

A PPT

On

RIGHT TO INFORMATION ACT, 2005

Section wise (abridged)

By

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RIGHT TO INFORMATION

What ?

Six Chapters and 31 Sections

- Chapter I: Preliminary
- Chapter II: RTI & Obligations of Public Authorities
- Chapter III: Central Information Commission
- Chapter IV: State Information Commission
- Chapter V: Powers & Functions of the Information Commissions, Appeal and Penalties
- Chapter VI: Miscellaneous

What is in the RTI Act?

In nut shell

- Sec.4 : Organizing& Disseminating information
- Sec.6: Seeking information
- Sec.7:Furnishing information
- Sec.8&9: Exemptions
- Sec.11: Third party information
- Sec.19:Appeals
- Sec.20:Penalties

Information – Sec 2(f)

Any material in any form

- including records, documents, memos, e-mails
- opinions, advice, press releases, circulars, orders
- logbooks, contracts, reports, papers, **samples, models**
- **data material held in any electronic form**
- information relating to any private body which can be accessed by a public authority

Right to Information- Sec 2(j)

Right to information (accessible under the Act which is *held by* or *under the control of* any public authority and) **includes the right to**

- inspection of work, documents, records
- taking notes, extracts, or certified copies of documents or records
- taking certified samples of material
- obtaining information in the form of diskettes, floppies, tapes, video cassettes or in any other electronic mode or through printouts....

Public Authority

Sec. 2(h)

Any Authority or Body or Institution of Self- Government established or constituted:

(a) by or under the Constitution

(b) by any other law made by Parliament

(c) by any other law made by State Legislature

(d) by notification issued or order made by the appropriate Government,

and includes any

i) body owned, controlled or substantially financed

ii) Non-government organization substantially financed,

directly or indirectly by funds provided by the appropriate Government

Purview of RTI Act

Information 'held by' and 'exists with' PA shall be considered for furnishing it to applicant.

PIO is *not* supposed

- to create information
- to Interpret information
- to solve the problems raised by the applicants
- to furnish replies to hypothetical questions

Not required to provide 'advise' or 'opinion' (unless available in the records of PA)
(Observation of Hon'ble Supreme Court in the case of CBSE & Anr Vs Aditya Bandopadhyay & Others)

The public authority to whom application is made is not required to collect information from different public authorities to supply it to applicant (DoPT OM dated 1.6.2009)

Competent Authority

- Loksabha- Speaker
- Rajyasabha- Chairman
- Supreme Court- CJI
- GoI Offices- President of India
- Assembly- Speaker
- Legislative Council- Chairman
- High Court-CJH
- State Govt Offices - Governor of the State Concerned

Public Information Officer

PIO- Means the PIO designated under Sec 5(1)
[and includes the APIO designated as such
under Sec 5(2)]

Right to Information

Section – 3

All Citizens shall have the right to information, subject to the provisions of the Act

Obligation of Public Authorities

Section 4

Sec 4 (1)(a) Maintain records

Computerize records

Networked all over the country

Sec 4(1)(b) Proactive Disclosure of Information

Sec 4(1)(c) Publish all relevant facts while formulating important policies which affect public

Sec 4(1)(d) Provide reasons for its administrative or quasi-judicial decisions to affected persons

Sec 4 (2),(3)&(4) Dissemination of Information

Section - 5

- PIO is to be designated within 100 days for providing information
5(1)
- APIO is to be designated within 100 days for receiving & forwarding application/ appeals
5(2)
- PIO shall render reasonable assistance to the persons seeking information
5(3)
- PIO may seek assistance of any other officer, if necessary, for proper discharge of duty as PIO
5(4)
- The Officer whose assistance is sought is deemed to be the PIO in respect of that point of assistance
5(5)

Section - 5

Clarification regarding Sub-sections (4) and (5) of Section - 5 (DoPT OM dated 28.7.2008)

- These provisions enable PIO to seek assistance of any other officer in the process of providing information to the information seeker, but they do not give him authority to designate any other officer as PIO and direct him to send reply to the applicant.

Section - 5

Appointment of Nodal Officer for coordination in the Public Authorities where there is more than one PIO

(GAD Circular dated 27.10.2011)

Section 6

- Request to be made in writing 6(1)
- To be in English, Hindi or official language of the area 6(1)
- Specifying the particulars of information sought 6 (1)(b)
- Shall render reasonable assistance in writing the appln. 6(1)(b)
- No reason need to be given 6(2)
- Accompanied by fee or BPL Certificate 6(1)
- Shall transfer the appln. or part, within 5 days, if the information sought pertains to the other PA 6(3)(ii)

Section -6

Information concerning other Public Authority / Authorities – Transfer of Applications

- If PIO is not able to find out as to which PA is concerned with the information even after making reasonable efforts, he has to establish that he made reasonable efforts to find out the particulars of the concerned PA.
- If a part of the information is available with the PA and a part of information concerns with some 'another public authority', PIO should supply the information available and for the remaining part of the information a copy of the application shall be sent to that another PA.
- If a part of the information is available with the PA and rest of it is scattered with more than one PA, PIO may advise the applicant to make separate applications to the concerned PAs.
- If the information requested for concerned other States / UTs, PIO need not transfer the application.

Disposal of request Sec. 7

- With in 30 days in general cases 7(1)
- With in 48 hours, where the information sought for concerns the life or liberty of a person 7(1)
- If no decision or information is received, within 30 days, applicant can presume as his appl. is refused 7(2)
- Send intimation about the fee required to be paid for furnishing the information 7(3)(a)
- The period intervening between dispatch of intimation and payment of fees shall be excluded 7(3)(a)
- Calculations made to arrive at the fee shall also be furnished 7(3)(a)
- If the information seeker is a disabled person appropriate assistance to be rendered 7(4)

Disposal of request - Sec. 7

- Waiver of appln. Fee & further cost 7(5)
- If the PIO fails to furnish information with in the stipulated time the same shall be provided free of charge 7(6)
- Shall consider the representation of the 3rd party 7(7)
- If PIO rejects the request for information, reasons must be stated, referring relevant sections 7(8)(i)
- Time limit for appeal 7(8)(ii)
- Details of AA also to be informed 7(8)(iii)
- An information shall ordinarily be provided in the form it is sought, unless it would disproportionately divert the resources of the public authority or detrimental to its preservation. 7(9)

Exemptions -Section 8

- Information which affects
 - sovereignty and integrity of India 8(1)(a)
 - Security, scientific , strategic and economic interests of the State. 8(1)(a)
 - Relation with foreign State 8(1)(a)
 - Lead to incitement of an offence 8(1)(a)
- Expressly forbidden by court of law/ or leads to contempt of court 8(1)(b)
- Parliamentary and Legislative privileges. 8(1)(c)
- Commercial confidence ,Trade Secrets& IP Rights 8(1)(d)
- Information available in fiduciary relationship 8(1)(e)

Exemptions – Sec 8 (contd..)

- Information received in confidence from foreign Government 8(1)(f)
- Information which endangers life /physical safety 8(1)(g)
- which impedes the process of Investigations and prosecutions. 8(1)(h)
- Cabinet papers (records of deliberations of Council of Ministers, Secretaries) 8(1)(i)
- Privacy of individuals. 8(1)(j)

8 (2) - Information under exemptions can also be furnished, if Public interest outweighs in disclosure

8 (3) - Immunity from exemption is 20 years

[after 20 years categories of information mentioned in Sec 8(1) becomes open except a,c,i of 8(1)]

Protection of copyright - Section - 9

- Information which involves an infringement of copyright subsisting in a person other than the State may be rejected

Severability - Section -10

- Providing part of the information which does not come under exemptions
- Reasons for providing part of Information are to be informed to the applicant.

Procedure for Providing Third Party Information

Section - 11

“ Third Party means a person other than the citizen making a request for information and includes a public authority” - Sec. 2 (n)

If the information requested pertains to a third party;

- PIO shall give a written notice to the third party within 5 days from the receipt of request
- The third party can respond within ten days.
- If larger public interest involves, though the third party refused for disclosure, PIO may disclose the information by following the due procedure.

Powers & Functions of the Information Commissions

Section 18

- To receive & dispose Complaints in cases of below contraventions.
- PIO has not been designated. 18(1)(a)
- Refused to accept application. 18(1)(a)
- Refused to forward Appeal. 18(1)(a)
- Refused to give information. 18(1)(b)
- No response with in specified time limits. 18(1)(c)
- One feels the fee charged is unreasonable. 18(1)(d)
- Giving incomplete or false or misleading Information. 18(1)(e)
- Any other matter relating to requesting or obtaining
– access to records under this act 18(1)(f)

– **Powers as of a Civil Court**

Appeals- Section -19

- 1st appeal to the Appellate Authority with in 30 days
- Appeal shall be disposed by the Appellate Authority with in 30 days (can be extended up to 45 days for which reasons to be recorded in writing)
- 2nd appeal against the decision of appellate authority with in 90 days to Information Commission
- If the information relates to third party, the Information Commission shall give a reasonable opportunity of being heard to that third party

Disposal of 1st Appeals

- The order passed by 1st AA should be a speaking order giving justification for the decision arrived at.
- 1st AA may pass an order directing the CPIO to give such information to the applicant (or)
- He himself may give information to the appellant while disposing off the appeal.

(DoPT OM dated 9.7.2007)

Penalty-Section 20

Every PIO will be liable for penalty for

- not accepting an application
- Delay in information release without reasonable cause
- Knowingly giving incomplete, incorrect and misleading information
- Destroying information that has been requested
- Obstructing, furnishing of information in any manner
- Penalty amount is Rs. 250/- per day to a maximum of Rs.25,000/-
- PIO shall be given a reasonable opportunity of being heard by the Commission before any penalty is imposed
- The Information Commission can also recommend disciplinary action against the PIO, in case of the repeated contravention.

Chapter VI: Miscellaneous

Protection of action taken in good faith:

No suit, prosecution or other legal proceedings lies against any person for anything done in good faith **Sec.21**

Act to have overriding effect:

Provisions of this Act have overriding effect on O.S. Act,1923 or any other Act. **Sec. 22**

Bar of jurisdiction of courts:

No court shall entertain any suit in respect of order made under this Act, otherwise by way of Appeal under this Act

Sec. 23

Section 24: Partial application of the Act to certain organizations, which are listed in Second Schedule

Section 25: Monitoring and Reporting

Section 26: Appropriate Govt. to prepare programs for Capacity Building

Section 27: Power to make Rules by Govt.

Section 28: Power to make Rules by Competent Authority

Section 29: Laying of Rules

Section 30: Power to remove difficulties

Section 31: Repeal of Freedom of Information Act,2002

Obligation of Assistant Public Information Officers

- Receive application or Appeal 5(2)
- Forward the same to PIO / Appellate Authority 5(2)
- Time Limit for forwarding - 5 days
- Receive Fee along with Application 6(1)(a)
- Shall render all assistance to the PIO in the discharge his duties

Responsibilities of Public Information Officers(contd..)

Section 6

Shall verify the Application for the following:

- In writing 6(1)
- In English, Hindi or official language of the Area 6(1)
- Specified the particulars of information sought 6(1)(b)
- Accompanied by fee or BPL Certificate 6(1),7(1),7(5)

Responsibilities of Public Information Officers

- Shall deal with requests & render reasonable assistance to the persons seeking information 5(3)
- Receive applications for information with fee 6(1)(a)
- Render reasonable assistance in writing RTI appln. 6(1)(b)
- If the application pertains to other PA transfer the same and intimate the applicant 6(3)(ii)
- Shall render reasonable assistance to the sensorily disabled persons in inspection 7(4)

Responsibilities of Public Information Officers(contd..)

- Seek the assistance of any other officer, if necessary, for proper discharge of duty as PIO 5(4)
- Check whether the Information is an exempted one under sections 8, 9, & 24/ third party information
- Furnish Information/ Reject on sufficient grounds. 7(1)

Responsibilities of Public Information Officers(contd..)

Section 7

Shall dispose the request:

- with in 30 days in general cases 7(1)
 - with in 48 hours, where the information sought for concerns the life or liberty of a person 7(1)
 - Send intimation to the applicant about the fee to be paid for furnishing the information 7(3)
 - The period intervening between dispatch of the intimation letter and receipt of fees shall be excluded 7(3)(a)
 - Calculations made to arrive at the fee shall also be furnished 7(3)(a),10(2)(d)
- [Remember the Applicant is having right to review the fees charged and to go for appeal on that. 7(3)(b), 10(2)(e)]

Responsibilities of Public Information Officers(contd..)

- If the PIO fails to furnish the information within stipulated time the same shall be provided free of charge 7(6))
- If PIO rejects the request for information, reasons must be stated, referring relevant sections. 7(8)(i)
- Time limit for appeal, details of AA also to be informed. 7(8)(ii)(iii)

[Remember, if the decision on the request is not given in time, the request to be deemed to have been refused by the PIO.
7(2)]

THANK YOU