



A Guide on

RIGHT TO INFORMATION

**RIGHT
TO
INFORMATION ACT, 2005**

(December 2013)

F O R E W O R D

Vigilance Department is continuously striving to bring out smart publications on important topics on work related areas of HAL. The present handbook on "The Right to Information Act-2005", is being published to sensitize HAL fraternity about the duties and responsibilities while dealing with RTI matters and also to enhance transparency in HAL. This booklet is an updated and consolidated guide for all stakeholders in HAL.

As we all know, the RTI Act is a powerful tool to usher in public probity and empowers the citizens. It also endeavors 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 its real sense. It is a big step towards making the citizens informed about the activities of the Government.

We hope that our efforts will fulfill the basic objective of creating awareness amongst the employees of HAL on matters relating to Right to Information.

**TEAM VIGILANCE
HINDUSTAN AERONAUTICS LTD.**

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RTI - Frequently Asked Questions

1. What is RTI?

RTI stands for "Right to Information Act, 2005". It came into force on the 12th October, 2005.

(Section 1 [1])

2. Who is covered under RTI?

The Act extends to the whole of India except the State of Jammu and Kashmir.

(Section 1 [2])

3. Who is excluded under RTI?

Act does not apply to certain organisations viz. Central Intelligence agencies and security agencies like the IB, RAW, Directorate of Revenue Intelligence, Central Economic Intelligence Bureau, Enforcement Directorate, Narcotics Control Bureau, Aviation Research Centre, Special Frontier Force, BSF, CRPF, ITBP, CISF, NSG, Assam Rifles, Special Service Bureau, CID Special Branch of Andaman and Nicobar Islands, CID Crime Branch of Dadra Nagar Haveli and Special Branch, Lakshadweep Police. Recently the Government have included CBI, NATGRID and NIA.

(Section 24 & The Second Schedule)

4. What does information mean?

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

(Sub-Section (f) of Section 2)

5. What are citizen's rights to seek information?

It includes the right to :

- a) Inspect works, documents, records.
- b) Take notes, extracts or certified copies of documents or records.
- c) Take certified samples of material.
- d) Obtain information in form of printouts, diskettes, floppies, tapes, video cassettes or in any other electronic mode or through printouts.

(Sub-Section (j) (i) to (iv) of Section 2)

6. Who will provide the information under RTI Act 2005?

Public Information Officer (PIO) of the specific public authority will provide the information.

(Sub-Section (3) of Section 5)

7. What does a "Public Authority" mean?

It means any authority or body or institution of self-government established or constituted:

- a) by or under the Constitution;
- b) by any other law made by Parliament;
- c) by any other law made by State Legislature;
- d) by notification issued or order made by the appropriate Government and includes any-
 - i. body owned, controlled or substantially financed.
 - ii. non-Government organization substantially financed directly or indirectly by the appropriate Government.

(Section 2(h))

8. What are the obligations of public authority?

It shall publish:-

- a) the particulars of its organization, functions and duties;
- b) the powers and duties of its officers and employees;
- c) the procedure followed in its decision making process, including channels of supervision and accountability;
- d) the norms set by it for the discharge of its functions;
- e) the rules, regulations, instructions, manuals and records used by its employees for discharging its functions;
- f) a statement of the categories of the documents held by it or under its control;
- g) the particulars of any arrangement that exists for consultation with, or representation by the members of the public, in relation to the formulation of policy or implementation thereof;
- h) a statement of the boards, councils, committees and other bodies consisting of two or more persons constituted by it. Additionally, information as to whether the meetings of these are open to the public, or the minutes of such meetings are accessible to the public;
- i) a directory of its officers and employees;
- j) the monthly remuneration received by each of its officers and employees, including the system of compensation as provided in its regulations;
- k) the budget allocated to each of its agency, indicating the particulars of all plans, proposed expenditures and reports on disbursements made;
- l) the manner of execution of subsidy programmes, including the amounts allocated and the details and beneficiaries of such programmes;
- m) particulars of recipients of concessions, permits or authorizations granted by it;

- n) details of the information available to, or held by it, reduced in an electronic form;
- o) 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;
- p) the names, designations and other particulars of the Public Information Officers.

(Sub-Section (1) (b) of Section 4)

9. What is not open to disclosure?

- a) Information, disclosure of which would prejudicially affect the sovereignty and integrity of India, the security, strategic, scientific or economic interests of the State, relation with foreign State or lead to incitement of an offence
- b) Information which has been expressly forbidden to be published by any court of law or tribunal or the disclosure of which may constitute contempt of court;
- c) Information, the disclosure of which would cause a breach of privilege of Parliament or the State Legislature;
- d) Information including commercial confidence, trade secrets or intellectual property, the disclosure of which would harm the competitive position of a third party, unless the Competent Authority is satisfied that larger public interest warrants the disclosure of such information;
- e) Information available to a person in his fiduciary relationship, unless the Competent Authority is satisfied that the larger public interest warrants the disclosure of such information;

- f) Information received in confidence from foreign Government;
- g) Information, the disclosure of which would endanger the life or physical safety of any person or identify the source of information or assistance given in confidence for law enforcement or security purposes;
- h) Information which would impede the process of investigation or apprehension or prosecution of offenders;
- i) Cabinet papers including records of deliberations of the Council of Ministers, Secretaries and other officers;
- j) Information which relates to personal information the disclosure of which has no relationship to any public activity or interest, or which would cause unwarranted invasion of the privacy of the individual;
- k) Notwithstanding any of the exemptions listed above, a public authority may allow access to information, if public interest in disclosure outweighs the harm to the protected interests.

(Section 8[1])

10. Is partial disclosure allowed?

Yes. Only that part of the record which does not contain any information which is exempt from disclosure and which can reasonably be severed from any part that contains exempt information, may be provided.

11. How does one who cannot write apply?

In case one cannot make request in writing, the PIO is supposed to render all reasonable assistance to the person making the request orally to reduce the same in writing.

(Sub-Section (1) of Section 6)

12. How can one who is deaf/blind apply?

Where the applicant is deaf, blind, or otherwise impaired, the public authority is supposed to provide assistance to enable access to the information, including providing such assistance as may be appropriate for the inspection.

(Sub-Section (4) of Section (7))

13. Is there an "application form" to be filled?

For Central Government Departments, there is no form. One can apply in writing on a plain sheet of paper like an ordinary application or through electronics means in English or Hindi or in the official language.

However, many states and some ministries and departments have prescribed formats. If so, prescribed format need to be used.

(Sub-Section (1) of Section 6)

14. Should the applicant give reasons for seeking any information?

Applicant is not required to give any reasons or additional information other than your contact details (i.e., Name, Address, etc.).

(Sub-Section (2) of Section 6)

15. Is there any fee for filing RTI petition?

Yes, there is an “application fee”. For Central Government Departments, it is Rs.10. However, different states have different fees.

For getting copies of the information sought, one has to pay charges for the copies. One has to deposit those fees, and the period intervening between the dispatch of the said intimation and payment of fees shall be excluded for the purpose of calculating the period of thirty days.

One has to pay additional cost as per the details below-

Rs.2/- per page(A4 & A3 Size) created or copied.

Actual charge or cost price of a copy in larger size paper;

For inspection of records, no fee for the first hour; and a fee of rupees five for each subsequent hour (or fraction thereof).

(Section 7, Section 3 of Regulation of fee & Cost rules 2005)

16. How can one send his/her application fee?

Every state has a different mode of payment for application fee. Generally, you can deposit your application fee via:

- * In person by paying cash [Receipt must be taken]
- * Demand Draft
- * Indian Postal Order
- * Money orders (only in some states)
- * Affixing Court fee Stamp (only in some states)
- * Banker's cheque

*(Sub-Section (5) of Section 7
Section 3 of Regulation of fee & Cost rules 2005)*

17. Is there any exemption from paying application fee?

No fees will be charged from people living below the poverty line.

(Sub-Section (5) of Section 7 & Para 6 of Note below Section 7)

18. Where do I submit the application for information?

One or more officers in every Public Authority have been made "Public Information Officers" (PIO). Request to information need to be submitted to the concerned PIO of the Public Authority.

The PIO's are responsible for collecting information requested by the applicants and providing to the RTI applicants. Also, several officers have been appointed as Assistant Public Information Officers (APIOs). Their job is only to accept applications from the public and forward it to the right PIO.

(Sub-Section (3) of Section 5)

19. Where can one find the concerned PIO?

Each organization has published the name of the Central Public Information Officer. A list of PIOs/APIOs for all Central and State departments/Ministries is available online at www.rti.gov.in

A list of PIOs/APIOs of HAL is available at <http://www.hal-india.com/RTI-INDEX.asp>

(Sub-Section (2) of Section 5)

20. Can the PIO refuse to accept RTI application?

No. The PIO cannot refuse to accept a RTI application for information under "any circumstances". Even if the information does not

pertain to his / her department/jurisdiction, she / he has to accept it.

If the application does not pertain to that PIO, he would have to transfer it to the right PIO within 5 days.

It shall be the duty of the Central Information Commission or State Information Commission, as the case may be, to receive and inquire into a complaint from any person.

(Sub-Section (3) of Section 6)

21. What are the duties of PIO, In case of rejection of RTI application

Where a request for information has been rejected, the PIO shall communicate to the person about the reasons for such rejection; the period within which an appeal against such rejection may be preferred; and the particulars of the Appellate Authority

(Section 8)

RTI applicant can file application to RTI Appellate Authority (AA). AA will take action against the PIO if they find that the RTI application has been rejected on wrong reasons.

(Sub-Section (1)(b) of Section 18)

22. What could be the ground for rejection?

- a) If it is covered by exemption from disclosure.
- b) If it infringes copyright of any person other than the State.

The PIO can deny information in some cases/matters. The various exemptions from disclosure of information are listed in Section 8 of the RTI Act, 2005.

If the sought information is in public interest then the exemptions enumerated in Section 8 of the RTI Act, 2005 can also be disclosed.

(Section 8)

23. What if PIO fails to give the information?

If a PIO fails to furnish the information asked for under the Act, every PIO will be liable for fine of Rs. 250 per day up to a maximum of Rs. 25,000/- for:-

- a) Not accepting an application
- b) Delaying information release without reasonable cause
- c) Malafidely denying information
- d) Knowingly giving incomplete, incorrect, misleading information
- e) Destroying information that has been requested and
- f) Obstructing furnishing of information in any manner

The Information Commission can also recommend disciplinary action against the concerned PIO, under the Service Rules applicable to him/her.

(Sub-Section (1) of Section 20)

24. What are the time limits specified in the RTI Act?

For matters involving "Life and Liberty"	Within 48 Hours from receipt of application.
For Public Information Officer to reply to application	30 days from date of receipt of application
For Public Information Officer to transfer to another PA under Sec 6(3)	5 days from date of receipt of application
For Public Information Officer to issue notice to 3 rd Party	5 days from date of receipt of application
For 3 rd Party to make a representation to Public Information Officer	10 days from receipt of notice from Public Information Officer
For Public Information Officer to reply to application if 3 rd Party involved	40 days from date of receipt of application
For applicant to make First Appeal	30 days from date of receipt of Public Information Officer's reply or from date when reply was to be received
For First Appellate Authority to pass an order	30 days from receipt of First Appeal OR Maximum 45 days, if reasons for delay are given in writing
For applicant to make Second Appeal before CIC/State Information Commission	90 days from receipt of First Appeal orders or from the date when orders were to be received
For CIC/State Information Commission to decide Second Appeal	No time limit specified

(Section 7)

The Central/State Public Information Officer may invite third party to make a submission in writing or oral to take a decision whether the information should be disclosed.

(Sub-Section (n) of Section 2)

25. Handling of complaints under RTI ACT?

Section 18 of the act empowers Central Information Commission[CIC] and also State Information Commissions[SICs] to enquire into complaints against Public Authority, Public Information Officer [Public Information Officer] and First Appellate Authority [First Appellate Authority]. The section has provided for enquiring and taking corrective steps by the respective commissions in respect of majority of problems that the applicant/appellant may face in getting information to which he is entitled to under this Act.

(Sub-Section (1) Section 18)

26. What are the duties of a PIO?

a) PIO shall deal with requests from persons seeking information and where the request cannot be made in writing, to render reasonable assistance to the person to reduce the same in writing.

b) If the information requested for is held by or its subject matter is closely connected with the function of another public authority, the PIO shall transfer, within 5 days, the request to that other public authority and inform the applicant immediately.

c) PIO may seek the assistance of any other officer for the proper discharge of his/her duties.

d) PIO, on receipt of a request, shall as expeditiously as possible, and in any case within 30 days of the receipt of the request, either provide the information on payment of such fee as may be prescribed or reject the request for any of the reasons specified in S.8 or S.9.

e) Where the information requested for concerns the life or liberty of a person, the same shall be provided within forty-eight hours of the receipt of the request.

f) If the PIO fails to give decision on the request within the period specified, he shall be deemed to have refused the request.

g) Where a request has been rejected, the PIO shall communicate to the requester -

(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.

h) PIO shall provide information 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.

i) If allowing partial access, the PIO shall give a notice to the applicant, informing:

i. that only part of the record requested, after severance of the record containing information which is exempt from disclosure, is being provided;

ii. the reasons for the decision, including any findings on any material question of fact, referring to the material on which those findings were based;

iii. the name and designation of the person giving the decision;

iv. the details of the fees calculated by him or her and the amount of fee which the applicant is required to deposit; and

v. 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.

vi. If information sought has been supplied by third party or is treated as confidential by that third party, the PIO shall give a written notice to the third party within 5 days from the receipt of the request and take its representation into consideration.

vii. Third party must be given a chance to make a representation before the PIO within 10 days from the date of receipt of such notice.

(Section 2(h))

27. Who are the Appellate Authorities?

In case a person fails to get a response from the PIO within the prescribed period or is aggrieved by the response received, or misuse of Section 8 of the Act, then he/she can file an appeal within 30 days with an officer superior in rank to the PIO (first Appellate Authority). **(Section 19[1])**

a) **First Appeal:** First appeal to the officer senior in rank to the PIO in the concerned Public Authority within 30 days from the expiry of the prescribed time limit or from the receipt of the decision (delay may be condoned by the Appellate Authority if sufficient cause is shown).

b) **Second Appeal:** Second appeal to the Central Information Commission or the State Information Commission as the case may be, within 90 days of the date on which the decision was given or should have been made by the First Appellate Authority. (delay may be condoned by the Commission if sufficient cause is shown).

c) **Third Party appeal** against PIO's decision must be filed within 30 days before first Appellate Authority; and, within 90 days of the decision on the first appeal, before the appropriate Information Commission which is the Second Appellate Authority.

d) Burden of proving that denial of Information was justified lies with the PIO.

e) First Appeal shall be disposed of within 30 days from the date of its receipt. Period extendable by 15 days if necessary.

(Section 19)

28. What is the Jurisdiction of Courts?

Lower Courts are barred from entertaining suits or applications against any order made under this Act. (S.23) However, the writ jurisdiction of the Supreme Court and High Courts under Articles 32 and 225 of the Constitution remains unaffected.

29. What is the role of Central/State Governments?

a) Develop educational programmes for the public especially disadvantaged communities on RTI.

b) Encourage Public Authorities to participate in the development and organization of such programmes.

c) Promote timely dissemination of accurate information to the public.

d) Train officers and develop training materials.

- e) Compile and disseminate a User Guide for the public in the respective official language.
- f) Publish names, designation postal addresses and contact details of PIOs and other information such as notices regarding fees to be paid, remedies available in law if request is rejected etc.

(Section 26)

30. Who has the Rule making power?

Central Government, State Governments and the Competent Authority as defined in S.2(e) are vested with powers to make rules to carry out the provisions of the Right to Information Act, 2005.

(Section 27 &28)

31. Who has the power to deal with the difficulties while implementing this act?

If any difficulty arises in giving effect to the provisions in the Act, the Central Government may, by Order published in the Official Gazette, make provisions necessary/expedient for removing the difficulty.

(Section 30)

Proactive Disclosure

1) Responsibilities of Public Authority:

a) 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.

b) 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.

c) 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

d) 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.

e) 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.

f) 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.

g) 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.

h) 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.

2) Designation of PIOs and APIOs etc.

3) 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.

4) Designation of Appellate Authority

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.

5) Acceptance of Fee

According to the Right to Information Rules, 2012, an applicant can make payment of fee in cash to the public authority or CPIO 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 there under.

6) Compliance of the Orders of the Information Commission

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.

7) Creation of RTI Cell

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.

8) Annual Report of the CIC

a) 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.

- i. the number of requests made to each public authority;
 - ii. 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;
 - iii. particulars of any disciplinary action taken against any officer in respect of the administration of the Act;
 - iv. the amount of charges collected by each public authority under the Act; and
 - v. any facts which indicate an effort by the public authorities to administer and implement the spirit and intention of the Act.
- b) 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.

c) 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.

9) Third Party Audit:

a) Each Ministry/ Public Authority should get its proactive disclosure package audited by third party every year. The audit should cover compliance with the proactive disclosure guidelines as well as adequacy of the items included in the package. The audit should examine whether there are any other types of information which could be proactively disclosed. Such audit should be done annually and 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.

b) The Central Information Commission should examine the third-party audit reports for each Ministry/Public Authority and offer advice/recommendations to the concerned Ministries/ Public Authorities.

c) Central Information Commission should carry out sample audit of few of the Ministries/ Public Authorities each year with regard to adequacy of items included as well as compliance of the Ministry/Public Authority with these guidelines.

10) Nodal Officer

a) 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. The Nodal Officer would work under the supervision of the Secretary of the Ministry/Department or the HOD of the attached office, as the case may be. Nodal Officers of Ministry/Department and HOD separately should also ensure that the formations below the Ministry/Department/Attached Office also disclose the information as per the proactive disclosure guidelines.

Guide for the Public Authority

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Guide For The Public Authority

1) Citizen's Right to Information

a) Public authorities are the repository of information which the citizen have right to have under the Right to Information Act, 2005.

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

c) 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.

d) The Act gives the right to information only to the citizen of India. It does not make provision for giving information to Corporations, Associations, and 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.

e) Only such information is required to be supplied under the Act which already exists and is held by the public authority or held under the control of the public authority, It is not required under the Act to create information; or to interpret information; or to solve the problems raised by the applicants; or to furnish replies to hypothetical questions.

2) Information Exempted From Disclosure

a) 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 overweighs the harm to the protected interest. Further, sub-section (3) of section 8 provides that information exempt from disclosure under sub-section (1), exempted as provided in clauses (a), (c) and (i) thereof, would cease to be exempted after 20 years from the date of occurrence of the related event etc.

b) It may be noted that section 8(3) of the Act does not require the public authorities to retain records for indefinite periods. The records should be retained as per the record retention schedule applicable to the form of an OM or a letter or in any other form even after destruction of the file/record. The Act requires furnishing of information so available after the lapse of 20 years even if such information was exempt from disclosure under sub-section (1) of Section 8. It means that the information which, in normal course, is exempt from disclosure under sub-section (1) of Section 8 of the Act, would cease to be

exempted if 20 years have lapsed after occurrence of the incident to which the information relates. However, the following types of information would continue to be exempt and there would be no obligation, even after lapse of 20 years, to give any

c) 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;

d) Information the disclosure of which would cause a breach of privilege of parliament or State Legislature; or

e) Cabinet papers including records of deliberation of the Council of Ministers, Secretaries and other Officers subject to the conditions given in proviso to clause (l) sub-section (1) of Section 8 of the Act,

f) Timely Supply of Information

g) The Act requires that except in some special circumstances, decision on an application for information should be given within 30 days of the receipt of the request. Where the information sought for concerns the life or liberty of a person, the same should be provided within forty-eight hours of the receipt of the request. If the decision on the request for information is not given within the prescribed period. It is deemed that the request has been refused. 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.

3) Right Information Vis-a-vis other Acts

a) The RTI Act has over-riding effect vis-a-vis other laws in as much as the provisions of the RTI Act would 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 RTI Act.

4) Maintenance and Computerisation of Records

a) 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 from that it may facilitate the right to information.

b) The public authority should computerize all its records which are appropriate to be computerized, Record so computerized should be connected through a network on different systems so that access to such records is facilitated.

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

d) 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 is of the view that an order of the Commission is not consonant with the provisions of the Act, it may approach the High Court by way of a Writ petition.

5) Imposition of Penalty

a) As pointed out above, an applicant under the Act has a right to appeal to the Central Information Commission and also to make a complaint to the Commission. Where the Central Information Commission at the time of deciding any complaint or appeal is of the opinion that the Central 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 Central 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 Central Public Information Officer.

6) Protection for Work Done in Good Faith

a) 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 CPIO should, however, note that it would be his responsibility to prove that his action was in good faith.

7) Disciplinary Action Against CPIO

a) Where the Central Information Commission at the time of deciding any complaint or appeal is of the opinion that the Central 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 for disciplinary action against the Central Public Information Officer.

8) First Appeal

a) The information sought by an applicant should either be supplied to him or his application should be rejected within the time prescribed by the Act. If additional fee need be charged from the application, communication in this regard should be sent to him within the time limit prescribed for sending information. If the applicant does not receive information or decision about rejection or 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 CPIO regarding supply of information or the quantum of fee decided by CPIO.

9) Appeal in relation to Third Party Information

a) Third party in relation to the Act means a person other than the citizen who has made the request for information. Any public authority other than the public authority to whom the request has been made shall also be included in the definition of third party.

b) It may be noted that 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. Section 8(1)(d) requires that such information should not be disclosed unless the competent authority is satisfied that larger public interest warrants the disclosure of such information.

c) 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 Central Public Information Officer should consider whether the information should be disclosed or not. The guiding principle in such cases should be 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, procedure as given below should be followed before disclosing such information. It may be noted that this procedure need to be followed only when the third party has treated the information as confidential.

d) If the CPIO intends to disclose the information, he should 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 should request the third party to make a submission in writing or orally, regarding whether the information should be disclosed. The third party should 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.

e) The Central Public Information Officer should 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.

f) After taking the decision, the CPIO 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.

g) The third party can prefer an appeal to the First Appellate Authority against the decision made by the Central 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 the second appeal to the Central Information Commission.

h) If an appeal has been filed by the third party against the decision of the CPIO to disclose the third party information, the information should not be disclosed till the appeal is decided.

10) Time Limit for Filing of First Appeal

a) The first appeal may be made within 30 days from the date of expiry of the prescribed period or from the date of receipt of communication from the CPIO. If the First Appellate Authority is satisfied that the appellant was prevented by sufficient cause from filling the appeal, the appeal may be admitted after 30 days also.

11) Disposal of Appeal

a) Deciding appeals under the RTI Act is a quasi-judicial function. It is, therefore, necessary that the Appellate Authority should see to it that the justice is not only done but it should also appear to have been done. In order to do so, the order passed by the Appellate Authority should be a speaking order giving justification for the decision arrived at.

12) Time Limit for Disposal of Appeal

a) The appeal should be disposed off within 30 days of receipt of the appeal. In exceptional cases, the Appellate Authority may take 45 days for its disposal. However, in cases where disposal of appeal takes more than 30 days, the Appellate Authority should record in writing the reasons for such delay.

b) If an Appellate Authority comes to a conclusion that the appellant should be supplied information in addition to what has been supplied to him by the CPIO, he may either (i) pass an order directing the CPIO to give such information to the appellant; or (ii) he himself may give information to the appellant while disposing off the appeal. In the first case the Appellate Authority should ensure that the information ordered by him to be supplied is supplied to the appellant immediately. It would,

however, be better if the Appellant Authority chooses the second course of action and he himself furnishes the information along with the order passed by him in the matter.

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

13) Transparency Officer:

a) CIC clarified that the institution of Transparency Officer (TO) is in fact an administrative arrangement for promotion of institutional transparency within the public authority through proactive and effective implementation of the provisions of Section 4 of the RTI Act, 2005. These include effective record management, digitization of records, networking and incremental proactive disclosures.

b) The CPIO and the Appellate Authority, on the other hand, are parts of the RTI-regime and, in that sense, are statutory officers under the RTI Act. Their functions shall be as defined in Sections 7 and 19(1) of the Act respectively.

c) TO shall be the main centre of all actions connected with promotion of institutional transparency commensurate with the letter and spirit of the RTI Act.

d) Roles of CPIO and TO, level of TO and Job Chart of TO, have been elaborated in the CIC's

letter dt.09.12.2010. URL for download:

http://cic.gov.in/cic_circulars/TransparencyOfficer.pdf

14) Special Skills of PIOs

a) The PIO needs to know the structure and delegation of powers within the organization. He should be well versed with organization chart, levels of disposal of cases etc.

b) The PIO should have complete knowledge and experience of office procedure. He should have adequate knowledge of record management prevailing with the public authority.

c) The PIO should have good negotiation skills as often he will be negotiating with the public, colleagues, third party and others so that he could attend to his duties as PIO smoothly.

d) Most importantly he should be good in time management. The work of PIO is additional to the work he performs as an officer of the public authority. He should be able to apportion time available with him on various activities entrusted to him. Availability of inadequate time cannot be the basis for delay in disposal of requests for information or for supply of incomplete information.

e) It will be advantageous for the PIO to have knowledge on computers as sometimes information may be requested or require to be provided in electronic form.

f) However, line of demarcation between Public and Private interests is very thin and would pose problems to the PIO in taking appropriate decision.

Guidelines for PIOs

1. RTI Act applies only to citizen of India including NRI (Non Resident Indian).
2. Prominent display of nameplates and designation including APIO/PIO for easy identification and access by public.
3. When on leave or tour, entrust other officer (in writing). Any applications received during the time, the entrusted officer shall act as PIO or APIO as the case may be. If such arrangement is not done, the designated PIO or APIO shall be held responsible for any delays in providing information.
4. RTI is a tool to get information only and NOT what to do after getting the information.
5. RTI is about providing of information and NOT creating of information.
6. RTI assumes that every public authority has proper records management.
7. RTI is not about grievance redressal mechanism or to solve problems.
8. Each public authority is required to prepare the proactive disclosure covering all offices under its control or jurisdiction.
9. Keep a copy of the proactive disclosure of the public authority.
10. Update information at regular intervals.
11. Annual report and other documents published by the public authority.
12. All materials shall be disseminated taking into consideration the cost effectiveness, local language and the most effective method of communication in that local area and the information should be easily accessible, to the extent possible in electronic format with the PIO, available free or at such cost of the medium or the print cost price as may be prescribed.

13. Maintain all transactions/receipts/Correspondences.
14. Keep contact details of the other Public Authorities, PIOs and APIOs in the Organisations.
15. RTI applications to be treated on **top priority**.
16. To receive application/request for information or appeals.
17. Be fully conversant with Sections 4, 5, 6, 7, 8, 9, 10, 11, 19, 20, 21, 22, 24, 25 of the RTI Act, 2005.
18. Check and obtain Contact Address of Applicant whether received by post or mail.
19. Check that the application is accompanied by the Application Fee of Rs. 10/- as prescribed by the Government, in the form of cash/DD/Cheque or proof of payment. Fees paid in the form of IPO or applications on non-judicial stamped paper of Rs. 10.00 are also accepted.
20. Application without the fee or BPL Certificate can be treated as invalid application. However, the PIO or APIO may inform the applicant to pay the fee and that the application cannot be activated or processed until the fee is paid.
21. Issue acknowledgement and receipt of the Application and the Fee to the applicant at the time of receiving the application.
22. Meet applicants with politeness.
23. Assist citizens to make their request properly. PIO is not only confined to furnish information but also to provide necessary help to the information seeker, wherever necessary.
24. If an applicant falls under BPL category or claims to be BPL, verify proof of identity like Voters Identity Card, Ration Card etc. For BPL there is no Application fee and information is free.

25. Clarify with the applicant with regard to unclear requests.
26. Not required to ask the applicant the reason for requesting information or any other personal details except those that may be necessary for contacting him.
27. Open a Case File and record in the Case File Index Register.
28. Mark the application with an ID No. And date of receipt of the application.
29. PIO or APIO cannot refuse an application.
30. Counting of time limit in providing information starts from the **date of receipt** of the application and not from the date when it was written.
31. Both working and non-working days (holidays) are counted within the time limits.
32. If APIO receives the application, transfer it to the PIO at the earliest. (additional 5 days is added to the time limit).
33. PIO is not required to wait for the time limits to complete to provide the information, if the information is ready.
34. Arrangements for inspection of records/taking samples to facilitate easy accessibility of citizens making requests and fix a particular day or two in the week for the above purposes and be ready with an appropriate contingency plan.
35. PIO can provide:-
 - a. Full information [Sec. 7(1)]
 - b. Free information [Sec. 7(5 & 6)]
 - c. No information [Sec. 8, 9]
 - d. Partial information [Sec. 10(1)]
 - e. Third Party information [Sec. 11]
36. Examine the details and nature of information sought.

37. If the request is for voluminous information, the applicant may be invited to inspect the required documents or files.

38. For mis-directed application, transfer it to the relevant public authority within 5 days under intimation to the applicant.

39. The PIO of the public authority to whom the application is transferred, should not refuse acceptance of transfer of the application on the ground that it was not transferred to him within 5 days.

40. Time period of 5 days for transfer of application applies only when the transfer is from one public authority to another public authority, and not from one PIO to another PIO in the same public authority.

41. In case of mis-directed request, the time period shall be counted from the date of receipt by the PIO of the other public authority.

42. If in a single application information is requested which concerns or is available with your public authority and a part of the information concerns some 'another public authority', the PIO should supply the information concerning his public authority **only** and a copy of the application should be sent to that another public authority clearly specifying the part which relates to that public authority and inform that the application fee has been received. Intimate the applicant about such transfer. The PIO of the public authority need not collect the information from various public authorities and supply to the applicant.

43. The PIO is required to supply the 'material' in the form as held by the public authority and is not required to do research or deduce some conclusion from the 'material' and supply the 'conclusion' so deduced to the applicant.

44. If requested information falls under the exempted categories, check whether there is **public interest**.

45. A subordinate or district offices under the control of your public authority cannot be considered as Third Party.

46. May seek assistance of any other officer or staff if necessary for the proper discharge of duties. And any officer whose assistance is sought by the PIO or requests transferred to other officers as he/she deals with the file or subject matter, shall be treated as PIO for that particular case, also known as '**Deemed PIO**', though he/she may not be the officially designated PIO.

47. The PIO should not direct other officer or staff to provide the information to the applicant, as PIO is not authorised to designate any other officer as PIO.

48. The '**deemed PIO**' is liable to be punished for not furnishing information in time or for refusing information or for giving wrong information or misleading information.

49. The PIO need not take the approval of the higher authority to release information, except before providing partial information and inform the applicant the reasons and the persons giving the decision for partial access.

50. To the best effort, provide information in the same format 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. [Section 7(9)];

51. All information provided to the applicant shall be under the signature of the PIO.

52. Request for information shall be deemed to have been refused by the PIO, if decision on the request for information is not given within the period specified; which may invite penalty on the PIO.

53. Intimate the cost of information to the applicant alongwith the details of calculations made to arrive at the amount in accordance with fee prescribed.

54. Fees should be charged as per the prescribed fees which must be reasonable. The applicant has the right to appeal, if he thinks that the PIO is charging unreasonable fee.

55. Do not provide the information until the applicant pay the cost or proof of payment is produced.

56. Information must be provided to the applicant free of cost if the information is provided after the time limit.

57. The intervening period is the period between the despatch of the intimation of the cost and payment of fees, which is excluded from the time limits.

58. The fees collected are to be deposited into the Government Treasury at the end of every month through Treasury Challan under Head of Account: "0070-Other Administrative Services".

59. While furnishing the Annual report, each Department is required to collect information from all public authorities under its control or jurisdiction and send it to the Commission.

60. PIOs may also sensitise their colleagues and employees on RTI Act, including the public.

61. If Appeal is received, transfer it to the FAA at the earliest.

62. There is no fee for filing either the first or the second appeal.

63. There is no penalty for action taken in good faith. However, the burden of proving that information denial was justified lies with the PIO.(Section 21)

Application (Basic) fee	Cost of Information (Additional/further/prescribed fees)	Mode of payment
Rs. 10.00	<ul style="list-style-type: none"> • A4/A3 paper – Rs. 2.00 per page • Larger paper – actual cost • Printed publications –actual cost • Photocopies / extracts of printed publications – Rs. 2.00 per page; • Floppy/diskette – Rs. 50.00 per disk • Samples/models – actual cost; • Inspection of records – Free for the 1st hour and Rs. 5.00 for each subsequent hour. 	<ul style="list-style-type: none"> • Cash against receipt • Demand draft • Bankers' cheque.

The above Application Fee and Cost of information are payable to Accounts Officer or HOD or Office or the Govt. Deptt.

64. 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.

65. 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.

66. The Act does not require the public authorities to retain records for indefinite period. The records need to be retained as per the record retention schedule applicable to the concerned public authority.

67. 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.

68. 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.

69. 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.

70. 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.

71. Disclosure of Third Party Information

a) 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.

b) 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.

c) 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.

d) 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.

e) 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.

f) 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.

Landmark Decisions of CIC

Landmark decisions of the CIC are summarized in a simple manner for easy understanding and guidance. For details of the relevant decision, readers may like to peruse them in website **www.cic.gov.in** as per case reference given at the end of each case.

1) File notings:

The commission directed the public authorities (PAs) to furnish the file noting. (Ref: CIC/OK/A/2006/00154 of 13.07.2006)

2) Language under Section 2 (f) :

Jai Kumar applied to Delhi Development Authority asking for information in Hindi as he has applied to the PIO in Hindi. The CIC directed the DDA to provide the requested information in Hindi within 25 days of the issue of its decision. (CIC/WB/A/2006/00117)

3) Citizen under Section 3 :

PIO can decline information under section 3, if the applicant applies as a Managing Director of a company and not as a citizen of India. (CIC/OK/A/2006/00121 27 June 2006)

4) Address of the Requester :

a) The Commission could not agree with the PIO's contention that the information was sought on behalf of an institution. The Appellant has applied in his own name and has only given his address and that of an NGO for the purpose of correct delivery of post. Thus merely giving the address of an NGO does not imply that the institution was asking the information. (CIC/OK/A/2006/00050 3 July 2006)

b) Interpretation of the term citizen (Sec-3)- Does it include companies, associations, societies etc.

In the latter case such applications, if filed by or on behalf of the company, may be returned back with a direction that it can be resubmitted before the Commission by a Shareholder /Manager /Director. The application/ appeal from an Association or a Partnership Firm or a Hindu Undivided Family or from some other group of individuals constituting as a body or otherwise is to be accepted and allowed. (CIC/WB/A/2006/00590,639,677,754 to 758 dt. 16.5.09)

5) Applicant Seeking Opinions of the Authorities :

The PIO is required to 'provide information' which is available in any form with her office rather than giving personal opinions on the questions asked by the requester. (CIC/MA/A/2006/00150 19 June 2006)

6) Drafting an application :

No fresh grounds for information can be allowed to be urged at appellate levels unless found to be of a nature that would warrant their admittance, if the same has not been brought up at the primary level i.e. PIO level. (CIC/Ok/A/2006/00 069 of 18.05.2006 & CIC/AT/A/2006/00128 of 13.07.2006)

7) Life and liberty under section 7 (1) :

Matter to be treated as one of life and liberty would require the following:

a) The application be accompanied with substantive evidence that a threat to life and liberty exists.

b) Agitation with use of Ahimsa must be recognized as a bonafide form of protest, and therefore even if the claim of concern for life and liberty is not accepted, in a particular case by the public authority, the reasons for not doing so must be given in writing in disposing the application. (CIC/WB/C/2006/00066 of 19.04.2006)

8) Order appointing the examiners :

PIO of the Delhi University was directed to supply the certified copies of the orders appointing the examiners and of the files dealing with his application re-totaling of marks of the applicant. (CIC/OK/A/2006/00051 of 04.07.2006)

9) Gr. C - Ministerial staff liable of penalty :

It is clear from the above that the errant officials are functioning at the clerical level in the office of the PIO, Shri Meena. Whereas under Section 5(5), an officer does not himself have to be designated as a PIO/ APIO to be liable for penalty for contravention of the provisions of this Act. Officials functioning even at the clerical level and above category of Class-IV will be deemed to be "officers" in the application of this Act. In the normal course, therefore, they would be liable to penalty under Section 5(5) if their assistance had been sought under Section 5(4) of the Act. In this case, therefore, as already held, they cannot plead exemption from application of this provision. (Adjunct to CIC/ WB/C/2006/00018 of 28.9.2006)

10) Reasons for rejection of requests :

Through this order the commission now wants to send the message loud and clear that quoting provisions of section 8 (1) of the RTI Act ad-libitum to deny the

information without giving any justification or grounds as to how these provisions are applicable is simply not acceptable and clearly amounts to malafide denial of legitimate information attracting penalties under section 20(1) of the Act. (CIC/Ok/A/2006/00163 of 07.07.2006)

11) Contract Under Section 8[1] (d) :

The CIC held that a contract with a public authority is not confidential. Offer, completion, quotations, bid, tender, prior to conclusion of a contract can be categorized as trade secret, but once concluded, the confidentiality of such transactions can not be claimed. Any public authority claims exemption must be put to strictest proof that exemption is justifiably claimed. Therefore, this public authority was directed to disclose the list of employees. (CIC/WB/C/2006/00176-18 April 2006)

12) Answer sheets :

In case of evaluated answer papers the information is available in fiduciary relationship with the Public Authorities & is exempted under section 8(1) (e). In addition when a candidate seeks for the copy of his / her own or others, it is purely a personal information which has no relationship with any public interest or activities and exempted under section 8(1)(i) of the act. (ICPB/A-2/CIC/2006 of 06.02.2006)

13) Personal Discussion with the Requester :

If there was general confusion regarding the kind of information that has been called for and that could have been supplied, it could have been easily resolved by a personal sitting between the appellant and the respondents. (CIC/WB/A/2006/00180 5 July 2006)

14) Due diligence under section 20 (1) :

a) If the time limit could not be adhered to by CPIO, then applicant should be taken in to confidence and periodical progress be apprised to him. (CIC/AT/A/2006/00031 of 10.07.2006)

b) It may have been lot better if the CPIO had kept the complainant periodically informed about the stages of the processing of his case and taken him into confidence about the possibility of some delay. (CIC/AT/A/2006/00066)

15) Cut-Off Marks :

The commission has directed the Staff Selection Commission to furnish the mark sheets (for written examination as well as interview) to the candidates along with cut-off marks for different categories of candidates. (180/IC (A)/2006 of 17.08.2006)

16) Marks secured by the candidates :

A division bench has decided that the conduct of examinations are for identifying and short listing the candidates in term of technical competence, the right attitude is highly confidential activities and therefore answer sheets should not be disclosed. But the marks secured by candidates are not to be kept secret and should be disclosed. (11/53/2006-CIC of 2.5.2006)

17) Annual Confidential Reports :

a) Confidentiality of this information serves a larger purpose, which far outstrips the arguments for its disclosures. (CIC/AT/A/2006/00069 of 13.07.2006)

b) The Hon'ble Supreme Court of India in Dev Dutt's case supra has clearly laid down that they are developing the principles of natural justice by

holding that fairness and transparency in public administration requires that all entries (whether poor, fair, average, good or very good) in the ACR of a public servant, whether in civil, judicial, police or any other State service (except the Military), must be communicated to him within a reasonable period so that he can make a representation for its upgradation. The Hon'ble Court has further declared that these directions will not apply to Military officers but they will apply to employees of statutory authorities, public sector corporations and other instrumentalities of the State (in addition to Government servant). (Para 39, 41)

Similarly, one cannot seek an Annual Confidential Report of someone else as a matter of right. Such disclosure would be permissible only when the larger public interest so warrants. In view of the above, the respondent Public Authority is directed to communicate the entries in the ACRs to the appellant for the period asked for by him in his RTI application within a period of 10 working days from the date of receipt of this Decision Notice. (CIC/WB/A/2007/00422 dated 20.4.2007)

18) Investigating Officer and Privacy :

A citizen requested from the RBI certain information relating to the findings of an inspection of the Memon Cooperative Bank Limited, Mumbai, which was conducted on the basis of a complaint filed by him and a copy of the inspection report along with the name(s) of the Investigating Officers. The CIC directed the RBI to furnish a copy of the inspection report after the due application of section 10(1) of the Act. Alternatively, the appellant should be provided a substantive response, incorporating major findings of the inspection report and indicating the action taken on the findings of the

report. However, the names of the investigating officers may not be revealed as it would not serve any public interest. (177/IC (A)/2006 17 August 2006)

19) Information on ongoing investigation (Sections 8[1](g) and 8[1](h) of the RTI Act)

It ruled that the disclosure of information, in cases under investigation by the police was exempted, according to the provisions of Sections 8(1)(g) and 8(1)(h) of the RTI Act. It is justified not to disclose information in cases of ongoing police investigations (which have not yet been completed), because such a disclosure could hamper the investigation process, the Commission held. (CIC/AT/A/2006/00004, dated 30.06.2006)

20) Bio Data and Medical Records under Section 8 [1] (j) :

The CIC held that when a candidate submits his application for appointment to a post in a public authority, the same becomes public document and he can not object to the disclosure on the ground of invasion of privacy and directed the PIO to provide copies of the bio data. As far as medical reports are concerned, they are purely personal to the individuals and furnishing of the copies of medical reports would amount to invasion of privacy of the individuals and need not be furnished. However, the PIO will disclose to the requester the information whether all four candidates had been declared medically fit or not. (ICPB/A-9/CIC/2006 - Dt.03.04.2006)

21) Travel Expenses :

Travel expenses were charged to the public account. Disclosure of information cannot be denied

on the ground of this being personal information and not a public activity and serves no public interest, etc. Travel has been performed as a part and in discharge of official duties and the records related the same are public records and therefore, a citizen has the right to seek disclosure of the same. (63/IC (A)/2006 30 March 2006)

22) No obligation to answer queries:

The RTI Act does not cast on the public authority any obligation to answer queries in which a petitioner attempts to elicit answers to his questions with prefixes such as why, what, when and whether. The petitioners right extends only to seek information as defined in Section 2 (f) of the RTI Act either by pinpointing the file, document, paper or record etc., or by mentioning the type of information as may be available with the specified public authority. (CIC/BS/A/2012/000767+000768+000919/160 Dt. Jan 2013)

23) Annual property Returns:

Information in annual property return shall be covered by section 8(1) (i) (h) as well as under section 11 (1) of the act in some cases and cannot be routinely disclosed. However, the Public Authorities are advised to devise a new format so that only such transaction which may not violate the right to privacy can be separated and disclosed. (CIC/AT/A/2006/00134 of 10.7.2006)

24) Period prior to Twenty Years under Section 8 (3):

Section 8 (3) is part of section 8, which deals with 'exemption from disclosure of information'. Section 8 (1) specifies classes of information which are exempted from disclosure. What section 8 (3) stipulates is that the exemption under section 8 (1) cannot be applied if the information sought related to a period prior to 20 years except those covered in section clauses (a), (c) and (i) of sub-section 8 (1).

In other words, even if the information sought is exempt in terms of other sub-section (1) of section 8, and if the same relates to a period 20 years prior to the date of application, then the same shall be provided. (37/ICPB/2006 26 June 2006)

25) Videography:

a) The RTI application simply says that the appellant desired the video recording of CCTV in the branch for the entire day. The FAA in his order dated 20.06.2012 directed the CPIO to enable the appellant to inspect the video recording in the presence of some staff. Decision of CIC: The order of the first Appellate Authority is upheld. (CIC/VS/A/2012/001403/ 04579 - 30.08.2013)

b) The Commission invokes Section 2(j) (iv) of the RTI Act to allow use of camera by the Appellant to take photos of documents required. Accordingly, the CPIO is directed to provide all the information as requested by the Appellant in his RTI request dt. 18.8.08 and also allow the use of photographic camera for taking photographs of records in the file which the BSNL had agreed to show to the Appellant. The information to be provided within 15 days of the receipt of this Order. (CIC/AD/A/09/00125 - 23.02.2009)

c) Whether videography can be permitted:
If an applicant wishes to make copies of records/samples given to him for inspection at his own expenses, it is not for the Public Authority to object to the form in which the copies are being made, provided it is restricted to the information permissible under the Act. (CIC/WB/A/2006/00144 - 20.03.2006)

26) Generating/ Creating Information :

In its oft-repeated decisions, the Commission has advised the information seekers that they ought not seek the views and comments of the CPIO on the questions asked by them. Yet, in the garb of seeking information mainly for redressal of their grievances, applications from requesters are filed. The CPIO's in turn, have also ventured to answer them. Thus, the information seekers as well as providers have erred in interpreting the definition of information. A CPIO of any public authority is not expected to create and generate a fresh, an information because it has been sought by an Appellant. The appellant is, therefore, advised to specify the required information, which may be provided, if it exists, in the form in which it is sought by him. (278/IC/(A)2006 of 18.09.2006)

27) Seeking view/opinions of CPIO :

All the concerned parties were heard and it was noted that there was no question of denial of information. The Appellant was however not satisfied because he sought 'opinion' of the CPIO through along list of queries, which is not covered under the definition of information. However, the information, which was clearly specified, was provided to him. (69/IC (A)/2006 of 20.06.2006)

28) Seeking interpretation of rule/ Law :

It would be wholly inappropriate to invoke the provisions of the RTI Act for the interpretation of laws and rules. It should be made clear that the laws and rules are themselves 'information' and being in public domain are accessible to all citizens of the country. (CIC/AT/A/2006/00185 of 18.09.2006)

29) Form of Access under Section 2 (f) :

If the requested information is not available in electronic form as requested by the requester, it does not have to be created for the appellant. (CIC/MA/A/2006/0002 27 June 2006) If the information is not available in the particular form requested, the citizen may be allowed, if he desires, to inspect the original records at the office and information specifically asked for provided in the form of printouts and photocopies of original documents and records duly certified. (10/01/2005-CIC 25 February 2006)

30) Information held under Section 2 (j) :

In this case records of the court martial trial were destroyed after a retention period of 10 years under the Army Rule 146. Information did not exist, it was physically impossible to provide it. There is no liability under the RTIA on a public authority to supply non-existent information. (CIC/AT/A/2006/20 23 March 2006)

31) Voluntary Disclosure under Section 4 (1) (b) :

A public authority, is required to make pro-active disclosure of all the relevant information as per provisions of section 4 (1) (b) unless the same is exempt under the provisions of section 8 (1). In fact on information regime should be create such that citizens would have easy access to information without making any formal request for it. (24/IC (A)/2006 16 April 2006)

32) Record Management under section 4 (1) (a) :

Record management system ought to be improved such that information which are to be disclosed could be easily provided after delineating those that is exempted. (CIC/OK/A/2006/00016-15.6.06)

33) Public Interest and Consumer Protection :

Appellant has made the case of public interest on the grounds of adulteration in distribution of diesel and petrol. He has however not substantiated his point as to how he would prove his allegations on the basis of disclosure of income tax returns filed by the third party. Apparently there is no direct relationship between malpractices of petrol and diesel and income tax returns, which is mainly the basis for seeking information. (37/IC (A)/2006 12 May 2006)

Public interest

U.K. Information Commissioner in Boston Borough Council [Reference No. FS 50064581] made the following comments on public interest : ...The central tenet for the public interest in disclosing information, in this case, surrounds the creation of transparency and accountability of public bodies in their decisions and actions. This includes the spending of public money and the public interest in the disclosure of information which would highlight or inform issues of public debate.

34) Compensation to the Applicants :

Misbehaviour with applicants approaching public authorities under the RTI is not acceptable and is violative of section 5 (3). In this case the PIO will invite Ms. Dasharathi to visit his office and identify members of his staff who refused to provide her the information. Under section 19 (8) (b) the public authority will pay Rs. 100 as damages suffered to the applicant Ms. Dasharathi. This may be either directly or through recovery from the erring officials, as deemed appropriate by the PIO. (CIC/WB/C/2006/00145 10 August 2006)

35) Compensation under Section 19(8) (b) :

For the first time, the CIC in its decision directed the Central Government Health Scheme, Pune to pay a sum of Rs. 5,000 to the appellant Ms. M. N. Trival as compensation and refund her the sum of Rs.60 paid by her as fee for non-application of mind by both the PIO and AA resulted in the appellant's having to interact with PIO and CIC repeatedly causing mental harassment to her. Decision number 30/ICPB/2006.

36) Penalty Under Section 20(1) :

For the first time, Shri Wajahat Habibullah, Chief Information Commissioner imposed a penalty of Rs. 25,000 on a PIO for a complaint number CIC/WB/C/2006/00040, 5 June, 2006 . PIO has failed to appear before the commission on due date and time despite a telephone reminder. Because the burden of proving that he acted reasonably and diligently is on the PIO under Provision II to Sec 20(1), it is assumed that he has no reasonable cause to show why penalty should not be imposed. Under the aforementioned section of the Act, penalty shall be imposed on any of the following grounds, if the PIO has

- refused to receive an application
- not furnished the information within the time frame specified in section 7 (1)
- malafidely denied the request for information or knowingly given incorrect information
- obstructed in any manner in furnishing the information

- by not supplying some of the information sought by the applicant as found by us in the Decision Notice of 23 May 2006, the PIO is in violation of (b) above, and by evading his responsibility to provide the information sought also obstructed the complainant's. he will therefore pay a penalty of Rs. 250 for every day subject to a maximum of Rs. 25,000. (CIC/WB/C/2006/00040)

37) HOD's failure to assist the Commission :

The Commissioner of Municipal Corporation Delhi has failed to assist the Commission, which he was legally bound to do, and he also failed to explain as to why the orders of this Commission were not executed. It also appears that he has thereby caused an interruption to the proceedings. He has, therefore, committed offences punishable under section 176, 187, 188 and 228 of Indian Penal Code. Now therefore, it is ordered as follows: That the commissioner, MCD shall appear in person on 18 August 2006 at 10:30 AM and show cause (a). as to why he be not prosecuted for committing the said offences and (b). as to why appropriate action be not recommended against him under section 20(2) of the Right to information Act; and (c). as to why such further action or actions be not taken as this commission may deem fit and proper. He further directed to furnish the names and address of the concerned CPIO(s) who were responsible for not furnishing the information to the appellant so as to enable initiation of appropriate proceedings against them. (CIC/WB/C/2006/00040)

38) Penalty under Section 20(1) :

Commission imposed a penalty of Rs. 13,750 on professor Akhtar Majeed, registrar, Jamia Hamdard, New Delhi . The commission further authorized and requested the Vice Chancellor, Jamia Hamdard, New Delhi to cause the recovery of the amount of penalty from the salary of Professor Akhtar Majeed and remit the amount. (CIC/OK/C/2006/00042-28 July 2006)

39) Penalty of Rs. 25,000 imposed :

In exercise of powers conferred by Sec. 20(1) of the RTI Act 2005, the Commission imposes a penalty of Rs.25,000/- (Rupees twenty five thousand only) on Shri N. Sundaram, Registrar, BHU for denial of information despite the Commission's clear directions and directs him to remit the penalty by D.D., within 15 days of issue of this order. In case of failure, the VC has been authorized to recover the amount from the salary of Shri Sundaram, and deposit the amount with CIC on or before 15.11.2006. (CIC/OK/A/2006/00163 of 19.10.2006)

40) Disciplinary Action under Section 20(2) :

The CIC recommended disciplinary action against an appellate officer. The Appellate Authority is not covered under the penal provisions of the Act. But in this case, he clearly failed to uphold the act in the public interest. It was observed that this decision may be sent to public authority to consider disciplinary action under their service rules. CIC/EB/C/2006/00040-24 April 2006
Commercial Secrets Protected by Law under Section 8(1) (d) and 11(1)A request was received by the Chief Commissioner of Customs for the names

41) Process of investigation s.8(1)(h) :

Delhi Police received a request for :

- * Result / Status of a particular case
- * Date wise details of each and every investigational steps taken to solve the case

CIC accepted the merit of the police authority's contention, that:

An open ended order by CIC to disclose any information pertaining to details of investigation into a crime will have serious implications for law enforcement and will have potentiality for misuse by criminal elements.

Each case will have to be examined independently on the basis of facts specific to that case. In RTI requests pertaining to the law enforcement authorities, it becomes necessary to strike a fine balance between the imperatives of the confidentiality of the sources of information witness protection and so on, with the right of the citizen to get information. (CICAT/A/2006/00071 - 11 May, 2006)

42) Frivolous requests

In the case of Sh. A.P. Tripathi Vs IIT Delhi. (No CIC /OK /A/2006 /00655 dt.28 March 2007), the applicant had applied for long list of varied information pertaining to GATE and JEE for the last 20 years.

Judgment: It was held by the commission that this amounted to a making a mockery of the Act. It must be remembered that though the Respondents are duty bound to supply information asked for by the Appellants, the Appellants are also required to keep in mind the objectives of the RTI Act as outlined in the Preamble to the Act: and that is, to introduce

the elements of transparency and accountability in the functioning of the public authorities and to contain corruption. The Commission failed to appreciate how these objectives would be met with if the Appellant asked for such diverse and lengthy information which seemed to be designed only to put the public authorities under undue and uncalled for pressure. In this particular case, the Commission, in fact, appreciated the effort of the public authority to collect and provide as much information to the Applicant as possible and dismissed the case as frivolous and inconsequential.

43) Optimum use of limited fiscal resources:

In the case of Sh. Hitesh Kumar Vs Oriental Insurance Company Limited (Decision No. 570/ICPB/2007 F.No. PBA/06/562 dt. 15th June 2007) the appellant sought for copies of documents & various other details in 62 serials covering the entire gamut of functioning of the insurance company. The respondent while furnishing a copy of the annual report expressed their inability to collect the other information sought for as being voluminous, and is beyond the available fiscal and human resources of the organisation. He also advised the appellant to visit their website where relevant information was available. Judgment: Commission was in full agreement with the decision of CPIO and the AA. The information sought for is so voluminous covering practically the entire gamut of functioning of the company, that it would definitely cause a lot of pressure on the resources of the company. The appellant is at liberty to ask for specific information which would not cause enormous time and efforts to collect and furnish.

44) Meaning of information and its coverage [Section 2(f)]

The appellant put questions in the form of inquiry which was rejected by the CPIO on the grounds that they did not fall within the ambit of RTI Act, 2005. It is true that it is not the duty of the CPIO to cause an enquiry or undertake an investigation or prepare answers to the questions posed by the appellant. But the CPIO is certainly obliged to locate the information available with the public authority and held by it so that it could be made available to the information seekers under the RTI Act, seeking the assistance of any officer u/s 5(4). RTI is not about seeking answers and asking questions. (CIC/AA/A/2006/00032&00034 dt. 22 June, 2007)

45) CPIO is not required to interpret law and rules. (CIC/AT/A/2006/00185 dt. 18th September, 2006)

46) Third Party [Section 2(n)]

We need emphasize that the RTI Act does not give to an individual or a third party an automatic veto on disclosure of information pertaining to him which may be held by a public authority. The PIO and the Appellate Authority are required to examine the individual or a third party's case in terms of the provision of Section 8 (1) (j) or Section 11(1) as the case may be and arrive at a finding. The Appellate Authority has erred in holding that a mere objection by a third party to disclosure of an information (when the information pertains to a third party) is enough reason to embargo the disclosure of such information. The Law requires application of the CPIO and the Appellate Authority's minds

regarding the pros and the cons of the proposed disclosure on the basis of the facts of each case in terms of the norms set out in Section 8 (1) (i) and Section 11 (1) of the RTI Act. (CIC/AT/A/2006/00014 dt. 22nd May 2006)

47) Improper record management:

The public authority, IOCL is also held responsible for improper record management, due to which vital information relating to allotment of LPG dealership have gone missing. This reflects both lack of proper record management by the concerned officials who were associated with the LPG dealership selection process as well as lackadaisical attitude of officials, who chose to refuse the information on the ground that 'files are not traceable' which is not an acceptable ground for denial of information to the affected persons. The respondents have also not submitted relevant evidence of having made sincere efforts to search and trace the file. Commission is having the view that the respondents are suppressing vital facts for malafide reasons. Due to this, the appellant has surely suffered all kinds of losses, including mental harassment and right to pursue a profession due to non-availability of information, which is clearly related to his livelihood. He therefore needs to be compensated, u/s 19 (8) (b) of the Act. The Commission, therefore, holds that the respondent's CPIO, has deliberately provided incorrect and misleading information without any reasonable cause and is therefore held responsible for providing false and misleading information for which he is liable to pay a maximum penalty of Rs.25,000/- (Rupees Twenty Five Thousand only), u/s 20(1) of the Act. The above amount of penalty is thus imposed on him. An amount of Rs.50,000/. (CIC /MA /C /2009 / 000578 Dated, the 7th October, 2009)

48) Publication of manuals under Sec 4(1) (b)

The Appellant had sought for the following information:

(a) the date on which the existing 17 manuals were uploaded.

(b) a copy of the latest 17 "correct and comprehensive" manuals

(c) the names, addresses and other available information about all recipients of TSR permits as available on your record,

(d) the process followed for maintaining and keeping the manuals updated

(e) name & designation of the person responsible for maintaining the manuals

The Commission stated that the information requested is very valid and it has been pointed out that section 4 compliance of the public authority is very poor. The Commission with the help of the PIO tried to access the Section 4 manuals of the department on the website and discovered that the webpage was not opening. The Commission directed that the manuals must always be available on department website and also in hardcopies at all the field offices. The Commission also points out to the public authority that responsibility of making the Section 4 manuals and making them available to the citizens was meant to be implemented latest by 12 October 2005. The public authority must at least now ensure that this is done and the process by which updation will be done should also be declared transparently. (CIC /SG /A /2009 /000754 /3467 & Appeal No. CIC /SG /A /2009 /000754 dt. 28 May 2009)

49) Proactive Disclosure:

It has been observed that section 4(1) (b) of the RTI Act has not been complied with as per 17 items given therein. Section 4(1)(b)(ix) is relating to a directory of officers & employees; but in the Annex-I given by CPIO, there were no telephone numbers of the officers concerned. Similarly, section 4(1)(b)(x) is regarding monthly remuneration received by each officer; but in the Annex-II provided by CPIO, only pay scale of the officers have been given. Therefore, under section 25(5) of the Right to Information Act, 2005, Commission recommends to the Chairman, Central Board of Excise & Customs to issue directives to all officers subordinate, to implement the provisions of Section 4(1)(a) & 4(1)(b) within a definite time-frame for which necessary budgetary support may be provided. (CIC/AT/A/2009/ 000759 dated 13th January, 2010)

50) Remuneration of employee Sec 4 (1) (b)(x):

Section 4(1) (b) (x) reads as follows: The monthly remuneration received by each of its officers and employees, including the system of compensation as provided in its regulations". It is evident from the above that the details of remuneration etc., of an employee were to be disclosed by the Public Authority as a part of sue-moto disclosure under Section 4(1) (b) of the RTI Act. In other words, information in respect of the salary and other remunerations of an employee are not privileged information and will have to be placed in the public domain. If the Public Authority concerned has not done so yet, it must immediately place such details in the public domain. We direct the CPIO and the Appellate Authority to provide the information. (CIC/WB/A/2007/001636-SM dated 20.12.2007)

51) Reasons for rejection of requests for information must be clearly provided (Section 8[1])

Judgement: The Commission held that quoting the provisions of Section 8(1) of the RTI Act to deny the information without giving any justification or grounds as to how these provisions are applicable is simply not acceptable, and clearly amount to malafide denial of legitimate information. The public authority must provide reasons for rejecting the particular application. The Commission further held that not providing the reasons of how the application for information was rejected according to a particular provision of the Act would attract penalties under Section 20(1) of the Act. (CIC / OK / A / 00163, dated 7.7.2006)

52) No Imagined Exemptions other than Grounds available in Section 8 of RTI Act.

Right to Information as part of the fundamental right of freedom of speech and expression is well established in our constitutional jurisprudence. Any restriction on the Fundamental Rights of the Citizens in a democratic polity is always looked upon with suspicion and is invariably preceded by a great deal of thought and reasoning. Even the Parliament, while constricting any fundamental rights of the citizens, is very wary. Therefore, the Commission is of the view that the Commission, an adjudicating body which is a creation of the Act, has no authority to import new exemptions and in the process curtail the Fundamental Right of Information of citizens. (CIC / OK / A / 2008 / 00860 / SG / 0809, dated 31.12.2008)

Online Resources on RTI

1) Important Decisions of CIC, Compiled by ISTM is available for download:

<http://www.icar.org.in/files/ATT00058-p1.pdf>

2) Guide on the Right to Information Act, 2005

http://ccis.nic.in/WriteReadData/CircularPortal/D2/DO2rti/Guide_2013-issue.pdf

3) Implementation of suo motu disclosure under Section 4 of RTI Act, 2005 - Compliance of Section 4 of the RTI Act, 2005.

http://ccis.nic.in/WriteReadData/CircularPortal/D2/DO2rti/11_18_2013-IR-10122013.pdf

4) Online resources available for download from DOPT website.

[http://ccis.nic.in/CP_Circular_Report.asp?MinCode=2&DepCode=2&DivCode=7&SecCode=\(0\)&CNCode=1&MctCode=0&SctCode=0&ArchCode=2](http://ccis.nic.in/CP_Circular_Report.asp?MinCode=2&DepCode=2&DivCode=7&SecCode=(0)&CNCode=1&MctCode=0&SctCode=0&ArchCode=2)

5) RTI guidebooks and manuals.

<Http://rti.gov.in/RTICorner/GuideForRTI.htm>

6) RTI ACT, 2005

<http://rti.gov.in/rti-act.pdf>

Disclaimer:

Though all possible care has been taken to ensure accuracy and consistency, in the event of a conflict between the Handbook 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 Handbook.

THE RIGHT TO INFORMATION ACT, 2005

"Whereas the Constitution of India has established democratic Republic; And whereas democracy requires an informed citizenry and transparency of information which are vital to its functioning and also to contain corruption and to hold Governments and their instrumentalities accountable to the governed; And whereas revelation of information in actual practice is likely to conflict with other public interests including efficient operations of the Governments, optimum use of limited fiscal resources and the preservation of confidentiality of sensitive information; And whereas it is necessary to harmonise these conflicting interests while preserving the paramountcy of the democratic ideal; Now, therefore, it is expedient to provide for furnishing certain information to citizens who desire to have it"



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