

# *Understanding and Interpreting RTI Act, 2005*



कर्मणोह्यपि बोधव्यं  
बोधव्यं च विकर्मणः ।  
अकर्मणश्च बोधव्यं  
गहना कर्मणो गतिः ॥

*(Slok 17, Chapter-4, Bhagavadgita)*

**“Truth about the *ACTION* must be known  
Truth about the *INACTION* must be known;  
Truth about the *PROHIBITED ACTION* must be known  
Mysterious are the ways of *ACTION*”**

**Prof. Rajvir Dhaka  
HIPA, Gurugram**

# RIGHT TO INFORMATION ACT, 2005

- Enacted on June 15, 2005.
- Notified on June 21, 2005.
- Came into force on October 12, 2005.

# **Right to Know / RTI**

**Statutory Right**

**&**

**Constitutional Right**

# **SUPREME COURT JUDGEMENTS ON RIGHT TO KNOW**

- Bennett Coleman Vs. Union of India, (1973)
- State of UP Vs. Raj Narain, (1975)
- S.P. Gupta Vs. U.O.I. (1982)
- Secretary, Ministry of I & B, GOI Vs. Cricket Association of Bengal (1995)
- PUCL Vs. U.O.I (2004)

# RTI- What ?

**For whom.....**

All **citizens** have RTI subject to **some exemptions**.

**What?**

Securing access to **hold or controlled** information of the Public Authorities.

# Objectives of the Act

(First Set)

- Setting Practical Regime of Transparency.
- Promoting Accountability.
- Creating Informed Citizenry.
- Containing Corruption.

- Sections (Ss.) 3 & 4 achieve these objectives

# Objectives of the Act (Second Set)

Harmonizing Conflicting Interests

Paramourncy of RTI

VS

- Efficient operations of the Govt.
- Optimum use of limited public resources.
- Preservation of sensitive information.

Ss.-8,9,10&11 achieve these objectives

# RTI FUNCTIONARIES

- Central/State Assistant Public Information Officer (CAPIO/SAPIO)
  - Central/State Public Information Officer (CPIO/SPIO)
    - First Appellate Authority (FAA)
- Central/State Information Commission (CIC/SIC)

# The Act Covers

- Central, State and Local Governments
  - all bodies **owned, controlled or substantially** financed by them.
  - **NGO substantially financed**, directly or indirectly by the appropriate Government.
- Executive, judiciary and legislature.
- Some informations of **private bodies**.

# What is information ?

Information  
means any material in  
any form including :

Records, documents, memos, emails,  
opinions, advice, press releases,  
circulars, orders, logbooks, contracts,  
reports, papers, samples, models, data  
material held in electronic form

&

information about private bodies that can  
be accessed under existing laws by a  
public authority.

# Right to Information?

- to inspect works, documents, records.
- to take notes, extracts or certified copies.
- to information whose disclosure is in the public interest.
- to obtain information in electronic form.
- to take samples.

**RIGHT**

## ***Obligations of the public authorities:***

- Maintaining **duly catalogued and indexed records.**
- **Computerization of records.**
- Uploading record on website.

# Suo-moto Disclosure by the Public Authorities

- **Particulars of organization**- Duties and functions.
- **Powers and duties** of its officers and employees.
- **Procedure** followed in decision making.
- Rules, regulations, manuals& records used by it.
- **Categories of documents** held or controlled.
- Boards, councils, committees and other bodies for the purpose of its advice.

- **Directory and remuneration** of all employees.
- **Budget** allocated to each of its agencies.
- **Subsidy programmes.**
- **Concessions granted.**
- **Information held in electronic form.**

- Publish all relevant facts while formulating important policies.

S. 4(l) c

- Provide reasons for its administrative of quasi-judicial decisions to affected persons.

S. 4 (l) d

# Duties of a CPIO/SPIO

- To deal with application.
- To correspond with the Application for fee and information.
- To **provide information to the applicant.**
- To supply normal information within **30 Calendar Days.**
- **To provide** life or liberty related information within 48 hours.
- To intimate the details of the fees.
- To render appropriate assistance to sensorial disabled.

## Duties of CPIO/SPIO contd....

- To transfer the application or part of it to the other Public Information Officer (PIO) (5 days).
- To consider of third party representation.
- To give reasons of request rejection.
- To inform the appeal period against such rejection and
- Also to provide the details of the Appellate Authority.

## Deemed PIO ?

- Could seek assistance of **any concerned officer**.
- \*\* Such concerned officer is bound to render all help to PIO for poor assistance such officer shall be considered as **deemed PIO** if Act violated.

# Process for Applying for Information

- In Hindi/English/in the official language of the area, along with fee;
- **No** need to give reasons for RTI request.
- Personal details for contacting the applicant.

# Supplying Information in Requested Form

- Information normally **provided in the requested form.**
  - \* **Unless** disproportionately diverts the resources, or
  - \*\* The safety/ preservation of the record is at risk.

# Time Limit

- Normal Information within 30 days
- Life and Liberty Information : 48 hrs.
- Third Party Information : 40 Days
- Human Rights Violation Information of listed Security/Intelligence – 45 Days

## Other Important Provisions

- Failure to give response in time—**deemed refusal**
- The **Period for receiving fee** is excluded
- **No fees** for **BPL** persons
- **No fee** if information provided **after time limit**

## Exempted Informations – 8 (1) Clauses (a-j) :

- Affecting the Sovereignty integrity, Security, Scientific or Economic interest & foreign relation and leading to **incitement of an offence**

S.8 (1)a

- Forbidden by a court or tribunal

S.8 (1)b

- Breaching the **privilege** of parliament or state legislatures

S.8 (1)c

- Commercial confidence, trade secrets or intellectual property & harming the **competitive position**.

S.8 (1)d

## Exemptions contd....

- **Fiduciary / Trust** related information

S.8 (1)e

- Received in confidence from foreign government

S.8 (1) f

- Endangering **physical safety and Source of Information**

S. 8(1) g

- Impeding **investigation or apprehension or prosecution**

S.8(1) h

- Cabinet papers including deliberation before decision is made public.

S.8(1) I

## Exemptions contd....

### Personal Information:

The disclosure of which has no relationship to any public activity or interest or good cause unwanted in vision of the privacy of the individual

S. 8(1)J

The public authority may allow access to the information if public interest in disclosure outweighs, the harm to the protected interests.

S. 8(2)

Except (a), (C) and (i) of 8 (1) Information may be disclosed after 20 years of its creation.

S. 8(3)

# Procedure for Disclosure of Third Party (TP) Information

- If PIO intends to disclose TP information, PIO has to give a **notice of intention to disclose** information within 5 days.
- The TP is expected to **send representation** against such notice within **10 days** of receipt.
- The **representation is to be kept in view** before taking a decision about disclosure/non-disclosure.

# TP Process

- The PIO is to make decision about disclosure and non-disclosure within **40 days**.
- PIO to **inform TP about disclosure decision**.
- PIO has also to **inform TP about her/his right to appeal to FAA** within 30 days of such decision.

# Proportionately Test

Between  
Public Interest  
&  
Protective Interest

- Is a must for disclosure or non-disclosure decision

# Provisions for Rejection of Request

- Preamble
- Section 2 (f), 2 (j)
- Section 3
- Section 7 (9)
- Section 8
- Section 9
- Section 10
- Section 11
- Section 24
- Frivolous and vexatious requests
- Security classifications and exemptions

## Powers of the CIC/SIC

To receive and enquire into a complaints if:

- PIO not appointed.
- PIO/APIO refuses to accept the application.
- Information is refused.
- Response not given in time.

## Powers in Enquiry contd....

- Unreasonable fee is demanded
- Given incomplete/ misleading or false information
- Any other matter relating to obtaining access to records.

## Powers in Enquiry contd....

- Information Commission (IC) enjoys the powers like a civil court under CPC 1908
- Enforcing presence of persons for evidence or to produce documents
- Accessing & examining any record or copies

# Appeal Provisions

Who can appeal ?

- \* Who does **not receive a decision in the time.**
- \*\* **Aggrieved** by the decision of PIO

# Appeal Time : FAA

- **Within 30 days** to the FAA from the receipt of PIO's decision

S. 19(1) & (2)

- **FAA to decide** a case within **30 - 45** days

S. 19(6)

# Second Appellate Authority-CIC/SIC

- Within 90 days of FAA's decision

S.19(3) & (4)

- \* Delay could be condoned by FAA & CIC/SIC

# Penalty Grounds

- PIO's refusal to receive, without reasonable cause, any application or  
Not providing information in time.
- **Malafidely** denying the request for information
- **Knowingly** giving incorrect information
- Giving incomplete or misleading information
- **Destroying information** which was requested

## Penalty Grounds Contd.....

- **Obstructing** in furnishing the information.
- PIO is given reasonable opportunity before imposition of penalty.

# Powers of CIC/SIC in Appeal Cases

- Imposing the penalties
- Can order **compensation** for any loss to the complainant/appellant.
- Decision is final & binding.
- Its orders can't be questioned/challenged in any Court (under this Act).

# Penalties

- Rs. 250-25000/-
- Disciplinary action against PIO

# Other Important Sections

- The burden of proving of acting **reasonably and diligently** shall lie on the PIO  
S. 19(4)
- The **onus to prove the justification** of denial lies on the PIO  
S.19(5)
- Protection act done in **good faith**  
S. 21
- **Overriding effect** over any other law for the time being in force  
S. 22
- **Bar of the jurisdiction of court.**  
S. 23
- **Certain organizations** are also being kept out  
S. 24

## Fees & Costs Rules in Centre & in many States

- Application Fee - **Rs. 10**
- A3/A4 size – **Rs. 2**
- Bigger than A3 & A4 - actual costs.
- Floppy-50 & CD **Rs. 50.**
- Inspection of Record **Rs. 5** per hour after first free hour.
- Postal expenses charged (Above Rs.50)
- **500** words limit.

**THANK YOU**