RIGHT TO
INFORMATION

THE RIGHT TO INFORMATION ACT 2005
A HANDBOOK FOR PUBLIC AUTHORITIES

DR. MARRI CHANNA REDDY HUMAN RESOURCE DEVELOPMENT
INSTITUTE OF TELANGANA

ACKNOWLEDGEMENT

This Handbook has been prepared by the Centre for Public Administration, Dr.MCRHRD Institute of Telangana with the financial support of Department of Personnel and Training (DoPT), Ministry of Personnel, Public Grievances and Pensions, Government of India under the Centrally Sponsored Scheme on "Improving Transparency and Accountability in government through effective implementation of Right to Information Act" for the year 2019-20.

Sri Srinivas Madhav, Senior Faculty has rendered his services by compiling this Handbook with his scholarly contribution.

Sri Harpreet Singh, IAS, Director General (FAC), Dr MCR HRD IT & Prl. Secretary to Govt. of Telangana and Sri Benhur Mahesh Dutt Ekka, IAS, Additional Director General provided valuable guidance in preparation of the Handbook.

Dr Madhavi Ravulapati, Associate Professor of Law & Head, CPA, Dr. K.Tirupataiah, IFS (Retd.) Chief Consultant (Training), Sri K. Ram Gopal, Senior Faculty (Nodal Officer, CSS-RTI) and Smt. Sowmya Rani, Faculty (Nodal Officer, CSS-RTI) provided resource support in preparation of the Handbook. Prof. A. S. Ramachandra, Senior Faculty reviewed the manuscript and contributed to the improvement of the book with his valuable suggestions.

THE RIGHT TO INFORMATION ACT 2005

A HAND BOOK FOR PUBLIC AUTHORITIES

Dr. Marri Channa Reddy Human Resource Development
Road. No. 25, Jubilee Hills, Hyderabad-500 033
Ph: +91 40 2354 8487, www.mcrhrd.gov.in

THE RIGHT TO INFORMATION ACT 2005
A HAND BOOK FOR PUBLIC AUTHORITIES

Publisher:

Dr. MCR HRD Institute of Telangana

Road No.25, Jubilee Hills, Hyderabad - 500033

Phone: +91 40 23548487, Fax: +91 40 23543459

Email: info@mcrhrdi.gov.in

www.mcrhrdi.gov.in

Printer : VS Art Printers

ABOUT Dr MCRHRDIT

Dr MCR HRD Institute is the premier administrative training institute of Government of Telangana with the objective to create and sustain a dedicated work force for Government. Set up in 1976, it has evolved to suit the needs of changing times, as well as requirements of State and Central Government. The Institute specialises in conducting training using both in classroom and e-learning modes. The Institute has a well-qualified, experienced, hardworking and dedicated team. Its faculty resources include senior All India Service Officers and State officials and also eminent faculty drawn from various Institutes of higher learning like Indian School of Business, University of Hyderabad etc. The Institute has a sprawling 33 acre campus in the heart of Hyderabad. It is a lush green area which is fully WiFi enabled and buildings with rooftop solar panels. It has well-furnished classrooms, auditoria, indoor and outdoor sports facilities including swimming pool, gymnasium and hostel blocks with capacity to accommodate 900 persons.

The Institute's mandate is carried out through the following Centres:

i) The Centre for Public Administration
ii) The Centre for Financial Management
iii) The Centre for Sustainable Development Goals
iv) The Centre for Telangana Studies
v) The Centre for Information Technology
vi) The Centre for Urban Development Studies
vii) The Management Development Centre

CENTRE FOR PUBLIC ADMINISTRATION

The Centre for Public Administration endeavours to empower the Government servants towards the realisation of Citizen Centric and Good Governance. The Centre is mandated to conduct the Foundation Courses to the entry level functionaries in the State Government. It also caters to the training needs of government personnel to develop expertise in regulatory matters which include Revenue, Law and Order and General Administration sectors which will further enable the Centre to give policy support to Government. Apart from trainings on the Right to Information Act, Training of Trainers programmes, Training Programmes on various topics like - Office Management, Service Matters, Disciplinary & Vigilance Procedures, Gender Related Laws, Prohibition of Sexual Harassment of women at work place are also taken up by the Centre.

Centre for Public Administration aims to be a Centre of excellence in various facets of Public Administration by building an ethical administrative culture in Government Personnel.

Faculty

1. **Dr. Madhavi Ravulapati,** Assoc. Professor of Law & Centre Head
2. **Prof. A.S. Ramachandra,** Senior Faculty
3. **Sri K. Ram Gopal,** Sr.Faculty
4. **Srinivas Madhav,** Sr.Faculty
5. **Smt. K. Soumya Rani,** Faculty
6. **Smt. G. Jhansi Rani,** Faculty
7. **Sri Saka Venkateshwara Rao,** Jr.Faculty
8. **Dr. K. Suresh Kumar,** Jr.Faculty

Supporting Staff

1. **Sri P. V. Sandeep Kumar,** Jr. Assistant & PA to Head
2. **Smt. Swapna Rani,** (Jr. Assistants)
3. **Sri B. Ravi** (Office Subordinate)

Sri Harpreet Singh, IAS
Director General (FAC), Dr MCR HRD IT &
Prl. Secretary to Govt.

FOREWORD

Right to Information is a fundamental human right, crucial to human development, and a prerequisite for the realisation of other rights. There is a strong global trend towards greater recognition of RTI. In 2016, UNESCO adopted a resolution declaring '28 September of every year' as "International Day for Universal Access to Information".

The Sustainable Development Goal (SDG) Target 16.10 requires ensuring "public access to information and protect fundamental freedoms, in accordance with national legislation and international agreements. UNESCO argues that advancing SDG 16 Target 10 on public access to information can nourish progress on all SDGs. So far over 120 countries have enacted freedom of information laws.

In India, the Right to Information Act came fully into force on 12th October 2005. It remains a milestone of great importance in the evolution of Indian democracy. The Parliament of India enacted the RTI Act with a noble intention to promote transparency and accountability in the working of every public authority. The law empowers common people with the right to seek information held by public authorities on par with the members of the Parliament or State Legislature.

The law aims to set out the practical regime of right to information for citizens to secure access to information. The practical regime includes Public Information Officers, First Appellate Authorities and Information Commissions, which are quasi judicial authorities to decide appeals and complaints filed by citizens.

Capacity building of Public Information Officers, First Appellate Authorities plays a major role in discharging their duties and responsibilities under the RTI Act diligently.

The Dr MCR HRD Institute being Apex Training Institute of the State is taking a lead role in capacity building on the RTI Act to the Public functionaries since enactment of the Act for effective implementation of the Act. Towards this end the Institute is conducting training programmes on RTI Act in the Institute as well as at district level through its Regional Centres for Training. The Institute is also conducting Workshops on different aspects of the RTI Act by involving CSOs functioning on RTI subject area apart from Govt. employees across various departments.

In addition to training programmes on the RTI Act, academic publications on various concepts of the law facilitate understanding the intricacies of the legislation. Key Decisions of the Central Information Commission and State Information Commissions and judgements pronounced by Constitutional courts need to be studied by all the decision makers under the Act. I hope the publications on Right to Information brought out by the Institute will guide all the stakeholders in effective implementation of the transparency law.

- Sri Harpreet Singh, IAS

CONTENTS

The Right to Information Act, 2005

Introduction

Statement of Objects and Reasons

In order to ensure greater and more effective access to information, the Government resolved that the Freedom of Information Act, 2002 enacted by the Parliament needs to be made more progressive, participatory and meaningful. The National Advisory Council deliberated on the issue and suggested certain important changes to be incorporated in the existing Act to ensure smoother and greater access to information. The Government examined the suggestions made by the National Advisory Council and others and decided to make a number of changes in the law.

The important changes proposed to be incorporated, *inter alia,* include establishment of an appellate machinery with investigating powers to review decisions of the Public Information Officers; penal provisions for failure to provide information as per law; provisions to ensure maximum disclosure and minimum exemptions, consistent with the constitutional provisions, and effective mechanism for access to information and disclosure by authorities, etc. In view of significant changes proposed in the existing Act, the Government also decided to repeal the Freedom of Information Act, 2002. The proposed legislation will provide an effective framework for effectuating the right of information recognized under Article 19 of the Constitution of India.

The Bill seeks to achieve the above objects.

Short Title:

THE RIGHT TO INFORMATION ACT, 2005

Official citation:

[No. 22 of 2005]

Date of Presidential Assent:

[15th June, 2005]

Long Title

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.

Preamble

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 harmonize 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.

Enacting formula

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

The legislative drafters of the Preamble might have drawn inspiration from a significant opinion of the United States Supreme Court. Nearly four decades ago, the court opined as follows:[1]

[T]he basic purpose of FOIA [Freedom of Information Act] is to ensure an informed citizenry, vital to the functioning of a democratic society, needed to check against corruption and to hold the governments accountable to the governed.

The Objectives of the RTI Act, amongst other things, include:

- provide for setting out the practical regime of right to information for citizens to secure access to information under the control of public authorities[2]
- promote transparency in the working of every public authority[3]
- promote accountability in the working of every public authority[4]
- transparency of information, which is vital:[5]
  - to contain corruption and
  - to hold Governments and their instrumentalities accountable to the governed

[1] *NLRB v. Robbins Tire & Rubber Co.*, 437 U.S. 214, 242 (1978).
[2] Long title of the Right to Information Act.
[3] Long title of the Right to Information Act.
[4] Long title of the Right to Information Act.
[5] Preamble to the Right to Information Act.

Accountability

UN Public Administration Glossary defines 'Accountability' as follows:[6]

Accountability refers to the obligation on the part of public officials to report on the use of public resources and answerability for failing to meet stated performance objectives.

UK Constitution Unit [7] while evaluating the impact of Freedom of Information (FOI) in the UK and the performance of FOI against its policy objectives[8] defined 'accountability' as follows:[9]

Giving an account of government policies, procedures and/or decisions, whether proactively (of one's own volition) or reactively (in response to a request for information). Thus accountability has two aspects: giving account and being held to account.

'Being held to account' includes:

- making public (read: publishing) mistakes and rectifications;
- explaining why decisions have been taken, by whom, and how outcomes came about;
- taking responsibility for and rectifying Maladministration

Transparency

UN Public Administration Glossary defines 'Transparency' as follows:

Transparency refers to unfettered access by the public to timely and reliable information on decisions and performance in the public sector, as well as on governmental political and economic activities, procedures and decisions.

Transparency International defines 'Transparency' as follows:

'Transparency' is a principle that allows those affected by administrative decisions, business transactions or charitable work to know not only the basic facts and figures but also the mechanisms and processes.

UK Constitution Unit defines 'transparency' as follows:[10]

---

[6] http://www.unpan.org/Directories/UNPublicAdministrationGlossary/tabid/928/language/en-US/Default.aspx

[7] Freedom of Information and Data Protection, The Constitution Unit, School of Public Policy, University College London.

[8] UK Constitution Unit has identified six policy objectives to be investigated to what extent they are being achieved:

•Greater transparency
•Increased accountability
•Better public understanding of government decision making
•More effective public participation in the political process
•Increased public trust and confidence in government
•Better quality of government decision making

[9] Sarah Holsen and Mark Glover, *Evaluating the FOIA 2000: Challenges and Progress*, The Constitution Unit, UCL, 31 Oct. 2007. http://www.ucl.ac.uk/constitution-unit/foidp/events/HolsenGloverEvaluatingFOIA_Slides31.10.07.pdf

The ability to observe what is going on inside an organisation - as an organisation being transparent about its policies, procedures or activities.[11]

Transparency and accountability

United Nations Economic and Social Council (ECOSOC) observes that 'Transparency and accountability are interrelated and mutually reinforcing concepts':

Without transparency, that is, unfettered access to timely and reliable information on decisions and performance, it would be difficult to call public sector entities to account. Unless there is accountability, that is, mechanisms to report on the usage of public resources and consequences for failing to meet stated performance objectives, transparency would be of little value. The existence of both conditions is a prerequisite to effective, efficient and equitable management in public institutions.

UK Constitution Unit also observes that accountability (giving account) overlaps with transparency. The law provides people with the mechanism to access information, which they can then use to hold government to account.

Corruption

Corruption literally means to destroy (from the Latin *corruptus*). *Oxford English Dictionary* defines 'Corruption' as follows:

Guilty of dishonest practices, (such) as bribery; without integrity; debased in character; depraved; perverted; crooked; wicked; evil; decayed; putrid; infected; tainted. Applies to one, esp. in public office, who acts on mercenary motives, without regard to honour, right or justice.

UN Public Administration Glossary defines 'Corruption' as follows:
Corruption is operationally defined as the misuse of entrusted power for private gain. Transparency International further differentiates between "according to rule" corruption and "against the rule" corruption. Facilitation payments, where a bribe is paid to receive preferential treatment for something that the bribe receiver is required to do by law, constitute the former. The latter, on the other hand, is a bribe paid to obtain services the bribe receiver is prohibited from providing.

---

[10] Robert Hazell, *Measures of Success for Freedom of Information*, Paper delivered at the 5th International Conference of Information Commissioners.

[11] The Constitution Unit divides this question into a number of sub-questions and indicators, of which the following are examples:
-Is more information placed in the public domain through proactive means (voluntary publication of information, disclosure logs, other)?
- Is the breadth/quality/relevance of the information released greater under [the law]?
- Do requesters and officials believe that authorities are more transparent as a result of [the law]?

UN ECOSOC defines 'Corruption' as follows:

Corruption may be defined as conduct that amounts to: influencing the decision-making process of a public officer or authority, or influence peddling; dishonesty or breach of trust by a public officer in the exercise of his duty; insider dealing/conflicts of interests; [and] influence peddling by the use of fraudulent means such as bribery, blackmail, which includes the use of election fraud. It is a form of behaviour that deviates from ethics, morality, tradition, law and civic virtue.

Chapter-I

Preliminary

1. Short title, extent and commencement

(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. Definitions

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 a 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;

Oral instructions and accountability

The Supreme Court pronounced a landmark judgement in *T.S.R. Subramanian & Ors. Vs. Union of India & Ors.,*[12] on a public interest writ petition by 83 persons including former Cabinet Secretary T S R Subramanian, seeking directions for insulating bureaucracy from political interference.

A Bench of Justices K.S. Radhakrishnan and Pinaki Chandra Ghose referred to the recommendations of the Hota Committee (2004) and the Santhanam Committee report, which highlighted "the necessity of recording instructions and directions by public servants."

The Bench said: "We notice that much of the deterioration of the standards of probity and accountability with the civil servants is due to the political influence of persons purporting to represent those who are in authority. The Santhanam Committee on Prevention of Corruption, 1962 has recommended that there should be a system of keeping some sort of records in such situations. Rule 3(3) (iii) of the All India Service Rules specifically requires that all orders from superior officers shall ordinarily be in writing."

It added, "Where in exceptional circumstances, action has to be taken on the basis of oral directions, it is mandatory for the officer superior to confirm the same in writing. The civil servant, who has received such information, in turn, is required to seek confirmation of the directions in writing as early as possible and it is the duty of the officer superior to confirm the direction in writing."

The Bench said: "There must be some records to demonstrate how the civil servant has acted, if the decision is not his, but if he is acting on oral directions, instructions, he should record such directions in the file. If the civil servant is acting on oral directions or dictation of anybody, he will be taking a

[12] Writ Petition (Civil) No.82 of 2011, October 31, 2013

risk, because he cannot later take the stand the decision was in fact not his own. Recording of instructions, directions is, therefore, necessary for fixing responsibility and ensuring accountability in the functioning of civil servants and to uphold institutional integrity."

Pointing out that "democracy requires an informed citizenry and transparency of information," the Bench said: "Oral and verbal instructions, if not recorded, could not be provided [to citizens]. By acting on oral directions, not recording the same, the rights guaranteed to the citizens under the RTI Act could be defeated. The practice of giving oral directions/instructions by the administrative superiors, political executive etc, would defeat the object and purpose of RTI Act and would give room for favoritism and corruption."

The Bench, therefore, directed all State Governments and Union Territories to issue in three months directions like Rule 3(3) (iii) of the All India Services (Conduct) Rules, 1968. The petitioners said weak governance manifesting in poor service delivery, excessive regulation, whimsical interventions for personal benefit, wasteful public expenditure, inadequate transparency and lack of accountability had reduced effectiveness of government policies and impinged on development.

Form of information

The appellant was asked to download the information from e-seva website. The Commission observed that the PIOs cannot ask the applicant to download the information from website. Instead, the PIO has to provide hard copies to the appellant on payment of cost...[13]

Form of access

If the requested information is not available in electronic form as required by the requester, it does not have to be created for the appellant.[14]

Opinions

[A]lthough "opinion" is indeed "information", to so qualify it must be held in material form.[15]

File notings

The Minister of State in the Ministry of Personnel, Public grievances and Pensions, replying to a Question in the Rajya Sabha, stated as follows:[16]

[13] Appeal 10608/CIC/2010 DT.31.8.2012
[14] CIC/MA/A/2006/0002 - 27 June 2006
[15] Adjunct to Complaint No.CIC/WB/C/2007/00196-28.03.2008
[16] Rajya Sabha Unstarred Question No 73. Answered on 02.07.2009 by the Minister of State in the Ministry of Personnel, Public grievances and Pensions.

The Government vide Department of Personnel and Training Office Memorandum no 1/20/2009-IR dated 23rd June, 2009 has clarified that the file noting can be disclosed except file noting containing information exempt from disclosure under section 8 of the Right to Information Act, 2005.

File notings and fiduciary relationship

File notings are that part of the file in which an officer records his observations and impressions meant for his immediate superior officers. Especially when the file, in which the notings are contained, is classified as confidential, the entrustment of the file note by a junior officer or a subordinate to the next higher or superior officer assumes the character of an information supplied by a third party (in this case, the officer writing the note to the next higher officer). This being so, any decision to disclose this information has to be completed in terms of the provision of Section 11(1) of the RTI Act. When the file notings by one officer meant for the next officer with whom he may be in a hierarchical relationship, is in the nature of a fiduciary entrustment, it should not ordinarily be disclosed and, surely not without the concurrence of the officer preparing that note. When read together, Section 11(1) and Section 8(1) (e), unerringly point to a conclusion that notings of a "confidential" file should be disclosed only after giving opportunity to the third party, viz. the officer / officers writing those notes, to be heard.[17]

Language

The High Court of Delhi in *Suresh Chand Gupta v Deputy Commissioner of Police and Anr.*[18] insisted that assistance should be provided when the requester cannot understand the records which are in English. The petitioner confined to a request that the PIO should permit inspection of the concerned records, with the assistance of the counsel or someone conversant in English.

PIO partly granted the request and allowed inspection as requested. The Petitioner, visited the office and later addressed a letter contending that he was not conversant in English, and could not properly inspect the records claiming to be aggrieved by the inaction of the respondent directions have been sought in these proceedings.

Justice S. Ravindra Bhat held as follows:

Section 7, in my mind, strengthens the petitioner's claim to be provided the facility of assistance of counsel and someone conversant in English. The object of the Act is to provide access to information in the custody of the executive agencies".

[17] CIC/AT/A/2006/00363-3.11.2006

[18] W.P.(C) 8228/2007,Date of Decision : 16th November, 2007

If the petitioner, for some reasons, felt inhibited due to his not being fluent in English, denial of appropriate assistance in fact would have resulted in withholding access to information. Surely, that is not the object of the Act or even the order.

In these circumstances, the respondents should grant the petitioner's request. Accordingly, the respondent is directed to permit inspection of the concerned records by the petitioner, who can be accompanied by his counsel or an authorized representative.

(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 organisation substantially financed,
directly or indirectly by funds provided by the appropriate Government;

Is office of the Chief Justice of India a public authority under RTI?

Information on Assets of judges
Supreme Court, Civil Appeal No. 10044 of 2010
Central Public Information Officer, Supreme Court Of India Vs. Subhash Chandra Agarwal

"In view of the aforesaid discussion, we dismiss Civil Appeal No.2683 of 2010 and uphold the judgment dated 12th January, 2010 of the Delhi High Court in LPA No. 501 of 2009 which had upheld the order passed by the CIC directing the CPIO, Supreme Court of India to furnish information on the judges of the Supreme Court who had declared their assets. Such disclosure would not, in any way, impinge upon the personal information and right to privacy of the judges. The fiduciary relationship rule in terms of clause (e) to Section 8(1) of the RTI Act is inapplicable.

It would not affect the right to confidentiality of the judges and their right to protect personal information and privacy, which would be the case where details and contents of personal assets in the declaration are called for and sought, in which event the public interest test as applicable vide Section 8(1)(j) and proviso to Section 11 (1) of the RTI Act would come into operation.

As far as Civil Appeal Nos. 10045 of 2010 and 10044 of 2010 are concerned, they are to be partly allowed with an order of remit to the CPIO, Supreme Court of India to re-examine the matter after following the procedure under Section 11(1) of the RTI Act as the information relates to third parties. Before a final order is passed, the concerned third parties are required to be issued notice and heard as they are not a party before us. While deciding the question of disclosure on remit, the CPIO, Supreme Court of India would follow the observations made in the present judgment by keeping in view the objections raised, if any, by the third parties. We have refrained from making specific findings in the absence of third parties, who have rights under Section 11(1) and their views and opinions are unknown." (*Sanjiv Khanna, J. writing the majority opinion)*

Are Ministers in the Union Government and all State Governments public authorities?

High Court of Delhi in *Union of India and Anr. Vs Central Information Commission and Anr.* (23.11.2017) set aside the Decision of the CIC declaring Minister is a "public authority" under Section 2(h) of the Act. The Court held as follows:

"The petitioner (Union of India) has filed the present petition, inter alia, impugning an order dated 12.03.2016 (hereafter „the impugned order□) passed by the Central Information Commission (hereafter "CIC"). By the impugned order, the CIC has declared "the Ministers in the Union Government and all State Governments as 'public authorities' under Section 2(h) of Right to Information Act, 2005".

This Court finds it difficult to understand as to how the questions as framed by the CIC arise in the appeal preferred by respondent no.2. The information as sought for by respondent no.2 was provided to him and there was no dispute that he was entitled to such information. The only grievance voiced by respondent no.2 was regarding the delay in providing him with the information as sought by him. Thus, the only prayer made by respondent no.2 before the CIC was that action be taken against CPIO and the First Appellate Authority under the provisions of the Act.

In these circumstances, there was no occasion for the CIC to enter upon the question as to whether a Minister is a "public authority□ under Section 2(h) of the Act. Further, directions issued by the CIC are also wholly outside the scope of the matter before CIC.

In view of the above, the impugned order dated 12.03.2016 cannot be sustained and is, accordingly, set aside."

Co-operative society

The Supreme Court in *Thalappalam Service Cooperative Bank Limited and Others v. State of Kerala and Others* [(2013) 16 SCC 82], was concerned with the issue whether a cooperative society would fall within the definition of a public authority under the RTI Act.

The Court held that a co-operative society is not a public authority unless the society satisfies certain requirements such as whether the society is **controlled** by the appropriate Government or whether the society is **substantially financed** by the appropriate Government.

The Supreme Court further held as follows:

BURDEN TO SHOW: 40. The burden to show that a body is owned, controlled or substantially financed or that a non-government organization is substantially financed directly or indirectly by the funds provided by the appropriate Government is on the applicant who seeks information or the appropriate Government and can be examined by the State Public Information Officer, State Chief Information Officer, State Chief Information Commission, Central Public Information Officer etc., when the question comes up for consideration.

Substantial finance

The Supreme Court in *D.A.V. College Trust and Management Society & Ors. Vs. Director of Public Instructions & Ors.*(Civil Appeal No. 9828 of 2013, 17 Sep. 2019) held as follows:

"While interpreting the provisions of the Act and while deciding what is substantial finance one has to keep in mind the provisions of the Act. This Act was enacted with the purpose of bringing transparency in public dealings and probity in public life. If NGOs or other bodies get substantial finance from the Government, we find no reason why any citizen cannot ask for information to find out whether his/her money which has been given to an NGO or any other body is being used for the requisite purpose or not.

..These are substantial payments and amount to almost half the expenditure of the Colleges/School and more than 95% of the expenditure as far as the teaching and other staff is concerned. Therefore, in our opinion, these Colleges/School are substantially financed and are public authority within the meaning of Section 2(h) of the Act.

As far as these cases are concerned, we find from the judgments of the High Court that the aspect with regard to substantial financing has not been fully taken into consideration, as explained by us above. Therefore, though we hold that these bodies are NGOs, the issue whether these are substantially financed or not needs to be decided by the High Court. The High Court shall give both the parties opportunity to file documents and decide the issue in light of the law laid down by us."

(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;

Unsigned documents

…being part of the record as defined u/s 2(i) (a), even copies of unsigned documents can be provided certifying that they are in fact unsigned documents.[19]

(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;

Certified copy

Essentials of a certified copy are set out in section 76 of the Indian Evidence Act, 1872: a copy of the document, at the foot of which a certificate written that it is a true copy of such document or part thereof, as the case may be, and such certificate shall be dated and subscribed by such officers with his name and his official title, and shall be sealed whenever such officer is authorized by law to make use of a seal, and such copies so certified shall be called certified copies.

Relevant provisions of the Indian Evidence Act, 1872 are as follows:

74. Public documents - The following documents are Public documents-

(1) Documents forming the acts, or records of the acts

(a) Of the sovereign authority,

(ii) Of Official bodies and the Tribunals, and

(iii) Of public officers, legislative, judicial and executive, of any part of India or of the Commonwealth, or of a foreign country.

(2) Public records kept in any State of private documents.

[19] CIC/WB/A/2006/00270-9.10.2006

75. Private documents - All other documents are private.
76. Certified copies of Public Documents - Every public officer having the custody of a public document, which any person has a right to inspect, shall give that person on demand a copy of it on payment of the legal fees there for together with a certificate written at the foot of such copy that it is a true copy of such document or part thereof, as the case may be, and such certificate shall be dated and subscribed by such officers with his name and his official title, and shall be sealed whenever such officer is authorized by law to make use of a seal, and such copies so certified shall be called certified copies.

Explanation - Any officer who, by the ordinary course of official duty, is authorized to deliver such copies, shall be deemed to have the custody of such documents or parts of the public documents of which they purport to be copies.

Compilation of information

The Department of Personnel and Training (DOPT), the central nodal agency to oversee the implementation of the RTI Act issued an Office Memorandum[20] which states as follows:

It need to be noted that the sub-section [sub-section (9) of Section 7] means that if the information is sought in the form of a photocopy, it shall be provided in the form of photocopy and if it is sought in the form of a floppy, it shall be provided in that form subject to the conditions in the Act etc. It does not mean that the PIO shall re-shape the information.

…Careful reading of the definition of 'information' and 'right to information' makes it clear that a citizen 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 material, take 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.

Hypothetical questions

The Appellant in his application to the PIO at Point Nos. 1 to 3 has posed questions to the PIO as to what action would be taken and when it would be taken against … for filing false case and causing harassment to him.

The request of the Appellant does not come under the definition "information" as defined U/s 2(f) of the RTI Act, 2005. According to Sec.2(f) of the RTI Act, 2005, the PIO is obligated to furnish the information that is held by

[20] No.11/2/2008-IR on 10 July, 2008.

him. The Appellant herein has sought information on hypothetical questions and non-existent information. In this regard it is to be made clear that only such information is required to be supplied under the Act which "exists" and is "held" by the public authority or held under the control of the public authority.

The PIO is not obligated to create information or to interpret information or to solve imagined problems raised by the applicants or to furnish replies to hypothetical questions.[21]

Appropriate forum

[The Appellant] specifically cited the calculation of his earned leave entitlement and has alleged wrongful calculation. As per the RTI Act, the liability of the Respondent is only to furnish information on "as it is" "where it is" basis. If the earned leave entitlement is wrongly calculated, it is for the Appellant to agitate before the Competent Authority and RTI is not the Forum for going into entitlements and calculations.[22]

Videography

If an applicant wishes to make copies of records/ samples given to him for inspection at his own expenses, it is not for the Public Authority to object to the form in which the copies are being made, provided it is restricted to the information permissible under the Act. There is no provision in the Act disallowing Videography, and therefore, cannot be excluded unless it violates the parameters of any information sought and agreed to be provided.[23]

Information held

In one case, Records of the court martial trial' were destroyed after a retention period of 10 years under Army Rule 146. The Commission held: Information did not exist, it was physically impossible to provide it. There is no liability under RTIA of a public authority of supply non-existent information.[24]

Weeding out the information

As for the supply of information, in one case the information asked for by the Appellant was weeded out as per their official guidelines. The commission recommends, in such cases where the information has been weeded out, the respondents should provide appellant with a copy of the rules on the basis of which the files have been weeded out and also issue a certificate to this effect.[25]

[21] APIC- Appeal No.932/CIC/2009, Dt. 17-06-2009
[22] Appeal No.1072/CIC/2009, dated 07-10-2009
[23] CIC/WB/A/2006/00144 -- 3 Aug.2006
[24] CIC/AT/A/2006/20 - 23 March 2006
[25] CIC/OK/C/2006/00179

Information held - untraceable records

We notice that the Ministry of Defense and the Department of Defense Accounts have made a diligent search to trace if any information about Govt. decision on the equivalence between the ranks of the civilian employees and their counterparts in the Armed Forces exists. Their search yielded no result. They have accordingly informed the complainant that they could not trace the information requested by him.

We have no option but to sail along with the CPIOs of the Ministry of Defense as well as the Department of Defense Accounts in their conclusion that their search failed to unearth the information requested by the complainant. They were not in a position to confirm or deny that such information existed. Their dilemma is for anyone to see. It would be fair to assume that the information as requested by the complainant is "untraceable" rather than "non-existent."[26]

Creation of information

Under sec. 2(j) of the RTI Act only information as held by or under the control of any public authority can constitute a right to information for which a citizen can claim access. This cannot be construed to demand creation of information as has been sought in the first case in this matter, asking measurements to be taken. Here too, even if Chief architect is to considered custodian of information it is not clear how he can be asked to take create information if not in his possession.[27]

Information held by a citizen himself

The purpose of the RTI Act is to allow access to a citizen to information held by a public authority. The key element is provision of information. Insofar as information is held by a citizen himself, it must be construed that he already had access to such information and his seeking the same from a public authority is a wholly infructuous exercise.

In such cases, it should suffice if the public authority intimates to the appellant whether or not his/her letters/petitions had been received by that public authority and the dates thereof. If he wants to have copies of his own letters written to the public authority, he better looks up his own records. In all such cases, the key information to be transmitted to an information-seeker, when such information pertains to the copies of letters he himself might have written to public authority, is that the public authority was or was not in possession of those letters/petitions. The public authority has no obligation beyond supplying the above-mentioned information to the information-seeker.[28]

[26] CIC/AT/A/2006/00073 – 4 July 2006
[27] CIC/WB/A/2006/00379; 00380 & 00381-21.12.2006
[28] CIC/AT/A/2006/00411-5.12.2006

Destruction of records

The respondents claimed that the documents asked for by the complainant had been destroyed as per the procedure for destruction of records. The respondents are directed to provide to the appellant the rules / information regarding destruction of records / files and the particulars about the destruction of the documents requested by the complainant.[29]

Can a requester seek opinions of the authorities?

The PIO is required to 'provide information' which is available in any form with her office rather than giving her ' personal opinion' on the questions asked by the requester.[30]

Information sought is available in the Gazette

…even if information sought is available in the Gazette, [PIO] is bound to furnish the information and cannot ask the information seeker to search for the same elsewhere.[31]

Information

Citizens can ask for copies of documents containing the information. But they cannot seek opinions through a questionnaire.[32]

Information in the memory

The appellant is under an erroneous impression of that not only he has a right to information, he also has a right to the information in the memory of a public authority. There is no obligation to disclose such information.[33]

Destruction of records

The respondents claimed that the documents asked for by the complainant had been destroyed as per the procedure for destruction of records.

The respondents are directed to provide to the appellant the rules / information regarding destruction of records / files and the particulars about the destruction of the documents requested by the complainant.[34]

Certified Copies

…attested copies that had been supplied had the same dictionary meaning as 'Certified Copies'.[35]

---

[29] CIC/AT/C/2006/00111-20.11.2006
[30] CIC/MA/A/2006/00150-19 June,2006
[31] F. No. PBA/06/136-4.10.2006
[32] CIC/OK/A/2006/00049 - 2 May 2006
[33] CIC/AT/A/2006/00296-20.11.2006
[34] CIC/AT/C/2006/00111-20.11.2006
[35] CIC/WB/C/2006/00152-30.10.2006

(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.

Whether a public authority can appeal against the decision of a PIO/Appellate Authority

The Full Bench of the CIC in *Mrs. Guninder Kaur Gill v DCP EOW* answered this question as follows:

[T]he term "third party" wherever it occurs in the RTI Act shall ipso facto include a Public Authority. Over and above the definition of "third party" is an inclusive one, which makes its meaning wide and extensive. In this context, Section 11(1) is pertinent. Under Section 11(1), whenever a CPIO intends to disclose an information or record –

(i) which relates to and has been treated as confidential by that `third party'; or

(ii) which has been supplied by a third party and has been treated as confidential by that third party

-the CPIO shall give a written notice to such third party of the request and of his intention to disclose the information. Section 19(2) confers a right on a Public Authority of preferring an appeal before the First Appellate Authority against the decision of CPIO. Thus, if the CPIO decides to disclose information that relates to a Public Authority and if the Public Authority has treated the information as confidential, it can submit an appeal before the First Appellate Authority under Section 19(2) of the RTI Act.

The issue still remains as to whether a Public Authority can appeal against the decision of its own CPIO. In this context, the opening words of Section 19(1) are important. It says that any person can prefer an appeal who-

(i) does not receive a decision within time specified; or

(ii) is aggrieved by a decision of the CPIO

It may be mentioned that the word `person' has not been defined in the Act but it is wide enough to include a Public Authority, which is a juristic entity and as such is a "person" in the eye of law.

The right of appeal is a legal right and is available to every aggrieved party to a proceeding and this right cannot be taken away unless law explicitly provides it.

Insofar as an appeal before the CIC is concerned, Section 19(3) of the Act refers, which reads as under:

"19(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."

The opening words of the sub-section makes it clear that the 2nd appeal is against the decision passed by the First Appellate Authority and it can be preferred by any of the aggrieved parties.[36]

Chapter II

Right to information and obligations of public authorities

3. Right to information

Subject to the provisions of this Act, all citizens shall have the right to information.

Paragraph 8 of the *Guide for the Public Authorities- Guidelines for the public authorities under the Right to Information Act,2005*, published by the Department of Personnel & Training, Ministry of Personnel, P.G. and Pensions, Government of India[37] states as follows:

8. The Act gives the right to information only to the citizens of India. It does not make provision for giving information to Corporations, 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 has sought information at the address of the Corporation etc.

[36] CIC/AT/A/2006/00074 and CIC/WB/A/07/00679 ,Date of Decision: 02.08.2007

[37] O.M.No.1/4/2008-IR dated: 25th April, 2008

Citizen

Even if information is sought by an office bearer of an Association/Union, the same should be treated as valid in terms of the provisions of the RTI Act.[38]

4. Obligations of public authorities

(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 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;

Paragraph 2 of the '*Guide for the Public Authorities- Guidelines for the public authorities under the Right to Information Act,2005'*, published by Department of Personnel & Training, Ministry of Personnel, P.G. and Pensions, Government of India[39] states as follows:

2.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. Reference made to public authority in this document is, in fact, a reference to the head of the public authority.

Record management

Record Management system ought to be improved such that information which are to be disclosed to public could be easily provided, after delineating the information that is exempted under the Act.[40]

Computerization of land records

…the Chief Secretary NCT of Delhi is directed to ensure that vide the provisions of sec. 4(1) (a) the Land Acquisition records may be duly collected and indexed in a manner and form which facilitates the right to information under this Act and are within a reasonable time computerized and connected through a network on different systems so that access to such records is facilitated. The Govt. of NCT of Delhi is advised to make the necessary finances available to the Revenue Department, NCT Delhi to ensure compliance of these directions.[41]

[38] 139/ICPB/2006-25.10.2006
[39] O.M.No.1/412008-IR dated: 25th April, 2008
[40] CIC/OK/A/2006/00016 - 15 June 2006
[41] CIC/WB/A/2006/00435-28.11.2006

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 advise, 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 authorizations 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;

The Right to Information Act 2005 seeks 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. An important aspect of the Act pertains to the obligation of public authorities to proactively disseminate information to the members of public.

The RTI Act mandates every public authority to:

- Disclose information as required under the 16 sub-clauses of section 4 (1) (b).
- Take steps to provide the information voluntarily to the public at regular intervals so that public has minimum resort to the use of this Act to obtain information. [Section 4(2)]
- Disseminate information widely and in a form and manner easily accessible to the public. [Section 4(3)]
- Provide information in the local language and adopt the most effective method of communication for dissemination of information.
- Make information accessible to the extent possible in electronic format with the concerned Public Information Officer, available free of cost or at such cost of the medium or the prescribed print cost price. [Section 4(4)]

Means of dissemination of the above information should include:

- Notice Boards
- Newspapers
- Public announcements
- Media broadcasts
- Internet
- Any other means including inspection of offices of any public authority.

Key points

- The public authority should have published this information by 12 October 2005.
- Field offices also should publish similar information pertaining to their activities.
- This information should also be published in Official language.
- Physical copies of publications should be available free or at print cost price with the PIO.
- Electronic copies should be available free or at cost of the medium with the PIO.
- Electronic copies should be posted on website.
- Website should have a separate link/button named 'Right to Information', which would provide all the relevant information and documents including a list of designated APIOs, PIOs and Appellate Officers with their addresses, telephone numbers, Fax numbers and e-mail IDs.

The road ahead

Timely dissemination of relevant information in a clearly understandable form under the RTI Act is a continuous process. The public authority should aim to:

- Publish all relevant facts while formulating important policies or announcing the decisions which affect public [Section 4(1) (c)]
- Provide reasons for its administrative or quasi-judicial decisions to affected persons [Section 4(1) (d)]
- Update the information provided under Section 4(1) (b) every year.

Obligations of a public authority

Paragraph 2 of the '*Guide for the Public Authorities- Guidelines for the public authorities under the Right to Information Act,2005'*, published by Department of Personnel & Training, Ministry of Personnel, P.G. and Pensions, Government of India states as follows:[42]

2. 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. Reference made to public authority in this document is, in fact, a reference to the head of the public authority."

Updating

Paragraph 19 of the '*Guide for the Public Authorities- Guidelines for the public authorities under the Right to Information Act, 2005'*, published by Department of Personnel & Training, Ministry of Personnel, P.G. and Pensions, Government of India states as follows:[43]

19. 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.

Display boards

The appellant requested the PIO, to inform the follow up action taken in respect of Section 4 in RTI Act, 2005 in the P.D. Offices from Women & Child Welfare Development Agencies and C.D.P.O. of Guntur District.

The Commission directed the PIO and the Appellate Authority to display board in Telugu in their offices at prominent places showing particulars of PIOs / FAA in their department. This commission further directed to follow Sec. 4 (1) (a) and 4(2) and also to designate APIO's at Anganwadi's as per RTI Act 2005 within four weeks from the date of receipt of this order and report compliance to this commission.[44]

[42] O.M.No.1/412008-IR dated: 25th April, 2008
[43] O.M.No.1/412008-IR dated: 25th April, 2008
[44] APIC-Order in Appeal No: 8261/IC-III/2009, Dt 31-10-2011

Compensation for non-publication of information

In a landmark Decision, compensation was awarded by the CIC for non-publication of information under section 4(1)(d) which is another obligation of the public authority similar to the one under section 4(1)(b):

In the present case, the issue is publishing of information of beneficiaries on the Old Age Pension Scheme and not a failure to respond to an RTI application. The RTI Act 2005 is quite clear on the issue of *suo moto* disclosure, which is what complainants in the present case demand. Sec.4 (1) sub-section (b) sub-section (xiii) reads as follows:

"Every public authority shall publish within one hundred and twenty days from the enactment of this Act the manner of execution of subsidy programmes, including the amounts allocated and the details of beneficiaries of such programmes; particulars of recipients of concessions, permits or authorizations granted by it;

But the issue of concern in this case, which is the discontinuance or suspension of a scheme, can be defined as an administrative decision. Therefore, the above sub section of sec. 4(1) may be read with sec. 4(1) sub sec.(d) which reads as follows:

"Every public authority shall provide reasons for its administrative or quasi-judicial decisions to affected persons."

As is, therefore, laid down in the law, this information was expected to have been published within 120 days from the enactment of this Act, which was June 21, 2005. The 'Old Age Stipend Scheme' was evidently in operation in June 2005, and seems to have been discontinued, at least insofar as complainants are concerned only in April 2007. Yet, this has not been published to date. PIO Shri S.K. Jha, Dy. Commissioner (South) is, therefore, directed to comply within twenty working days of the date of issue of this Decision with the requirements of Sec. 4(1)(b)(xiii) read with sec. 4(1)(d) of the RTI Act with regard to the 'Old Age Stipend Scheme', under intimation to Shri Pankaj K. Shreyaskar, Joint Registrar of this Commission. This can also include the necessary information on Widows' Pension.

Because the failure of the public authority cited above, cannot be ascribed as a failure of a PIO rendering him/her liable for penalty u/s 20(1), since the complaint is not one of failure to respond to an RTI application, no penalty will lie. However, it is clearly established that the complainants have suffered loss as a result of not being provided the information suo moto, as required under Sec 4 (1) of the Act. For this we find that the demand for compensation is reasonable. However, the amount will require to be determined. Shri SK Jha, Deputy Commissioner will therefore pay an adhoc amount of Rs 1000/- to each of the complainants u/s 19 (8) (b), within one month of the date of issue of this Decision Notice under intimation to Shri Pankaj K. Shreyaskar, Joint Registrar of this Commission. He will in the meantime also enquire into the loss or detriment suffered by each after hearing them, and send us a report by March 31,2008 to enable us to determine any further compensation payable to complainants by the public authority.[45]

[45] Complaint Nos.CIC/WB/C/2007/00803-00806 & 00887-00896,3.3.2008

(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;

Voluntary disclosure

A public authority is required to make pro-active disclosure of all the relevant information as per provisions of Section 4(1)(b), unless the same is exempt under the provisions of Section 8(1). In fact an information regime should be created such that citizens would have easy access to information without making any formal request for it.[46]

4 (2) It shall be a constant endeavor 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.

Voluntary disclosure

Section 4 (2) and (3) of the RTI Act calls for continuous improvement of publication of voluntary disclosures in keeping with the resources available. A citizen can complain - because the Department has not updated their information, thus causing damage and risk.[47]

Suo-motu disclosure on official tours

Government of India issued following advice to all the central public authorities:[48]

- Public Authorities may proactively disclose the details of foreign and domestic official tours undertaken by Minister(s) and officials of the rank of Joint Secretary to the Government of India and above and Heads of Departments, since 1st Jan.2012.
- Information to be disclosed proactively may contain nature of the official tour, places visited, the period, number of people included in the official delegation and total cost of such travel undertaken. Exemptions under Section 8 of the RTI Act, 2005 may be taken in view while disclosing the information. These advisory would not apply to security and intelligence organizations under the second schedule of the RTI Act, 2005 and CVOs of public authorities.

(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.

[46] 24/IC(A)/2006 - 16 April,2006
[47] CIC/WB/C/2006/00081- 13 July, 2006
[48] Department of Personnel & Training, O.M. No. F. No. 1/ 8/2012-IR,11 Sep.2012

(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. Designation of Public Information Officers

(1) Every public authority shall, within one hundred days of the enactment of this Act, designate as many officers as 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.

The Minister of State in the Ministry of Personnel, Public grievances and Pensions stated in the Lok Sabha as follows:[49] The Act does not require creation of the post(s) of the public information officers. The public authorities, as per provisions of the Act, have designated the officers as public information officers.

On another occasion, the Minister stated in the Lok Sabha as follows:[50]

The Right to Information Act, 2005 contains provisions enabling the Public Information Officers to work objectively and fearlessly.

(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.

[49] Lok Sabha Unstarred Question No 1023. Answered on 25.11.2009 by the Minister of State in the Ministry of Personnel, Public grievances and Pensions

[50] Lok Sabha Unstarred Question No 1762. Answered on 28.11.2007 by the Minister of State in the Ministry of Personnel, Public grievances and Pensions.

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.

Can an APIO sign a response letter?

- The Act has surely limited the APIO's role only to receiving applications for information and appeals and transmitting the same to their proper destination. His responsibilities are not co-extensive with the P.I.O. However, this action of the APIO should not create as special disability for the requester in exercising his rights under the Act.

- In the normal course an applicant for information has a right to receive the reply from the PIO and the PIO only. We, however, see no legal difficulty in the PIO using the services of an APIO to transmit the former's decision on the application for information through the APIO.

- In our understanding, this will not lead to any miscarriage of justice or place undue restriction on an information seeker's rights under the RTI Act.

- We, however, like to caution that any order issued by a APIO on behalf of PIO must clearly state that the former was only transmitting the orders of latter and should also state the name and the designation of the PIO on whose behalf the APIO might be acting. This will enable the information seeker to bring against the PIO any charge of delay etc. if that happens to be the case.

In this instant case, the order was, no doubt, signed by the Assistant PIO, Shri Ramesh Chand Sapra, but the order very clearly stated that this was from the "Office of the Public Information Officer-cum-Dy. Commissioner of Police: West Delhi" Quite obviously, therefore, the appellant was not handicapped in knowing the identity of PIO handling his case, even though the reply was signed by the APIO.[51]

APIO

It is only a PIO who is required to provide information to the requesters. When a request is received by an APIO he is required only to forward the same forthwith to a PIO of the public authority.[52]

(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.

[51] CIC/AT/A/2006/00059-5 May, 2006
[52] 10/01/2005 - CIC - 25 February 2006

Courtesy

DOPT issued an Office Memorandum No.4/9/2008-IR on 24th June, 2008, which states as follows:

[T]he responsibility of a public authority and its public information officers (PlO) is not confined to furnish information but also to provide necessary help to the information seeker, wherever necessary. While providing information or rendering help to a person, it is important to be courteous to the information seeker and to respect his dignity.

Many organizations / training institutions are conducting training programmes on the Right to Information Act. The public authorities should ensure that their PIOs and other concerned officers are exposed to such training programmes. The public authorities may also organize training programmes at their own level. While imparting such training, the officers should be sensitized about the need of courteous behavior with the information seekers.

CIC made it very clear that the responsibility of the Public Information Officer (s) is not only to provide information under RTI Act but also to respect the dignity of the citizen. It is, therefore very important that Public Authorities maintain certain general level of courtesy with the information seekers and a system to this effect be put in place by each department of the Government.[53]

(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.

PIO

Under the Act, the CPIO may take the assistance of any other officer from his department. Therefore, the documents signed on his behalf by any other officer designated by him should be acceptable to the appellant.[54]

Multiple PIOs

If multiple number of PIOs are appointed in the same public authority there is no scope to either ask the citizen to approach another PIO within the same public authority or send the request to another PIO within the same public authority (P.A.) Only in a case where the information sought is held by another P.A. other than the one which has designated her as PIO, she can transfer the request to that P.A. for furnishing information to the applicant directly.[55]

[53] CIC, *Annual Report 2006-07*.
[54] 111/IC(A)/2006 – 13 July,2006.
[55] ICPB/C1/CIC/2006 - 6 March, 2006.

(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.

Other officers

PIO, who has received the request form the requester, is under obligation to seek information from his colleague and provide it to the requester. His colleague who was to provide the information as per sec. 5(5) would become deemed PIO and expected to provide the - PIO, who received the original request - the required information.[56]

6. Request for obtaining information

(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 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.

Reasonable assistance

The Supreme Court in *Aseer Jamal Versus Union of India & Ors* (Writ Petition (C) No. 137 of 2018) held that PIO has the duty to listen to the requester and write down their request for information. The Court held as follows:

"8. Mr. Venugopal, learned Attorney General, has emphasized the proviso to Section 6(1) to highlight that it is obligatory on the part of the Central Public Information Officer or State Public Information Officer to render all reasonable assistance to the persons making the request orally to reduce the same in writing. As we understand from the said proviso, it will be the duty of the officer to listen to the persons and to reduce it in writing and process the same.

[56] CIC/AT/A/2006/00015 - 1 March, 2006.

9. Section 6(3) of the Act takes care of the apprehension of the persons for whose cause the petitioner espouses, by making the provision pertaining to appropriate competent public authority. On a careful reading of the same, we do not find that there can be any difficulty for any person to find out the public authority as there is a provision for transfer.

10. As far as the grievance relating to visually impaired persons is concerned, as stated earlier, assistance has to be rendered under Section 6(1) of the Act to the persons who are unable to write or have difficulty in writing. Mr. K.K. Venugopal has brought to our notice that several States provide information in Braille since the year 2012. Every time the authority receives an RTI application seeking information in Braille, it prepares a reply in the printed format and forwards it to the National Institute for the Visually Handicapped where it is converted to Braille. The visually impaired citizens of Bihar were the first in the country to get copies under the Right to Information (RTI) Act and the Rules made by the State Government for its implementation in Braille script. Audio files are also being prepared."

Request for information needs to be 'specific'

The request of the Appellant u/s 6(1) of RTI Act to the Commissioner and I.G. of Registration and Stamps to fix up separate dates for inspection of "proceedings/ functioning/ activities etc. of" 14 Sub Registrar offices in Hyderabad.

The RTI Act in Sec. 6(1) lays down that a person who desires to obtain information shall make a request to the PIO specifying the particulars of information sought. Sec. 2(f) defines what information" is and Sec. 2(j) clothes the applicant with the required right to obtain the information. The Delhi High Court in *Election Commission of India Vs. CIC* (WP No.4715 of 2008) held that Sec. 2(f) and 2(j) should be read together. The expression "Right to information" should be defined with reference to the term "information". It is a pre-condition for access to any material / details sought whether it falls within the definition "information" in Sec. 2(f). The Appellant in this case has not specified any "information" as defined in Sec. 2(f). He simply requested for fixing dates for inspection of 14 Sub Registrar offices.

.. The request of the Appellant for inspection does not fall under the definition of "information" in Sec. 2(f).[57]

A request for information need not point to file numbers

The representative of the Complainant submitted that he sought duly attested copies of municipal permission and mutation certificates in respect of house No. 3-4-236, 237, 238, 239 and 240. He also submitted that the sought information was not provided by the Public Information Officer.

[57] Telangana State information Commission, Appeal No. 22730/CIC/2017, Dated: 17-5-2018

The Public Information Officer submitted that the sought information is old and unless permission number is mentioned, it would be difficult to trace out the concerned file.

... The Commission is unable to understand how a common man can ascertain the Permission number or the file number of the GHMC. Insisting an applicant under the RTI Act to indicate the proceeding number or file number would amount to denial of information.

The Commission directs the Public Information Officer to make thorough search of its records and furnish the sought information within two weeks from the date of receipt of this order.

The RTI Act recognizes the right of a citizen to access information under the control of public authority to promote transparency and accountability. In furtherance of this objective, sec 4(1)(a) of the RTI Act makes it obligatory for every public authority to maintain all its records duly catalogued, indexed and computerized in a manner and form to facilitate the Right to information under the RTI Act, 2005. A person seeking information from GHMC will generally be quoting the house number as he will not be in a position to access the proceeding number or the File number. This Commission is of the considered view that in order to facilitate access to information under the RTI Act, the GHMC shall initiate steps to index and computerize its records to query the sought information with reference to the house number.

In exercise of the power vested under sec 19(8) (a)(iv) of the RTI Act, 2005 this Commission recommends that the Greater Hyderabad Municipal Corporation should make necessary changes to its practice in relation to the maintenance of its computerized records to facilitate Right to information with reference to house numbers.[58]

Upfront application fee

The Department of Personnel and Training, entrusted with the responsibility of implementation of the law, had to suggest, "If any public authority does not have any Accounts Officer, an officer may be designated as such for the purpose of receiving fee", in their *Guide for the Public Authorities*.

Dr E.M. Sudarsana Natchiappan, the then Chairman of the Rajya Sabha Department-Related Parliamentary Standing Committee on Personnel, Public Grievances, Law and Justice, in their 25th and 31st reports opined that "the application under RTI Act should not be rejected for nonpayment of fee at the initial stage" and the initial application fee can be collected at the time of providing information by including it in the further fees.

[58] Telangana State information Commission, Complaint No. 24721/CIC/2017, Dated: 17-05-2018

There are two types of fees under the RTI Act: the initial application fee and further fees 'representing the cost of providing the information'. The Committee is against the rejection of an application under RTI merely on non-payment of Rs.10; such rejection is not justified and 'against the very spirit' of the Act itself which calls for proactive dissemination of information. The Act does not provide for payment of fee at the initial stage and the provision of Rs.10 as fee for first entertaining the application has been provided in the Rules made by the Government. The Committee observed that if a rule goes against the spirit of the Act, it may be quashed.

Excess fee

The PIO had rejected the 6(1) application filed by the appellant on 27-01-2012 on the ground that the applicant had paid excess amount i.e., Rs.20/- towards the application fee. The rejection by the PIO on account of excess payment of application fee is not correct. It is common practice that whenever court fee stamps or other stamps required to be affixed of particular denomination are not available higher denomination are affixed and they are accepted by various authorities including the Courts.[59]

Should a request be typewritten?

PIO rejected a request that it had not been typewritten. CIC condemned the PIO's action because the Act specifically provides for applications to be submitted "in writing" {Sec 6 (1)} and held:

If the refusal to receive the application is only because it is handwritten as alleged, the refusal cannot be said to have been with reasonable cause as required u/s 20 (1) & (2).[60]

Banker's cheque

In a recent Decision the CIC observed as follows:

It is obvious that the complainant is under the impression that the 'Banker's cheque is a cheque that is issued from the personal account of the account holder. This is incorrect. Banker's cheque is a cheque issued by the Bank itself, which is commonly referred to as a 'pay order'.[61]

State Bank describes the Banker's-Cheque (Pay Order) as follows:

Banker's Cheques are issued for making payments locally. Issuance/payment of Banker's Cheque for Rs.50,000/- and above is to be made only through the bank account. Validity period of Banker's Cheque is 6 months. This can be revalidated by the issuing branch on written request of the purchaser.

[59] APIC-Appeal No.4714/SIC-SPR/2012, dated 06-04-2013
[60] CIC/WB/C/2006/00035
[61] CIC/OK/C/2006/00118,Dated, the 4 December, 2006

(*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.*

Can the identity of the requester be disclosed?

Calcutta High Court in *Avishek Goenka Vs Union of India* held:[62]

..the authority should not insist upon requester's whereabouts when post box number is provided .. In case…they may insist on upon personal details…it would be the solemn duty of the authority to hide such information and particularly from their website so that people at large would not know the details…to avoid any harassment by the persons having vested interest.

On the advice of the Court, Government of India issued the following advisory on 'Uploading of RTI replies on the respective websites of Ministries / Departments':[63]

Attention is invited to para 1.4.1. of the enclosed guidelines referred to in this Deptt.'s O.M. No.1/6/2011-IR dated 15.04.2013, for implementation of suo motu disclosure under Section 4 of the RTI Act, 2005, which states as follows:-

"All Public Authorities shall proactively disclose RTI applications and appeals received and their responses, on the websites maintained by Public Authorities with search facility based on key words. RTI applications and appeals received and their responses relating to the personal information of an individual may not be disclosed, as they do not serve any public interest."

2. Further vide O.M. No.1/1/2013-IR dated 21.10.2014 on the issue of uploading of RTI replies on the respective websites of Ministries / Departments, DoPT had requested that:

"RTI applications and appeals received and their responses relating to the personal information of an individual may not be disclosed, if they do not serve any public interest".

3. Now, keeping in view the directions dated 20.11.2013 of Hon'ble High Court of Kolkata in Writ Petition No.33290/2013 in the case of Mr. Avishek Goenka Vs Union of India regarding personal details of RTI applicants, it is clarified that while proactively disclosing RTI applications and appeals received and responses thereto, on their website, the personal details of RTI applicant/appellant should not be disclosed as they do not serve any public interest. It is further clarified that the personal details would include name, designation, address, e-mail id and telephone no. including mobile no. of the applicant.

[62] WP No.33290 of 2013 dt. 20.11.2013
[63] 7thOctober, 2016 (F.No. 1/1/2013-IR)

Personal discussion with the requester

The CPIO and the AA may, however, be well advised that in all matters such as this, it is better to call the petitioner over for a discussion about what precise information he seeks. In the present case, the petitioner had come all the way in appeal to the Commission in spite of the fact that the public authority was willing to share with him all the information which he had requested. A personal discussion would have avoided litigation.[64]

Personal discussion with the requester

If there was general confusion regarding the kind of information that has been called for and that could have been supplied, it could have been easily resolved by a personal sitting between the appellant and the respondents.[65]

Address of the requester

The Commission could not agree with the PIO's contention that the information was sought on behalf of an institution. The Appellant had applied in his own name and had only given his address as that of an NGO for the purpose of correct delivery of post. Thus merely giving the address of an NGO does not imply that the institution was asking for the information.[66]

(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.

The Guide on RTI published by DoPT - *RTI applications received by a public authority regarding information concerning other public authority/ authorities*[67] states as follows:

[64] CIC/AT/A/2006/00157 – 5 July, 2006.
[65] CIC /WB/A/2006/00180 – 5 July,2006
[66] CIC/OK/A/2006/OOO50 – 3 July,2006
[67] Published by Department of Personnel & Training, Ministry of Personnel, P.G. and Pensions, Government of India (O.M. No. 10/2/2008-IR dated: 12th June, 2008).

2. Section 6(1) of the RTI Act, 2005 provides that a person who desires to obtain any information shall make a request to the public information officer (PlO) of the concerned public authority. Section 6(3) provides that where an application is made to a public authority requesting for any 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 application is made, shall transfer the application to that other public authority. A careful reading of the provisions of sub-section (1) and sub-section (3) of Section 6, suggests that the Act requires an information seeker to address the application to the PlO of the 'concerned public authority'.

However, there may be cases in which a person of ordinary prudence may believe that the piece of information sought by him/her would be available with the public authority to which he/she has addressed the application, but is actually held by some another public authority. In such cases, the applicant - makes a bonafide mistake of addressing the application to the PlO of a wrong public authority. On the other hand where an applicant addresses the application to the PlO of a public authority, which to a person of ordinary prudence, would not appear to be the' concern of that public authority, the applicant does not fulfill his responsibility of addressing the application to the 'concerned public authority'.

3. Given hereunder are some situations which may arise in the *matter* and action required to be taken by the public authorities in such cases:
(i) A person makes an application to a public authority for some information which concerns some another public authority. In such a case, the PlO receiving the application should transfer the application to the concerned public authority under intimation to the applicant. However, if the PlO of the public authority is not able to find out as to which public authority is concerned with the information even after making reasonable efforts to find out the concerned public authority, he should inform the applicant that the information is not available with that public authority and that he is not aware of the particulars of the concerned public authority to which the application could be transferred. It would, however, be the responsibility of the PlO, if an appeal is made against his decision, to establish that he made reasonable efforts to find out the particulars of the concerned public authority.

(ii) A person makes an application to a public authority for information, only a part of which is available with that public authority and a part of the information concerns some 'another public authority.' In such a case, the PlO should supply the information available with him and a copy of the application should be sent to that another public authority under intimation to the applicant.

(iii) A person makes an application to a public authority for information, a part of which is available with that public authority and the rest of the information is scattered with more than one other public authorities. In such a case, the PlO of the public authority receiving the application should give information relating to it and advise the applicant to make separate applications to the concerned public authorities for obtaining information from them. If no part of the information sought, is available with it but is scattered with more than one other public authorities, the PlO should inform the applicant that information is not available with the public authority and that the applicant should make separate applications to the concerned public authorities for obtaining information from them. It may be noted that the Act requires the supply of such information only 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 for a public authority to create information.

Collection of information, parts of which are available with different public authorities, would amount to creation of information which a public authority under the Act is not required to do. At the same time, since the information is not related to anyone particular public authority, it is not the case where application should be transferred under sub-section (3) of Section 6 of the Act.

It is pertinent to note that sub-section (3) refers to 'another public authority' and not 'other public authorities'. Use of singular form in the Act in this regard is important to note.

(iv) If a person makes an application to a public authority for some information which is the concern of a public authority under any State Government or the Union Territory Administration, the Central Public Information Officer (CPIO) of the public authority receiving the application should inform the applicant that the information may be had from the concerned State Government/UT Administration. Application, in such a case, need not be transferred to the State Government/UT Administration.

Transfer of request

Section 6 (3) requires the transfer of the application to the concerned public authority, not simply advice to the applicant to make a fresh application to that other authority. It is understandable that the DD would have been returned, because it was made in the name of Accounts Officer, President's Secretariat and therefore, uncashable by the requisite public authority, although it would have been possible for the President's Secretariat to encash the DD and transfer the funds, if required to the concerned Ministry. However, the application itself was required to be transferred under the law and not refused.[68]

[68] CIC/WB/C/2006/00067 – 12 July,2006

7. Disposal of request

(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.

Within thirty days

Section 7(1) mandates that the requested information shall be provided within thirty days of the receipt of the request. Let us consider the following example:

A requester who is a person Below Poverty Line submits an application on 1st May. PIO should provide information as expeditiously as possible and in any case within 30 days of the receipt of the application. Here, the last date for providing information will be 31st May.

As to the expression *"within ... of"* reference may be made to a case of *K.N. Pandey v. S.L. Saxena,* [AIR 1959 All. 54.] where the first day was held to be excluded.[69]

Another requester (who is not a person Below Poverty Line) submits an application on 1st May. PIO dispatched the intimation giving the details of further fees on 5th May and the requester pays further fees on 16th may (the period *intervening* between dispatch of the intimation and payment of fees - 10 days - shall be excluded for the purpose of calculating the period of 30 days referred to in section 7(1)). Here, the last date for providing information will be 10th June.

Interestingly, *Mahatma Gandhi National Rural Employment Guarantee Act 2005 Operational Guidelines 2013*, [70] go one step ahead in facilitating transparency by reducing time limit for disclosure of the records requested under the RTI Act to three days and further fees for obtaining information to actual photocopying costs.[71]

---

[69] Law commission of India, *60th report on the General clauses Act 1897*, May 1974.

[70] Ministry Of Rural Development Department Of Rural Development, Government Of India (2nd edition)

[71] *Mahatma Gandhi National Rural Employment Guarantee Act 2005 Operational Guidelines 2013*, Ministry of Rural Development, Department of Rural Development, Government of India (4th edition).

Proof of dispatch

It has been observed in several cases there has been delay in response. In a case where a letter was sent by ordinary post for which the Respondents [PIOs] only had the proof of dispatch from their Section to their Central Registry, the Appellant might have reservations about receiving the same. In other case, the Respondents did not receive the application from the post office in which the Appellant had filed his application. The commission recommended that henceforth the Respondents should ensure that they have some proof of dispatch, i.e., they send their letter to the Appellants either under the UPC cover or by Registered or Speed Post.[72]

Life and liberty

On the question of life and liberty, Article 21 of the Constitution of India provides as follows:

No person shall be deprived of his life or personal liberty except according to procedure established by law.

Similarly proviso to Sec. 7(1) of the RTI Act deals with information sought being described as one that concerns the life or liberty of a person. Whereas matters of an administrative nature may not necessarily be considered a threat to life or liberty, programmes for demolition of inhabited structures must surely be so construed. It is open to the CPIO to rule that [since structures are no longer inhabited] the application is of no concern for life & liberty, he or she must satisfy himself/herself of this fact before so ruling, while the applicant can do so by providing substantive evidence of this, as held by us in the above cited case.[73]

Life and liberty

On the question of life and liberty, this Commission has ruled as follows in [74]*Shekhar Singh and Aruna Roy & Others Vs Prime Minister's Office:*

"Matter to be treated as one of life and liberty would require the following:

- The application be accompanied with substantive evidence that a threat to life and liberty exists (e.g. medical report)
- Agitation with the use of Ahimsa must be recognized as a *bonafide* form of protest, and therefore even if the claim of concern for life and liberty is not accepted, in a particular case by the public authority, the reasons for not doing so must be given in writing in disposing of the application".

(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.

[72] CIC/OK/A/2006/00657
[73] CIC/WB/A/2006/00128-18 July, 2006.
[74] CIC/WB/C/2006/00066 Of 19/4/2006,

(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.

Fees

The Supreme Court in *Institute of Companies Secretaries of India Vs. Paras Jain* (Civil Appeal No. 5665/2014; 11 April 2019) held as follows:

"The factual matrix of the case is that the respondent appeared in the final examination for Company Secretary conducted by the Appellant in December, 2012. On being unsuccessful in qualifying the examination, the respondent made an application under the Right to Information Act for inspection of his answer sheets and subsequently, sought certified copies of the same from the appellant. The appellant thereafter has demanded Rs.500/per answer sheet payable for supply of certified copy(ies) of answer book(s) and Rs.450/per answer book for providing inspection thereof respectively as per Guideline No.3 notified by the statutory council of the appellant. It is to be noted that the respondent obtained the said information under the Right to Information Act, 2005.

Being aggrieved by the demand made by the appellant, the respondent preferred a Writ Petition before the Delhi High Court wherein the Learned Single Judge dismissed the petition. A Letters Patent Appeal was thereafter preferred by the respondent wherein, the Division Bench quashed Guideline No.3 notified by the appellant and held that the appellant can charge only the prescribed fee under Rule 4, The Right to Information (Regulation of Fees and Cost) Rules, 2005.

..The guidelines of the appellant may provide for much more than what is provided under the Right to Information Act, such as reevaluation, Retotaling of answer scripts.

12. Be that as it may, Guideline no.3 of the appellant does not take away from Rule 4, The Right to Information (Regulation of Fees and Cost) Rules, 2005 which also entitles the candidates to seek inspection and certified copies of their answer scripts. In our opinion, the existence of these two avenues is not mutually exclusive and it is up to the candidate to choose either of the routes. Thus, if a candidate seeks information under the provisions of the Right to Information, then payment has to be sought under the Rules therein, however, if the information is sought under the Guidelines of the appellant, then the appellant is at liberty to charge the candidates as per its guidelines."

FEE

Deposit towards further fees for providing information should be accepted form the requester in advance to minimize wastage of resources of the public authorities.[75]

Reasonable fees

Kailash Mishra applied to BSNL Seeking information about the project completed by switching and installation with in high circle. BSNL wrote back of him asking to deposit Rs. 9810/- which included Rs. 9732/- for the man hours utilized to collect the information. CIC held:

BSNL should have provided details of computation since all the information was available at one place; there was no reason for deployment of extra man power for supplying the information.[76]

(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).

[75] 08/IC(A)/2006 - 8 March 2006

[76] CIC/PB/A/2006/00063-19, June, 2006.

(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.

Rejecting a request

Under the RTI Act, the PIO, when withholding information:

- has to communicate the reasons for rejection of a request for information to the requester.
- PIO can only reject a request under Sections 8 and 9 of the Act.
- Reasons should include justification for applying an exemption.

If the PIO rejects a request for any of the reasons specified in Section 8 and 9, the PIO should, under Section 7 (8), communicate to the requester:

- the period within which an appeal against such rejection may be preferred
- the particulars of the appellate authority
- the reasons for such rejection

The phrase `Reasons for rejection` has two components: First, the provision under which information is exempt and secondly, reasons justifying for applying such exemption.

Sometimes information may fall under an exemption under section 8, but still the PIO may disclose it, 'if public interest in disclosure outweighs the harm to the protected interests'.

In such case the PIO may record:

- factors favoring public interest in disclosure.
- factors favoring non-disclosure.
- how and why the former are more important than the later - or the other way around, if the PIO decides to withhold the information.

The nodal agency responsible for implementation of the RTI Act, Department of Personnel and Training (DOPT) under the Ministry of Personnel, Public Grievances and Pensions, issued an Office Memorandum on 6 October 2015 on "Format for giving information to the applicants under RTI Act", as follows:

"It has been observed that different public authorities provide information to RTI applicants in different formats. Though there cannot be a standard format for providing information, the reply should however essentially contain the following information:
(i) RTI application number, date and date of its receipt in the public authority.
(ii) The name, designation, official telephone number and email ID of the CPIO.
(iii) In case the information requested for is denied, detailed reasons for denial quoting the relevant sections of the RTI Act should be clearly mentioned.
(iv) In case the information pertains to other public authority and the application is transferred under section 6(3) of the RTI Act, details of the public authority to whom the application is transferred should be given.
(v) In the concluding para of the reply, it should be clearly mentioned that the First Appeal, if any, against the reply of the CPIO may be made to the First Appellate Authority within 30 days of receipt of reply of CPIO.
(vi) The name, designation, address, official telephone number and e-mail ID of the First Appellate Authority should also be clearly mentioned."

The Memorandum further states as follows:

"In addition, wherever the applicant has requested for 'certified copies' of the documents or records, the CPIO should endorse on the document "True copy of the document/record supplied under RTI Act", sign the document with date, above a seal containing name of the officer, CPIO and name of public authority; as enumerated below:
True copy of the document/record supplied under RTI Act.
Sd/-
Date
(Name of the Officer)
CPIO
(Name of the Public Authority)

Further in case the documents to be certified and supplied is large in number, information on RTI application should be supplied by a designated PIO but the certification of the documents, if need be, could be done by any other junior gazetted officer."

Reasons for rejection of requests

The appellant submitted that for item No.1, the PIO has not mentioned the section and clause under which the item is denied. The respondent in the reply dated 09.11.2009 for point No.1 has mentioned that the case is still under investigation and hence giving information would impede the process of investigation or prosecution of offenders.

If the PIO is rejecting any information invoking Sec.8, the clause and section under which the request is being rejected should invariably be mentioned. The respondent has failed to do so in this regard. He is directed to strictly follow the procedure in future while accepting the contention of the appellant, the Commission directs to mention the provision of the Act, whenever the request is rejected.[77]

[77] APIC-Order in Appeal No.50/CIC/2010 dated 30.07.2011

Rejection a request

Through this Order the Commission now wants to send the message loud and clear that quoting provisions of Section 8 of the RTI Act *ad libitum* to deny the information requested for, by CPIOs/Appellate Authorities without giving any *justification* or grounds as to how these provisions are applicable is simply unacceptable and clearly amounts to malafide denial of legitimate information attracting penalties under section 20(1) of the Act.[78]

Reasons for rejection of requests

The PIO has to give the reasons for rejection of the request for information as required under Section 7(8) (i). Merely quoting the bare clause of the Act does not imply that the reasons have been given. The PIO should have intimated as to how he had come to the conclusion that rule 8(1) (j) was applicable in this case.[79]

- PIO has to give the reasons for rejection of the request for information as required under Section 7(8) (i). Merely quoting the bare clause of the Act does not imply that the reasons have been given. The PIO should have intimated as to how he had come to the conclusion that rule 8(1)(j) was applicable in this case[80]
- PIO should indicate clearly the grounds of seeking exemptions from disclosure of information while rejecting a request.[81]
- PIO should give his own name, name of appellate officer in his communications.[82]
- The requester should be entitled to receive clear-cut replies to all his queries.[83]

(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.

Not an exemption

Disproportionate diversion of resources of Public Authority

The RTI Act does not offer any definition of this phrase. But there is no ceiling on how much time and resources a public authority can spend on a request. For example, under the UK Freedom of Information Act, an authority can refuse a request if it estimates that it will cost them in excess of the appropriate cost limit to fulfil a request. The limit is 600 pounds for central government and Parliament and 450 pounds for other public authorities.

[78] CIC/OK/A/2006/00163 – 7 July, 2006.
[79] CIC/OK/C/2006/00010 – 7 July, 2006.
[80] CIC/OK/C/2006/00010 – 7 July, 2006.
[81] 27/IC (A)/06 - 10 April. 2006
[82] CIC/OK/A/2006/00016 - 15 June 2006.
[83] CIC/AT/A/2006/00144 – 14 July, 2006.

There is no such upper cost limit in India. Further, a public authority cannot reject a request even if it would cause disproportionate diversion of resources to grant the request. However, it can offer the information in a different form to prevent such disproportionate diversion of resources.

For example, a requester seeks certain information in electronic form and the public authority holds the information, in the form of hundreds of files. Here, the public authority has to spend its resources to convert such information into electronic form. Instead, it can offer the information in a different form i.e. hard copy under Section 7 (9).

CIC held:[84]

Sec. 7(9) of the Act does not authorize a public authority to deny information. It simply allows the authority to provide the information in a form easy to access … But this provision does not exempt disclosure of information, only adjustment of the form in which it is provided.

CIC held that Sec. 7(9) can be used for scoping[85] the request:[86]

The information sought by the appellant is voluminous. The appellant is therefore directed to minimize and prioritize the requirement of data/information, so that the same could be provided at the least cost. The cost-effectiveness aspect of disclosure of information ought to be kept in mind.

8. Exemption from disclosure of information

(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;*

Contempt of court

Section 3 of the Contempt of Court Act, 1971 provides that publication of information prior to filing of charge-sheet or challan will not constitute criminal contempt of court. A judicial proceeding is deemed pending after a charge-sheet is filed. Any publication which interferes or obstructs the course of justice in connection with a pending judicial proceeding may constitute contempt.

[84] *Sarbajit roy v D.D.A.*, Decision No.10/1/2005- CIC, dt. 25.02.2006
[85] Scoping: adjusting the scope of the request for quick response.
[86] CIC decision in *J.K. Agarwal v. Syndicate Bank*, Decision No. 26/IC (A)/06, dt. 07.04.2006:

'Disclosure of information' and 'consequent publication' of the same are treated equally in this discussion. The relevant parts of the section 3 of the Contempt of Court Act, 1971 are as follows:

3. Innocent publication and distribution of matter not contempt.-

(1) A person shall not be guilty of contempt of Court on the ground that he has published (whether by words spoken or written or by signs or by visible representations or otherwise) any matter which interferes or tends to interfere with, or obstructs or tends to obstruct, the course of justice in connection with any civil or criminal proceeding pending at the time of publication, if at that time he had no reasonable grounds for believing that the proceeding was pending.

(2) …publication of any such matter as is mentioned in sub-section (1) in connection with any civil or criminal proceedings which is not pending at the time of publication and shall not be deemed to constitute contempt of Court.

Explanation.- For the purposes of this section, a judicial proceedings-

(a) is said to be pending –

(A) in case of a civil proceeding, when it is instituted by the filing of a plaint or otherwise;

(B) in the case of a criminal proceeding under the Code of Criminal Procedure, 1898, or any other law-

(i) where it relates to the commission of an offence, when the charge-sheet or challan is filed , or when the Court issues summons or warrant, as the case may be, against the accused, and …

CIC made the following comments on Section 8 (1) (b):

Section 8 (1) (b) therefore, exempts disclosure of information:—

(i) which has been expressly forbidden by any court of law or tribunal; or

(ii) the disclosure of which may constitute contempt of court.

It, therefore, follows that only that information which has been expressly forbidden by any court of law is exempted and mere pendency of a *lis* before a court does not signify its exemption. Thus, an explicit order from any court of law or tribunal forbidding publication of the information asked for is one of the prerequisite for application of Section 8(1) (b).

The RTI Act 2005 does not per-se define as to what may constitute 'contempt of court'. Section 2(a) (b) and (c) of the Contempt of Courts Act, 1971 defines as to what constitutes contempt of court in the following words:

2. Definitions:

In this Act, unless the context otherwise requires:

(a) 'Contempt of court' means civil contempt or criminal contempt.

(b) 'Civil contempt' means willful disobedience to any judgment, decree, direction, order, writ or other process of a court or willful breach of an undertaking given to a court.

(c) 'Criminal contempt' means the publication (whether by words, spoken or written, or by signs, or by visible representation, or otherwise) of any matter or the doing of any other act whatsoever which:
(i) Scandalizes or tends to scandalize, or lowers or tends to lower the authority of, any court, or (ii) Prejudices, or interferes or tends to interfere with the due course of any judicial proceeding, or (iii) Interferes or tends to interfere with, or obstructs or tends to obstruct, the administration of justice in any other manner.

From the above, it is clear that whereas for the civil contempt, there has to be either —
(i) willful disobedience of any judgment, decree or order; or other process of the court or
ii) willful breach of an undertaking given to a court;
The sine qua non of criminal contempt is publication of any matter or doing of any act which may either scandalize or lower the authority of any court, or interfere with the due course of any judicial proceedings or otherwise obstruct the administration of justice in any manner."[87]

Drafts of judgments

The question of whether drafts of judgments can be disclosed was considered by the Full Bench of CIC in *Rakesh Kumar Gupta v Income Tax Appellate Tribunal (ITAT)*[88]

[A]ll judicial proceedings are conducted in open and transparency is the hallmark in case of all such proceedings. There is no element of secrecy whatsoever. But at the same time, it has to be borne in mind that the judiciary is independent and all judicial authorities including all courts and tribunals must work independently and without any interference insofar as their judicial work is concerned. The independence of a judicial authority is all pervasive and any amount of interference is neither desirable nor should ever be encouraged in any manner.

The appellant in the instant case wanted the minutes of the proceedings maintained by the learned members of the Tribunal which can only be the notes prepared by them while conducting the hearing or otherwise.

The respondents have drawn our attention to the following observations made by Hon'ble Justice Vivian Bose in Surendra Singh v State of UP (AIR 1954 Supreme Court 194):

"Judges may, and often do, discuss the matter among themselves and reach a tentative conclusion. That is not their judgment. They may write and exchange drafts. Those are not the judgments either, however heavily and often they may

[87] [Appeal No.CIC/WB/A/2007/00292 dated 29.2.2008]
[88] [CIC/AT/A/2006/00586,18 Sep. 2007]

have been signed. The final operative act is that which is formally declared in open court with the intention of making it the operative decision of the court. That is what constitutes the 'judgment'…" 46. Those observations, though made in a different context, highlight the status of the proceedings that take place before the actual delivery of the judgment. If according to the Supreme Court even the draft judgments, though heavily and often signed and exchanged, are not to be considered as final judgments but only tentative views liable to change, the jottings and notes made by the judges while hearing a case can never, and by no stretch of imagination, be treated as final views expressed by them on the case. Such noting cannot therefore be held to be part of a record 'held' by the public authority.

Any intrusion in regard to the judicial work even under the Right to Information Act is unnecessary. We are satisfied that at the level of appellate authority the appellant agreed not to press for this request.

It is our conclusion, therefore, that given that a judicial authority must function with total independence and freedom, should it be found that an action initiated under the RTI Act impinges upon the authority of that judicial body, the Commission will not authorize the use of the RTI Act for any such disclosure requirement. Section 8(1) (b) of the RTI Act is quite clear, which gives a total discretion to the court or the tribunal to decide as to what should be published.

An information seeker should, therefore, approach the concerned court or the tribunal if he intends to have some information concerning a judicial proceeding and it is for the concerned court or the tribunal to take a decision in the matter as to whether the information requested is concerning judicial proceedings either pending before it or decided by it can be given or not.

Court records

The information sought relates to certain affidavits filed in connection with a pending case in the Tribunal. Normally, each court has its own rules regarding furnishing of copies of documents connected with a case pending before it, to third parties. If the rules of the Tribunal permit furnishing copies of the affidavits or other documents connected with this pending case, or if the rules are silent on this aspect, the documents sought for be furnished to the appellant within 15 days, free of cost. However, if furnishing of the same is not permitted, the same may be communicated to the appellant quoting the relevant rules.[89]

[89] 190/ICPB/2006-December 11, 2006.

Sub-judice matters

…there has been a serious error by the respondents in assuming that information in respect of sub-judice matters need not be disclosed. The RTI Act provides no exemption from disclosure requirement for sub-judice matters. The only exemption in sub-judice matter is regarding what has been expressly forbidden from disclosure by a Court or a Tribunal and what may constitute contempt of Court: Section 8(1) (b). The matter in the present appeal does not attract this exemption. Presence of a different provision in the Cantonment Act about supply of documents in sub-judice matters to a requester has had no bearing on the disclosure requirement under the RTI Act. Seen purely from the stand-point of the RTI Act, the right of the appellant to access the information requested by him is unimpeachable.[90]

Matter which is under adjudication by a Court of Law

The Respondents tried to link this proviso to the conditions of admissibility of questions in Parliament. According to them a question asking for information on a matter which is under adjudication by a Court of Law having jurisdiction in any part of India would not be admitted for answer. Since the Appellant has gone to the High Court in his appeal against the judgment of Central Administrative Tribunal (CAT) relating to discharge from service, they argued that information could not be given as the matter is sub-judice. It appears to the Commission that in this case two unrelated matters are being linked artificially: the proviso that extends the scope of disclosure of information and does not restrict it, and the Parliament Rule which circumscribes the scope of questions. Were it the intention of Parliament to restrict the scope of this proviso, it would have stated that information which cannot be asked through a parliament question could not be given to the applicant. So there is no direct link between conditions of admissibility of Questions as prescribed by the Rules of Procedure and Conduct of Business in the Lok Sabha / Rajya Sabha and the said proviso.

That the proviso is not restrictive but expands the scope of access to information is borne by sub-Section 2 of Section 8 of the Act which makes it abundantly clear that a public authority may allow access to information, if public interest in disclosure outweighs the harm to the protected interests notwithstanding the Officials Secrets Act or any of the exemptions mentioned with sub-section 8(1). That clearly shows that the Act gives paramountcy to the public interest and the exemptions do not constitute a bar to providing information. If it were the intention that no aspect of matters sub-judice can be considered under the Act, this would have been expressly incorporated in clause (b) of sub-Section 1 of Section 8 along with other matters prescribed in this clause… it does not stand to reason that a person who has gone to court against

[90] CIC/AT/A/2006/00193-18.9.2006.

an alleged arbitrary decision of a public authority concerning him should be denied information about himself on the pretext that it is personal information or the matter is sub-judice on a case filed by himself.[91]

(c) information, the disclosure of which would cause a breach of privilege of Parliament or the State Legislature;

Committee of Privileges (Fourteenth Lok Sabha) has commented on this clause as follows:[92]

The Committee would like to emphasize that it is quite difficult to lay down and visualise all the situations wherein the disclosure of information pertaining to Parliament would cause a breach of privilege of the Parliament. As of now the information, the disclosure of which would constitute a breach of privilege could arise in situations like disclosure of proceedings of secret sittings of the House held in terms of provisions of Rule 248 of the Rules of Procedure and Conduct of Business in Lok Sabha, disclosure of proceedings (including evidence) or Report of a Parliamentary Committee before such proceedings or evidence or documents or Report have been reported to the House.

Breach of the privilege of Parliament

...[A]ll submissions made before a Parliamentary Standing Committee by the Departments of the Government are treated as confidential as per parliamentary practice. Documents and other submissions handed over to the Committee become property of the Parliament.

It is not open to a Department to disclose any information in respect of those submissions unless authorized by the Committee. It is, therefore, obvious that the information sought by the appellant, besides being confidential, is also a property of the Parliament.[93]

(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;

[91] CIC/OK/C/2006/00010, A/2006/00027 & A/2006/00049-30.8.2006

[92] Twelfth Report of Committee Of Privileges (Fourteenth Lok Sabha) on "Requests from Courts of Law and investigating agencies, for documents pertaining to proceedings of House, Parliamentary Committees or which are in the custody of Secretary General, Lok Sabha, for production in Courts of Law and for investigation purposes", 28 April, 2008.

[93] CIC/AT/A/2006/00195-25.09.2006

List of bank defaulters

Hon'ble Supreme Court in *Reserve Bank of India Vs. Jayantilal N. Mistry*[94] confirmed 11 CIC Decisions; 10 Decisions pronounced by Sri Shailesh Gandhi, the then Information Commissioner and one Decision pronounced by Sri Satyanand Mishra, the then CIC.

Most important Decision being the one that related to disclosure of the list of Bank defaulters. In T.C.No.94 of 2015, the RTI applicant Mr. P.P. Kapoor had asked about the details of the loans taken by the industrialists that have not been repaid, and he had asked about the names of the top defaulters who have not repaid their loans to public sector banks; details of default in loans taken from public sector banks by industrialists, out of the list of defaulters, top 100 defaulters, names of the businessmen, firm name, principal amount, interest amount, date of default and date of availing the loan etc.

The Respondent further sought following information from the CPIO of RBI: "What is RBI doing about uploading the entire list of Bank defaulters on the bank's website?"

RBI responded as follows:

Pursuant to the then Finance Minister's Budget Speech made in Parliament on 28th February, 1994, in order to alert the banks and FIs and put them on guard against the defaulters to other lending institutions. RBI has put in place scheme to collect details about borrowers of banks and FIs with outstanding aggregating Rs. 1 crore and above which are classified as 'Doubtful' or 'Loss or where suits are filed, as on 31st March and 30th September each year. In February 1999, Reserve Bank of India had also introduced a scheme for collection and dissemination of information on cases of wilful default of borrowers with outstanding balance of Rs. 25 lakh and above. At present, RBI disseminates list of above said non suit filed 'doubtful' and 'loss' borrowed accounts of Rs.1 crore and above on half-yearly basis (i.e. as on March 31 and September 30) to banks and FIs. for their confidential use. The list of non-suit filed accounts of wilful defaulters of Rs. 25 lakh and above is also disseminated on quarterly basis to banks and FIs for their confidential use. Section 45 E of the Reserve Bank of India Act 1934 prohibits the Reserve Bank from disclosing 'credit information' except in the manner provided therein.

However, Banks and FIs were advised on October 1, 2002 to furnish information in respect of suit-filed accounts between Rs. 1 lakh and Rs. 1 crore from the period ended March, 2002 in a phased manner to CIBIL only. CIBIL is placing the list of defaulters (suit filed accounts) of Rs. 1 crore and above and list of willful defaulters (suit filed accounts) of Rs. 25 lakh and above as on March 31, 2003 and onwards on its website (www.cibil.com).

[94] Transferred Case (Civil) No. 91-101 of 2015, judgement dt. 16 Dec.2015

The RBI resisted the disclosure of the information claiming exemption under Section 8(1) (a) and 8(1)(e) of the RTI Act on the ground that disclosure would affect the economic interest of the country, and that the information has been received by the RBI from the banks in fiduciary capacity. The CIC found these arguments made by RBI to be totally misconceived in facts and in law, and held that the disclosure would be in public interest.

The CIC directed the CPIO of the petitioner to provide information as per the records to the Respondent in relation to query Nos. 2(b) and 2(c) before 10.12.2011. The Commission has also directed the Governor RBI to display this information on its website before 31.12.2011, in fulfillment of its obligations under Section 4(1) (b) (xvii) of the Right to Information Act, 2005 and to update it each year.

The Supreme Court held as follows:

"The CIC in the impugned order has *rightly observed* as under:-

"I wish government and its instrumentalities would remember that all information held by them is owned by citizens, who are sovereign. Further, it is often seen that banks and financial institutions continue to provide loans to industrialists despite their default in repayment of an earlier loan."

This Court in *UP Financial Corporation vs. Gem Cap India Pvt. Ltd*., AIR 1993 SC 1435 has noted that:

"Promoting industrialization at the cost of public funds does not serve the public interest, it merely amounts to transferring public money to private account'. Such practices have led citizens to believe that defaulters can get away and play fraud on public funds. There is no doubt that information regarding top industrialists who have defaulted in repayment of loans must be brought to citizens' knowledge; there is certainly a larger public interest that could be served on ….disclosure of the same. In fact, information about industrialists who are loan defaulters of the country may put pressure on such persons to pay their dues. This would have the impact of alerting Citizens about those who are defaulting in payments and could also have some impact in shaming them."

RBI had by its Circular DBOD No. BC/CIS/47/20.16.002/94 dated April 23, 1994 directed all banks to send a report on their defaulters, which it would share with all banks and financial institutions, with the following objectives:

1) To alert banks and financial institutions (FIs) and to put them on guard against borrowers who have defaulted in their dues to lending institutions;

2) To make public the names of the borrowers who have defaulted and against whom suits have been filed by banks/ FIs."

80. At this juncture, we may refer the decision of this Court in *Mardia Chemicals Limited vs. Union of India,* (2004) 4 SCC 311, wherein this court while considering the validity of SARFAESI Act and recovery of non-performing assets by banks and financial institutions in India, held :-

"…….it may be observed that though the transaction may have a character of a private contract yet the question of great importance behind such transactions as a whole having far reaching effect on the economy of the country cannot be ignored, purely restricting it to individual transactions more particularly when financing is through banks and financial institutions utilizing the money of the people in general namely, the depositors in the banks and public money at the disposal of the financial institutions. Therefore, wherever public interest to such a large extent is involved and it may become necessary to achieve an object which serves the public purposes, individual rights may have to give way. Public interest has always been considered to be above the private interest. Interest of an individual may, to some extent, be affected but it cannot have the potential of taking over the public interest having an impact in the socio- economic drive of the country……."

In rest of the cases the CIC has considered elaborately the information sought for and passed orders which in our opinion do not suffer from any error of law, irrationality or arbitrariness.

82. We have, therefore, given our anxious consideration to the matter and came to the conclusion that the Central Information Commissioner has passed the impugned orders giving valid reasons and the said orders, therefore, *need no interference* by this Court."

Data on loans

The Respondent submitted that … the information sought for cannot be furnished claiming that it is exempted under Sec. 8(1)(d).

The Commission held that this order of the Respondent is ultra-vires and has no legs to stand. The State Finance Corporation is a body constituted by the Govt., to provide financial assistance to entrepreneurs. As large Govt., sums are involved, a citizen has a right to know as to whom the loans are being advanced, whether due diligence has been exercised and for default arising, due action for recovery of Govt., funds was taken. There is no question about commercial confidence, trade secret or intellectual property rights being invoked.

However, while setting aside the order of the Respondent, the Commission observed that the Appellant has sought information from 1990 onwards and to compile the data for the last 19 years would come under the category of vexatious information. Hence the Commission directed the Appellant to sharply focus his request specifying the particulars requested. The Respondent's claim that data for 19 years is not readily available is sustained.[95]

[95] Appeal No.186/CIC/2009, Dt. 07.10.2009

Contract

Ramesh Chand applied to NISCAIR (National Institute of Science Communication and Information) seeking information on terms of conditions and their implementation regarding a contract with another firm. CIC held:

A contract with a Public Authority is not 'confidential' after completion. Quotations, bid, tender, prior to conclusion of a contract can be categorized as trade secret, but once concluded, the confidentiality of such transactions cannot be claimed. Any Public Authority claims exemption must be put to strictest proof that exemption is justifiably claimed. P.A was directed to disclose the list of employees.[96]

Whether disclosure of various documents submitted by the bidders affect trade secret or commercial confidence or intellectual property?

A Division Bench of the Jharkhand High Court in *State of Jharkhand & Anr.v. Navin Kumar Sinha & Anr.*[97] held as follows:

"*Prima facia*, we are of the view that once a decision is taken in the matter of grant of tender, there is no justification to keep it secret. People have a right to know the basis on which a decision has been taken. If tenders are invited by the public authority and on the basis tender documents, the eligibility of a tender or a bidder is decided, then those tender documents cannot be kept secret, that too after the tender is decided and work order is issued on the ground that it will amount to disclosure of trade secret or commercial confidence. If the authorities of Government refuse to disclose the document, the very purpose of the Act will be frustrated. Moreover the disclosure … cannot and shall not be a trade secret or commercial confidence; rather disclosure of such information shall be in public interest, inasmuch as it will show the transparency in the activities of Government.

Since the tender process is completed and contract has been awarded, it will not influence the contract. Besides the above, a citizen has a right to know the genuineness of a document submitted by the tenderer in the matter of grant of tender for consultancy work or for any other work…. In our considered opinion a contract entered into by the public authority with a private person cannot be treated as confidential after completion of contract."

Agreement between a public authority and a third party

Any commercial agreement between a public authority and a third party is a public document available for access to a citizen. No party to an agreement with a public authority could raise any objection for supplying a copy of the agreement, except on the grounds of commercial confidentiality and the like which is specifically exempted in Section 8(1)(d).[98]

[96] CIC/WB/C/2006/00176-18 April, 2006.
[97] AIR 2008 JHARKHAND 19. (Date of judgment: 8 Aug.2007)
[98] 77/ICPB/2006 -August 21, 2006

(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*iduciary* is a Latin word. (Etymology: Latin *fiduciarius*, from *fiducia means* 'trust'). A *fiduciary* is someone who owes a duty of loyalty to safeguard the interests of another person or entity, such as a trustee of a testamentary trust, a guardian of the estate of a minor, a guardian, committee or conservator of the estate of an incompetent person, an executor of a will, an administrator of the estate of a decedent or an advisor or consultant exercising control over a testamentary or express trust.

A *fiduciary* may be an executor, administrator, guardian, conservator, curator, receiver, trustee in bankruptcy, assignee for the benefit of creditors, partner, agent, officer of a corporation, public or private, public officer or any other person acting in a *fiduciary* capacity for any person, trust or estate. *Fiduciaries* may be required to hold funds and assets in a special fiduciary account and file periodic accounts and/or inventories with the court. A fiduciary has a duty not to benefit at the expense of the one they are responsible for. A fiduciary must avoid "self-dealing" or "conflicts of interests" in which the potential benefit to the fiduciary is in conflict with what is best for the person who trusts him or her.[99]

Central Board of Secondary Education & Anr. V. Aditya Bandopadhyay & Others

Supreme Court in *Central Board of Secondary Education & Anr. Vs. Aditya Bandopadhyay & Ors.*[100] held that the examining bodies will have to permit inspection of evaluated answer scripts by the students and observed as follows:

"The right to information is a cherished right. Information and right to information are intended to be formidable tools in the hands of responsible citizens to fight corruption and to bring in transparency and accountability. The provisions of RTI Act should be enforced strictly and all efforts should be made to bring to light the necessary information under clause (b) of section 4(1) of the Act which relates to securing transparency and accountability in the working of public authorities and in discouraging corruption. But in regard to other information,(that is information other than those enumerated in section 4(1)(b) and (c) of the Act), equal importance and emphasis are given to other public interests (like confidentiality of sensitive information, fidelity and fiduciary relationships, efficient operation of governments, etc.). Indiscriminate and impractical demands or directions under RTI Act for disclosure of all and sundry information (unrelated to

[99] < http://www.uslegalforms.com/legaldefinitions/fiduciary/>
[100] CIVIL APPEAL NO.6454 OF 2011, 9 Aug.2011

transparency and accountability in the functioning of public authorities and eradication of corruption) would be counter-productive as it will adversely affect the efficiency of the administration and result in the executive getting bogged down with the non-productive work of collecting and furnishing information. The Act should not be allowed to be misused or abused, to become a tool to obstruct the national development and integration, or to destroy the peace, tranquility and harmony among its citizens. Nor should it be converted into a tool of oppression or intimidation of honest officials striving to do their duty. The nation does not want a scenario where 75% of the staff of public authorities spends 75% of their time in collecting and furnishing information to applicants instead of discharging their regular duties. The threat of penalties under the RTI Act and the pressure of the authorities under the RTI Act should not lead to employees of a public authorities prioritising `information furnishing', at the cost of their normal and regular duties.

.. We, therefore, hold that an examining body does not hold the evaluated answer-books in a fiduciary relationship. Not being information available to an examining body in its fiduciary relationship, the exemption under section 8(1)(e) is not available to the examining bodies with reference to evaluated answer-books. As no other exemption under section 8 is available in respect of evaluated answer books, the examining bodies will have to permit inspection sought by the examinees."

Civil Services Examination

In September 2008, a division bench of the Delhi High Court upheld an earlier judgment directing the Union Public Service Commission (UPSC) to disclose the following:[101]

- Marks obtained by the applicants for the Civil Services Preliminary Examination 2006 in General Studies and in Optional Papers.
- Cut-off mark for the combined total of raw General Studies marks and scaled optional paper marks.
- Model answers.

However, UPSC approached the Supreme Court and filed a Special Leave Petition against the judgment (Special Leave Petition (Civil) 23250 of 2008). On 18 November 2010, the Supreme Court dismissed the petition and made the following Order:

1"The Union Public Service Commission has completely changed the pattern of its examination and the next examination for the year 2011 shall be held according to the changed format. In view of this development, there is no need for any adjudication by this Court on this matter."

I.T. Returns

[101] *Union Public Service Commission v Shiv Shambhu and Ors,* LPA No. 313 of 2007 and CM APPL. No. 6468/2007, 3 September 2008

Income Tax Returns filed by an assessee are confidential information which include details of commercial activities and that it relates to third person. These are submitted in fiduciary capacities. There is no public action involved in the matter. Disclosure is exempted under S.8 (1)(j).[102]

Tax evasion petition

The High Court of Delhi in *Bhagat Singh v. Chief Information Commissioner and Ors.*[103] partially overturned a Decision of the CIC by holding that disclosure of investigation report on TEP need not wait till entire process tax recovery, if any, is complete in every respect. Extracts from the judgment of Justice S. Ravindra Bhat:

"Access to information, under Section 3 of the Act, is the rule and exemptions under Section 8, the exception. Section 8 being a restriction on this fundamental right, must therefore is to be strictly construed. It should not be interpreted in manner as to shadow the very right itself. Under Section 8, exemption from releasing information is granted if it would impede the process of investigation or the prosecution of the offenders. It is apparent that the mere existence of an investigation process cannot be a ground for refusal of the information; the authority withholding information must show satisfactory reasons as to why the release of such information would hamper the investigation process. Such reasons should be germane, and the opinion of the process being hampered should be reasonable and based on some material. Sans this consideration, Section 8(1)(h) and other such provisions would become the haven for dodging demands for information.

A rights based enactment is akin to a welfare measure, like the Act, should receive a liberal interpretation. The contextual background and history of the Act is such that the exemptions, outlined in Section 8, relieving the authorities from the obligation to provide information, constitute restrictions on the exercise of the rights provided by it. Therefore, such exemption provisions have to be construed in their terms; there is some authority supporting this view (See Nathi Devi v. Radha Devi Gupta 2005 (2) SCC 201; B. R. Kapoor v. State of Tamil Nadu 2001 (7) SCC 231 and V. Tulasamma v. Sesha Reddy 1977 (3) SCC 99). Adopting a different approach would result in narrowing the rights and approving a judicially mandated class of restriction on the rights under the Act, which is unwarranted.

Legal opinion and fiduciary capacity

[102] 22/IC (A)/2006 - 30 March
[103] WP(C) No. 3114/2007,Decided On: 03.12.2007

…copy of the legal opinion, as asked for by the appellant, was denied u/s 8(1)(e) of the Act, on the ground that the information was available with the respondent in "fiduciary capacity"… information pertain to a legal opinion obtained from an advocate, the disclosure of which has been justifiably denied u/s 8(1)(d) and (e) of the Act.[104]

(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 identity the source of information or assistance given in confidence for law enforcement or security purposes;

Names and addresses of the members of the interview board

Supreme Court, in *Bihar Public Service Commission v. Saiyed Hussain Abbas Rizwi & Anr.*[105] held as follows:

"The disclosure of names and addresses of the members of the Interview Board would *ex facie* endanger their lives or physical safety".

Physical safety of any person

If the information about who visits a police officer, specially police officers dealing with crimes, is allowed to be disclosed, it will inevitably lead to serious consequences for crime prevention and law-and-order administration. While every visitor to a police officer dealing with crimes may not be carrying information or offering his assistance for law enforcement, it would be extremely difficult, even impossible, to isolate such persons from the long list of daily visitors to the police crime offices. If the Visitor's Register of police officers dealing with crime is allowed to become openly accessible, the information therein may not only compromise the sources of information to the law enforcement officers, it may even lead to the "visitors'" life being endangered by criminal elements. Non-disclosure of the information about who visited whom as contained in the visitor's register at the police officer's office premises is, therefore, an imperative which is fully covered by the exemption under Section 8 (1)(g).[106]

Who participated in seizure of smuggled goods?

The information sought relates to the names of officials who participated in seizure of smuggled goods, name and address of informers, file notings of officers on the COFEPOSA, proposal and letters written to various authorities. CIC held:

[104] 463/IC(A)/2006,Dated, the 20thDecember, 2006

[105] Civil Appeal No. 9052 of 2012 (Arising out of SLP(C) No. 20217 of 2011), Judgment date: 13 Dec 2012

[106] CIC/AT/A/2005/0003-12 July, 2006.

The purpose of COFEPOSA is to check the violation of Foreign Exchange Regulation & Smuggling Activities. Therefore, the disclosure of the proposal containing all the relevant details for the smuggling activities would be detrimental to economic interest of the State. Hence, the exemption claimed u/s 8(1) (a) and (g) of the Act is justified.

Moreover, the proceedings for prosecution against the above named persons are under progress in the Court of law and as such disclosure of the information sought would impede the process of prosecution of the case. Hence, the exemption u/s 8(1) (h) from disclosure of information has been correctly applied.[107]

(h) information which would impede the process of investigation or apprehension or prosecution of offenders;

First Information Report

The Supreme Court in *Youth Bar Association of India Versus Union of India and Others* (Writ Petition (Crl.) No.68 of 2016, 7 Sep.2016) held the First Information Reports to be uploaded on the Internet except in a few sensitive cases:

"(a) An accused is entitled to get a copy of the First Information Report at an earlier stage than as prescribed under Section 207 of the Cr.P.C.

(b) An accused who has reasons to suspect that he has been roped in a criminal case and his name may be finding place in a First Information Report can submit an application through his representative/agent/parokar for grant of a certified copy before the concerned police officer or to the Superintendent of Police on payment of such fee which is payable for obtaining such a copy from the Court. On such application being made, the copy shall be supplied within twenty-four hours.

(c) Once the First Information Report is forwarded by the police station to the concerned Magistrate or any Special Judge, on an application being filed for certified copy on behalf of the accused, the same shall be given by the Court concerned within two working days.

The aforesaid direction has nothing to do with the statutory mandate inhered under Section 207 of the Cr.P.C.

(d) The copies of the FIRs, unless the offence is sensitive in nature, like sexual offences, offences pertaining to insurgency, terrorism and of that category, offences under POCSO Act and such other offences, should be uploaded on the police website, and if there is no such website, on the official website of the State Government, within twenty-four hours of the registration of the First Information Report so that the accused or any person connected with the same can download the FIR and file

[107] 298/IC(A)/2006-21.9.2006

appropriate application before the Court as per law for redressal of his grievances. It may be clarified here that in case there is connectivity problems due to geographical location or there is some other unavoidable difficulty, the time can be extended up to forty-eight hours. The said 48 hours can be extended maximum up to 72 hours and it is only relatable to connectivity problems due to geographical location.

(e) The decision not to upload the copy of the FIR on the website shall not be taken by an officer below the rank of Deputy Superintendent of Police or any person holding equivalent post. In case, the States where District Magistrate has a role, he may also assume the said authority. A decision taken by the concerned police officer or the District Magistrate shall be duly communicated to the concerned jurisdictional Magistrate.

(f) The word 'sensitive' apart from the other aspects which may be thought of being sensitive by the competent authority as stated hereinbefore would also include concept of privacy regard being had to the nature of the FIR. The examples given with regard to the sensitive cases are absolutely illustrative and are not exhaustive.

(g) If an FIR is not uploaded, needless to say, it shall not ensure per se a ground to obtain the benefit under Section 438 of the Cr.P.C.
(h) In case a copy of the FIR is not provided on the ground of sensitive nature of the case, a person grieved by the said action, after disclosing his identity, can submit a representation to the Superintendent of Police or any person holding the equivalent post in the State.

The Superintendent of Police shall constitute a committee of three officers which shall deal with the said grievance. As far as the Metropolitan cities are concerned, where Commissioner is there, if a representation is submitted to the Commissioner of Police who shall constitute a committee of three officers. The committee so constituted shall deal with the grievance within three days from the date of receipt of the representation and communicate it to the grieved person.
(i) The competent authority referred to hereinabove shall constitute the committee, as directed herein-above,within eight weeks from today.
(j) In cases wherein decisions have been taken not to give copies of the FIR regard being had to the sensitive nature of the case, it will be open to the accused/his authorized representative/parokar to file an application for grant of certified copy before the Court to which the FIR has been sent and the same shall be provided in quite promptitude by the concerned Court not beyond three days of the submission of the application.
(k) The directions for uploading of FIR in the website of all the States shall be given effect from 15th Nov 2016."

Case by case approach

…the Department cannot take a plea of continuing investigation when the charge sheet has been served on the appellant.[108]

[108] CIC/MA/C/2005/2006-4 July, 2006.

Process of investigation

Delhi Police received a request for:

- result / Status of a particular case
- date wise details of each and every investigational steps taken to solve the case

CIC accepted the merit of the police authority's contention:

An open ended order by CIC to disclose any information pertaining to details of investigation into a crime will have serious implications for law enforcement and will have potentiality for misuse by criminal elements.

Each case will have to be examined independently on the basis of facts specific to that case. In RTI requests pertaining to the law enforcement authorities, it becomes necessary to strike a fine balance between the imperatives of the confidentiality of the sources of information witness protection and so on, with the right of the citizen to get information.[109]

Enquiry

…[I]f a complaint is under enquiry, information/documents connected with the enquiry could be withheld till the enquiry is completed in term of Section 8(1)(h).[110]

Enquiry

… [W]hatever enquiry had been conducted on the basis of the complaints of the appellant, copies of the enquiry reports, if action has been completed on them, to be given to the appellant.[111]

Investigation

According to the appellant, relying on Cr.P.C., the term "investigation" would mean criminal investigation which may result in apprehension or prosecution of offenders… and departmental proceedings cannot be considered to be investigation to deny documents sought for by him
applying the provisions of Section 8(1)(h) of the Act.

It is true that the term "investigation" has not been defined in the RTI Act. When a statute does not define a term, it is permissible to adopt the definition given in some other statute. If different definitions are given in different statutes for a particular term, then the one which could be more relevantly adoptable should be adopted taking into account the object and purpose of the Statute in which the definition is not available…the term "investigation" in respect of government officials could mean both investigation by the CBI, which could be termed as criminal investigation as well as

[109] CICAT/A/2006/00071 - 11 May, 2006.
[110] 127/ICPB/2006-17.10.2006
[111] PBA/06/108--9.10.2006

investigation by the Department. …the Division Bench decision of this Commission in *Shri Gobind Jha Vs Army Hqrs.* [112]In that case, the appellant sought for various information including a copy of the report of investigation carried out on the basis of his complaint. The CPIO and AA declined to furnish a copy of the report applying the provisions of Section 8(1) (h) of the Act. Examining the provisions of Section 8(1)(h) of the Act, the Division Bench observed -

*"*While in criminal law, an investigation can be said to be completed with the filing of charge sheet in the appropriate court by an investigating agency, in cases of vigilance related inquiries, misconduct and disciplinary matters, the investigation can be said to be over only when the competent authority makes a determination about the culpability or otherwise of the person or persons investigated against. In that sense, the word 'investigation' used in Section 8(1)(h) should be construed rather broadly and should include all inquiries, verification of records, assessments and so on which may be ordered in specific cases. In all such matters, the inquiry or investigation should be taken as completed only after the competent authority makes a prima facie determination about the presence or absence of guilt on receipt of the investigation/inquiry report from the investigation/inquiry officer".

Thus, from this decision, it is apparent that this Commission has not viewed the term 'investigation' as used in Section 8(1)(h) to apply exclusively to criminal investigation as propounded by the appellant in the present case. Therefore, the contention of the appellant that only when criminal investigation is pending, the provisions of Section 8(1)(j) could be applied, has to fail.

In *Shri D.L.Chandhok Vs. Central Wharehousing Corporation (Appeal No.)*[113]**,** this Commission has held that - "*the term 'investigation' would include inquiries/search/scrutiny which would be either departmental or criminal and therefore when a departmental inquiry is on, the information sought in relation to such an inquiry can be denied in terms of Section 8(1)(h) of the Act".*[114]

Investigations in vigilance related cases

While in criminal law, an investigation can be said to be completed with the filing of the charge sheet in an appropriate court by an investigating agency, in cases of vigilance related enquiries, misconduct and disciplinary matters, the investigation can be said to be over only when the competent authority makes a determination about the culpability or otherwise of the person or persons investigated against. In that sense, the word investigation used in Section 8(1)(h)

[112] (CIC/80/2006/ 00039 dated 1.6.2006).
[113] 121/ICPP/ 2006 dated 9.10.06
[114] 243,244/ICPB/2006-December 27,2006

of the Act should be construed rather broadly and should include all enquiries, verification of records, assessments and so on which may be ordered in specific cases. In all such matters, the enquiry or the investigation should be taken as completed only after the competent authority makes a prima-facie determination about presence or absence of guilt on receipt of the investigation/enquiry report, from the investigation/enquiry officer.

There is another aspect to this matter. If for the sake of argument, it is agreed that the report of investigation in any matter can be disclosed immediately after the officer investigating the cases concludes his investigation and prepares the report which, let us assume, impeaches the conduct of a given officer. In case the competent disciplinary authority agrees with the findings of the investigating officer, disclosure of the report even before a final decision by the competent authority would be inconsequential. There shall be problem, however, if the disciplinary/appointing authority chooses to disagree with the findings of the investigating officer. Early disclosure of the investigation report in such a case, besides being against the norms of equity, would have caused irretrievable injury to the officer/person's (who would have been the subject of investigation) standing and reputation. His demoralization would be thorough.

In exempting from disclosure matters pertaining to an on-going investigation (Section 8 (1) (h), the RTI Act besides other reasons, also caters to the possible impact of the disclosure of such information on the public servants' morale and their self-esteem. There are, thus, weighty reasons for such a provision in the exemption clauses of the RTI Act.

We are keenly aware that one of the purposes of the enactment of the RTI Act is to combat corruption by improving transparency in administration. This objective should be achieved without impairing the interest of the honest employee. Premature disclosure of investigation-related information has the potentiality to tar the employee's reputation, permanently, which cannot be undone even by his eventual exoneration. The balance of advantage thus, lies in exempting investigations/enquiries in vigilance, misconduct or disciplinary cases, etc. from disclosure requirements under the Act, till a decision in a given case is reached by the competent authority. This also conforms to the letter and the spirit of Section 8 (1) (h) of the RTI Act.

There is one other factor that also needs some reflection. Disclosure of an investigation/enquiry report (as demanded in this case by the appellant) even before its acceptance/rejection by a given competent authority will expose that authority to competing pressures which may hamper cool reflection on the report and compromise objectivity of decision-making.…in investigations in vigilance related cases by CVOs or by departmental officers, as well as in all cases of misconduct, misdemeanour,etc., there should be an assumption of

continuing investigation till, based on the findings of the report, a decision about the presence of a prima-facie case, is reached by a competent authority. This will, thus, bar any premature disclosure, including disclosure of the report prepared by the investigating officer, as in this case.[115]

Statement made to CBI

…appellant has largely asked for copies of the recorded statement made [to CBI] by different persons, which in any case cannot be given unless their concurrence is obtained, as such statements are made in fiduciary capacity. As the matter is pending before the trial court for adjudication, the appellant would surely get an opportunity to defend herself and she would be provided with all the required documents for her effective defense. The appellate authority has rightly observed that she can approach the court for any documents/information required by her for the purpose of defense. Thus, the CPIO and the appellate authority have correctly applied exemption u/s 8(1)(h) for disclosure of the information sought for by the appellant.[116]

(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;

Cabinet papers

The CIC in *Ujwala Kokde VS. CPIO, Ministry of Home Affairs, Judicial Division, Delhi* (CIC/MHOME/A/2017/609431; 12 Jun, 2019) held as follows:

"The appellant filed an application under the Right to Information Act, 2005 (RTI Act) before the Central Public Information Officer (CPIO), Judicial Division, Ministry of Home Affairs, New Delhi seeking information on seven points pertaining to mercy petition of her son Pradeep Yeshwanth Kokde who is a death row convict lodged at Yerwada Central Jail, including, inter-alia (i) copy of any memo/note/ comment made in relation to the mercy petition filed by Pradeep Yeshwanth Kokde, (ii) copy of the entire mercy petition file of Pradeep Yeshwanth Kokde, and (iii) copy of the file notings pertaining to the file of the mercy petition filed by Pradeep Yeshwanth Kokde.

The appellant filed a second appeal on the ground that the CPIO denied the information under Article 74(2) of Constitution of India and that the FAA

[115] CIC/AT/A/2006/00039-1.6.2006
[116] 250/IC(A)/2006-7.9.2006

did not respond to her appeal. The appellant stated that what is protected against disclosure under clause (2) of Article 74 of the Constitution is only the advice tendered by the Council of Ministers and that the information sought by her does not pertain to Ministerial Advice which is protected under Article 74(2) of the Constitution.

Decision

The Commission, after hearing the submissions of both the parties and perusing the records, notes that Article 74(2) of the Constitution of India reads as under:

"74. Council of Ministers to aid and advise President.-(1) There shall be a Council of Ministers with the Prime Minister at the head to aid and advise the President who shall, in the exercise of his functions, act in accordance with such advice.

Provided that the President may require the Council of Ministers to reconsider such advice, either generally or otherwise, and the President shall act in accordance with the advice tendered after such reconsideration.

The question whether any, and if so what, advice was tendered by Ministers to the President shall not be inquired into in any court."

The Hon'ble Supreme Court in S.R. Bommai vs Union Of India : 1994 AIR 1918 on 11 March, 1994 had observed:

"33. Before I deal with the said issue I may dispose of the question whether the provision of Article 74(2) of the Constitution permits withholding of the reasons and material forming the basis for the ministerial advice tendered to the President. … Article 74(2) then provides that "the question whether any, and if so what, advice was tendered to the President shall not be inquired into in any Court". What this clause bars from being inquired into is "whether any, and if so what, advice was tendered" and nothing beyond that. This question has been elaborately discussed by my learned colleagues who have examined in detail its pros and cons in their judgments and, therefore, I do not consider it necessary to traverse the same path. It would suffice to say that since reasons would form part of the advice, the Court would be precluded from calling for their disclosure but I agree that Article 74(2) is no bar to the production of all the material on which the ministerial advice was based. Of course the privilege available under the Evidence Act, Sections 123 and 124, would stand on a different footing and can be claimed dehors Article 74(2) of the Constitution."

Further, Seven Judges of the Supreme Court in S.P. Gupta and Ors. v. President of India and Ors. : AIR 1982 SC 149 have examined and interpreted Article 74(2) of the Constitution of India. The Apex Court has lucidly explained in para 60 of the judgment as under:

"60....But the material on which the reasoning of the Council of Ministers is based and the advice is given cannot be said to form the part of advice. The point we are making may be illustrated by taking the analogy of a judgment

given by a Court of Law. The judgment would undoubtedly be based on the evidence led before the Court and it would refer to such evidence and discuss it but, on that account, can it be said that the evidence forms part of the Judgment? The judgment would consist only of the decision and the reasons in support of it and the evidence on which the reasoning and the decision are based would not be part of the judgment. Similarly the material on which the advice tendered by the Council of Ministers is based cannot be said to be part of the advice and the correspondence exchanged between the Law Minister, the Chief Justice of Delhi and the Chief Justice of India which constituted the material forming the basis of the decision of the Central Government must accordingly he held to be outside the exclusionary rule enacted in Clause (2) of Article 74."

Moreover, regarding the documents/material which do not form a part of the advice and the consequent disclosure of the same in the interest of justice, the Hon'ble Delhi High Court in Union of India vs. P.D. Khandelwal case [W.P. (C) 8396 of 2009, judgment dated 30.11.2009] had also held:

"34. Possibly the only class of documents which are granted immunity from disclosure is those mentioned under Article 74(2) of the Constitution. These are documents or information which are granted immunity from disclosure not because of their contents but because of the class to which they belong. Other documents and information which do not fall under Article 74(2) of the Constitution cannot be held back on the ground that they belong to a particular class which is granted absolute protection against disclosure. All other documents/information is not granted absolute or total immunity. Protection from disclosure is decided by balancing the two competing aspects of public interest i.e. when disclosure would cause injury or unwarranted invasion of privacy and on the other hand if non-disclosure would throttle the administration of justice or in this case, the public interest in disclosure of information. In such cases, the Court/CIC has to decide, which of the two public interests pre-dominates."

The Commission in the case of Shri Subhash Chandra Agrawal Vs. Ministry of Home Affairs, New Delhi (Appeal No. CIC/SS/A/2012/000051, dated 12.04.2012) has held:

"15. The Commission is of the view that the ratio of its earlier decision in Mayilsamy K (supra) squarely applies to the facts of the present case. File notings and correspondence in relation to mercy petitions, as sought by the Appellant, reflect the material on the basis of which advice and recommendations are made by the MHA to the President of India and thus, fall under the category of information which is not barred by Article 74(2) of the Constitution of India. Information comprising of file notings and correspondences, as exchanged between MHA and President's Secretariat in relation to mercy petitions, has to be tested on the touchstone of Section 8 of the

RTI Act and it has to be assessed whether the disclosure of such information is exempted under any of the clauses of Section 8 of the RTI Act."

In view of the above, the Commission notes that the file noting and correspondence received or sent by the Ministry of Home Affairs pertaining to the appellant's mercy petition which is not a part of the Ministerial advice to the President as well as the file noting relating to the file of the mercy petition file by Shri Pradeep Yeshwanth Kokde as sought by the appellant can be provided to the appellant. The Commission, however, observes that the file noting and the correspondence could contain the names of the officials recording the same, the disclosure of which would endanger the life or physical safety of these officials and hence its disclosure is exempted under Section 8(1)(g) of the RTI Act. In view of this, the Commission directs the respondent to provide the information sought for, after severing all the names and other references which could reveal the identities of the public officials concerned, to the appellant within a period of four weeks from the date of receipt of a copy of this order under intimation to the Commission."

Cabinet papers

Arvind Kejriwal sought from the Ministry of Commerce & Industry, information in respect of the policy for allowing FDI in retail sector. CIC held:

In terms of Section 8(1)((i), Cabinet decisions, the reasons thereof and the material on which the decisions were taken shall be made public after the decision is taken and the matter is complete except those covered under any of the exemptions in Section 8. Since in the present case, decision on FDI in Single Brand Retailing has been taken and also notified and no exemption is sought under Section 8, the CPIO or the AA could have furnished that portion of the Cabinet note relating to this matter and also the decision of the Cabinet on the same, by applying the principle of severability as provided in Section 10(1).[117]

Cabinet papers

Section 8(1)(i) of the RTI Act is under the heading "exemptions" and makes interesting reading. This sub-section provides for exemption to cabinet papers "including records of deliberations of the Council of Ministers, Secretaries and other officers". Here the term "including", may be construed to mean that the deliberations (a) of the Council of Ministers, (b) of the Secretaries and (c) of other officers are all exempted from disclosure-requirement, independent of each other, that is to say that not only the deliberations of the Secretaries and other officers pertaining to cabinet papers, but also their deliberations unconnected with the cabinet papers are exempted. Thus this exemption extends to (i) cabinet papers (ii) deliberations of

[117] 132/ICPB/2006-19.10.2006

(a) Council of Ministers (b) Secretaries and (c) other officers. This would effectively mean that all decisions of the Council of Ministers and the material related thereto shall be disclosed after the decision under the first proviso of this sub-section. But, the wordings of the first proviso makes no such disclosure stipulation for the deliberations of the Secretaries and other officers, whether connected or unconnected with the cabinet papers, or the decisions of the Council of Ministers.

A Public Authority shall be, arguably, within its right to take a view that all deliberations of Secretaries and other officers shall be barred from disclosure under this sub-section. The 'material' connected with the Council of Ministers' decision shall be disclosed but the deliberations of the officers, Secretaries etc. shall not be disclosed unless they answer affirmatively to the query "Are these material connected with a cabinet decision?"

The other interpretation is that this sub-section and the provisos deal only with the decisions of the Council of Ministers, cabinet papers and all official deliberations connected with the decisions of the Council of Ministers. Therefore, this sub-section cannot be invoked for exemption of official deliberations unconnected with cabinet papers or the decisions of the Council of Ministers.[118]

(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.

Personal information

The RTI Act does not define the concept of "Personal Information". Majority of appeals filed before the Information Commissions revolve around the exemption on Personal Information. Decision makers have been facing difficulty in interpreting exemption under Section 8 (1)(j) in the absence of definition or explanation of Personal Information.

The Supreme Court in *Justice K.S. Puttaswamy (Retd.)* v. *Union of India*[119] held that "Privacy is a constitutionally protected right which emerges primarily from the guarantee of life and personal liberty in Article 21 of the Constitution" and "Informational privacy is a facet of the right to privacy."

[118] CIC/AT/A/2006/00145-13 July, 2006.
[119] Writ Petition (Civil) No 494 of 2012 on 24 Aug.2017

The Supreme Court finally "commend[ed] to the Union Government the need to examine and put into place a robust regime for data protection." A nine-judge bench of the Supreme Court pronounced the judgment.

Committee of Experts under the Chairmanship of Justice B.N. Srikrishna drafted the Personal Data Protection Bill, 2018, which defines a few key terms, as follows:

"Personal data" means data about or relating to a natural person who is directly or indirectly identifiable, having regard to any characteristic, trait, attribute or any other feature of the identity of such natural person, or any combination of such features, or any combination of such features with any other information;

"Sensitive Personal Data" means personal data revealing, related to, or constituting, as may be applicable— (i) passwords; (ii) financial data; (iii) health data; (iv) official identifier; (v) sex life; (vi) sexual orientation; (vii) biometric data; (viii) genetic data; (ix) transgender status; (x) intersex status; (xi) caste or tribe; (xii) religious or political belief or affiliation; or (xiii) any other category of data specified by the Authority under section 22.

The CIC Full Bench in *G.R. Rawal v Director General of Income Tax (Investigation)* [120] provided following guidelines on what constitutes 'personal information':

"In common parlance, the expression "personal information" is normally used for name, address, occupation, physical and mental status, including medical status, as for instance, whether a person is suffering from disease like diabetes, blood pressure, asthma, TB, Cancer etc. including the financial status of the person, as for instance, his income or assets and liabilities of self and other members of the family. The expression shall also be used with respect to one's hobbies like painting, music, sports etc. Most of these mentioned above are information personal to one and one may not like to share this with outsider. In this sense of the term, such information may be treated as confidential since one would not like to share it with any other person. However, there are circumstances when it becomes necessary to disclose some of this information if it is in larger public interest. Thus, for example, if there is a doubt about the integrity of any person occupying a public office, it may become necessary to know about one's financial status and the details of his assets and liabilities not only of the person himself but also of other close members of the family as well. Similarly, if there is an allegation about the appointment of a person to a public

[120] CIC/AT/A/2007/00490, Decision dated 5 March 2008.

office where there are certain rules with regard to qualification and experience of the person who has already been appointed in competition with others, it may become necessary to make inquiries about the person's qualification and experience and these things may not be kept confidential as such.

20. It may not be possible to lay down exactly the circumstances in which personal information of an individual may be disclosed to others. This will depend on the facts of each case. No hard and fast rule can be laid down for this purpose. A case recently decided on 23.3.2007 by the Bombay High Court where the prisoner had to be admitted to Sir J.J. Hospital, Mumbai on the ground that he was suffering from diabetes and blood pressure may be referred to in this regard. The PIO did not order disclosure of his medical problem to those who thought that his admission into the air-conditioned rooms of the hospital, as against the tough conditions prevailing in the jail, was unjustified, and there was public outcry, including in the media against his admission in an air-conditioned hospital. PIO had refused information u/s 8(1) (j) of the RTI Act and under Regulations of the Medical Council of India. However, the High Court did not accede to this viewpoint. The court ordered that the information relating to the convict patient be given after following procedure under Section 11 of the RTI Act.

21. The US Restatement of the Law, Second, Torts, § 652 define the intrusion into Privacy in the following manner:

"One, who intentionally intrudes, physically or otherwise, upon the solitude or seclusion of another or his private affairs or concerns, is subject to liability to the other for invasion of his privacy, if the intrusion would be highly offensive to a reasonable person."

22. The Law of Privacy although, not defined is, however, well recognized under the Indian legal system and it has all along been treated as a sacred right not to be violated unless there are good and sufficient reasons. Even under RTI, the normal rule should be of "non-disclosure of any information concerning one's private life" and disclosure should be ordered only when there is overriding public interest and in that case too, the procedure laid down under section 11 of the Act should be followed as held by the Bombay High Court in the above cited case.

23. Because we have no specific law on the subject, in such cases we have been guided by the UK Data Protection Act 1998 Sec 2 of which titled Sensitive Personal Data reads as follows:

In this Act "sensitive personal data" means personal data consisting of information as to:

a)The racial or ethnic origin of the data subject

b)His political opinions

c)His religious beliefs or other beliefs of a similar nature

d)Whether he is a member of a Trade Union

e)His physical or mental health or condition

f)His sexual life

g)The commission or alleged commission by him of any offence

h) Any proceedings for any offence committed or alleged to have been committed by him, the

disposal of such proceedings or the sentence of any court in such proceedings.

If we were to construe privacy to mean protection of personal data, this would be a suitable reference point to help define the concept. In this context, as may be seen the information sought by appellant may fall within the definition of personal data as described in g) and h) above.

24. The interpretation of Section 8(1) (j) has been the subject of some dispute. The Section deals with excluding from the purview of the RTI Act (a) information of a personal nature which have had no relationship to a public activity or interest and (b) whose disclosure would lead to unwarranted invasion of the privacy.

25. In so far as (b) is concerned, there is very little doubt that there could be a set of information which may be said to belong to the exclusive private domain and hence not be liable to be disclosed. This variety of information can also be included as "sensitive and personal" information as in the U.K. Data Protection Act, 1998. Broadly speaking, these may include religious and ideological ideas, personal preferences, tastes, political beliefs, physical and mental health, family details and so on.

26. But when the matter is about personal information unrelated to public activity, laying down absolute normative standards as touchstones will be difficult. This is also so because the personal domain of an individual or a group of individuals is never absolute and can be widely divergent given the circumstances. It is not possible to define "personal information" as a category which could be positively delineated; nevertheless it should be possible to define this category of information negatively by describing all information relating to or originating in a person as "personal" when it has such information has no public interface. That is to say, in case the information relates to a person which in ordinary circumstances would never be disclosed to anyone else; such information may acquire a public face due to circumstances specific to that information and thereby cease to be personal. It is safer that what is personal information should be determined by testing such information against the touchstones of public purpose. All information which is unrelated to a public activity or interest and, under Section 8(1) (j), if that information be related to or originated in person, such information should qualify to be personal information under Section 8(1) (j)."

Personal information

"Personal information" does not mean information relating to the information seeker, but about a third party. That is why, in the Section, it is stated "*unwarranted invasion of the privacy of the individual"*. If one were to seek information about himself or his own case, the question of invasion of privacy of his own self does not arise. If one were to ask information about a third party and if it were to invade the privacy of the individual, the information seeker can be denied the information on the ground that disclosure would invade the privacy of a third party. Therefore, when a citizen seeks information about his own case and as long as the information sought is not exempt in terms of other provisions of Section 8 of RTI Act, this section cannot be applied to deny the information."[121]

Girish Ramchandra Deshpande Vs Central Information Commissioner and Ors.

The Supreme Court of India in *Girish Ramchandra Deshpande v. Central Information Commissioner and Ors.* (SLP (Civil) No. 27734 of 2012; judgement dated 3 October, 2012) held as follows:

"We are in agreement with the CIC and the courts below that the details called for by the petitioner i.e. copies of all memos issued to the third respondent, show cause notices and orders of censure/punishment etc. are qualified to be personal information as defined in clause (j) of Section 8(1) of the RTI Act.

The performance of an employee/officer in an organization is primarily a matter between the employee and the employer and normally those aspects are governed by the service rules which fall under the expression "personal information", the disclosure of which has no relationship to any public activity or public interest. On the other hand, the disclosure of which would cause unwarranted invasion of privacy of that individual.

Of course, in a given case, if the Central Public Information Officer or the State Public Information Officer of the Appellate Authority is satisfied that the larger public interest justifies the disclosure of such information, appropriate orders could be passed but the petitioner cannot claim those details as a matter of right."

The Supreme Court further held that such information could be disclosed only if it would serve a larger public interest.

[121] 80/ICPB/2006-28.8.2006

Selection process

The selection to any post in the public authority which involves thousands of candidates for written test and interview is certainly a matter larger public interest as the lives of thousands of candidates is at stake therefore the Commission is of view that such matters are of larger public interest.

If the public authorities deny furnishing information with regard to the selection process to any Govt. post it would certainly result in great injustice and frustration among the millions of jobless youth of this country. The amount of information sought in 6 (1) application under RTI Act, 2005 of the appellant is not voluminous as he is seeking marks obtained by himself and by the selected candidates that being so there should not be any difficulty in furnishing such information.[122]

DPC proposals

Attested copies of DPC proposals submitted to the Government for promotion of 4th Level Gazetted Posts as per … It may be mentioned here that the object of RTI Act, 2005 is to ensure transparency in the working of every public authority. Though in the instant case the 6(1) application under RTI Act, 2005 does not disclose that the information sought is in larger public interest. The Commission is of the considered view that the Public Information Officer ought to have followed the procedure under Sec. 11 of RTI Act, since the information relates to the third party and thereafter the Public Information Officer should have applied the procedure provided under Sec. 10 of The RTI Act, 2005 by furnishing the entire DPC proceedings proforma information used by the DPC. However the ACRs of the individuals involved in the above DPC shall not be furnished.[123]

Caste status

The Complainant wants to know the caste and religion of a certain doctor, who retired from the service, from the records, if available at the public authority.

Since the doctor retired about 15 years ago, his service register is not available with the public authority. However, after making a thorough search, on the insistence of the Commission, the PIO could produce an old record (register) which contains the doctor's caste status as 'XX' category.

Now the question to be decided is whether the caste of a person can be disclosed routinely?

Unfortunately, India is yet to enact a law on privacy. Privacy is yet to be recognized as a right in India, except a few judgments by the Supreme Court interpreting Article 21 of the constitution to be inclusive of 'right to privacy.'

[122] APIC-Appeal No.6134/SIC□MR/2011, dated 03□05□2013
[123] APIC-Appeal No.9313/SIC□MR/2011, dated 20□04□2013

International experience on privacy law does not offer any help in this case, because 'caste' is not practised in any other country, except India. However information related to one's race, health, financial status and so on are treated as personal information.

We are aware of many news reports about suicides committed by students of top universities as a result of the humiliation allegedly faced by them merely because of their 'caste' status. On contrast, persons of the so called 'higher caste' deliberately let others know their caste to enjoy that status.

The Commission is of the view that 'caste' status of a person can be treated as personal information and exempt U/s 8(1)(j) unless the person herself is willing to disclose it to the world.

However, in the present case, the doctor used his 'caste' status for his initial appointment and got appointment under the quota reserved for that category. In such case the 'caste' 'status' enters into public domain.

U/s 4(1)(b), "even public authority, among other things, shall publish the following:

(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 authorizations granted by it;

Next question is whether the religions status of a person can be disclosed? In the present case, available records do not contain any information on this issue. Even then, the Commission opines that religious status of a person is personal information which need not be disclosed routinely.

Therefore, the Commission directs the PIO to provide information related to caste status of the doctor as per the available records to the complainant.[124]

Medical records

The Appellant seeks medical records of a woman. Medical records fall under the category of "personal information" which is exempt from the disclosure under Section 8(1)(j), unless larger public interest justifies the disclosure of such information.

The appellant is unnecessarily probing a teacher who availed maternity leave based on her medical reports. The Commission advises the appellant not to harass the teacher using Right to Information as a tool which was enacted to empower the common people.[125]

Immovable property returns

The Full Bench of the Commission [APIC] finds that the stand taken by the PIO and appellate authority that the information sought by the appellant attracts

[124] Complaint No. 11256/SIC-MVN/2012 Order dated 20-01-2014 (APIC)
[125] Appeal No. 5444/SIC-MVN/2012 Order dated: 24-02-2014 (APIC)

Sec.8 (1) (j) of the RTI Act, 2005, and rejecting the request on that ground is untenable and the said stand is set aside. As the information sought with regard to item no.1 relates to the third parties, the appellate authority in his wisdom invoked Section 11 of RTI Act, 2005 and informed the concerned third parties. It is the question of disclosability of the information sought by the appellant. The learned counsel of the appellant argued that as the established laws/rules mandate maintenance of immovable property returns of All India Service Officers, the disclosure of the same was in public interest.

The Full Bench has gone through the material papers filed by both the parties and heard the arguments and is of the considered view that the information pertaining to the Immovable Property Returns of the IAS, IPS and IFS officers shall be furnished. Hence the Full Bench of the Commission directs the PIO to provide the information free of cost to the appellant within 30 days from the date of receipt of this order with compliance to the Commission.

The Full Bench of the Commission also examined item no.2 of the information sought by the appellant and finds that the provisions of Section 11 of the RTI Act, 2005 will not be attracted and the information is disclosable. Respondents directed to furnish information pertaining to immovable property returns of IAS, IPS and IFS Officers free of cost. Rejected the plea of exemption under section 8(1)(j). Held that Sec.11 is not attracted.

The PIO is directed to furnish this information free of cost to the appellant within 30 days from the date of receipt of this order with compliance to the Commission.[126]

Meta request

The Appellant filed a meta request i.e. requesting information on earlier RTI requests filed by other citizens, such information (i.e. names & addresses of RTI applicants) falls under 'personal information' category and exempted from disclosure U/s 8(1)(j) of the RTI Act.

However, number of RTI application received by the public authority can be disclosed.[127]

Marks scored by selected candidates

The selection to any post in the public authority which involves thousands of candidates for written test and interview is certainly a matter larger public interest as the lives of thousands of candidates is at stake therefore the Commission is of view that such matters are of larger public interest. If the public authorities deny furnishing information with regard to the selection process to any Govt. post it would certainly result in great injustice and

[126] APIC-Full Bench Appeal No.2485/CIC/2009, dated 15-11-2010; *O.M. Debara Vs Prl. Secy. to Govt., GA(SC-X) Dept*.
[127] Appeal No. 15076/SIC-MVN/2012 Order dated 15-04-2014 (APIC)

frustration among the millions of jobless youth of this country. The amount of information sought in 6 (1) application under RTI Act, 2005 of the appellant is not voluminous as he is seeking marks obtained by himself and by the selected candidates that being so there should not be any difficulty in furnishing such information. In the result the Commission directs the Public Information Officer to furnish the information sought by the appellant herein within 30 days from the date of receipt of this orders.[128]

Members of the Parliament and their right to know

Members of the Parliament seek information through Questions. Relevant Rules of Procedure and Conduct of Business in Lok Sabha:

Admissibility of questions

41. (1) Subject to the provisions of sub-rule (2), a question may be asked for the purpose of obtaining information on a matter of public importance within the special cognizance of the Minister to whom it is addressed.

(2) *The right to ask a question* is governed by the following conditions, namely:–

(vi) it *shall not ask* as to the character or conduct of any person except in his official or public capacity;

(x) it *shall not reflect* on the character or conduct of any person whose conduct can only be challenged on a substantive motion;

(xi) it *shall not* make or imply a charge of a personal character;

Rules to be observed while speaking

352. A member while speaking shall not-

(v) reflect upon the conduct of persons in high authority unless the discussion is based on a substantive motion drawn in proper terms;

Explanation:-The words 'persons in high authority' mean persons whose conduct can only be discussed on a substantive motion drawn in proper terms under the Constitution or such other persons whose conduct, in the opinion of the Speaker, should be discussed on a substantive motion drawn up in terms to be approved by him;

(x) refer to Government officials by name; and…

Procedure regarding allegation against any person

353. No allegation of a defamatory or incriminatory nature shall be made by a member against any person unless the member has given adequate advance notice to the Speaker and also to the Minister concerned so that the Minister may be able to make an investigation into the matter for the purpose of a reply:

Provided that the Speaker may at any time prohibit any member from making any such allegation if he is of opinion that such allegation is derogatory

[128] Appeal No.6134/SIC□MR/2011, dated 03□05□2013 (APIC)

to the dignity of the House or that no public interest is served by making such allegation.

The Rules of Procedure and Conduct of Business in the Council of States (Rajya Sabha) impose similar restrictions on M.P.'s right to ask questions. From the above Rules, it is clear that even the Members of Parliament cannot seek personal information in the Parliament.

Whether an employee is entitled to have access to his / her annual confidential reports

The Supreme Court in *Dev Dutt v. Union of India and others*[129], a case filed before the advent of the RTI Act, held as follows:

"We do not agree [with the submission of the learned counsel, that "a 'good' entry is not an adverse entry and it is only an adverse entry which has to be communicated to an employee."]. In our opinion every entry must be communicated to the employee concerned, so that he may have an opportunity of making a representation against it if he is aggrieved.

12. Learned counsel for the respondent submitted that under the Office Memorandum 21011/4/87 [Estt.'A'] issued by the Ministry of Personnel/Public Grievance and Pensions dated 10/11.09.1987, only an adverse entry is to be communicated to the concerned employee. It is well settled that no rule or government instruction can violate Article 14 or any other provision of the Constitution, as the Constitution is the highest law of the land. The aforesaid Office Memorandum, if it is interpreted to mean that only adverse entries are to be communicated to the concerned employee and not other entries, would in our opinion become arbitrary and hence illegal being violative of Article 14. All similar Rules/Government Orders/Office Memoranda, in respect of all services under the State, whether civil, judicial, police, or other service (except the military), will hence also be illegal and are therefore liable to be ignored.

13. It has been held in Maneka Gandhi vs. Union of India & Anr. AIR 1978 SC 597 that arbitrariness violates Article 14 of the Constitution. In our opinion, the non-communication of an entry in the A.C.R. of a public servant is arbitrary because it deprives the concerned employee from making a representation against it and praying for its up-gradation. In our opinion, every entry in the Annual Confidential Report of every employee under the State, whether he is in civil, judicial, police or other service (except the military) must be communicated to him, so as to enable him to make a representation against it, because non-communication deprives the employee of the opportunity of

[129] Civil Appeal No. 7631 of 2002, decided on 12.5.2008

making a representation against it which may affect his chances of being promoted (or get some other benefits).

Moreover, the object of writing the confidential report and making entries in them is to give an opportunity to a public servant to improve his performance, vide State of U.P. vs. Yamuna Shankar Misra 1997 (4) SCC.
17. Hence such non-communication is, in our opinion, arbitrary and hence violative of Article 14 of the Constitution.

In our opinion, every entry (and not merely a poor or adverse entry) relating to an employee under the State or an instrumentality of the State, whether in civil, judicial, police or other service (except the military) must be communicated to him, within a reasonable period, and it makes no difference whether there is a bench mark or not. Even if there is no bench mark, non-communication of an entry may adversely affect the employee's chances of promotion (or getting some other benefit), because when comparative merit is being considered for promotion (or some other benefit) a person having a `good' or `average' or `fair' entry certainly has less chances of being selected than a person having a `very good' or `outstanding' entry."

Following week, the High Court of Punjab and Haryana in *State of Punjab and others v State Information Commission, Punjab and another*[130] followed the Supreme Court's judgment while deciding a petition filed under Article 226 of the Constitution of India challenging order dated 5.11.2007 (P-1), passed by the State Information Commission, Punjab holding that Shri Faquir Chand Sharma-respondent No. 2 is entitled to the information sought by him (copies of his ACRs for the period from 1.4.2000 to 31.3.2006). The court held as follows:

"The ACRs of a public servant are not private in character. In any case, when an employee asks for disclosure of his own ACR the demand cannot be declined because now all ACRs are required to be communicated to a public servant, whether adverse, good, very good etc. In paras 19 and 20 of the judgment rendered in the case of *Dev Dutt v. Union of India and others* (Civil Appeal No. 7631 of 2002, decided on 12.5.2008), Hon'ble the Supreme Court has observed as under:-

"19. In our opinion, every entry in the A.C.R. of a public servant must be communicated to him within a reasonable period, whether it is a poor, fair, average, good or very good entry. This is because non communication of such an entry may adversely affect the employee in two ways: (1) Had the entry been communicated to him he would know

[130] C.W.P. No. 8396 of 2008,Decided on May 19, 2008.

about the assessment of his work and conduct by his superiors, which would enable him to improve his work in future (2) He would have an opportunity of making a representation against the entry if he feels it is unjustified, and pray for its upgradation. Hence non-communication of an entry is arbitrary, and it has been held by the Constitution Bench decision of this Court in Maneka Gandhi vs. Union of India [AIR 1978 SC 597] (supra) that arbitrariness violates Article 14 of the Constitution.

20. Thus it is not only when there is a bench mark but in all cases that an entry (whether it is poor, fair, average, good or very good) must be communicated to a public servant, otherwise there is violation of the principle of fairness, which is the soul of natural justice. Even an outstanding entry should be communicated since that would boost the morale of the employee and make him work harder." In the light of the aforesaid view of Hon'ble the Supreme Court, it has now become obligatory to even communicate good or better reports to a public service or an employee of the Corporation, Board or judiciary. Therefore, the controversy has been settled by Hon'ble the Supreme Court."

Grading of officers basing on ACRs

A Bench consisting of Information Commissioners, Professor M.M. Ansari, Dr. O.P. Kejariwal and Ms. Padma Balasubramaniam in *Shri Arvind Kejriwal C/o Parivartan v Department of Personnel & Training* held that the chart which contained the grading of the officers and not their detailed ACRs can be disclosed.[131]

Information regarding LTC disbursals and privacy

The plea of such information [information regarding LTC disbursals] being entirely barred under Section 8(1) (j) should, therefore, fail. However, I do agree with the contention of the third party, …, that parts of this information are personal information, and should not be disclosed. It is necessary, therefore, to sift the disclosable part of the information from its non-disclosable personal part. The details about the amounts claimed by Shri A. Roychoudhary as LTC, the block years for which the claim was made, number of persons for whom claim made, dates of filing the claim and disbursal, advance taken and adjustment if any, and the sanction for using the LTC should be disclosed to the appellant. However, other personal details such as the names of the family members of Shri A. Roychoudhary, their age, etc. which are personal in nature should be barred from disclosure. The PIO can use the provision of the Section 10 of the RTI Act to separate the information to be disclosed from that which is not to be disclosed.[132]

Traveling expenses

The traveling expenses were charged to the public account, disclosure if the information cannot be denied on the grounds of 'personal information',' not a public activity' and 'no public interest' etc. Travel had been performed as a part and in discharge of official duties and the records related the same are public records and therefore, a citizen has the right to seek disclosure of the same.[133]

---

[131] CIC/MA/A/2006/00204, 207 & 208,12 June,2008
[132] CIC/AT/A/2006/00317-10.10.2006
[133] 63/ICPB/2006- 4 August,2006

Traveling expenses

Information relating to the tour programmes and travel expenses of a public servant cannot be treated as personal information.[134]

Leave records and privacy

A request for supply of the leave record of Dr. Vidya Sinha, Reader in Hindi Department since July 2004 was received by Delhi University. CIC felt that it was purely a personal matter with no public interest involved. Hence, the information need not be disclosed. However, if the Appellant could prove to the satisfaction of the Commission that public interest was involved in the matter, then the Commission could re-examine the matter.[135]

Leave records

…the leave records of an official is a personal information, the disclosure of which has no public interest…In the absence of any material other than the bald allegation …, it is not possible to determine whether the disclosure of the information is in public interest or not;[136]

Leave records without names

By an application dated 19.7.2006, the appellant had sought for the following information:

i. The list of employees who were granted leave after 1.5.2006 (their names, number of days of leave, dates of submission of leave applications)
ii. Pendency left out against the receipt, while proceeding on leave
iii. The cases where the leave has been recommended by the Head of the Department and not permitted to avail the leave.
iv. Names of staff members who have been permitted to visit abroad (presently out of India), actual number of days of leave applied at the first instance, extension requested and the stand of office for such cases.
v. Names of employees who opted for voluntary retirement and allowed to withdraw the same and what action proposed for such cases.

CIC held:

While I agree with the CPIO and the AA, that personal information, unconnected with the government affairs of an official, i.e., information relating to personal affairs of officials, need not be disclosed. However, information, which are purely official could be disclosed to the appellant. Therefore, in respect of serial No 1 above, the CPIO will furnish only the number of officials who had been granted leave without names etc; information sought in serial No2, being general in nature, need not be furnished; regarding serial Nos. 3, 4, and 5 the number of such cases, if any, be given without names; [137]

[134] 07/IC(A)/CIC/2006/00011 - 3 January 2006
[135] CIC/OK/A/2006/00189-3 November, 2006
[136] 170/ICPB/2006-4.12.2006
[137] 174/ICPB/2006-4.12.2006

(2) Notwithstanding anything in the Official Secrets Act, 1923 (19 of 1923) nor any of the exemptions permissible in accordance with sub-section (1), a public authority may allow access to information, if public interests in disclosure outweighs the harm to the protected interests.

Section 8(2): A legal revolution that confers upon the citizens a priceless right

Decision makers under the RTI Act often fail to appreciate the intricacies of Section 8 (2) of the Act such as public interest test and how the test can be used to override the set of exemptions listed out under sub-section (1).

The Supreme Court in *Yashwant Sinha & Ors. v. Central Bureau of Investigation & Anr* (Review Petition (Criminal) No. 46 of 2019 in Writ Petition (Criminal) No. 298 of 2018, Date of Judgement: 10 April 2019) provided an in-depth analysis on Section 8 (2).

Justice K.M. Joseph in his concurring judgment recognized Section 8(2) of the Act "a legal revolution" that none of the exemptions declared under sub-section (1) of Section 8 or the Official Secrets Act, 1923 can stand in the way of the access to information if the public interest in disclosure overshadows, the harm to the protected interests.

Justice K.M. Joseph further observed that the RTI Act through Section 8(2) has conferred upon the citizens a priceless right by clothing them with the right to demand information even in respect of such matters covered by the exemptions under Section 8 (1).[138]

The Bench led by Chief Justice of India (CJI) Ranjan Gogoi held as follows:
"Section 8(2) of the Right to Information Act (already extracted) contemplates that notwithstanding anything in the Official Secrets Act and the exemptions permissible under subsection (1) of Section 8, a public authority would be justified in allowing access to information, if on proper balancing, public interest in disclosure outweighs the harm sought to be protected. When the documents in question are already in the public domain, we do not see how the protection under Section 8(1)(a) of the Act would serve public interest."

Justice K.M. Joseph in his concurring judgment observed as follows:
"Reverting back to Section (8) it is clear that Parliament has indeed intended to strengthen democracy and has sought to introduce the highest levels of transparency and openness. With the passing of the Right to Information Act,

[138] The Supreme Court in *Yashwant Sinha & Ors. v. Central Bureau of Investigation & Anr* (Review Petition (Criminal) No. 46 of 2019 in Writ Petition (Criminal) No. 298 of 2018, Date of Judgement: 10 April 2019)

the citizens fundamental right of expression under Article 19(1) (a) of the Constitution of India, which itself has been recognised as encompassing, a basket of rights has been given fruitful meaning. Section 8(2) of the Act manifests a legal revolution that has been introduced in that, none of the exemptions declared under sub-section(1) of Section 8 or the Official Secrets Act, 1923 can stand in the way of the access to information if the public interest in disclosure overshadows, the harm to the protected interests.

What interestingly Section 8(2) recognises is that there cannot be absolutism even in the matter of certain values which were formerly considered to provide unquestionable foundations for the power to withhold information. Most significantly, Parliament has appreciated that it may be necessary to pit one interest against another and to compare the relative harm and then decide either to disclose or to decline information. It is not as if there would be no harm.

If, for instance, the information falling under clause (a) say for instance the security of the nations or relationship with a foreign state is revealed and is likely to be harmful, under the Act if higher public interest is established, then it is the will of Parliament that the greater good should prevail though at the cost of lesser harm being still occasioned. I indeed would be failing to recognize the radical departure in the law which has been articulated in Section 8(2)…

The RTI Act through Section 8(2) has conferred upon the citizens a priceless right by clothing them with the right to demand information even in respect of such matters as security of the country and matters relating to relation with foreign state. No doubt, information is not be given for the mere asking. The applicant must establish that withholding of such information produces greater harm than disclosing it.

It is pertinent to note that an officer of the department is permitted under the RTI Act to allow access to information under the Act in respect of matters falling even under Section 8(1)(a) if a case is made out under Section 8(2). If an officer does not accede to the request, a citizen can pursue remedies before higher authorities and finally the courts."

Public Interest

The Supreme Court in *Bihar Public Service Commission v. Saiyed Hussain Abbas Rizwi* [(2012) 13 SCC 61] while explaining the term "Public Interest" held:

"22. The expression "public interest" has to be understood in its true connotation so as to give complete meaning to the relevant provisions of the Act. The expression "public interest" must be viewed in its strict sense with all its exceptions so as to justify denial of a statutory exemption in terms of the Act. In its common parlance, the expression "public interest", like "public purpose", is not capable of any precise definition. It does not have a rigid meaning, is elastic and takes its colour from the statute in which it occurs, the concept varying with time and state of society and its needs (State of Bihar v.

Kameshwar Singh([AIR 1952 SC 252]). It also means the general welfare of the public that warrants recognition and protection; something in which the public as a whole has a stake [Black's Law Dictionary (8th Edn.)].”

The Hon’ble Supreme Court in the matter of *Ashok Kumar Pandey vs The State Of West Bengal* (decided on 18 November, 2003Writ Petition (crl.) 199 of 2003) had made reference to the following texts for defining the meaning of “public interest’, which is stated as under:

“Strouds Judicial Dictionary, Volume 4 (IV Edition),'Public Interest' is defined thus:

"Public Interest (1) a matter of public or general interest does not mean that which is interesting as gratifying curiosity or a love of information or amusement but that in which a class of the community have a pecuniary interest, or some interest by which their legal rights or liabilities are affected." In Black's Law Dictionary (Sixth Edition), "public interest" is defined as follows :

Public Interest something in which the public, or some interest by which their legal rights or liabilities are affected. It does not mean anything the particular localities, which may be affected by the matters in question. Interest shared by national government...”

In *Mardia Chemical Limited v. Union of India* (2004) 4 SCC 311, the Hon’ble Supreme Court of India while considering the validity of SARFAESI Act and recovery of non-performing assets by banks and financial institutions in India, recognised the significance of Public Interest and had held as under : “.....Public interest has always been considered to be above the private interest. Interest of an individual may, to some extent, be affected but it cannot have the potential of taking over the public interest having an impact in the socio-economic drive of the country.....”

Classification

…The appellate Authority has held that the matter has been classified “confidential” under the Official Secrets Act, 1923. However, in view of the provisions of the Section 22 of the Act *“The provision 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*”, the provisions of Official Secrets Act stands over-ridden.

Section 8(2) enables the public authority to disclose information notwithstanding anything in the Official Secrets Act, 1923 or any of the exemptions permissible under Section 8(1), if the public interest in disclosure outweighs the harm to the protected interests. Sec. 8(2) is, therefore, not a

ground distinct and separate from what has been specified explicitly under Section 8(1) of the Act for withholding information by the public authority.

The Appellate Authority, therefore, cannot withhold this information either on the ground that the information is classified as "confidential" under the Official Secrets Act or under Section 8(2) alone. However, Sec 22 as described above only overrides anything inconsistent with the Right to Information Act, 2005. The Official Secrets Act, 1923 stands neither rescinded nor abrogated. While a public authority may only withhold such information as could be brought within any of the clauses of Section 8(1), it is open to that authority to classify any of these items of information as "Confidential", thus limiting the discretion of any other authority in respect to these.[139]

(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.

Time limited exemptions

Section 8(3) imposes time limit on exemptions. Clauses (**b), (d), (e), (f), (g), (h)** and **(j)** of Section 8(1) are time limited exemptions; 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) cannot be withheld under these exemptions.

That means these exemptions cannot be applied when the records are more than 20 years old. It is implied that clauses (**a), (c)** and **(i)** of Section 8(1) are not time limited exemptions. They are *perpetual exemptions*.
That means these exemptions can be applied on any record, irrespective of its age.

Records more than 20 years old

Section 8(3) is part of Section 8, which deals with 'exemption from disclosure of information". Section 8(1) specifies classes of information which are exempt from disclosure. What Section 8(3) stipulates is that the exemption under section 8(1) cannot be applied if the information sought related to a period prior to 20 years except those covered in Section clauses (a), (c) and (i) of sub-section 8(1).

[139] CIC/WB/A/2006/00274-22.9.2006

In other words, even if the information sought is exempt in terms of other sub-section (1) of Section 8, and if the same relates to a period 20 years prior to the date of application, then the same shall be provided.[140]

9. Grounds for rejection to access in certain cases

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. Severability

(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. Third party information

(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

[140] 37/ICPB/2006 - 26 June 2006

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.

Third Party

The Respondent… has submitted that information pertaining to items 4 and 5 have been withheld due to objections received from 3rd party. The Commission pointed out that Sec.11 can be invoked only if the information "relates to or has been supplied by a third party and has been treated as confidential by third party". In the instant case neither has the information been supplied by the 3rd party nor, by any stretch of imagination, can it be treated as confidential as the entire subject is with reference to release of advertisements pertaining to land acquisition notifications by the respondent to the local press. The order issued by the Spl. Dy. Collector and PIO through his endorsement No.D2/527/08 dated 15.01.09 has no legs to stand and is ultra vires and therefore the same is set aside.[141]

[141] APIC-Appeal No.444/CIC/2009, Dt. 28-07-2009

Third party

The RTI Act does not give a third party an automatic veto on disclosure of information. PIO and A.O are required to examine the third party's case in terms of provisions of section 8(1) (j) or Section 11(1) as the case may be and arrive at a finding by properly assessing the facts and the circumstances of the case. A speaking order should thereafter be passed.[142]

What can a PIO do if the number of third parties is huge?

"In view of the fact that the number of third-parties in this case runs to over 800, the AA may choose to call for hearing certain representatives of all third-parties, selecting them from samples of large, medium and small investors and, pass a speaking order…" [143]

Third party

It is possible that the PIO and the AA didn't consider invoking the provision of Section 7(7) because they had, in any case, reached a decision not to disclose the information requested by the appellant; and Section 11(1) which Section 7(7) refers, is to be invoked only when a PIO "intends" to disclose any confidential information or record supplied by a third party, and not otherwise. This approach excludes the other possibility that the third party may have no objection to the disclosure of the information, in which case disclosure can be authorized even when an information is prima-facie a personal information, and if it does not attract any other exemption. In my view Sections 7(7), 11 and 7(1) have to be read together. The combined reading of these Sections leaves a clear impression, that when the information sought by an applicant have had a third party link, then "before taking any decision" (Section 7, sub-section 7) under sub-section (1) of Section 7, viz. "either provide the information or… reject the request", the PIO will need to consult/hear the third party. Section 11(1) adds another dimension to the protection of third party interest, viz. giving a hearing to the 3rdparty if the PIO intends to disclose any information entrusted to the public authority by the third party and "which has been treated as confidential" by such 3rdparty. The requirement of hearing the representation of the 3rdparty in respect of an ordinary as well as a confidential information relating to that 3rdparty, is a common thread linking these Sections and sub-sections, and should therefore be construed as an invariant procedural as well as a substantive requirement of the RTI Act.[144]

[142] CIC/AT/A/2006/00014-22 May, 2006.
[143] CIC/AT/A/2007/01554,30th May, 2008
[144] CIC/AT/A/2006/00306-16.10.2006

CHAPTER III
The Central Information Commission

12. Constitution of Central Information Commission

(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.

(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 politica1.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. Term of office and conditions of service

(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. Removal of Chief Information Commissioner or Information Commissioner

(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 out side 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 an 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 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 misbehavior.

Chapter IV
The State Information Commission

15. Constitution of State Information Commission

(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 recognized 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. Term of office and conditions of service

(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. Removal of State Chief Information Commissioner or State Information Commissioner

(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*
- *(f) 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 misbehavior.

Chapter V

Powers and functions of the Information Commissions, appeal and penalties

18. Powers and functions of Information Commissions

(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 limits 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, (5 of 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. Appeal

(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 the 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.

Deciding appeal filed under Section 19(1)

CIC suggested that "the 'Central Information Commission Appeal Procedure Rules 2005' are clear that an appellant may be present in person or through his duly authorized representative, or may opt not to be present in appeal before this Commission. Such a principle will apply *mutatis mutandis* to any appeal before any lower authority under the Right to Information Act."[145]

Justice must not only be done; it must also be seen to be done

Paragraph 38 of the '*Guide for the First Appellate Authorities'*[146] states as follows:

"Disposal of Appeal Deciding appeals under the RTI Act is a quasi-judicial function. It is, therefore, necessary that the appellate authority should see to it that *the justice is not only done but it should also 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."

[145] CIC/WB/A/2006/00321,14 Dec.2006
[146] Published by Department of Personnel & Training, Ministry of Personnel, P.G. and Pensions, Government of India (O.M.No.1/3/2008-IR dated: 25th April, 2008)

Appeal

"Appeal" is defined in the Oxford Dictionary as the transference of a case from an inferior to a higher Court or tribunal in the hope of reversing or modifying the decision of the former. In the Law Dictionary by Bouvier an appeal is defined as the removal of a case from a Court of inferior jurisdiction to one of superior jurisdiction for the purpose of obtaining a review and re-trial. In the Law Dictionary by Sweet, the term "appeal" is defined as a proceeding taken to rectify an erroneous decision of a Court by submitting the question to a higher Court or Court of Appeal. It is a settled law that an appeal proceeding is a continuation of the original proceeding. A decision by an appellate authority after issue of a notice and after a full hearing, in presence of both the parties, replaces the judgment of the lower court/ authority. The decision of the appellate authority is on merit and as such, it can vary, modify or substitute its own decision in place of the decision of the inferior authority. In appropriate cases, it can quash or set-aside the decision of the inferior authority and can pass its own decision, which may be altogether different from that of the original decision. An Appellate Authority may re-examine the matter and take fresh evidence, if required, or if considered necessary.

In view of the legal position as stated above, the first Appellate Authority was justified in setting aside the order of the CPIO. The first Appellate Authority was well with in its ambit while taking up a new ground and to deny the information u/s 8(2) of the Right to Information Act, 2005. On the same analogy, this Commission is perfectly justified in looking into and considering, not only what the first Appellate Authority decided but also what was decided by the CPIO. The submission of the first Appellate Authority that this Commission should only consider the decision of the first Appellate Authority and should not look into or consider the order of the CPIO, is without any merit and as such, cannot be accepted.[147]

Deciding an appeal

As per the provisions u/s 19(6) of the Act, such 1st appeal shall be disposed within (30) days or within such extended period not exceeding (45) days, from the date of receipt of the appeal. While disposing the 1st Appeal, the 1st Appellate Authority is required to give notices to the Public Information Officer / Deemed PIO and to the Appellant, conduct a hearing, just like the A. P. Information Commission conducts the hearings of 2nd Appeals and pass speaking orders and communicate to the PIO, under intimation to the Appellant. Instead, the 1st Appellate Authority has not acted upon the 1st Appeal received by him and there by has shown dereliction to statutory responsibility imposed on him by the Act. This has been noted with much displeasure by the Commission. The Head of the Office / Public Authority is requested to take note of the same and take suitable action as deemed fit, ensuring that such dereliction of statutory duties by the 1st Appellate Authority does not occur.[148]

[147] CIC/WB/A/2006/00274-22.9.2006
[148] Appeal Case No.30926/SIC-CMR/2013, Date:-26-02-2014

Whether PIO can intercept the first appeal and decide it himself?

In a case - Order on appeal to the First appellate authority was communicated to the requester under the signature of PIO. CIC held:

PIO putting himself in the shoes of Appellate authority is against the letter and spirit of the Act.[149]

(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.

First appeal may be preferred by the any of the following:

- The requester under sub-section (1) of section 19 of the Act.
- Third party under sub-section (2) of section 19 of the Act.

Time limit under sub-section (1) is 30 days; however the appellate authority has the discretion to admit the appeal after 30 days.

Time limit under sub-section (2) is 30 days. Here the appellate authority has *no discretion* to admit the appeal after 30 days.

Strictly speaking, the 30 day clock for the third party starts from the date the order itself and not from the date of the receipt 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 applicant was prevented by sufficient cause from filing the appeal in time;

Can a PIO file an appeal with CIC against the order of an appellate officer?

PIO is the information provider not the seeker of information. There is no question of denial of information. There is no provision in the RTIA to consider such appeals or complaints by the PIO herself against the order of an appellate officer.[150]

[149] CIC/OK/A/2006/00073 - 19 May, 2006

[150] 06/IC (A)/CIC/2006 - 3 March, 2006.

Drafting an appeal

Appeal should be drafted in a simple and direct manner and be brief. It should not be unnecessarily long, too detailed and couched in legalese with several repetitions.[151]

Fresh grounds

No fresh grounds for information can be allowed to be urged at appellate levels, unless found to be of a nature that would warrant their admittance, if the same has not been brought up at the primary level, i.e. the PIO.[152]

(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.

Deemed refusal

If the Appellate Officer fails to pass an order within 45 days of the appeal, it was construed as a deemed refusal.[153]

(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;

[151] CIC/OK/A/2006/00069 - 18 May, 2006.
[152] CIC/AT/A/2006/00128 – 13 July, 2006.
[153] CIC/WB/A/2006/00011-3 January,2006

(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;

Executive authority

Commission is not empowered to order any changes in Adangal. This power is vested in the Executive Authority.

The appellant is not satisfied with mere supply of information but wants changes in the Adangal. The Commission clarified to the appellant that RTI has not empowered this Court to order any changes which must necessarily be done keeping the provisions of existing procedure of law in mind and no executive authority is vested in the court of second appeal.[154]

CIC advises public authorities to have training programs

[Public authority] should have some training program conducted for those dealing with RTI applications /appeals.[155]

CIC insists on training

He [in charge of the RTI Act in the Ministry] may also ensure that proper training is given to the staff dealing with RTI applications. They may also be advised of the web site of this Commission (www.cic.gov.in) wherein most of the Decisions of the Commission are available for reference. The Appellate Authority will also ensure that all proactive information which are useful to the public are updated periodically.[156]

(b) require the public authority to compensate the complainant for any loss or other detriment suffered;

Compensation

…the claim of damages sought u/s 19(1) (b) will require to be established by the appellant.[157]

[154] APIC-Appeal No.3183/CIC/2009, dated 03-05-2010
[155] 236/ICPB/2006-21.12.2006
[156] 164/ICPB/2006-27.11.2006
[157] CIC/WB/A/2006/00345-9.10.2006

Compensation

…compensation cannot be claimed from penalty imposed. That would require to be claimed separately u/s 19(8) (b) of the Act.[158]

(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. Penalties

(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.

Penalty

The Supreme Court in *Manohar Manikrao vs State of Maharashtra* (Civil appeal no 9095 of 2012 Arising out of SLP (C) no 7529 of 2009, 13 Dec, 2012) held as follows:

[158] Adjunct to Appeal CIC/WB/A/2006/00305-18.12.2006

"We may notice that proviso to section 20(1) specifically contemplates that before imposing the penalty contemplated under section 20(1), the commission shall give a reasonable opportunity of being heard to the concerned officer. However there is no such specific provision in relation to the matters covered under section 20(2). Section 20(2) empowers the CIC/SIC as the case may be at the time of deciding a complaint or appeal for the reasons stated in that section, to recommend for disciplinary action to be taken against the CPIO/SPIO as the case may be, under the relevant service rules. Power to recommend disciplinary action is a power the exercise of which may impose penal consequences."

Penalty: Legal challenge

The Court in *Arvind Kumar Lohani and Ors. Vs. Respondent: Uttarakhand State Information Commission and Ors.*(Writ Petition No. 1367 of 2012, 03 April 2018) held as follows:

"RTI applicant sought certain information from the petitioners who are said to be Information Officers as appointed under the Act. The information regarding almost all the points, for which, the information was sought was answered, but still, the applicant feeling dissatisfied with the information provided preferred an Appeal before the Appellate Authority. The Departmental Appellate Authority/Commissioner had called upon the applicant to appear before the Appellate Authority and to put up his version in support of his appeal but he deliberately avoided to participate in the proceedings and he did not appear before the Departmental Appellate Authority. On account of non participation in the Appeal, the Appeal was dismissed by the. On the allegation of non-supply of the information as well as the Appellate Order, Second Appeal was filed before the Uttarakhand State Information Commissioner. The Second Appellate Authority directed to issue show cause notice against the Public Information Officer as to why a penalty may not be imposed against him. Simultaneously, there was also a direction to issue show cause notice against the Information Officer calling upon his explanation as to why an order may not be passed under Section 19(8)(c) for directing to conduct a departmental inquiry against him. It is this order which was challenged by the petitioner No. 1 in his personal capacity by availing the professional services of the office of the Chief Standing Counsel and its machinery.

4. The issue which was for consideration before the Hon'ble High Court was whether on imposition of penalty on the Public Information Officer, as appointed under the Right to Information Act of 2005, the penalty provided u/s. 20, which happens to be a liability in persona could be challenged, by him in person, by availing the professional services of the Chief Standing Counsel and its machinery and state money can be used for the said purpose, contrary to the provisions and purpose of their appointments under Legal Remembrance Manual.

The present case was filed by the then Public Information Officer, who has been imposed upon a penalty u/s. 20 of the Right to Information Act, 2005 by the impugned order under challenge. He has preferred the writ petition against the impugned order, where a penalty of Rs. 10,000/- has been imposed upon him in his individual capacity.

The Court felt that once a penalty is imposed u/s. 20 of the RTI Act on the Information Officer, as constituted u/s. 5 of the Act, it would be the officer in person responsible for the penalty, as such, if the officer concerned feels aggrieved against the imposition of penalty and wants to agitate the cause before a superior court, he could do so in his individual capacity and for the said purpose, he can only file a writ petition after engaging a private counsel and not through an Additional Chief Standing Counsel or Chief Standing Counsel, as defined under the L.R. Manual. As such, this Court feels that this writ petition as preferred by the petitioner in his individual capacity could not have been filed through the office of the Chief Standing Counsel.

For the above reason the writ petition was dismissed on this ground itself, leaving it open for the petitioner to engage a private advocate and to file writ petition."

Due diligence

The CPIO has urged that the delay was caused by the logistic of collecting the information from several sources, his absence from office on leave and his relative lack of familiarity with the processes under the RTI Act as well as his precise role. Only after he attended a few training classes did he realize what his role was and how to discharge the same.

The CPIO, no doubt, could have done better. He could have taken the appellant into confidence and kept him *periodically posted with the progress* of the information gathering process. However, the reasons for delay seem to meet the test of "reasonable cause" under Section 20 of the RTI Act.[159]

Due diligence

It may have been a lot better if the CPIO had kept the complainant *periodically informed* about the stages of the processing of his case and taken him into confidence about the possibility of some delay.[160]

(2) Where the Central Information Commission or the State Information Commission, as the case may be, at the time of deciding any complaint or

[159] CIC/AT/A/2006/00031 -10,July,2006.
[160] CIC/AT/A/2006/00066 – 4 July,2006.

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. Protection of action taken in good faith

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.

P.R. Aiyer'*s Concise Law Dictionary* lists out the following provisions:

- "Nothing is said to be done or believed in "good faith" which is done or believed without due care and attention." [Indian Penal Code (45 of 1860), S. 52].
- "A thing shall be deemed to be done in "good faith" where it is in fact done honestly, whether it is done negligently or not." [Act X of 1897 (General Clauses Act), S. 3(22)].
- "Nothing shall be deemed to be done in good faith which is not done with due care and attention." [Limitation Act (36 of 1963), S. 2(h)]
- Honesty; absence of fraud, collusion or deceit.
- A state of mind indicating honesty and lawfulness of purpose [S. 52, IPC (45 of 1860) and S. 3(22), General Clauses Act (10 of 1897)].
- Good faith imports the exercise of due care and attention. The standard of care required is that of reasonably prudent man acting with care and action. [Indian Penal Code (45 of 1860), S. 405].
- Good faith requires care and caution and prudence in the background of context and circumstances. *Chaman Lal v. State of Punjab***,** AIR 1970 SC 1372, 1375**.**
- The words 'good faith' relate to whether the officer believed in good faith that he has got jurisdiction to deal with the question. [Judicial Officers' Protection Act (18 of 1850), S. 1A (as amended by AP Act (23 of 1958)].
- The word 'good faith' includes a due enquiry. [Transfer of Property Act (4 of 1882), S. 51].

22. Act to have overriding effect

The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in the Official Secrets Act, 1923, (19 of 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.

Right of a third party to apply for certified copies from the Court

The Supreme Court in *Chief Information Commissioner Vs High Court Of Gujarat And Another* (CIVIL APPEAL NO(S).1966-1967 OF 2020 (Arising out of SLP(C) No.5840 of 2015)) held as follows:

"The point falling for determination in this appeal is as regards the right of a third party to apply for certified copies to be obtained from the High Court by invoking the provisions of Right to Information Act without resorting to Gujarat High Court Rules prescribed by the High Court.

43. We summarise our conclusion:-

(i) Rule 151 of the Gujarat High Court Rules stipulating a third party to have access to the information/obtaining the certified copies of the documents or orders requires to file an application/affidavit stating the reasons for seeking the information, is not inconsistent with the provisions of the RTI Act; but merely lays down a different procedure as the practice or payment of fees, etc. for obtaining information. In the absence of inherent inconsistency between the provisions of the RTI Act and other law, overriding effect of RTI Act would not apply.

(ii) The information to be accessed/certified copies on the judicial side to be obtained through the mechanism provided under the High Court Rules, the provisions of the RTI Act shall not be resorted to."

Overriding effect

The Respondent informed that the request of the appellant was rejected U/s 8(1) (g) and 8(1) (h) of the RTI Act, 2005 r/w Sec.10(2) (a) and Sec.15 of A.P. Lokayukta Act, 1983 stating that as per Sec.10(2) (a) of the A.P. Lokayukta Act, 1983 – "every preliminary verification shall be conducted in private and in particular, ….. the identity shall not be disclosed to the public or the press…." and as per Sec.15 of the A.P. Lokayukta Act, 1983 – "any information obtained by the Hon'ble Lokayukta or Hon'ble Upa-Lokayukta or any member of their staff in the course of, or for the purpose of, any preliminary verification made under this Act, and any evidence recorded or collected in connection with such information, shall, subject to the provisions of Clause (a) of sub-section(2) of Sec.10, is confidential.

The Commission after going through the submissions made by both the Appellant and the Respondent has pointed out that as per Sec. 22 of the RTI Act

2005, the provisions of the RTI Act have over riding effect on all other Laws and there is nothing confidential under the Act.

Respondent's claim of confidentiality u/s 10(2)(a) of the AP Lok Ayukta's Act 1983 is rejected as sec 22 of the RTI Act gives overriding effect to RTI Act over all the other laws. In view of the above, the Respondents are directed to furnish the information to the Appellant, free of cost, within 30 days from the date of receipt of this order.[161]

23. Bar of jurisdiction of courts

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.

Whether Consumer forum has jurisdiction?

National Consumer Disputes Redressal Commission (in Revision Petition No. 3146 Of 2012, Judgment pronounced on 08.01.2015) held that no complaint by a person alleging deficiency in the services rendered by the CPIO/PIO is maintainable before a Consumer Forum:

"23. Considering the legislative intent behind providing a special mechanism for enforcement of the rights conferred by RTI Act, we are of the view that the consumer fora are 'courts' for the purpose of Section 23 of the RTI Act. Any other interpretation will open two parallel machineries, for enforcement of the same rights created by a special statute, which could not have been the legislative intent, particularly when RTI Act is a special law vis-à-vis Consumer Protection Act. The ambit of RTI Act is confined to one service i.e. supply of information, whereas the Consumer Protection Act deals with deficiencies in a wide variety of services rendered for consideration.

24. The purpose behind ousting the jurisdiction of the civil court is to exclude invocation of a redressal mechanism other than that provided under the special Act. The aforesaid object is bound to be frustrated if, while ousting the jurisdiction of the Consumer Forum which is not a redressal mechanism provided under the Special Act, is allowed.

25. For the reasons stated hereinabove, we hold that (i) the person seeking information under the provisions of RTI Act cannot be said to be a consumer vis-à-vis the Public Authority concerned or CPIO/PIO nominated by it and (ii) the jurisdiction of the Consumer Fora to intervene in the matters arising out of the provisions of the RTI Act is barred by necessary implication as also under the provisions of Section 23 of the said Act. Consequently no complaint by a

[161] Appeal No.3018/CIC/2009, dated 01-11-2010

person alleging deficiency in the services rendered by the CPIO/PIO is maintainable before a Consumer Forum."

24. Act not to apply to certain organizations

(1) Nothing contained in this Act shall apply to the intelligence and security organizations specified in the Second Schedule, being organizations established by the Central Government or any information furnished by such organizations 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.

Excluded organisations

The High Court of Delhi in *Ehtesham Qutubuddin Siddique Vs. CPIO, Intelligence Bureau* (W.P.(C) 9773/2018, 16 Jan, 2019) held as follows: "Information Sought:

The petitioner has filed the present petition under Article 226 of the Constitution of India, inter alia, impugning the order dated 26.03.2018 (hereafter „the impugned order) passed by the Central Information Commission (hereafter„ CIC).

By the impugned order, the CIC rejected the second appeal preferred by the petitioner under Section 19(3) of the Right to Information Act, 2005 (hereafter „the RTI Act□). The petitioner had sought information from the Intelligence Bureau (hereafter „IB□), which was denied on the ground that the IB is excluded from the purview of the RTI Act and the information sought by the petitioner does not relate to allegations of human rights violation or corruption.

The petitioner disputes the above and claims that the information sought by him relates to allegations of human rights violation. Thus, the controversy to be addressed is whether the information sought by the petitioner relates to allegation of violation of human rights.

Decision

In the present case, the petitioner's allegation is that he has been implicated by false evidence and that the report placed before the Home Ministry does contain material that would establish that the petitioner is innocent of the offence for which the petitioner has been tried and convicted.

There can be no dispute that the human rights would include life and liberty. It is the petitioner's case that he is deprived of his liberty on the basis of false evidence and the information available in the report placed before the Home Minister would indicate the same.

In view of the above, there can be little doubt that the petitioner's application seeking review report does pertain to an allegation of human rights violation. The gravamen of his allegation is that he has been falsely implicated by the respondent despite the respondent having information that the petitioner was not involved in 7/11 blast case.

The CIC has held that the query raised by the petitioner failed to satisfy either of the essential preconditions of being related to allegations of corruption or human rights violation. This Court is of the view that the said conclusion is erroneous, as the information does relate to violation of human rights.

It is also necessary to observe that in terms of second proviso to Section 24(1) of

the RTI Act, the information sought for by the petitioner can be provided to him only on the approval of the CIC Clearly, the CIC would have to examine whether such information is relevant and material. If the CIC on examination of the material finds that it is not so, the approval for disclosure of such information would not be granted.

In addition to the above, it is also necessary to observe that merely because such information regarding allegations of corruption and human rights violation is not excluded from the purview of Section 24(1) of the Act, does not necessarily mean that the said information is require to be disclosed. The only import of second proviso to Section 24(1) is that information relating to corruption and human rights violation would fall within the scope of the RTI Act. Section 8 of the RTI Act provides for certain exemptions from disclosure of information and the said provisions would be equally applicable to information pertaining to allegations of corruption and human rights violation. Thus, the concerned authorities would have to examine whether the information sought for by the petitioner is otherwise exempt from such disclosure by virtue of Section 8 of the RTI Act.

In view of the above, the impugned order is set aside and the matter is remanded to the CIC to consider afresh having regard to the observations made in this order."

25. Monitoring and Reporting

(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, modernization, reform or amendment to this Act or other legislation or common law or any other matter relevant for operationalizing 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. Appropriate Government to prepare programmes

(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 bythe 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 inc1uding 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. Power to make rules by appropriate Government

(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. Power to make rules by competent authority

(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. Laying of rules

(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. Power to remove difficulties

(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. Repeal

The Freedom of Information Act, 2002 (5 of 2003) 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 or 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 organization 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. Sashastra Seema Bal.
16. Directorate General of Income-tax (Investigation).
17. National Technical Research Organization.
18. Financial Intelligence Unit, India.
19. Special Protection Group.
20. Defense Research and Development Organization.
21. Border Road Development Board.
22. National Security Council Secretariat.
23. Central Bureau of Investigation.
24. National Investigation Agency.

25. National Intelligence Grid.
26. Strategic Forces Command.

The RTI Act partially excludes the following from the ambit of the Act:

- Organizations specified in the Second Schedule
- Information furnished by such organizations to the Central Government However, the following information is not excluded:
- Information pertaining to the allegations of corruption
- Information pertaining to the allegations of human rights violations

Approval of the Central Information Commission is required for disclosure of information in respect of allegations of human rights violations and maximum time limit is 45 days for such disclosures. It seems the excluded organizations need not obtain such approval from the Central Information Commission to disclose the information pertaining to the allegations of corruption.

Department of Personnel and Training (DOPT) issued a circular on 14 November 2007 advising all the organizations specified in the Second Schedule to designate Central Public Information Officers (CPIO) and First Appellate Authorities within the organizations and publish the details immediately.

DR. MARRI CHANNA REDDY HUMAN RESOURCE DEVELOPMENT INSTITUTE OF TELANGANA
Government of Telangana, Road No. 25,Jublee Hills, Hyderabad - 500033
Phone: + 91 40 23548487, Fax: +91 40 23543459, Email: info@mcrhrdi.gov.in
www.mcrhrdi.gov.in