

# RIGHT TO INFORMATION ACT

The **Right to Information Act 2005 (RTI)** is an Act of the [Parliament of India](#) *"to provide for setting out the practical regime of right to information for citizens."* The Act applies to all States and Union Territories of India except the [State of Jammu and Kashmir](#). Jammu and Kashmir has its own act called [Jammu & Kashmir Right to Information Act, 2009](#). Under the provisions of the Act, any citizen may request information from a "public authority" (a body of Government or "instrumentality of State") which is required to reply expeditiously or within thirty days. The Act also requires every public authority to computerize their records for wide dissemination and to pro-actively [publish](#) certain categories of information so that the citizens need minimum recourse to request for information formally. This law was passed by Parliament on 15 June 2005 and came fully into force on 13 October 2005.<sup>[1]</sup> Information disclosure in India was hitherto restricted by the [Official Secrets Act 1923](#) and various other special laws, which the new RTI Act now relaxes. The formal recognition of a legal right to information in India occurred more than two decades before legislation was finally enacted, when the Supreme Court of India ruled in State of U.P. v. Raj Narain that the right to information is implicit in the right to freedom of speech and expression explicitly guaranteed in Article 19 of the Indian Constitution

The public can seek information other than restricted from any department from lowest Public Authority, Assistant Public Information Officer(APIO) .If the APIO did not furnish the information in the specified time ,the citizen can appeal to higher authorities Public Information Officer(PIO) and Appellate Authority(AA)

# Right to Information Act 2005

## A User's Guide

### Content

	Page No
Objectives of Right to Information Act	01
Why a Legal Framework Necessary?	01
Definition of Public Authority	01
Appropriate Government	01
Competent Authority	02
Information Commission	02
Public Information Officer	02
Assistant Public Information Officer	02
Definition of "Information"	02
Definition of "Record"	02
Definition of "Right to Information"	03
Definition of "Third Party"	03
"Dissemination" of Information	03
Citizens' Right to Information	03
Obligations of a Public Authority	03
Maintenance of Records	03
Computerisation of Records	04
Proactive Disclosure of Information	04
Provide Information Suo Motto, Disseminate Widely	05
Designate Information Officers	05
Make Information Accessible to PIOs	05
Transfer Mis-directed Requests	05
Obligations of Public Information Officers	06
Obligations of Assistant Public Information Officers	06
Obligations of Officer whose Assistance is Sought	06
Request for Information	06
Disposal of Request	07
Form of Access to Information	08
Exemptions from Disclosure	08
Public Interest Over-riding	09
Information upto 20 Years	09
Protection of Copyright	09
Access to Part of Record	09

Third Party Information	10
Central Information Commission	10
State Information Commission	11
Powers and Functions of Information Commission	12
Appeal	13
First Appeal	13
Second Appeal	13
Onus of Proof	13
Decision of Commission	13
Imposition of Penalty	14
Disciplinary Action	14
Action in Good Faith	15
Overriding Effect of Act	15
Bar of Jurisdiction of Courts	15
Non-applicability to Certain Organisations	15
Report of Information Commission	16
Obligations of Ministries & Departments	16
Promoting Conformity to Act	17
Educational Programmes	17
Guide for Citizens	17
Notification of Rules	18
Power to Remove Difficulties	18
Intelligence and Security Organisations established by the Central Government exempted from Right to Information Act 2005	18

# **Right to Information Act 2005**

## **A User's Guide**

### **Objectives of Right to Information Act**

[Preamble]

- set 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;
- provide for the constitution of a Central Information Commission and State Information Commissions and for matters connected therewith or incidental thereto.

### **Why a Legal Framework Necessary?**

[Preamble]

- facilitate right to information leading to an informed citizenry and transparency of information which are vital to the functioning of democracy as established by the Constitution of India and also to contain corruption and to hold Governments and their instrumentalities accountable to the governed;
- harmonise conflicting interests in practice involved in revelation of information and other public interests such as efficient operations of government, optimum use of limited fiscal resources and the preservation of confidentiality of sensitive information while preserving the paramountcy of the democratic ideal.

### **Definition of Public Authority**

[Preliminary]

- any authority or body or institution of self-government established or constituted—
  - (a) by or under the Constitution;
  - (b) by any other law made by Parliament;
  - (c) by any other law made by State Legislature;
  - (d) by notification issued or order made by the appropriate Government; and includes any—
- (i) body owned, controlled or substantially financed;
- (ii) non-Government organisation substantially financed, directly or indirectly by funds by the appropriate Government.

### **Appropriate Government**

[Preliminary]

- 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.

## **Competent Authority**

[Preliminary]

- 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;
- the Chief Justice of India in the case of the Supreme Court;
- the Chief Justice of the High Court in the case of a High Court;
- the President or the Governor, as the case may be, in the case of other authorities established or constituted by or under the Constitution;
- the administrator appointed under article 239 of the Constitution.

## **Information Commission**

[Preliminary]

- Central Information Commission or State Information Commission constituted under the Act, as the case may be.

## **Public Information Officer (PIO)**

[Preliminary]

- Central Public Information Officer including Central Assistant Public Information Officer designated under the Act or State Public Information Officer including State Assistant Information Officer designated under the Act, as the case may be.

## **Assistant Public Information Officer**

[Preliminary]

- Central Assistant Public Information Officer or State Assistant Public Information Officer designated under the Act, as the case may be.

## **Definition of "Information"**

[Preliminary]

- 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.

## **Definition of "Record"**

[Preliminary]

- any document, manuscript and file;
- any microfilm, microfiche and facsimile copy of a document;
- any reproduction of image or images embodied in such microfilm (whether enlarged or not); and
- any other material produced by a computer or any other device.

## **Definition of “Right to Information”**

[Preliminary]

- right to information accessible under the Right to Information Act 2005 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.

## **Definition of "Third Party"**

[Preliminary]

- a person other than the citizen making a request for information and includes a public authority.

## **“Dissemination” of Information**

[Section 4(3) & (4)]

- making known or communicated 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.

## **Citizens’ Right to Information**

[Section 3]

- all citizens shall have right to information subject to the provisions of the Right to Information Act 2005 – to be referred to as the Act in this guide.

## **Obligations of a Public Authority**

[Section 4]

### **(1) Maintenance of Records**

[Section 4 (1)a]

- maintain all its records duly catalogued and indexed in a manner and the form which facilitates the right to information under the Act;

## **(2) Computerisation of Records**

[Section 4 (1) a]

- ensure that all records that are appropriate to be computerised are, within a reasonable time and subject to availability of resources, computerised and connected through a network all over the country on different systems so that access to such records is facilitated;

## **(3) Proactive Disclosure of Information**

[Section 4 (1) b, c & d]

- publish within 120 days from the enactment of the Right to Information Act —
  - (i) the particulars of its organisation, functions and duties;
  - (ii) the powers and duties of its officers and employees;
  - (iii) the procedure followed in the decision making process, including channels of supervision and accountability;
  - (iv) the norms set by it for the discharge of its functions;
  - (v) the rules, regulations, instructions, manuals and records, held by it or under its control or used by its employees for discharging its functions;
  - (vi) a statement of the categories of documents that are held by it or under its control;
  - (vii) the particulars of any arrangement that exists for consultation with, or representation by, the members of the public in relation to the formulation of its policy or implementation thereof;
  - (viii) a statement of the boards, councils, committees and other bodies consisting of two or more persons constituted as its part or for the purpose of its 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 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;
- (xvii) such other information as may be prescribed;
- update the publications (i) to (xvii) every year;
- publish all relevant facts while formulating important policies or announcing the decisions which affect public;
- provide reasons for administrative or quasi-judicial decisions to affected persons.

#### **(4) Provide Information Suo Motto, Disseminate Widely**

[Section 4 (2), (3) & (4)]

- constantly endeavour to take steps in accordance with proactive disclosure requirements 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 the Right to Information Act to obtain information;
- disseminate information in accordance with proactive disclosure requirements widely and in such form and manner which is easily accessible to the public, subject to taking into consideration the cost effectiveness, local language and the most effective method of communication in that local area.

#### **(5) Designate Public Information Officers**

[Section 5 (1) & (2)]

- designate, within 100 days of the enactment of the Act, 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 the Act;
- designate an officer, within 100 days of the enactment of the 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.

#### **(6) Make Information Accessible to PIOs**

[Section 4 (4)]

- make information 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.

#### **(7) Transfer Mis-directed Requests**

[Section 6 (3)]

- transfer application 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 in full or part as may be appropriate to that other public authority within 5 days of receipt, informing the applicant immediately about such transfer.

### **Obligations of Public Information Officers**

[Section 5(3) & (4), 6(1) & 7(1)]

- deal with requests from persons seeking information and render reasonable assistance to the persons seeking such information, taking the assistance of any other officer, if considered necessary by him or her for the proper discharge of duties;
- render all reasonable assistance, where request for information cannot be made in writing, to the person making the request orally to reduce the same into writing;
- dispose request for information under the Act either providing the information requested on payment of prescribed fee or rejecting the request for reasons to be specified within the time period stipulated under the Act.

### **Obligations of Assistant Public Information Officers**

[Section 5 (2)]

- receive applications for information or appeals under the Act for forwarding the same forthwith to the Central Public Information Officer or the State Public Information Officer or appellate officer or the Central Information Commission or the State Information Commission, as the case may be.

### **Obligations of Officer whose Assistance is Sought**

[Section 5 (5)]

- render all assistance to the Public Information Officer who sought his or her assistance;
- to be treated as a Public Information Officer for the purposes of any contravention of the provisions of the Act.

### **Request for Information**

[Section 6 (1) & (2)]

- to be 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;
- oral request to be reduced to writing with assistance sought from Public Information Officer, where such request cannot be made in writing;
- to specify the particulars of the information being sought by the applicant;
- to be accompanied by fee as prescribed under the rules;
- to be made to the Central Public Information Officer or State Public Information Officer, as the case may be, of the concerned public authority or given to the

Central Assistant Public Information Officer or State Assistant Public Information Officer, as the case may be;

- applicant not to be required to give reason for requesting the information or any other personal details except those that may be necessary for the purpose of contacting.

## **Disposal of Request**

[Section 7 (1) to (8)]

- request for information shall be disposed by the Public Information Officer within 30 days of receipt in general cases and within 48 hours of receipt in cases where the information sought for concerns the life or liberty of a person, subject to that a period of 5 days shall be added in computing the response time where an application for information is given by an Assistant Information Officer;
- request to be deemed to have been refused by the Public Information Officer, if decision on the request for information is not given within the period specified as above;
- where a decision is taken to provide the information on payment of any further fee representing the cost of providing the information, the Public Information Officer 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 or her, together with the calculations made to arrive at the amount in accordance with fee prescribed, requesting him/her 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 30 days and (b) information concerning the right of the person making request 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;
- where access to the record or a part thereof is required to be provided under the Act and the person to whom access is to be provided is sensorily disabled, the Public Information Officer shall provide assistance to enable access to the information, including providing such assistance as may be appropriate for the inspection.
- where access to information is to be provided in the printed or in any electronic format, the applicant shall pay the fee prescribed;
- no fee shall be charged from the persons who are of below poverty line as may be determined by the Government;
- the person making request for information shall be provided the information free of charge where a public authority fails to comply with the stipulated time limits;
- before taking any decision to provide information, the Public Information Officer shall take into consideration the representation made by a third party;
- where a request has been rejected, the Public Information Officer 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.

## **Form of Access to Information**

[Section 7 (9)]

- 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.

## **Exemptions from Disclosure**

[Section 8 (1)]

- 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;
- 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;
- information, the disclosure of which would cause a breach of privilege of Parliament or the State Legislature;
- 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;
- information available to a person in his fiduciary relationship, unless the competent authority is satisfied that the larger public interest warrants the disclosure of such information;
- information received in confidence from foreign Government;
- 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;
- information which would impede the process of investigation or apprehension or prosecution of offenders;
- cabinet papers including records of deliberations of the Council of Ministers, Secretaries and other officers provided that:
  - (a) 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;
  - (b) those matters which come under the exemptions specified shall not be disclosed;
- 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 Public Information Officer or

the appellate authority, as the case may be, is satisfied that the larger public interest justifies the disclosure of such information:  
provided that the information which cannot be denied to the Parliament or a State Legislature shall not be denied to any person.

## **Public Interest Over-riding**

[Section 8 (2)]

- notwithstanding anything in the Official Secrets Act, 1923 nor any of the exemptions permissible under Section 8(1) of the Right to Information Act, a public authority may allow access to information, if public interest in disclosure outweighs the harm to the protected interests.

## **Information upto 20 Years**

[Section 8 (3)]

- subject to exemptions relating to information linked to sovereignty, integrity and security matters, breach of privilege of Parliament or the State Legislature and cabinet papers, any information relating to any occurrence, event or matter which has taken place, occurred or happened 20 years before the date on which any request is made shall be provided to any person making a request under the Act: provided that where any question arises as to the date from which the period of 20 years has to be computed, the decision of the Central Government shall be final, subject to the usual appeals provided for in the Act.

## **Protection of Copyright**

[Section 9]

- a Public Information Officer 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.

## **Access to Part of Record**

[Section 10]

- where a request for access to information is rejected on the ground that it is in relation to information which is exempt from disclosure, access may be provided to that part of the record which does not contain any information which is exempt from disclosure under the Act and which can reasonably be severed from any part that contains exempt information;
- where access is granted to a part of the record the Public Information Officer shall give a notice to the applicant, informing—
  - (a) that only part of the record requested, after severance of the record containing information which is exempt from disclosure, is being provided;

- (b) the reasons for the decision, including any findings on any material question of fact, referring to the material on which those findings were based;
- (c) the name and designation of the person giving the decision;
- (d) the details of the fees calculated by him or her and the amount of fee which the applicant is required to deposit; and
- (e) his or her rights with respect to review of the decision regarding non-disclosure of part of the information, the amount of fee charged or the form of access provided, including the particulars of the appellate officer or the Information Commission, time limit, process and any other form of access.

### **Third Party Information**

[Section 11]

- where a Public Information Officer intends to disclose any information or record, or part thereof on a request made under the Act, which relates to or has been supplied by a third party and has been treated as confidential by that third party, the Public Information Officer shall, within 5 days from the receipt of the request, give a written notice to such third party of the request and of the fact that the Public Information Officer 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;
- where a notice is served by the Public Information Officer to a third party in respect of any information or record or part thereof, the third party shall, within 10 days from the date of receipt of such notice, be given the opportunity to make representation against the proposed disclosure;
- the Public Information Officer, shall, within 40 days after receipt of the request, if the third party has been given an opportunity to make representation, 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 and such notice shall include a statement that the third party is entitled to prefer an appeal under Section 19 against the decision of the Public Information Officer;

### **Central Information Commission**

[Section 12]

- shall consist of (a) the Chief Information Commissioner and (b) such number of Central Information Commissioners, not exceeding 10, as may be deemed necessary;
- to function as an autonomous body exercising the powers conferred on, and performing the functions assigned to it under the Act;

- 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;
- the general superintendence, direction and management of the affairs of the Commission shall vest in the Chief Information Commissioner who shall be assisted by the Information Commissioners;
- the Chief Information Commissioner and every Information Commissioner shall hold office for a term of five years from the date of entering upon office or till attaining the age of 65 years whichever is earlier;
- the Chief Information Commissioner or any Information Commissioner shall be removed from 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;
- the Central Government shall provide the Chief Information Commissioner and the Information Commissioners with such officers and employees as may be necessary for the efficient performance of their functions under the 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 the Act shall be such as may be prescribed.

## **State Information Commission**

[Section 15]

- shall consist of (a) the State Chief Information Commissioner, and (b) such number of State Information Commissioners, not exceeding 10, as may be deemed necessary.
- to function as an autonomous body exercising the powers conferred on, and performing the functions assigned to under the Act;
- 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;
- the general superintendence, direction and management of the affairs of the Commission shall vest in the State Chief Information Commissioner who shall be assisted by the Information Commissioners;
- the State Chief Information Commissioner and every State Information Commissioner shall hold office for a term of five years from the date of entering upon office or till attaining the age of 65 years whichever is earlier;
- the Chief Information Commissioner or any Information Commissioner shall be removed from 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 Chief Information Commissioner or any Information Commissioner, as the case may be, ought on such ground be removed.

- 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 the 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.

## **Powers and Functions of Information Commission**

[Section 18]

- shall receive and inquire into a complaint from any person —
  - (a) who has been unable to submit a request to a Public Information Officer either by reason that no such officer has been appointed under this Act, or because the Assistant Public Information Officer has refused to accept his or her application for information or appeal under the Act for forwarding the same to the Public Information Officer or appellate officer or the Information Commission;
  - (b) who has been refused access to any information requested under the Act;
  - (c) who has not been given a response to a request for information or access to information within the time limit specified under the 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 the Act; and
  - (f) in respect of any other matter relating to requesting or obtaining access to records under the Act;
- may initiate an inquiry in respect of complaint, if satisfied that there are reasonable grounds to inquire into the matter;
- shall, while inquiring into complaint, have the same powers as are vested in a civil court while trying a suit under the Code of Civil Procedure, 1908, in respect of the following matters, namely:—
  - (a) summoning and enforcing the attendance of persons and compel them to give oral or written evidence on oath and to produce the documents or things;
  - (b) requiring the discovery and inspection of documents;
  - (c) receiving evidence on affidavit;
  - (d) requisitioning any public record or copies thereof from any court or office;
  - (e) issuing summons for examination of witnesses or documents; and
  - (f) any other matter which may be prescribed.
- may, during the inquiry of any complaint under the Act, examine any record to which the Act applies which is under the control of the public authority, and no such record may be withheld from it on any grounds notwithstanding anything inconsistent contained in any other Act of Parliament or State Legislature, as the case may be.

## **Appeal**

[Section 19]

### **First Appeal**

[Section 19(1), (2) & (6)]

- any person who, does not receive a decision on request for information within the stipulated time or is aggrieved by a decision of the Public Information Officer may within 30 days from the expiry of such period or from the receipt of such a decision prefer an appeal to the designated appellate officer, senior in rank to the Public Information Officer, provided that such officer may admit the appeal after the expiry of the period of 30 days if he or she is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time;
- where an appeal is preferred against an order made by a Public Information Officer to disclose third party information, the appeal by the concerned third party shall be made within 30 days from the date of the order.
- the appeal shall be disposed of within 30 days of the receipt of the appeal or within such extended period not exceeding a total of 45 days from the date of filing thereof, as the case may be, for reasons to be recorded in writing.

### **Second Appeal**

[Section 19(3)]

- a second appeal against the decision of the appellate officer shall lie within 90 days from the date on which the decision should have been made or was actually received, with the Information Commission provided that the Information Commission may admit the appeal after the expiry of the period of 90 days if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time;
- if the decision of the Public Information Officer against which an appeal is preferred relates to information of a third party, the Information Commission shall give a reasonable opportunity of being heard to that third party;

### **Onus of Proof**

[Section 19(5)]

- in any appeal proceedings, the onus to prove that a denial of a request was justified shall be on the Public Information Officer who denied the request.

### **Decision of Commission**

[Section 19(7), (8), (9) & (10)]

- Commission to decide appeal in accordance with the prescribed procedure and its decision shall be binding;
- in its decision, the Information Commission 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 the Act, including—
    - (i) by providing access to information, if so requested, in a particular form;
    - (ii) by appointing a Public Information Officer;
    - (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 subsection (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 the Act;
  - (d) reject the application.
- the Information Commission shall give notice of its decision, including any right of appeal, to the complainant and the public authority.

### **Imposition of Penalty**

[Section 20 (1)]

- 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 Rs.250 each day till application is received or information is furnished subject to the total amount of such penalty not exceeding Rs.25,000;
- the Public Information Officer shall be given a reasonable opportunity of being heard by the Commission before any penalty is imposed on him or her;
- the burden of proving that a Public Information Officer acted reasonably and diligently shall be on himself or herself;

### **Disciplinary Action**

[Section 20 (2)]

- 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 shall recommend for disciplinary action against the Information Officer under the service rules applicable to him or her.

### **Action in Good Faith**

[Section 21]

- 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 Right to Information Act or any rule made thereunder.

### **Overriding Effect of Act**

[Section 22]

- the provisions of the Act shall have effect notwithstanding anything inconsistent therewith contained in the Official Secrets Act, 1923, and any other law for the time being in force or in any instrument having effect by virtue of any law other than the Act.

### **Bar of Jurisdiction of Courts**

[Section 23]

- no court shall entertain any suit, application or other proceeding in respect of any order made under the Act and no such order shall be called in question otherwise than by way of an appeal under the Act.

### **Non-applicability to Certain Organisations**

[Section 24]

- the Act shall not apply to the intelligence and security organisations established by the Central Government shown at the end of this guide:  
provided that the information pertaining to the allegations of corruption and human rights violations shall not be excluded and further that in the case of information sought for is in respect of allegations of violation of human rights, the information shall only be provided after the approval of the Central Information Commission, and such information shall be provided within 45 days from the date of the receipt of request.
- the Act shall not apply to such intelligence and security organisations established by the State Government, as that Government may, from time to time, by notification in the Official Gazette, specify:  
provided that the information pertaining to the allegations of corruption and human rights violations shall not be excluded and 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 such information shall be provided within 45 days from the date of the receipt of request;

- Every notification issued as above shall be laid before the State Legislature.

## **Report of Information Commission**

[Section 25 (1), (3) & (4)]

- 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 the Act during that year and forward a copy thereof to the appropriate Government;
- 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 the 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 the Act;
  - (g) recommendations for reform, including recommendations in respect of the particular public authorities, for the development, improvement, modernisation, reform or amendment to the Act or other legislation or common law or any other matter relevant for operationalising the right to access information;
- 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 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.

## **Obligations of Ministries & Departments**

[Section 25 (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 by the Commission to prepare its annual report and comply with the requirements concerning the furnishing of that information and keeping of records for the purposes.

## **Promoting Conformity to Act**

[Section 25(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 the Act, it may give to the authority a recommendation specifying the steps which ought in its opinion to be taken for promoting such conformity.

## **Educational Programmes**

[Section 26 (1)]

- the appropriate Government may, to the extent of availability of financial and other resources —
  - (a) develop and organise educational programmes to advance the understanding of the public, in particular of disadvantaged communities as to how to exercise the rights contemplated under the Act;
  - (b) encourage public authorities to participate in the development and organisation of such educational programmes and to undertake such programmes themselves;
  - (c) promote timely and effective dissemination of accurate information by public authorities about their activities; and
  - (d) train Public Information Officers of public authorities and produce relevant training materials for use by the public authorities themselves – user guides on the Act and related matters.

## **User Guide for Citizens**

[Section 26 (2), (3) & (4)]

- the appropriate Government shall, within 18 months from the commencement of the Act, compile in its official language a guide containing such guidelines or information, in an easily comprehensible form and manner, as may reasonably be required by a person who wishes to exercise any right specified in the Act.
- the appropriate Government shall, if necessary, update and publish guidelines at regular intervals which shall, in particular include—
  - (a) the objects of the Act;
  - (b) the postal and street address, the phone and fax number and, if available, electronic mail address of the Public Information Officer of every public authority;
  - (c) the manner and the form in which request for access to an information shall be made to a Public Information Officer;
  - (d) the assistance available from and the duties of the Public Information Officer of a public authority under the Act;
  - (e) the assistance available from the Information Commission;

- (f) all remedies in law available regarding an act or failure to act in respect of a right or duty conferred or imposed by the 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 of the Act;
- (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 the Act.

### **Notification of Rules**

[Sections 27, 28 & 29]

- the appropriate Government/competent authority may, by notification in the Official Gazette, make rules to carry out the provisions of the Act;
- rules made by the appropriate Government shall, as soon as possible, be placed before the appropriate Legislature.

### **Power to Remove Difficulties**

[Section 30]

- if any difficulty arises in giving effect to the provisions of the Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of the 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 the Act and every order so made shall, as soon as may be after it is made, be laid before each House of Parliament.

### **Intelligence and Security Organisations established by the Central Government exempted from Right to Information Act 2005**

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. Special Service Bureau
16. Special Branch (CID), Andaman and Nicobar.
17. The Crime Branch-C.I.D.-CB, Dadra and Nagar Haveli.
18. Special Branch, Lakshadweep Police.