

## **Right to Information Act 2005.**

- Right to Information Act applies to whole of India, to both Central and State Governments.
- It came into force on 15th June 2005.
- All “Public Authorities” covered by the Act.

Act does not apply to:

- 18 Intelligence and Security Organizations of the Central Government specified in second schedule.
- Intelligence and Security Organizations of the State Government as may be notified in the State Gazette.

As per Section 3 of the Act, all Citizens shall have the Right to Information. As per section 2 (f), Information includes records, documents, memos, e-mails, opinions, advices, circulars, log-books, contracts etc.

### **Under section 2 (j) “Right to Information” includes the right to-**

- ✓ Inspection of work, documents, records;
- ✓ Taking notes, extracts, or certified copies of documents or records;
- ✓ Taking certified samples of material;
- ✓ Obtaining information in the form of diskettes, floppies, tapes, video cassettes or in any other electronic mode or through printouts....

### **Public Authority – Section 2(h)**

- **Any Authority or Body or Institution of Self- Government, established or constituted-**
  - (a) by or under the Constitution;
  - (b) by any other law made by Parliament;
  - (c) by any other law made by State Legislature;
  - (d) by notification issued or order made by the Central /State Government,
- **Includes any—**
  - (i) Body owned, controlled or substantially financed;
  - (ii) Non-Government organization substantially financed, directly or indirectly by funds provided by the Central / State Government;

(1) Every public authority shall

- -maintain records—catalogued-indexed to facilitate RTI-ensure (if computerisable)
- - computerization- connectivity through network
- Publish facts while making policies/announcing decisions affecting people
- Provide reasons for admin./quasi-judicial decision to affected people
- Endeavor to provide info suo motu at regular intervals
- Dissemination of info widely
- Dissemination cost effective, local language, effective manner, in electronic format with PIO available free or at print cost  
expl. – Making known through notice boards, newspapers, announcements, media, broadcast, internet, other means.

### **Public Information Officers (PIOs) (Section 5)**

- Public Authority to designate PIOs in all administrative units/officers to provide information
- APIOs at sub division/sub district to receive application for information/appeals for forwarding to PIO, State PIO/Sr. officer, C.I.C./S.I.C. (5 days to be added)
- PIO to deal with requests and render reasonable assistance
- PIO to seek assistance of any officer
- Such other officer to be treated as PIO

### **Duties of P.I.Os.**

- To receive applications
- To process applications
  - Received: directly or
  - Through: APIOs
- To assist a person in writing application
- To transfer application – if information sought is related to some other public authority – and inform the person
- Collect fee as prescribed/Issue receipt for application (Complete)
- If application rejected, issue written order with reasons/give details of appeal process and Appellate Authority (AA)
- Provide information in 30 days but if related to life and liberty in 48 hours.
- Ordinarily provide information in the form in which requested

- If information relates to exemptions – sever the part which is exempt and provide non-exempt portion.
- To assist sensorily disabled to access information
- If third party confidential information, give notice (in 5 days) to him seeking submission (in 10 days)

#### **Duties of APIOs**

##### **1. To forward Information requests to P.I.O.**

- Steps:**
1. receiving application
  2. checking application
  3. personal details
  4. contact details
  5. details of public authority
  6. proof of fee/BPL
  7. wishes to receive by post
  8. application receipt date
  9. Collecting fee/BPL identity
  10. Issuing receipt
  11. Registering application
  12. Dispatching to PIO

- **To forward appeals to AA and CIC**

- Steps:**
1. Receiving
  2. Checking
  3. Issuing receipts
  4. Registering
  5. Dispatching

#### **Disposal of requests (Section 7)**

- Disposal – provide info/reject request – within 30 days.
  - Information regarding life/ liberty in 48 hours.
- If fails to decide, shall be deemed to have refused.
- Decision of any further fee – intimation to person:
- (a) The details – period to be excluded – intimation to payment.
- (b) Information concerning his right to review the decision to include details of appellate authority, time limit, process etc.
- When person sensorily disabled, PIO to provide assistance.
- Where info in printed or electronic format, fee as prescribed to be paid – no fee from BPL (to be determined by government).
- Free of charge where public authority failed to comply within time limit.
- Before deciding, PIO to consider representation of third party.
- When request rejected, communication to person –
  - I. Reasons
  - II. Period limit for appeal
  - III. Particulars of Appellate Authority.
- Information ordinarily be provided in the form in which sought unless it diverts resources or detrimental to the safety of record.

#### **Request for obtaining Information (Section 6)**

- Request in writing/electronic means with fee to PIO. - If unable to give in writing PIO to assist.
- Applicant not required to show reasons
- Information, if held by another public authority application or part to be transferred/inform the applicant. Transfer – at earliest, maximum 5 days.
- If third party confidential info, in 5 days notice to third party
  - Third party to be heard in 10 days from receipt of notice, to represent;
  - PIO to decide in 40 days 3<sup>rd</sup> party also to be informed
  - 3<sup>rd</sup> party may appeal.

#### **Exemption from disclosure (Section 8)**

##### (1) Information not to be disclosed:

- Affecting sovereignty, integrity, security, strategic, scientific or economic interest, relation with foreign state or may lead to incitement of an offence.
- Forbidden to be published by court/or constitute contempt of court.
- Breach of privilege of Parliament/State Legislature.
- Commercial, trade confidence, intellectual property–unless in larger public interest.
- Information available in his fiduciary relationship.
- Information confidential from foreign government.

- Disclosure may endanger life/safety of person, may identify source/assistance given in confidence for security/law enforcement.
- May impede investigation/prosecution.
- Cabinet papers – deliberations of council of ministers secretaries and other officers - material on the basis of which decisions taken/matter when complete will be disclosed.
- Personal information – no relation to public activity
  - But in larger public interest may disclose.
  - Information not denied to Parliament/Assembly shall not be denied to any person.
- (2) Notwithstanding Official Secrets Act 1923 & exemption shown above – Public Authority may allow if public interest outweighs the harm.
- Subject to provisions of (a) (c) (i) info of event occurred 20 yrs back shall be provided.

#### **Grounds for rejection (Section 9)**

Which may involve infringement of copyright in a person other than the State.

#### **Severability (Section 10)**

- That part may be provided which is not exempted
- In such cases notice to applicant
  - (a) Part of it being provided
  - (b) Reasons for decision
  - (c) Details of officer taking decision
  - (d) Details of fee
  - (e) His right to review, fee and other details

#### **Power & Functions of CIC (Section 18)**

- To receive and Inquire into a complaint
- Who has been unable to submit a request as no PIO appointed/refused request or appeal application to forward.
- Who has been refused access.
- Who has not been given a response within the time limits.
- Demanded to pay unreasonable fee.
- Given incomplete, misleading or false information.
- Any other matter.

#### **Initiating Inquiry**

- On satisfaction that there are reasonable grounds, it may initiate an inquiry.
- CIC shall have same powers as are vested in a civil court for:
  - Summoning and enforcing the attendance for evidence and to produce documents or things;
  - Requiring the discovery and inspection of documents;
  - Receiving evidence on affidavit;
  - Requisitioning any public record or copies;
  - Issuing summons for examination of witnesses or documents, and
  - Any other matter which may be prescribed
- During the inquiry CIC may examine any record under the control of public authority and no such record may be with-held from it on any grounds.

#### **Appeals (Section-19)**

- Any person who does not receive a decision within the time limit or is aggrieved by a decision of PIO, MAY WITHIN 30 DAYS from the expiry of such period or from the receipt of such a decision prefer an appeal to officer senior to PIO.
- Appeal by third party shall be made within 30 days from the date of the order.
- A second appeal within 90 days from the date on which the decision should have been made or was actually received, with the CIC.
- If appeal relates to third party, reasonable opportunity of being heard to be given.
- Onus to justify denial shall be on the PIO.
- Appeal to be disposed of within 30 days of the receipt of the appeal or within extended period not exceeding a total of 45 days from the date of filing.
- Decision of CIC shall be binding.
- CIC has the powers to: -
  - (a) Secure compliance of the provisions of the Act, including:-
    - (i) by providing access to information;
    - (ii) by appointing a PIO;
    - (iii) by publishing certain information or categories of information;
    - (iv) by making changes to its practices for the maintenance, management and destruction of records;
    - (v) by enhancing the provision of training on the RTI for its officials;
    - (vi) by providing it with an annual report;
  - (b) Require the public authority to compensate the complainant.

- (c) Impose penalties
- (d) Reject the application
- (9) The CIC to give notice of its decision, including any right of appeal, to the complainant and public authority.
- (10) CIC to decide the appeal as per procedure to be prescribed.

**Penalties (Section 20)**

- A penalty of Rs.250/- each day till application is received (where refused to receive) or information is furnished, not exceeding Rs.25000.
- To be given a reasonable opportunity of being heard the burden of proving that he acted reasonably and diligently shall be on the PIO.
- CIC may recommend disciplinary action in case PIO has persistently failed/acted malafidly.

**Miscellaneous Provisions (Section 21-31)**

- Protection of action taken in good faith.
- Act to have overriding effect.
- Bar of jurisdiction of courts: But according to the Constitution, the High Courts and the Supreme Court have the power to look into any matter relating to the fundamental rights of the citizens & for doing complete justice.
- Act not to apply to certain organizations.
- (1) - Intelligence and security organizations specified in II nd schedule.  
- But information of corruption and human rights violations shall not be excluded but shall only be provided after the approval of the CIC and to be provided within 45 days.
- (2) The Central Government may amend the II nd schedule.
- Every notification shall be laid before each House of Parliament.

**Monitoring and Reporting (Section 25)**

- CIC after the end of each year to prepare a report on the implementation of the Act and forward a copy thereof to the appropriate Government.
- Each Ministry to collect and provide information to the CIC AS IS REQUIRED TO PREPARE THE REPORT.
- Each report shall state –
  - (a) Number of requests made;
  - (b) Number of decisions where applicants were not entitled to access to the documents and the number of times such provisions were invoked;
  - (c) Number of appeals referred to the CIC and the outcome.
  - (d) Particulars of any disciplinary action taken against any officer.
  - (e) The amount of charges collected by each public authority.
  - (f) Any effort by the public authorities of administer and implement the spirit and intention of this Act.
  - (g) Recommendations for reform of this Act or other legislation or common law or any other matter relevant for the operational sing the right to access information.
- Central Government after the end of each year, cause a copy of the report of CIC to be laid before each house of Parliament.
- 5. CIC to recommend improvement in practices of public authority.

**The Second Schedule (Section 24)**

- Intelligence Bureau
- Research and analysis Wing (RAW)
- Directorate of Revenue Intelligence
- Central Economic Intelligence Bureau
- Directorate of Enforcement
- Narcotics Control Bureau
- Aviation Research Centre
- Special Frontier Force
- Border Security Force
- Central Reserve Police Force
- Indo-Tibetan Boarder Police
- Central Industrial Security Force
- National Security Guards
- Assam Rifles
- Special Service Bureau
- Special Branch (CID), Andaman and Nicobar
- The Crime Branch-CID-CB, Dadara and Nagar Haveli
- Special Branch, Lakshadweep