

50. GUIDELINES FOR THE RIGHT TO INFORMATION ACT, 2005

THE RIGHT TO INFORMATION ACT, 2005

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

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

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 Legislative Council of a State;

(ii) the Chief Justice of India in the case of the Supreme Court;

(iii) the Chief Justice of the High Court in the case of a High Court;

(iv) the President or the Governor, as the case may be, in the case of other authorities established or constituted by or under the Constitution;

(v) the administrator appointed under Article 239 of the Constitution;

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

(g) “prescribed” means prescribed by rules made under this Act by the appropriate Government or the competent authority, as the case may be;

- (h) “public authority” means any authority or body or institution of self government established or constituted-
- (a) by or under the Constitution;
 - (b) by any other law made by Parliament;
 - (c) by any other law made by State Legislature;
 - (d) by notification issued or order made by the appropriate Government, and includes any-
 - (i) body owned, controlled or substantially financed;
 - (ii) non-Government organization substantially financed, directly or indirectly by funds provided by the appropriate Government;
- (i) “record” includes-
- (a) any document, manuscript and file;
 - (b) any microfilm, microfiche and facsimile copy of a document;
 - (c) any reproduction of image or images embodied in such microfilm (whether enlarged or not); and
 - (d) any other material produced by a computer or any other device;
- (j) “right to information” means the right to information accessible under this Act which is held by or under the control of any public authority and includes the right to-
- (i) inspection of work, documents, records;
 - (ii) taking notes, extracts or certified copies of documents or records;
 - (iii) taking certified samples of material;
 - (iv) obtaining information in the form of diskettes, floppies, tapes, video cassettes or in any other electronic mode or through printouts where such information is stored in a computer or in any other device;
- (k) “State Information Commission” means the State Information Commission constituted under sub-section (1) of section 15;
- (l) “State Chief Information Commissioner” and “State Information Commissioner” mean the State Chief Information Commissioner and the State Information Commissioner appointed under sub-section (3) of section 15;
- (m) “State Public Information Officer” means the State Public Information Officer designated under sub-section (1) and includes a State Assistant Public Information Officer designated as such under sub-section (2) of section 5;
- (n) “third party” means a person other than the citizen making a request for information and includes a public authority.

CHAPTER II

Right to Information and Obligations of Public Authorities

3. Right to Information- Subject to the provisions of this Act, all citizens shall have the right to information.

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.

(b) publish within one hundred and twenty days from the enactment of this Act, _

(i) the particulars of its organization, functions and duties;

- (ii) the powers and duties of its officers and employees;
 - (iii) the procedure followed in the decision making process, including channels of supervision and accountability;
 - (iv) the norms set by it for the discharge of its functions;
 - (v) the rules, regulations, instructions, manuals and records, held by it or under its control or used by its employees for discharging its functions;
 - (vi) a statement of the categories of documents that are held by it or under its control;
 - (vii) the particulars of any arrangement that exists for consultation with, or representation by, the members of the public in relation to the formulation of its policy or implementation thereof;
 - (viii) a statement of the boards, councils, committees and other bodies consisting of two or more persons constituted as its part or for the purpose of its advice, and as to whether meetings of those boards, councils, committees and other bodies are open to the public, or the minutes of such meetings are accessible for public;
 - (ix) a directory of its officers and employees;
 - (x) the monthly remuneration received by each of its officers and employees, including the system of compensation as provided in its regulations;
 - (xi) the budget allocated to each of its agency, indicating the particulars of all plans, proposed expenditures and reports on disbursements made;
 - (xii) the manner of execution of subsidy programmes, including the amounts allocated and the details of beneficiaries of such programmes;
 - (xiii) particulars of recipients of concessions, permits or 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, designation and other particulars of the Public Information Officers;
 - (xvii) such other information as may be prescribed, and thereafter update these publications every year;
- (c) publish all relevant facts while formulating important policies or announcing the decisions which affect public;
- (d) provide reasons for its administrative or quasi-judicial decisions to affected persons.
- (2) It shall be a constant endeavour of every public authority to take steps in accordance with the requirements of clause (b) of sub-section (1) to provide as much information suo motu to the public at regular intervals through various means of communications, including internet, so that the public have minimum resort to the use of this Act to obtain information.
- (3) For the purposes of sub-section (1), every information shall be disseminated widely and in such form and manner which is easily accessible to the public.
- (4) All materials shall be disseminated taking into consideration the cost effectiveness, local language and the most effective method of communication in that local area and the information should be easily accessible, to the extent possible in electronic format with the Central Public Information Officer or State Public Information Officer, as the case may be, available free or at such cost of the medium or the print cost price as may be prescribed.

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

5. 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 the Central Public Information Officers or State Public Information Officers, as the case may be, in all administrative units or offices under it as may be necessary to provide information to persons requesting for the information under this Act.

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

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

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

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

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

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

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

(b) the Central Assistant Public Information or State Assistant Public Information Officer, as the case may be,

specifying the particulars of the information sought by him or her:

Provided that where such request cannot be made in writing, the Central Public Information Officer or State Public Information Officer, as the case may be, shall render all reasonable assistance to the person making the request orally to reduce the same in writing.

(2) An applicant making request for information shall not be required to give any reason for requesting the information or any other personal details except those that may be necessary for contacting him.

(3) Where an application is made to a public authority requesting for an information, —

(i) which is held by another public authority, or

(ii) the subject-matter of which is more closely connected with the functions of another public authority.

the public authority, to which such application is made, shall transfer the application or such part of it as may be appropriate to that other public authority and inform the applicant immediately about such transfer.

Provided that the transfer of an application pursuant to this sub-section shall be made as soon as practicable but in no case later than five days from the date of receipt of the application

7. 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.

(2) If the Central Public Information Officer or State Public Information Officer, as the case may be, fails to give decision on the request for information within the period specified under sub-section (1), the Central Public Information Officer or State Public Information Officer, as the case may be, shall be deemed to have refused the request.

(3) Where a decision is taken to provide the information on payment of any further fee representing the cost of providing the information, the Central Public Information Officer or State Public Information Officer, as the case may be, shall send an intimation to the person making the request, giving-

- (a) the details of further fees representing the cost of providing the information as determined by him, together with the calculations made to arrive at the amount in accordance with fee prescribed under sub-section (1), requesting him to deposit that fees, and the period intervening between the despatch of the said intimation and payment of fees shall be excluded for the purpose of calculating the period of thirty days referred to in that sub-section;
- (b) information concerning his or her right with respect to review the decision as to the amount of fees charged or the form of access provided, including the particulars of the appellate authority, time limit, process and any other forms.

(4) Where access to the record or a part thereof is required to be provided under this Act and the person to whom access is to be provided is sensorily-disabled, the Central Public Information Officer or State Public Information Officer, as the case may be, shall provide assistance to enable access to the information, including providing such assistance as may be appropriate for the inspection.

(5) Where access to information is to be provided in the printed or in any electronic format, the applicant shall, subject to the provisions of sub-section(6), pay such fee as may be prescribed:

Provided that the fee prescribed under sub-section (1) of section 6 and sub-sections (1) and (5) of section 7 shall be reasonable and no such fee shall be charged from the persons who are of below poverty line as may be determined by the appropriate Government.

(6) Notwithstanding anything contained in sub-section(5), the person making request for the information shall be provided the information free of charge where a public authority fails to comply with the time limits specified in sub-section (1).

(7) Before taking any decision under sub-section (1), the Central Public Information Officer or State Public Information Officer, as the case may be, shall take into consideration the representation made by a third party under section 11.

(8) Where a request has been rejected under sub-section(1), the Central Public Information Officer or State Public Information Officer, as the case may be, shall communicate to the person making the request, —

- (i) the reasons for such rejection;
- (ii) the period within which an appeal against such rejection may be preferred; and
- (iii) the particulars of the appellate authority.

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

8. 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;
- (c) information, the disclosure of which would cause a breach of privilege of Parliament or the State Legislature;
- (d) information including commercial confidence, trade secrets or intellectual property, the disclosure of which would harm the competitive position of a third party, unless the competent authority is satisfied that larger public interest warrants the disclosure of such information;
- (e) information available to a person in his fiduciary relationship, unless the competent authority is satisfied that the larger public interest warrant the disclosure of such information;
- (f) information received in confidence from foreign Government;
- (g) information, the disclosure of which would endanger the life or physical safety of any person or identify the source of information or assistance given in confidence for law enforcement or security purposes;
- (h) information which would impede the process of investigation or apprehension or prosecution of offenders;
- (i) cabinet papers including records of deliberations of the Council of Ministers, Secretaries and other officers:

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

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

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

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

(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 interest in disclosure outweighs the harm to the protected interests.

(3) Subject to the provisions of clauses (a), (c) and (i) of sub-section (1), any information relating to any occurrence, event or matter which has taken place, occurred or happened twenty years before the date on which any request is made under section 6 shall be provided to any person making a request under that section:

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

9. 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 nondisclosure 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 Officer, as the case may be, shall, within five days from the receipt of the request, give a written notice to such third party of the request and of the fact that the Central Public Information Officer or State Public Information Officer, as the case may be, intends to disclose the information or record, or part thereof, and invite the third party to make a submission in writing or orally, regarding whether the information should be disclosed, and such submission of the third party shall be kept in view while taking a decision about disclosure of information.

Provided that except in the case of trade or commercial secrets protected by law, disclosure may be allowed if the public interest in disclosure outweighs in importance any possible harm or injury to the interests of such third party.

(2) Where a notice is served by the Central Public Information Officer or State Public Information Officer, as the case may be, under sub-section (1) to a third party in respect of any information or record or part thereof, the third party shall, within ten days from the date of receipt of such notice, be given the opportunity to make representation against the proposed disclosure.

(3) Notwithstanding anything contained in section 7, the Central Public Information Officer or State Public Information Officer, as the case may be, shall within forty days after receipt of the request under section 6, if the third party has been given an opportunity to make representation under sub-section (2), make a decision as to whether or not to disclose the information or record or part thereof and give in writing the notice of his decision to the third party.

(4) A notice given under sub-section (3) shall include a statement that the third party to whom the notice is given is entitled to prefer an appeal under section 19 against the decision.

CHAPTER III

The Central Information Commission

12. 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 recognized 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 direction by any other authority under this Act.

(5) The Chief Information Commissioner and Information Commissioners shall be persons of eminence in public life with wide knowledge and experience in law, science and technology, social service, management, journalism, mass media or administration and governance.

(6) The Chief Information Commissioner or an Information Commissioner shall not be a Member of Parliament or Member of the Legislature of any State or Union territory, as the case may be, or hold any other office of profit or connected with any political party or carrying on any business or pursuing any profession.

(7) The headquarters of the Central Information Commission shall be at Delhi and the Central Information Commission may, with the previous approval of the Central Government, establish offices at other places in India.

13. 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 Commissioner 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 an Information Commissioner, as the case may be,-

- (a) is adjudged an insolvent, or
- (b) has been convicted of an offence which, in the opinion of the President, involves moral turpitude; or
- (c) engages during his term of office in any paid employment outside the duties of his office; or
- (d) is, in the opinion of the President, unfit to continue in office by reason of infirmity of mind or body; or
- (e) has acquired such financial or other interest as is likely to affect prejudicially his functions as the Chief Information Commissioner or an 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 misbehaviour.

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
 - (e) has acquired such financial or other interest as is likely to affect prejudicially his functions as the State Chief Information Commissioner or a State Information Commissioner.
- (4) If the State Chief Information Commissioner or a State Information Commissioner in any way, concerned or interested in any contract or agreement made by or on behalf of the Government of the State or participates in any way in the profit thereof or in any benefit or emoluments arising therefrom otherwise than as a member and in common with the other members of an incorporated company, he shall, for the purposes of sub-section(1), be deemed to be guilty of misbehaviour.

CHAPTER V
Powers and Functions of the Information
Commissions, Appeal and Penalties

18. 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 limit specified under this Act;
 - (d) who has been required to pay an amount of fee which he or she considers unreasonable;
 - (e) who believes that he or she has been given incomplete, misleading or false information under this Act; and
 - (f) in respect of any other matter relating to requesting or obtaining access to records under this Act.
- (2) Where the Central Information Commission or State Information Commission, as the case may be, is satisfied that there are reasonable grounds to inquire into the matter, it may initiate an inquiry in respect thereof.
- (3) The Central Information Commission or State Information Commission as the case may be, shall, while inquiring into any matter under this section, have the same powers as are vested in a civil court while trying a suit under the Code of Civil Procedure, 1908(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 witness 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 State Public Information Officer, as the case may be, may, within thirty days from the expiry of such period or from the receipt of such a decision prefer an appeal to such officer who is senior in rank to the Central Public Information Officer or State Public Information Officer, as the case may be, in each public authority.

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

(2) Where an appeal is preferred against an order made by the Central Public Information Officer or a State Public Information Officer, as the case may be, under section 11 to disclose third party information, the appeal by the concerned third party shall be made within thirty days from the date of the order.

(3) A second appeal against the decision under sub-section (1) shall lie within ninety days from the date on which the decision should have been made or was actually received, with the Central Information Commission or the State Information Commission;

Provided that the Central Information Commission or the State Information Commission, as the case may be, may admit the appeal after the expiry of the period of ninety days if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(4) If the decision of the Central Public Information Officer or State Public Information Officer, as the case may be, against which an appeal is preferred relates to information of a third party, the Central Information Commission or State Information Commission, as the case may be, shall give a reasonable opportunity of being heard to that third party.

(5) In any appeal proceedings, the onus to prove that a denial of a request was justified shall be on the Central Public Information Officer or State Public Information Officer, as the case may be, who denied the request.

(6) An appeal under sub-section(1) or sub-section(2) shall be disposed of within thirty days of the receipt of the appeal or within such extended period not exceeding a total of forty-five days from the date filing thereof, as the case may be, for reasons to be recorded in writing.

(7) The decision of the Central Information Commission or State Information Commission, as the case may be, shall be binding.

(8) In its decision, the Central Information Commission or State Information Commission, as the case may be, has the power to-

- (a) require the public authority to take any such steps as may be necessary to secure compliance with the provisions of this Act, including-
 - (i) by providing access to information, if so requested, in a particular form;
 - (ii) by appointing a Central Public Information Officer or State Public Information Officer, as the case may be;
 - (iii) by publishing certain information or categories of information;
 - (iv) by making necessary changes to its practices in relation to the maintenance, management and destruction of records;
 - (v) by enhancing the provision of training on the right to information for its officials;
 - (vi) by providing it with an annual report in compliance with clause (b) of sub-section (1) of section 4;
- (b) require the public authority to compensate the complainant for any loss or other detriment suffered;
- (c) impose any of the penalties provided under this Act;
- (d) reject the application.

(9) The Central Information Commission or State Information Commission, as the case may be, shall give notice of its decision, including any right of appeal to the complainant and the public authority.

(10) The Central Information Commission or State Information Commission as the case may be, shall decide the appeal in accordance with such procedure as may be prescribed.

20. 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.

(2) Where the Central Information Commission or the State Information Commission, as the case may be, at the time of deciding any complaint or appeal is of the opinion that the Central Public Information Officer or the State Public Information Officer, as the case may be, has, without any reasonable cause and persistently, failed to receive an application for information or has not furnished information within the time specified under sub-section (1) of section 7 or malafidely denied the request for information or knowingly given incorrect incomplete or misleading information or destroyed information which was the subject of the request or obstructed in any manner in furnishing the information, it shall recommend for disciplinary action against the Central Public Information Officer or the State Public Information Officer, as the case may be, under the service rules applicable to him.

CHAPTER VI

Miscellaneous

21. 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.

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.

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.

24. Act not to apply to certain organizations.- (1) Nothing contained in this Act shall apply to the intelligence and security organisations specified in the Second Schedule, being organizations established by the Central Government or any information furnished by such organisations to that Government,

Provide 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 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 organization established by that Government or omitting therefrom any organisation already specified therein and on the publication of such notification, such organization shall be deemed to be included in or, as the case may be, omitted from the Scheduled.

(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 organization being organizations 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 receipt of request.

(5) Every notification issued under sub-section (4) shall be laid before the State Legislature.

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 operationalising the right to access information.

(4) The Central Government or the State Government, as the case may be, may, as soon as practicable after the end of each year, cause a copy of the report of the Central Information Commission or the State Information Commission, as the case may be, referred to in sub-section(1) to be laid before each House of Parliament or, as the case may be, before each house of the State Legislature, where there are two Houses, and where there is one House of the State Legislature before that House.

(5) If it appears to the Central Information Commission or State Information Commission, as the case may be, that the practice of a public authority in relation to the exercise of its functions under this Act does not conform with the provisions or spirit of this Act, it may give to the authority a

recommendation specifying the steps which ought in its opinion to be taken for promoting such conformity.

26. Appropriate Government to prepare programmes : (1) The appropriate Government may, to the extent of availability of financial and other resources,-

- (a) develop and organize educational programmes to advance the understanding of the public, in particular of disadvantaged communities as to how to exercise the rights contemplated under this Act;
- (b) encourage public authorities to participate in the development and organization of programmes referred to in clause(a) and to undertake such programmes themselves;
- (c) promote timely and effective dissemination of accurate information by public authorities about their activities; and
- (d) train Central Public Information Officers or State Public Information Officers, as the case may be, of public authorities and produce relevant training materials for use by the public authorities themselves.

(2) The appropriate Government shall, within eighteen months from commencement of this Act, compile in its official language a guide containing such information, in an easily comprehensible form and manner, as may reasonably be required by a person who wishes to exercise any right specified in this Act.

(3) The appropriate Government shall, if necessary, update and publish the guidelines referred to in sub-section(2) at regular intervals which shall, in particular and without prejudice to the generality of sub-section(2), include-

- (a) the objects of this Act;
- (b) the postal and street address, the phone and fax number and, if available, electronic mail address of the Central Public Information Officer or State Public Information Officer, as the case may be, of every public authority appointed under sub-section(1) of section 5;
- (c) the manner and the form in which request for access to an information shall be made to a Central Public Information Officer or State Public Information Officer, as the case may be;
- (d) The assistance available from and the duties of the Central Public Information Officer or State Public Information Officer, as the case may be, of a public authority under this Act;
- (e) The assistance available from the Central Information Commission or State Information Commission, as the case may be;
- (f) All remedies in law available regarding an act or failure to act in respect of a right or duty conferred or imposed by this Act including the manner of filing an appeal to the Commission;
- (g) The provisions providing for the voluntary disclosure of categories of records in accordance with section 4;
- (h) The notices regarding fees to be paid in relation to requests for access to an information; and
- (i) Any additional regulations or circulars made or issued in relation to obtaining access to an information in accordance with this Act.

(4) The appropriate Government must, if necessary, update and publish the guidelines at regular intervals.

27. 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/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 judgement perform the duties of my office without fear or favour, affection or ill-will and that I will uphold the Constitution and the laws.”

The Second Schedule

(See section 24)

INTELLIGENCE AND SECURITY ORGANISATION ESTABLISHED BY THE CENTRAL GOVERNMENT

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

MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS
(Department of Personnel and Training)
New Delhi, the 16th September, 2005

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

1. Short title and commencement— (1) These rules may be called the Right to Information (Regulation of Fee and Cost) Rules, 2005.
(2) They shall come into force on the date of their publication in the Official Gazette
2. Definitions — In the rules, unless the context otherwise requires,-
 - (a) ‘Act’ means the Right to Information Act, 2005,
 - (b) ‘section’ means section of the Act;
 - (c) all other words and expressions used herein but not defined and defined in the Act shall have the meanings assigned to them in the Act.
3. A request for obtaining information under sub-section(1) of Section 6 shall be accompanied by an application fee of rupees ten by way of cash against proper receipt or by demand draft or bankers cheque payable to the Accounts Officer of the public authority.
4. For providing the information under sub-section(1) of Section 7, the fee shall be charged by way of cash against proper receipt or by demand draft or bankers cheque payable to the Accounts Officer of the public authority at the following rates:-
 - (a) rupees two for each page (in A-4 or A-3 size paper) created or copied.
 - (b) actual charge or cost price of a copy in larger size paper.
 - (c) actual cost or price for samples or models, and
 - (d) for inspection of records, no fee for the first hour, and a fee of rupees five for each fifteen minutes(or fraction thereof) thereafter.

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

- (a) for information provided in diskette or floppy, rupees fifty per diskette or floppy, and
- (b) for information provided in printed form at the price fixed for such publication or rupees two per page of photocopy for extracts from the publication

[F.No. 34012/8(S)/2005-Estt(B)]
Hari Kumar, Director

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

NOTIFICATION

New Delhi, the 27th October, 2005

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

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

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

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

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

[F. No. 34012/8(s)/2005-Estt. (B)]
T. Jacob, Jt. Secy.

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

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

NOTIFICATION

New Delhi, the 17th May, 2006

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

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

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

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

(a) in rule 3, after the words “bankers cheque”, the words “or Indian Postal Order” shall be inserted.

(b) in rule 4, after the words “bankers cheque”, the words “or Indian Postal Order” shall be inserted.

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

[F.No. 34012/8(S)/2005-Estt.(B)]
C.B. Paliwal, Jt. Secy.

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

THE CENTRAL INFORMATION COMMISSION (APPEAL PROCEDURE) RULES, 2005

(G.S.R. No. 650(E), dated 28.10.2005]

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

1. Short Title and Commencement:- (1) These rules may be called the Central Information Commission (Appeal Procedure) Rules, 2005.

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

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

(a) "Act" means the Right to Information Act, 2005;

(b) "section" means section of the Act;

(c) "Commission" means the Central Information Commission;

(d) words and expressions used herein and not defined but defined in the Act shall have the meanings respectively assigned to them in that Act.

3. Contents of appeal. : An appeal to the Commission shall contain the following information, namely:

(i) name and address of the appellant;

(ii) name and address of the Central Public Information Officer against the decision of whom the appeal is preferred;

(iii) particulars of the order including number, if any, against which the appeals preferred;

(iv) brief facts leading to the appeal

(v) if the appeal is preferred against deemed refusal, the particulars of the application, including number and date and name and address of the Central Public Information Officer to whom the application was made;

(vi) prayer or relief sought;

(vii) grounds for the prayer or relief;

(viii) verification by the appellant; and

(ix) any other information which the Commission may deem necessary for deciding the appeal.

4. Documents to accompany appeal.- Every appeal made to the Commission shall be accompanied by the following documents, namely:

(i) self-attested copies of the orders or documents against which the appeal is being preferred,

(ii) copies of documents relied upon by the appellant and referred to in the appeal; and

(iii) an index of the documents referred to in the appeal.

5. Procedure in deciding appeal- In deciding the appeal, the Commission may-

(i) hear oral or written evidence on oath or on affidavit from concerned or interested person;

(ii) peruse or inspect documents, public records or copies thereof;

(iii) inquire through authorized officer further details or facts;

(iv) hear Central Public Information Officer, Central Assistant Public Information Officer or such Senior Officer who decide the first appeal or such person against whom the complaint is made, as the case may be;

(v) hear third party; and

- (vi) receive evidence on affidavits from Central Public Information Officer, Central Assistant Public Information Officer, such Senior Officer who decided the first appeal, such person against whom the complaint lies or the third party.

6. **Service of notice by Commission.** : Notice to be issued, by the Commission may be served in any of the following modes, namely:

- (i) service by the party itself;
(ii) by hand delivery (dasti) through Process Server;
(iii) by registered post with acknowledgement due; or
(iv) through Head of Office or Department

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

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

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

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

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

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File No. 1/35/2008-IR

Government of India

Ministry of Personnel, Public Grievances & Pensions

Department of Personnel & Training

North Block, New Delhi- 110001

Dated 10th December, 2010.

OFFICE MEMORANDUM

Sub : Amendment to RTI Rules.

The Government proposes to notify Right to Information Rules in supersession of the existing rules, namely, the Right to Information (Regulation of Fee and Cost) Rules, 2005 and the Central Information Commission (Appeal Procedure) Rules, 2005. Comments if any, on the proposed Rules may be sent at e-mail address, usrti-dopt@nic.in by 27th December, 2010.

R.K. Girdhar
US(RTI)

[To be Published in the Gazette of India, Part-II, Section 3, Sub-Section (i)]

Government of India

Ministry of Personnel, Public Grievances and Pensions

(Department of Personnel and Training)

New Delhi, dated the _____, 2010

NOTIFICATION

G.S.R.....- In exercise of the powers conferred by Section 27 of the Right to Information Act, 2005(22 of 2005), and in supersession of the Central Information Commission (Appeal Procedure) Rules, 2005 and

the Right to Information(Regulation of Fee and Cost) Rules, 2005 except as respects things done or omitted to be done before such supersession, the Central Government hereby makes the following rules, namely-

1. Short title and commencement : (1) These rules may be called the Right to Information Rules, 2010

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

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

- (a) "Act" means the Right to Information Act, 2005 (22 of 2005);
- (b) "Commission" means the Central Information Commission as constituted under sub-section (1) of section 12 of the Act.
- (c) "First Appellate Authority" means an officer in the public authority who is senior in rank to the Central Public Information Officer to whom an appeal under sub-section (1) of Section 19 lies;
- (d) "Government" means the Central Government;
- (e) "Registrar" mean officers of the Commission so designated and unless otherwise requires includes an Additional Registrar, Joint Registrar and Deputy Registrar;
- (f) "Registry" means the Registry of the Commission comprising the Registrar General, Registrar, Additional Registrar, Joint Registrar or Deputy Registrar;
- (g) "section" means a section of the Act;
- (h) all other words and expressions used herein but not defined in the rules shall have the same meaning assigned to them in the Act.

3. Appointment of Secretary to the Commission : The Government shall appoint an officer not below the rank of Additional Secretary to the Government of India as Secretary to the Commission who shall be the Chief Executive Officer and Registrar General of the Commission.

4. Request for Information : A person who desires to obtain any information from a public authority under sub-section (1) of Section 6 of the Act, shall pay an application fee of Rs. 10/- to the public authority alongwith the application;

Provided that the request for information shall relate only to one subject matter and shall be limited to two hundred and fifty words, excluding the address of the Central Public Information officer and the address of the applicant.

5. Fees for providing information: Fee for providing information under Section 4(4), Section 7(1) and Section 7(5), as the case may be, shall be charged at the following rates:

- (a) rupees two for each page in A-3 size or smaller size paper;
- (b) actual cost or price of a copy in larger size paper;
- (c) actual cost or price for samples or models;
- (d) for inspection of records, no fee for the first hour; and fee of rupees five for each subsequent hour (or fraction thereof);
- (e) for information provided in diskette or floppy, rupees fifty per diskette or floppy;
- (f) for information provided in printed form, at the price fixed for such publication or rupees two per page of photocopy for extracts form the publication;
- (g) the actual amount spent by public authority on hiring a machine or any other equipment, if any, to supply information;
- (h) Postal charges, in excess of rupees ten, if any, involved in supply of information.

Provided that no Fee shall be charged under this rule from the persons who are below poverty line as may be determined by respective State Governments.

6. Payment of fee: Fee under these rules shall be paid by way of :

(a) cash, to the public authority or to the Central Assistant Public Information Officer of the public authority, as the case may be, against proper receipt; or

(b) demand draft or bankers cheque or Indian Post Order payable to the Accounts Officer of the public authority; or

(c) electronic means to the Accounts Officer of the public authority, if facility for receiving fee through electronic means is available with the public authority:

Provided that a public authority may accept fee by any other mode of payment.

7. Appeal to the first Appellate Authority: A person aggrieved by any order passed by the Central Public Information Officer or non-disposal of his application by the Central Public Information Officer within the prescribed time, may file an appeal to the first Appellate Authority in the format as given in the Appendix.

8. Documents to accompany first appeal to the first Appellate Authority :

Every appeal made to the first Appellate Authority shall be accompanied by the following documents, duly authenticated and verified:

(i) Copy of the application submitted to the Central Public Information Officer;

(ii) Copy of the reply, if any, of the Central Public Information officer.

9. Appeal to the Commission : A person aggrieved by any order passed by the First Appellate Authority or by non-disposal of his appeal by the First Appellate Authority, may file an appeal to the Commission in the format as given in the Appendix.

10. Documents to accompany Appeal to Commission : Every Appeal made to the Commission shall be accompanied by the following documents, duly authenticated and verified;

(i) Copy of the application submitted to the Central Public Information Officer;

(ii) Copy of the reply, if any, of the Central Public Information Officer;

(iii) Copy of the appeal made to the First Appellate Authority;

(iv) Copy of the Order, if any, of the First Appellate Authority;

(v) Copies of other documents relied upon by the Appellant and referred to in the Appeal;

(vi) An index of the documents referred to in the Appeal.

11. Admission of appeals : (1) On receipt of an appeal, if the Commission is satisfied that it is a fit case for consideration, it may admit such appeal; but where the Commission is not so satisfied, it may, after giving an opportunity to the appellant of being heard and after recording its reasons, reject the appeal.

(2) The Commission shall not admit an appeal unless it is satisfied that the appellant had availed of all the remedies available to him under the Act.

(3) For the purposes of sub-rule (2), a person shall be deemed to have availed of all the remedies available to him under the Act:

(a) if he had filed an appeal before the First Appellate Authority and the First Appellate Authority or any other person competent to pass order on such appeal had made a final order on the appeal; or

(b) where no final order has been made by the First Appellate Authority with regard to the appeal preferred, and a period of 45 days from the date on which such appeal was preferred has expired.

12. Procedure for deciding appeals: The Commission, while deciding an appeal may,

(i) receive oral or written evidence on oath or on affidavit from concerned or interested person;

(ii) peruse or inspect documents, public records or copies thereof;

(iii) inquire through authorized officer further details or facts;

- (iv) hear Central Public Information Officer, Central Assistant Public Information Officer or the First Appellate Authority, or such person against whose action the appeal is made, as the case may be;
- (v) hear third party; and
- (vi) receive evidence on affidavits from Central Public Information Officer, Central Assistant Public Information Officer, First Appellate Authority and such person against whom the appeal lies or the third party.

13. Amendment or withdrawal of an Appeal : The Commission may allow a prayer for any amendment or withdrawal of an Appeal during the course of hearing, if such a prayer is made by the Appellant on an application made in writing.

Provided that such request shall not be entertained by the Commission after the matter has been finally heard or a decision or order has been pronounced by the Commission.

14. Personal presence of the appellant before the Commission:

(1) The appellant shall be informed of the date of hearing at least seven clear days before that date.

(2) The appellant may, at his discretion, be present in person or through his duly authorized representative or, if permitted by the Commission, through video conferencing, at the time of hearing of the appeal by the Commission.

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

15. Presentation by the Public Authority : The public authority may authorize any representative or any of its officers to present its case.

16. Abatement of an Appeal/Complaint : The proceedings pending before the Commission shall abate on the death of the appellant.

17. Service of notice by Commission: Notice by name to be issued by the Commission may be served in any of the following modes, namely:-

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

18. Order of the Commission: An order of the Commission shall be in writing and issued under the seal of the Commission duly authenticated by the Registrar or any other officer authorized by the Commission for this purpose.

19. Compliance of the order of the Commission: The head of a public authority shall ensure that an order passed by the Commission, unless varied or stayed by a validly passed order, is complied with and compliance report filed with the Commission within the time limit specified by the Commission, or within 60 days if no such limit is specified.

20. Recovery of Penalty and Payment of Compensation: (1) If a penalty is imposed by the Commission on a Central Public Information Officer as per the provisions of the Act and if the Commission requires a Public Authority to compensate a person for any loss or detriment suffered, an order duly authenticated by the Registrar shall be served on the Public Authority for recovery of penalty and payment of compensation.

(2) The Public Authority shall deduct the amount of penalty in such instalments as may be allowed by the Commission in its order and authenticated by the Registrar from the monetary payments due to such person against whom penalty has been imposed by the Commission and compensation shall be paid as per order of the Commission.

21. Recommendation for Disciplinary Action: If disciplinary action is recommended by the Commission on a Central Public Information Officer as per the provisions of the Act, an order duly authenticated by the Registrar shall be served on the Public Authority to initiate such action and the action taken on such order will be communicated to the Registrar within the time specified by the Commission in its order.

F.No. 1/35/2009-IR
Rajeev Kapoor
Joint Secretary

APPENDIX
Format of Appeal

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

●
Govt. of West Bengal
Land and Land Reforms Department
Estt. Branch
Writers' Buildings, Kolkata-1

No. 1028-Estt/1M-52/05

Dated, Kolkata, the 20th Feb, 2006

ORDER

In terms of provisions as laid down in section 19(1) of the Right to Information Act, 2005, the following officers will act as Appellate Authority for the Offices noted against them in Col. 3:

Sl. No.	Designation of the Officer who will act as Appellate Authority	Name of the Office
(1)	(2)	(3)
1.	The Director of Land Records & Surveys and Jt. Land Reforms Commissioner, W.B.	Directorate of Land Records & Surveys, W.B.
2.	The 1 st L.A. Collector, Kolkata	The 1 st L.A. Collectorate Kolkata
3.	The Collector of Kolkata	The Collectorate of Kolkata
4.	The Rent Controller, Kolkata	Office of the Rent Controller, Kolkata
5.	The Controller, Kolkata Thika Tenancy	Office of the Controller, Kolkata Thika Tenancy.
6.	The Controller, Howrah Thika Tenancy	Office of the Controller, Howrah Thika Tenancy.
7.	Arbitrator, 24 Pgs. (N & S) & Kolkata	Office of the Arbitrator, 24 Pgs. (N&S). & Kolkata.
8.	The Director of Land Records & Surveys (Ex-Officio) Indo-Bangladesh Boundary Demarcation.	Directorate of Land Records & Surveys, Indo-Bangladesh Boundary Demarcation.

S. Das
Pr. Secretary to the Govt. of W.B.
Land & Land Reforms Deptt.

Copy forwarded for information & necessary action to :

1. The Director of Land Records & Surveys and Joint Land Reforms Commissioner, W.B., 35 Gopal Nagar Rd., Alipore, Kolkata-27.

It has been decided that all the D.L. & L.R.O.s will act as Appellate Authority in respect of their respective Districts. He is, therefore, requested to issue necessary order to that effect.

He is requested to furnish the necessary information as per two formats attached herewith immediately. His office code No. has been indicated in the prescribed format.

Sd/- Illegible
Jt. Secretary to the Govt. of W.B.
Land & Land Reforms Deptt.

— • —
The Kolkata Gazette
Extraordinary
Published by Authority

[CHAITRA-8]

WEDNESDAY, MARCH 29, 2006

[SAKA1927]

**Government of West Bengal
Personnel & Administrative Reforms Department
Administrative Reforms Cell.**

NOTIFICATION

No. I 57-PAR (AR)- 10th March, 2006- In exercise of the power conferred by sub-section(1) read with sub-section (2) of Section 27 of the Right to Information Act, 2005 (22 of 2005), the Governor is pleased hereby to make the following rules namely :-

RULES

1. **Short title and commencement** - (1) These rules may be called the West Bengal Right to Information Rules, 2006.

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

2. **Definitions:** (1) In these rules, unless the context otherwise requires,-

(a) "Act", means the Right to Information Act, 2005 (22 of 2005);

(b) "Commission" means the West Bengal Information Commission;

(c) "Registrar" means the Registrar of the Commission;

(d) "Section" means section of the Act;

(e) "State Government" means the Government of West Bengal

(2) Words and expressions used and not defined in these rules but defined in the Act, shall have the same meanings as respectively assigned to them in the Act.

3. **Application fee-** An application containing a request in writing to the State Public Information Officer or the State Assistant Public Information Officer, as the case may be, made under sub-section (1) of Section 6 for obtaining information, shall be accompanied with a court-fee of rupees ten.

4. **'Fee' for providing information-** Save as otherwise provided in the provision to sub-section (5) of Section 7, the State Public Information Officer or the State Assistant Public Information Officer, as the case may be, shall provide information under sub-section (1), and sub-section(5), of Section 7 upon receipt or a request under Section 6, on payment of a fee of-

(a) rupees two, for each page (in A-4 or A-3 size paper) created or copied; or

(b) actual charge or cost price, for a copy in large size paper; or

(c) actual cost price, for sample or model; or

(d) rupees five for each fifteen minutes or fraction thereof, for inspection of records; or

- (e) rupees fifty per diskette or floppy, for information provided in the diskette or floppy, or
- (f) actual charge fixed for publication or rupees two per page of photocopy for extracts there from; for information provided in printed form.

5. Contents of appeal to Commission under sub-Section (3) of Section 19- An appeal to the Commission under sub-section (3) of Section 19, shall contain the following information, namely:-

- (a) name and address of the applicant;
- (b) name and address of the State Public Information Officer or the State Assistant Public Information Officer, as the case may be, who passed the order;
- (c) particulars of the order against which the appeal is made including its number and date;
- (d) brief facts of the case;
- (e) prayer or relief sought for by the appellant;
- (f) grounds for such prayer or relief; and
- (g) verification by the appellant

6. Documents to accompany appeal to Commission under sub-section (3) of Section 19- Every appeal made to the Commission shall be accompanied by the following documents, namely:-

- (a) the attested true copy of the order against which the appeal is being preferred;
- (b) the copies of the documents relied upon by the appellant and referred to in the appeal; and
- (c) an index of the documents referred to in the appeal.

7. Procedure in deciding appeal to Commission under sub-section (3) of Section 19 – (1) In deciding the appeal to the Commission, the Commission shall :-

- (a) hear, oral or written, evidence on oath or on affidavit from the concerned or interested person;
- (b) peruse or inspect documents, public records or copies thereof,
- (c) Enquire through the authorized officer for further details or facts;
- (d) Hear the State Public Information Officer or the State Assistant Public Information Officer or such officer who decided the first appeal mentioned in sub-section (1) of Section 19, as the case may be;
- (e) hear the third party if required; and
- (f) receive evidence on “affidavits” from State Public Information Officer or the State Assistant Public Information Officer or such officer who decided the first appeal mentioned in sub-section(1) of Section 19 or from the third party; if any

(2) In deciding the appeal the Commission may ask the appellant to add any other information other than the information included in the contents of the second appeal under rule 5.

8. Service of notice by Commission - The notice required to be issued under sub-section(9) of Section 19, by the Commission may be served in any of the following modes, namely:-

- (a) service by the party itself;
- (b) service by hand delivery through the process server;
- (c) service by the registered post with acknowledgement due
- (d) service through the head of office or the Department;

9. Signing of order - The order of the Commission pronounced in open proceedings shall be in writing and authenticated by the Registrar or any other officer authorized by the Commission in this behalf.

10. Terms and conditions of officers and other employees of Commission- The officers and other employees of the Commission shall be placed on deputation from the State Government on the usual terms and conditions

By order of the Governor,
Trilochan Singh
Pr. Secretary to the govt. of West Bengal

ANNEXEURE "A'

(See rule 3)

**Format of application for obtaining information under
The Right to Information Act 2005**

To : The State Public Information Officer,
(Name of the office with address)

1. FULL NAME OF APPLICANT:

2. ADDRESS:

3. PARTICULARS OF INFORMATION REQUIRED

(i) Subject matter of information:

(ii) Period to which the information relates:

(iii) Description of information required: (details may be attached on additional A4 size paper if required)

(iv) whether information is required by post or in person:

(v) In case by post (Ordinary, Registered or Speed):

4. WHETHER THE APPLICANT IS BELOW POVERTY LINE:

(if yes, attach a photocopy of the proof thereof)

Place:

Date:

Signature of the applicant

●
Government of West Bengal
Department of Personnel & Administrative Reforms
Administrative Reforms Cell
Block-IV, 2nd Floor, Writers' Buildings, Kolkata- 700 001

No. PAR(AR)/O/3M-29/2005 Pt. III

Dated, Kolkata, the 2007

NOTIFICATION

In exercise of the power conferred by clause (3) of article 166 of the Constitution of India, the Governor is hereby pleased to make the following amendments in the West Bengal Right to Information Rules, 2006, as subsequently amended (hereinafter referred to as the said rules):-

AMENDMENT

Below Para 4(f) of the said rules, insert the following item;

"The above noted fees shall be collected either in the form of Court Fee or remittance through Treasuries in T.R. Form No. 7 under the head of account "0070- Other Administrative Services-60- Other Services-800-Other Receipts-021-Collection of Fees from Information Seeker for the purpose of servicing information- 27-other Receipts' or by Cash against Duplicate Carbon Receipt where there is provision for receipt of cash in the office of the State Public Information Officer."

By order of the Governor

Principal Secretary to the
Government of West Bengal

Government of West Bengal
Department of Personnel & Administrative Reforms
Administrative Reforms Cell
Block-IV, 2nd Floor, Writers' Buildings, Kolkata - 700001

NOTIFICATION

No. 724-PAR(AR)/O/3M-29/2005 Pt. VI-17th October, 2008— In exercise of the power conferred by sub-section (1), read with sub-section (2), of section 27 of the Right to Information Act, 2005, the Government is pleased hereby to make the following amendments in the West Bengal Right to Information Rules, 2006 (hereinafter referred to as the said rules);-

AMENDMENTS

In the said rules :-

(1) rule 3 shall be renumbered as sub-rule (1) of rule 3,-

(a) in sub-rule (1) so renumbered, for the words “a court-fee of rupees ten”, substitute the words, letters and brackets ‘a court-fee of rupees ten or a non-Judicial Stamp paper of rupees ten, or by Demand Draft or Bankers Cheque or Indian Postal Order, payable in favour of’ (name of the link bank) a/c Government of West Bengal, RTI ACT”.

(b) after sub-rule (1), insert the following sub-rules:-

“(2) An applicant while sending a request for information by e-mail shall deposit the application fee of rupees ten by Demand Draft or by Bankers Cheques or by Indian Postal Order, payable in favour of (name of the link bank) a/c Government of West Bengal, RTI ACT”, mentioning the particulars of such deposit to the Public Information Officer in such e-mail and on receipt of said information, the Public Information Officer shall process such request for providing such information;

Provided that such information as sought for shall not be delivered to the applicant unless the requisite amount of application fee has been received by the Public Information Officer by Demand Draft or Bankers Cheques or Indian Postal Order, as the case may be.

(3) The Public Information Officer shall, after receiving Demand Draft or Bankers Cheques or Indian Postal Order under sub-rule(2), arrange to remit the fee to such authorized branches of the Public Bank linked with the Treasury as mentioned in Appendix 3 to the West Bengal Treasury Rules, 2005, by the next working day in T.R. Form No. 7 under the Head of Account and Head Code mentioned in column (1) and column (2) against serial Nos. 1 and 2 respectively of the Table below:-

Sl No.	Particulars	Details
(1)	(2)	(3)
1	Head of Accounts	“0070-Other Administrative Services-60-Other Services-800-Other Receipts including census-021-Collection Fees from Information Seeker for the purpose of servicing information-27-Other Receipts”
2	Head Code	“00706080002127”

Provided that the applicant may deposit such application fee under the above head of accounts directly through the concerned bank linked with Treasury and shall produce the receipt challan to the Public Information Officer;”

(2) rule 4 shall be renumbered as sub-rule (1) of rule 4, after sub-rule (1) so renumbered, insert the following sub-rules:-

“(2) The fee as mentioned in clause (a) to clause (f) of sub-section(1) shall be deposited to the officer to be designated by the concerned Department of the State Government in this behalf, either by

Demand Draft or Bankers cheque or Indian Postal Order payable in favour of “ (name of the link bank) a/c Government of West Bengal, RTI ACT”,

(3) The Public Information Officer shall, after receiving Demand Draft or Bankers Cheque or Indian Postal Order, as the case may be, as mentioned in sub-rule (2), arrange to remit the fee to such authorized branches of the Public Bank linked with the Treasury as mentioned in Appendix 3 to the West Bengal Treasury Rules, 2005, by the next working day in T.R. Form No. 7 under the Head of Account and Head Code mentioned in column (1) and column (2) against serial Nos 1 and 2 respectively, of the Table below:-

Sl No.	Particulars	Details
(1)	(2)	(3)
1	Head of Accounts	“0070-Other Administrative Services-60-Other Services-800-Other Receipts including census-021-Collection Fees from Information Seeker for the purpose of servicing information-27- Other Receipts”
2	Head Code	“00706080002127”

Provided that the applicant may deposit such fees under the above head of accounts directly through the concerned bank linked with the Treasury and shall produce the receipted challan to the Public Information Officer:”

(3) In rule 5,-

- (a) for clause (c) substitute the following clause
“(c) self-attested photocopy of the order of an officer to whom appeal has been preferred under sub section (1) of section 19 of the Act;”
- (b) for clause (d), substitute the following clause:
“(d) gist of the information sought for;”
- (c) For clause (e), substitute the following clause:
“(e) grounds for appeal and the relief sought for;”
- (d) Omit clause (f);
- (e) Omit clause (g);

By order of the Governor,
Sk. Nurul Haque
Principal Secretary to the
Government of West Bengal

————— ● —————
Government of West Bengal
Department of Personnel & Administrative Reforms
Administrative Reforms Cell
Writers Buildings, Kolkata – 700001

No 35-PAR(AR)/0/3M-29/2005 Pt. VI

Dated, Kolkata, the 20th January, 2009

ORDER

Whereas the Amendments in the West Bengal Right to Information Rules, 2006 has been published in the Kolkata Gazette vide Notification No. 724-PAR (AR)/0/3M-29/2005 Pt. VI dated 17.10.2008;

Whereas in the amended rules, it has been provided under serial No. (1) (a), (1)(b) and (2)(2) that an applicant seeking information under the Right to Information Act, 2005 shall deposit fees by Court Fee and Non-Judicial Stamp Paper as application fee and by Demand Draft or Bankers Cheques or Indian Postal Order or Treasury Challan as both application fee and fee for supply of information;

Whereas under provisions of the West Bengal Right to Information Rules, 2006 and its amendments, the designated Public Information Officer is responsible for supervising receipt of fees in his office and timely remittance of the Bank Draft/ Bankers Cheques/India Postal Order so received from the information seeker to the treasury link bank of the station;

Now, therefore, it is ordered that the designated Public Information Officer of each public authority of this Government shall maintain a REGISTER in the following format to observe receipt of fee, furnishing of information to the payee etc.

FEE COLLECTION AND INFORMATION DELIVERY REGISTER UNDER RTI RULES

Name & Address of the Applicant	Date of Application	Particulars of application fee (Date Challan No etc. Amount)	Particulars of fee for supply of information with Challan No. & deate/receipt No & date/Bank Draft/Bankers Cehques/IPO	Refund, if any, with reasons	Date of information delivery against the fee	Particulars of deposit of application fee & fee for supply of information to the Govt. Exchequer (Challan No. Date etc)	Signature of the designated officer of the office
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)

It is hereby brought to the notice of all concerned in order to comply with the order with immediate effect.

This order issues with the concurrence of the Finance (Audit) Department vide their U.O No 1569 Gr 'T' dated 16.01.2009

Sk. Nurul Haque
Principal Secretary to the
Government of West Bengal

●
Government of India
Ministry of Personnel, Public Grievances & Pensions
Department of Personnel & Training

No. 1/4/2009-IR

North Block, New Delhi, Dated: the 05th October, 2009

OFFICE MEMORANDUM

Sub : Guide on the Right to Information Act, 2005.

The undersigned is directed to say that this Department has issued four sets of guidelines and several other Office Memoranda regarding implementation of the Right to Information Act, 2005 during last three years. Section 26 of the Act requires the Government to prepare such guidelines and update these at regular intervals. Accordingly a consolidated updated Guide on the Act has been prepared which would help all the stake-holders — information seekers in getting information, public information officers in dealing with the RTI applications, first appellate authorities in taking cogent decisions on appeals and the public authorities in implementing various provisions of the Act in right earnest.

2. A copy of the Guide is enclosed herewith with the request that it may be brought to the notice of all concerned.

K.G. Verma
Director
Tel: 23092158

1. All the Ministries/Departments of the Government of India
2. Union Public Service Commission/ Lok Sabha Sectt./ Rajya Sabha Secretariat/ Cabinet Secretariat/ Central Vigilance Commission/ President's Secretariat/ Vice-President's Secretariat/ Prime Minister's Office/ Planning Commission/Election Commission

3. Central Information Commission/State Information Commissions
4. Staff Selection Commission, CGO Complex, New Delhi
5. Office of the Comptroller & Auditor General of India, 10, Bahadur Shah Zafar Marg, New Delhi.
6. All officers/Desks/Sections, Department of Personnel & Training and Department of Pension & Pensioners Welfare.

Copy to: Chief Secretaries of all the States/UTs

The enclosed Guide is mutatis mutandis applicable to the public authorities of the States as well. The State Government may like to get it translated into the regional language(s) and circulate amongst various stake-holders.

Guide on Right to Information Act, 2005
PART I
For All Stake Holders

The right to information is implicitly guaranteed by the Constitution. However, with a view to set out a practical regime for securing information, the Indian Parliament enacted the Right to Information Act, 2005 and thus gave a powerful tool to the citizens to get information from the Government as a matter of right. This law is very comprehensive and covers almost all matters of governance and has the widest possible reach, being applicable to Government at all levels- Union, State and Local as well as recipients of government grants.

2. The Act requires the Government to compile a guide in easily comprehensible form and to update it from time to time. The Government has already published four guides in the past, one each for the information seekers, the public authorities, the Central Public Information Officers and the Appellate Authorities. Here is an updated consolidated guide for the use of all stake-holders. This guide contains five parts. Part I of the guide discusses some aspects of the Act which all the stake-holder are required to know. Rest of the four parts are specifically relevant to the public authorities, the information seekers, the public information officers and the first appellate authorities respectively.

3. Contents of this guide are specifically relevant in relation to the Central Government but are equally applicable to the State Governments except in relation to rules about payment of fee or deciding of appeals by the Information Commissions. It may be noted that this guide uses the term Public Information Officer in place of Central Public Information Officer/State Public Information Officer. Likewise Assistant Public Information Officer has been used for Central Assistant Public Information Officer/State Assistant Public Information Officer and Information Commission for Central Information Commission/State Information Commission except where it was considered necessary to make specific reference to the Central Public Information Officer/Central Information Commission etc. The Departmental Appellate Authority has been referred to as First Appellate Authority inasmuch as the first appeal lies with him.

Object of the Right to Information Act.

4. The basic object of the Right to Information Act is to empower the citizens, promote transparency and accountability in the working of the Government, contain corruption, and make our democracy work for the people in real sense. It goes without saying that an informed citizen is better equipped to keep necessary vigil on the instruments of governance and make the government more accountable to the governed. The Act is a big step towards making the citizens informed about the activities of the Government.

What is Information

5. Information is any material in any form. It includes records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material held in any electronic form. It also includes information relating to any private body which can be accessed by the public authority under any law for the time being in force.

What is a Public Authority

6. A 'public authority' is any authority or body or institution of self government established or constituted by or under the Constitution, or by any other law made by the Parliament or a State Legislature; or by notification issued or order made by the Central Government or a State Government. The bodies owned, controlled or substantially financed by the Central Government or a State

Government and non-Government organizations substantially financed by the Central Government or a State Government also fall within the definition of public authority. The financing of the body or the NGO by the Government may be direct or indirect.

Public Information Officer

7. Public authorities have designated some of its officers as Public Information Officer. They are responsible to give information to a person who seeks information under the RTI Act.

Assistant Public Information Officer

8. These are the officers at sub-divisional level to whom a person can give his RTI application or appeal. These officers send the application or appeal to the Public Information Officer of the public authority or the concerned appellate authority. An Assistant Public Information Officer is not responsible to supply the information.

9. The Assistant Public Information Officers appointed by the Department of Posts in various post offices are working as Assistant Public Information Officers for all the public authorities under the Government of India.

Right to Information under the Act

10. A citizen has a right to seek such information from a public authority which is held by the public authority or which is held under its control. This right includes inspection of work, documents and records; taking notes, extracts or certified copies of documents or records; and taking certified samples of material held by the public authority or held under the control of the public authority. It is important to note that only such information can be supplied under the Act which already exists and is held by the public authority or held under the control of the public authority. The Public Information Officer is not supposed to create information; or to interpret information; or to solve the problems raised by the applicants; or to furnish replies to hypothetical questions.

11. The Act gives the citizens a right to information at par with the Members of Parliament and the Members of State Legislatures. According to the Act, the information which cannot be denied to the Parliament or a State Legislature, shall not be denied to any person.

12. A citizen has a right to obtain information from a public authority in the form of diskettes, floppies, tapes, video cassettes or in any other electronic mode or through print-outs provided such information is already stored in a computer or in any other device from which the information may be e-mailed or transferred to diskettes etc.

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

14. In some cases, the applicants expect the Public Information Officer to give information in some particular proforma devised by them on the plea that they have a right to get information in the form in which it is sought. It need be noted that the provision in the Act simply means that if the information is sought in the form of photocopy, it shall be provided in the form of photocopy, or if it is sought in the form of a floppy, it shall be provided in that form subject to the conditions given in the Act. It does not mean that the PIO shall re-shape the information. This is substantiated by the definition of the term 'right to information' as given in the Act, according to which, it includes right to obtaining information in the form of diskettes, floppies, tapes, video cassettes or in any other electronic mode or through print-outs provided such information is already stored in a computer or in any other device. Everywhere in the Act, the word 'form' has been used to represent this meaning.

15. Some Information Seekers request the Public Information Officers to cull out information from some document(s) and give such extracted information to them. A citizen has a right to get 'material' from a public authority which is held by or under the control of that public authority. 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. It means that the Public Information Officer is required to supply the 'material' in the form as held by the public authority, but not to do research on behalf of the citizen to deduce anything from the material and then supply it to him.

Right to Information Vis-à-vis other Acts

16. The RTI Act has over-riding effect vis-à-vis other laws inasmuch as the provisions of the RTI Act would have effect notwithstanding anything inconsistent therewith contained in the Official Secrets Act, 1923, and other law for the time being in force or in any instrument having effect by virtue of any law other than the RTI Act.

Supply of Information to Associations etc.

17. 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 citizen. 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.

Fee for Seeking Information

18. A person who desires to seek some information from a public authority is required to send, along with the application, a demand draft or a banker's cheque or an Indian Postal Order of Rs 10/- (Rupees Ten), payable to the Accounts Officer of the public authority as fee prescribed for seeking information. The payment of fee can also be made by way of cash to the Accounts Officer of the public authority or to the Assistant Public Information Officer against proper receipt.

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

- (a) rupees two (Rs. 2/-) for each page (in A-4 or A-3 size paper) created or copied
- (b) actual charge or cost price of a copy in larger size paper;
- (c) actual cost or price for samples or models;
- (d) for information provided in diskette or floppy, rupees fifty (Rs. 50/-) per diskette or floppy, and
- (e) for information provided in printed form, at the price fixed for such publication or rupees two per page of photocopy for extracts from the publication.

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

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

Format of Application

22. There is no prescribed format of application for seeking information. The application can be made on plain paper. The application should, however, have the name and complete postal address of the applicant. Even in cases where the information is sought electronically, the application should contain name and postal address of the applicant.

23. The information seeker is not required to give reasons for seeking information.

Information Exempted From Disclosure

24. Sub-section (1) of section 8 and section 9 of the Act enumerate the types of information which is exempt from disclosure. Sub-section (2) of section 8, however, provides that information exempted under sub-section (1) or exempted under the Official Secrets Act, 1923 can be disclosed if public interest in disclosure outweighs the harm to the protected interest.

25. The information which, in normal course, is exempt from disclosure under sub-section (1) of Section 8 of the Act, would cease to be exempted if 20 years have lapsed after occurrence of the incident to which the information relates. However, the following types of information would continue to be exempt and there would be no obligation, even after lapse of 20 years, to give any citizen-

- (i) information disclosure of which would prejudicially affect the sovereignty and integrity of India, the security, strategic, scientific or economic interest of the State, relation with foreign state or lead to incitement of an offence;
- (ii) information the disclosure of which would cause a breach of privilege of Parliament or State Legislature; or
- (iii) cabinet papers including records of deliberations of the Council of Ministers, Secretaries and other Officers subject to the conditions given in proviso to clause (i) of sub-section (1) of Section 8 of the Act.

Record Retention Schedule and the Act

26. The Act does not require the public authorities to retain records for indefinite period. The records need be retained as per the record retention schedule applicable to the concerned public authority. Information generated in a file may survive in the form of an OM or a letter or in any other form even after destruction of the file/record. Section 8(3) of the Act requires furnishing of information so available after the lapse of 20 years even if such information was exempt from disclosure under sub-section(1) of Section 8.

Assistance Available to the Applicant

27. If a person is unable to make a request in writing, he may seek the help of the Public Information Officer to write his application and the Public Information Officer should render him reasonable assistance. Where a decision is taken to give access to a sensorily disabled person to any document, the Public Information Officer, shall provide such assistance to the person as may be appropriate for inspection.

Time period for Supply of Information

28. In normal course, information to an applicant shall be supplied within 30 days from the receipt of application by the public authority. If information sought concerns the life or liberty of a person, it shall be supplied within 48 hours. In case the application is sent through the Assistant Public Information Officer or it is sent to a wrong public authority, five days shall be added to the period of thirty days or 48 hours, as the case may be. Further details in this regard are given in the chapter, 'For the Public Information Officers.'

Appeals

29. If an applicant is not supplied information within the prescribed time of thirty days or 48 hours, as the case may be, or is not satisfied with the information furnished to him, he may prefer an appeal to the first appellate authority who is an officer senior in rank to the Public Information Officer. Such an appeal, should be filed within a period of thirty days from the date on which the limit of 30 days of supply of information is expired or from the date on which the information or decision of the Public Information Officer is received. The appellate authority of the public authority shall dispose of the appeal within a period of thirty days or in exceptional cases within 45 days of the receipt of the appeal.

30. If the first appellate authority fails to pass an order on the appeal within the prescribed period or if the appellant is not satisfied with the order of the first appellate authority, he may prefer a second appeal with the Central Information Commission within ninety days from the date on which the decision should have been made by the first appellate authority or was actually received by the appellant.

Complaints

31. If any person is unable to submit a request to a Public Information Officer either by reason that such an officer has not been appointed by the concerned public authority, or the Assistant Public Information Officer has refused to accept his or her application or appeal for forwarding the same to the Public Information Officer or the appellate authority, as the case may be, or he has been refused access to any information requested by him under the RTI Act; or he has not been given a response to a request for information within the time limit specified in the Act; or he has been required to pay an amount of fee which he considers unreasonable or he believes that he has been given incomplete, misleading or false information, he can make a complaint to the Information Commission.

Disposal of Appeals and Complaints by the CIC

32. The Central Information Commission decides the appeals and complaints and conveys its decision to the appellant/complainant and first appellate authority/Public Information Officer. The Commission may decide an appeal/complaint after hearing the parties to the appeal/complaint or by inspection of documents produced by the appellant/complainant and Public Information Officer or such senior officer of the public authority who decided the first appeal. If the Commission chooses to hear the parties before deciding the appeal or the complaint, the Commission will inform the date of hearing to the appellant or the complainant at least seven clear days before the date of hearing. The appellant/complainant has the discretion to be present in person or through his authorized representative at the time of hearing or not to be present.

Third Party Information

33. Third party in relation to the Act means a person other than the citizen who has made request for information. The definition of third party includes a public authority other than the public authority to whom the request has been made.

Disclosure of Third Party Information

34. Information including commercial confidence, trade secrets or intellectual property, the disclosure of which would harm the competitive position of a third party, is exempt from disclosure. Such information should not be disclosed unless the competent authority is satisfied that larger public interest warrants the disclosure of such information.

35. In regard to a third party information which the third party has treated as confidential, the Public Information Officer should follow the procedure as given in the chapter 'FOR PUBLIC INFORMATION OFFICERS'. The third party should be given full opportunity to put his case for non-disclosure if he desires that the information should not be disclosed.

PART II For Public Authorities

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

Maintenance and Computerisation of Records

2. Proper management of records is of utmost importance for effective implementation of the provisions of the Act. A public authority should, therefore, maintain all its records properly. It should ensure that the records are duly catalogued and indexed in such a manner and form that it may facilitate the right to information.

Suo Motu Disclosure

3. Every public authority should provide as much information suo motu to the public through various means of communications so that the public have minimum need to use the Act to obtain information. Internet being one of the most effective means of communications, the information may be posted on the website.

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

- (i) the particulars of its organization, functions and duties;
- (ii) the powers and duties of its officers and employees;
- (iii) the procedure followed in the decision making process, including channels of supervision and accountability;
- (iv) the norms set by it for the discharge of its functions;
- (v) the rules, regulations, instructions, manuals and records, held by it or under its control or used by its employees for discharging its functions;

- (vi) a statement of the categories of documents that are held by it or under its control;
- (vii) the particulars of any arrangement that exists for consultation with, or representation by, the members of the public in relation to the formulation of its policy or implementation thereof;
- (viii) a statement of the boards, councils, committees and other bodies consisting of two or more persons constituted as its part or for the purpose of its advice, and as to whether meetings of those boards, councils, committees and other bodies are open to the public, or the minutes of such meetings are accessible for public,
- (ix) 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.

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

6. 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 take place. Particularly, in case of publication on the internet, the information should be kept updated all the time.

Dissemination of Information

7. The public authority should widely disseminate the information. Dissemination should be done in such form and manner which is easily accessible to the public. It may be done through notice boards, newspapers, public announcements, media broadcast, the internet or any other means. The public authority should take into consideration the cost effectiveness in local language and most effective method of communication in the local area while disseminating the information.

Publication of Facts about Policies and Decisions

8. Public authorities formulate policies and take various decisions from time to time. As provided in the Act, while formulating important policies or announcing the decisions affecting the public, the public authority should publish all relevant facts about such policies and decisions for the information of public at large.

Providing Reasons for Decisions

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

Designation of PIOs and APIOs etc.

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

Designation of Appellate Authority

11. Sub-section (8) of Section 7 of the RTI Act provides that where a request for information is rejected, the Public Information Officer shall, inter-alia, communicate the particulars of the Appellate Authority to the person making the request. Thus, the applicant is informed about the particulars of the Appellate Authority when a request for information is rejected but there may be cases where the Public Information Officer does not reject the application, but the applicant does not receive a decision within the time as specified in the Act or he is aggrieved by the decision of the Public Information Officer. In such a case the applicant may like to exercise his right to appeal. But in absence of the particulars of the appellate authority, the applicant may face difficulty in making an appeal. All the public authorities should, therefore, designate the First Appellate Authorities and publish their particulars along with the particulars of the Public Information Officers.

Acceptance of Fee

12. According to the Right to Information (Regulation of Fee and Cost) Rules, 2005 as amended by the Right to Information (Regulation of Fee and Cost) Rules, 2006, an applicant can make payment of fee in cash or by demand draft or banker's cheque or Indian Postal Order payable to the Accounts Officer of the Public authority. The public authority should ensure that payment by any of the above modes is not denied or the applicant is not compelled to draw IPO etc. in the name of any officer other than the Accounts Officer. If any public authority does not have an Accounts Officer, it should designate an officer as such for the purpose of receiving fee under the RTI Act or rules made there under.

Compliance of the Orders of the Information Commission

13. While deciding an appeal, the Information Commission, may require the concerned public authority to take such steps as may be necessary to secure compliance with the provisions of the Act. In this regard the Commission may pass an order to provide information to an applicant in a particular form, appoint a Public Information Officer, publish certain information or categories of information; make necessary changes to its practices in relation to the maintenance, management and destruction of records; enhance the provision of training for its officials, provide an annual report as prepared in compliance with clause (b) of subsection (1) of section 4 of the Act.

14. The Commission has power to pass orders requiring a public authority to compensate the complainant for any loss or other detriment suffered by him. It also has power to impose penalty on the Public Information Officer as provided in the Act. It may be noted that penalty is imposed on the Public Information Officer which is to be paid by him. However, the compensation, ordered by the Commission to be paid to an applicant would have to be paid by the public authority.

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

Development of Programmes etc.

16. It is expected of each public authority that it would develop and organize educational programmes to advance the understanding of the public, in particular of disadvantaged communities, as to how to exercise the rights contemplated under the Act; and ensure timely and effective dissemination of accurate information about their activities. Training of the Public Information Officers and other officers of a public authority is very important for meeting these expectation and effective implementation of the provisions of the Act. The public authorities should, therefore, arrange for training of their officers designated as Public Information Officer/First Appellate Authority and other officers who are directly or indirectly involved in the implementation of the provisions of the Act.

Creation of Central Point

17. Sub-section (1) of Section 5 of the Right to Information Act, 2005 mandates all public authorities to designate as many Public Information Officers as necessary to provide information under the Act. Where a public authority designates more than one Public Information Officer (PIO), an applicant is likely to face difficulty in approaching the appropriate Public Information Officer. The applicant would also face problem in identifying the officer senior in rank to the Public Information Officer to whom an appeal under sub-section(1) of Section 19 of the Act can be made. Therefore all public authorities with more than one PIO should create a central point within the organisation where

all the RTI applications and the appeals addressed to the First Appellate Authorities may be received. An officer should be made responsible to ensure that all the RTI applications/appeals received at the central point are sent to the concerned Public Information Officers/ Appellate Authorities, on the same day.

Transfer of Applications

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

Annual Report of the CIC

19. The information Commissions, after the end of each year, are required to prepare reports on the implementation of the provisions of the Act during that year. Each Ministry or Department is required, in relation to the public authorities within its jurisdiction, to collect and provide information to the concerned Information Commission for preparation of the report. The report of the Commission, inter-alia, contains following information in respect of the year to which the report relates-

- (a) the number of requests made to each public authority;
- (b) the number of decisions where applicants were not entitled to access to the documents pursuant to the requests, the provisions of the Act under which these decisions were made and the number of times such provisions were invoked;
- (c) particulars of any disciplinary action taken against any officer in respect of the administration of the Act;
- (e) the amount of charges collected by each public authority under the Act, and
- (f) any facts which indicate an effort by the public authorities to administer and implement the spirit and intention of the Act.

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

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

PART III For Information Seekers

Method of Seeking Information

A citizen who desires to obtain any information under the Act, should make an application to the Public Information Officer of the concerned public authority in writing in English or Hindi or in the official language of the area in which the application is made. The application should be precise and specific. He should make payment of application fee at the time of submitting the application as prescribed in the Fee Rules. The applicant can send the application by post or through electronic means or can deliver it personally in the office of the public authority. The application can also be sent through an Assistant Public Information Officer.

Application to the concerned Public Authority

2. The applicant should make application to the concerned public authority. It is advised that he should make all efforts to ascertain as to which is the public authority concerned with the information and should send application to the Public Information Officer of that public authority.

3. It is observed that some applicants seek information in respect of many subjects by way of one application. It creates problem for the Public Information Officer as well as the applicant. The applicant

should, therefore, see to it that by way of one application, he seeks information in respect of one subject only.

Fee for Seeking Information

4. The applicant, along with the application, should send application fee to the Public Information Officer. In case of Government of India prescribed application fee is Rs. 10/- which can be paid through a demand draft or a banker's cheque or an Indian Postal Order payable to the Accounts Officer of the public authority. The payment of fee can also be made by way of cash to the Accounts Officer of the public authority or to the Assistant Public Information Officer against proper receipt.

5. The applicant may also be required to pay further fee towards the cost of providing the information, details of which shall be intimated to the applicant by the Public Information Officer. The fee so demanded can be paid the same way as application fee.

6. If the applicant belongs to below poverty line (BPL) category, he is not required to pay any fee. However, he should submit a proof in support of his claim to belong to the below poverty line. The application not accompanied by the prescribed application fee or proof of the applicant's belonging to below poverty line, as the case may be, shall not be a valid application under the Act.

Format of Application

7. There is no prescribed format of application for seeking information. The application can be made on plain paper. The application should, however, have the name and complete postal address of the applicant. Even in cases where the information is sought electronically, the application should contain name and postal address of the applicant.

Filing of Appeal

8. An applicant can file an appeal to the first appellate authority if information is not supplied to him within the prescribed time of thirty days or 48 hours, as the case may be, or is not satisfied with the information furnished to him. Such an appeal, should be filed within a period of thirty days from the date on which the limit of 30 days of supply of information is expired or from the date on which the information or decision of the Public Information Officer is received. The appellate authority of the public authority shall dispose of the appeal within a period of thirty days or in exceptional cases within 45 days of the receipt of the appeal.

9. If the appellate authority fails to pass an order on the appeal within the prescribed period or if the appellant is not satisfied with the order of the first appellate authority, he may prefer a second appeal with the Information Commission within ninety days from the date on which the decision should have been made by the first appellate authority or was actually received by the appellant.

10. The appeal made to the Central Information Commission should contain the following information:-

- (i) Name and address of the appellant;
- (ii) Name and address of the Public Information Officer against the decision of whom the appeal is preferred;
- (iii) Particulars of the order including number, if any, against which the appeal is preferred;
- (iv) Brief facts leading to the appeal;
- (v) If the appeal is preferred against deemed refusal, particulars of the application, including number and date and name and address of the Public Information Officer to whom the application was made;
- (vi) Prayer or relief sought;
- (v) Grounds for prayer or relief;
- (vi) Verification by the appellant; and
- (vii) Any other information, which the Commission may deem necessary for deciding the appeal.

11. The appeal made to the Central Information Commission should be accompanied by the following documents;

- (i) Self-attested copies of the orders or documents against which appeal is made;
- (ii) Copies of the documents relied upon by the appellant and referred to in the appeal; and
- (iii) An index of the documents referred to in the appeal.

Filing of Complaints

12. A person can make a complaint to the Information Commission if he is unable to submit a request to a Public Information Officer either by reason that such an officer has not been appointed by the concerned public authority; or the Assistant Public Information Officer has refused to accept his or her application or appeal for forwarding the same to the Public Information Officer or the appellate authority, as the case may be, or he has been refused to access to any information requested by him under the RTI Act; or he has not been given response to a request for information within the time limit specified in the Act; or he has been required to pay an amount of fee which he considers unreasonable; or he believes that he has been given incomplete, misleading or false information.

PART IV

For Public Information Officers

The Public Information Officer of a public authority plays a pivotal role in making the right of citizens to information a reality. The Act casts specific duties on him and makes him liable for penalty in case of default. It is, therefore, essential for a Public Information Officer to study the Act carefully and understand its provisions correctly. Besides the issues discussed elsewhere in this document, a Public Information Officer should keep the following aspects in view while dealing with the applications under the Act.

Applications Received Without Fee

2. Soon after receiving the application, the Public Information Officer should check whether the applicant has made the payment of application fee or whether the applicant is a person belonging to a Below Poverty Line (BPL) family. If application is not accompanied by the prescribed fee or the BPL Certificate, it cannot be treated as an application under the RTI Act. It may, however, be noted that Public Information Officer should consider such application sympathetically and try to supply information sought by way of such an application.

Transfer of Application

3. Some times requests are made to a public authority for information which do not concern that public authority or only a part of which is available with the public authority to which the application is made and remaining or whole of the information concerns another public authority or many other public authorities.

4. 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 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 an application is made, shall transfer the application to that other public authority. The provisions of sub-section (1) and sub-section (3) of Section 6, suggest that the Act requires an information seeker to address the application to the Public Information Officer of the 'concerned public authority'. However, there may be cases in which a person of ordinary prudence may believe that the 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 other public authority. In such cases, the applicant makes a bonafide mistake of addressing the application to the Public Information Officer of a wrong public authority. On the other hand where an applicant addresses the application to the Public Information Officer 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'.

5. Given hereinunder are some situations which may arise in the matter and action required to be taken in such case:

(i) A person makes an application to a public authority for some information which concerns some another public authority. In such a case, the Public Information Officer receiving the application should transfer the application to the concerned public authority under intimation to the applicant. However, if the Public Information Officer 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 his 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 PIO, if an appeal is made against his decision, to establish that he made reasonable effort 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 Public Information Officer should supply the information concerning his public authority 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 Public Information Officer 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 available with it but is scattered with more than one other public authorities, the Public Information Officer should inform the applicant that information is not available with the public authority and that the applicant should make separate application is 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 collect the information from various public authorities to supply it to the applicant. At the same time, since the information is not related to any one another 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 to '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 of Central Government for some information which is the concern of a public authority under any State Government or the Union Territory Administration, the Public Information Officer 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.
6. In brief, if the application is accompanied by the prescribed fee or the Below Poverty Line Certificate, the Public Information Officer should check whether the subject matter of the application or a part thereof concerns some other public authority. If the subject matter of the application concerns any other public authority, it should be transferred to that public authority. If only a part of the application concerns the other public authority, a copy of the application may be sent to that public authority, clearly specifying the part which relates to that public authority. While transferring the application or sending a copy thereof, the concerned public authority should be informed that the application fee has been received. The applicant should also be informed about the transfer of his application and the particulars of the public authority to whom the application or a copy thereof has been sent.
7. Transfer of application or part thereof, as the case may be, should be made as soon as possible and in any case within five days from the date of receipt of the application. If a Public Information Officer transfers an application after five days from the receipt of the application, he would be responsible for delay in disposal of the application to the extent of number of days which he takes in transferring the application beyond 5 days.
8. The Public Information Officer of the public authority to whom the application is transferred, should not refuse acceptance of transfer of the application on the ground that it was not transferred to him within 5 days.
9. A public authority may designate as many Public Information Officers for it, as it may deem necessary. It is possible that in a public authority with more than one Public Information Officer, an application is received by the Public Information Officer other than the concerned Public Information Officer. In such a case, the Public Information Officer receiving the application should transfer it to the concerned Public Information Officer immediately, preferably the same day. Time period of five days for transfer of the application applies only when the application is transferred from one public authority to

another public authority and not for transfer from one Public Information Officer to another in the same public authority.

Rendering Assistance to Applicants

10. The RTI Act provides that the Public Information Officer has a duty to render reasonable assistance to the persons seeking information. As per provisions of the Act, a person, who desires to obtain any information is required to make a request in writing or through electronic means in English or Hindi or in the official language of the area in which the application is made. If a person seeking information is not able to make such request in writing, the Public Information Officer should render reasonable assistance to him to reduce the same in writing.

11. Where access to a record is required to be provided to a sensorily disabled person, the Public Information Officer should provide assistance to such person to enable him to access the information. He should also provide such assistance to the person as may be appropriate for the inspection of records where such inspection is involved.

Assistance Available to PIO

12. The Public Information Officer may seek the assistance of any other officer as he or she considers necessary for the proper discharge of his or her duties. The officer, whose assistance is so sought by the Public Information Officer, would render all assistance to him. Such an officer shall be deemed to be a Public Information Officer and would be liable for contravention of any provisions of the Act the same way as any other Public Information Officer. It would be advisable for the Public Information Officer to inform the officer whose assistance is sought, about the above provision, at the time of seeking his assistance.

13. Some Public Information Officers, on the basis of above referred provision of the Act, transfer the RTI applications received by them to other officers and direct them to send information to the applicants as deemed Public Information Officer. Thus, they use the above referred provision to designate other officers as Public Information Officer. According to the Act, it is the responsibility of the officer who is designated as the Public Information Officer by the public authority to provide information to the applicant or reject the application for any reasons specified in Sections 8 and 9 of the Act. The Act enables the Public Information Officer to seek assistance of any other officer to enable him to provide information to the information seeker, but it does not give him authority to designate any other officer as Public Information Officer and direct him to send reply to the applicant. The import of the provision is that, if the officer whose assistance is sought by the Public Information Officer, does not render necessary help to him, the Information Commission may impose penalty on such officer or recommend disciplinary action against him the same way as the Commission may impose penalty on or recommend disciplinary action against the Public Information Officer.

Supply of Information

14. The answering Public Information Officer should check whether the information sought or a part thereof is exempt from disclosure under Section 8 or Section 9 of the Act. Request in respect of the part of the application which is so exempt may be rejected and rest of the information should be provided immediately or after receipt of additional fees, as the case may be.

15. Where a request for information is rejected, the Public Information Officer should 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 authority to whom an appeal can be made.

16. If additional fee is required to be paid by the applicant as provided in the Fee and Cost Rules, the Public Information Officer should inform the applicant:

- (i) the details of further fees required to be paid;
- (ii) the calculations made to arrive at the amount of fees asked for;
- (iii) the fact that the applicant has a right to make appeal about the amount of fees so demanded;
- (iv) the particulars of the authority to whom such an appeal can be made; and
- (v) the time limit within which the appeal can be made.

Supply of Part Information by Severance

17. Where a request is received for access to information which is exempt from disclosure but a part of which is not exempt, as such part can be severed in such a way that the severed part does not contain exempt information then, access to that part of the information/record may be provided to the applicant. Where access is granted to a part of the record in such a way, the Public Information Officer should inform the applicant that the information asked for is exempt from disclosure and that only part of the record is being provided, after severance, which is not exempt from disclosure. While doing so, he should give the reasons for the decision, including any findings on any material question of fact, referring to the material on which those findings were based. The Public Information Officer should take the approval of appropriate authority before supply of Information in such a case and should inform the name and designation of the person giving the decision to the applicant also.

Time Period for Supply of Information

18. The Public Information Officer should supply the information within thirty days of the receipt of the request. Where the information sought for concerns the life or liberty of a person, the same should be provided within forty-eight hours of the receipt of the request. If request for information is received through the APIO, the information may be provided within 35 days of the receipt of application by the APIO in normal course and 48 hours plus 5 days in case the information sought concerns the life or liberty of a person.

19. In case of an application transferred from one public authority to another public authority, reply should be provided by the concerned public authority within 30 days of the receipt of the application by that public authority in normal course and within 48 hours in case the information sought concerns the life or liberty of a person.

20. The Public Information Officer of the intelligence and security organizations specified in the Second Schedule of the Act may receive applications seeking information pertaining to the allegations of corruption and human rights violations. Information in respect of allegations of violation of human rights, which is provided only after the approval of the Central Information Commission, should be provided within forty-five days from the date of the receipt of request. Time limit prescribed for supplying information in regard to allegations of corruption is the same as in other cases.

21. Where the applicant is asked to pay additional fee, the period intervening between the dispatch of the intimation about payment of fee and the payment of fee by the applicant shall be excluded for the purpose of calculating the period of reply. The following table shows the maximum time which may be taken to dispose of the applications in different situations:

Sl. No.	Situation	Time limit for disposing of applications
1.	Supply of information in normal course	30 days
2.	Supply of information if it concerns the life or liberty of a person	48 hours
3.	Supply of information if the application is received through APIO	05 days shall be added to the time period indicated at Sl. No. 1 and 2
4.	Supply of information if application/request is received after transfer from another public authority: (a) in normal course (b) In case the information concerns the life or liberty of a person.	(a) within 30 days of the receipt of the application by the concerned public authority. (b) Within 48 hours of receipt of the application by the concerned public authority.
5.	Supply of Information by organizations specified in the Second Schedule: (a) If information relates to allegations of violation of human rights (b) In case information relates to allegations of corruption	(a) 45 days from the receipt of application. (b) Within 30 days of the receipt of application.
6.	Supply of information if it relates to third party and the third party has treated it as confidential.	Should be provided after following the procedure given in para 23 to 28 of this part of the document.
7.	Supply of information where the applicant is asked to pay additional fee	The period intervening between informing the applicant about additional fee and the payment of fee by the applicant shall be excluded for calculating the period of reply.

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

Disclosure of Third Party Information

23. Information including commercial confidence, trade secrets or intellectual property, the disclosure of which would harm the competitive position of a third party, is exempt from disclosure. Such an information shall not be disclosed unless the competent authority is satisfied that larger public interest warrants the disclosure of such information.

24. If an applicant seeks any information which relates to or has been supplied by a third party and that third party has treated that information as confidential, the Public Information Officer shall consider whether the information should be disclosed or not. The guiding principle in such cases is 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. However, the Public Information Officer would have to follow the following procedure before disclosing such information.

25. If the Public Information Officer intends to disclose the information, he shall within five days from the receipt of the application, give a written notice to the third party that the information has been sought by the applicant under the RTI Act and that he intends to disclose the information. He shall request the third party to make a submission in writing or orally, regarding whether the information may be disclosed. The third party shall be given a time of ten days, from the date of receipt of the notice by him, to make representation against the proposed disclosure, if any.

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

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

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

Suo Motu Disclosure

29. The Act makes it obligatory for every public authority to make suo-motu disclosure in respect of the particulars of its organization, functions, duties and other matters, as provided in section 4 of the Act. The information so published, according to sub-section (4) of section 4, should be easily accessible with the Public Information Officer in electronic form. The Public Information Officer should, therefore, make concerted efforts to ensure that the requirements of the Section 4 of the RTI Act 2005 are met and maximum information in respect of the public authority is made available on the internet. It would help him in two ways. First, the number of applications under the Act would be reduced and secondly, it would facilitate his work of providing information inasmuch as most of the information would be available to him at one place.

Imposition of Penalty

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

Disciplinary Action Against PIO

31. Where the Information Commission at the time of deciding any complaint or appeal is of the opinion that the Public Information Officer has without any reasonable cause and persistently, failed to receive an application for information or has not furnished information within the time specified or malafidely denied the request for information or knowingly given incorrect, incomplete or misleading information or destroyed information which was the subject of the request or obstructed in any manner in furnishing the information, it may recommend disciplinary action against the Public Information Officer.

Protection for Work Done in Good Faith

32. Section 21 of the Act provides that no suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under the Act or any rule made thereunder. A Public Information Officer should, however, note that it would be his responsibility to prove that his action was in good faith.

Annual Report of the CIC

33. The Central Information Commission prepares a report on the implementation of the provisions of the RTI Act every year, which is laid before each House of the Parliament. This report, inter-alia, has to include information about the number of requests made to each public authority, the number of decisions where the applicants were not entitled to access to documents requested for, the provisions of the Act under which these decisions were made and the number of times such provisions were invoked, the amount of charges collected by each public authority under the Act. Each Ministry/Department is required to collect such information from all the public authorities under its jurisdiction and send the same to the Commission. The Public Information Officers should maintain the requisite information in this regard so that it may be supplied to their administrative Ministry/Department soon after the end of the year, which in turn may supply to the Commission.

PART V

For First Appellate Authorities

It is the responsibility of the Public Information Officer of a public authority to supply correct and complete information within the specified time to any person seeking information under the RTI Act, 2005. There are possibilities that a Public Information Officer may not act as per provision of the Act or an applicant may not otherwise be satisfied with the decision of the Public Information Officer. The Act contains provision of two appeals to tide over such situations. The first appeal lies within the public authority itself which is made to an officer designated as the First Appellate Authority by the concerned public authority. The First Appellate Authority happens to be an officer senior in rank to the Public Information Officer. The second appeal lies with the Information Commission. The Central Information Commission (Appeal Procedure) Rules, 2005 govern the procedure for deciding appeals by the Central Information Commission.

First Appeal

2. The information sought by an the applicant should either be supplied to him or his application should be rejected within the time prescribed by the Act. If additional fee need be charged form the applicant, communication in this regard should be sent to him within the time limit prescribed for sending information. If the applicant does not receive information or decision about rejection of request or communication about payment of additional fee within the specified time, he can make an appeal to the First Appellate Authority. Appeal can also be made if the applicant is aggrieved by the decision of the Public Information Officer regarding supply of information or the quantum of fee decided by the Public Information Officer.

3. A third party can prefer an appeal to the First Appellate Authority if it is not satisfied with the decision made by the Public Information Officer about disclosure of the information for which it has objected. Such an appeal can be made within thirty days from the date of the receipt of notice from the Public Information Officer to the effect that he proposes to disclose the concerned information. If not satisfied with the decision of the First Appellate Authority, the third party can prefer the second appeal to the Information Commission.

Disposal of Appeal

4. 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.

5. If an appellate authority while deciding an appeal comes to a conclusion that the appellant should be supplied information in addition to what has been supplied by the Public Information Officer, he may either (i) pass an order directing the Public Information Officer to give such information to the appellant; or (ii) he himself may give information to the appellant. In the first case the appellate authority should ensure that the information ordered by him to be a supplied to the appellant immediately. It would, however, be better if the appellate authority choose the second course of action and he himself furnishes the information alongwith the order passed by him in the matter.

6. If, in any case, the Public Information Officer does not implement the order passed by the appellate authority and the appellate authority feels that intervention of higher authority is required to get his order implemented, he should bring the matter to the notice of the officer in the public authority competent to take action against the Public Information Officer. Such competent officer shall take necessary action so as to ensure implementation of the provisions of the RTI Act.

Time Limit for Disposal of Appeal

7. The first appellate authority should dispose of the appeal within 30 days of receipt of the appeal. In exceptional cases, the Appellate Authority may take 45 days for its disposal. However, in cases where disposal of appeal takes more than 30 days, the Appellate Authority should record in writing the reasons for such delay.



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**Government of West Bengal
Land and Land Reforms Department
Establishment Branch**

Memo No. Estt./1M-52/05-Estt.

Dated : 16/19.09.2005

To
D.L.R & S. and Jt. L.R.C., W.B.
Survey Buildings,
35, Gopalnagar Road, Alipore,
Kolkata -700027.

The Right to Information Act, 2005 has been passed providing for granting the right to the citizens to have information about the Govt. functioning. The Act has, interalia, laid down the provision for imposition of penalty for non-submission of information by the State Government Department/ Offices to persons requesting for the same within the jurisdiction of the said Act.

In view of above it has become necessary to set up necessary infrastructure at all levels under the control of this department . As a first step, it has been decided to designate an officer as State Public Information Officer upto District level and State Assistant Public Information Officer from the Sub-division level and downwards under the control of this Deptt. as follows :

Sl. No.	Name of the office	Officer to be designated as State Public Information Officer	State Assistant Public Information Officer
1.	D.L.R. & S.	Dy. D.L.R. & S.	-
2.	D.L & L.R.O	S.R.O-I	-
3.	S.D.L.& L.R.O	-	S.R.O. II
4.	B.L.& L.R.O.	-	R.O
5.	R.I	-	R.I

The undersigned is , therefore, directed to request him to take necessary steps in this respect immediately and send to this Deptt. the names and telephone numbers of the officers so designated within seven days for onward transmission thereof to the Chief Secretary of this Government.

Further course of action in this respect will be intimated soon.

Sd/-Illegible
Joint Secretary
Land and Land Reforms Deptt. , W.B

**Government of West Bengal
Office of the Director of Land Records & Surveys and Joint Land Reforms Commissioner, West Bengal
Survey Building, 35, Gopal Nagar Road, Alipore, Kolkata 700027**

Memo No. 812/9364-90/BII/05

Dated, Alipore, the 19th September 2005

Copy forwarded for information and necessary action to-
The District Land & Land Reforms Officer,.....

D.K. Chaudhuri
Director of Land Records & Surveys and
Joint Land Reforms Commissioner, West Bengal

**Government of West Bengal
Personnel & Administrative Department
Administrative Reforms Cell
Writers' Building: Kolkata- 700001**

From: Sri R.N. Das, IAS
Joint Secretary
P&A.R. Department.

To : The Joint Secretary,
Deptt. of Power & Non-conventional Energy Sources
New Secretariat Buildings,
7th Floor, Block-A, Kolkata-700001

No. 724-PAR(AR)/O/3M-29/2005 pt. IV

Dated, Kolkata the 7th Dec. 2005

Sub: Rules to carry out the provisions of The Right to Information Act. 2005

Sir,

I am directed to refer to the letter no. 94-power V/IR-01/2005 dt. 25.11.2005 on the subject mentioned above and to say that the State Public Information Officer of any Public Authority on receipt of request of providing information under Section 6 of the aforesaid Act shall within thirty days of the receipt of the request provide the information as per provisions of Sections 7(1) of the Act ibid on payment of such fees as may be prescribed.

I am directed to say that pending rules, any State Public Information Officer of any Public Authority may provide information subject to payment of fees in due course on receipt of an undertaking from the person who desires to obtain information, otherwise the State Public Information Officer of any Public Authority shall have to give information free of charge after thirty days from the date of receipt of request as per provisions of section 7(6) of The Right to Information Act, 2005 when that Act is in operation in the State since June 2005.

Yours faithfully,
R.N. Das
Joint Secretary to the Govt. of W.B.

●
**Government of West Bengal
Land & Land Reforms Department
Estt. Branch
Writers' Buildings, Kolkata - 1**

No. 1028-Estt/1M-52/05

Dated Kolkata, the 20th Feb, 2006

ORDER

In terms of provisions as laid down in section 19(1) of the Right to Information Act, 2005, the following officers will act as Appellate Authority for the offices noted against them in Col.3 :

Sl. No.	Designation of the officer who will act as Appellate Authority	Name of the Office
(1)	(2)	(3)
1)	The Director of Land Records & Surveys and Jt. Land Reforms Commissioner, W.B.	Directorate of Land Records & Surveys, W.B.
2)	The 1 st L.A. Collector, Kolkata	The 1 st L.A.C. Collectorate Kolkata.
3)	The Collector of Kolkata	The Collectorate of Kolkata.
4)	The Rent Controller, Kolkata	Office of the Rent Controller, Kolkata.
5)	The Controller, Kolkata Thika Tenancy	Office of the Controller, Kolkata Thika Tenancy.

(1)	(2)	(3)
6)	The Controller, Howrah Thika Tenancy	Office of the Controller, Howrah Thika Tenancy.
7)	Arbitrator, 24 Pgs. (N & S) & Kolkata	Office of the Arbitrator, 24 Pgs. (N & S) & Kolkata.
8)	The Director of Land Records & Surveys (Ex-Officio) Indo-Bangladesh Boundary Demarcation.	Directorate of Land Records & Surveys, Indo-Bangladesh Boundary Demarcation.

S. Das
Pr. Secretary to the Govt. of W.B.
Land & Land Reforms Deptt.

No. 1028/1(8)-Estt.

Dated Kolkata, the 20th Feb. 2006

Copy forwarded for information & necessary action to:

1. The Director of Land Records & Surveys and Joint Land Reforms Commissioner, W.B., 35, Gopal Nagar Rd., Alipore, Kolkata – 27.

It has been decided that all the D.L. & L.R.O.s will act as Appellate Authority in respect of their respective Districts. He is, therefore, requested to issue necessary order to that effect.

He is requested to furnish the necessary information as per two formats attached herewith immediately. His office Code No. has been indicated in the prescribed format.

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Government of India
Ministry of Personnel, Public Grievances and Pensions
Department of Personnel and Training

F. No. 1/4/2006-IR

New Delhi Dated 21st February, 2006

OFFICE MEMORANDUM

The undersigned is directed to say that the Central Information Commission, on the basis of suggestions and complaints received from members of public, has desired that the following steps should be taken by Ministries/Departments regarding the Right to Information Act, 2005 within individual jurisdiction.

1. The PIOs, APIOs and Appellate Authorities are placed in all public authorities set up from the Ministry's/Department's budget or under administrative control of Ministry/Department, if they are not already there.
2. Furnishing to the Central Information Commission the details of nodal officer appointed for implementation of the Act and the complete list of PIOs/APIOs and the Appellate Authorities along with their contact details, namely addresses, phone numbers, e-mail addresses and fax numbers.
3. Steps be taken to enable people to file their applications by post. To make this easy, awareness should be generated through print and electronic media regarding the name of the bank account into which the demand draft or bankers cheque should be accepted. The particulars of these bank accounts should be furnished to the Central Information Commission.
4. Some Ministries/Departments have appointed several Public Information Officers having different jurisdictions. In such case a clarification may be issued to the effect that application can be received by any PIO whose duty it would be to direct it to the PIO concerned under intimation to the applicant.
5. In case a person writes directly to the Head of Department/Office enclosing the required fee, it should be ensured that application reaches the proper PIO under intimation to the applicant.
6. The Right to Information Act, 2005 does not provide for any formal application form for

acquiring access to information. The Act also states that request for information can be sought 'in writing or through electronic means....' therefore, application for information on plain paper are also to be received and replied within the prescribed time limit.

7. Section 6(2) of the Right to Information Act, 2005 states that no person seeking information shall be required to give any reason for his request. Therefore, necessary orders may be issued to all the officials in the Ministries/Departments/Public Authorities to comply with the directives of the Act and not to ask unnecessary questions from complainants/applicants.

It is requested that action on the above points may be taken at the earliest and a compliance report sent to the Central Information Commission by 24/2/2006.

C.A Subramanian
Deputy Secretary to the Government of India

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The Kolkata Gazette
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TUESDAY, MARCH 6, 2007

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**Government of West Bengal
Personnel & Administrative Reforms Department
Administrative Reforms Cell**

NOTIFICATION

No. 203-PAR (AR)/O/3M-29/2005 pt-VI (II)

Dated, Kolkata 01.03.2007

The Right to Information Act, 2005 (22 of 2005) has come into force w.e.f 12.10.2005.

In terms of Section 6 of the Act, a person may request for obtaining information. In terms of Rules 3 & 4 of West Bengal Right to Information Rules, 2006, collection of fees from the Information Seekers for the purpose of supplying information is to be made.

The Governor has therefore been pleased to approve of the opening of a new head of account for collection of fees from the Information Seekers for the purpose of supplying information as per following details :-

'0070- Other Administrative Services -60 -Other Services -800 -Other Receipts -021 -Collection of fees form Information Seeker for the purpose of servicing Information -27- Other Receipts'

This has the approval of Finance (Budget) Department of this government vide their V.D. No. 0104, Group 'N', dt. 18.04.2006 and also approval of the Accountant General (A&E), West Bengal vide letter No. A.M. -1/3- 37 N / 903 dated 20.03.2006.

By order of the Governor,
Trilochan Singh
Pr. Secretary to the Govt. of West Bengal

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**Government of India
Ministry of Personnel, Public Grievances and Pensions
Department of Personnel and Training**

F. No 1/2/2007-IR

North Block, New Delhi, Dated 23 March, 2007

OFFICE MEMORANDUM

Sub : Non-implementation of various provisions of the RTI Act, 2005 by public authorities—regarding

It has been brought to the notice of this Department that

- (i) Some public authorities have not designated Public Information Officers and/ or Assistant Public Information Officers under the Right to Information Act, 2005 so far;
- (ii) Some public authorities do not accept fee by way of India postal Orders;

- (iii) Some public authorities do not accept demand drafts/bankers cheques/Indian Postal Orders drawn in the name of their Accounts Officer and insist that these should be drawn in the name of Drawing and Disbursing Officer or the Under Secretary or the Section Officer etc.; and
- (iv) Some public authorities do not accept applications submitted by the applicant and insist that application for seeking information should be submitted in a particular format prescribed by them.

2. Attention is invited to sub-section (1) of section 5 of the Act, which provides that 'every public authority shall designate Public Information Officers in all administrative units or offices under it within one hundred days of the enactment of the Act.' Like wise sub-section (2) of Section 5 of the Act provides that every public authority shall designate an officer as Assistant Public Information Officer at each sub-divisional level within one hundred days of the enactment of the Act. More than a year has passed since the Act was enacted. Non-designation of Public Information Officer(s) and/or Assistant Public Information Officer(s) by any public authority contravenes the provisions of the Act.

3. According to the Right to Information (Regulation of Fee and Cost) Rules, 2005 as amended by the Right to Information (Regulation of Fee and Cost) Rules 2006, the approved mode of payment of fee for obtaining information is by cash or demand draft or banker's cheque or Indian Postal Order payable to the Accounts Officer of the public authority. Non acceptance of fee by way of Indian Postal Order or insistence that the demand draft/banker's cheque /Indian Postal Order should be drawn in the name of any officer other than the Accounts Officer of the public authority is not in line with the provisions of the Rules.

4. Section 6(1) provides that a person, who desires to obtain any information under the Act, shall make a request in writing or through electronic means in English or Hindi or in the official language of the area in which the application is being made. The Act or Rules notified by the Government do not prescribe any format of application for seeking information. Non-acceptance of an application on the ground that it is not in prescribed format is against the provisions of the Act.

5. In view of above facts, all the public authorities may ensure that:-

- (i) Central Public Information Officers/Central Assistant Public Information Officers are designated immediately, if it has not been done so far. Details of these officers may also be posted on the website.
- (ii) Fee paid by any of the modes prescribed in the Rules including by way of Indian Postal Order is accepted;
- (iii) Demand draft/Banker's Cheques/IPOs made payable to the Account Officer of the public authorities are accepted; and
- (v) Applications submitted by the applicants are not refused on the ground that it has to be submitted in prescribed format.

6. Contents of the OM may be brought to the notice of all concerned.

K.G. Verma
Director

To

- 1. All Ministries/Departments of Government of India
- 2. Department of Economic Affairs (Banking Division), New Delhi
- 3. Department of Economic Affairs (Insurance Division), New Delhi
- 4. Department of Public Enterprises, New Delhi
- 5. Railway Board
- 6. Union Public Service Commission/Supreme Court of India/Election Commission/Lok Sabha Secretariat/Rajya Sabha Secretariat/ Cabinet Secretariat/ Central Vigilance Commission/ President's Secretariat/ Prime Minister's Office/ Planning Commission.
- 7. Staff Selection Commission, CGO Complex, Lodhi Road, New Delhi
- 8. Office of the Comptroller & Auditor General of India, 10, Bahadur Shah Zafar Marg, New Delhi
- 9. 200 spare copies

Government of India
Ministry of Personnel, Public Grievances and Pensions
Department of Personnel and Training

F. No 10/23/2007-IR

New Delhi, Dated the 9th July, 2007

OFFICE MEMORANDUM

Sub : Disposal of first appeals under the RTI Act, 2005.

The undersigned is directed to say that the Central Information Commission has brought to the notice of this Department that in some cases,

- (i) The first Appellate Authorities under the Right to Information Act do not dispose of the appeals within the time frame prescribed by the Act;
- (ii) The Appellate Authorities do not examine the appeals judiciously and express their agreement with the decision of the Central Public Information Officer mechanically;
- (iii) The Central Public Information Officers do not comply with the directions of the first Appellate Authority to furnish information to the appellant.

2. Section 19(6) of the RTI Act provides that the first Appellate Authority should dispose of the appeal within thirty days of the receipt of the appeal. In exceptional cases, the appellate authority may take forty five days to dispose of the appeal subject to the condition that he shall record in writing the reasons for delay in deciding the appeal. Therefore, each first appellate authority should ensure that an appeal received by him is disposed of within 30 days of the receipt of the appeal. If, in some exceptional cases, it is not possible to dispose of the appeal within 30 days, its disposal should not take more than 45 days. In such cases, the appellate authority should record, in writing, the reasons for not deciding the appeal within 30 days.

3. 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.

4. If an appellate authority comes to a conclusion that the appellant should be supplied information in addition to what has been supplied to him by the CPIO, he may either (i) pass an order directing the CPIO to give such information to the appellant; or (ii) he himself may give information to the appellant while disposing of the appeal. In the first case the appellate authority should ensure that the information ordered by him to be supplied is supplied to the appellant immediately. It would, however, be better if the appellate authority chooses the second course of action and he himself furnishes the information along with the order passed by him in the matter.

5. The Central Information Commission has also pointed out that some of the Ministries/Departments have appointed very junior officers as appellate authorities who are not in a position to enforce their orders. The Act provides that the first appellate authority would be an officer senior in rank to the CPIO. Thus, the appellate authority, as per provisions of the Act, would be an officer in a commanding position vis-à-vis the CPIO. Nevertheless, if, in any case, the CPIO does not implement the order passed by the appellate authority and the appellate authority feels that intervention of higher authority is required to get his order implemented, he should bring the matter to the notice of the officer in the public authority competent to take against the CPIO. Such competent officer shall take the necessary action so as to ensure implementation of the provisions of the RTI Act.

6. Contents of this OM may be brought to the notice of all concerned.

K.G. Verma
Director

Copy to: Chief Secretaries of all the States/UTs for information

Government of India
Ministry of Personnel, Public Grievances and Pensions
Department of Personal and Training

No. 1/12/2007-IR

New Delhi, the 31st July, 2007

OFFICE MEMORANDUM

Sub : Preparation of Inventory of Public Authorities under RTI Act, 2005.

The Second Administrative Reforms Commission in its First report has inter-alia made the following recommendations:

- (i) At the Government of India level, the Department of Personnel & Training has been identified as the nodal department for implementation of the RTI Act. This nodal department should have a complete list of all Union Ministries/Departments, which function as public authorities.
- (ii) Each Union Ministry/Department should also have an exhaustive list of all public authorities, which come within its purview. The public authorities coming under each Ministry/Department should be classified into (i) constitutional bodies (ii) line agencies (iii) statutory bodies (iv) public sector undertakings (v) bodies created under executive orders (vi) bodies owned, controlled or substantially financed and (vii) NGOs substantially financed by Government. Within each category an up-to date list of all public authorities has to be maintained.
- (iii) Each public authority should have the details of all public authorities subordinate to it at the immediately next level. This should continue till the last level is reached. All these details should be made available on the websites of the respective public authorities, in a hierarchical form.
- (iv) A similar system should also be adopted by the states.

2. The Government has considered the above recommendations and decided to accept the same. A list of all Union Ministries/Departments has already been posted on the RTI Portal (www.rti.gov.in). All the Ministries/Departments are requested to prepare an exhaustive list of all the public authorities under them. These authorities may suitably be classified into attached offices, subordinate offices, autonomous bodies, public sector undertakings, constitutional bodies, statutory bodies etc. The Ministries/Departments may also prepare the list of NGOs which receive grant from them and fall within the definition of "public authority". The lists of public authorities so prepared may be uploaded by the concerned Ministries/Departments on the RTI Portal and kept updated.

3. It is also requested that the Ministries/Departments may issue instructions to all the public authorities under them to take action as per the recommendation of the Administrative Reforms Commission contained in clause (iii) of para 1 above.

K.G. Verma
Director

Copy to : Chief Secretaries of all the States/UTs- It is requested that necessary action may be taken to implement the above referred recommendations of the Administrative Reforms Commission in their States/UTs.

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Government of India
Ministry of Personnel, Public Grievances & Pensions
Department of Personnel & Training

No. 10/20/2006-IR

North Block New Delhi, Dated, the 21st September, 2007

OFFICE MEMORANDUM

Sub : Disclosure of Annual Confidential Reports under the RTI Act, 2005.

The undersigned is directed to say that a number of applications are received under the Right to Information Act, 2005 requesting for supply of copies of Annual Confidential Reports (ACRs) of employees. The matter regarding disclosure of the ACRs under the Act has been examined in consultation with the Department of Legal Affairs.

2. Clause (j) of sub-section (1) of section 8 of the RTI Act provides that there is no obligation to give any citizen an information which relates to personal information and disclosure of which has no relationship to any public activity or interest, or which would cause unwarranted invasion of privacy of the individual unless the 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. An ACR contains information about the character, capability and other attributes of the official reported upon, disclosure of which to any other person amounts to cause unwarranted invasion of the privacy of the individual. Besides, an ACR, as its name suggests, is a confidential document. The Official Secrets Act, 1923 is not completely superseded by the Right to Information Act. Sub-section (2) of section 8 of the 2005 Act gives a discretion to the public authority to disclose the ACRs of an officer to himself or to any other applicant.

3. It is clear from the above discussion that the public authority is not under obligation to disclose ACRs of any employee to the employee himself or to any other person inasmuch as disclosure of ACRs is protected by clause (j) of sub-section (1) of section 8 of the RTI Act; and an ACR is a confidential document, disclosure of which is protected by the Official Secrets Act, 1923. However, the public authority has a discretion to disclose the Annual Confidential Reports of an employee to the employee himself or to any other person, if the public authority is satisfied that the public interest in disclosure outweighs the harm to the protected interests. If it is felt that public interest in disclosure of ACR of any employee outweighs the protected interests, decision to disclose the ACRs should be taken with the approval of the competent authority. Competent authority in the matter may be decided by the concerned public authority.

K.G. Verma
Director
Tel. No. 23092158

To
Central Information Commission/ State Information Commissions.

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Government of India
Ministry of Personnel, Public Grievances & Pensions
Department of Personnel & Training

No. 1/18/2007-IR

New Delhi, the 21st September, 2007

OFFICE MEMORANDUM

Sub : Maintenance of records and publication of information under the Right to Information Act, 2005.

Section 4 of the Right to Information Act, 2005 sets out a practical regime of transparency in the working of the public authorities by way of disclosure of as much information to the public as possible, suo-motu so that the public may not have to resort to section 6. It is an important part of the Act observance of which is essential for its effective implementation.

2. Clause (a) of sub-section (1) of the section 4 makes it obligatory for every public authority to maintain all its records duly catalogued and indexed. Record management in accordance with this provision is an important step to enable the Public Information Officers to furnish information sought under the Act. The clause also requires the public authority to have its records computerized and connected through a network all over the country. The public authorities are expected to complete the requirements of this clause on top priority.

3. Clause (b) of the sub-section *ibid* mandates the public authorities to publish the information mentioned therein within one hundred and twenty days from the date of enactment of the Act.

It is expected that all public authorities would have complied with this requirement already. If it has not been done, its compliance may be ensured without any further delay. Information so published should also be updated every year as provided in the Act.

4. It is obligatory for all the public authorities under clause (c) of sub section (1) of section 4 of the Act to publish all relevant facts while formulating important policies and announcing decisions affecting the public. They, under clause (d), are also obliged to provide reasons for their administrative or quasi judicial decisions to the affected parties.

5. Section 4 of the Act requires wide dissemination of every information required to be disclosed suomotu in such form and manner which is accessible to the public. Dissemination may be done through notice boards, news papers, public announcements, media broadcasts, the internet or any other means. While disseminating the information, the public authority should take into consideration the cost effectiveness, local language and the most effective method of communication in the concerned local area. The information should be, to the extent possible, available with the Public Information Officer in the electronic format which could be made available free of cost or at such price as may be prescribed. A copy of the document published, referred to in para 3, and also the copies of publications referred to in para 4 above, should be kept with an officer of the public authority and should be made available for inspection by any person desirous of inspecting these documents.

6. All the Ministries/Departments etc. are requested to comply with the above referred requirements of the Act and also to issue necessary instructions to the public authorities under them for compliance of the same.

K.G. Verma
Director
Tel: 23092158

Copy to : Chief Secretaries of all the States/UTs.

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Government of India
Ministry of Personnel, Public Grievances & Pensions
Department of Personnel & Training

No. 1/14/2007-IR

New Delhi, the 31st October, 2007

OFFICE MEMORANDUM

Sub : Disclosure of information relating to occurrence/event/matter which took place 20 years back.

Attention is invited to sub-section (3) of section 8 of the Right to Information Act, 2005 (Act) which provides that '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'. References have been received in this Department seeking clarification whether the above provision of the Act requires all the records to be preserved for more than a period of 20 years. The Second Administrative Reforms Commission, in its First Report titled the 'Right To Information – Master Key to Good Governance', has also expressed an apprehension about interpretation of the above provision with reference to the retention schedule of the files.

2. The RTI Act does not prescribe a record retention schedule. The records are to be retained by a public authority as per the record retention schedule applicable to that public authority. It is, however, important to note that weeding out of a file or any other record does not necessarily result into destruction of all the information contained in that the file or record. It is possible that information generated in a file may be available in the form of an OM or a letter or in any other form even after the file has been weeded out. The above referred provision of the Act requires furnishing of information so available after the lapse of 20 years even if such information was exempt from disclosure under sub-section (1) of Section 8. It means that the information which, in normal course, is exempt from disclosure under sub-section (1) of Section 8 of the Act, would cease to be exempted if 20 years have lapsed after occurrence of the incident to which the information relates. However, the following types of information would continue to be exempt and there would be no obligation, even after lapse of 20 years, to give any citizen-

- (i) Information the disclosure of which would prejudicially affect the sovereignty and integrity of India, the security, strategic, scientific or economic interest of the State, relation with foreign state or lead to incitement of an offence;
- (ii) Information the disclosure of which would cause a breach of privilege of Parliament or State Legislature; or

- (iii) Cabinet papers including records of deliberations of the Council of Ministers, Secretaries and other Officers subject to the conditions given in provision to clause (i) of sub-section (1) of Section 8 of the Act.
3. Contents of this OM may be brought to the notice of all Concern.

K.G. Verma
Director

Copy to : Chief Secretaries of all the States/UTs.

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Government of India
Ministry of Personnel, Public Grievances & Pensions
Department of Personnel & Training

No. 1/8/2007-IR

New Delhi, the 8th November, 2007

OFFICE MEMORANDUM

Sub : Guidelines for information seekers under the Right to Information Act, 2005.

The undersigned is directed to say that this Department, soon after the enactment of the Right to Information Act, 2005, had posted reply to some 'Frequently Asked Questions' regarding implementation of the Act on its website (<http://righttoinformation.gov.in/>) so as to enable smooth exercise of the right to information by persons who wish to do so. A number of references have since been received which would show that there is a need to issue further guidelines elaborating some provisions of the Act and method of its use by the general public. The guidelines have, accordingly, been prepared for the information seekers, a copy of which is enclosed. It is requested that these guidelines may be given wide publicity

K.G. Verma
Director
Tel. No. 23092158

Copy to : Chief Secretaries of all the States/UTs – It is requested that the enclosed guidelines may be translated into the regional language(s) and given wide publicity. They may also issue similar guidelines for getting information from the public authorities under them.

GUIDE FOR THE INFORMATION SEEKERS

**HOW TO GET INFORMATION
FROM THE PUBLIC AUTHORITIES OF THE CENTRAL
GOVERNMENT
UNDER
THE RIGHT TO INFORMATION ACT, 2005**

**Government of India
Ministry of Personnel, Public Grievances & Pensions
Department of Personnel & Training
North Block, New Delhi**

<http://wbllroa.in>

FOREWORD

The Right to Information Act, 2005 has converted the prevailing culture of secrecy into a culture of openness and transparency in the working of the Government. It will go a long way in strengthening our democratic institutions, empowering the public, removing corruption and greater involvement of citizens in the development of the nation.

This compilation explains the method of making application for seeking information from the public authorities under the Central Government, the procedure for preparing appeals and the steps for filing complaints in the matter and related issues. The contents of this document would apply mostly in connection with getting information from the public authorities of the State Governments as well. Nevertheless, since there are different fee rules and appeal rules in different States, the States may like to bring out their own guide on the subject on similar lines.

I wish the Right to information Act is made use of by the public for larger public good.

Satyananda Mishra
Secretary
Department of Personnel & Training,
Ministry of Personnel, Public
Grievances and Pensions

New Delhi

Dated: the 8th November, 2007

A GUIDE FOR THE INFORMATION SEEKERS UNDER THE RIGHT TO INFORMATION ACT, 2005

Object of the Right to Information Act

The basic object of the Right to Information Act is to empower the citizens, promote transparency and accountability in the working of the Government, contain corruption, and make our democracy work for the people in real sense. An informed citizenry will be better equipped to keep necessary vigil on the instruments of governance and make the government more accountable to the governed. The Act has created a practical regime through which the citizens of the country may have access to information under the control of public authority.

What is Information

2. Information is any material in any form. It includes records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material held in any electronic form. It also includes information relating to any private body which can be accessed by the public authority under any law for the time being in force.

Right to Information under the Act

3. A citizen has a right to seek such information from a public authority which is held by the public authority or which is held under its control. This right includes inspection of work, documents and records; taking notes, extracts or certified copies of documents or records; taking certified samples of material held by the public authority or held under the control of the public authority.

4. The public authority under the RTI Act is not supposed to create information; or to interpret information; or to solve the problems raised by the applicants; or to furnish replies to hypothetical questions. Only such information can be had under the Act which already exists with the public authority.

5. A citizen has a right to obtain information in the form of diskettes, floppies, tapes, video cassettes or in any other electronic mode or through printouts provided information is already stored in a computer or in any other device from which the information may be transferred to diskettes etc.

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

7. 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. who is also a citizen of India, information shall be supplied to him/her, provided the applicant gives his/her full name. In such cases, it will be presumed that a citizen has sought information at the address of the Corporation etc.

Exemptions from Disclosure

8. The right to seek information from a public authority is not absolute. Sections 8 and 9 of the Act enumerate the categories of information which are exempt from disclosure. At the same time Schedule II of the Act contains the names of the Intelligence and Security Organizations which are exempt from the purview of the Act. The exemption of the organizations, however, does not cover supply of information relating to allegations of corruption and human rights violations.

9. The applicants should abstain from seeking information which is exempt under Section 8 and 9 and also from the organizations included in the Second Schedule except information relating to allegations of corruption and human rights violations.

Central Public Information Officers

10. Application for seeking information should be made to an officer of the public authority who is designated as Central Public Information Officer (CPIO). All the public authorities have designated their Central Public Information Officers and have posted their particulars on their respective web-sites. This information is also available on the '**RTI PORTAL**' (www.rti.gov.in). Persons seeking information are advised to refer to the web-site of the concerned public authority or the '**RTI PORTAL**' for ascertaining the name of the concerned CPIO. If it is found difficult to identify or locate the concerned Central Public Information Officer of a public authority, application may be sent to the Central Public Information Officer without specifying the name of the CPIO at the address of the public authority.

Assistance Available From CPIOs

11. The Central Public Information Officer shall render reasonable assistance to the persons seeking information. If a person is unable to make a request in writing, he may seek the help of the CPIO to write his application. Where a decision is taken to give access to a sensorily disabled person to take any document, the Central Public Information Officer, shall provide such assistance to enable access to information, including providing such assistance to the person as may be appropriate for the inspection.

Suo Motu Disclosure

12. The Act makes it obligatory for every public authority to make suo-motu disclosure in respect of the particulars of its organization, functions, duties etc. as provided in section 4 of the Act. Besides, some public authorities under the Central Government have published other information and have posted them on their websites.

Method of Seeking Information

13. A citizen who desires to obtain any information under the Act, should make an application to the Central Public Information Officer (CPIO) of the concerned public authority in writing in English or Hindi or in the official language of the area in which the application is made. The applicant can send the application by post or through electronic means or can deliver it personally in the office of the public authority. The application can also be sent through a Central Assistant Public Information Officer appointed by the Department of post at sub-divisional level or sub-district level.

Fee for Seeking Information

14. The applicant, along with the application, should send a demand draft or a banker's cheque or an Indian Postal Order of Rs. 10/- (Rupees ten), payable to the Accounts Officers of the public authority as fee prescribed for seeking information. The payment of fee can also be made by way of cash to the Accounts Officers of the public authority or to the Central Assistant Public Information Officer against proper receipt.

15. The applicant may also be required to pay further fee towards the cost of providing the information, details of which shall be intimated to the applicant by the CPIO as prescribed by the Right

to Information (Regulation of Fee and Cost) Rules, 2005. Rates of fee as prescribed in the Rules are given below:

- (a) rupees two (Rs. 2/-) for each page (in A-4 or A-3 size paper) created or copied;
- (b) actual charge or cost price for a copy in larger size paper;
- (c) actual cost or price for sample or models;
- (d) for inspection of records, no fee for the first hour; and a fee of rupees five (Rs. 5/-) for each subsequent hour (or fraction thereof);
- (e) for information provided in diskette or floppy rupees fifty (Rs. 50/-) per diskette or floppy; and
- (f) for information provided in printed form at the price fixed for such publication or rupees two per page of photocopy for extracts from the publication.

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

Format of Application

17. There is no prescribed form of application for seeking information. The application can be made on plain paper. The application should, however, have the name and complete postal address of the applicant. Even in cases where the information is sought electronically, the application should contain name and postal address of the applicant.

18. The information seeker is not required to give reasons for seeking information.

Disposal of the Request

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

20. If applicant is required to make payment for obtaining information, in addition to the application fee, the Central Public Information Officer would inform the applicant about the details of further fees alongwith the calculation made to arrive at the amount payable by the applicant. After receiving such a communication from the CPIO, the applicant may deposit the amount by way of cash against proper receipt or by Demand Draft or by Banker's cheque or by Indian Postal Order in favour of the Accounts Officer of the concerned public authority. The CPIO is under no obligation to make available the information if the additional fee intimated by him is not deposited by the applicant.

21. Where an additional fee is required to be paid, the period intervening between the dispatch of the intimation regarding payment of additional fee and payment of fee by the applicant shall be excluded for the purpose of computing the period of thirty days within which the CPIO is required to furnish the information.

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

First Appeal

23. If an applicant is not supplied information within the prescribed time of thirty days or 48 hours, as the case may be, or is not satisfied with the information furnished to him, he may prefer an appeal to the first appellate authority who is an officer senior in rank to the CPIO. Such an appeal, should be filled within a period of thirty days from the date on which the time limit of 30 days of supply of information is expired or from the date on which the information or decision of the CPIO is received.

24. The appellate authority of the public authority shall dispose of the appeal within a period of thirty days or in exceptional cases within 45 days of the receipt of the appeal.

Second Appeal

25. If the appellate authority fails to pass an order on the appeal within the prescribed period or if the appellant is not satisfied with the order of the first appellate authority, he may prefer a second appeal with the Central Information Commission within ninety days from the date on which the decision should have been made by the first appellate authority or was actually received by the appellant. The appeal made to the Central Information Commission should contain the following information: -

- (i) Name and address of the appellant;
- (ii) Name and address of the Central Public Information Officer against the decision of whom the appeal is preferred;
- (iii) Particulars of the order including number, if any, against which the appeal is preferred;
- (iv) Brief facts leading to the appeal;
- (v) If the appeal is preferred against deemed refusal, particulars of the application, including number and date and name and address of the Central Public Information Officer to whom the application was made;
- (vi) Prayer or relief sought;
- (vii) Grounds for prayer or relief;
- (viii) Verification by the appellant; and
- (ix) Any other information, which the Commission may deem necessary for deciding the appeal.

26. The appeal made to the Central Information Commission should be accompanied by the following documents:

- (i) Self-attested copies of the orders or documents against which appeal is made;
- (ii) Copies of the documents relied upon by the appellant and referred to in the appeal; and
- (iii) An index of the documents referred to in the appeal.

Complaints

27. If any person is unable to submit a request to a Central Public Information Officer either by reason that such an officer has not been appointed by the concerned public authority; or the Assistant Central Public Information Officer has refused to accept his or her application or appeal for forwarding the same to the Central Public Information Officer or the appellate authority, as the case may be; or he has been refused access to any information request by him under the RTI Act; or he has not been given a response to a request for information within the time limit specified in the Act; or he has been required to pay an amount of fee which he considers unreasonable; or he believes that he has been given incomplete, misleading or false information, he can make a complaint to the Central Information Commission.

Disposal of Appeals and Complaints by CIC

28. The Central Information Commission decides the appeals and complaints and conveys its decision to the appellant/complainant and first appellate authority/CPIO. The Commission may decide an appeal/complaint after hearing the parties to the appeal/complaint or by inspection of documents produced by the appellant/complainant and CPIO or such senior officer of the public authority who decided the first appeal. If the Commission chooses to hear the parties before deciding the appeal or the complaint, the Commission will inform of the date of hearing to the appellant or the complainant at least seven clear days before the date of hearing. The appellant/complainant has the discretion to be present in person through his authorized representative at the time of hearing or may opt not to be present.

Important Web-sites

29. Given below are the addresses of some important web-sites which contain substantial information relevant to the right to information:

- (i) Portal of the Government of India (<http://indiainfo.nic.in>).
- (ii) Portal on the Right to Information (www.rti.gov.in).
- (iv) Websites of the Central Information Commission (<http://cic.gov.in>).



Government of India
Ministry of Personnel, Public Grievances & Pensions
Department of Personnel & Training

No. 1/32/2007-IR

North Block, New Delhi, Dated, the 14th November, 2007

OFFICE MEMORANDUM

Sub : Creation of a Central Point for receiving applications and designation of appellate authorities under the Right to Information Act, 2005

The undersigned is directed to say that the sub-section (1) of Section 5 of the Right to information Act, 2005 mandates all public authorities to designate as many Public Information Officers as necessary to provide information under the Act. The Second Administrative Reforms Commission in its First Report (June 2006) has observed that where a public authority designates more than one Public Information Officer (PIO), an applicant is likely to face difficulty in approaching the appropriate Public Information Officer, and the applicants would also face problem in identifying the officer senior in rank to the PIO to whom an appeal under sub-section (1) of Section 19 of the Act can be made. (For convenience such an officer is termed as the First Appellate Authority). The Commission has, inter-alia, recommended that all Ministries/Departments/ Agencies/Offices, with more than one PIO, should designate a Nodal Officer with the authority to received requests for information on behalf of all PIOs. The Commission has also recommended that all the public authorities should designate the First Appellate Authorities.

2. It is, therefore, requested that all public authorities with more than one PIO should create a central point within the organization where all the RTI applications and the appeals addressed to the First Appellate Authorities may be received. An officer should be made responsible to ensure that all the RTI applications/appeals received at the central point are sent to the concerned Public Information Officers/ Appellate Authorities, on the same day. For instance, the RTI applications/Appeals may be received in the Receipt and Issue Section/Central Registry Section of the Ministry/Department/Organization/Agency and distributed to the concerned PIOs/Appellate Authorities. The R&I/CR Section may maintain a separate register for the purpose. The Officer-in-charge/Branch Officer of the Section may ensure that the applications/appeals received are distributed the same day.

3. Sub-section (8) of Section 7 of the RTI Act provides that where a request for information is rejected, the Public Information Officer shall, inter-alia, communicate to the person making the request the particulars of the Appellate Authority. Thus, the applicant is informed about the particulars of the Appellate Authority when a request for information is rejected. There may be cases where the Public Information Officer does not reject the application, but the applicant does not receive a decision within the time as specified in the Act or he is aggrieved by the decision of the Public Information Officer. In such cases the applicant may like to exercise his right to appeal. But in absence of the particulars of the appellate authority, the applicant may face difficulty in making an appeal. It has, therefore, been decided that all the public authorities shall designate the First Appellate Authorities and publish their particulars alongwith the particulars of the PIOs.

4. All the Ministries/Departments etc. are requested to issue instructions to all concerned to take action accordingly.

K.G. Verma
Director

Copy to : Chief Secretaries of all the States/UTs.

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Government of India
Ministry of Personnel, Public Grievances & Pensions
Department of Personnel & Training

No. 1/33/2007-IR

North Block, New Delhi, Dated: the 14th November, 2007

OFFICE MEMORANDUM

Sub : Updating of Records- Recommendations of the Second Administrative Reforms Commission.

The undersigned is directed to say that with a view to ensuring proper maintenance of records, the Right to Information Act, 2005, mandates that every public authority shall maintain all its records duly catalogued and indexed in a proper manner. The Second Administrative Reforms Commission, in its First Report (June 2006), 'Right to Information- Master Key to Good Governance', has observed that the weakest link in our information system is the neglect of record keeping. The Commission has recommended that, as a one time measure, the Government of India should earmark 1% of the funds of all Flagship Programmes for a period of five years for updating records, improving infrastructure, creating manuals and establishing the Public Records Offices.

2. The maintenance and updating of records is a continuing process which every public authority is obligated to do. Improving the infrastructure and bringing out the necessary manuals are also continuing processes, and the responsibility of the concerned public authorities. All the public authorities should update their records, improve their infrastructure, bring out necessary manuals from within their resources. They may make specific budgetary provision for the purpose as per their requirement.

3. Contents of this OM may be brought to the notice of all concerned.

K.G. Verma
Director

Copy to : Chief Secretaries of all the States/UTs

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Government of India
Ministry of Personnel, Public Grievances & Pensions
Department of Personnel & Training

No. F. 11/12/2008-IR

North Block, New Delhi, Dated: the 22nd April, 2008

OFFICE MEMORANDUM

Sub : Transfer of applications under the RTI Act, 2005

It has been brought to the notice of this Department that the Central Public Information Officers of some public authorities transfer the applications received under the Right to Information Act, 2005 to the Prime Minister's Office in a routine manner when there is just a mention of the Prime Minister or the Prime Minister's Office in the application. According to sub-section (3) of section 6 of the RTI Act, if an application is received by a public authority seeking an information which is held by another public authority or which is more closely connected with the subject matter relating to another public authority, the public authority receiving the application should transfer the application to the concerned public authority. It may be pointed out here that the Prime Minister's Office has been assigned the work of providing secretariat assistance to the Prime Minister. After a decision is taken in a matter, the Ministry/Department to which the matter concerns takes further action regarding issue of orders etc. Naturally, the information in such cases would be available with the concerned Ministry/Department and not the PMO. The CPIO receiving the application should carefully see the subject matter in the RTI application and transfer it, if need be, to the concerned public authority and not to the PMO simply because the applicant has made a reference to the PM or PMO.

2. All the Ministries/Departments etc. are requested to bring the contents of this OM to the notice of all the Central Public Information Officers.

K.G. Varma
Director
Tel : 2309 2158

Government of India
Ministry of Personnel, Public Grievances & Pensions
Department of Personnel & Training

No. 13/10/2007-IR

North Block, New Delhi, Dated: the 29th April, 2008

To

1. Central Information Commission,
August Kranti Bhawan,
Bhikaji Cama Place,
New Delhi

2. All the State Information Commissions

Sub : Special Civil Application No.23305 of 2007 – Ahmedabad Education Society &
Another Vs. UOI &Others.

Sir,

I am directed to bring following observation made by the High Court of Gujrat in the matter of Ahmedabad Education Society & Another Vs. UOI &Others [Special Civil Application No.23305 of 2007] to the notice of the Central Information Commission and all the State Information Commissions.

“As per Section 18, the complaint can be preferred before the State Information Commission and Chief Information Commissioner can initiate an inquiry and can impose penalty as per Section 20 of the Act, 2005. While holding inquiry, as per Section 18(3) of the Act, 2005, State Chief Information Commissioner has been clothed with powers of the Civil Court under the Code of Civil Procedure, 1908, in respect of summoning and enforcing the attendance of persons and compel them to give oral and written evidence on oath, requiring the discovery and inspection of documents; receiving evidence on affidavit; requisitioning any public record or copies thereof from any court or office. But so far as refund of fees is concerned, it is a matter to be decided by the Civil Court of competent jurisdiction under Code of Civil Procedure, 1908.State Chief Information Commissioner has no power, jurisdiction and authority under the Act, 2005, to pass an order of refund of the fees.”

Yours faithfully,
K.G. Varma
Director
Tele : 23092158

Copy to : Chief Secretaries of all the States/UTs

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Government of India
Ministry of Personnel, Public Grievances & Pensions
Department of Personnel & Training

No. 10/2/2008-IR

North Block, New Delhi, Dated : the 12th June, 2008

OFFICE MEMORANDUM

Sub : RTI applications received by a public authority regarding information concerning
other public authority/authorities.

It has been brought to the notice of this Department that requests are made to the public authorities under the Right to Information Act for pieces of information which do not concern those public authorities. Some times, such an information is sought, a part or no part of which is available with the public authority to which the application is made and remaining or whole of the information concerns another public authority or many other public authorities. A question has arisen as to how to deal with such cases.

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 (PIO) 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 PIO 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 other public authority. In such cases, the applicant makes a bonafide mistake of addressing the application to the PIO of a wrong public authority. On the other hand where an applicant addresses the application to the PIO 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 fulfil his responsibility of addressing the application to the 'concerned public authority'.

3. Given hereinunder 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 PIO receiving the application should transfer the application to the concerned public authority under information to the applicant. However, if the PIO of the public authority is not able to find out as to which public authority is concerned with the information ever 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 PIO, 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 PIO 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 PIO of the public authority receiving the application should give information relating to it and advised 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 PIO 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 any one 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.

4. Contents of this OM may be brought to the notice of all concerned

K.G. Verma
Director

Copy to : Chief Secretaries of all the States/UTs

Government of India
Ministry of Personnel, Public Grievances & Pensions
Department of Personnel & Training

No. 11/2/2008-IR

North Block, New Delhi, Dated: the 10th July, 2008

OFFICE MEMORANDUM

Sub : Clarification regarding format in which the 'information' should be supplied under the RTI Act, 2005.

It has been observed that some people under the Right to Information Act, 2005 request the Public Information Officers (PIO) to cull out information from some document(s) and give such extracted information to them. In some cases, the applicants expect the PIO to give information in some particular proforma devised by them on the plea that sub-Section (9) of Section 7 provides that an information shall ordinarily be provided in the form in which it is sought. It need be noted that the sub-section simply means that if the information is sought in the form of 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 given in the Act etc. It does not mean that the PIO shall re-shape the information.

2. According to section 2(f) of the Act 'information' means 'any material in any form'. A citizen, under the Act, has a right to get 'material' from a public authority which is held by or under the control of that public authority. The right includes inspection of work, documents, records; taking notes, extracts or certified copies of documents or records; taking certified samples of material; taking 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. 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 the material, take the material in the form of diskettes etc. The PIO is required to supply such material to the citizen who seeks it. The Act, however, does not require the Public Information Officer to deduce some conclusion from the 'material' and supply the 'conclusion' so deduced to the applicant. The PIO is required to supply the 'material' in the form as held by the public authority and is not required to do research on behalf of the citizen to deduce anything from the material and then supply it to him

3. Contents of this OM may be brought to the notice of all concerned.

K.G. Verma
Director

Copy to : Chief Secretaries of all the States/UTs

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Government of India
Ministry of Personnel, Public Grievances & Pensions
Department of Personnel & Training

No.1/14/2008-IR

North Block, New Delhi, Dated: the 28th July, 2008

OFFICE MEMORANDUM

Sub : Clarification regarding Sub-sections (4) and (5) of Section 5 of the Right to Information Act, 2005.

Sub-sections (4) and (5) of section 5 of the Right to Information Act, 2005 provide that a Public Information Officer (PIO) may seek the assistance of any other officer for proper discharge of his/her duties. The officer, whose assistance is so sought, shall render all assistance to the PIO and shall be treated as a PIO for the purpose of contravention of the provision of the Act. It has been brought to the notice of this Department that some PIOs, using the above provision of the Act, transfer the RTI applications received by them to other officers and direct them to send information to the applicants as deemed PIO. Thus, they use the above referred provision to designate other officers as PIO.

2. According to the Act, it is the responsibility of the officer who is designated as the PIO by the public authority to provide information to the applicant or reject the application for any reasons specified in sections 8 and 9 of the Act. The Act enables the PIO to seek assistance of any other officer to enable him to provide information to the information seeker, but it does not give him authority to

designate any other officer as PIO and direct him to send reply to the applicant. The import of sub-section (5) of section 5 is that, if the officer whose assistance is sought by the PIO, does not render necessary help to him, the Information Commission may impose penalty on such officer or recommend disciplinary action against him the same way as the Commission may impose penalty on or recommend disciplinary action against the PIO.

3. Contents of this OM may be brought to the notice of all concerned.

K. G. Verma
Director

Copy to : Chief Secretaries of all the States/ UTs.

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Government of India
Ministry of Personnel, Public Grievances & Pensions
Department of Personnel & Training

No.1/1/2009-IR

North Block, New Delhi, Dated: the 22nd May, 2009

To
The Secretary,
Central Information Commission,
August Kranti Bhawan,
Bhikaji Cama Place
New Delhi

Sir,

I am directed to say that the Right to Information Act, 2005 provides that a person can make a complaint or an appeal to the Central Information Commission or the State Information Commission, as the case may be, in the circumstances as provided in the Act and that the concerned Commission may take action on the complaint or appeal in accordance with the provisions of the Act.

2. It is observed that the Central Information Commission and some State Information Commissions are taking decisions on the complaints and the appeals by constituting Benches. The matter has been examined in consultation with the Department of Legal Affairs who have pointed out that the Central Information Commission or the State Information Commissions could function through Benches only if there was a specific provision in the Act regarding constitution of Benches. That department has further opined that provision of Section 12(4) of the RTI Act does not empower the Chief Information Commissioner to constitute the Benches.

3. In view of this legal position, it is advised that decisions on the complaints and appeals should be taken by the Central Information Commission as defined in Section 2(b) of the RTI Act, 2005 and not by the Benches of the Commission.

Yours faithfully,
K. G. Verma
Director
Tel: 23092158

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Government of India
Ministry of Personnel, Public Grievances & Pensions
Department of Personnel & Training

No.1/1/2009-IR

North Block, New Delhi, Dated: the 22nd May, 2009

To
The Chief Secretaries of all the States

Sir,

I am directed to say that the Right to Information Act, 2005 provides that a person can make a complaint or an appeal to the Central Information Commission or the State Information Commission,

as the case may be, in the circumstances as provided in the Act and that the concerned Commission may take action on the complaint or appeal in accordance with the provisions of the Act.

2. It is observed that the Central Information Commission and some State Information Commissions are taking decisions on the complaints and the appeals by constituting Benches. The matter has been examined in consultation with the Department of Legal Affairs who have pointed out that the Central Information Commission or the State Information Commissions could function through Benches only if there was a specific provision in the Act regarding constitution of Benches. That Department has further opined that provision of Section 12(4) or Section 15(4) of the RTI Act does not empower the Chief Information Commissioner to constitute the Benches.

3. In the view of this legal position, you are requested to advice that State Information Commission that decisions on the complaints and appeals should be taken by the State Information Commission as defined in Section 2(k) of the RTI Act, 2005 and not by the Benches of the Commission.

Yours faithfully,

K. G. Verma
Director
Tel: 23092158

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Government of India
Ministry of Personnel, Public Grievances & Pensions
Department of Personnel & Training

No.10/2/2008-IR

North Block, New Delhi, Dated: the 1st June, 2009

OFFICE MEMORANDUM

Sub : RTI applications received by a public authority relating to information concerning other public authority/ authorities.

Attention is invited to clause (iii) of para 3 of this Department's OM of even number dated 12th June, 2008 on the above noted subject which, inter-alia, states as follows:

“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.”

2. The Central Information Commission while deciding an appeal has observed that collection of information cannot amount to creation of information and desired that the above referred OM should be modified so as to avoid any confusion among public authorities.

3. The undersigned is directed to clarify that the OM dated 12.6.2008 does not propose to say that collection of information per se amounts to creation of information. The above referred statement has been made to emphasize that the public authority to whom the application is made is not required to collect information from different public authorities to supply it to the applicant.

4. Contents of this OM may be brought to the notice of all concerned.

K. G. Verma
Director
Tel: 23092158

Copy to: Chief Secretaries of all the States/ UTs.

Copy also to : The Central Information Commission with reference to the Commission's decision dated 6.4.2009 in appeals No.CIC/WB/A/2007/01551 & 1552.

Government of India
Ministry of Personnel, Public Grievances & Pensions
Department of Personnel & Training

No.1/7/2009-IR

North Block, New Delhi, Dated: the 1st June, 2009

OFFICE MEMORANDUM

Sub : Decision dated 3.4.2008 of the High Court of Bombay at Goa in Writ Petition No.419 of 2007 in the case of Dr. Celsa Pinto Vs. Goa State Information Commission regarding information under the Right to Information Act, 2005.

The undersigned in directed to say that the High Court of Bombay at Goa in the above referred case has held on 3.4.2008 that the term 'information' as defined in the Right to Information Act does not include answers to the questions like 'why'. The relevant part of the judgement is reproduced below:

"The definition of information cannot include within its fold answers to the question "why" which would be same thing as asking the reason for a justification for a particular thing. The public information authorities cannot expect to communicate to the citizen the reason why a certain thing was done or not done in the sense of a justification because the citizen makes a requisition about information. Justifications are matter within the domain of adjudicating authorities and cannot properly be classified as information."

2. This may be brought to the notice of all concerned.

K. G. Verma
Director
Tel: 23092158

Copy to: Chief Secretaries of all the States/ UTs.

Government of India
Ministry of Personnel, Public Grievances & Pensions
Department of Personnel & Training

No.1/20/2009-IR

North Block, New Delhi, Dated: the 23rd June, 2009

OFFICE MEMORANDUM

Sub : Disclosure of 'file noting' under the Right to Information Act, 2005.

The undersigned is directed to say that various Ministries/Departments etc. have been seeking clarification about disclosure of file noting under the Right to Information Act, 2005. It is hereby clarified that file noting can be disclosed expect file noting containing information exempt from disclosure under section 8 of the Act.

2. It may be brought to the notice of all concerned.

K. G. Verma
Director

Copy to: Chief Secretaries of all the States/ UTs.

Government of India
Ministry of Personnel, Public Grievances & Pensions
Department of Personnel & Training

No.12/192/2009-IR

North Block, New Delhi, Dated: the 20th January, 2010

OFFICE MEMORANDUM

Sub : Maintenance of records in consonance with Section 4 of the RTI Act

The Central Information Commission in a case has highlighted that the systematic failure in maintenance of records is resulting in supply of incomplete and misleading information and that such

failure is due to the fact that the public authorities do not adhere to the mandate of Section 4(1) (a) of the RTI Act, which requires every public authority to maintain all its records duly catalogued and indexed in a manner and from which would facilitate the right to information. The Commission also pointed out that such a default could qualify for payment of compensation to the complainant. Section 19(8)(b) of the Act gives power to the Commission to require the concerned public authority to compensate the complainant for any loss or other detriment suffered.

2. Proper maintenance of records is vital for the success of the Right to Information Act but many public authorities have not paid due attention to the issue despite instructions issued by this Department. The undersigned is directed to request all the Ministries/ Departments etc. to ensure that requirements of Section 4 of the Act in general and clause (a) of Sub-section (1) thereof in particular are met by all the public authorities under them without any further delay.

K. G. Verma
Director
Tel: 23092158

Copy to: Chief Secretaries of all the States/ UTs.

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Government of India
Ministry of Personnel, Public Grievances & Pensions
Department of Personnel & Training

No.12/9/2009-IR

North Block, New Delhi, Dated: the 24th May, 2010

OFFICE MEMORANDUM

Sub : Payment of fee under the Right to Information Act, 2005 — scope of sub-section (3) of Section 7 of the Act.

The undersigned is directed to say that a question is raised from time to time whether a Public Information Officer (PIO) has power to charge fee under Section 7(3) of the RTI Act, 2005 in addition to fee prescribed under Sections 6(1), 7(1) and 7(5) of the Act.

2. Section 6(1) of the Act enables the Government to prescribe application fee and sub-sections (1) and (5) of Section 7 to prescribe fee in addition to application fee for supply of information. On the other hand sub section (3) of Section 7 provides the procedure which a PIO has to follow for realizing the fee prescribed under sub-sections (1) and (5) of the Section. Details of fees that can be charged by a public authority under the Central Government are contained in Right to Information (Regulation of Fee & Cost) Rules, 2005. The Rules or the Act do not give power to the PIO to charge any fee other than prescribed in the Fee and Cost Rules. Attention in this regard is invited to following extracts from the common order passed by the Central Information Commission in Appeal No. CIC/MA/A/2008/0185 (Shri K. K. Kishore Vs Institute of Company Secretaries of India) and Complaint No. CIC/WB/C/2007/00943 (Shri Subodh Jain Vs. Dy. Commissioner of Police):

“The Act under proviso to sub-section (5) of Section 7 also provides that fee prescribed under sub-sections (1) and (5) of Section 7 shall be reasonable and no such fee shall be charged from the persons who are below poverty line as may be determined by the Appropriate Government. The Government has already prescribed fees as deemed reasonable mandated under Sections 7(1) and 7 (5) of the Act and in the view of the Commission, there is no provision for any further fee apart from the one already prescribed under Sections 7(1) and 7(5) of the Act”

“Thus, there is provision for charging of fee only under Section 6(1) which is the application fee, Section 7(1) which is the fee charged for photocopying etc. and Section 7(5) which is for getting information in printed or electronic format. But there is no provision for any further fee and if any further fee is being charged by the Public Authorities in addition to what is already prescribed under Section 6(1), 7(1) and 7(5) of the Act, the same would be in contravention of the Right to Information Act. The “further Fee” mentioned in Section 7(3) only refers to the procedure in availing of further fee already prescribed under 7 (5) of the RTI Act, which is “further” in terms of the basic fee of Rs. 10/-. Section 7(3), therefore, provides for procedure for realizing the fees so prescribed”.

3. The Commission, while delivering decision in above cases, recommended to this Department to make rules, for charging fee towards supply of information which may include fee for supply of books, maps, plans, documents, samples, models etc. that are priced and towards postal/courier charges for mailing information, when postal/courier charges are in excess of minimum slab prescribed by the Department of Posts and for other similar situations.

4. The Right to Information (Regulation of Fee & Cost) Rules, 2005 already provide provisions for charging of fee for giving information in diskettes or floppies or in the form of photo copy; for providing samples, models, printed material like books, maps, plans etc; and for inspection of records. The Government have, however, not considered it desirable to charge fee towards expenditure involved in mailing information or overhead expenditure etc. Nevertheless, supply of information in a form which would disproportionately divert the resources of the public authority is taken care of by Section 7(9) of the Act according to which information shall ordinarily be provided in the form in which it is sought but supply of information in a particular form may be refused if supply of information in that form would divert the resources of the public authority disproportionately.

5. It is hereby clarified that where a Public Information Officer takes a decision to provide information on payment of fee in addition to the application fee, he should determine the quantum of such fee in accordance with the fee prescribed under the Fee and Cost Rules referred to above and give the details of such fee to the applicant together with calculation made to arrive at such fee. Since the Act or the Rules do not provide for charging of fee towards postal expenses or cost involved in deployment of man power for supply of information etc., he should not ask the applicant to pay fee on such account. However, wherever supply of information in a particular form would disproportionately divert the resources of the public authority or would be detrimental to the safety or preservation of the records, the PIO may refuse to supply the information in that form.

6. Contents of this OM may be brought to the notice of all concerned.

K. G. Verma
Director
Tel: 23092158

Copy to: Chief Secretaries of all the States/ UTs.

Copy also to: Central Information Commission with reference to the Commission's recommendation referred to above.

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Government of India
Ministry of Personnel, Public Grievances & Pensions
Department of Personnel & Training

No.F.12/9/2008-IR

North Block, New Delhi, Dated September 24, 2010

OFFICE MEMORANDUM

Sub : RTI applications received by a public authority regarding information concerning other public authority/authorities.

The undersigned is directed to refer to this Department's OM of even number dated 12th June, 2008 on the above noted subject, clause (iii) of para 3 of which provides that if a person makes an application to the 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, the Public Information Officer (PIO) 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. It further provides that if no part of the information is available with the public authority receiving the application but scattered with more than one other public authorities, the PIO should inform the applicant that information is not available with the public authority and that the applicant should make separate application to the concerned public authorities for obtaining information from them.

2. The matter has been examined in consultation with the Chief Information Commissioner, Central Information Commission and it has been decided to advise the PIOs that if the details of public authorities who may have this information sought by the applicant are available with the PIO, such details may also be provided to the applicant.
3. Contents of this OM may be brought to the notice of all concerned.

K. G. Verma
Director
Tel: 23092158

Copy to: Chief Secretaries of all the States/ UTs.

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**Central Information Commission
New Delhi**

CIC/AT/D/10/000111

Dated 15.11.2010

Implementation of Section 4 of the RTI Act
Direction to Public Authorities u/s 19(8) (a) of RTI Act

Commission has been noting in its decisions that although the RTI Act has now been in place for five years, a key element of the law- voluntary disclosure by public authorities , enshrined in Section 4 of the Act — has not been fully implemented in letter and spirit. There are, no-doubt, departments and public authorities, which are more transparent and open than the others, but most do not conform to the matrix of disclosure set-out in Section 4.

2. Transparency has not become such a good idea because of the presence of the RTI Act, but it is good because transparency promotes good governance. Of the records, documents and files held by public authorities, a very large part can be made available for inspection, or be disclosed on request to the citizens, without any detriment to the interest of the public authority. This has not been done, or has still not been systematically addressed, largely because of an intuitive acceptance of secrecy as the general norm of the functioning of public authorities. This mental barrier needs to be crossed, not so much through talks and proclamation of adherence to openness in governance, but through tangible action- small thing, which cumulatively promote an atmosphere of openness.

3. Section 4 of the RTI Act randomly lists out some of these steps/ actions.

4. The following aspects need to be noted:-

- (i) Secrecy in the functioning of the public authority should be the exception and not the norm, since as stated in the Preamble to the RTI Act, transparency of information is vital to a functioning democracy.
- (ii) Oftentimes public authorities are unable to decide on what records and documents to be made public, or what parts of its action to be made open, mostly because of poor record-management-practices, which make it difficult to take focused decisions about what records to be made routinely available to the public.

Therefore, the first step towards promotion of transparency in the functioning of the public authority should be an improvement in the record-management practices. Section 4 lists-out the ingredients of record management in some detail.

- (iii) When the record management practices are fully established in the public authority, the next step is to categorize the documents in terms of what can be disclosed voluntarily and what cannot be voluntarily disclosed.

The second category could be some sort of a negative list-a list of documents which a public authority is not in a position to bring into the open-category straightaway, but would examine its disclosure under RTI Act.

- (iv) The record-management practice, as much as possible, should be technologically driven. Technology should be used for efficient and wide dissemination of information subject to availability of resources and know-how.

This is an additional requirement to the proper record-management practice commended by Section-4.

(v) While Section 4 enjoins public authorities to perform certain tasks for voluntary disclosure of information within 120 days of the commencement of the Act, i.e. on 12th October, 2005, it allows them “reasonable time” for putting in place a good record management practice supported by technology.

(vi) Section 4 also enjoins Public Authorities to update the proactive disclosures every year.

5. The time has come now when the public authorities must start a sustained drive to inform their governance practices with transparency and to take the series of small steps required to put in place a system which promotes it. Section 4 provides only a window to possible actions and, much more will need to be done in order to achieve the type of goals which are envisaged.

6. Therefore, by powers vested in the Commission by Section 19(8)(a) of the RTI Act, we direct that the obligations set out in Section 4 of the Act be discharged by the public authorities as per the time-limits set out against each activity.

I. **Record Management Obligation:**

Section 4(1) states that 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;*

This translates into the following action points:-

1. Catalogue records and index them for easy dissemination and disclosure.
2. Computerize records in a phased manner subject to availability of resources.

Similar obligation is also cast on public authority by Section 4(1) (b) (vi) and Section 4(1)(b)(xiv), which enjoin publishing within one hundred and twenty days from the enactment of this Act,-

“(vi) a statement of the categories of documents that are held by it or under its control;

(xiv) details in respect of the information, available to or held by it, reduced in an electronic form;”

It is directed that all public authorities implement the above obligations within 6 months (except for no.2 above).

II. **Personnel related details and functions of public authorities :**

The relevant portions of Section 4 calls upon public authorities to carry out the following:-

“b) publish within one hundred and twenty days from the enactment of this Act,-

(i) the particulars of its organization, 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) 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;

(vii) a statement of the boards, councils, committees and other bodies consisting of two or more persons constituted as its part or for the purpose of its advice, and as to whether meetings of those boards, councils, committees and other bodies are open to the public, or the minutes of such meetings are accessible for public;

(viii) a directory of its officers and employees;

- (ix) the monthly remuneration received by each of its officers and employees, including the system of compensation as provided in its regulation;
- (x) the budget allocated to each of its agency, indicating the particulars of all plans, proposed expenditures and reports on disbursements made;
- (xi) the manner of execution of subsidy programmes, including the amounts allocated and the details of beneficiaries of such programmes;
- (xii) particulars of recipients of concessions, permits or authorisations granted by it;
- (xiii) 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;
- (xiv) the names, designations and other particulars of the Public Information Officers;
- (xv) such other information as may be prescribed; and thereafter update these publications every year;"

7. Public authorities were to have implemented these obligations within 120 days of the coming into force of the RTI Act on 15th June, 2005. In our experience, the action in this regard has been rather tardy. It is time that these directives of the law are fully implemented in a systematic manner through time-bound action. Commission, therefore, directs that these actions as ordained above shall be completed by all public authorities within a period of 120 days from the date of this order.

8. Commission further directs that,

- (i) The information in compliance with Section 4 obligation by public authorities shall be uploaded on a portal to be set up exclusively for this purpose by the CIC.
- (ii) Within 30 days of this order, each public authority shall designate one of their senior officer as "TRANSPARENCY OFFICER" (with all necessary supporting personnel), whose task it will be
 - (a) to oversee the implementation of the Section 4 obligation by public authorities, and to apprise the top management of its progress.
 - (b) to be the interface for the CIC regarding the progress of (a).
 - (c) help promote congenial conditions for positive and timely response to RTI-requests by CPIOs, deemed CPIOs.
 - (d) to be a contact point for the public in all RTI-related matters.
- (iii) Names of the Transparency Officers shall be communicated to the Commission by public authorities.

9. Commission wishes to emphasise, that as laid-down in Section 4(2) of the RTI Act, it should be the constant endeavour of every public authority to take steps in accordance with the requirements of clause (b) of sub-section (1) to provide as much information suo-motu to the public at regular intervals through various means of communications, including internet, so that the public have minimum resort to the use of this Act to obtain information.

10. Unless the key requirements of Section 4 are fully met by the public authorities 'suo-motu', the objectives of this Act as enshrined in its Preamble and Section 4 itself cannot be realized. Hence this directive.

11. Each Ministry or Department shall forward the directives to Public Authorities under their jurisdiction exercisable under Section 25(2) of RTI Act, 2005.

A.N. Tiwari
Chief Information Commissioner

Annapurna Dixit
Central Information Commissioner

Satyananda Mishra
Central Information Commissioner

M. L. Shjarma
Central Information Commissioner

Shailesh Gandhi
Central Information Commissioner

Sushma Singh
Central Information Commissioner

Deepak Sandhu
Central Information Commissioner

Authenticated By :-
Aakash Deep Chakravarti
Joint Secretary (Law) & Additional Registrar.

**Central Information Commission
New Delhi**

D.O. No. CIC/AT/D/10/000111

Dated 18.11.2010

Subject: Implementation of Section of the RTI Act 2005

Reference : Commission's directive dated 15.11.2010 under Section 19(8)(a) to the public authorities for time-bound implementation of Section 4 obligations under the RTI Act.

2. I invite your kind attention to the directive of the Commission for time-bound implementation of the provisions of Section 4 of the RTI Act, issued under the powers vested in it under Section 19(8)(a) of the RTI Act. Section 19(8)(a) of the Act states the following :-

"19(8) In its decision, the Central Information Commission or State Information Commission, as the case may be, has the power to –

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

3. The directive emphasizes that compliance with the Section 4 obligations by public authorities is at the heart of the RTI Act. It enjoined public authorities to accept transparency commitments by undertaking time-bound suo-motu disclosures.

4. Underlining that, transparency commitments and suo-motu disclosures would remain nothing more than vague promises, unless these are matched by tangible action through proper record-management-practices, and time-bound disclosure of several items of identifiable information under supervision and guidance of a senior officer of the public authority, this directive gives the following instructions:-

- (i) Public authorities to carry out time-bound action to complete parts of their Section 4 obligation within 120 days.
- (ii) The balance obligations, which involve shifting of records and making a conscious determination about what information can be brought into the public domain suo-motu, is to be completed within 6 months. This is part of the record-management aspect of Section 4 of the Act.
- (iii) It commends designation by the public authority of a sufficiently senior officer as Transparency Officer, to oversee the implementation of the Section 4 obligations. These officers are also required to be the interface with the Central Information Commission on the one hand and the public on the other, about transparency aspects of the functioning of the public authority.

5. As per the provisions of the RTI Act, a large part of the Section 4 commitment by the public authorities was to be completed within 120 days of the Act coming into force i.e. 15th June, 2005. Certain public authorities have made some serious effort in this direction, but the overall action in implementing this provision has been slow and halting. This has necessitated the present directive.

6. It is important to note that Section 4 obligates the public authorities to use the latest technologies to discharge their transparency commitments under that Section, subject to availability of resources.

7. Commission feels that it has now become necessary that the top echelons of the public authorities are sensitized about seriously addressing the several aspects of discharging their Section 4

commitments, including progressive digitization of data and use of other available technologies, to not only make transparency the hallmark of their functioning, but also to create the right conditions for the public to access the information through painless and efficient process that shall be put in place.

8. The ultimate aim of the RTI Act is that public should have access to most information held by public authorities without the use of the RTI laws. Section 4 of the RTI Act is an initial, but necessary, prelude to achievement of that objective. Hence the importance of this Section.

9. *I have been directed by the Commission to communicate to you its above mentioned directive for implementation by your Ministry / Department as well as all public authorities within your jurisdiction. It is requested that you may kindly issue appropriate directives to all top officers under your control as well as to the top officials of the public authorities controlled by the Ministry / Department to give immediate effect to the Commission's directive dated 15.11.2010.*

10. It is further requested that the relevant details of the officer designated as Transparency Officer by your Ministry / Department may be intimated to the Commission in about two-weeks' time. It is also requested that the public authorities within your jurisdiction may also be similarly instructed.

11. A portal is being set-up for uploading all the Section-4-compliance-related information. The idea is that an average citizen should be able to see for himself as to how public authorities have progressed in complying with the transparency obligations cast on them by Section 4 of the RTI Act. The details about the portal being developed shall be sent to you separately.

12. For the purpose of uploading information, a format has been devised, which is enclosed. It is requested that your Ministry / Department as well as all public authorities under your jurisdiction may be instructed that the information relating to Section 4-compliance should be put-up on the portal in the format prescribed and annexed.

13. It is requested that, given the importance of this initiative for promoting not only transparency, but overall good governance, this matter may kindly receive your personal attention and necessary instructions be issued to all concerned about implementing the Commission's directive within the prescribed time-schedules.

14. Any clarification with regard to the Commission's directive and its implementation may be obtained from Shri Aakash Deep Chkravarti, Joint Secretary (Legal) (Tel No. (011) 26105021 and e-mail aakash.dc@nic.in) or Shri Pankaj Kumar Pandey Shreyaskar (Tel No. (011) 26717354 and e-mail: pkp.shreyaskar@nic.in).

15. I shall be grateful, if this communication is acknowledged.

Enclosures:-

1. Commission's directive dated 15.11.2010
2. Format for uploading Section 4 information

Sincerely,
B.B. Srivastava

All Secretaries to the Government of India

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Government of India
Ministry of Personnel, PG & Pensions
Department of Personnel & Training

No.F.10/9/2008-IR

North Block, New Delhi, Dated: April 26, 2011

Sub : Payment of fee under the RTI Act by Indian Postal Order.

The undersigned is directed to say that the Right to Information (Regulation of Fee and Cost) Rules, 2005 provide that a person seeking information under the RTI Act, 2005 can make payment of fee for obtaining information by cash or demand draft or banker's cheque or Indian Postal Order. It has been brought to the notice of this Department that some public authorities do not accept fee through the Indian Postal Orders.

2. As stated above, one of the approved modes of payment of fee under the Rules is through Indian Postal Order. Refusal to accept fee through the IPO may be treated as refusal to accept the application. It may result into imposition of penalty by the Central Information Commission on the concerned

Central Public Information Officer under Section 20 of the Act. All the public authorities should, therefore, ensure that payment of fee by IPO is not denied.

3. Contents of this OM may be brought to the notice of all concerned.

K. G. Verma
Director
Tel: 23092158

Copy to: Chief Secretaries of all the States/ UTs.

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Government of India
Ministry of Personnel, PG & Pensions
Department of Personnel & Training

No.F.1/5/2011-IR

North Block, New Delhi, Dated: April 26, 2011

To

1. The Chief Secretaries of all States/UTs(except J&K)
2. The Registrars of all High Courts
3. The Registrar of the Supreme Court

Sub : Harmonization of fee payable under the Right to Information Act, 2005.

Sir,

Sections 27 and 28 of the Right to Information Act, 2005 empower the appropriate Governments and the Competent Authorities to make rules to prescribe, inter-alia, the fees payable under the Act. In exercise of the powers, the Central Government, State Governments, High Courts etc. have notified rules. It has been observed that the fee prescribed by different appropriate Governments/Competent Authorities is at great variance.

2. The 2nd Administrative Reforms Commission has, in this regard recommended that the States should frame Rules regarding application fee in harmony with the Central Rules and ensure that the fee should not become a disincentive for using the right to information.

3. All the States/Competent Authorities are, therefore, requested to kindly review their fee Rules and to prescribe fee in consonance with the fee prescribed by the Government of India. A copy of the Right to Information (Regulation of Fee and Cost) Rules, 2005 notified by the Government of India is enclosed for ready reference.

4. Kindly inform us of the action taken in this regard.

Yours faithfully
K. G. Verma
Director
Tel: 23092158

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Government of India
Ministry of Personnel, Public Grievances & Pensions
Department of Personnel & Training

No.4/10/2011-IR

North Block, New Delhi, Dated, 18th May, 2011.

OFFICE MEMORANDUM

Sub : Strengthening Implementation of the Right to Information Act, 2005.

Central Chief Information Commissioner has made a reference to the Cabinet Secretary making several suggestions for effective implementation of the Right to Information Act, 2005. It has been decided in consultation with the Cabinet Secretariat that following actions shall be undertaken by all Ministries/ Departments/ Attached Offices/ PSUs of Central Government to strengthen the implementation of the RTI Act:

a) In the Annual reports of the Central Ministries/ Departments and other attached/ subordinate offices/PSUs, a separate chapter shall be included regarding implementation of the RTI Act in their

respective offices. This chapter should detail the number of RTI applications received and disposed of during the year, including number of cases in which the information was denied. In addition to the above, efforts made to improve the implementation of the Act in their respective offices, including any innovative measures that have been undertaken, should also be listed. This is to be ensured for Annual reports for the year 2011-12 onwards.

b) Each Ministry / Department should organize at least a half day training programme for all CPIOs/ Appellate Authorities (AAs) every year to sensitize them about their role in implementation of the RTI Act. The concerned Ministries/ Departments shall ensure that similar programmes are organized for all CPIOs/AAs of all attached/subordinate offices and PSUs under their control as well.

c) All public authorities who have a web site shall publish the details of monthly receipts and disposal of RTI applications on the websites. This should be implemented within 10 days of the close of the month. Ministries/ Departments would ensure that these instructions are communicated to their attached/ subordinate offices as well as PSUs immediately. Monthly reporting on the above pattern should begin latest by 10th July, 2011 for the month of June, 2011 and thereafter continue on a regular basis.

2. All the Ministries/ Departments are requested to take action as above and also to ensure that these instructions are communicated to their attached and subordinate offices/PSUs for compliance.

K. G. Verma
Director
Tel: 23092158

Copy to : 1. Chief Secretaries of all the States/ UTs.
2. State Information Commissioners

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Government of India
Ministry of Personnel, Public Grievances & Pensions
Department of Personnel & Training

No.1/7/2009-IR

North Block, New Delhi, Dated the 20th May, 2011.

OFFICE MEMORANDUM

Sub : Decision dated 03.04.2008 of the High Court of Bombay at Goa in Write Petition No. 419 of 2007 in the case Dr. Celsa Pinto vs Goa State Information Commission regarding information under the Right to Information Act, 2005.

The undersigned is directed to invite attention to this Department's Office Memorandum of even number dated 1st June, 2009 on the subject mentioned above (copy enclosed) and to say that some persons have observed that the High Court of Bombay at Goa in above referred case did not use the word 'like' in the judgment and that inclusion of this word in the O.M. before the word 'why' is creating confusion. It is hereby stated that the word 'like' used before word 'why' in the line 3 of the O. M. may be treated as deleted. The relevant part of the judgment is again being quoted below:

"The definition of information cannot include within its fold answers to the question "why" which would be same thing as asking the reason for a justification for a particular thing. The public information authorities cannot expect to communicate to the citizen the reason why a certain thing was done or not done in the sense of a Justification because the citizen makes a requisition about information. Justifications are matter within the domain of adjudicating authorities and cannot properly be classified as information."

2. This may be brought to notice of all concern.

K. G. Verma
Director
Tel: 23092158

Copy to : Chief Secretaries of all the States/ UTs.

CENTRAL INFORMATION COMMISSION

Appeal No. CIC/WB/C/2006/000102 dated 9/6/'06
Right to Information Act 2005 – Section 18

Appellant : Ms. Misha Singh
Respondent : Ministry of Environment & Forests

Facts:

Ms. Misha Singh of Munirka, New Delhi applied to Dr. S Bhowmik, PIO & Additional Director, Ministry of Environment & Forests on 14.3.2006 with three separate applications seeking information regarding environmental clearance and other parameters of the Maheshwar Hydro Electric Project, Madhya Pradesh in reference to the 1994 Environmental clearance given to the NDVA & its follow up. She received a partial response to the information called for as per her statement submitted to us at Annexure 5 of her complaint. It is indicated that out of information sought on 23 items of information sought in the three applications taken together, she had received a full response only to one, which, however, was received late; a partial response to another seeking copies of the report of the Monitoring Committee constituted on May 1, 2006 together with the plan of one project which had not been asked for. On the remaining 20 items the reason for not providing information was that it could not be located. Ms. Misha Singh had complained, therefore, asking for the following:

- a) Imposition of penalty for deemed refusal in 21 of 23 requests and late response of information in the remaining two, and
- b) Investigation into non-location of files, since complainant alleged that the private sector party to whom the construction of the Maheshwar Project had been assigned was “involved in unethical and illegal practices”.

On the basis of the above, we had directed Additional Registrar Shri L. C. Singhi of this Commission to visit the office of the Director, Ministry of Environment & Forests and investigate the matter of non-location of files. Accordingly, the Additional Registrar visited the office on 4.8.06. His report is as follows:

“A copy of the complaint petition was sent to the CPIO and Addl. Director of the Ministry of Environment & Forests, Govt. of India fixing 4th August as the date of conducting the investigation. A letter posted under registered cover with acknowledgement due also informed the complainant about it. The complainant however, did not appear.

The Department concern has produced records which reveal the following:

1. The main file relating to environment clearance of Maheshwar HEP MP is not traceable since long.
2. There are altogether about 50 files, which are missing as a result of shifting of almirahs containing all records, and, in fact, one of the almirah is untraceable.
3. It was also submitted that adequate efforts have been made to trace out missing files and that the process is still on. However, the Addl. Director has submitted that it is not possible either to locate or reconstruct the file.
4. Ministry of Power has been requested vide D.O. No. J-11016-12083/08/IA.I dated 21.6.06 (Copy placed below) to obtain the copies of letters/documents from their records so that the public authorities can supply the copies to the complainant, Ms. Misha Singh.

In view of this, the misplacement of the file is a fact. It is also a fact that the records are neither catalogued nor indexed. The department does not know how many files are untraceable. It is really strange as to how one full almirah could get misplaced and becomes “untraceable”. However, prima facie there are no malafides.”

The matter was scheduled for hearing on 12.10.2006. Both parties had been informed by Notice of hearing on Sept. 26, 2006 but neither appeared before us on the due date.

DECISION NOTICE

We have examined the file. With regard to the prayer at a) above, because as reported by the Investigating Officer the concerned files and indeed a whole almirah are untraceable, CPIO

cannot be held responsible for any malafide in the non-supply of information to applicant Ms Misha Singh and this would amount to a reasonable cause for the delay/failure to supply.

However, the principal matter of concern is the prayer at b) above. This is that a number of documents, which are held in public trust by the Department, have been admitted to have been mislaid. Simply stating that these are untraceable is not adequate excuse. If needed, as suspected by the complainant, the files have actually been purloined this will amount to serious criminal act and its non-recovery a breach of trust on the part of the public authority. The Ministry of Environment & Forests will, therefore, immediately lodge a First Information Report (FIR) with the nearest Police Station to initiate criminal action against those responsible for this theft/loss.

Notice of the decision be given free of cost to the parties.

Wajahat Habibullah
Chief Information Commissioner
16.10.2006

Authenticated true copy. Additional copies of orders shall be supplied against application and payment of the charges prescribed under the Act to the CPIO of this Commission.

L.C. Singh
Addl. Registrar
16.10.2006

●

**West Bengal Information Commission
Bhabani Bhaban (2nd Floor), Alipore
Kolkata-700027**

Telefax (033) 2479-1966
Website: www.wbic.gov.in
e-mail: scic-@wb.nic.in

**Sri Umapati Modak
-Vs-**

Block Land & Land Reforms Officer, Haripal

ORDER

Perused the appeal dated 15.12.2008 referred by Sri Umapati Modak before this Commission. Also perused the documents enclosed therewith.

It appears that the applicant wants a confirmation from the Block Land & Land Reforms Officer, Haripal whether the plot No. 19, Khatian No. 156.J.L. No. 146 of Bargha Mouza, P.S. Haripal, Dist. Hooghly lies entirely to the east of a road as mentioned in the Parcha. The Block Land & Land Reforms Officer, Haripal, requested the appellant vide his letter No. 611/HPL/07 dated 6.8.2007 to collect the computerized data based certified copy of the said Khatian by paying fees as applicable.

It is also found that the Block Land & Land Reforms Officer vide memo No. F/Sheet/(U)/789 HPL/07 dated 9.10.2007 has categorically mentioned that no road has been reflected in the Mouza Map. Also physically on identification and demarcation of the periphery of the L.R. Plot No. 19 a ten feet wide road was found on the western side of the said plot.

The provision of the RTI Act, 2005 demands that material information as recorded has to be supplied. There is no question of going to the field and physically verify the veracity of such records to satisfy the query of the appellant. The petitioner may approach other platforms for redressal of his grievances.

The Commission observes that the Block Land & Land Reforms Officer has no authority to confirm or deny the truthfulness of recorded information. The Commission therefore, rejects the instant appeal.

Arun Kumar Bhattacharya
State Chief Information Commissioner, W. B.
Date: 17.12.2008

Government of India
Ministry of Personnel, Public Grievances & Pensions
Department of Personnel & Training

No.1/7/2009-IR

North Block, New Delhi, Dated: the 1st June, 2009

OFFICE MEMORANDUM

Sub : Decision dated 3.4.2008 of the High Court of Bombay at Goa in Writ Petition No.419 of 2007 in the case of Dr. Celsa Pinto Vs. Goa State Information Commission regarding information under the Right to Information Act, 2005.

The undersigned is directed to say that the High Court of Bombay at Goa in the above referred case has held on 3.4.2008 that the term 'information' as defined in the Right to Information Act does not include answers to the questions like 'why'. The relevant part of the judgement is reproduced below:

"The definition of information cannot include within its fold answers to the question "why" which would be same thing as asking the reason for a justification for a particular thing. The public information authorities cannot expect to communicate to the citizen the reason why a certain thing was done or not done in the sense of a justification because the citizen makes a requisition about information. Justifications are matter within the domain of adjudicating authorities and cannot properly be classified as information."

2. This may be brought to the notice of all concerned.

K. G. Verma
Director
Tel: 23092158

Copy to : 1. Chief Secretaries of all the States/ UTs.

REPORTABLE

In the Supreme Court of India
Civil Appellate Jurisdiction
Special Leave Petition (Civil) No.34868 of 2009

Khanapuram Gandaiah

..... Petitioner

Vs.

Administrative Officer & Ors .

..... Respondents

ORDER

1. This special leave petition has been filed against the judgment and order dated 24.4.2009 passed in Writ Petition No.28810 of 2008 by the High Court of Andhra Pradesh by which the writ petition against the order of dismissal of the petitioner's application and successive appeals under the Right to Information Act, 2005 (hereinafter called the "RTI Act") has been dismissed. In the said petition, the direction was sought by the Petitioner to the Respondent No.1 to provide information as asked by him vide his application dated 15.11.2006 from the Respondent No.4 — a Judicial Officer as for what reasons, the Respondent No.4 had decided his Miscellaneous Appeal dishonestly.

2. The facts and circumstances giving rise to this case are, that the petitioner claimed to be in exclusive possession of the land in respect of which civil suit No.854 of 2002 was filed before Additional Civil Judge, Ranga Reddy District praying for perpetual injunction by Dr. Mallikarjina Rao against the petitioner and another, from entering into the suit land. Application filed for interim relief in the said suit stood dismissed. Being aggrieved, the plaintiff therein preferred CMA No. 185 of 2002 and the same was also dismissed. Two other suits were filed in respect of the same property impleading the Petitioner also as the defendant. In one of the suits i.e. O.S. No.875 of 2003, the Trial Court granted temporary injunction against the Petitioner. Being Aggrieved, Petitioner preferred the CMA No.67 of 2005, which was dismissed by the Appellate Court — Respondent No.4 vide order dated 10.8.2006.

3. Petitioner filed an application dated 15.11.2006 under Section 6 of the RTI Act before the Administrative Officer-cum-Assistant State Public Information Officer (respondent no.1) seeking information to the queries mentioned therein. The said application was rejected vide order dated

23.11.2006 and an appeal against the said order was also dismissed vide order dated 20.1.2007. Second Appeal against the said order was also dismissed by the Andhra Pradesh State Information Commission vide order dated 20.11.2007. The petitioner challenged the said order before the High Court, seeking a direction to the Respondent No.1 to furnish the information as under what circumstances the Respondent No.4 has passed the Judicial Order dismissing the appeal against the interim relief granted by the Trial Court. The Respondent No.4 has been impleaded as respondent by name. The Writ Petition had been dismissed by the High Court on the grounds that the information sought by the petitioner cannot be asked for under the RTI Act. Thus, the application was not maintainable. More so, the judicial officers are protected by the Juducual Officers' Protection Act, 1850 (hereinafter called the "Act 1850"). Hence, this petition.

4. Mr. V. Kanagaraj, learned Senior Counsel appearing for the petitioner has submitted that right to information is a fundamental right of every citizen. The RTI Act does not provide for any special protection to the judges, thus petitioner has a right to know the reasons as to how the Respondent No.4 has decided his appeal in a particular manner. Therefore, the application filed by the petitioner was maintainable. Rejection of the application by the Respondent No. 1 and Appellate authorities rendered the petitioner remediless. Petitioner vide application dated 15.11.2006 had asked as under what circumstances the Respondent No.4 ignored the written arguments and additional written arguments, as the ignorance of the same tantamount to judicial dishonesty, the Respondent No.4 omitted to examine the fabricated documents filed by the plaintiff; and for what reason the respondent no.4 omitted to examine the documents filed by the petitioner. Similar information had been sought on other points.

5. At the outset, it must be noted that the petitioner has not challenged the order passed by the Respondent No. 4. Instead, he had filed the application under Section 6 of the RTI Act to know why and for what reasons Respondent No. 4 had come to a particular conclusion which was against the petitioner. The nature of the questions posed in the application was to the effect why and for what reason respondent no. 4 omitted to examine certain documents and why he came to such a conclusion. Altogether, the petitioner had sought answers for about ten questions raised in his application and most of the questions were to the effect as to why Respondent No. 4 had ignored certain documents and why he had not taken note of certain arguments advanced by the petitioner's counsel.

6. Under the RTI Act "information" is defined under Section 2(f) which provides:

"information" means any material in any form, including records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, report, 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."

This definition shows that an applicant under Section 6 of the RTI Act can get any information which is already in existence and accessible to the public authority under law. Of course, under the RTI Act an applicant is entitled to get copy of the opinions, advices, circulars, order, etc., but he cannot ask for any information as to why such opinions, advices, circulars, orders, etc. have been passed, especially in matters pertaining to judicial decisions. A judge speaks through his judgements or orders passed by him. If any party feels aggrieved by the order/judgment passed by a judge, the remedy available to such a party is either to challenge the same by way of appeal or by revision or any other legally permissible mode. No litigant can be allowed to seek information as to why and for what reasons the judge had come to a particular decision or conclusion. A judge is not bound to explain later on for what reasons he had come to such a conclusion.

7. Moreover, in the instant case, the petitioner submitted his application under Section 6 of the RTI Act before the Administrative Officer-cum-Assistant State Public Information Officer seeking information in respect of the questions raised in his application. However, the Public Information Officer is not supposed to have any material which is not before him; or any information he could have obtained under law. Under Section 6 of the RTI Act, an applicant is entitled to get only such information which can be accessed by the "public authority" under any other law for the time being in force. The answers sought by the petitioner in the application could not have been with the public authority nor could he have had access to this information and Respondent No.4 was not obliged to give any reasons as to why he had taken such a decision in the matter which was before him. A judge cannot be expected to give reasons other than those that have been enumerated in the judgement or order. The application filed by the petitioner before the public authority is per se illegal and unwarranted. A judicial officer is entitled to get protection and the object of the same is not to protect

malicious or corrupt judges, but to protect the public from the dangers to which administration of justice would be exposed if the concerned judicial officers were subject to inquiry as to malice, or to litigation with those whom their decisions might offend. If anything is done contrary to this it would certainly affect the independence of the judiciary. A judge should be free to make independent decisions.

8. As the petitioner has misused the provisions of the RTI Act, the High Court had rightly dismissed the writ petition.

9. In view of the above, the Special Leave Petition is dismissed accordingly.

K.G. BALAKRISHNAN, CJI

Dr. B.S. Chauhan, J

New Delhi,
January 4, 2010

●

**West Bengal Information Commission
Bhabani Bhaban (2nd Floor), Alipore
Kolkata-700027**

Telefax (033) 2479-1966
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e-mail: scic-@wb.nic.in

**Sri Kallol Kr. Ghosh
-Vs-
BL & LRO, Budge Budge -I**

ORDER

Sri Kallol Kr. Ghosh submitted one RTI application to the Block Land and Land Reforms Officer, Budge Budge -I on 19.03.2009 seeking copies of L.R. Parcha and information regarding classification of land in certain cases. On 13.07.2009 the said BL & LRO requested him to apply in the prescribed proforma along with application fee and authentication fee. Being aggrieved, Shri Ghosh has preferred a complaint before the Commission.

The complaint is clearly misplaced. There are provisions in Land and Land Reforms Department to seek certain information about land by applying in a specified method with specified fees even before RTI Act, 2005 came into force.

The Commission has observed in more than one occasion that the provisions of RTI Act should not be made applicable in cases where there exist other methods in getting information on payment of statutory fees.

Shri Ghosh may consider following the request of the said BL & LRO.

The complaint is thus dismissed.

Date: 21.10.2009

Arun Kumar Bhattacharya
State Chief Information Commissioner, W.B.

No.2163(2)(Order)-WBIC/RTI/721/09

DATE:23.10.2009

Authenticated true copy forwarded to:-

1. The Block Land and Land Reforms Officer, Budge Budge - I Block, Sarengabad (Battala), Budge Budge Trunk Road, Kolkata-700 137.

This has reference to his Memo No. 106/1108/B/B-I/09 dated 13.07.2009.

2. Sri Kallol Kr. Ghosh, Sarengabad, Budge Budge Trunk Road, Kolkata-700137.

Sd/-Illegible
Secretary & Acting Registrar
West Bengal Information Commission

**West Bengal Information Commission
Bhabani Bhaban (2nd Floor), Alipore
Kolkata-700027**

Telefax (033) 2479-1966
Website: www.wbic.gov.in
e-mail: scic-@wb.nic.in

**Sri Jayanta Kr. Pal
and Nilkanta Pal**

-Vs-

DL & LRO., Howrah

ORDER

Perused the complaint dated 22.9.2009 of Sri Jayanta Kr. Pal and Nilkanta Pal alleging that D.L. & L.R.O., Howrah has asked them to collect the information by depositing the requisite fees though stipulated period of thirty days for furnishing information has been expired. It appears that the seeking information relates to issuing certified copies of ROR or plot information preserved by L. & L.R. Department.

The Commission is of the view that if there is provision of charging fees under any law, rules and procedures of the Government for any document or information, the provisions of RTI Act relating to fees should not be applicable in order to protect statutory or legitimate dues of the public authority or the Government.

Complaint is thus rejected.

Date: 09.11.2009

Arun Kumar Bhattacharya
State Chief Information Commissioner, W.B.

No.2847(3)(Order)-WBIC/RTI/594/09

DATE:09.11.2009

Authenticated true copy forwarded to:-

1. Sri Jayanta Kr. Pal and Nilkanta Pal, Vill. Pranballavpur, P.O. Benapur- Chandanapara, Dist. Howrah, Pin-711312
2. The A.D.M. and D.L. & L.O.R., Howrah.
This has reference to his memo No. RTI-120/3608/1(2)/09 dated 2.9.2009.
3. The B.L. & L.R.O Bagnan-II, Bagnan, Howrah.

Sd/-Illegible
Secretary & Acting Registrar
West Bengal Information Commission

**West Bengal Information Commission
Bhabani Bhaban (2nd Floor), Alipore
Kolkata-700027**

Telefax (033)2479-1966
Website : www.wbic.gov.in
E-mail : scic-wb@nic.in

Md. Noor Alam

-Vs-

B.L & L.R.O., Serampore Uttarpara, Hooghly

ORDER

Perused the appeal dated 3.11.2009 of Md. Noor Alam, General Secretary, Rashtriya Janata Dal, State Committee (W.B.) alleging that B.L & L.R.O, Serampore- Uttarpara, Hooghly has asked to deposit 20 court fee stamps of Rs. 10/- denomination for supplying information about 10 plots.

The Commission is of the view that if there exists general provision of charging fees under any extant law, rules and procedures of the Government for any document or information, the provisions of

RTI Act relating to fees should not be applicable in order to protect statutory or legitimate dues of the Public Authority or the Government.

The appeal is thus rejected.

Arun Kumar Bhattacharya
State Chief Information Commissioner

Date : 23.11.2009

No. 3067(3) (Order)-WBIC/RTI/891/09

Date : 24.11.2009

Authenticated true copy forwarded to:

1. Md. Noor Alam, General Secretary, Rashtriya Janata Dal, State Committee (W.B), 7, Jodhan Singh Road, P.O. Rishra, Dist. Hooghly, Pin-712248
2. The Additional District Magistrate and District Land & Land Reforms Officer, Hooghly and Appellate Authority, Jiban Paler Bagan, Hooghly
3. The Block Land & Land Reforms Officer, Office of the Block Land & Land Reforms Officer, Serampore-Uttarpara Hooghly.

Sd/-Illegible
Secretary & Acting Registrar
West Bengal Information Commission

————— ● —————
West Bengal Information Commission
Bhabani Bhaban (2nd Floor), Alipore
Kolkata-700027

Telefax (033)2479-1966

Website : www.wbic.gov.in

E-mail : scic-wb@nic.in

Shri Tridib Narayan Chowdhury

Vs

B.L & L.R.O., Thakurpukur-Metiabruz Block, South 24 Parganas.

Facts on record

Shri Tridib Narayan Chowdhury submitted one RTI application dated 04.03.2010 to the B.L. & L.R.O., Thakurpukur Metiabruz Block seeking the certified copies of R.S. Khaitan of 1177 & 2522 of Mouza – Bahala, J.L No. 2 at P.S – Behala, Dist – South 24 Parganas.

2. The B.L.&L.R.O of the said Block vide his Memo No. 16/454/G/T.M. Behala/2010 dated 12.03.2010 requested Shri Chowdhury to submit application in prescribed proforma with requisite Govt. fee for obtaining the certified copies in question.

3. Shri Chowdhury raised some objection on the reply of the said B.L. & L.R.O. vide his complaint dated 17.04.2010 preferred u/s 18 of the RTI Act before the Commission.

ORDER:

4. On scrutiny of the instant complaint along with the reply of the said B.L. & L.R.O. the Commission observes that the Land & Land Reforms Department has their own rules, regulations, procedures including fee structure for providing any information in respect of their Public Authority which is prevalent even before enactment of RTI Act.

5. The Commission is of the view that if there is provision of charging fees under any law, rules and procedure of the Govt. for any document or information, the provisions of RTI Act relating to fees should not be applicable in order to protect statutory or legitimate dues of the Public Authority or the Govt. The Commission finds no lacuna of the said B.L.&L.R.O. in this regard.

6. Hence the instant complaint is rejected.

Date: 02.08.2010

Sujit Kr. Sarkar
State Information Commissioner, W.B.

Authenticated true copy forwarded to:-

1. Shri Tridib Narayan Chowdhury, Garia Gardens, P.O.- Garia Gardens, (Near BSF Camp), Kolkata-700084.
2. The B.L. & L.R.O., Thakurpukur Metiabruz Block, 39, Biren Roy Road (East), Kolkata-700008.

Sd/-Illegible
Deputy Secretary & Addl. Registrar
West Bengal Information Commission

●

Government of India
Ministry of Personnel, Public Grievances & Pensions
Department of Personnel & Training

No.1/18/2011-IR

North Block, New Delhi, Dated: the 16th September, 2011

Sub : Observation of Hon'ble Supreme Court on Right to Information Act, 2005 in Civil Appeal no. 6454 of 2011, arising out of SLP [C] No.7526/2009 in the case of Central Board of Secondary Education & Anr. Vs. Aditya Bandopadhyay & Ors.

The undersigned is directed to invite attention to this Department's O.M. No.1/4/2009-IR dated 05.10.2009 whereby a Guide on the Right to Information Act, 2005 was circulated. Para 10 of Part I of the Guide, inter alia, stated that 'only such information can be supplied under the Act which already exists and is held by the public authority or held under the control of the public authority. The Public Information Officer is not supposed to create information; or to interpret information; or to solve the problems raised by the applicants; or to furnish replies to hypothetical questions.' The same issue has been elaborated by the Supreme Court in the matter of Central Board of Secondary Education & Anr. Vs. Aditya Bandopadhyay & Ors. (Civil Appeal No.6454 of 2011) as follows:

"At this juncture, it is necessary to clear some misconceptions about the RTI Act. The RTI Act provides access to all information that is available and existing. This is clear from a combined reading of section 3 and the definitions of 'information' and 'right to information' under clauses (f) and (j) of section 2 of the Act. If a public authority has any information in the form of data or analysed data, or abstracts, or statistics, an applicant may access such information, subject to the exemptions in section 8 of the Act. But where the information sought is not a part of the record of a public authority, and where such information is not required to be maintained under any law or the rules or regulations of the public authority, the Act does not cast an obligation upon the public authority, to collect or collate such non available information and then furnish it to an applicant. A public authority is also not required to furnish information which require drawing of inferences and/or making of assumptions. It is also not required to provide 'advice' or 'opinion' to an applicant, nor required to obtain and furnish any 'opinion' or 'advice' to an applicant. The reference to 'opinion' or 'advice' in the definition of 'information' in section 2(f) of the Act, only refers to such material available in the records of the public authority. Many public authorities have, as a public relation exercise provide advice, guidance and opinion to the citizens. But that is purely voluntary and should not be confused with any obligation under the RTI Act."

3. This may be brought to the notice of all concerned.

K. G. Verma
Joint Secretary (RTI)
Tel: 23092158

Copy to: Chief Secretaries of all the States/ UTs.

Government of West Bengal
Minority Affairs & Madrasah Education Department
Writers' Buildings, Kolkata - 700001

No. 1136(13)-MD(V)/1E(V)-5/10

Dated, Kolkata, the 28th November, 2011

From: The Joint Secretary
to the Govt. of West Bengal

- To: 1) W.B.M.D.F.C.,
DD27E, Sector-I, Salt Lake City,
Kolkata-700 064.
- 2) West Bengal Minorities' Commission,
Bhabani Bhavan (2nd Floor, West),
Alipore, Kolkata-700 027.
- 3) West Bengal Urdu Academy,
75/2A, Rafi Ahmed Kidwai Road,
Kolkata-700 016
- 4) West Bengal State Haj Committee
- 5) Wakf Tribunal,
125 B, Hemchandra Naskar Road,
Kolkata-700 010
- 6) Board of Wakfs,
6/2, Madan Street, Kolkata-700 072.
- 7) Directorate of Madrasah Education,
Bikash Bhavan, Salt Lake,
Kolkata-700 091
- 8) Directorate of Minority Development & Welfare,
Writers' Buildings, Kolkata-700 001.
- 9) West Bengal Board of Madrasah Education,
19, Haji Mohsin Square, Kolkata-700 016.
- 10) West Bengal Madrasah Service Commission,
Bikash Bhavan, Salt Lake, Kolkata-91.
- 11) Aliah University
DN-47, Salt Lake, Sector-V, Kolkata-91.
- 12) District Officer (Minority Affairs),
- 13) District Minority Cell-
i) Bankura ii) Purulia iii) Purba Medinipur
iv) Paschim Medinipur v) Darjeeling vi) Hooghly vii) Jalpaiguri

Sub : Observation of Hon'ble Supreme Court on Right to Information Act, 2005 in civil Appeal No. 6454 of 2011, arising out of SLP(c) No. 7526/2009 in the case of Central Board of Secondary Education & Anr. Vs Aditya Bandyopadhyay & ors.

Sir,

I am directed to forward herewith a copy of Office Memorandum No. 1/18/2011-1R, Dated 16.09.2011 issued by Ministry of Personnel, PG and Pensions, Department of Personnel & Training, Govt. of India, on the above mentioned subject and request you to kindly follow the provisions of the memorandum of Government of India.

Yours faithfully,
Sd/-Illegible

Joint Secretary
to the Govt. of West Bengal.

Government of West Bengal
Office of the District Magistrate
South 24 Parganas, Alipore, Kolkata.
[General Department]

Memo.No: 2211 /Gen.

Dated:20/10/2011

ORDER

Sub : Notification regarding appointment of SPIOs, SAPIOs and Appellate Authorities under different offices of the District.

As per the power conferred under section 5(2) of Right to Information Act-2005 and in supersession of all the previous orders issued from this end concerning the above subject the undersigned hereby notifies the following persons as SPIOs, SAPIOs and Appellate Authorities under different offices of South 24 Parganas District.

Sl No	NAME OF THE OFFICE	NAME OF THE SPIO	NAME OF THE SAPIO	NAME OF THE APPELLATE AUTHORITY
1	Office of the District Magistrate, South 24 Parganas	Office-in-Charge of the Section/ Department	Dealing Assistant of the section as nominated by the Officer-in-Charge of Section/ Department	Additional District Magistrate, South 24 Parganas
2	Office of the Sub-Divisional Officer, Alipore (Sadar)	2 nd Officer of the Sub-Divisional Office, Alipore (Sadar)	Confidential Assistant of SDO, Alipore (Sadar)	Sub-Divisional Officer, Alipore (Sadar) South 24 Parganas
3	Office of the Sub-Divisional Officer, Baruipur, South 24 Parganas	2 nd Officer of the Sub-Divisional Office, Baruipur	Head Clerk of SDO Office	Sub-Divisional Officer, Baruipur, South 24 Parganas
4	Office of the Sub-Divisional Officer, Diamond Harbour, South 24 Parganas	2 nd Officer of the Sub-Divisional Office, Diamond Harbour	Head Clerk of SDO Office	Sub-Divisional Officer, Diamond Harbour, South 24 Parganas
5	Office of the Sub-Divisional Officer, Canning, South 24 Parganas	2 nd Officer of the Sub-Divisional Office, Canning	Head Clerk of SDO Office	Sub-Divisional Officer, Canning, South 24 Parganas
6	Office of the Sub-Divisional Officer, Kakdwip, South 24 Parganas	2 nd Officer of the Sub-Divisional Office, Kakdwip	Head Clerk of SDO Office	Sub-Divisional Officer, Kakdwip, South 24 Parganas
7	Office of the Block Development Officer	Joint Blok Dev. Officer	Panchayet Dev. Officer	Block Development Officer
8	Office of the Child Development Project Officer	Child Development Project Officer (CDPO)	One staff nominated by CDPO	District Project Officer, ICDS
9	Office of the District Land & Land Reforms Officer	Deputy District Land & Land Reforms Officer	Special Revenue Officer (SRO-II)	District Land & Land Reforms Officer

SI No	NAME OF THE OFFICE	NAME OF THE SPIO	NAME OF THE SAPIO	NAME OF THE APPELLATE AUTHORITY
10	Office of Land Acquisition, South 24 Parganas	One Additional Acquisition Officer, South 24 Parganas as nominated by Spl. LAO, South 24 Parganas	One Assistant Acquisition Officer, South 24 Parganas as nominated by Spl. LAO, South 24 Parganas	Spl. LAO, South 24 Parganas

Sd/- Illegible
District Magistrate
South 24 Parganas

Memo. No: 2211(88)/Gen

Dated:20/10/2011

Copy forwarded for information to:-

1. Secretary, West Bengal Information Commission, Bhabani Bhaban, 2nd Floor, Kolkata-700027.
2. Joint Secretary to the Govt. of West Bengal, Writers' Buildings, Kolkata-01.
3. The Addl. District Magistrate (Gen)/(Dev)/ (LR)/(ZP)/(LA), South 24-Parganas.
4. The Sub-Divisional Officer,.....(All)
5. The Block Development Officer.....(All)
6. District Informatics Officer, NIC, South 24-Parganas.
7. The Office-in-Charge,.....

Sd/- Illegible
District Magistrate
South 24-Parganas