad Education Society & Another Vs. UOI & Ors.	No. 13/10/2007-IR Dt.: 29/04/2008
8	Transfer of applications under the RTI Act, 2005	No. 11/12/2008-IR Dt.: 22/04/2008
9	Disposal of first appeals under the RTI Act, 2005	No. 10/23/2007-IR Dt.: 09/07/2007
10	Disclosure of Annual Confidential Reports under the RTI Act, 2005.	No. 10/20/2006-IR Dt.: 21/09/2007
11	Payment of fee under the RTI Act by demand draft/bankers cheque/Indian Postal Order.	Payment of fee under the RTI Act by demand draft/bankers cheque / Indian Postal Order.
12	RTI applications received by a public authority regarding information concerning other public authority/authorities.	No. 10/2/2008-IR Dt.: 12/06/2008
13	Courteous behavior with the persons seeking information under the RTI Act, 2005.	No. 4/9/2008-IR Dt.: 24/06/2008
14	Guidelines for the officers designated as Central Public Information Officer under the Right to Information Act, 2005.	No. 1/69/2007-IR Dt.: 27/02/2008
15	Updating of Records - Recommendations of the Second Administrative Reforms Commission.	No. 1/33/2007-IR Dt.: 14/11/2007
16	Point for receiving applications and designation of appellate authorities under the RTI Act, 2005.	No. 1/32/2007-IR Dt.: 14/11/2007 Designation of the CPIOs in the

17	Designation of the CPIOs in the Organisations specified in the second schedule of the Right to Information Act, 2005.	Organisations specified in the second schedule of the Right to Information Act, 2005.
18	Maintenance of records and publication of information under the Right to Information Act, 2005.	Maintenance of records and publication of information under the Right to Information Act, 2005.
19	Clarification regarding Sub-sections (4) and (5) of Section 5 of the Right to Information Act, 2005	No. 1/14/2008-IR Dt.: 28/07/2008
20	Disclosure of Information relating to occurrence/event/matter which took place 20 years back.	No. 1/14/2007-IR Dt.: 31/10/2007
21	Preparation of Inventory of Public Authorities under RTI Act, 2005	No. 1/12/2007-IR Dt.: 31/07/2007
22	Guidelines for information seekers under the Right to Information Act, 2005.	1/8/2007_IR Dt.: 08/11/2007
23	Guidelines for the Public Authorities under the Right to Information Act, 2005.	No. 1/4/2008-IR Dt.: 25/04/2008
24	Implementation of the various provision of the RTI Act, 2005.	F.No. 1/4/2006-IR Dt.: 21/02/2006
25	Guidelines for the officers designated as first appellate authority under the Right to Information Act, 2005.	No. 1/3/2008-IR Dt.: 25/04/2008
26	Non-Implementation of various provisions of the RTI Act, 2005 by public authorities - regarding	No. 1/2/2007-IR Dt.: 23/03/2007
27	Clarification on disclosure of file noting under the Right to Information Act, 2005.	No.1/20/2009-IR Dt.: 23/06/2009
28	Amendments in the Second Schedule to the RTI Act	Amendments in the Second Schedule to the RTI Act
29	The quantum of fees charged	GSR- 336
30	Amendment to Second Schedule to Act	Gazette Notification Dt.: 28/03/2008
31	Decision dated 3.4.2008 of the High Court of Bombay at Goa in Writ Petition No. 419 of 2007 in the case of Dr. Celsa Pinto Vs. Goa State Information Commission regarding information under the Right to Information Act, 2005.	No. 1/7/2009-IR Dt.: 01/06/2009



Annexure-II

Template for the publication under Section 4 of Right to Information Act, 2005



Template for the publication under Section 4 of Right To Information Act

Note 1 – Though proactive disclosure is covered under section 4 it is felt that the institutions covered under 2(h) A & B should also be listed out as a part of proactive disclosure. We have included two separate tables for that purpose.

Note 2 – Each department must prepare a plan for computerisation to facilitate proactive disclosure under section 4(1)(A) therefore the departments should publish their policy of computerisation in a separate proforma.

Note 3 – The date of publication of proactive disclosure is a relevant date indicating periodicity & therefore should be invariably mentioned for each subsection of the section 4.

To ensure the logical conclusion of Section 4, the first step required is listing of Public Authorities in the state. Public Authority is defined as any authority or body or institution of self-government established or constituted by or under the Constitution or by any other law made by Parliament or State Legislature & by notification issued or order made by the appropriate Government. It also includes body owned controlled or substantially financed by Government. May it be a Non-Governmental organisation. All such authorities are required to publish, information under sub Section (a) (b) (c) (d) of Section 4. The relevant department in Mantralaya is expected to publish such a list.

Section 2 (h) Format A

Department wise list of Public Authorities under Section 2(h) RTIA 2005

Name of the Dept. –

Under Section 2(h) a/b/c/d

Sr. No.	Name of the Authority	Designation of the head	Location / Address

Section 2 (h) Format B

List of Public Authorities substantially financed by Govt.

Name of the Dept. –

Under Section 2(h) (i)(ii)

Sr. No.	Name of the Authority	Designation of the head	Location / Address



Plan for computerisation.

An action plan has to be prepared for computerisation of all the records under section 4(1)(a). Each public authority may prepare an action plan for computerisation of all the records based on the need & resources available. A phased out plan for computerisation may be prepared taking in to consideration following guidelines.

Guidelines for action plan -

★ Three stages of computerisation -

- Mandatory publication under section 4 of RTI.
- Computerisation of crucial areas of working of the office based on the information needs of people / applicants of RTI.
- Computerisation of remaining areas.

★ Stage wise activities related with computerisation –

- Priority of subjects for computerization.
- Allocation of funds for computerisation.
- Final date of completion of computerisation.

Section 4 (1) (b) (i)

The particulars of functions & duties in the office of

Name of the office –

Address –

Head of the Office –

Parent Govt. Dept. _____

Reporting to which authority - _____

Jurisdiction – Geographical _____ / Functional _____

*Mission -

*Vision -

Objectives -

Scope -

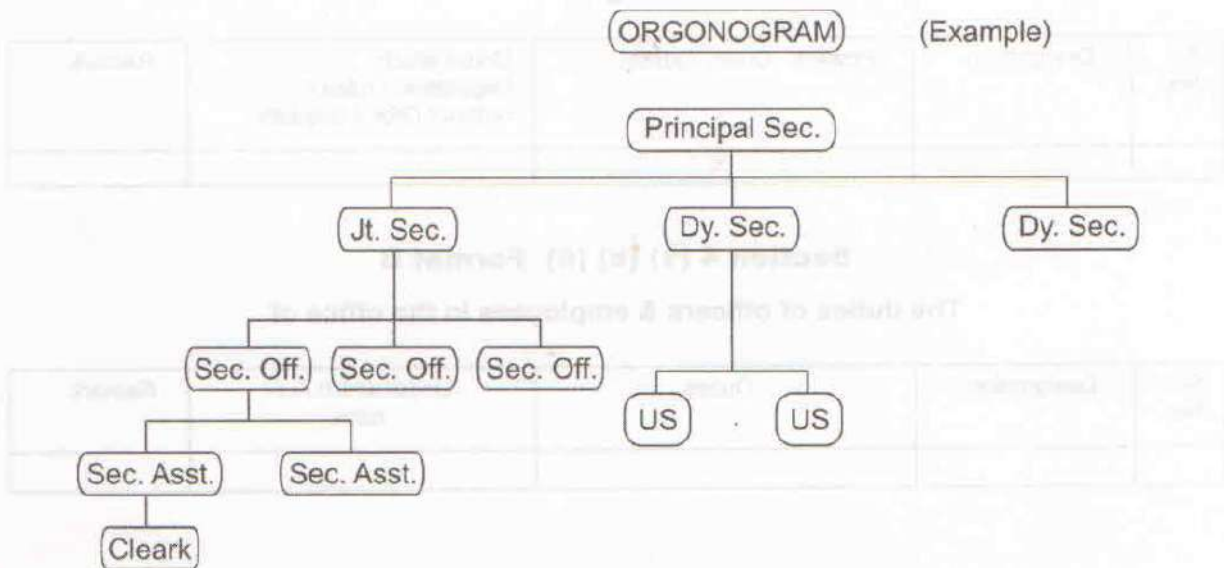
Functions –

Details of Services provided / duties -

Physical Assets – Statement of lands & buildings -

Organisations structural Chart at each level-Give linkage of jurisdiction & Address, Tel. No.s & Office Timings

Weekly holidays & Specific Service Timings



***Note** – May be relevant to all the administrative departments at Mantralaya level.

Section 4 (1) (b) (ii) Format A

The powers of officers & employees in the office of

A

Sr. No.	Designation	Powers - Financial	Under which Legislation / rules / orders / GRs. / circulars	Remark

B

Sr. No.	Designation	Powers - Administrative	Under which Legislation / rules / orders / GRs. / circulars	Remark

C

Sr. No.	Designation	Powers - Magisterial	Under which Legislation / rules / orders / GRs. / circulars	Remark

D

Sr. No.	Designation	Powers - Quasi Judicial	Under which Legislation / rules / orders / GRs. / circulars	Remark

Section 4 (1) (b) (ii) Format B

The duties of officers & employees in the office of

Sr. No.	Designation	Duties	Under which Act / rules	Remark

i) Financial

ii) Administrative

iii) Magisterial

iv) Quasi judicial



Section 4 (1) (b) (iii)

The Procedure followed in the decision-making process, including channels of supervision & accountability in the office of

NAME OF ACTIVITY –

Related Provisions -

Name of the Act / Acts-

Rules -

Govt. Resolutions -

Circulars -

Office Orders -

Sr. No.	Details of Activity (Sequentially)	Day with in the procedure duration e.g.Day1 / Day 16 etc.	Authority Responsible for that activity	Remarks

Note: Under 4(1)(b)(iii)

For every function, service, duty, power, to be exercised, there is a set of procedure defined by Act, Rules, Government Resolutions, Circulars, Orders, and Conventions. Publish the procedure for each function, service, duty, and power to be exercised. For this purpose the public authority may have to collate, relate & formalise the procedure taking into considerations various provisions mentioned above.

e.g. – What will be the procedure for casework? How the dates of hearing are given? Will there be a chronological disposal? Is there any priority for certain cases?

e.g. – Procedure for distribution of subsidies/concessions/ selection of beneficiary should be specified. Will it be on quota basis? On lot basis? Or chronological. Will have to be published.

e.g. – Procedure for writing notes for specified repetitive functions may be formalised & published.

In every procedure many levels of employees are involved. Specify roll & responsibility of each employee involved in the procedure.

Section 4 (1) (b) (iv) format (A)

Norms set for discharge of its functions in the office of

ORGANISATIONAL TARGETS (Annual)-

Sr. No.	Function / Activity	Units to be covered	Financial Targets in Rs.	Remarks

Section 4 (1) (b) (iv) format (B)

Time limits for the activities _____ for discharge of its functions

Time frame for each activity –

Sr. No.	Activity	No. of Days required for completion	Authority Responsible	Authority for Grievence redressal in case of failure

Section 4 (1) (b) (v) format (A)

The rules / regulation related with the functions of _____

Sr. No.	Subject as indicated in the notification	Rule No. & Its year	Remarks if any

Section 4 (1) (b) (v) format (B)

The Government Resolution related with the functions of _____

Sr. No.	Subject as given in the resolution	GR No. & Its date	Remarks if any

Section 4 (1) (b) (v) format (C)

The Circulars related with the functions

Sr. No.	Subject as indicated in the circular	Circular No. & Its date	Remarks if any

Section 4 (1) (b) (v) format (D)

The office Orders/ Policy Circulars related with the functions of _____

Sr. No.	Subject as indicated in the office order	No. & office order date	Remarks if any



Section 4 (1) (b) (v) format (E)

List of documents available in the office/section/ward/branch

of _____ at _____

Sr. No.	Type of Document	Sub Topic	Person In charge / Designation	Location of the person if not situated in the above mentioned office

Note - Each public authority shall prepare list of records duly indexed. Record includes document files & soft copies as well.

To prepare this list to facilitate Right To Information, we have to make it user friendly. Easy to inspect, taking notes, taking samples of materials etc.

First prepare office wise list of existing files, which includes current files, await files & papers in record. Details of documents to be found in each type of file. List of different kinds of registers maintained in each office specifying the column heads. List of documents, which are not files as well as registers but are used or created or maintained for official purpose, should also be listed. For easy retrieval these lists should be office wise, section wise, desk wise as it convenient for the clients of the specific office. The list may be prepared in the following format.

Section 4 (1) (a) (vi)

Statement of Categories of documents held in the office

of _____ at _____

Sr. No.	Subject	Type of Document file / muster / register / voucher etc.	Particulars of Heading / type in the document	Periodicity of preservation

Section 4 (1) (b) (vii)

Particulars of any arrangement that exists for consultation with the members of public in relation to the formulation of policy & implementation in the office _____

Sr. No.	Consultation for	Details of the Mechanism	Under Which act / rule / circular	Periodicity

Note - Under section 4(1)(b)(vii) the public authorities are expected to publish the arrangements existing under act, rules, and circular or by convention for public consultation. The consultation may be at policy formulation level or implementation level. It might be by formulation a committee for special purpose conducting workshops, meetings, gramsabha, public hearings, jansunvai, darbar etc. to know public opinion.

**Section 4 (1) (b) (viii) Format A****List of committees to be published under**

Sr. No.	Name of the committee	Composition of committee	Purpose of the committee	Frequency of meetings	Weather open to public or not	Minutes available in the office of

Section 4 (1) (b) (viii) Format B**List of boards to be published under**

Sr. No.	Name of the boards	Composition of boards	Purpose of the boards	Frequency of meetings	Weather open to public or not	Minutes available in the office of

Section 4 (1) (b) (viii) Format C**List of councils to be published under**

Sr. No.	Name of the councils	Composition of councils	Purpose of the councils	Frequency of meetings	Weather open to public or not	Minutes available in the office of

Section 4 (1) (b) (viii) Format D**List of Bodies to be published under**

Sr. No.	Name of the bodies	Composition of bodies	Purpose of the bodies	Frequency of meetings	Weather open to public or not	Minutes available in the office of

Section 4 (1) (b) (ix)

Directory of the officers & employees & their monthly remuneration in the office of _____

Sr. No.	Designation	Name of the officer's / employee	Cadre	Dt. of joining the post	Contact Details Ph/ Fax / Email	Gross Salary



Note -

1. This will have to be published every year.
2. Changes which are significant should be updated immediately.
(e.g. Transfer of HOD etc.)

Section 4 (1) (b) (x)

Details of remuneration of officers & employees in the office of _____

Sr. No.	Cadre & Class	Pay Scale	Admissible allowances in Rs.		
			Regular (included in the salary) like DA	Occasional (Like TA Bill)	Special like (Project allowance, training allowance, any other.)

Section 4 (1) (b) (xi)

Details of allocation of budget & disbursement made

in the office of _____ at _____ for the year _____

- Publish copy of budget
- Publish copy of grant distribution

Sr. No.	Budget head description	Grants received	Planned use (Give details area wise or work wise in a separate form)	If more grants excepted then in Rs.	Remarks

Note – Since most of the department publishes this information in one form or the other, it is advisable that they use their own format.

Section 4 (1) (b) (xii)

Manner of execution of subsidy program in the office of _____ at _____

- Name of the Program –
- Eligibility of Beneficiary
- Pre-requisites for the benefit
- Procedure to avail the benefits of the programme
- Criteria for deciding eligibility
- Detail of the benefits given in the programme (also mention the amount of subsidy or other help given)
- Procedure for the distribution of the subsidy



- Where to apply or whom to contact in the office for applying
- Application Fee (where applicable)
- Other Fees (where applicable)
- Application format (where applicable. If the application is made on plain paper please mention it along with what the applicant should mention in the application)
- List of Annexure. (Certificates/ documents)
- Format of Annexure.
- Where to contact in case of process related complaints
- Details of the available fund (At various levels like District Level, Block Level etc)
- List of beneficiaries in the format given below

Section 4 (1) (b) (xii) Format B

Details of beneficiaries of subsidy program
in the office of _____ at _____

Name of the scheme/program -

Sr. No.	Beneficiary of Name & Address	Amount of Subsidy / concession	Planned use (Give details area wise or work wise in a separate form)	Criteria of selection	Remarks

Note – Separate list should be published for every scheme / programme.

Section 4 (1) (b) (xiii)

Particulars of recipients of concession permits or authorisation granted
in the office of _____ at _____

Type of license / permission / concession -

Sr. No.	Name of the licensee	Nature *	License No.	Issued on	Valid up to	General Conditions	Details of the license**

* Nature – If it is NA permission whether commercial/ residential / industrial

If it is vehicle license nature will be 2-wheeler/4 wheeler/ heavy vehicles etc.

**Details of the license – The Subject matter of the license should be mentioned. If it NA permission then survey no. or part thereof.

Note – separate lists for each type of license / concession etc.



Section 4 (1) (b) (xiv)

Details of information available in electronic form

in the office of _____ at _____

Sr. No.	Type of Document	Sub Topic	In which electronic format it is kept	Mode of retrieval	Person in charge

- i) Tape
- ii) Film
- iii) CD
- iv) Floppy
- v) Any other

Section 4 (1) (b) (xv)

Particulars of facilities available for citizen to obtaining information

in the office of _____ at _____

Types of facilities -

- Information about visiting hrs.
- Information about interactive website.
- Information about call center.
- Information about facilities for inspection of record.
- Information about facilities for inspection of works.
- Information about facilities for providing samples.
- Information about Notice boards.
- Information about library.

Sr. No.	Type of facility	Timings	Procedure	Location	Person in charge	Grievance redressal

Section 4 (1) (b) (xvi)

Details of Public Information Officers / APIOs/ Appellate authority

in the jurisdiction of (public authority) _____ at _____

PIO

A

Sr. No.	Name of PIO	Designation	Jurisdiction as PIO under TRI	Address / Ph.no.	E-mail id for prupose of RTI	Appellate authority



APIOs

B

Sr. No.	Name of APIO	Designation	Jurisdiction as APIO under TRI	Address / Ph.no.

Appellate Authority

C

Sr. No.	Name of Appellate Authority	Designation	Jurisdiction as Appellate Authority	PIO reporting	E-mail id for prupose of RTI

Annexure (see para 2.3.10)

Panchayat Raj Institutions

Sr.No.	Level	PIO	Appellate Authority
I	Village Panchayat	Gram Sevak or Village	Block Development Officer
	ICDS	Development officer	
	Health		
II	Panchayat Samiti	Deputy Engineer of	Chief Executive Officer / Additional Chief Executive Officer
	Engineering Department (Irrigation) (Works) (Water Supply)	respective Department	
	Panchayat	Extension Officer	
	Health	Extension Officer	
	Education	Extension Officer	
	Agriculture and Animal Husbandry	Extension Officer	
III	Zilla Parishad	Deputy Chief Executive Officer (General) / Secretary to Zilla Parishad	Commissioner / Additional Commissioner



Office of District Magistrate

Sr. No.	Level	APIO	PIO	Appellate Authority
I	Village Level	-	Patwari	Tahsildar
II	Tahsil Level	Circle Officer	Additional Tahsildar / Nayab Tahsildar	Sub Divisional Officer / Sub Divisional Magistrate / Assistant Collector
III	District Level	Officers of the rank of Tahsildar at Sub-Divisional level	Resident / Deputy Collector	Collector / District Magistrate

Public Works Department / Irrigation Department

Sr. No.	Level	APIO	PIO	Appellate Authority
I	Taluka Level	Junior Engineer / Assistant Engineer	Deputy Engineer incharge of sub-division	Executive Engineer
II	District Level	Deputy Engineer at Sub-Divisional Level	Section Officer in the Office of Executive Engineer	Superintending Engineer
III	Division Level	Section Officer of Executive Engineer	Additional Superintending Engineer / Senior Executive Engineer	Chief Engineer

Medical Education Department

Sr. No.	Level	APIO	PIO	Appellate Authority
-	Medical College	—	Registrar of Medical College	Dean / Medical Superintendent of Medical College
State Level	Department of Medical Education	Registrar of Medical College	Deputy Secretary in the Department	Secretary of Medical Education

Annexure-III

Text of Right to Information Act, 2005



THE RIGHT TO INFORMATION ACT, 2005

No. 22 of 2005

[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 thereof;

(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;

(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 therefrom 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 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.

(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;
- (d) the assistance available from and the duties of the Central Public Information Officer or State Public Information Officer, as the case may be, of a public authority under this Act;
- (e) the assistance available from the Central Information Commission or State Information Commission, 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)

Intelligence and security organisation established by the Central Government

1. Intelligence Bureau.
2. Research and Analysis Wing of the Cabinet Secretariat.
3. Directorate of Revenue Intelligence.
4. Central Economic Intelligence Bureau.
5. Directorate of Enforcement.
6. Narcotics Control Bureau.
7. Aviation Research Centre.
8. Special Frontier Force.
9. Border Security Force.
10. Central Reserve Police Force.
11. Indo-Tibetan Border Police.
12. Central Industrial Security Force.
13. National Security Guards.
14. Assam Rifles.
15. {Special Service Bureau.}Sashatra Seema Bal ¹
16. Special Branch (CID), Andaman and Nicobar.
17. The Crime Branch-C.I.D.- CB, Dadra and Nagar Haveli.
18. Special Branch, Lakshadweep Police.
19. Special Protection Group.²
20. Defence Research and Development Organization.³
21. Border Road Development Board.⁴
22. Financial Intelligence Unit, India. ⁵(Footnotes)

¹ Amended vide Notification No GSR.347 dated 8th October 2005

² Amended vide Notification No GSR.347 dated 8th October 2005

³ Amended vide Notification No GSR.347 dated 8th October 2005

⁴ Amended vide Notification No GSR.347 dated 8th October 2005

⁵ Amended vide Notification No GSR.347 dated 8th October 2005

Annexure - IV

Text of Right to Information Rules



MINISTRY OF PERSONEL, PUBLIC GRIEVANCES AND PENSIONS

Department of Personal and Training

New Delhi, the 16th September, 2005

G. S. R. 336 – In exercise of the powers conferred by clauses (b) and (c) of sub section (2) of Section 27 of the Right to Information Act, 2005 (22 of 2005), the Central Government hereby makes the following rules, namely :-

1. Short title and commencement – (1) These rules may be called the Right to Information (Regulation of Fee and Cost) Rules, 2005

(2) They shall come into force on the date of their publication in the Official Gazette.

2. Definitions - in hte rules, unless the context otherwise requires :

- (a) Act means the Right to Information Act, 2005,
- (b) Section means section of the Act,
- (c) All other words and expressions used herein but not defined and defined in the Act shall have the meanings assigned to them in the Act.

3. A request for obtaining information under sub section (1) of Section 6 shall be accompanied by an application fee of rupees ten by way of cash against proper receipt or by demand draft or bankers cheque payable to the Accounts officer of the public authority.

4. for providing the information under sub section (1) of Section 7, the fee shall be charged by way of cash against proper receipt or by demand draft or bankers cheque payable to the Accounts Officer of the public authority at the following rates :-

- a) rupees two for each page (in A-4 or A-3 size paper) created or copied:
- b) actual charge or cost price of a copy in larger size paper
- c) actual cost or price for samples or models and
- d) for inspection of records, no fee for the first hour and a fee of rupees five for each fifteen minutes (or fraction thereof) thereafter.

5. For providing the information under sub-section (5) of Section 7 the fee shall be charged by way of cash against proper receipt or by demand draft or bankers cheque payable to the Accounts Officer of the public authority at the followings rates :

- a) for information provided in diskette or floppy rupees fifty per diskette or floppy and
- b) for information provided in printed form all the piece fixed for such publication or rupees two per page on photocopy for extracts from the publication.

{F. No. 34012/8(S)/2005-Estt. (B)}
HARI KUMAR Director



MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS
(Department of Personnel and Training)
NOTIFICATION

New Delhi, the 27th October, 2005

G.S.R. 649 (E) In exercise of the powers conferred by clauses (b) and (c) of Sub section (2) of Section 27 of the Right to Information Act, 2005 (22 of 2005), the Central Government hereby makes the following rules to amend the Right to Information (Regulation of Fee and Cost) Rules, 2005, namely :-

1. Short title and commencement – (1) These rules may be called the Right to Information (Regulation of Fee and Cost) (Amendment) Rules, 2005.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Right to Information (Regulation of Fee and Cost) Rules, 2005, in rule 4, for clause (d), the following clause shall be substituted namely :-

(d) for inspection of records, no fee for the first hour, and a fee of rupees five for each subsequent hour (or fraction thereof)

[F. No. 34012/8(S)/2005 – Estt. (B)]
T. JACOB, Jt Secy.

Note: The principal rules were published in the Gazette of the India vide Ministry of Personnel, Public Grievances and Pensions (Department of Personnel and Training) notification No. 34012/8(S)/2005-Estt.(B) dated 16th September 2005 [No. G. S. R. 336 dated 1st October, 2005, Part II, Section 3, Sub-section (i)]



MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS
(Department of Personnel and Training)

NOTIFICATION

New Delhi, the 28th October, 2005

G.S.R. 650(E) – In exercise of the powers conferred by clauses (e) and (f) of sub-section (2) of section 27 of the Right to Information Act, 2005 (22 of 2005), the Central Government hereby makes the following rules, namely :-

1. **Short title and commencement** - (1) These rules may be called the Central Information Commission (Appeal Procedure) Rules, 2005
 (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
 - b) Section means section of the Act
 - c) Commission means the Central Information Commission
 - d) Words and expression used herein and not defined but defined in the Act, shall have the meanings respectively assigned to them in that Act.
3. **Contents of appeal** – An appeal to the Commission shall contain the following information namely :
 - i) name and address of the appellant
 - ii) name and address of the Central Public Information Officer against the decision of whom the appeal is preferred
 - iii) particulars of the order including number, if any, against which the appeal is preferred
 - iv) brief facts leading to the appeal
 - v) if the appeal is preferred against deemed refusal, the particulars of the application including number and date and name and address of the Central Public Information Officer to whom the application was made
 - vi) prayer or relief sought
 - vii) grounds for the prayer or relief
 - viii) verification by the appellant and
 - ix) any other information which the Commission may deem necessary for deciding the appeal.
4. **Documents to accompany appeal** – Every appeal made to the Commission shall be accompanied by the following documents namely
 - i) self attested copies of the Orders or documents against which the appeal is being preferred
 - ii) copies of documents relied upon by the appellant and referred to in the appeal and
 - iii) an index of the documents referred to in the appeal
5. **Procedure in deciding appeal** – In deciding the appeal the Commission may
 - i) hear oral or written evidence on oath or an 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) here Central Public Information Officer, Central Assistant Public Information Officer or such Senior Officer who decide the first appeal, or such person against whom the complaint is made 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 such Senior Officer who decided the first appeal such person against whom the complaint lies or the third party.

6. Service of notice by Commission – Notice to be issued by the Commission may 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 or
- iv) through Head of office or Department.

7. Personal presence of the appellant or complainant (1) The appellant or the complainant, as the case may be, shall in every case be informed of the date of hearing at least seven clear days before that date.

(2) The appellant or the complainant, as the case may be, may at his discretion at the time of hearing of the appeal or complaint by the Commission be present in person or through his duly authorized representative or may opt not be present.

(3) Where the Commission is satisfied that the circumstances exist due to which the appellant or the complainant, as the case may be, is being prevented from attending the hearing of the Commission, then, the Commission may afford the appellant or the complainant, as the case may be, another opportunity of being heard before a final decision is taken or take any other appropriate action as it may deem fit.

(4) The appellant or the complainant, as the case may be, may seek the assistance of any person in the process of the appeal while presenting his points and the person representing him may not be a legal practitioner.

8. Order of the Commission – Order of the Commission shall be pronounced in open proceedings and be in writing duly authenticated by the Registrar or any other officer authorized by the Commission for this purpose.

[F. No. 1/4/2005-IR]
T. JACOB, Jt. Secy.



MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS
(Department of Personnel and Training)
NOTIFICATION

New Delhi, the 17th May, 2006

G.S.R. 294(E) – In exercise of the powers conferred by clauses (b) and (c) of sub section (2) of section 27 of the Right to Information Act, 2005 (22 of 2005), the Central Government hereby makes the following rules further amend the Right to Information (Regulation of Fee and Cost) Rules 2005, namely :-

1. Short Title and Commencement – (1) These rules be called the Right to Information (Regulation of Fee and Cost) Amendment Rules, 2006

2) They shall come into force on the date of their publication in the Official Gazette

2. In the Right to Information (Regulation of Fee and Cost) Rules, 2005.-

a) in rule 3, after the words 'bankers cheque' the words 'or Indian Postal Order' shall be inserted

b) in rule 4, after the words 'bankers cheque' the words 'or Indian Postal Order' shall be inserted

c) in rule 5, after the words 'bankers cheque' the words 'or Indian Postal Order' shall be inserted

[F. No. 34012/8(S)/2005 –Estt.(B)]

C.B. PALIWAL, Jt. Secy.

Note : The principal rules were published in the Gazette of India, Extraordinary, Part II, Section 3, Sub section (i), dated the 1st October, 2005 vide number G.S.R. 336 dated the 16th September 2005 and were amended vide number G.S.R. 649 (E) dated the 27th October 2005.



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