

GUIDELINES ON RIGHT TO INFORMATION ACT, 2005

चावल विकास निदेशालय

DIRECTORATE OF RICE DEVELOPMENT

भारत सरकार, Government of India

कृषि एवं किसान कल्याण मंत्रालय/Ministry of Agriculture & Farmers Welfare

(कृषि एवं किसान कल्याण विभाग)/ (Deptt. of Agri. & Farmers Welfare)

पंचम तल, जी विंग, कर्पूरी ठाकुर सदन, /5th Floor, G – Wing, Karpoori Thakur Sadan,

केन्द्रीय कार्यालय परिसर (जी.पी.ओ.ए.), /Kendriya Karyalaya Parisar (GPOA),

आशियाना-दीघा रोड, /Ashiyana – Digha Road,

पटना- 800025 (बिहार)/ Patna-800025 (Bihar).

DISCLAIMER

Though all possible care has been taken to ensure accuracy and consistency, in the event of a conflict between the Guide and Government orders/ instructions on the subject, the latter will prevail.

Any information given herein cannot be cited in any dispute or litigation, nor is it a substitute for a legal interpretation/ evidence. The user will be solely responsible for any consequence of the decision taken on the basis of information contained in this Guide.

The right to information is implicitly guaranteed by the Constitution. However, with a view to set out a practical regime for the citizens to secure information as a matter of right, the Indian Parliament enacted the Right to Information Act, 2005. This law is very comprehensive and covers almost all matters of governance. This Law has a wide reach, being applicable to Government at all levels- Union, State and Local as well as to the recipients of substantial government funds.

2. The present guide is an updated and consolidated guide for the use of all stakeholders. This guide contains five parts. Part I of the guide discusses some aspects of the Act which all the stake-holders 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.

Part I

FOR ALL STAKEHOLDERS

Object of the Right to Information Act

4. The basic object of the Right to Information Act is to empower the citizens, to promote transparency and accountability in the working of the Government, to contain corruption, and to enhance people's participation in democratic process thereby making our democracy work for the people in a 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 are also public authorities. Non-Government organisations substantially financed by the Central Government or a State Government also fall within the definition of public authority. The substantial financing by the Central Government or a State Government may be direct or indirect. The Act does not define substantial financing. Various courts/Information Commissions have been deciding on this issue on case to case basis, depending upon the merits of each case.

Public Information Officer

7. Public authorities have designated some of its officers as Public Information Officers. 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 that is available and existing and is held by the public authority or is held under the control of the public authority. The Public Information Officer is not supposed to create information that is not a part of the record of the public authority. The Public Information Officer is also not required to furnish information which require drawing of inference and/or making of assumptions; or to interpret information; or to solve the problems raised by the applicants; or to furnish replies to hypothetical questions.

11. 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.

12. 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.

13. 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 or in any other electronic mode, 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.

14. 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-a-Vis other Acts

15. The RTI Act has over-riding effect vis-à-vis other laws. It implies that if any of the provisions of the RTI Act are not consistent with any other law for the time being in force including the Official Secrets Act, 1923, the provisions of the RTI Act would have effect.

Supply of Information to Associations etc.

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

Fee for Seeking Information

17. A citizen who desires to seek some information from a public authority is required to send, along with the application, a demand draft or a bankers 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 public authority or to the Assistant Public Information Officer, against a proper receipt. The payment of fee to the Central

Ministries/departments can also be made online through internet banking of State Bank of India or through Master/Visa Debit/credit cards.

18. 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 Rules, 2012. Rates of fee as prescribed in the Rules are given below:

- (a) rupees two (Rs. 2/-) for each page (in A-3 or smaller size paper) ;
- (b) actual cost or price of a photocopy in larger size paper;
- (c) actual cost or price for samples or models;
- (d) rupees fifty (Rs.50/-) per diskette or floppy; and
- (e) price fixed for a publication or rupees two per page of photocopy for extracts from the publication.
- (f) so much of postal charges involved in supply of information that exceeds fifty rupees.

19. 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.

20. If the applicant belongs to the below poverty line (BPL) category, he is not required to pay any fee. However, he should submit a proof in support of his claim as belonging to the below poverty line category. The application not accompanied by the prescribed fee of Rs.10/- or proof of the applicant's belonging to below poverty line category, 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

21. There is no prescribed format of application for seeking information. The application can be made on plain paper. The applicant should mention the address at which the information is required to be sent.

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

Information Exempted From Disclosure

23. 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 interests.

24. 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

25. 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.

Assistance Available to the Applicant

26. 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

27. 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. Further details in this regard are given in part IV viz. 'For the Public Information Officers.'

Appeals

28. 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.

29. 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 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

30. 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.

Third Party Information

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

Disclosure of Third Party Information

32. 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.

33. 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 part IV viz. '**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.

RTI ONLINE

34. Department of Personnel & Training has launched a web portal namely RTI online with URL www.rtionline.gov.in for all Central Ministries/Departments. This is a facility for the Indian citizens to file RTI applications and first appeals online to all Central Ministries/Departments. The prescribed RTI fees can also be paid online. Reply to the RTI applications and first appeals received online can also be given online by the respective PIOs/FAAs.

Compilation of OMs and notifications on RTI

35. Department of Personnel and Training has launched an online compilation of its Office Memorandums and Notifications on Right to Information Act, 2005, with topic based search facility. This compilation is available on the website of the Department namely www.persmin.nic.in and is beneficial to all the stake holders.

Part II

FOR PUBLIC AUTHORITIES

Public authorities are the repository of information which the citizens have a right to access 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.

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 communication, 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 organisation, functions and duties;
- (ii) the powers and duties of its officers and employees;
- (iii) the procedure followed in the decision making process, including channels of supervision and accountability;
- (iv) the norms set by it for the discharge of its functions;
- (v) the rules, regulations, instructions, manuals and records, held by it or under its control or used by its employees for discharging its functions;
- (vi) a statement of the categories of documents that are held by it or under its control;
- (vii) the particulars of any arrangement that exists for consultation with, or representation by, the members of the public in relation to the formulation of its policy or implementation thereof;
- (viii) a statement of the boards, councils, committees and other bodies consisting of two or more persons constituted as its part or for the purpose of its advice,

and as to whether meetings of those boards, councils, committees and other bodies are open to the public, or the minutes of such meetings are accessible for public;

- (ix) directory of its officers and employees;
- (x) the monthly remuneration received by each of its officers and employees, including the system of compensation as provided in its regulations;
- (xi) the budget allocated to each of its agency, indicating the particulars of all plans, proposed expenditures and reports on disbursements made;
- (xii) the manner of execution of subsidy programmes, including the amounts allocated and the details of beneficiaries of such programmes;
- (xiii) particulars of recipients of concessions, permits or authorisations granted by it;
- (xiv) details in respect of the information, available to or held by it, reduced in an electronic form;
- (xv) the particulars of facilities available to citizens for obtaining information, including the working hours of a library or reading room, if maintained for public use;
- (xvi) the names, designations and other particulars of the Public Information Officers.

5. Besides the categories of information enumerated above, the Government has issued guidelines that the following categories of information may be published by the public authorities:

- i. Information relating to procurement
- ii. Public Private Partnerships
- iii. Transfer Policy and Transfer Orders
- iv. RTI Applications
- v. CAG & PAC paras
- vi. Citizens Charter
- vii. Discretionary and Non-discretionary grants
- viii. Foreign Tours of PM/Ministers and senior officers

6. In addition, 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 requirement which every public authority is bound to meet.

7. Proactive disclosure should be done in the local language so that it remains accessible to public. It should be presented in a form that is easily understood and if technical words are used they should be carefully explained. As provided in section 4, disclosure should be made in as many mediums as feasible such as notice boards, newspapers, public announcements, media broadcast, the internet or any other means. The disclosures should be kept up to date. The disclosure of Information may be made keeping in mind the provisions of Section 8 to 11 of the RTI Act.

8. Every public authority should keep in view that Proactive disclosures on its website are complete, easily accessible, technology and platform neutral and in a form which conveys the desired information in an effective and user-friendly manner.

9. Each Central Ministry/ Public Authority should get its proactive disclosure package audited by third party every year. Such audit should be communicated to the Central Information Commission annually through publication on their own websites. All Public Authorities should proactively disclose the names of the third party auditors on their website. For carrying out third party audit through outside consultants also, Ministries/Public Authorities should utilize their plan/non-plan funds.

10. Each Central Ministry/ Public Authority should appoint a senior officer not below the rank of a Joint Secretary and not below rank of Additional HOD in case of attached offices for ensuring compliance with the proactive disclosure guidelines.

Designation of PIOs and APIOs etc.

11. 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

12. 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 also designate the First Appellate Authorities and publish their particulars alongwith the particulars of the Public Information Officers.

Acceptance of Fee

13. According to the Right to Information Rules, 2012, an applicant can make payment of fee in cash to the public authority or CAPIO or by demand draft or banker's cheque or Indian Postal Order payable to the Accounts Officer of the public authority. The payment of fee to the Central Ministries/departments can also be made online through internet banking of State Bank of India or through Master/Visa Debit/credit cards. 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 any Accounts Officer, it should designate an officer as such for the purpose of receiving fee under the RTI Act and Rules made thereunder.

Compliance of the Orders of the Information Commission

14. 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.

Creation of RTI Cell

15. 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 applicants 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 RTI Cell within the organisation to receive all the RTI applications and first appeals and to route them to the concerned PIOs/FAAs. Detailed instructions regarding setting up of RTI Cell, its functions and financial assistance in setting up RTI Cell have been issued by the Department.

Transfer of Applications

16. 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.

17. If 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 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 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. However, if the details of public authorities who may have the information sought by the applicant are available with the PIO, such details may also be provided to the applicant.

18. 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.

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. For this purpose, a web based software called “RTI Annual Report Information System” is available on the website of CIC namely www.cic.gov.in through which public authorities are required to upload requisite reports on quarterly basis. It is important that all public authorities should get themselves registered with CIC for the purpose of this report and also upload their quarterly returns regularly and on time.

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 RTI Rules, 2012. 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 Public Information Officer of the concerned public authority. He should make all efforts to ascertain as to which the public authority is concerned with the information. If the information sought by an applicant is related to different PIOs in a Public Authority or is related to different Public authorities, the supply of information is likely to take a lot more time than if the information sought is related to a single PIO in one Public Authority.

3. The applicant should not list out his grievances in the RTI application but should clearly mention which information or record he would like to seek. Further, if the drafting of the application is such that it pin points towards the specific documents required in relation to the information sought, there would be less scope of ambiguity, thereby resulting in less chances of denial of information by the Public Information Officer. For example instead of simply asking why my area is not being cleaned, cleaning schedule of the area should be asked. Similarly, instead of asking when we will get water supply, water supply planning of the area should be asked.

Fee for Seeking Information

4. Along with the application, the applicant should send application fee to the Public Information Officer. In case of Government of India, the 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 public authority or to the Assistant Public Information Officer against proper receipt. In case of online applications to Central Ministries/departments, fee can be paid online through internet banking of State Bank of India or through Master/Visa credit/debit cards.

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 as belonging to the below poverty line category. The application not accompanied by the prescribed application fee or proof of the applicant's belonging to below poverty line category, 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 a plain paper. The applicant should mention the address at which the information is required to be sent. The information seeker is not required to give reasons for seeking information.

Filing of Appeal

8. An applicant can file an appeal to the first appellate authority if the 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 first 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 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 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 to whom the application was addressed;
- (iii) Name and address of the Public Information Officer who gave reply to the application;
- (iv) Name and address of the First Appellate Authority who decided the first appeal;
- (v) Particulars of the application;
- (vi) Particulars of the order including number, if any, against which the appeal is preferred;
- (vii) Brief facts leading to the appeal;
- (viii) Prayer or relief sought;
- (ix) Grounds for prayer or relief;
- (x) Any other information relevant to the appeal;
- (xi) Verification/authentication by the appellant.

11. The appeal made to the Central Information Commission should be accompanied by the following documents, duly authenticated and verified by the appellant, namely:

- (i) a copy of the application submitted to the CPIO;
- (ii) a copy of the reply received, if any, from the CPIO;
- (iii) a copy of the appeal made to the FAA;
- (iv) a copy of the order received, if any, from the FAA;
- (v) Copies of other documents relied upon by the appellant and referred to in his appeal; and
- (vi) 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 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.

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) category. 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 the Public Information Officer should consider such an application sympathetically and try to supply information sought by way of such an application.

3. 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

4. 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.

5. 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

6. 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.

7. 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

8. 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.

9. 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.

10. 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.

11. Though there is no hard and fast rule as to when exactly intimation about additional fees is to be given to the applicant, such intimation should be given soon after receipt of RTI application.

Supply of Part Information by Severance

12. Where a request is received for access to information which is exempt from disclosure but a part of which is not exempt, and 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.

Time Period for Supply of Information

13. The following table shows the **maximum** time (from the receipt of application) which may be taken to dispose off the applications in different situations:

Sr. No.	Situation	Time limit for disposing off applications
1.	Supply of information in normal course.	30 days
2.	Supply of information if the application is received through APIO.	05 days shall be added to the time period indicated

		at Sr. No. 1
3.	Supply of information if it concerns the life or liberty of a person	48 hours
4.	Transfer of application to other public authority under section 6(3) of the Act	05 days
5.	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.
6.	Supply of information where the applicant is asked to pay additional fee.	The period intervening between informing the applicant about additional fee and the receipt of such fee by the public authority shall be excluded for calculating the period of reply.
7.	Supply of information by organizations specified in the Second Schedule: (a) If information relates to allegations of violation of human rights (after approval of the Central Information Commission) (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.

14. 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

15. 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 shall not be disclosed unless the competent

authority is satisfied that larger public interest warrants the disclosure of such information.

16. 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.

17. 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.

18. 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.

19. 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.

20. 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.

Imposition of Penalty

21. 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

22. 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

23. 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.

Part V

FOR FIRST APPELLATE AUTHORITIES

The first Appellate Authority has a very important role under the RTI Act, 2005. The independent and judicious examination of appeals by the First Appellate Authorities would lead to higher satisfaction to the appellants. This would, in turn, result in less number of second appeals to the Information Commission.

2. The information sought by an applicant should either be supplied to him by the Public Information Officer or his application should be rejected within the time prescribed under the Act. If additional fee need be charged from the applicant, timely communication in this regard should be sent to him.

First Appeal

3. 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. The applicant may prefer the first appeal within thirty days from the expiry of such period or from the receipt of such a decision of the Public Information Officer.

4. The First Appellate Authority may admit the appeal after 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.

5. A third party can also prefer an appeal to the First Appellate Authority against the order of the Public Information Officer to disclose third party information. Such an appeal shall be made within thirty days from the date of the order.

Disposal of Appeal

6. While disposing off first appeals, the first Appellate Authorities should act in a fair and judicious manner. It is very important that the order passed by the first appellate authority should be a detailed and speaking order, giving justification for the decision arrived at.

7. 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 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 alongwith the order passed by him in the matter.

8. 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

9. The first appellate authority should dispose off the appeal within 30 days of receipt of the appeal. In some exceptional cases, the Appellate Authority may take 45 days for its disposal. However, in such cases, the Appellate Authority should record, in writing, the reasons for not deciding the appeal within 30 days.