

**A STAKEHOLDERS'  
GUIDE  
TO  
RTI**

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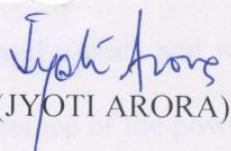
## FOREWORD

The enactment of the Right to Information Act (2005) was a landmark step towards deepening of democracy in India. The Parliamentary democracy in the country was established by the Constitution of India and later the 73<sup>rd</sup> and the 74<sup>th</sup> Constitutional Amendments (1992) had decentralized the democracy by according constitutional status to Panchayati Raj Institutions and Urban Local Bodies by making these Institutions of Self-governance. The Right to Information (RTI) Act has laid the foundation of transparency in government by empowering every citizen of India to seek information on the actions, functions and affairs of the public authorities.

The Act not only covers the governments and their agencies but also the public sector to a large extent NGOs and private sector as well. It is considered to be one of the most strict legislations on right to information in the world, by virtue of its penalty clauses against infringement of Act's provisions. For over more than 17 years since its implementation, there has been very positive response to this Act and it has received a wide and warm acclaim from the people who have come to realize importance of the power of

information. On the other hand, public authorities have also increasingly become aware of their obligations in the culture of transparency. These years have, in fact, been a learning experience for each entity to work in accordance with various provisions of the Act. Besides exposing a number of misappropriations at various levels, RTI Act has been a potential deterrent against corrupt practices too. It has helped in ushering an era of accountable and transparent regime at the Centre as well as in all the States and Haryana has been one of the states in forefront in implementing this Act in letter and spirit.

I am pleased to learn that HIPA is publishing this handbook for the benefit of information seekers as well as providers. I congratulate Dr. Rajvir S. Dhaka, the author of this crisp and up to the date compendium on RTI keeping in mind the need to lucidly delineate important aspects of the Act and underline areas that require explanation and clarification for the common citizens and practitioners. I am confident it would be of great help and relevance to all the stake holders who aspire for good governance in all its manifestations.

  
(JYOTI ARORA)

## PREFACE

The enactment of the Right to Information (RTI) Act, 2005 is a laudable step towards ensuring transparency and accountability in the functioning of government and its agencies. The enactment of RTI legislation is an acknowledgement of citizens' entitlement to clarity about the manner in which decisions are made and policies are implemented. It has gone a long way in enhancing the impact of public services by making the facts and figures open to stakeholders' scrutiny. Free flow of information is a significant measure to instill a sense of ownership in the government policies and programmes. It ensures informed cooperation from the citizens in the development agenda of the administration. Openness and full access to information are the two pillars of the democratic state. These equip the citizens to participate meaningfully in the development process.

In more than 15 years, since it was notified, the Act has received very enthusiastic and encouraging response from people at large. This has proved the utility and value of this legislation which accords the citizens an unrestricted access to information. The value and advantage afforded by the free flow of information have benefitted both citizens as well as governments.

As expected for any unconventional and path-breaking law, the RTI Act has also had its share of operational problems in ensuring a persuasive implementation milieu. The governments, with a view to overcome the problems in its effective use, need to take aggressive steps to create awareness about this Act among the common masses, particularly those living in the villages. Effective operationalisation of the RTI requires capacity building of both information providers and seekers. The cutting-edge level functionaries who are key to its successful rollout need it all the more.

This Handbook is an attempt to provide a ready-reckoner about important rules, procedures and responsibilities. It is hoped that this compendium will prove useful for the government functionaries, social activists and the students having an interest in the RTI regime.

I am grateful to Director General, HIPA, Mrs. Chandralekha Mukherjee for all help and encouragement for writing this handbook. I am also indebted to Mrs. Jyoti Arora, IAS (Retd.), State Information Commissioner, Haryana, for writing the foreword. I express my gratitude to Sh. Sunil Dutt, Documentation Officer, HIPA, Gurugram and Prof. Ranbir Singh (retd.) of Kurukhetra University, for editing it and for giving valuable suggestions for enhancing its quality. I am especially indebted to all the authorities on this subject whose writings and resources have shaped this work. The

help of CIC and Supreme Court judgements, CHRI, YASHADA (Pune), CGG (Hyderabad), DOPT Guidelines, Sh. Pankaj KP Shreyaskar book on RTI and PRIA (New Delhi) material on RTI Act needs to be acknowledged in this context. I also thankful to Mr. Devanshu, Mr. Rajnish Dhiman, Mr. Bharat Bhushan, Mr. Puneet Kumar and Mr. Bhupender for their assistance in the completion of this exercise.

Rajvir S. Dhaka

## **About Haryana Institute of Public Administration, Gurugram**

Haryana Institute of Public Administration (HIPA) is an apex State Training Institute funded by the Government of Haryana. HIPA was established in 1983 with the objective of providing research, training and consultancy to improve efficiency and effectiveness in administration. The Institute endeavours to realize its objectives by enhancing professional knowledge, skills and inculcating attitudes necessary for good governance by professionals and organisations.

## PROFILE OF DR. RAJVIR DHAKA

**Dr. Rajvir Dhaka** is Professor, Public Enterprises in the Faculty of Public Administration and In-charge, Centre for Management Development at the Haryana Institute of Public Administration (HIPA), Gurgaon. He holds Master's degree in Public Administration, MBA in Human Resource Development and Ph.D in Political Science. He was the first in Haryana to qualify JRF (UGC) in 1992. He has been professionally trained at Civil Service College, Singapore, Australian Civil Service Commission, Canberra & Asian Institute of Technology, Bangkok in Professional Development Programme. He has also been trained on latest Issues of Governance in the training programme organized by JEJU Asia Climate Change Education Centre, South Korea in 2017 & 2018. Dr. Dhaka is Master Trainer on RTI Act and he is also the State Nodal Officer for DoPT & UNDP sponsored project on 'Right to Information'. As a Master Trainer on RTI, he is guest faculty to various National and State Academies, PSUs & Academic institutions on RTI Act, Right to Service Act, Conduct Rules, Punishment & Appeal Rules, Personality Development, Citizens Charter and Decentralized Governance etc.

Dr. Dhaka has published six books and around 50 articles. Dr. Dhaka's book titled "Right to Information and Good Governance" published by the Concept, New Delhi, in 2010 (first edition) and republished in 2018 (second edition) is very popular even available for sale on Amazon.

In the last 26 years at HIPA, he has been Course Director of various Induction and Foundational training programmes, including the First 86<sup>th</sup> Special Foundation Course for 78 participants All India & Central Service Officers in 2013.

# 1. 18 Years of RTI Act in India Issues, Concerns and Way Forward

## Introduction

In recent years, the Right to Information (RTI) has acquired a universal status/ recognition. The intergovernmental organisations, civil society and many sections of the people have immensely contributed to this epoch making development. RTI is now being widely recognised as a Fundamental Human Right. It not only upholds the inherent dignity of all human beings, but also forms the crucial underpinning of participatory democracy, ensuring accountability and promotes good governance.

It is now widely recognized that democracy to be meaningful ought to be based on the notion of an informed public participating thoughtfully in its own governance. Information and knowledge are the instruments for transformation because these enable public to engage their representatives and the bureaucracy on an ongoing basis and to participate effectively in the formulation and implementation of policies and activities purportedly for their benefit. An empowered citizenry tends to make administration more accountable and participatory. It also ensures greater transparency and acts as a deterrent against the arbitrary exercise of official powers.

The RTI has not only improved governance but also made the administration of the corporate houses and industries, which operate for profit more transparent and accountable. That is why it has now been recognized as an essential requirement of good governance. Even international organizations such as World Bank, International Monetary Fund, United Nations Development Programme and Asian Development Bank prescribe RTI as a remedy to administrative ills.

As transparency sustains democratic governance, the access to information is specified by approximately fifty countries in their constitutions, another 80 countries have passed self standing access to information laws<sup>1</sup> and many more are in the process of doing so. The enactment of RTI Act in India in 2005 marked a paradigm shift in Indian democracy. The experience of ten years shows that the response to it has been very positive. A wide spectrum of people from various strata of society have been seeking different types of information from various authorities.

The Genesis of the RTI Act (2005) may be attributed to the following factors:

- 1. Good Governance** - The access to information is deemed to be cardinal for achieving the goals of good governance as it ensures good governance by promoting transparency and public accountability in the working of government functionaries
- 2. The Pressure of the Donor Agencies** - The World Bank, the International Monetary Fund and other donors have also been pressing the recipient countries to enact laws to enable access to information for increasing transparency and reducing corruption.
- 3. Quest for Combating Corruption** - The RTI also aims at reducing corruption. It provides every citizen the enforceable right to question, examine, audit, review and assess government acts and decisions for this purpose.
- 4. To create mechanism for checking misuse of discretionary powers** - Since the officers have a tendency of can abusing their discretionary powers to misappropriate public funds to promote political or vested interests, the RTI aims at to checking the same.
- 5. Need for Promoting Administrative Efficiency-** The RTI seeks to promote administrative efficiency in Government by checking unnecessary delays. It has forced the actors in administration to remain vigilant in this context because they can be questioned by citizens through RTI.
- 6. Ensuring Effective Implementation of Government Schemes** - Numerous central and state schemes for providing food, housing, employment and education are being implemented in rural areas. Availability of information on schemes and access to records concerning their utilization would certainly improve their implementation.
- 7. The Need for Reforming Administration-** The RTI aims at providing a mechanism for fixing the responsibility on the Government servant. Hence it can significantly help in improving governance.
- 8. Right to Information as a Fundamental Right-** RTI is a fundamental right flowing from Article 19(1)(a) of the Constitution. Over the years, the Supreme Court has consistently ruled in favour of the citizens Right to Know that the citizens of this country have the Right to Freedom and Speech under Article 19(1) (a) of the Constitution but it is meaningless unless the citizens have the Right to know. The RTI ensures the same.
- 9. Movement for Transparency** - The RTI has been made possible by continuous struggles by many activists' and citizens' groups'. The Mazdoor Kissan Shakti Sangthan (MKSS), movement led by Aruna Roy, in a backward region of Rajasthan's Bhim Tehsil in 1990 was to assert their Right to Information by asking for copies of bills and vouchers and names of persons who have been paid wages mentioned in muster-rolls for the construction of

school, dispensaries, small dams and community centers. It spread quickly to other areas of Rajasthan and other States. The attempts of Harsh Mandar the Divisional Commissioner of Bilaspur, Madhya Pradesh in 1996 to throw open the registers of Employment Exchanges and the records of Public Distribution System to the citizens and the agitation led by Anna Hazare in Maharashtra in 2001 are some of the examples.

Consequently, the National Campaign for People's Right to Information (NCPRI), which became a broad-based platform for action, was formed in the late 1990s. As the campaign gathered momentum, it became clear that the RTI is to be made legally enforceable. This is what culminated in the enactment of RTI Act (2005). Its genesis may be attributed to the following factors.

**Main Provisions of the RTI Act, 2005 are as under:**

- ◆ All the citizens have the RTI, subject to the provisions of the Act and it extends to the whole of India except Jammu and Kashmir.
- ◆ It covers all the three tiers of government i.e. central, state and local governments and all the three branches i.e. legislative, executive and judiciary of the government.
- ◆ It applies to "Public Authorities" which are owned, controlled or substantially financed directly or indirectly by the appropriate Government and the NGOs and private bodies substantially financed by the government.
- ◆ The Act provides that information of the third party can also be accessed after following the due procedure.
- ◆ It casts an obligation on Public Authorities to proactively disclose information about itself. They are also supposed to maintain records in an indexed and cataloged manner.
- ◆ The Act provides for the designation of PIO/APIO for giving information.
- ◆ Provision has also been made for transfer of a request by a public authority to another one: wherein the information is held by the latter.
- ◆ A time limit of 30 days has been prescribed for compliance with requests for information under the Act for normal information, 48 hours for life and liberty related information, 40 days for 3rd party information and 45 days for corruption and human rights related information of the listed organisations.
- ◆ The Act excludes the time taken for calculation and intimation of fees from the time frame.
- ◆ It provides that in case a PIO rejects the application, he/she is bound to give reasons for the same. The period within which an appeal against such rejection may be preferred as well as the particulars of the appellate authority have also to be given by his/her.
- ◆ The Act prescribes for a reasonable fee for providing information.
- ◆ No fee to be charged from persons below poverty line.

- ◆ Information has to be provided free of charge if it is given after the time limit.
- ◆ Certain categories of information have been exempted from disclosure. However, these can be given if public interest is greater than the protected interest.
- ◆ The Act contains a provision for revealing an information, which is otherwise, exempted from disclosure, on completion of 20 Years of the incident.
- ◆ The Act incorporates the principle of severability in the exempted category of information.
- ◆ It provides for a two-tier Appellate Forum. First Appeal is to be made to departmental officer senior to the Public Information Officer. The Second Appeal has to be made to the Commission.
- ◆ The Central and State' Information Commissions have the status of an independent non-judicial machinery.
- ◆ While inquiring into any matter, the Commission has the same powers as are vested in a civil court while trying a suit under the Code of Civil Procedure.
- ◆ The Act prescribes for the procedure to be followed by APIO/PIO, FAA and IC while carrying out their duties and responsibilities.
- ◆ It defines legal framework for exercise of powers by the Commission.
- ◆ It also prescribes the time limit for preferring an appeal to FAA and IC.
- ◆ In case of a grievance at PIO level, a provision has been made in it for directly making complaint directly to the Commission
- ◆ The decisions of the Commission have been made binding by the Act.
- ◆ Listed agencies in its Schedule II have been kept out of its ambit. However, the exemption is not absolute in matters relating to corruption and human rights violations.
- ◆ The jurisdiction of subordinate courts has also been barred by the Act.
- ◆ Its provisions have been made overriding in character.
- ◆ The CIC/SIC can impose a penalty of Rs.250/- per day on PIO. This penalty can go upto a maximum of Rs.25000/- under the provision of the Act.
- ◆ There is also a provision of disciplinary action against the PIO its any persistent contravention.
- ◆ The Act provides that there is no criminal liability of the PIO and the PIO and they have been made immune from the actions done in good faith.
- ◆ The Central and State Information Commissions to monitor its implementation and to prepare an Annual Report to be laid before Parliament/State Legislature.
- ◆ For its effective operationalisation, the Act gives rule making power to the appropriate government and the competent authorities.

## **Some Deficiencies in the RTI Act**

- (i) No Provision has been made for Ensuring the Fulfillment of Obligations by Public Authorities** - The Act imposes certain obligations on public authorities in Section 4. Primarily, these relate to (a) proper maintenance and upkeep of records and (b) suo moto dissemination of information through publication of information about the functions and functioning of each public authority. However no penalty clause has been for their violation. Hence, the task is not viewed as an obligation by them.
- (ii) Overlapping of the Grounds of Appeal and Complaints** - The grounds of a complaint under Section 18 and for an appeal under Section 19 are overlapping. Separate grounds should have been made for appeals and complaints. Three clauses of Section 18 (1) i.e. Clause (b) relating to refusal of access to information; (c) relating to no response to the request for information within the stipulated time; and (e) relating to giving incomplete, misleading or false information should have been deleted from the Act as these grounds are basically for exercising appellate powers u/s 19.
- (iii) Absence of Contempt Provisions** - Its Section 19(7) states that the decision of the Information Implementation of RTI Act in India : Experience and Roadmap Implementation of RTI Act in India : Experience and Roadmap Commission shall be binding. But it has not been supported by 'Contempt of Court' provision for enforcing compliance of its decision by the public authority.
- (iv) No Time Limit for IC to Decide the Appeals** - Unlike the time limit for the First Appellate Authority for giving decisions on appeals, the Act does not provide for any time limit for decision on the appeal at the level of Second Appellate Authority.

## **Operational Problems**

There are following operational problems in the Act:

- 1. Poor Suo Moto Disclosure** - The obligation of public authorities under Section 4(1)(b) for self disclosure of information is rarely followed. Their websites are either non-existent or are rarely updated. Even the names, phone numbers and addresses of their PIOs, APIOs and the appellate authorities are generally not put in public domain.
- 2. Poor Record Maintenance** - Improper indexing, maintenance of records, absence of annual statements and reports etc by some of the offices are also a main hurdle in its implementation.
- 3. Junior Officers have been Appointed as PIOs in some Organisations** - They are not able to get cooperation of their colleagues and support of their superiors for gathering information requested by the applicants.

4. **Poor Infrastructural Facilities with the PIOs/SPIOs** - PIOs/SPIOs have not provided adequate infrastructure like photocopier, fax, accommodation, separate office, secretarial assistance, computers, Internet facilities etc
5. **Overburdened PIOs** - The PIOs have to perform their role in addition to their role as employees in public authorities. Hence they feel overburdened due to increase in volume of work.
6. **Difficulties in Locating the PIO office at the District Level** - A lot of difficulty is being experienced by information seekers in locating their offices some of these are functioning from private buildings.
7. **Misuse of Exemption for BPL Information Seekers** - The information seekers from BPL families have been exempted from payment of fee and other charges. The provision is being misused by unscrupulous persons. Infact, in some cases the BPL information seekers have been used by them for hiding their identity and for escaping payment of fee and other charges.
8. **Problems regarding the details on First Appeal Authority** - Identification of First Appeal Authority has been found difficult particularly in those cases, where applicants do not receive information within the stipulated time frame and have to file the First Appeal. Under Section 7(8) of the Act, PIOs are duty bound to provide details on the Appellate Authority to the applicant in case of refusal of information and the third party in case of disclosure of the information of the third party. But this mandate is generally not followed.
9. **Reluctant use of Penalty Clause** - The reluctance of the Information Commissioners to use the penalty clause against officials providing wrong information or for their failure to provide information has been an issue of discontent. The Commissioners feel that indiscriminate use of this clause may lead to collapse of the administrative machinery. Thus, an impression has been created that the government departments need not take this Act seriously. Moreover, the government departments also do not always comply with the orders of the Information Commission. The powers under the Act for enforcing the Commission's orders are limited. Hence, there have been instances of recalcitrance by public authorities.
10. **Demand for Irrelevant or Frivolous Information** - The RTI is also being misused by some mischievous persons for harassing their colleagues and blackmailing the authorities. Moreover, there are numerous instances of applicants demanding irrelevant or frivolous information.
11. **Suffering from Railway Coach Syndrome** - Spreading of awareness on RTI Act is also

suffering from "Railway Coach Syndrome" wherein the passengers of an overcrowded Railway Coach are reluctant to let the new passengers get in and once a new passenger gets in, he also shows the same behaviour. Similarly, a person who has undergone training and has knowledge of the RTI Act, she/he is not willing to disseminate it to others.

- 12. Lack of Uniformity of in Rules** - There is no uniformity in RTI rules and fee structure among different states of the country. Some states have even made rules which contravene the RTI Act. For example, Haryana has prescribed time limit for depositing additional fee.

### **Roadmap for the Future**

Despite the deficiencies and operational shortcomings, the RTI Act is a major step towards a participatory and transparent developmental process in the country. It is, indeed, what Amartya Sen describes as "a momentous engagement with the possibilities of freedom". Some of steps, required for its effective implementation and operationalisation are being discussed as under:

- 1. Activating Public Authorities**-To remove ambiguity pertaining to Public Authorities, the competent authorities should notify all public authorities under Section 2(h) of the Act. The CIC and SICs should act pro-actively in this context. There should also be frame time-bound action plan, with outcome budget and clear-cut physical targets with accountability for not fulfilling the obligations under Sections 4 and 5. They should also play a pro-active role in disclosing information as mandated under Section 4. The details about the APIO/PIO and First Appellate Authority must be on the Notice Boards. Moreover, the task of RTI implementation should not be left to the PIO alone. The Public Authority and the First Appellate Authority should also be made accountable for it.
- 2. Proper Management and Computerization of Records** - Section 4(1) (a) of the Act requires records management policies and procedures to be made compatible with the RTI Act. The Public Authorities should, therefore, initiate measures so that all the decisions are mandatorily disclosed on its website. Extensive computerisation, networking and budgeting support is essential for this task.
- 3. Effective Suo Moto Disclosures by the Public Authorities**- Disclosures under Section 4(1)(b) should be printed and updated periodically. It should be obligatory for the Public Authorities to publish the disclosures in their Annual Reports. The scope of "suo moto" disclosure of information by public authorities needs to be expanded to minimize citizen's resort to RTI for getting the information needed by them. Citizen's Charter should therefore from an integral part of Section 4(1)(b) disclosures.

Extensive use of Information Technology need to be resorted to for addressing the obligations related to suo-moto disclosures.

The penal provisions should also be invoked against Public Authorities for not doing disclosure under Section 4(1)(b).

- 4. Effective Record Management** - The State Information Commission should be made powerful enough to ensure that public authorities take initiative in this regard. All of them must quickly review the existing Weeds Rules framed under the Destruction of Records Act, 1917. Records in the Government offices need to be digitized and indexed for easy retrieval. Clear cut accountability must be fixed for delays or non-traceable list of any document with reference to the Weeding Rules.
- 5. The PIOs need to be a Senior rank Officer and they be Provided with Adequate Infrastructure**- To ensure effective implementation of the RTI, the PIOs need to be of a sufficiently senior rank. The organisation must also provide them adequate budgeting support and infrastructure such as photocopier, fax and accommodation for enabling them to handle the responsibilities under the Act.
- 6. Proper Training to the PIOs**- Adequate training is needed to sensitize the PIOs to the needs of people and about their functions. Training techniques such as distance education, computer training etc. should be used for this purpose.
- 7. Working of ICs be made more Effective** - Disposal of the cases in the ICs should be made faster. The CIC and SICs should constitute benches of two or more than one Commissioner to review of the decisions made by a Single Commissioner. Video Conferencing too may be used extensively for hearing the appeals. A time-limit should be put by the Commissions for taking up of the cases suo moto for ensuring disclosure of important information through their websites. The appeals and complaints under the Act should not be dismissed due to non-appearance of appellants/complainants and give another chance for appearance before them. Alternatively, they could decide the case on merit.
- 8. Enlisting the help of Civil Society for training and Social Audit of PIOs**- There is need for formal involvement of intermediary civil society organisations to train the PIOs and the APIOs in collaboration with other government nodal agencies. Social audit of certain public authorities by NGOs, Citizens Forum and Civic Bodies of repute would help in fighting corruption and effective implementation of the RTI Act.
- 9. Awareness Generation and Capacity Building**- Capacity building of officials too is needed to meet information requirements of the citizens. Besides in addition to creation of awareness empowerment in citizens. Capacity Building of the cutting edge level functionaries forms the key element in this context as this level facilitates the first interface with the citizens. A massive round of training of PIOs/APIOs must be undertaken to achieve the Objective of Maximum Disclosure and Promotion of Open

Governance. The following steps may be taken for it:

- i) The RTI Act should be included in the syllabi at the Secondary school and College level education.
- ii) The RTI User guide/ Guidelines and Directory of PIOs/APIOs/FAAs should be published in English as well as local language and these be circulated widely by the government.
- iii) Effective training programmes for both the information seekers and the information providers should be organised by Administrative Training Institutes and NGOs at different level.
- iv) Multimedia, especially the TV Channels, should be used for the information dissemination.
- v) Best practices in RTI should be documented and show-cased.
- vi) Though Department of Personnel and Training, Government of India has declared second week of October as RTI week for spreading awareness about the Act but awareness about it is very poor among people. However, it seems to be only Central Government affair, State Governments are not taking effective steps in this direction.
- vii) Nukkad Nataks, Talk Shows etc should be organized regularly by various forms of media.
- viii) Other modes such as Kala Jathas and puppet shows could also be used for this purpose.

**10. Single Window Service at the E-Disha Centres in the District Headquarters-** A counter can be opened at the E-Disha centre of every district to help information seekers. An officer may be specifically designated as APIO under the Act to collect applications meant for Public Information Officers of the district and sub-divisional headquarters. The fee may also be got deposited and the application be forwarded by her/him to the concerned Public Information Officer in the district.

### **Conclusion**

The enactment of the RTI Act (2005) has to be recognized as a laudable step indeed. It has proved to be a strong weapon in the hands of people for ensuring transparency and accountability in government departments and for containing corruption. India's RTI Act has been widely acclaimed, as one of the best law in the world. It has also an excellent implementation track record. It is undoubtedly, one of the most empowering and progressive legislations that have been enacted in the post Independent India.

The Act not only covers the public sector but also, to some extent, the NGOs and the

private sector as well. It has many positive features like provision for the First and the Second Appellate Authorities. It is also one of the strongest legislations globally, that provides for the imposition of penalty for the contraventions of its provisions. During the one decade of its implementation, the response to it has been very positive. The people are gradually learning the importance of the power of information. The persons of every section have been seeking information from the different authorities. The Act has made a significant impact on the quality of the life of the poor and the marginalised. It has indeed, brought about positive changes in the level of administrative accountability. The disclosure of various vital informations has helped in checking corrupt practices in the delivery of services and in ensuring the reach of entitlements to the poor. Public authorities and Public Information Officers are increasingly becoming aware of their responsibilities. As a matter of fact, it has been a learning experience for all the stakeholders.

To make its effective use, the governments should take effective steps to propagate this Act among the illiterate people living in the villages. The states should also increasingly use IT/e-governance. Records in the Government offices also require to be digitized and indexed for easy retrieval. Video Conferencing needs to be used extensively for hearing the appeals. Proactive disclosure of public authorities should be audited by a team of Government officials and NGOs.

Penal provisions, as stipulated under the Act for malicious and unreasonable refusal of information, by the Information Commission too should be strictly implemented. Compulsory training of the officers of central and state governments on RTI should be organized on a continuous basis. What is most important at the present juncture is the Act be given an honest chance to operate smoothly without creating negative stumbling blocks and bottlenecks. This casts a special duty upon the organizations of civil society for remaining vigilant to ensure that the objectives of the Act are not get frustrated through the bureaucratic manipulations. This also necessitates attitudinal change in bureaucracy. At the same time, there is a dire need to initiate suitable amendments in the Conduct Rules for the public servants. Efficient information management system needs to be created without delay in this context. More frequent use of this Right by the citizens can go a long way in achieving the objectives of the Act.

Presently, the RTI regime in India is passing through a decisive phase. Much more needs to be done to streamline it. It can be made effective only through active involvement of the people. Much is going to depend on the seriousness of Central and State governments and Public Authorities in fulfilling their obligations under the Act for

ensuring its operationalisation. Finally, it may be said that the enactment of RTI Act has indeed been a bold step and it is likely go a long way in creating participatory democracy in India. But those at the helm of the must arise to the occasion and create, without delay, the enabling environment for this epoch making measure.

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## 2. RTI Act and Rules : Frequently Asked Questions

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The Right to Information Act has completed ten years of its implementation. The response of this Act has been very positive and it has received very wide and warm welcome from the people. People are learning the importance of the power of information. That is why, the people of every section have been seeking information from the different authorities. This is increasingly contributing to the accountability and transparency in administration. Public Authorities and Public Information Officers are becoming increasingly aware of their full responsibilities. Beside it is providing learning experience for each entity involved in the working of the law. However, the Act still being in infancy, there are many questions' in the minds of the information providers and seekers both. To overcome this problem, in this chapter most of the basic questions relating to the better understanding of the different provisions of the Act and Haryana RTI Rules have been explained.

### 1. What is RTI?

**Ans.** RTI stands for Right to Information. Right to Information is a part of fundamental rights under Article 19(1) of the Constitution. Article 19 (1) says that every citizen has freedom of speech and expression. As early as in 1976, the Supreme Court said in the case of *Raj Narain vs State of UP*, that people cannot speak or express themselves unless they know. Therefore, right to information is embedded in Article 19. In the same case, Supreme Court further said that India is a democracy. People are the masters. Therefore, the masters have a right to know how the governments, meant to serve them, are functioning. Further, every citizen pays taxes. Even a beggar on the street pays tax (in the form of sales tax, excise duty, etc) when he buys a piece of soap from the market. The citizens therefore, have a right to know how their money was being spent. These three principles were laid down by the Supreme Court while saying that RTI is a part of our fundamental rights.

### 2. If RTI is a fundamental right, then why do we need an Act to give us this right?

**Ans.** This is because if you went to any Government Department and told the officer there, "RTI is my fundamental right, and that I am the master of this country. Therefore, please show me all your files", he would not do that. In all probability, he would throw you out of his room. Therefore, we need a machinery or a process through which we can exercise this fundamental right. Right to Information Act 2005, which became effective on 12th October, 2005, provides that machinery. Therefore, Right to Information Act does not give us any new right. It simply lays down the process on how to apply for information, where to apply, how much fees etc.

**3. What does information mean?**

**Ans.** 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.

**Q. 4. What does 'record mean?**

**Ans.** Record means: (a) any document, manuscript and file; (b) af1Y microfilm, microfiche and facsimile copy of a document; (c) any reproduction of images embodied in such microfilm; and  
d) any other material produced by a computer or any other device.

**Q.5. Some applicants ask questions "why something was not done? Who is responsible?' Are such types of questions answerable under RTI Act?**

**Ans.** If it is covered under the definition of 'Information' / 'Record' then only it can be given, otherwise, it would be considered as creating the Information which is not required under the RTI Act.

**Q.6. In office procedure rules records are to be destroyed within some stipulated period. If such outdated records still exist in office and an applicant asks for these documents. Is it necessary to provide such information?**

**Ans.** Yes, before destroying the record, public authority should ensure that there is no pending RTI application.

**Q.7.What does Right to Information under the RTI Act mean?**

**Ans.** Right to Information means the right to: (a) inspect works, documents and records; (b) take notes, extracts or certified copies of documents or records; (c) take certified samples of material;  
(d) and obtain. information in form of printouts, diskettes, floppies, tapes, video cassettes or in any other electronic mode.

**8. What does "public authority" mean?**

**Ans.** Public authority means any authority or body or institution of self-government which is established by: (a) the Constitution; (b) any other law made by Parliament or State Legislature; (c) by notification or order made by the appropriate Government and including anybody or NGO substantially financed by the Centre, State and Local Governments.

**9. Who is 'Third Party'?**

**Ans.** The person whose information has been sought is the third party. The person applying for information is the first party; the public authority to whom application has been addressed is the second party.

**10. What are the obligations of Public Authority (PA) ?**

**Ans.** PA is obliged to maintain its record in indexed and cataloged form. It should also try to ensure that record is computerized and ultimately connected through a network all through the country. Public authority is further supposed to publish and update from time to time the following details about itself:

- I. the particulars of its organization, functions and duties;
- II. the powers and duties of its officers and employees;
- III. the procedure followed in its 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 used by its employees for discharging its functions;
- VI. a statement of the categories of the documents 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 policy or implementation thereof;

- VIII. 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;
- IX. a directory of its officers and employees;
- X. the monthly remuneration received by each of its officers and employees! including the system of compensation as provided in its regulations;
- XI. the budget allocated to each of its agency, indicating the particulars of all plans, proposed expenditures and reports on disbursements made;
- XII. the manner of execution of subsidy programmes, including the amounts allocated and the details and beneficiaries of such programmes;
- XIII. particulars of recipients of concessions, permits or authorizations granted by it;
- XIV. details 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; and
- XVI. the names, designations and other particulars of the Public Information Officers.

**Q.11. How much is the penalty, in case a department is not able to meet deadline for proactive disclosure?**

**Ans.** There is no penalty for not meeting this deadline. However, it is advisable to publish maximum information within the deadline and give it wide media publicity. This will reduce criticism from media and other quarters, as they will understand the sincerity of the Government in this regard. The IC also has powers {Sec. 19(8) (a) (vi) } to receive from a public authority, an annual compliance report in relation to Sec. 4. This reporting mechanism makes a public authority answerable to the IC for all acts of commission and omission in relation to proactive disclosure.

**Q.12. If the information requested by a citizen has already been pro actively disclosed, can a PIO refuse to accept the request?**

**Ans.** There is nothing in the RTI Act that states that information disclosed proactively should not be provided to a citizen on request. Sec. 4 (4) requires that all material disseminated under this Act should be available with the PIO and as far as possible in electronic format. The objective behind this is that the citizen need not wait for 30 days to get access to information that is already being proactively disseminated. If it is available in printed format the PIO can make copies of the same or provide photocopies of the relevant pages to the citizen.

If such information is available only in electronic format the same may be provided on floppies, diskettes, CDs or in the form of printouts upon payment of fees at rates prescribed by the Government.

**Q.13. Who is Assistant Public Information Officer (APIO) and what are his duties?**

**Ans.** Public authority designates an officer as APIO at each sub-divisional or other sub-district levels. The duties of APIO are to receive the application for information/appeal from the applicant and to transfer the same to the PIO/FAA/IC.

**Q.14. Who is PIO?**

**Ans.** PIO is an officer designated by the public authority in all administrative units or offices under it to provide information to the applicants. For providing information PIO may seek the assistance of any officer, who is having the custody of records and documents. In case of contraventions of the provisions of this Act, such officer shall be treated as a PIO.

**Q.15. Whether the APIO is an assistant to the PIO?**

**Ans.** No, the APIO is not an assistant to the PIO. Like PIO, he is also functioning under the Act. Instead, he has the duty just to receive applications and appeals and transfer them to the PIO and appellate authority respectively.

**Q.16. What is the Application Procedure for requesting information?**

**Ans.** Application can be made to the PIO or APIO in writing or through electronic means. Reasons for seeking information are not to be given. Applicant should attach the prescribed application fee also.

**Q.17. What are the duties of a PIO?**

**Ans.** PIO deals with RTI applications. In case of the inability in writing the application, PIO helps to write the application for the information seeker. If the demanded information is with some other public authority, the PIO transfers the application to the same within 5 days and inform the applicant immediately. PIO, on receipt of an application, either provides the information within the stipulated period or rejects it. In case of acceptance of application, PIO, will assess the requisite additional fee and inform the applicant expeditiously. In Haryana, PIO has to give a notice of 15 days for depositing the additional fee which is not the case at the Centre level and in any other State. After getting the additional fee, he provides the information within the stipulated period. If additional is not received within 15 days, it is construed that the applicant is not interested in the information, therefore, PIO may file the application. In case of rejection, PIO is to communicate to the applicant -

- (i) the reasons for such rejection,
- (ii) the 30 day appeal period within which an appeal against such rejection may be preferred, and

(III) the particulars of the Appellate Authority. If information sought is of third party, the PIO within days from the receipt of the request has to give a 10 days written notice to the third party. He will take third party/s representation into consideration before giving third party information. Third party may make a representation in writing or orally before the PIA within 10 days from the date of receipt of such notice .Furthermore, the third party has a right to be heard in respect of application and appeal.

**Q.18. What is the time limit to get the information?**

**Ans.** Time limits are the followings:

(a) Normally 30 days for information from the date of application; (b) 48 hours for information concerning the life and liberty of a person; (d) 40 days in case of information pertaining to third party; (e) 45 days if information relates to allegation of human rights violation against, the listed intelligence and security organisations.\* 5 days shall be added to the application received by APIO, provided APIO's office is at the regional level and PIO's at the headquarter level.

\*\* Failure to provide information within the specified period is a deemed refusal.

\*\*\* If the information is provided after the specified time, it shall be given free.

**Q.19. Can PIO, his assistant or subordinate staff can be punished for delay in providing information? What if the situation is beyond his control?**

**Ans.** Under Section 5(5) of the Act any officer whose assistance has been sought by PIO is equally liable under the Act as the PIO? Under Section 21 of the Act action taken in good faith is protected, but it must be proved based on documentary evidence.

**20. How does a PIO decide whether the information requested relates to the life and liberty of the individual?**

**Ans.** The Act does not define Life and Liberty related information, therefore, this category of information usually relates to the work of law enforcement and security agencies. Till Life and Liberty related information is defined in the Act, it should be defined in the RTI rules. The Central and State Governments will have to come up with guidelines for treating such information requests with due diligence and urgency.

**21. Can Information be provided in the form, in which it is requested?**

**Ans.** Information is provided in the form in which it is sought unless it disproportionately diverts the resources of the Public Authority or is detrimental to the safety or preservation of the record in question.

**22. Is there a limit to the quantum of information sought?**

**Ans.** The Act does not permit rejection of an application simply because it relates to a large

number of documents. In any case, officials should consider the processing of applications as a cooperative activity, thus the applicant in getting the information. If a large number of records are involved, the PIO can contact for clarification on the exact requirement of information without unnecessarily burdening the PIO.

If the applicant is not easily accessible except by post, then the PIO may give detailed reasons in writing for not being able to meet the information request. This will indicate to the FAA or the IC that the PIO had take action in good faith and had done all that was possible to honour the citizen's right to seek information if the applicant files an appeal. No penalty will be imposed on the PIO if it is evident that she/he has taken action in good faith. (Section 21) If some of the information requested relates to the work of other public authority within the same department or in other department, the PIO has the power to transfer those parts of the application to relevant public authority under Section 6(3).

**23. Which information is not open to disclosure?**

**Ans.** Following kinds of information are not open to disclosure: (a) information relating to sovereignty & economic interest of the country ; (b) information forbidden by Courts and Tribunal; (c) information relating to privilege of Parliament and State Assemblies; (d) information relating to the commercial and trade secrets of the third party; (e) information available to a person in his trust relationship; (f) information shared with other country in confidence; (g) information endangering the life or physical safety of any person; (h) information impeding the process of investigation; and (i) cabinet papers and deliberations; and (j) personal information of an individual, and etc.

\* However, the above can be given if the public interest in disclosure is greater than the protected interests. At the same time, information, the disclosure of which, violates the copy right of the individual and information of intelligence and security organizations given in Schedule 2 of the Act, also cannot be given.

**24. If a case is still under consideration (i.e. 'live' or 'current' file) for final decision can that file be made available to the a requester before the decision has been taken?**

**Ans.** Aspects of the file which are pending decision can be disclosed even if the matter is riot complete. Information can be denied only if the file is having certain Information which are falling in the exempted category.

**25. How old an information can be applied for?**

**Ans.** It depends on the record retention schedule of the public authority. In case of exempted information, except the information falling in sub-clauses a, c and i of Section 8(1) an information relating to any occurrence of an event which has taken place 20 years before the date on which a request is made, can be provided.

**26. What is the RTI fee structure in Haryana?**

**Ans.** Fee Structure at Haryana level is as under:

1. Application Fee-Rs.10
2. A4&A3 Size papers- Rs. 2 per page
3. Bigger Size paper- Actual cost
4. CD/Floppy- Rs.50
5. Price Document- At the printed price

No fee for inspection of record, if such an inspection is made for one hour only. However, for more than one hour of inspection, Rs. 5/- shall be charged for every subsequent hours or fraction thereof. Every fraction of, period above one hour shall be counted as a complete period of one hour.

\* There is no fee ( Application or other additional fee for xerox copy, CD and Floppy, etc.) for citizens Below Poverty Line.

**27. What are the modes of fee payment?**

**Ans.** Fee is payable to PIO in Haryana through Cash, Treasury Challan, Indian Postal Order and Demand Draft.

**28. Who are the First and Second Appellate Authorities?**

**Ans.** First appeal means an officer who is senior in rank to the PIO. An appeal can be made to him within 30 days from the expiry of the prescribed time limit or from the receipt of the decision. First Appeal has to be disposed of within 30 days from the date of its receipt. Period is extendable by 15 days if necessary.

Second Appeal means the Central or the State IC as the case maybe. There is no hierarchy of Information Commissions. An appeal to the Commission can be made within 90 days of the date on which the decision was given or should have been made by the FAA. Delay may be condoned by the First and Second Appellate Authorities, if sufficient cause is shown. There is no time limit for the disposal of appeal by the Commission.

**29. How- is Central Information Commission (CIC) constituted?**

- Ans.**
1. CIC is constituted by the Central Government through a Gazette Notification.
  2. Commission includes 1 Chief Information Commissioner and not more than 10 Information Commissioners who is appointed by the President of India.
  3. Oath of Office will be administered by the President of India according to the form set out in the First Schedule.
  4. Commission has its Headquarters in Delhi. Other offices can be established in other parts of the country with the approval of the Central Government.
  5. Commission exercises its powers without being subjected to directions by any

other authority.

**30. What are the powers and functions of Information Commissions?**

**Ans. 1.** The CIC/SIC has a duty to receive complaints from any person-

- (a) who has not been able to submit an information request because a PIO has not been appointed;
  - (b) who has been refused information that was requested;
  - (c) who has received no response to his/her information request within the specified time limits;
  - (d) who thinks the fees charged are unreasonable;
  - (e) who thinks information given is incomplete or false or misleading; and
  - (f) any other matter relating to obtaining information under this law.
2. Power to order inquiry if there are reasonable grounds.
3. CIC/SICs have powers of Civil Court such as-
- (a) summoning and enforcing attendance of persons, compelling them to give oral or written evidence on oath and to produce documents or things;
  - (b) requiring the discovery and inspection of documents;
  - (c) receiving evidence on affidavit;
  - (d) requisitioning public records or copies from any court or office;
  - (e) issuing summons for examination of witnesses or documents;
  - (f) any other matter which may be prescribed.
4. All records covered by this law (including those covered by exemptions) are to be given to CIC/ SIC during inquiry for examination.
5. Power to secure compliance of its decisions from the Public Authority includes-
- (a) providing access to information in a particular form;
  - (b) directing the public authority to appoint a PIO/APIO where none exists;
  - (c) publishing information or categories of information;
  - (d) making necessary changes to the practices relating to management, maintenance and destruction of records;
  - (e) enhancing training provision for officials on RTI;
  - (f) seeking an annual report from the public authority on compliance with this law;
  - (g) require it to compensate for any loss or other detriment suffered by the applicant;
  - (h) impose penalties under this law; and
  - (i) reject the application.

**31. What procedures are followed by the ICs in deciding the appeal?**

**Ans.** ICs follows the following procedures while deciding the appeals:

1. Before deciding an appeal the Commission shall serve notice to the concerned persons.
2. Entertain any evidence in support of appeal, which may be oral or in writing from the concerned persons.
3. Examine on oath or by having affidavits from the concerned persons.
4. Peruse or inspect the documents or any records or samples.
5. Inquire through the authorised officer the facts of an appeal or may require facts in detail, if so may hear the SPIO or any other senior officer who had decided the first appeal as the case may be.
6. Receive evidence on affidavits from the SPIO or any other senior officer who had decided the first appeal or from any other person from whom the evidence may be deemed necessary

**32. What is the mode of serving the notice by the IC?**

**Ans.** The IC in Haryana may serve notice to the persons concerned in any of the following modes:

1. By hand through process server.
2. By registered post with acknowledgement due; or
3. By publication in the newspaper.

\* CIC in addition to the above serves notice by speed post and Under Postal Certificate (UPC).

**33. Can' an applicant directly make a complaint to the IC?**

**Ans.** Yes, in case of the following grounds, applicant can directly make a complaint to the IC; (a) if a PIO/APIO has not been appointed in any public authority; (b) if the PIO/APIO has/ refused to accept the application; (c) has not provided the information in time or has asked for unreasonable fee; (d) has provided misleading, false, incomplete information. And if the commission considers it appropriate the commission may accept the complaint and initiate an enquiry into the matter.

**34. What are the penalty and disciplinary action provisions in the Act?**

**Ans.** The IC can impose a penalty of Rs. 250 per day till the information is provided. The penalty amount can be upto a maximum of Rs. 25000. The PIO is personally liable for the penalty. Penalty amount is deposited in government. exchequer.

Penalty is imposed for the following reasons:

- (a) not accepting an application;
- (b) delaying information;
- (c) rejecting application without reasonable cause;

- (d) malafidely denying information;
- (e) knowingly giving incomplete, incorrect, misleading information;
- (f) destroying information that has been requested and obstructing furnishing of information in any manner. The IC can also recommend disciplinary action under the service rules for violation of the Act against an erring PIO.

\* Commission can also make provision of compensation for the applicant, which is to be borne by the concerned public authority.

**35. Which organizations are not falling in the ambit of RTI Act?**

**Ans.** The following 6 intelligence and security organizations are out of the Act:

- (i) State Criminal Investigation Department (C.L.D.) including the Crime Branch;
- (ii) Haryana Armed Police;
- (iii) Security organizations of Police;
- (iv) Haryana Police Telecommunication Organization;
- (v) India Reserve Battalion;
- (vi) Commando.

\* However, if there is any allegation of corruption and human rights violations against the above organizations, then information of the above organizations will also have to be given.

**36. Will the APIO be punished for giving wrong or misleading information just as a PIO can be penalized under this Act?**

**Ans.** The APIO is not duty bound to give information to the applicant. However, if the information sought is under her/his control then such information may be given upon payment of the prescribed fees (if any). However, APIO is liable for penalty for providing wrong or misleading information even under other laws like the Indian Evidence Act and the Indian Penal Code.

**37. What is the Jurisdiction of Courts?**

**Ans.** The Courts are barred from entertaining suits or applications against any order made under this Act. However, the writ jurisdiction of the Supreme Court and High Courts under Articles 32 and 226/227 of the Constitution remains unaffected. Therefore, one can approach High Court and Supreme Court against the decision of the IC which are to see only the legality of the ICs decisions.

**38. Whether the information relating to matters which are pending in court, can be provided under the act?**

**Ans.** Yes, if it is not covered by any of the exemptions especially the ones related to contempt

of court.

**39. What is the role of State Governments?**

- Ans.** 1. Develop educational programmes for the public especially disadvantaged communities on RTI.
2. Encourage PAs to participate in the development and organization of such programmes.
3. Promote timely dissemination of accurate information to the public.
4. Train officers and develop training materials.
5. Compile and disseminate a User Guide for the public in the respective official language.
6. 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.

**40. Who has the Rule making power?**

**Ans.** Central Government, State Governments and the Competent Authority are vested with powers to make rules to carry out the provisions of the RTI Act, 2005.

***Conclusion***

The RTI Act has completed 10 years of its operationalisation on October 12, 2015. But, despite a decade of its implementation, the awareness among all the stakeholders, irrespective of their seniority is not adequate. This state of affairs may mainly be attributed to the fact that the concern governments and public authorities have not taken RTI Act and its implementation seriously. Proper training arrangements for the functionaries of the public authorities have also not been made. These have also failed to organize awareness campaign among the masses. This explains the hesitation of many stakeholders in exercising this precious right. The misuse and wrong use of the RTI too may be attributed to this factor.

Consequently, the APIOs and PIOs have been rushing to various experts for solution to the RTI requests in a piece meal manner instead of developing their expertise in the subject. DOPT, Govt. of India is very liberal and has been funding RTI Training and other awareness programmes through the various State Training Academies. But the State Governments have not shown any enthusiasm in this direction as if the baby is only that of the Central Government. As a result, there, persists lack of awareness among all the stakeholders and they keep on asking even the very basic questions from the various resource persons. An effort has been made in this chapter to provide readymade solutions to some of the lurking problems. But a lot more need to be done in this direction. Apart from training, such FAQs need to be made available at the reception counters or the main entrances of the public authorities.

### 3. Landmark Judgments on RTI

The conflict between the powers of Supreme Courts and High Courts under the Constitution and those of the Information Commissions under the RTI Act has created a peculiar situation. This becomes clear from the fact that follows.

Section 19(9) of RTI Act stipulates that the Central Information Commission or State Information Commission, as the case may be, shall give notice of its decision including any right of appeal to the complainant and the public authority. While Section 19(7) says that the decision of the Central Information Commission or State Information Commission, as the case may be, shall be binding. It means that there is no provision for the right to appeal against the decision of the Information Commission. Whereas, the Section 23 excludes the jurisdiction of courts in the cases pertaining to RTI. It makes it clear that no court shall entertain any suit, application or other proceeding in respect of any order made under this Act and no such order shall be called in question otherwise than by way of an appeal under this Act.

It is evident from the above mentioned sections of the RTI Act that there is no provision for an appeal against the decision of the Commission in any court. In other words, the jurisdiction of the Court has been barred in clear cut terms. But despite this, thousands of appeals are pending in the Courts against the decisions of various State Information Commission and Central Information Commission. Moreover during the last ten years the Courts have decided various such cases.

The Courts have been entertaining appeals against the decisions of Information Commissions under Articles 226/227 and 32 of the Indian Constitution. The High Courts and the Supreme Court have pronounced that Indian citizens are enjoying right to freedom of speech and expression under Article 19(1)a which includes the right to know which is presumed as an inferred fundamental right. Hon'ble High Courts and Supreme Court have also given judgments after operationization of RTI Act in 2005. These are, in a manner of speaking, are guiding lamps for all the stakeholders in the RTI regime. Emphasis of about 125 of these judgements are given below:

#### **Preamble: Efficiently Staff and Time Constraints**

##### **(1) Kerala High Court:**

"22. It is pointed out that the PSC [KPSC] has to incur the huge expenses and administrative difficulties, including the deployment of staff exclusively to deal with such requests and this would result in undue hardship and clogging of its administrative setup. Once a piece of law is in place, inconvenience is no excuse to exclude adherence to it. The bounden has to obey

and abide by it. This plea of P.S.C. also does not commend acceptance.” [emphasis supplied]

*Kerala Public Service Commission vs. State Information Commission*, W. P. (C) 33718 of 2010, judgement dated 09/03/2011 - [2011 (2) KLT88] JJ Thottathil B. Radha Krishnan, P.S. Gopinathan

**(2) Supreme Court of India:**

“37. The Act should not be allowed to be misused or abused, to become a tool to obstruct the national development and integration, or to destroy the peace, tranquility and harmony among its citizens. Nor should it be converted into a tool of oppression or intimidation of honest officials striving to do their duty.

**Conclusion-**To permit examinees to have inspection of their answer books (concerned person). [emphasis supplied]

*Central Board of Secondary Education & Anr. vs Aditya Bandopadhyay & Ors.*, Civil Appeal No. 6454 of 2011, judgement dated 09/08/2011- (JJ) (JJ: R.V. Raveendran & A.K. Patnaik) [(2011) 8 SCC 497

**Preamble and sections 8 : How to interpret the balance between transparency and other interests.**

**(3) Supreme Court of India:**

“33. Some High Courts have held that Section 8 of the RTI Act is in the nature of an exception to Section 3 which empowers the citizens with the right to information, which is a derivative from the freedom of speech and that therefore Section 8 should be construed strictly, literally and narrowly. This may not be the correct approach. The Act seeks to bring about a balance between two conflicting interests, as harmony between them is essential for preserving democracy. Therefore when Section 8 exempts certain information from being disclosed, it should not be considered to be a fetter on the right to information but as an equally important provision protecting other public interests essential for the fulfillment and preservation of democratic ideals.”

40. ... The Courts and Information Commissions enforcing the provisions of RTI Act have to adopt a purposive construction, involving a reasonable and balanced approach which harmonises the two objects of the Act, while interpreting Section 8 and the other provisions of the Act”. {emphasis supplied)

*Central Board of Secondary Education & Anr. vs. Aditya Bandopadhyay & Ors.*, Civil Appeal No.

6454 of 2011, judgement dated 09/08/2011- (JJ) (JJ: R.V. Raveendran & A.K. Patnaik)[(2011) 8 SCC 497].

### **Section 2(f): Unrecorded Reasons**

#### **(4) Andhra Pradesh High Court:**

“17. The common feature of various categories, mentioned in the definition of information in Section 2(f)] is that they exist in one form or the other and the PIO only has to furnish the same, by way of a copy or description. In contrast, the reason or basis as to why a particular state of affairs exists or does not exist cannot be treated as a source or item of information. Further, the basis for the decision of such an authority can be culled out from the order passed by him and he cannot be compelled to state as to why he passed an order in a particular manner through an application under the Act. It is only by instituting proceedings such as an appeal, revision or writ petition that the authority who passed the order can be required to justify it.” [emphasis supplied]

*Divakar S. Natarajan vs. State Information Commissioner, A.P. State Information Commission & Ors, Writ Petition No. 20182 of 2008, judgement dated 27/1/2009 - (SB) [2009 (2) ALT 500] Justice L.Narasimha Reddy*

### **RTI Section 2(f): Information about Private Bodies**

#### **(5) Delhi High Court**

“Details available with a public authority about a private body are information and details which can be accessed by the public authority from a private body but the law should permit and entitle the public authority to ask for the said details from a private body. Restrictions, conditions and pre requisite imposed and prescribed by law should be satisfied. The question whether information should be denied requires reference to Section 8 of the RTI Act.” [emphasis supplied]

*Poorna Prajna Schools vs. Central Information Commission, 25.09.2009, W.P. (C) 7265/2007, Justice Sanjiv Khanna*

### **RTI Section 2 (f): Pensioner is under the Control of Government.**

#### **(6) Madras High Court**

“A pensioner does not cease to become totally out of control from the government. On the contrary, his conduct and character are continuously monitored by the Central Government. In that context, the whereabouts of such pensioner is also very much relevant and it cannot be a private information.”

*M Kaliaperumal vs. Central Information Commission & Anr. decided on: 18.11.2009, W.P. NO. 16070*

of 2009 and M.P. No. 1 of 2009, Justice K.Chandru

### **Section 2(f): Missing Records**

#### **(7) Delhi High Court:**

“7. Since the Commission [CIC] has the power to direct disclosure of information provided, it is not exempted from such disclosure, it would also have the jurisdiction to direct an inquiry into the matter wherever it is claimed by the PIO that the information sought by the applicant is not traceable/readily traceable/currently traceable. Even in a case where the PIO takes a plea that the information sought by the applicant was never available with the government but, the Commission on the basis of the material available to it forms a prima facie opinion that the said information was in fact available with the government, it would be justified in directing an inquiry by a responsible officer of the Department/office concerned, to again look into the matter rather deeply and verify whether such an information was actually available in the records of the government at some point of time or not.” [emphasis supplied]

*Union of India vs. Vishwas Bhamburkar*, W. P. (C) No. 3660/2012, judgement dated 13/09/2013 - (SB) [2013 ELT 500 (Del.)] Justice V.K.Jain

### **Section 2(h): Institutions if Registered/Controlled come in the Definition of Public Authority.**

#### **(8) Punjab and Haryana High Court**

(i) Institutions cannot come into existence and function unless registered and regulated by the provisions; (ii) the control of the State Government over them, through the medium of the provisions of the indicated Acts/Rules, (iii) substantially financed by the funds provided directly or indirectly by the appropriate Government, (iv) the mandate and command of the provisions of the RTI Act; (v) their public dealing, (vi) preamble, aims, objects and regime of this Act, (vii) the larger public interest and totality of the other facts and circumstances emanating from the records.

*The Hindu Urban Cooperative Bank limited vs The State Information Commission & Ors.* CWP No. 19224 of 2006 alongwith 23 connected cases decided on 09.05.2011, J Mehinder Singh Sullar.

### **Section 2(h)b: Classification as Public Authority on the basis of Constituted under or by Law**

#### **(9) Delhi High Court**

For an authority or body or institution to be classified as a public authority under clause (b)

of Section 2(h), what is necessary is that the authority, body or institution is established or constituted by a law made by Parliament. Consciously, the Parliament has not used the expression “under any other law made by Parliament”. Therefore, the authority or body or institution should be created by, and come into existence by the statute framed by the Parliament, and not under the statute so framed. For example, a company is constituted under the Companies Act. It cannot be said that a company is constituted “by a law made by Parliament”. For it to be classified as an authority or body or institution under clause (b) or Section 2(h), it should be a statutory corporation.

*Northern Zone Railway Employees Co-Operative Thrift & Credit Society Ltd. Vs. Central Registrar Cooperative Society & Ors.* [Alongwith W.P.(C) 13550/2009], W.P.(C) 12210/2009, 16.01.2012, J Vipin Sanghi

### **Section 2(a) & 2(h): Co-operative Societies are Public Authority if controlled or financed Directly or Indirectly**

#### **(10) Kerala High Court**

When Section 2(a) and Section 2(h) of the R.T.I. Act are read together, it is clear that a body controlled by the State Government will be a public authority. The words “substantially financed” alone are qualified by the words “directly or indirectly by the funds provided by the State Government”, and not the other words, “the body owned or controlled”.

(a) The Society concerned can, on the basis of the facts and materials concerning it, take a decision and act accordingly. If it feels that it is a public authority, it can refuse to act. When the matter reaches before the competent authority, under the R.T.I. Act, the said forum shall decide first, whether the Society concerned is a public authority as defined under Section 2 (h) of the R.T.I. Act, i.e. a factual finding has to be made as to whether the Society is substantially financed directly or indirectly by the funds provided by the State Government. If it is found that the Society is so financed, the competent authority can take appropriate action against the Co-operative Society including coercive actions, for not acting in accordance with the provisions of the R.T.I. Act. If the decision is in favour of the Society, the person aggrieved can carry the matter before higher forums.

*Thalapalam Service Co-operative Bank Ltd. Vs Union of India (UOI) & Ors.* decided on 28.08.2009 W.A. Nos. 1417, 1338, 1359, 1398, 1418 to 1421 & etc. etc. of 2009, JJ, Balakrishnan Nair and C.T. Ravikumar,

**Section 2(h): A body/ NGO is owned, controlled or substantially financed directly or indirectly by the appropriate Government is on the applicant or the appropriate Government and PIO.**

**(11) Supreme Court of India:**

“38. Merely providing subsidiaries, grants, exemptions, privileges etc., as such, cannot be said to be providing funding to a substantial extent, unless the record shows that the funding was so substantial to the body which practically run by such funding and but for such funding, it would struggle to exist. The State may also float many schemes generally for the betterment and welfare of the cooperative sector like deposit guarantee scheme, scheme of assistance from NABARD etc., but those facilities or assistance cannot be termed as “substantially financed” by the State Government to bring the body within the fold of “public authority” under Section 2(h)(d)(i) of the Act. But, there are instances, where private educational institutions getting ninety five per cent grant-in-aid from the appropriate government, may answer the definition of public authority under Section 2(h)(d)(i)...

40. The burden to show that a body is owned, controlled or substantially financed or that a non- government organization is substantially financed directly or indirectly by the funds provided by the appropriate Government is on the applicant who seeks information or the appropriate Government and can be examined by the State PIO, State Chief Information Commission, Central PIO etc., when the question comes up for consideration. A body or NGO is also free to establish that it is not owned, controlled or substantially financed directly or indirectly by the appropriate Government.” [emphasis supplied]

This judgement reversed the jurisprudential trend set by HCs and overturned the Kerala High Court judgement in the matter of *Mulloor Rural Cooperative Society Ltd. vs State of Kerala & Ors.*, W.A. No. 1688 of 2009, dated 10/4/2012 - (FB) [ILR 2012(2) Kerala 576

*Thalappalam Ser. Coop. Bank Ltd. & Ors. vs State of Kerala & Ors.*, Civil Appeal Nos. 9020, 9029 & 9023 of 2013, judgement dated 07/10/2013- (2 Judges) [2013 (12) SCALE 527] JJ K.S. Radhakrishnan & A.K. Sikri

**(12) Punjab and Haryana High Court:**

‘Following Thalappalam, HC quashed the orders of SIC and SB of the HC declaring the Punjab Cricket Association as a public authority under the RTI Act.’

*Punjab Cricket Association vs State Information Commission & Anr.*, LPA No. 1174 of 2011 (O&M), judgement dated 12/12/2013- (DB) JJ Ajay Kumar Mittal, Jaspal Singh [(2014) 174 PLR 249]

**Section 2 (h): The question whether a body is substantially financed by a Central Government has to be viewed in the facts of each case.**

**(13) Delhi High Court:**

“... it would be seen that the undertakings of the petitioner had been funded, to a significant

extent, by the Central Government. This cannot be considered as a case where assistance was granted by the Central Government under schemes for betterment of cooperative sector or as general subsidies, which are available to a specified class of entities. The undertaking of Mother Dairy, Delhi and other projects were special initiatives of the Central Government as a part of Operation Flood Programme... It is relevant to note that the expression "substantially financed" is suffixed by the words "directly" or "indirectly". Thus, the finances indirectly provided by an appropriate Government would also have to be considered while determining whether a body has been substantially financed by an appropriate Government. The test to be applied is whether funds provided by the Central Government, directly or indirectly, are of material or considerable value to the body in question. In the present case, the basic infrastructure of the petitioner's undertakings were promoted by funds provided by the Central Government; whether the said funds found their way through NDDDB or otherwise - is not material. Thus, in my view, the petitioner would also be a public authority on account of being substantially financed by the Central Government." [emphasis supplied]

*Mother Dairy Fruit and Vegetable Private Ltd. vs. Hatim Ali & Anr. and another related matter* Appeal W. P. (C) 3110, judgement dated 02/05/2015 - (SB), Justice Vibhu Bakhru

**Sections 2(j) and 22: Information accessible under Rules of the public authority or already in public domain need not be supplied under RTI ACT.**

#### **(14) Supreme Court of India**

"This petition filed by Karnataka Information Commissioner for setting aside order dated 15.6.2012 passed by the Division Bench of the Karnataka High Court in Writ Appeal No.3255/2010 (GM-RES) titled Karnataka Information Commission v. State Public Information Officer & another cannot but be described as a frivolous piece of litigation which deserves to be dismissed at the threshold with exemplary costs.

Applicant sought certified copies of some information/ documents regarding guidelines and rules pertaining to scrutiny and classification of writ petitions and the procedure followed by the Karnataka High Court in respect of Writ Petition Nos.26657 of 2004 and 17935 of 2006 from SPIO, KHC.

SPIO KHC gave the decision that the information sought by him is available in the Karnataka High Court Act and the Rules and he can obtain the certified copies of the order sheets of the two writ petitions by filing appropriate application under the High Court Rules.

Applicant (appellant) filed complaint under Section 18 of the Act before the Karnataka Information Commission and made a grievance that the certified copies of the documents had not been made available to him despite payment of the requisite fees. The Commission directed SPIO KHC to furnish the High Court Act, Rules and certified copies of order sheets free of cost.

SPIO KHC challenged the aforesaid order but the Single Judge of KHC quashed the order of the Commission by making the following observations:

The information as sought for are available in Karnataka High Court Act and Rules made there under. The said Act and Rules are available in market. If not available, the respondent has to obtain copies of the same from the publishers. The impugned order of KSIC in respect of the same is illegal and arbitrary.

According to the Rules of the High Court, it is open for the any person who is party or not a party to the proceedings can obtain the orders of the High Court as per the procedure prescribed in the Rules, the State Chief Information Commissioner is not justified in directing the SPIO KHC to furnish copies of the same free of costs. If implemented, it will lead to illegal demands. The State Chief Information Commissioner should have adverted to the High Court Rules before proceeding further. Since the impugned order is illegal and arbitrary and liable to be quashed.

DB, SC said that how, KSIC, who was not an appellant before the Division Bench of the High Court can challenge the impugned order.

The entire exercise undertaken by the Commission and the Karnataka Information Commissioner to challenge the orders the High Court shows that the concerned officers have wasted public money for satisfying their ego. If the applicant would have felt aggrieved by the orders, nothing prevented him from challenging the same by filing writ appeal. However, the fact of the matter is that he did not question the orders of HC. The Commission and the Karnataka Information Commissioner had no legitimate cause to challenge the order passed by the learned Single Judge and the Division Bench of the High Court. Therefore, the writ appeal filed by the commission was totally unwarranted and misconceived and the Division Bench of the High Court did not commit any error by dismissing the same.

With the above observations, the special leave petition is dismissed. For filing a frivolous petition, the petitioner is saddled with cost of Rs. 1,00,000/-. The amount of cost shall be deposited by the KSIC with the Supreme Court Legal Services Committee within a period of two months from today. If the needful is not done, the Secretary of the Supreme Court Legal Services Committee shall recover the amount of cost from the SIC as arrears of land revenue."

*Karnataka Information Commissioner and another Vs State Public Information Officer, Karnataka High Court Slp (Civil)/2013 Cc 1853/201318/01/2013, JJ G.S. Singhvi & H.L. Gokhale*

**Section 2(j): Public authority is not supposed to collect or collate non-available information (Opinion & Advice)**

**(15) Supreme Court of India:**

"35. The RTI Act provides access to all information that is available and existing. This is clear from a combined reading of Section 3 and the definitions of 'information' and 'right to information' under clauses (f) and (j) of Section 2 of the Act. If a public authority has any

information in the form of data or analysed data, or abstracts, or statistics, an applicant may access such information, subject to the exemptions in Section 8 of the Act. But where the information sought is not a part of the record of a public authority, and where such information is not required to be maintained under any law or the rules or regulations of the public authority, the Act does not cast an obligation upon the public authority, to collect or collate such non-available information and then furnish it to an applicant. A public authority is also not required to furnish information which require drawing of inferences and/or making of assumptions. It is also not required to provide 'advice' or 'opinion' to an applicant, nor required to obtain and furnish any 'opinion' or 'advice' to an applicant." The reference to 'opinion' or 'advice' in the definition of 'information' in Section 2(f) of the Act, only refers to such material available in the records of the public authority. Many public authorities have, as a public relation exercise, provide advice, guidance and opinion to the citizens. But that is purely voluntary and should not be confused with any obligation under the RTI Act." [emphasis supplied]

*Central Board of Secondary Education & Anr. vs Aditya Bandopadhyay & Ors.*, Civil Appeal No. 6454 of 2011, judgement dated 09/08/2011- (2 Judges) [(2011) 8 SCC 497], JJ R.V. Raveendran & A.K. Patnaik

### **Section 2(j): When Public Authority is considered to hold & Control Information (Relation).**

20. Information has been created, sought, used to consciously retained by a public authority will be information held within the meaning of the Act. However, if the information is sent to or deposited with the public authority which does not subsequently use it or where it is accidentally left with a public authority of just passes through a public authority or where it belongs to an employee or officer of a public authority but which is brought by that employee or officer unto the public authorities premises it will not be information held by the public authority for the lack of the requisite assumption by the public authority of responsibility for or dominion over the information that is necessary before the public authority can be said to hold the information. Therefore, the word hold is not purely a physical concept but refers to the appropriate connection between the information and the authority so that it can properly be said that the information is held by the public authority.

Civil Appeal 10044 of 2010, 10045/2010, 2683/2010 CPIO, *Supreme Court vs. Subhash Chandra Agarwal, five Judges Justice N.V.Ramane, Dr. Chanderchur, Dr. Deepak Gupta and Sanjeev Khanna, Constitutional Bench, dated 13.11.2019, Supreme Court of India.*

### **Section 2(j): Role of Civil Courts under CCP 1908 for producing documents.**

#### **(16) Kerala High Court:**

"The Right to Information Act does not in any way curtail the powers of the civil court

under the Code of Civil Procedure. Proceedings under the Right to Information Act cannot be the subject matter of scrutiny before a civil court. Even if a party to the suit has a right to obtain copy of a document under the Right to Information Act, that does not take away that person's right to apply under the provisions of the Code of Civil Procedure for issuing summons to the officer or authority to produce the document." [emphasis supplied]

*Eldhose vs. Yacob & Ors.*, W.P. (C) No. 3998 of 2009, judgement dated 06/03/2009 - (SB) Justice K.T. Sankaran [AIR 2009 Ker104]

### **Section 2(j): Giving Certified Copies of information under the RTI Act and not to certify that it is a copy of a genuine document.**

#### **(17) Kerala High Court:**

"In the light of the provisions contained in Sections 2(f) and 2(j) of the Act, the stand taken by the respondent that the Act does not contemplate issue of certified copies of documents or records cannot be sustained. Likewise I also find no merit or force in the contention of the respondents that grant of certified copies may give authenticity to the documents which may not be genuine or even fabricated. In the event of an applicant's request for information being granted all that the Public Information Officer would have to do is to certify that the copy is one issued under the Right to Information Act, 2005. He is not called upon to certify that it is a copy of a genuine document." [emphasis supplied]

*John Numpeli (Junior) vs. Public Information Officer/ Assistant Executive Engineer-1, Ernakulam & Ors.*, W.P. (C) No. 31947 of 2013, judgement dated 31/01/2014 - (SB) [2014 (1) KLT 1010]

### **Section 4: Strict Obligation**

#### **(18) Supreme Court of India:**

"37. The right to information is a cherished right. Information and right to information are intended to be formidable tools in the hands of responsible citizens to fight corruption and to bring in transparency and accountability. The provisions of RTI Act should be enforced strictly and all efforts should be made to bring to light the necessary information under clause (b) of Section 4(1) of the Act which relates to securing transparency and accountability in the working of public authorities and in discouraging corruption." [emphasis supplied]

*Central Board of Secondary Education & Anr. vs. Aditya Bandopadhyay & Ors.*, Civil Appeal No. 6454 of 2011, judgement dated 09/08/2011- (2 Judges: R.V. Raveendran & A.K. Patnaik) [(2011) 8 SCC 497]

### **Section 4: Voluntary disclosure of FIRs**

**(19) Himachal Pradesh High Court:**

“20. Now once it cannot be disputed that FIR is a public document, then why the same should be kept out from public domain. Notably, the FIRs are already uploaded on the official website of the Police Department, but with restrictive usage for intra departmental purpose only. Being a public document, the FIR cannot be withheld from public domain and would not only lend credence but would bring transparency in the working of the Police Department in case the same is put in public domain...

(iv) The copies of FIR, unless reasons recorded regard being had to the nature of the offence that the same is sensitive in nature, should be uploaded on the Himachal Pradesh Police website within twenty-four hours of lodging of the FIR so that the accused or any person connected with the same can download the FIR and file appropriate application before the court as per law for redressal of his grievances.

(v) The decision not to upload the copy of the FIR on the website of H.P. Police shall not be taken by an officer below the rank of Deputy Superintendent of Police and that too by way of a speaking order. A decision so taken by the Deputy Superintendent of Police shall also be duly communicated to the Area magistrate.”

**Other kinds of voluntary disclosure**

...The word ‘sensitive’ apart from the other aspects which may be thought of being sensitive by the competent authority as stated hereinbefore would also include concept of privacy regard being had to the nature of the FIR...

*Ramanand Rathore vs. State of Himachal Pradesh*, CR. MMO No. 276 of 2014, order dated 19/12/2014- Justice Tarlok Singh Chauhan(SB)

[The order refers to the regime of transparency established by the RTI Act since 2005. However this order has been stayed on 05/01/2015 to give the HP Police more time to study the practice in other States like Delhi, Punjab, Maharashtra and Odisha to overcome technical difficulties in proactively disclosing FIRs on the website.]

**Section 4: Action taken on Grievances**

**(20) Kerala High Court :**

“The nature of information sought for by the petitioner is regarding nature of disposal of his representation. It can be responded by either stating that this was considered/ not considered/what transpired on the file. If nothing has been acted upon such representation, it can be stated so. However, instead of providing information as to the outcome of such

representation, the reply was given by the Public Information Officer stating that the representation is beyond the scope of responsibilities of the Minister of State. It seems reply is given as though the Public Information Officer is responding to the representation. The petitioner has not sought redressal of his grievance under the Right to Information Act in respect of the representation submitted by him. It seems the authorities have not understood the very scope of seeking information under the Act. The Appellate Authority as well as the Central Information Commission failed to provide information sought for by the petitioner.” [emphasis supplied]

Plea for imposing penalty on the PIO was refused. Rs. 3,000 awarded as costs to the RTI applicant. PIO and CIC’s orders set aside.

*Mannatil Kumar vs. The Central Information Commissioner & Ors.*, W. P. (C) No. 2261 of 2014, judgement dated 23/10/2014 - (SB) Justice A Muhamed Mustaque.

#### **Section 4: Grievance against Judicial Orders**

##### **(21) Andhra Pradesh High Court :**

[Petitioner] “can only ask for the information under the provisions of the Right to Information Act, but cannot question the correctness or otherwise of the order or judgement of a judicial officer under the provisions of this Act “ [emphasis supplied]

*Khanapuram Gandaiah Etc. vs. The Administrative Officer, Ranga Reddy District Courts & Ors.*, Writ Petition No. 28810 of 2008, judgement dated 24/04/2009 - (DB) JJ Anil R. Dave (C.J.) , R. Subhash Reddy (J) [AIR 2009 AP 174]

#### **Section 5: Application of PIO’s mind to the information supplied by its custodian**

##### **(22) Delhi High Court :**

“7. Section 5(4) is simply to strengthen the authority of the PIO within the department; if the PIO finds a default by those from whom he has sought information, the PIO is expected to recommend a remedial action to be taken. The RTI Act makes the PIO the pivot for enforcing the implementation of the Act.

8. .. The PIO is expected to apply his / her mind, duly analyse the material before him / her and then either disclose the information sought or give grounds for non-disclosure. A responsible officer cannot escape his responsibility by saying that he depends on the work of his subordinates. The PIO has to apply his own mind independently and take the appropriate decision and cannot blindly approve / forward what his subordinates have done.” [emphasis supplied]

*J.P. Agrawal vs. Union of India & Ors.*, W. P. (C) 7232/2009, judgement dated 04/08/2011 - (SB) [2011 VIIAD (Del.) 625] J Rajiv Sahai Endlaw

#### **Section 6: RTI application can be jointly made by more than one Individual.**

##### **(23) Punjab and Haryana High Court :**

“10. Section 13 of the General Clauses Act, 1897 clearly provides that in all Central Acts and

Regulations, unless there is anything repugnant in the subject or context, words in the singular shall include the plural and vice versa. In the present case, it cannot be denied that the appellants before the Commission individually being citizens of India were entitled to invoke the jurisdiction of the authorities under the Act for seeking information. Merely because more than one citizen had sought information by filing a joint application when their cause of action is same, it cannot be rejected holding that the same was filed by group of persons. The ultimate object is to avoid multiplicity. In case more than one individual can file separate application for same relief, they can always file a joint application.” [emphasis supplied]

*Ved Parkash & Ors. vs. State of Haryana & Ors.*, C. W. P. 10981 of 2012, judgement dated 30/10/2012 - (SB) Mr. Justice Rajesh Bindal [(2012) 168 PLR 741]

### **Sections 7: Additional Fee.**

#### **(24) Punjab and Haryana High Court :**

‘PIO does not have a duty to furnish the information if the requisite fee is not paid by the RTI applicant (for APL persons only). SIC passed penalty order without ascertaining whether the applicant had deposited the fee or not. SIC orders must contain reasons as it minimises chances of arbitrariness. This is an essential requirement of rule of law.’

*Satpal Singh vs State Information Commission, Haryana & Ors.*, Civil Writ Petition No. 5246 of 2009, judgement dated 27/05/2011 - (SB) Justice Mehinder singh Sullar [(2011) 163 PLR 683]

### **Sections 7(3): Additional Fee.**

#### **(25) High Court of Judicature at Hyderabad:**

“10. The priced material is indicated as publications printed matter, text, maps, plans, floppies, CDs, samples, models or material in any other form, which are priced, the sale price thereof. A building plan of a particular premises is not open for sale and it is not priced. Hence, it cannot be called as a priced material. In respect of other than priced material, the actual cost of the copy has to be recovered from the party. Thus, the first respondent committed an error in coming to the conclusion that the information sought by the petitioner is a priced material and also upholding the demand made by the second respondent. If it is a priced material, the sale price should have been indicated. In case of other than priced material, the actual cost should have been calculated. Either way it has nothing to do with the calculation of the amount as done by the second respondent.” [emphasis supplied]

(The Court did not go into the Petitioner’s plea that the additional fee request was sent after the 30-day deadline and therefore he not be required to pay the additional fee of Rs. 44,787 calculated under the Rules framed under the Greater Hyderabad Municipal Corporation Act.)

*Sri O M Debara vs The AP State Information Commission*, Writ Petition No. 3258/2008, judgement dated 06/12/2014 (SB) Justice A. Ramalingeswara rao [AIR 2015 AP56]

**Section 8: Please see judgements 3-4 also for Section 8 better understanding.**

**Section 8(1)(a): IT Scrutiny Guidelines**

**(26) Delhi High Court:**

“6.4. The expression, economic interest, thus takes within its sweep matters which operate at a macro level and not at an individual, i.e., micro level. In my view, by no stretch of imagination can [Income Tax] scrutiny guidelines impact economic interest of the country. These guidelines are issued to prevent harassment to assesses generally. It is not as if, *de hors* the scrutiny guidelines, the I.T. Department cannot take up a case for scrutiny, if otherwise, invested with jurisdiction, in that behalf. This is an information which has always been in public realm, and therefore, there is no reason, why the respondents should keep it away from the public at large. Thus, in my opinion, provisions of Section 8(1)(a) of the RTI Act would have no applicability in the instant case.” [emphasis supplied]

*Joginder Pal Gulati vs The Officer on Special Duty (ITA II) cum CPIO & Anr., W. P. (C) 6773/2011, judgement dated 02/04/2013 - (SB) Justice Rajiv Shakdher*

**Section 8(1)(d): Access to Service Agreements.**

**(27) Bombay High Court:**

“15. I am not in agreement with the Petitioners that the conclusion drawn is in any way contrary to Section 8(1)(d). The agreements may contain certain stipulations, so also, certain obligations, but what is sought is a copy of the agreement. It is not the case of the Petitioners that larger public interest does not warrant disclosure of this information. They tried to place the case more on the pedestal of security and safety, so also, confidentiality of interests of those to whom the Smart Cards have been issued. The information sought is not in relation to the individual Smart Cards or registration certificates or details thereof. The information sought is in relation to the decision taken and the policy framed for providing the Smart Cards and if the means to provide the same are by inducting private service providers, then, only details of the agreements executed with such service providers and the copies thereof have been sought. In my view, there was nothing in the information sought by the Respondent No. 4, by which commercial confidence, trade secrets or intellectual property is being disclosed, leave alone the disclosure of which would harm the competitive position of a third party or it would lead to incitement of an offence. Merely because the details of the service providers are to be disclosed and the copies of the agreements would be - - provided, that does not mean that their interests are harmed or their competitive position is affected. It has been rightly pointed out by the Respondent No. 4 that some other Transport Commissioners have been providing such details for such the respective territories and States, therefore, there was no need for the Transport Commissionerate for Maharashtra to withhold this information.” [emphasis supplied]

*Shonkh Technology International Ltd. Etc. vs. State Information Commission, Maharashtra Konkan Region & Ors., Writ Petition Nos. 2912 and 3137 of 2011, judgement dated 01/07/2011 - (SB) Judge S.C. Dharmadhikari [2011(4) Bom Cr495]*

### **Section 8(1)d: Tender details can be disclosed after awarding tender.**

#### **(28) High Court of Jharkhand**

“Once a decision was taken in matter of grant of tender, there was no justification to keep it secret. People have right to know the basis on which decision has been taken. If tenders were invited by public authority and on basis of tender documents, eligibility of a tender or a bidder decided, those tender documents cannot be kept secret, after tender was decided and work order issued on ground that it will amount to disclosure of trade secret or commercial confidence. Authorities of Government refuse to disclose document, very purpose of Act will be frustrated.”

*State of Jharkhand & Anr. vs. Navin Kumar Sinha & Anr. decided on 08.08.2007, Judge M.Y. Eqbal, J.*

### **Section 8(1)(d): Technical Bid Documents.**

#### **(29) Delhi High Court:**

“15. What we find in the present case is that the tender process has been scrapped. The information which is being sought relates to the evaluation of the bids by the appellant.

Though the Non Disclosure Agreement extended the obligation of confidentiality beyond the date of opening of the tenders also but only for a period of two years from the date of disclosure or to the completion of business purpose whichever is later. The business purpose stands abandoned with the scrapping of the tenders. More than two years have elapsed from the date when the information was submitted. Thus the said agreement now does not come in the way of the appellant disclosing the information. However, we are of the opinion that disclosure of such information which would be part of the evaluation process would still require the third party information procedure under Section 11 of the Act to be followed. As aforesaid, besides the bid price, there may still be information in the bid and which may have been discussed in the evaluation process, of commercial confidence and containing trade secret or intellectual property of the bidders whose bids were evaluated.” [emphasis supplied] The case was remanded back to the CIC.

*Bharat Sanchar Nigam Ltd. vs. Shri Chander Sekhar, LPA No. 900/2010, judgement dated 23/03/2012- (DB) JJ The Acting Chief Justice, J. Rajiv Sahal Endlaw[2012 VIIAD (Delhi) 342]*

### **Section 8(1) d: Commercial Confidence Information non disclosure is not Absolute right of Third party.**

#### **(30) Bombay High Court**

Clause 8 (1) (d) provides that the information can be disclosed if the competent authority is satisfied that larger public interest warrants such disclosure. Therefore, the clause is not absolute. It does not say that the information including commercial confidence, trade secrets or intellectual property, the disclosure of which, would harm the competitive position of a third party; cannot be demanded or if demanded, cannot be disclosed even if larger public interest warrants the same.

*Shonkh Technology International Ltd. Through its Authorized Signatory Shri Nilesh Khobragade vs State Information Commission Maharashtra Konkan Region, Appellate Authority, Joint Transport Commissioner (Computer), Public Information Officer, Deputy Transport Commissioner and Shri Sanjay S/o Anant Bhole AND United Telecom Limited vs State Information Commission Maharashtra Konkan Region & Ors.* decided on 01.07.2011, Writ Petition Nos. 2912 and 3137 of 2011, Justice S.C.DHARMADHIKARI, J

**Sections 8 (d) and 8 (j) and 11: Third party can treat the information as confidential at any stage.**

**(31) Gujarat High Court**

Third party has right to treat the said information as confidential, looking to the several factors, viz. nature of business of the third party, nature of commercial transactions, looking to the nature of correspondence with other various Institutes, looking to the nature of correspondence with other various Institutes, looking to the nature of reports supplied by the third party or supplied by some other Institutions about the third party, etc. Third party can treat the information as confidential at any state, prior to grant or disclosure of information to the original applicant, by Public Information Officer;

- (a) Third party has a right of personal hearing to be given by Public Information Officer. Looking to Section 8 (d) and 8 (j) and proviso to Section 11 (1), disclosure of information may be allowed,
- (b) if public interest in disclosure, outweighs, harm or injury to the protected interest of third party, or (ii) if larger public interest warrants the disclosure of such information. This will be a complex decision by Public Information Officer as it will have direct nexus with some of the important rights of third party. It may harm the competitive position of third party or it may tantamount to unwarranted invasion, upon right of privacy;
- (c) Third party has a right to get speaking order. If order is not a speaking order then, the Appellate Authority cannot read the mind of the Public Information Officer. Right to prefer an appeal has been given to the third party under Section 19 of the Act, 2005. Reasons of the order, is the soul of the order, without which order has no life-Otherwise also, non-speaking order leads to arbitrariness. In case of Mr. A information will be ordered to supply whereas in other case, it can be denied. Arbitrariness and equality are sworn enemies of each other. Where arbitrariness is present, equality is absent and where, equality is present, arbitrariness is absent.
- (d) *Reliance Industries Ltd. Vs Gujarat State Information Commission & Ors.* decided on 16.08.2007 Spl. Civil Appln. Nos. 16073 and 17067 of 2007, Justice D.N.Patel, J.

**Section 8(1)(e): Fiduciary Relationship.**

**(32) Supreme Court of India:**

“Relationship between examiners and examinee or examiners and authority conducting an examination is not fiduciary in nature. So evaluated answer scripts can be disclosed to examinee”.

*Central Board of Secondary Education & Anr. vs. Aditya Bandopadhyay & Ors.*, Civil Appeal No. 6454 of 2011, judgement dated 09/08/2011- (2 Judges) [(2011) 8 SCC 497] JJ R.V. Raveendran, A.K. Patnaik.

**Section 8(1)e: This Section cannot be applied if information pertains to the applicant herself.**

**(33) Rajasthan High Court:**

“The Chief Information Commissioner while deciding the second appeal filed by the Respondent No. 1 has recorded a finding that the confidentiality clause of the university ordinance cannot come in the way of providing information under RTI Act, in view of the overriding effect of the RTI Act under Section 22. Section 8(1e) cannot be applied in this case as the information pertains to the applicant herself. The Chief Information Commissioner has fortified its findings by placing reliance upon the decision rendered by the Hon’ble Supreme Court in *Central Board of Secondary Education & Anr. Vs. Aditya Bandopadhyay & Ors.* 2011 (8) SCC 497. In that view of the matter, there is no infirmity or illegality in the order passed by the Chief Information Commissioner and no interference whatsoever is called for by this Court.”

*Registrar, University of Rajasthan vs. Ms. Manju Yadav*, SB Civil Writ Petition No. 4287/2015, judgement dated 21/04/2015 - (DB)

**(34) Delhi High Court**

“8. ...Therefore when such information [file notings related to disciplinary proceedings] is sought by none other than the employee against whom disciplinary proceedings are sought to be initiated or are held, it would be difficult to accept the contention that there is a fiduciary relationship between the UPSC and the Department seeking its advice or that the information pertaining to such an employee is held by the UPSC in trust.

11. ... officers of UPSC recording opinion can be protected by blocking their name, designation or any other indication which would disclose their identity.”

*Union Public service Commission vs G S Sandhu*, WP(C) No. 4079/2013, judgement dated 10/10/2013 - (SB)[204 (2013) DLT 212], Justice V.K.Jain

**Section 8(1)(g): Regarding Disclosing details about Examiner, Interview Board Members and Candidates (Safety of Life).**

**(35) Supreme Court of India**

“30. ... The disclosure of names and addresses of the members of the Interview Board would *ex facie* endanger their lives or physical safety. The possibility of a failed candidate attempting to take revenge from such persons cannot be ruled out. On the one hand, it is likely to expose the members of the Interview Board to harm and, on the other, such disclosure would serve no

fruitful much less any public purpose.” [emphasis supplied]

So information was denied under Section 8(1)(g) and Patna High Court (DB) judgement ordering disclosure was set aside.

*Bihar Public Service Commn. vs Saiyed Hussain Abbas Rizwi & Anr. Civil Appeal No 9052 of 2012, SLP (C) No 20217 of 2011, JJ.Swatanter Kumar, Sudhansu Jyoti Mukhopadhaya, December 13, 2012*

**(36) Calcutta High Court:**

“Identity of the source of information on the basis of which CBI initiated a criminal case cannot be disclosed to the accused as there is no element of public interest in demanding such disclosure and CBI has rightly claimed the protection of Section 8(1)(g) of the RTI Act.”

*Shri Hossain Sahid Abedin vs Union of India & Ors., W.P. No 5562 (W) of 2011, judgement dated 03/07/2012 - (SB) Justice Jayanta Kumar Biswas*

**(37) Delhi High Court:**

Without a disclosure as to how the investigation process would be hampered by sharing the materials collected till the notices were issued to the assessee, the respondents could not have rejected the request for granting information.

“13. ... It is apparent that the mere existence of an investigation process cannot be a ground for refusal of the information; the authority withholding information must show satisfactory reasons as to why the release of such information would hamper the investigation process. Such reasons should be germane, and the opinion of the process being hampered should be reasonable and based on some material. Sans this consideration, Section 8(1)(h) and other such provisions would become the haven for dodging demands for information.” [emphasis supplied]

*Bhagat Singh vs. Chief Information Commissioner & Ors., WP(C) No. 3114/2007, judgement dated 03/12/2007 - (SB) [146 (2008) DLT 385], Justice S. Ravindra Bhat,*

**(38) Delhi High Court**

“6. A plain reading of [Section 8(1)(h)] indicates that information which would impede the process of investigation or apprehension or prosecution of offenders could be denied. In order to deny information, the public authority must form an affirmative opinion that the disclosure of information would impede investigation, apprehension or prosecution of offenders; a mere perception or an assumption that disclosure of information may impede prosecution of offenders is not sufficient. In the present case, neither the FAA nor the CIC has considered as to how the information as sought for would impede the process of investigation or apprehension or prosecution of the petitioner and other accused...”

10. Merely, citing that the information is exempted under Section 8(1)(h) of the Act would not absolve the public authority from discharging its onus as required to claim such exemption. Neither the FAA nor the CIC has questioned the Public Authority as to how the disclosure of

information would impede the prosecution.” [emphasis supplied]

*Adesh Kumar vs. Union of India & Ors.*, WP(C) No. 3543/2014, judgement dated 16/12/2014 - (SB) Justice Vibhu Bakhru

### **(39) Delhi High Court**

“13. A careful reading of the provision would show that the holder of the information can only withhold the information if, it is able to demonstrate that the information would “impede” the process of investigation or apprehension or prosecution of the offenders.

14. The present case, the facts, as set out hereinabove, clearly demonstrate that the investigation is over. The charge sheet in the case was filed, as far back as on 31.12.2010.

15. The question then is, would the information sought for by the respondent “impede” the respondent’s apprehension or prosecution. The respondent is in court and he says that he has been granted bail by the competent court. Therefore, prima faice, [sic] the view of the competent court, which is trying him, is that there is no impediment in apprehending the respondent, and that he would be available as and when required by the court. The petition makes no averments as to how the information sought for by the respondent would prevent his prosecution.” [emphasis supplied]

*Union of India vs. Sh. O. P. Nahar*, WP(C) 3616/2012, judgement dated 22/04/2015 - (SB) Justice Rajiv Shakhder

### **Section 8(1)(h): Case diary**

#### **(40) Karnataka High Court:**

Challenged to the order of the Karnataka State Information Commission directing the Police to allow inspection of case diary relating to 3 FIRs filed to the accused, set aside on the grounds that the Code of Criminal Procedure, 1973, “prohibits the accused from looking into the case diary, till the prosecution makes use of it during the course of trial.” The High Court quashed the order on the grounds that the trial was yet to begin and the even the Court had not looked into the case diary.

*The Commissioner of Police, Mysore City & Ors., vs. Karnataka Information Commission & Anr.*, WP No. 25840 of 2010 (GM-RES), order dated 15/06/2011 - (SB) Justice Mohan Shantanagoudar

### **Section 8(1)(h): Case diary & D.D. Entries**

#### **(41) Delhi High Court:**

“6. This Court is inclined to concur with the view expressed by the CIC that in order to deny the information under the RTI Act the authority concerned would have to show a justification with reference to one of the specific clauses under Section 8 (1) of the RTI Act... The mere fact that a criminal case is pending may not by itself be sufficient unless there is a specific power to deny disclosure of the information concerning such case. In the present case, the criminal trial has concluded. Also, the investigation being affected on account of the disclosure information sought by the Respondent pertains to his own case. No prejudice can

be caused to the Petitioner if the D.D. entry concerning his arrest, the information gathered during the course of the investigation, and the copies of the case diary are furnished to the Respondent. The right of an applicant to seek such information pertaining to his own criminal case, after the conclusion of the trial, by taking recourse of the RTI Act, cannot be said to be barred by any provision of the CrPC. It is required to be noticed that Section 22 of the RTI Act states that the RTI Act would prevail notwithstanding anything inconsistent therewith contained in the Official Secrets Act, 1923 and any other law for the time being in force.” [emphasis supplied]

*Deputy Commissioner of Police, vs. D. K. Sharma*, WP(C) 12428/2009, order dated 15/12/2010 - (SB) Justice S. Muralidhar

### **Section 8(1)(j): Officers’ Transfer Details**

#### **(42) Kerala High Court:**

“8. The next exemption claimed by the petitioner is on the ground that the information sought for by the second respondent relates to personal information pertaining to the employees of the Bank, disclosure of which has no relationship with any public activity or interest of the Bank or its employees and it would cause unwarranted invasion of the privacy of the employees, details of whose transfers are requested for by the 2nd.

9. In fact, if that contention is accepted, then information relating to any person in respect of his illegal activities, especially corruption or misconduct could be withheld on the basis of the said Section which is not what is contemplated by the Right to Information Act. I am of opinion that the information mentioned in Section 8(1)(j) is personal information which are so intimately private in nature that the disclosure of the same would not benefit any other person, but would result in the invasion of the privacy of that person. In the present case, without the information requested for the 2nd respondent would not be in a position to effectively pursue his claim for transfer in preference to others. On the other hand, the disclosure of such information would not cause unwarranted invasion of privacy of the other employees in any manner insofar as that information is not - “- one which those employees can keep to themselves. If the 2nd respondent is to contest that the transfers made are in violation of his rights for preferential transfer, he necessarily should have the information which cannot be withheld from him by resort to Section 8(1)(j). More importantly, the proviso to the Section qualifies the Section by stating that information which cannot be denied to the Parliament or a State Legislature shall not be denied to any person. By no stretch of imagination can it be held that the information requested for the 2nd respondent are information which can be denied to the Parliament and a State Legislature.” [emphasis supplied]

*Treesa Irish w/o Milton Lopez vs The Central Public Information Officer & Ors.*, W.P. (C) No. 6532 of 2006 (C), judgement dated 30/08/2010- (SB) [2012 VIIAD (Delhi) 342], Justice S.Siri Jagan

### **Section 8(1) j: Judges’ Medical Expenses Will Not Be Disclosed Under RTI**

#### **(43) Supreme Court of India**

The medical expenses incurred on judges and their family members cannot be disclosed or made public under the Right to Information Act. Seeking details of medical reimbursements of Supreme Court judges, had personal information and providing it would amount to invasion of their privacy. Bench opined that reimbursement from public money for our treatment and we are entitled for it as per the service conditions of judges. The bench said, "there should be some respect for privacy and if such informations are being disclosed, there will be no stopping." "Today he is asking informations for medical expenses. Tomorrow he will ask what are the medicines purchased by the judges. When there will be a list of medicines he can make out what type of ailment the judge is suffering from. It starts like this. Where does this stop," the bench further observed. There was no larger public interest involved in seeking details of medical facilities availed by individual judges." (emphasis supplied)

The single judge of High Court had set aside the Central Information Commission's (CIC) direction holding that judges have to disclose such informations. The High Court had held that there was no larger public interest involved in seeking details of medical facilities availed by individual judges and no direction whatsoever can be issued under the RTI Act.

*Subhash Chandra Agarwal vs. CPIO Supreme Court, dated 2/7/2015, Chief Justice H L Dattu and JJ Arun Mishra and Amitava Roy.*

**Section 8(1)(j): Asset disclosures need not be made public, unless public interest considerations dictate it.**

#### **(44) Delhi High Court**

No law bars public servants from acquiring properties or investing their income. The obligation to disclose these investments and assets is to check the propensity to abuse a public office, for a private gain." Such personal information regarding asset disclosures need not be made public, unless public interest considerations dictate it, under Section 8(1) (j). This safeguard is made in public interest in favour of all public officials and public servants.

*Secretary General, Supreme Court of India vs. Subhash Chandra Agarwal LPA No. 501/2009 decided on 12.01.2010, Hon'ble The Chief Justice, Hon'ble Mr. Justice Vikramajit Sen, Hon'ble Dr. Justice S. Muralidhar*

**Section 8(1)(e) & (j): IT Returns**

#### **(45) Gujarat High Court:**

"8.2 Accounts of a Religious Charitable Trust, is statutorily audited, whose administration is subject to certain controls by the Charity Commissioner under the Bombay Public Trust Act. Its action of filing income-tax returns with the Income Tax Department cannot be, in the context of the R.T.I. Act, viewed as a fiduciary relationship...

8.5... The Trust engaged in public activities, disclosure of its statements of accounts and income tax returns and assessment orders cannot be withheld under Section 8(1)(e) or (j) of the R.T.I. Act." [emphasis supplied]

*Rajendra Vasantlal Shah vs. Central Information Commissioner & Ors.*, Special Civil Application No. 7538 of 2010, judgement dated 26/11/2010 - (SB) Justice Akil Kureshi [AIR 2011 Guj 70]

### **Section 8(1) (h) & (j): IT Returns of individuals & corporates**

#### **(46) Delhi High Court:**

“33. ... where the nature of income tax returns and other information provided for assessment of income is confidential and its disclosure is protected under the Income Tax Act, 1961 it is not necessary to read any inconsistency between the Act and Income Tax Act, 1961. And information furnished by an assessee can be disclosed only where it is necessary to do in public interest and where such interest outweighs in importance, any possible harm or injury to the assessee or any other third party. However, information furnished by corporate assesses that neither relates to another party nor is exempt under Section 8(1)(d) of the Act, can be disclosed....

35. In order to address this controversy, it is important to understand the purpose of the respondent in seeking such information.... In one case, it is contended that the Appellate Authorities have remanded the matter of assessment to the Assessing Officer. It is apparent that the assessment proceedings have thrown up contentious issues which are being agitated between the income tax authorities and the assesseees. The respondent, essentially, wants to intervene in those proceedings by adding and providing his contentions or interpretation as to the information provided by the assesseees... The CIC arrived at this conclusion by noting that disclosure of information was in larger public interest in increasing public revenue and reducing corruption.

37. In the present case, there was no material to indicate that there was any corruption on the part of the income tax authorities which led to a justifiable apprehension that the said authorities were not performing their function diligently. In any event, the CIC has not found that the proceedings relating to assessment were not being conducted in accordance with law and/or required the intervention of the respondent.... The CIC had proceeded on the basis that the income tax authorities should disclose information to informers of income tax departments to enable them to bring instances of tax evasion to the notice of income tax authorities. In my view, this reasoning is flawed as it would tend to subvert the assessment process rather than aid it. If this idea is carried to its logical end, it would enable several busy bodies to interfere in assessment proceedings and throw up their interpretation of law and facts as to how an assessment ought to be carried out.” [emphasis supplied]

*Naresh Trehan vs. Rakesh Kumar Gupta and related matters*, W. P. (C) 85/2010 judgement dated 24/11/2014 - (SB), J Vibhu Bakhru.

### **Section 8 (1)(J) : No personal information of Public Authority**

#### **(47) Delhi High Court**

4. Contented that the fundamental right guaranteed by Article 14 of the Constitution of India is available not only to an individual, that is a living person, but also to a juristic person. He

also relies on Section 3(42) of the General Clauses Act which defines a person to include any company or association or body of individuals, whether incorporated or not.

15. A person as legally defined includes a juristic person and, therefore, the petitioner is also a person in law. That is how the expression is also understood in Article 14 of the Constitution of India.

17. No public authority can claim that any information held by it is personal. There is nothing personal about any information, or thing held by a public authority in relation to itself. The expression personal information used in Section 8(1)(j) means information personal to any other person, that the public authority may hold. That other person may or may not be a juristic person, and may or may not be an individual. For instance, a public authority may, in connection with its functioning require any other person whether a juristic person or an individual, to provide information which may be personal to that person. It is that information, pertaining to that other person, which the public authority may refuse to disclose, if it satisfies the conditions set out in clause (j) of Section 8(1) of the Act, i.e., if such information has no relationship to any public activity or interest vis-a-vis the public authority, or which would cause unwarranted invasion of the privacy of the individual, under clause (j) of Section 8(1) of the Act. The use of the words invasion of the privacy of the individual instead of an individual shown that the legislative intent was to connect the expression personal information with individual. In the scheme of things as they exist, in my view, the expression individual has to be and understood as person, i.e., the juristic person as well as an individual.

20. Alternatively, even if, it were to be accepted that a public authority may hold personal information in relation to itself, it cannot be said that the information that the petitioner has been called upon to disclose has no relationship to any public activity or interest.

*Jamia Millia Islamia vs. Ikramuddin*, W.P.(C.) No.5677/2011, 22.11.2011,jj: M.Y. Eqbal & T.S. Sivagnanam

### **Section 8(j): Tax Evasion Proceedings are not Personal Information**

#### **(48) Delhi High Court**

The Tax Evasion Proceedings (TEP) as held by the Income Tax Department cannot be called as personal information.

*Manish Kumar vs PIO & Anr. decided on 07.04.2010*, W.P.(C) 2234/2010, Justice S. Muralidhar

### **Section 8(1)(j): IT Returns & Service Records**

#### **(49) Supreme Court of India:**

“Income tax returns, immovable property statements, show cause notices, chargesheet and service records of an employee are personal information whose disclosure has no relationship to any public activity or interest. They may not be disclosed unless there is a clear overriding public interest in disclosure.”

*Girish Ramchandra Deshpande vs Cen. Information Commr. & Ors., SLP (Civil) No. 27734 of 2012, judgement dated 03/10/2012 (2 Judges:K.S. Radhakrishnan & Dipak Misra )[(2013) 1SCC 212], JJ K. S. Radhakrishnan, Dipak Misra.*

**Section 8 (1)(j): ACR and follow up action.**

**(50) The Supreme Court Of India**

“Adverse entries in the ACR and the ‘follow up action’ taken therein on the question of integrity, are personal information. Can be disclosed however if bonafide larger public interest is justified.

*R.K. Jain vs. Union Of India & Anr on 16 April, 2013, G.S. Singhvi, Sudhansu Jyoti Mukhopadhyay, Civil Appellate Jurisdiction, Civil Appeal No. Of 2013 (arising out of SLP(C) No.22609 of 2012). Sudhansu Jyoti Mukhopadhyay,J*

**Section 8(1)(j): ACRs are personal information**

**(51) Delhi High Court:**

“Annual confidential reports of employees cannot be disclosed to third parties.”

Delhi HC refused to agree with the ratio of Centre for Earth Science Studies citing a decision of a coordinate Bench where access was not allowed.

*R.K. Jain vs. Union of India & Anr., W.P. (C) 6756/2010, judgement dated 08/12/2011 - (SB) Justice Vipin Sanghi [2012 (279) ELT 16 (Del.)*

## **Section 8(j) : Passport details are personal information**

### **(52) Delhi High Court:**

“Passport details, copies of birth certificate and copies of record of educational qualifications are personal information the disclosure of which would cause unwarranted invasion of the privacy of the individuals unless there is an overbearing public interest in favour of disclosure.”

*Union of India vs. R Jayachandran*, W.P. (C) 3406/2012, Judgement Dated 19/02/2014, J Manmohan

## **Section 8(1)(j): 3rd Party’s Caste Certificates.**

### **(53) Delhi High Court:**

“Copy of caste certificate of an employee is personal information and cannot be disclosed unless there is an overriding public interest and that too only if that employee consented to the disclosure as third party. Section 8(10)(j) is applicable.”

*Harish Kumar vs. Provost Marshal -cum-Appellate Authority & Ors.*, LPA No. 253/2012, judgement dated 30/03/2012 - (DB) JJ The Acting Chief Justice, Rajiv Sahai Endlaw [(2012) ILR 5 Delhi 41]

## **Section 8(j): Right to Privacy is an integral part of the right to personal liberty under Article 21 of the Constitution of India.**

### **(54) Delhi High Court**

30. The “Right to Privacy”, is an integral part of the right to personal liberty under Article 21 of the Constitution of India.

31. In *Rajagopal vs. State of Tamil Nadu*, MANU/ SC/0056/1995 : AIR 1995 SC 264, the Supreme Court had the occasion to comment on the origin, basis, nature and scope of the right to privacy in India. Mr. Justice B.P. Jeevan Reddy, said that... privacy-dignity claims deserve to be examined with care and to be denied only when an important countervailing interest is shown to be superior.

32. Mr. Justice B.P. Jeevan Reddy, summarized the concept of right to privacy as under: (1) The right to privacy is implicit in the right to life and liberty guaranteed to the citizens of this country by Article 21. It is a “right to be let alone”. A citizen has a right to safeguard the privacy of his own, his family, marriage, procreation, motherhood, child bearing and education among other matters. None can publish anything concerning the above matters without his consent - whether truthful or otherwise and whether laudatory or critical. If he does so, he would be violating the right to privacy of the person concerned and would be liable in an action for damages.

33. It follows that the “privacy” of a person, or in other words his “private information”,

encompasses the personal intimacies of the home, the family, marriage, motherhood, procreation, child rearing and of the like nature. "Personal information", on the other hand, as aforesaid, would be information, in any form, that pertains to an individual. Therefore, "private information" is a part of "personal information". All that is private is personal, but all that is personal may not be private. A person has a right to keep his private information, or in other words, his privacy guarded from disclosure. It is this right which has come to be recognised as fundamental to a person's life and liberty, and is accordingly protected from unwarranted/unauthorised invasion under the Act, and can be overridden only in "larger" public interest.

39. Disciplinary inquiry of the charged officer is with regard to the alleged irregularities committed by him while discharging public duties and public functions. The disclosure of such information cannot be regarded as invasion of his privacy.

10. This definition shows that an applicant under Section 6 of the RTI Act can get any information which is already in existence and accessible to the public authority under law. Of course, under the RTI Act an applicant is entitled to get copy of the opinions, advices, circulars, orders, etc., but he cannot ask for any information as to why such opinions, advices, circulars, orders, etc. have been passed, especially in matters pertaining to judicial decisions.

W.P. (C) 1243/2011 & C.M. No. 2618/2011 (for stay), 13.07.2012, Appellants: *UPSC vs. R.K. Jain, J Vipin Sanghi*

### **Section 8(1)(j): Right to Privacy defined and also recognized as a Fundamental Right.**

26. Holding that it is an intrinsic part of the right to life and liberty guaranteed under Article

While physical privacy enjoys constitutional recognition in Article 19(1)(d) and (e) read with Article 21, personal informational 20(3), 21 and 25 of the Constitution.

Privacy, it is uniformly observed is essential for liberty and dignity. Therefore, individuals have the need to preserve an intrusion-free zone for their personality and family. This facilitates individual freedom. On the question of navigation of personal liberty, the main judgment has referred to a three-fold requirement in the form of (i) legality, which postulates the existence of law (RTI Act in the present case); (ii) need, define in terms of a legitimate State aim; and (iii) proportionality.

Privacy and confidentiality encompass a bundle of rights including the right to protect identity and anonymity. Anonymity is where an individual seeks freedom from identification, even when and despite being in a public space.

Anonymity involves hiding what makes it personal by giving an example that furnishing of medical records of a patient would amount to an invasion of privacy.

In the context of the RTI Act, suffice would be to say that the right to protect identity and anonymity would be identically subjected to the public interest test.

This Court has treated the word information which is disclosed would lead to invasion of privacy in mean personal information, as distinct from public information. This aspect has been dealt with in the succeeding paragraphs.

*K.S. Puttaswamy and another vs. Union of India and others, nine Judges Constitutional Bench, Civil Petition 494/2012, JJ D.Y.Chanderchur, J.S. Khehar, Justice Abdul Nazir, Justice J. Sarad Sharadbopde, Justice Sapare, Kaul, Nariman and Chelameswar decision dated 23.8.2017, Supreme Court of India.*

### **Section 8(1)(j): Personal Information Defined and Emphasis on Proportionately Test between Public and Private Interest.**

#### **(55) Supreme Court of India**

59. Reading of the aforesaid judicial precedents, in our opinion, would indicate that personal records, including name, address, physical, mental and psychological status, marks obtained, grades and answer sheets, are all treated as personal information. Similarly, professional records, including qualification, performance, evaluation reports, ACRs, disciplinary proceedings, etc. are all personal information. Medical records, treatment, choice of medicine, list of hospitals and doctors visited, income tax returns, details of investments, lending and borrowing, etc. are personal information. Such personal information is entitled to protection from unwarranted invasion of privacy and conditional access is available when stipulation of larger public interest is satisfied. This list is indicative and not exhaustive.

88. that is each case, the public interest test would be applied to weigh the scales and on balance determine whether information should be furnished or would be exempt. Therefore, a universal affirmative or negative answer is not possible.

*Civil Appeal 10044 of 2010, 10045/2010, 2683/2010 CPIO, Supreme Court vs. Subhash Chandra Agarwal, five Judges Constitutional Bench, dated 13.11.2019, Supreme Court of India.*

#### **Punjab and Haryana High Court on Attendance Register:**

88.A. The attendance record is part of service record which is a matter between the employee and the employer and ordinarily these aspects are governed by the service rules, which fall under the expression "personal information".

The information with regard to the date of appointment of the appellant can be supplied under the RTI Act, 2005. However, the information with regard to her place of posting, period of deputation, working hours, place of headquarter during deputation and any type of leave

availed during such period along with permission to leave the headquarter, copy of her attendance register and movement register, is relating to the information personal to her. This information is between the appellant and her employer and this would be subject to service rules and cannot be sought by respondent No.5 under the RTI Act, 2005.

*Dr. Jagrati Shama vs. State Information Commissioner, Haryana & Ors., Writ Petition No. 145 of 2020 (O&M), judgement dated 25.01.2023.*

**Section 8(1)(j): Transfer, promotion and other details are personal information:**

35. Transfer of electrical staff with details of individual employees, such as date of their joining, promotion earned, date of their joining the branch, the authorities who had posted the transfer letters, etc. The information sought was declared to be personal in nature, which was conditionally exempted from disclosure under section 8(i)(j) of the RTI Act.

Civil Appeal 22/2009, Canara Bank vs. C.S.Shyam and another, Justice A.K.Sapare and Justice R.K.Agrawal, decision dated 31.8.2017, *Supreme Court of India*.

**Section 8(1)(j): ACRs and follow up action are personal information.**

37. ACRs and follow up action taken by the authorities based on the ACRs. The information sought was treated as personal information, which, except in cases involving overriding public interest, could not be disclosed. It was observed that that the procedure under Section 11 of the RTI Act in such cases has to be followed. The matter was remitted to examine the aspect of larger public interest and to follow the procedure prescribed under Section 11 of the RTI Act which, it was held, was mandatory.

*R.K.Jain vs. Union of India and another, Supreme Court of India, SLP (C) 22906/2012, JJ G.S.Singhvi and S.J. Mukhopadhaya date of decision 16<sup>th</sup> April, 2013, Supreme Court of India.*

**Section 8(3): Record Retention**

**(56) Supreme Court of India:**

“30. ... The said sub-Section [Section 8(3)] nowhere provides that records or information have to be maintained for a period of twenty years. ...Section 8(3) provides that information relating to any occurrence, event or matters which has taken place and occurred or happened twenty years before the date on which any request is made under Section 6, shall be provided to any person making a request. This means that where any information required to be maintained and preserved for a period beyond twenty years under the rules of the public authority, is exempted from disclosure under any of the provisions of Section 8(1) of RTI Act, then, notwithstanding such exemption, access to such information shall have to be provided by disclosure thereof, after a period of twenty years except where they relate to information

falling under clauses (a), (c) and (i) of Section 8(1)... Where any record or information is required to be destroyed under the rules and regulations of a public authority prior to twenty years, Section 8(3) will not prevent destruction in accordance with the Rules. Section 8(3) of RTI Act is not therefore a provision requiring all 'information' to be preserved and maintained for twenty years or more, nor does it override any rules or regulations governing the period for which the record, document or information is required to be preserved by any public authority." [emphasis supplied]

*Central Board of Secondary Education & Anr. vs. Aditya Bandopadhyay & Ors.*, Civil Appeal No. 6454 of 2011, judgement dated 09/08/2011- (2 Judges) [(2011) 8 SCC 497] Hon'ble Mr. Justice R.V. Raveendran pronounced the judgment of the Bench comprising of His Lordship and J A.K. Patnaik.

### **Section 8(1) (j) : Obligation to prove larger public interest than protected interest**

#### **(57) Supreme Court of India**

"An RTI applicant seeking personal information of a third party has the obligation of proving that disclosure would serve the public interest better than keeping the information confidential."

*Union Public Service Commission vs. R K Jain*, LPA No. 618/2012, judgement dated 06/11/2012 - (Db) [196 (2013) Dlt 170], The Chief Justice, J Rajiv Sahai Endlaw, Rajiv Sahai Endlaw, J

**(58) Delhi High Court**

“Fair and just decision is the essence of natural justice. Issuance of notice and giving an opportunity to the third party serves a salutary purpose and ensures that there is a fair and just decision.

In fact issue of notice to a third party may in cases curtail litigation and complications that may arise if information is furnished without hearing the third party concerned. Section 11 prescribes a fairly strict time schedule to ensure that the proceedings are not delayed.”

*Arvind Kejriwal vs. Central Public Information Officer & Anr.* LPA No. 719/2010 decided on 03.09.2011, The Chief Justice, J Sanjiv Khanna.

**Section 11: DPC Minutes & 3rd Party**

**(59) Delhi High Court:**

“13. ....ACR grading/ratings as also the marks given to the candidates based on the said ACR grading/ratings and their interview marks contained in the DPC proceedings can be disclosed only to the concerned employee and not to any other employee as that would constitute third party information. This Court is also of the opinion that third party information can only be disclosed if a finding of a larger public interest being involved is given by CIC and further if third party procedure as prescribed under Sections 11(1) and 19(4) of the RTI Act is followed.

14. Accordingly, the matter is remanded back to CIC for consideration of petitioner’s defences under Sections 8(1)(e) and Section 8(1)(j) of the RTI Act and if the CIC is of the view that larger public interest is involved, it shall thereafter follow the third party procedure as prescribed under Sections 11(1) and 19(4) of the RTI Act.” [emphasis supplied]

*THDC India Ltd. vs R. K. Raturi*, W.P. (C) 903/2013, judgement dated 08/08/2014 - (SB) [212(2014) DLT 683], J Manmohan

*This judgement, in effect, reverses CIC’s Full Bench decision (5 ICs) in the matter of Shri Rakesh Kr. Singh vs. Lok Sabha Secretariat & related matters*, Complaint No. CIC/WB/ C2006/00223 decision dated 23/04/2007 without actually citing it.

**Section 12(3) & Article 141 of Constitution: CIC Member Appointments & Commissions shall not overlook the judgments of the courts or bigger benches Commissions**

**(60) Supreme Court of India**

1. The appointment of the Information Commissioners at both levels should be made from amongst the persons empanelled by the DoPT in the case of

Centre and the concerned Ministry in the case of a State. The panel has to be prepared upon due advertisement and on a rational basis as afore-recorded.

2. The panel so prepared by the DoPT or the concerned Ministry ought to be placed before the High-powered Committee in terms of Section 12(3), for final recommendation to the President of India. Needless to repeat that the High Powered Committee at the Centre and the State levels is expected to adopt a fair and transparent method of recommending the names for appointment to the competent authority.
3. The selection process should be commenced at least three months prior to the occurrence of vacancy.
4. The orders of the Commissions are subject to judicial review before the High Court and then before the Supreme Court of India. In terms of Article 141 of the Constitution, the judgments of the Supreme Court are law of the land and are binding on all courts and tribunals. Thus, it is abundantly clear that the Information Commission is bound by the law of precedence, i.e., judgments of the High Court and the Supreme Court of India. In order to maintain judicial discipline and consistency in the functioning of the Commission, Commission shall not overlook the judgments of the courts dealing with the subject and principles applicable, in a given case. It is not only the higher court's judgments that are binding precedents for the Information Commission, but even those of the larger Benches of the Commission should be given due acceptance and enforcement by the smaller Benches of the Commission.

*Namit Sharma Vs. Union of India (UOI) Writ Petition (Civil) No. 210 of 2012, decided On: 13.09.2012, A.K. Patnaik and Swatanter Kumar, JJ.*

**Section 12 & 15: Qualifications and Process of appointment of Information Commissioners. Law background Commissioner is to be involved while deciding question of Law.**

#### **(61) The Supreme Court of India**

Unfortunately, experience over the years has shown that the orders passed by Information Commissions have at times gone beyond the provisions of the Act and that Information Commissions have not been able to harmonise the conflicting interests indicated in the preamble and other provisions of the Act. The reasons for this experience about the functioning of the Information Commissions could be either that persons who do not answer the criteria mentioned in Sections 12(5) and 15(5) have been appointed as Chief Information Commissioner or Information Commissioners or that the persons appointed answer the criteria laid down in Sections 12(5) and 15(5) of the Act but they do not have the

required mind to balance the interests indicated in the Act and to restrain themselves from acting beyond the provisions of the Act. But it is for Parliament to consider whether appointment of judicial members in the Information Commissions will improve the functioning of the Information Commissions. Sections 12(5) and 15(5) of the Act are not *ultra vires* the Constitution. (iii) Only persons of eminence in public life with wide knowledge and experience in the fields mentioned in Sections 12(5) and 15(5) of the Act be considered for appointment as Information Commissioner and Chief Information Commissioner. (iv) Persons of eminence in public life with wide knowledge and experience in all the fields mentioned in Sections 12(5) and 15(5) of the Act, namely, law, science and technology, social service, management, journalism, mass media or administration and governance, be considered by the Committees under Sections 12(3) and 15(3) of the Act for appointment as Chief Information Commissioner or Information Commissioners. (v) The Committees under Sections 12(3) and 15(3) of the Act while making recommendations to the President or to the Governor, as the case may be, for appointment of Chief Information Commissioner and Information Commissioners must mention against the name of each candidate recommended, the facts to indicate his eminence in public life, his knowledge in the particular field and his experience in the particular field and these facts must be accessible to the citizens as part of their right to information under the Act after the appointment is made. (vi) Wherever Chief Information Commissioner is of the opinion that intricate questions of law will have to be decided in a matter coming up before the Information Commission, he will ensure that the matter is heard by an Information Commissioner who has wide knowledge and experience in the field of law.

*Union Of India Vs. Versus Namit Sharma and State Of Rajasthan & Anr. ... Versus Namit Sharma, Civil Original Jurisdiction Review Petition [C] No.2309 Of 2012 In Writ Petition [C] No.210 Of 2012. With Review Petition [C] No.2675 Of 2012. In Writ Petition [C] No.210 Of 2012 ..A. K. Patnaik, A. K. Sikri, New Delhi, September 03, 2013.*

**Sections 18 & 19: Complaint vs Appeal - Under Section 18 Penalties could be Imposed but PIO can't be asked to provide information. Sections 18 and 19 of the Act serve two different purposes and lay down two different procedures and they provide two different remedies. One cannot be a substitute for the other.**

#### **(62) Supreme Court of India**

“30. Under Section 18 of the Act the Central Information Commission or the State Information Commission has no power to provide access to the information which has been requested for by any person but which has been denied to him. The only order which can be passed by the Central Information Commission or the State Information Commission, as the case may be, under Section 18 is an order of penalty provided under Section 20.

32. In the facts of the case, the Appellant after having applied for information under Section

6 and then not having received any reply thereto, it must be deemed that he has been refused the information. The said situation is covered by Section 7 of the Act. The remedy for such a person who has been refused the information is provided under Section 19 (1) of the Act which says that a person who is aggrieved by a decision of the Central Public Information Officer or the State Public Information Officer, as the case may be, may within thirty days from the expiry of such period prefer an appeal to such officer who is senior in rank to the Central Public Information Officer or the State Public Information Officer as the case may be, in each public authority:

43. The procedure under Section 19 is an appellate procedure. A right of appeal is always a creature of statute. A right of appeal is a right of entering a superior forum for invoking its aid and interposition to correct errors of the inferior forum. Therefore, when the statute confers such a right of appeal that must be exercised by a person who is aggrieved by reason of refusal to be furnished with the information.”

*Chief Information Commissioner. & Anr. Vs. State of Manipur & Anr., Civil Appeal Nos. 10787-10788 of 2011 (Arising out of S.L.P. (C) Nos. 32768-32769/2010), 12.12.2011, JJ Asok Kumar Ganguly and Gyan Sudha Misra*

#### **Section 19(8)b: Compensation & Costs.**

##### **(63) Delhi High Court:**

“CIC has to first record a finding as to how much loss was suffered by an RTI applicant due to unreasonable denial of information. Compensation may be awarded only if loss or detriment occurs due to denial of the requested information.”

*NTPC Ltd. vs. Mohd. Samad Khan, W.P. (C) 5403/2008, jj dated 09/03/2010 - (SB) [(2010) ILR 6 Delhi 55], J S.Muralidhar*

#### **Section 20(1): Penalty Powers & non-compliance**

##### **(64) Delhi High Court:**

“Appellant has no role in a penalty proceeding launched under the RTI Act. He cannot demand to be present in hearings relating to penalty proceedings.”

*Anand Bhushan vs R. A. Haritash , LPA No. 777/2010, judgement dated 29/03/2012 - (DB) JJ The acting Chief Justice, Rajiv Sahai Endlaw [(2012) ILR 4 Delhi 57]*

#### **Section 20: PIO can't avoid penalty with the excuse that he has not been given training**

##### **(65) Punjab and Haryana High Court**

The petitioners cannot avoid the mandatory provisions of Sub-Section 1 of Section 20 of the Act on the excuse that any training programme as envisaged by Sub-Section (1) (a) of Section 26 of the Act has not been organized by the Government encouraging participation of the petitioners in the development and organization of programmes.

*Ramesh Sharma & Anr. Vs. State Information Commission & Ors. decided on 08.02.2008, M.M. Kumar and T.P.S. Mann, JJ.*

### **Section 20: Penalty Reduction & audi alteram partem under Section 20(2)**

#### **(66) Kerala High Court:**

“Quantum of penalty reduced from Rs. 25,000 to Rs. 5,000 taking into consideration the fact that this was the first instance of contravention of the law by the PIO and also because he is not a highly paid officer.”

*Janilkumar, Tahsildar, Kozhikode vs State Information Commission, Kerala & Ors., W.A. No. 1553 of 2008, judgement dated 11/06/2012 - (DB)*

### **Section 20(2): Opportunity before disciplinary action**

#### **(67) Supreme Court of India:**

“PIO must be given an opportunity of being heard before the Information Commission recommends disciplinary action against him for persistently violating the provisions of the RTI Act.”

*Manohar s/o Manikrao Anchule vs. State of Maharashtra & Anr., Civil Appeal No. 9095 of 2012, judgement dated 13/12/2012, (2 Judges: Swatanter Kumar & Madan B. Lokur )[(2012) 13 SCC 14] Justice Swatanter Kumar*

### **Section 21: Protection and good faith**

#### **(68) High Court of Gujarat**

Section 21: The burden to prove that Public Information Officer has acted reasonable and diligently is to be proved by Public Information Officer.

*Chief Officer vs Chief Information Commissioner & two Ors. decided on 03.09.2010, special Civil Application No. 7617 of 2010, H.K. Rathod, J.*

### **Section 22: Overriding Effect over other Acts**

#### **(69) Punjab and Haryana High Court**

RTI Act, being a recent legislation, will override the inconsistent provisions contained in other enactments. But, the over-riding effect is only to the extent of inconsistency.

It is not that Section 22 of the RTI act has the effect of either abrogating or repealing all other enactments dealing with furnishing of information to an information-seeker.

*P.C. Wadhwa vs Central Information Commission & Ors. L.P.A. No. 1252 of 2009 decided on 29.11.2010, JJ Mukul Mudgal, Ranjan Gogoi*

### **Section 22: RTI Rules Override other Rules**

#### **(70) Rajasthan High Court:**

“Fee regulations of the University cannot override the fee Rules notified under the RTI Act. Executive guidelines cannot override Rules notified via exercise of powers of delegated legislation.”

*Alka Matoria vs. Maharaja Ganga Singh University & Ors.*, D.B. Civil Writ Petition No. 12471/2012, judgement dated 21/12/2012 - (Db), JJ Dinesh Maheshwari, Nisha Gupta

**Section 22: RTI Act can't defeat the purposes and provisions of other laws. disclosure of marks scored in examination wherein a policy of awarding grades is in place.**

**(71) Delhi High Court**

“12. The information which ought not to have been there as per the changed policy upheld by the Court can be treated as information within the meaning of the RTI Act. In our opinion no. Information which is forbidden by law or information of a nature, if disclosed, would defeat the provisions of any law or disclosure whereof is opposed to public policy, cannot be regarded as “lawful? and is to be ignored and no disclosure thereof can be made or directed to be made.

13. RTI if in conflict with other laws and notwithstanding the overriding effect given thereto by Section 22 thereof, the first attempt has to be to harmonise its provisions with other laws. In our opinion, even though there is no express order of any court of law forbidding publication of marks [as is the want of Section 8(1)(b)] but the effect of bringing the regime of grades in place of marks and of dismissal of challenge thereto, is to forbid publication/disclosure of marks.

*Central Board of Secondary Education Vs. Sh. Anil Kumar Kathpal*, LPA No. 1090/2011, 24.05.2012, The Acting Chief Justice and Justice Rajiv Sahai Endlaw

**(72) Delhi High Court**

“Service matters do not amount to allegations of violation of human rights of an officer. Such information cannot be sought from an exempt organisation.”

*Directorate General of Security & Anr., vs Harender*, W.P.(C) 5959 of 2013, judgement dated 16/09/2013 - (SB) Justice U.K. Jain

**(73) Supreme Court of India**

Section 27 & 28: It is the discretion of the rule making authority to make rules to carry out the provisions of the Act.

*Union of India Vs. Namit Sharma & State of Rajasthan & Anr. ... Versus Namit Sharma*, Civil Original Jurisdiction Review Petition [C] No.2309 of 2012 In Writ Petition [C] No.210 Of 2012. With Review Petition [C] No.2675 Of 2012 In Writ Petition [C] No.210 Of 2012. A. K. Patnaik, A. K. Sikri, New Delhi, September 03, 2013

**74. Uttarakhand High Court:**

“If an order is written in English, then a copy of the order translated into the official

language of the State must be provided to an RTI applicant”.

*State Consumer Disputes Redressal Commission, Uttarakhand vs. Uttarakhand State Information Commission & Ors.*, Writ Petition No. 2130 of 2009 (MS), judgement dated 27/03/2010 - (SB) [AIR 2010 Utr55]

75.

### **Conclusion**

Though decision of the Information Commission under RTI Act is final and binding and courts have been debarred from entertaining any suit or appeal against them. Nevertheless, it has been a settled principle of law that such excluding provisions notwithstanding, the extraordinary, jurisdiction of the High Courts and the Supreme Court, under the Articles 226 and 32 of the Constitution, cannot be overruled. It cannot be eroded or taken away by exercise of legislative power, since it is a part of the basic structure of the Constitution. Hence the orders of the Commissions are being subjected to judicial review in the High Courts and the Supreme Court of India. In terms of Article 141 of the Constitution, the judgments of the Supreme Court deemed to be are law of the land and hence are binding on all courts and tribunals. Thus, it is clear beyond any shadow of doubt that the Information Commissions are bound by the judgment of high law of precedence i.e. judgments of the High Courts and the Supreme Court of India. In order to maintain judicial discipline and consistency in the functioning of the Commission, the Information Commissions are bound to give appropriate attention to the above doctrine and hence cannot overlook the judgments of the courts dealing with the subject and principles applicable, in a given case. It is not only the judgments of higher courts that are to be recognized as the binding precedents for the Information Commissions. By the same logic, the judgments of the larger benches of the Commissions have to be kept in view by the smaller benches and considered as precedence having the force of law by them. This logic is equally applicable to intra commission appeals.

## 4. The Right to Information Act, 2005

The Right to Information (Amendment Act, 2019)\*

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[15th June, 2005]

An Act to provide for setting out the practical regime of right to information for citizens to secure access to information under the control of public authorities, in order to promote transparency and accountability in the working of every public authority, the constitution of a Central Information Commission and State Information Commissions and for matters connected therewith or incidental thereto.

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.

Be it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:-

### CHAPTER I

#### Preliminary

1. (1) This Act may be called the Right to Information Act, 2005.  
(2) It extends to the whole of India.  
(3) The provisions of sub-section (1) of section 4, sub-sections (1) and (2) of section 5, sections 12, 13, 15, 16, 24, 27 and 28 shall come into force at once, and the remaining provisions of this Act shall come into force on the one hundred and twentieth day of its enactment.
2. In this Act, unless the context otherwise requires,-
  - (a) "appropriate Government" means in relation to a public authority which is established, constituted, owned, controlled or substantially financed by funds provided directly or indirectly-
    - (i) by the Central Government or the Union territory administration, the Central Government;
    - (ii) by the State Government, the State Government;
  - (b) "Central Information Commission" means the Central Information Commission constituted under sub-section (1) of section 12;

- (c) "Central Public Information Officer" means the Central Public Information Officer designated under sub-section (1) and includes a Central Assistant Public Information Officer designated as such under sub-section (2) of section 5;
- (d) "Chief Information Commissioner" and "Information Commissioner" mean the Chief Information Commissioner and Information Commissioner appointed under sub-section (3) of section 12;
- (e) "competent authority" means-
  - (i) the Speaker in the case of the House of the People or the Legislative Assembly of a State or a Union territory having such Assembly and the Chairman in the case of the Council of States or Legislative Council of a State;
  - (ii) the Chief Justice of India in the case of the Supreme Court;
  - (iii) the Chief Justice of the High Court in the case of a High Court;
  - (iv) the President or the Governor, as the case may be, in the case of other authorities established or constituted by or under the Constitution;
  - (v) the administrator appointed under article 239 of the Constitution;
- (f) "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;
- (g) "prescribed" means prescribed by rules made under this Act by the appropriate Government or the competent authority, as the case may be;
- (h) "public authority" 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 funds provided by the appropriate Government;
- (i) "record" includes-
  - (a) any document, manuscript and file;
  - (b) any microfilm, microfiche and facsimile copy of a document;
  - (c) any reproduction of image or images embodied in such microfilm (whether enlarged or not); and
  - (d) any other material produced by a computer or any other device;
- (j) "right to information" means the right to information accessible under this Act which is held by or under the control of any public authority and includes the right to-
  - (i) inspection of work, documents, records;

- (ii) taking notes, extracts or certified copies of documents or records;
- (iii) taking certified samples of material;
- (iv) obtaining information in the form of diskettes, floppies, tapes, video cassettes or in any other electronic mode or through printouts where such information is stored in a computer or in any other device;
- (k) "State Information Commission" means the State Information Commission constituted under sub-section (1) of section 15;
- (l) "State Chief Information Commissioner" and "State Information Commissioner" mean the State Chief Information Commissioner and the State Information Commissioner appointed under sub-section (3) of section 15;
- (m) "State Public Information Officer" means the State Public Information Officer designated under sub-section (1) and includes a State Assistant Public Information Officer designated as such under sub-section (2) of section 5;
- (n) "third party" means a person other than the citizen making a request for information and includes a public authority.

## **CHAPTER II**

### **Right to information and obligations of public authorities**

3. Subject to the provisions of this Act, all citizens shall have the right to information.
4. (1) Every public authority shall-
  - (a) maintain all its records duly catalogued and indexed in a manner and the form which facilitates the right to information under this Act and ensure that all records that are appropriate to be computerised are, within a reasonable time and subject to availability of resources, computerised and connected through a network all over the country on different systems so that access to such records is facilitated;
  - (b) publish within one hundred and twenty days from the enactment of this Act,-
    - (i) the particulars of its organisation, functions and duties;
    - (ii) the powers and duties of its officers and employees;
    - (iii) the procedure followed in the decision making process, including channels of supervision and accountability;
    - (iv) the norms set by it for the discharge of its functions;
    - (v) the rules, regulations, instructions, manuals and records, held by it or under its control or used by its employees for discharging its functions;
    - (vi) a statement of the categories of documents that are held by it or under its control;
    - (vii) the particulars of any arrangement that exists for consultation with, or representation by, the members of the public in relation to the formulation of its policy or implementation thereof;
    - (viii) a statement of the boards, councils, committees and other bodies consisting of two

or more persons constituted as its part or for the purpose of its advice, and as to whether meetings of those boards, councils, committees and other bodies are open to the public, or the minutes of such meetings are accessible for public; after the end of each year, cause a copy of the report of the Central Information Commission or the State Information Commission, as the case may be, referred to in sub-section (1) to be laid before each House of Parliament or, as the case may be, before each House of the State Legislature, where there are two Houses, and where there is one House of the State Legislature before that House.

- (ix) a directory of its officers and employees;
  - (x) the monthly remuneration received by each of its officers and employees, including the system of compensation as provided in its regulations;
  - (xi) the budget allocated to each of its agency, indicating the particulars of all plans, proposed expenditures and reports on disbursements made;
  - (xii) the manner of execution of subsidy programmes, including the amounts allocated and the details of beneficiaries of such programmes;
  - (xiii) particulars of recipients of concessions, permits or authorisations granted by it;
  - (xiv) details in respect of the information, available to or held by it, reduced in an electronic form;
  - (xv) the particulars of facilities available to citizens for obtaining information, including the working hours of a library or reading room, if maintained for public use;
  - (xvi) the names, designations and other particulars of the Public Information Officers;
  - (xvii) such other information as may be prescribed and thereafter update these publications every year;
- (c) publish all relevant facts while formulating important policies or announcing the decisions which affect public;
- (d) provide reasons for its administrative or quasi-judicial decisions to affected persons.
- (2) It shall be a constant endeavour of every public authority to take steps in accordance with the requirements of clause (b) of sub-section (1) to provide as much information suo motu to the public at regular intervals through various means of communications, including internet, so that the public have minimum resort to the use of this Act to obtain information.
- (3) For the purposes of sub-section (1), every information shall be disseminated widely and in such form and manner which is easily accessible to the public.
- (4) 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 Central Public Information Officer or State Public Information Officer, as the case may be, available free or at such cost of the medium or the print cost price as may be prescribed.

**Explanation.**-For the purposes of sub-sections (3) and (4), "disseminated" means making known or communicated the information to the public through notice boards, newspapers, public announcements, media broadcasts, the internet or any other means, including inspection of offices of any public authority.

5. (1) Every public authority shall, within one hundred days of the enactment of this Act, designate as many officers as the Central Public Information Officers or State Public Information Officers, as the case may be, in all administrative units or offices under it as may be necessary to provide information to persons requesting for the information under this Act.
- (2) Without prejudice to the provisions of sub-section (1), every public authority shall designate an officer, within one hundred days of the enactment of this Act, at each sub-divisional level or other sub-district level as a Central Assistant Public Information Officer or a State Assistant Public Information Officer, as the case may be, to receive the applications for information or appeals under this Act for forwarding the same forthwith to the Central Public Information Officer or the State Public Information Officer or senior officer specified under sub-section (1) of section 19 or the Central Information Commission or the State Information Commission, as the case may be:  
Provided that where an application for information or appeal is given to a Central Assistant Public Information Officer or a State Assistant Public Information Officer, as the case may be, a period of five days shall be added in computing the period for response specified under sub-section (1) of section 7.
- (3) Every Central Public Information Officer or State Public Information Officer, as the case may be, shall deal with requests from persons seeking information and render reasonable assistance to the persons seeking such information.
- (4) The Central Public Information Officer or State Public Information Officer, as the case may be, may seek the assistance of any other officer as he or she considers it necessary for the proper discharge of his or her duties.
- (5) Any officer, whose assistance has been sought under sub-section (4), shall render all assistance to the Central Public Information Officer or State Public Information Officer, as the case may be, seeking his or her assistance and for the purposes of any contravention of the provisions of this Act, such other officer shall be treated as a Central Public Information Officer or State Public Information Officer, as the case may be.
6. (1) A person, who desires to obtain any information under this Act, shall make a request in writing or through electronic means in English or Hindi or in the official language of the area in which the application is being made, accompanying such fee as may be prescribed, to-
  - (a) the Central Public Information Officer or State Public Information Officer, as the case may be, of the concerned public authority;
  - (b) the Central Assistant Public Information Officer or State Assistant Public Information Officer, as the case may be, specifying the particulars of the information

sought by him or her: Provided that where such request cannot be made in writing, the Central Public

Information Officer or State Public Information Officer, as the case may be, shall render all reasonable assistance to the person making the request orally to reduce the same in writing.

- (2) An applicant making request for information shall not be required to give any reason for requesting the information or any other personal details except those that may be necessary for contacting him.
  - (3) Where an application is made to a public authority requesting for an information,-
    - (i) which is held by another public authority; or
    - (ii) the subject matter of which is more closely connected with the functions of another public authority, the public authority, to which such application is made, shall transfer the application or such part of it as may be appropriate to that other public authority and inform the applicant immediately about such transfer: Provided that the transfer of an application pursuant to this sub-section shall be made as soon as practicable but in no case later than five days from the date of receipt of the application.
7. (1) Subject to the proviso to sub-section (2) of section 5 or the proviso to sub-section (3) of section 6, the Central Public Information Officer or State Public Information Officer, as the case may be, on receipt of a request under section 6 shall, as expeditiously as possible, and in any case within thirty 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 sections 8 and 9:
- Provided that where the information sought for concerns the life or liberty of a person, the same shall be provided within forty-eight hours of the receipt of the request.
- (2) If the Central Public Information Officer or State Public Information Officer, as the case may be, fails to give decision on the request for information within the period specified under sub-section (1), the Central Public Information Officer or State Public Information Officer, as the case may be, shall be deemed to have refused the request.
  - (3) Where a decision is taken to provide the information on payment of any further fee representing the cost of providing the information, the Central Public Information Officer or State Public Information Officer, as the case may be, shall send an intimation to the person making the request, giving-
    - (a) the details of further fees representing the cost of providing the information as determined by him, together with the calculations made to arrive at the amount in accordance with fee prescribed under sub-section (1), requesting him to deposit that fees, and the period intervening between the despatch of the said intimation and payment of fees shall be excluded for the purpose of calculating the period of thirty

days referred to in that sub-section;

(b) information concerning his or her right with respect to review the decision as to the amount of fees charged or the form of access provided, including the particulars of the appellate authority, time limit, process and any other forms.

(4) Where access to the record or a part thereof is required to be provided under this Act and the person to whom access is to be provided is sensorily disabled, the Central Public Information Officer or State Public Information Officer, as the case may be, shall provide assistance to enable access to the information, including providing such assistance as may be appropriate for the inspection.

(5) Where access to information is to be provided in the printed or in any electronic format, the applicant shall, subject to the provisions of sub-section (6), pay such fee as may be prescribed:

Provided that the fee prescribed under sub-section (1) of section 6 and sub-sections (1) and (5) of section 7 shall be reasonable and no such fee shall be charged from the persons who are of below poverty line as may be determined by the appropriate Government.

(6) Notwithstanding anything contained in sub-section (5), the person making request for the information shall be provided the information free of charge where a public authority fails to comply with the time limits specified in sub-section (1).

(7) Before taking any decision under sub-section (1), the Central Public Information Officer or State Public Information Officer, as the case may be, shall take into consideration the representation made by a third party under section 11.

(8) Where a request has been rejected under sub-section (1), the Central Public Information Officer or State Public Information Officer, as the case may be, shall communicate to the person making therequest,-

(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.

(9) An information shall ordinarily be provided in the form in which it is sought unless it would disproportionately divert the resources of the public authority or would be detrimental to the safety or preservation of the record in question.

8. (1) Notwithstanding anything contained in this Act, there shall be no obligation to give any citizen,-

(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:

Provided that the decisions of Council of Ministers, the reasons thereof, and the material on the basis of which the decisions were taken shall be made public after the decision has been taken, and the matter is complete, or over:

Provided further that those matters which come under the exemptions specified in this section shall not be disclosed;

- (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 unless the Central Public Information Officer or the State Public Information Officer or the appellate authority, as the case may be, is satisfied that the larger public interest justifies the disclosure of such information:

Provided that the information which cannot be denied to the Parliament or a State Legislature shall not be denied to any person.

- (2) Notwithstanding anything in the Official Secrets Act, 1923 nor any of the exemptions permissible in accordance with sub-section (1), a public authority may allow access to information, if public interest in disclosure outweighs the harm to the protected interests.
- (3) Subject to the provisions of clauses (a), (c) and (i) of sub-section (1), any information relating to any occurrence, event or matter which has taken place, occurred or happened twenty years before the date on which any request is made under section 6 shall be provided to any person making a request under that section:

Provided that where any question arises as to the date from which the said period of twenty years has to be computed, the decision of the Central Government shall be final, subject to the usual appeals provided for in this Act.

- 9. Without prejudice to the provisions of section 8, a Central Public Information Officer or a State Public Information Officer, as the case may be, may reject a request for information where such a request for providing access would involve an infringement of copyright subsisting in a person other than the State.
- 10. (1) Where a request for access to information is rejected on the ground that it is in relation to information which is exempt from disclosure, then, notwithstanding anything

contained in this Act, access may be provided to that part of the record which does not contain any information which is exempt from disclosure under this Act and which can reasonably be severed from any part that contains exempt information.

- (2) Where access is granted to a part of the record under sub-section (1), the Central Public Information Officer or State Public Information Officer, as the case may be, shall give a notice to the applicant, informing-
  - (a) that only part of the record requested, after severance of the record containing information which is exempt from disclosure, is being provided;
  - (b) the reasons for the decision, including any findings on any material question of fact, referring to the material on which those findings were based;
  - (c) the name and designation of the person giving the decision;
  - (d) the details of the fees calculated by him or her and the amount of fee which the applicant is required to deposit; and
  - (e) his or her rights with respect to review of the decision regarding non-disclosure of part of the information, the amount of fee charged or the form of access provided, including the particulars of the senior officer specified under sub-section (1) of section 19 or the Central Information Commission or the State Information Commission, as the case may be, time limit, process and any other form of access. 11 (1) Where a Central Public Information Officer or a State Public Information Officer, as the case may be, intends to disclose any information or record, or part thereof on a request made under this Act, which relates to or has been supplied by a third party and has been treated as confidential by that third party, the Central Public Information Officer or State Public Information Officer, as the case may be, shall, within five days from the receipt of the request, give a written notice to such third party of the request and of the fact that the Central Public Information Officer or State Public Information Officer, as the case may be, intends to disclose the information or record, or part thereof, and invite the third party to make a submission in writing or orally, regarding whether the information should be disclosed, and such submission of the third party shall be kept in view while taking a decision about disclosure of information:

Provided that except in the case of trade or commercial secrets protected by law, disclosure may be allowed if the public interest in disclosure outweighs in importance any possible harm or injury to the interests of such third party.

- (2) Where a notice is served by the Central Public Information Officer or State Public Information Officer, as the case may be, under sub-section (1) to a third party in respect of any information or record or part thereof, the third party shall, within ten days from the date of receipt of such notice, be given the opportunity to make representation against the proposed disclosure.
- (3) Notwithstanding anything contained in section 7, the Central Public Information Officer or State Public Information Officer, as the case may be, shall, within forty days after receipt of the request under section 6, if the third party has been given an opportunity to make representation under sub-section (2), make a decision as to whether or not to disclose the information or record or part thereof and give in writing the notice of his decision to the third party.
- (4) A notice given under sub-section (3) shall include a statement that the third party to whom

the

notice is given is entitled to prefer an appeal under section 19 against the decision.

### CHAPTER III

#### The Central Information Commission

12. (1) The Central Government shall, by notification in the Official Gazette, constitute a body to be known as the Central Information Commission to exercise the powers conferred on, and to perform the functions assigned to, it under this Act.
- (2) The Central Information Commission shall consist of-
  - (a) the Chief Information Commissioner; and
  - (b) such number of Central Information Commissioners, not exceeding ten, as may be deemed necessary.
- (3) The Chief Information Commissioner and Information Commissioners shall be appointed by the President on the recommendation of a committee consisting of-
  - (i) the Prime Minister, who shall be the Chairperson of the committee;
  - (ii) the Leader of Opposition in the Lok Sabha; and
  - (iii) a Union Cabinet Minister to be nominated by the Prime Minister.

**Explanation.**-For the purposes of removal of doubts, it is hereby declared that where the Leader of Opposition in the House of the People has not been recognised as such, the Leader of the single largest group in opposition of the Government in the House of the People shall be deemed to be the Leader of Opposition.

- (4) The general superintendence, direction and management of the affairs of the Central Information Commission shall vest in the Chief Information Commissioner who shall be assisted by the Information Commissioners and may exercise all such powers and do all such acts and things which may be exercised or done by the Central Information Commission autonomously without being subjected to directions by any other authority under this Act.
- (5) The Chief Information Commissioner and Information Commissioners shall be persons of eminence in public life with wide knowledge and experience in law, science and technology, social service, management, journalism, mass media or administration and governance.
- (6) The Chief Information Commissioner or an Information Commissioner shall not be a Member of Parliament or Member of the Legislature of any State or Union territory, as the case may be, or hold any other office of profit or connected with any political party or carrying on any business or pursuing any profession.
- (7) The headquarters of the Central Information Commission shall be at Delhi and the Central Information Commission may, with the previous approval of the Central

Government, establish offices at other places in India.

13. (1) The Chief Information Commissioner shall hold office *\* for such term as may be prescribed by the Central Government (RTI Amendment Act, 2019)* and shall not be eligible for reappointment:

Provided that no Chief Information Commissioner shall hold office as such after he has attained the age of sixty-five years.

(2) Every Information Commissioner shall hold office for *\* such term as may be prescribed by the Central Government (RTI Amendment Act, 2019)* or till he attains the age of sixty-five years, whichever is earlier, and shall not be eligible for reappointment as such Information Commissioner:

Provided that every Information Commissioner shall, on vacating his office under this sub-section be eligible for appointment as the Chief Information Commissioner in the manner specified in sub-section (3) of section 12:

Provided further that where the Information Commissioner is appointed as the Chief Information Commissioner, his term of office shall not be more than five years in aggregate as the Information Commissioner and the Chief Information Commissioner.

- (3) The Chief Information Commissioner or an Information Commissioner shall before he enters upon his office make and subscribe before the President or some other person appointed by him in that behalf, an oath or affirmation according to the form set out for the purpose in the First Schedule.
- (4) The Chief Information Commissioner or an Information Commissioner may, at any time, by writing under his hand addressed to the President, resign from his office:  
Provided that the Chief Information Commissioner or an Information Commissioner may be removed in the manner specified under section 14.

- (5) **\*The salaries and allowances payable to and other terms and conditions of service of the Chief Information Commissioner of the Chief Election Commissioner; shall be such as may be prescribed by the Central Government:**

**Provided that the salaries, allowances and other conditions of services of the Chief Information Commissioner or the Information Commissioners shall not be varied to their disadvantage after their appointment. (RTI Amendment Act, 2019).**

**Provided further that the Information Commissioner and the Information Commissioners appointed before the commencement of the Right to Information (Amendment Act, 2019) shall continue to be governed by the provisions of this Act and rules made there under if the Right to Information Amendment Act, 2019 had not come into force. (RTI Amendment Act, 2019).**

14. (1) Subject to the provisions of sub-section (3), the Chief Information Commissioner or any Information Commissioner shall be removed from his office only by order of the President on the ground of proved misbehaviour or incapacity after the Supreme Court, on a reference made to it by the President, has, on inquiry, reported that the Chief

Information Commissioner or any Information Commissioner, as the case may be, ought on such ground be removed.

- (2) The President may suspend from office, and if deem necessary prohibit also from attending the office during inquiry, the Chief Information Commissioner or Information Commissioner in respect of whom a reference has been made to the Supreme Court under sub-section (1) until the President has passed orders on receipt of the report of the Supreme Court on such reference.
- (3) Notwithstanding anything contained in sub-section (1), the President may by order remove from office the Chief Information Commissioner or any Information Commissioner if the Chief Information Commissioner or a Information Commissioner, as the case may be,-
  - (a) is adjudged an insolvent; or
  - (b) has been convicted of an offence which, in the opinion of the President, involves moral turpitude; or
  - (c) engages during his term of office in any paid employment outside the duties of his office; or
  - (d) is, in the opinion of the President, unfit to continue in office by reason of infirmity of mind or body; or
  - (e) has acquired such financial or other interest as is likely to affect prejudicially his functions as the Chief Information Commissioner or a Information Commissioner.
- (4) If the Chief Information Commissioner or a Information Commissioner in any way, concerned or interested in any contract or agreement made by or on behalf of the Government of India or participates in any way in the profit thereof or in any benefit or emolument arising there from otherwise than as a member and in common with the other members of an incorporated company, he shall, for the purposes of sub-section (1), be deemed to be guilty of misbehavior.

## **CHAPTER IV**

### **The State Information Commission**

15. (1) Every State Government shall, by notification in the Official Gazette, constitute a body to be known as the (name of the State) Information Commission to exercise the powers conferred on, and to perform the functions assigned to, it under this Act.
- (2) The State Information Commission shall consist of-
  - (a) the State Chief Information Commissioner, and
  - (b) such number of State Information Commissioners, not exceeding ten, as may be deemed necessary.
- (3) The State Chief Information Commissioner and the State Information Commissioners

shall be appointed by the Governor on the recommendation of a committee consisting of-

- (i) the Chief Minister, who shall be the Chairperson of the committee;
- (ii) the Leader of Opposition in the Legislative Assembly; and
- (iii) a Cabinet Minister to be nominated by the Chief Minister.

**Explanation.**-For the purposes of removal of doubts, it is hereby declared that where the Leader of Opposition in the Legislative Assembly has not been recognised as such, the Leader of the single largest group in opposition of the Government in the Legislative Assembly shall be deemed to be the Leader of Opposition.

- (4) The general superintendence, direction and management of the affairs of the State Information Commission shall vest in the State Chief Information Commissioner who shall be assisted by the State Information Commissioners and may exercise all such powers and do all such acts and things which may be exercised or done by the State Information Commission autonomously without being subjected to directions by any other authority under this Act.
- (5) The State Chief Information Commissioner and the State Information Commissioners shall be persons of eminence in public life with wide knowledge and experience in law, science and technology, social service, management, journalism, mass media or administration and governance.
- (6) The State Chief Information Commissioner or a State Information Commissioner shall not be a Member of Parliament or Member of the Legislature of any State or Union territory, as the case may be, or hold any other office of profit or connected with any political party or carrying on any business or pursuing any profession.
- (7) The headquarters of the State Information Commission shall be at such place in the State as the State Government may, by notification in the Official Gazette, specify and the State Information Commission may, with the previous approval of the State Government, establish offices at other places in the State.

16. (1) The State Chief Information Commissioner shall hold office *\*for such term as may be prescribed by the Central Government (RTI Amendment Act, 2019)* and shall not be eligible for reappointment:

Provided that no State Chief Information Commissioner shall hold office as such after he has attained the age of sixty-five years.

- (2) Every State Information Commissioner shall hold office for *\* such term as may be prescribed by the Central Government (RTI Amendment Act, 2019)* or till he attains the age of sixty-five years, whichever is earlier, and shall not be eligible for reappointment as such State Information Commissioner:

Provided that every State Information Commissioner shall, on vacating his office

under this sub-section, be eligible for appointment as the State Chief Information Commissioner in the manner specified in sub-section (3) of section 15:

Provided further that where the State Information Commissioner is appointed as the State Chief Information Commissioner, his term of office shall not be more than five years in aggregate as the State Information Commissioner and the State Chief Information Commissioner.

- (3) The State Chief Information Commissioner or a State Information Commissioner, shall before he enters upon his office make and subscribe before the Governor or some other person appointed by him in that behalf, an oath or affirmation according to the form set out for the purpose in the First Schedule.
- (4) The State Chief Information Commissioner or a State Information Commissioner may, at any time, by writing under his hand addressed to the Governor, resign from his office:  
Provided that the State Chief Information Commissioner or a State Information Commissioner may be removed in the manner specified under section 17.
- (5) **\*The salaries and allowances payable to and other terms and conditions of service of the Chief Information Commissioner of the Chief Election Commissioner; shall be such as may be prescribed by the State Government:**

**Provided that the salaries, allowances and other conditions of services of the Chief Information Commissioner or the Information Commissioners shall not be varied to their disadvantage after their appointment. (RTI Amendment Act, 2019).**

**Provided further that the State Information Commissioner and the State Information Commissioners appointed before the commencement of the Right to Information (Amendment Act, 2019) shall continue to be governed by the provisions of this Act and rules made there under if the Right to Information Amendment Act, 2019 had not come into force. (RTI Amendment Act, 2019).**

- (6) The State Government shall provide the State Chief Information Commissioner and the State Information Commissioners with such officers and employees as may be necessary for the efficient performance of their functions under this Act, and the salaries and allowances payable to and the terms and conditions of service of the officers and other employees appointed for the purpose of this Act shall be such as may be prescribed.
17. (1) Subject to the provisions of sub-section (3), the State Chief Information Commissioner or a State Information Commissioner shall be removed from his office only by order of the Governor on the ground of proved misbehaviour or incapacity after the Supreme Court, on a reference made to it by the Governor, has on inquiry, reported that the State Chief Information Commissioner or a State Information Commissioner, as the case may be, ought on such ground be removed.

- (2) The Governor may suspend from office, and if deem necessary prohibit also from attending the office during inquiry, the State Chief Information Commissioner or a State Information Commissioner in respect of whom a reference has been made to the Supreme Court under sub-section (1) until the Governor has passed orders on receipt of the report of the Supreme Court on such reference.
- (3) Notwithstanding anything contained in sub-section (1), the Governor may by order remove from office the State Chief Information Commissioner or a State Information Commissioner if a State Chief Information Commissioner or a State Information Commissioner, as the case may be,-
  - (a) is adjudged an insolvent; or
  - (b) has been convicted of an offence which, in the opinion of the Governor, involves moral turpitude; or
  - (c) engages during his term of office in any paid employment outside the duties of his office; or
  - (d) is, in the opinion of the Governor, unfit to continue in office by reason of infirmity of mind or body; or
  - (e) has acquired such financial or other interest as is likely to affect prejudicially his functions as the State Chief Information Commissioner or a State Information Commissioner.
- (4) If the State Chief Information Commissioner or a State Information Commissioner in any way, concerned or interested in any contract or agreement made by or on behalf of the Government of the State or participates in any way in the profit thereof or in any benefit or emoluments arising therefrom otherwise than as a member and in common with the other members of an incorporated company, he shall, for the purposes of sub-section (1), be deemed to be guilty of misbehaviour.

## **CHAPTER V**

### **Powers and functions of the Information Commissions, appeal and penalties**

18. (1) Subject to the provisions of this Act, 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,-
  - (a) who has been unable to submit a request to a Central Public Information Officer or State Public Information Officer, as the case may be, either by reason that no such officer has been appointed under this Act, or because the Central Assistant Public Information Officer or State Assistant Public Information Officer, as the case may be, has refused to accept his or her application for information or appeal under this Act for forwarding the same to the Central Public Information Officer or State

Public Information Officer or senior officer specified in sub-section (1) of section 19 or the Central Information Commission or the State Information Commission, as the case may be;

- (b) who has been refused access to any information requested under this Act;
- (c) who has not been given a response to a request for information or access to information within the time limit specified under this Act;
- (d) who has been required to pay an amount of fee which he or she considers unreasonable;
- (e) who believes that he or she has been given incomplete, misleading or false information under this Act; and
- (f) in respect of any other matter relating to requesting or obtaining access to records under this Act.

(2) Where the Central Information Commission or State Information Commission, as the case may be, is satisfied that there are reasonable grounds to inquire into the matter, it may initiate an inquiry in respect thereof.

(3) The Central Information Commission or State Information Commission, as the case may be, shall, while inquiring into any matter under this section, have the same powers as are vested in a civil court while trying a suit under the Code of Civil Procedure, 1908, in respect of the following matters, namely:-

- (a) summoning and enforcing the attendance of persons and compel them to give oral or written evidence on oath and to produce the documents or things;
- (b) requiring the discovery and inspection of documents;
- (c) receiving evidence on affidavit;
- (d) requisitioning any public record or copies thereof from any court or office;
- (e) issuing summons for examination of witnesses or documents; and
- (f) any other matter which may be prescribed.

(4) Notwithstanding anything inconsistent contained in any other Act of Parliament or State Legislature, as the case may be, the Central Information Commission or the State Information Commission, as the case may be, may, during the inquiry of any complaint under this Act, examine any record to which this Act applies which is under the control of the public authority, and no such record may be withheld from it on any grounds.

19. (1) Any person who, does not receive a decision within the time specified in sub-section (1) or clause (a) of sub-section (3) of section 7, or is aggrieved by a decision of the Central Public Information Officer or State Public Information Officer, as the case may be, may within thirty

days from the expiry of such period or from the receipt of such a decision prefer an appeal to such officer who is senior in rank to the Central Public Information Officer or State Public Information Officer as the case may be, in each public authority:

Provided that such officer may admit the appeal after the expiry of the period of thirty days if he or she is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

- (2) Where an appeal is preferred against an order made by a Central Public Information Officer or a State Public Information Officer, as the case may be, under section 11 to disclose third party information, the appeal by the concerned third party shall be made within thirty days from the date of the order.
- (3) A second appeal against the decision under sub-section (1) shall lie within ninety days from the date on which the decision should have been made or was actually received, with the Central Information Commission or the State Information Commission:

Provided that the Central Information Commission or the State Information Commission, as the case may be, may admit the appeal after the expiry of the period of ninety days if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

- (4) If the decision of the Central Public Information Officer or State Public Information Officer, as the case may be, against which an appeal is preferred relates to information of a third party, the Central Information Commission or State Information Commission, as the case may be, shall give a reasonable opportunity of being heard to that third party.
- (5) In any appeal proceedings, the onus to prove that a denial of a request was justified shall be on the Central Public Information Officer or State Public Information Officer, as the case may be, who denied the request.
- (6) An appeal under sub-section (1) or sub-section (2) shall be disposed of within thirty days of the receipt of the appeal or within such extended period not exceeding a total of forty-five days from the date of filing thereof, as the case may be, for reasons to be recorded in writing.
- (7) The decision of the Central Information Commission or State Information Commission, as the case may be, shall be binding.
- (8) In its decision, the Central Information Commission or State Information Commission, as the case may be, has the power to-
  - (a) require the public authority to take any such steps as may be necessary to secure compliance with the provisions of this Act, including-
    - (i) by providing access to information, if so requested, in a particular form;
    - (ii) by appointing a Central Public Information Officer or State Public Information Officer, as the case may be;
    - (iii) by publishing certain information or categories of information;
    - (iv) by making necessary changes to its practices in relation to the maintenance, management and destruction of records;
    - (v) by enhancing the provision of training on the right to information for its officials;
    - (vi) by providing it with an annual report in compliance with clause (b) of sub-section

(1) of section 4;

(b) require the public authority to compensate the complainant for any loss or other detriment suffered;

(c) impose any of the penalties provided under this Act;

(d) reject the application.

(9) The Central Information Commission or State Information Commission, as the case may be, shall give notice of its decision, including any right of appeal, to the complainant and the public authority.

(10) The Central Information Commission or State Information Commission, as the case may be, shall decide the appeal in accordance with such procedure as may be prescribed.

20. (1) Where the Central Information Commission or the State Information Commission, as the case may be, at the time of deciding any complaint or appeal is of the opinion that the Central Public Information Officer or the State Public Information Officer, as the case may be, has, without any reasonable cause, refused to receive an application for information or has not furnished information within the time specified under sub-section (1) of section 7 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, so however, the total amount of such penalty shall not exceed twenty-five thousand rupees:

Provided that the Central Public Information Officer or the State Public Information Officer, as the case may be, shall be given a reasonable opportunity of being heard before any penalty is imposed on him:

Provided further that the burden of proving that he acted reasonably and diligently shall be on the Central Public Information Officer or the State Public Information Officer, as the case may be.

(2) Where the Central Information Commission or the State Information Commission, as the case may be, at the time of deciding any complaint or appeal is of the opinion that the Central Public Information Officer or the State Public Information Officer, as the case may be, has, without any reasonable cause and persistently, failed to receive an application for information or has not furnished information within the time specified under sub-section (1) of section 7 or malafidely denied the request for information or knowingly given incorrect, incomplete or misleading information or destroyed information which was the subject of the request or obstructed in any manner in furnishing the information, it shall recommend for disciplinary action against the Central Public Information Officer or the State Public Information Officer, as the case may be, under the service rules applicable to him.

**CHAPTER VI**  
**Miscellaneous**

21. No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act or any rule made thereunder.
22. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in the Official Secrets Act, 1923, and any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act.
23. No court shall entertain any suit, application or other proceeding in respect of any order made under this Act and no such order shall be called in question otherwise than by way of an appeal under this Act.
24. (1) Nothing contained in this Act shall apply to the intelligence and security organisations specified in the Second Schedule, being organisations established by the Central Government or any information furnished by such organisations to that Government:  
Provided that the information pertaining to the allegations of corruption and human rights violations shall not be excluded under this sub-section:  
Provided further that in the case of information sought for is in respect of allegations of violation of human rights, the information shall only be provided after the approval of the Central Information Commission, and notwithstanding anything contained in section 7, such information shall be provided within forty-five days from the date of the receipt of request.
- (2) The Central Government may, by notification in the Official Gazette, amend the Schedule by including therein any other intelligence or security organisation established by that Government or omitting there from any organisation already specified therein and on the publication of such notification, such organisation shall be deemed to be included in or, as the case may be, omitted from the Schedule.
- (3) Every notification issued under sub-section (2) shall be laid before each House of Parliament.
- (4) Nothing contained in this Act shall apply to such intelligence and security organisation being organisations established by the State Government, as that Government may, from time to time, by notification in the Official Gazette, specify:  
Provided that the information pertaining to the allegations of corruption and human rights violations shall not be excluded under this sub-section:  
Provided further that in the case of information sought for is in respect of allegations of violation of human rights, the information shall only be provided after the approval of the State Information Commission and, notwithstanding anything contained in section 7, such information shall be provided within forty-five days from the date of the receipt of request.
- (5) Every notification issued under sub-section (4) shall be laid before the State Legislature.

25. (1) The Central Information Commission or State Information Commission, as the case may be, shall, as soon as practicable after the end of each year, prepare a report on the implementation of the provisions of this Act during that year and forward a copy thereof to the appropriate Government.
- (2) Each Ministry or Department shall, in relation to the public authorities within their jurisdiction, collect and provide such information to the Central Information Commission or State Information Commission, as the case may be, as is required to prepare the report under this section and comply with the requirements concerning the furnishing of that information and keeping of records for the purposes of this section.
- (3) Each report shall state in respect of the year to which the report relates,-
- (a) the number of requests made to each public authority;
  - (b) the number of decisions where applicants were not entitled to access to the documents pursuant to the requests, the provisions of this Act under which these decisions were made and the number of times such provisions were invoked;
  - (c) the number of appeals referred to the Central Information Commission or State Information Commission, as the case may be, for review, the nature of the appeals and the outcome of the appeals;
  - (d) particulars of any disciplinary action taken against any officer in respect of the administration of this Act;
  - (e) the amount of charges collected by each public authority under this Act;
  - (f) any facts which indicate an effort by the public authorities to administer and implement the spirit and intention of this Act;
  - (g) recommendations for reform, including recommendations in respect of the particular public authorities, for the development, improvement, modernisation, reform or amendment to this Act or other legislation or common law or any other matter relevant for operationalising the right to access information.
- (4) The Central Government or the State Government, as the case may be, may, as soon as practicable
- 5) If it appears to the Central Information Commission or State Information Commission, as the case may be, that the practice of a public authority in relation to the exercise of its functions under this Act does not conform with the provisions or spirit of this Act, it may give to the authority a recommendation specifying the steps which ought in its opinion to be taken for promoting such conformity.
26. (1) The appropriate Government may, to the extent of availability of financial and other resources,-
- (a) develop and organise educational programmes to advance the understanding of the

public, in particular of disadvantaged communities as to how to exercise the rights contemplated under this Act;

- (b) encourage public authorities to participate in the development and organisation of programmes referred to in clause (a) and to undertake such programmes themselves;
  - (c) promote timely and effective dissemination of accurate information by public authorities about their activities; and
  - (d) train Central Public Information Officers or State Public Information Officers, as the case may be, of public authorities and produce relevant training materials for use by the public authorities themselves.
- (2) The appropriate Government shall, within eighteen months from the commencement of this Act, compile in its official language a guide containing such information, in an easily comprehensible form and manner, as may reasonably be required by a person who wishes to exercise any right specified in this Act.
- (3) The appropriate Government shall, if necessary, update and publish the guidelines referred to in sub-section (2) at regular intervals which shall, in particular and without prejudice to the generality of sub-section (2), include-
- (a) the objects of this Act;
  - (b) the postal and street address, the phone and fax number and, if available, electronic mail address of the Central Public Information Officer or State Public Information Officer, as the case may be, of every public authority appointed under sub-section (1) of section 5;
  - (c) the manner and the form in which request for access to an information shall be made to a Central Public Information Officer or State Public Information Officer, as the case may be;
- (f) all remedies in law available regarding an act or failure to act in respect of a right or duty conferred or imposed by this Act including the manner of filing an appeal to the Commission;
- (g) the provisions providing for the voluntary disclosure of categories of records in accordance with section 4;
- (h) the notices regarding fees to be paid in relation to requests for access to an information; and
- (i) any additional regulations or circulars made or issued in relation to obtaining access to an information in accordance with this Act.
- (4) The appropriate Government must, if necessary, update and publish the guidelines at regular intervals.
27. (1) The appropriate Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Act.
- (2) In particular, and without prejudice to the generality of the foregoing power, such

rules may provide for all or any of the following matters, namely:-

- (a) the cost of the medium or print cost price of the materials to be disseminated under sub-section (4) of section 4;
- (b) the fee payable under sub-section (1) of section 6;
- (c) **\*the fee payable under sub-sections (1) and (5) of section 7;**

**(ca) The term of office of Central Information Commissioner and Information Commissioner under Sub-Section (1) and (2) of Section 13 and State Chief Information Commissioner and State Information Commissioners under Sub-Section (1) and (2) of Section 16.**

**(cb) The salaries, allowances and other terms & conditions of service of the Chief Information Commissioner and the Information Commissioner under Sub-section (5) of Section 13 and the State Chief Information Commissioner and the State Information Commissioners under Sub-section (5) of Section 16.**

- (d) the salaries and allowances payable to and the terms and conditions of service of the officers and other employees under sub-section (6) of section 13 and sub-section (6) of section 16;
- (e) the procedure to be adopted by the Central Information Commission or State Information Commission, as the case may be, in deciding the appeals under sub-section (10) of section 19; and
- (f) any other matter which is required to be, or may be, prescribed.

28. (1) The competent authority may, by notification in the Official Gazette, make rules to carry out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-

(i) the cost of the medium or print cost price of the materials to be disseminated under sub-section (4) of section 4;

(ii) the fee payable under sub-section (1) of section 6;

(iii) the fee payable under sub-section (1) of section 7; and

(iv) any other matter which is required to be, or may be, prescribed.

29. (1) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

(2) Every rule made under this Act by a State Government shall be laid, as soon as may be after it is notified, before the State Legislature.

30.(1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removal of the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the date of the commencement of this Act.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

31. The Freedom of Information Act, 2002 is hereby repealed.

**THE FIRST SCHEDULE**  
**[See sections 13(3) and 16(3)]**

Form of oath or affirmation to be made by the Chief Information Commissioner/the Information Commissioner/the State Chief Information Commissioner/the State Information Commissioner

"I,....., having been appointed Chief Information Commissioner/Information Commissioner/

State Chief Information Commissioner/State Information Commissioner swear in the name of God solemnly affirm that I will bear true faith and allegiance to the Constitution of India as by law established, that I will uphold the sovereignty and integrity of India, that I will duly and faithfully and to the best of my ability, knowledge and judgment perform the duties of my office without fear or favour, affection or ill-will and that I will uphold the Constitution and the laws."

**THE SECOND SCHEDULE**  
**(See section 24)**

Exempted Organisations

The List of 22 exempted organizations is given below:

- ◆ Intelligence Bureau, Ministry of Home Affairs
- ◆ Directorate of Revenue Intelligence, Ministry of Finance
- ◆ Central Economic Intelligence Bureau, Ministry of Finance
- ◆ Directorate of Enforcement, Ministry of Finance
- ◆ Narcotics Control Bureau
- ◆ Aviation Research Centre
- ◆ Special Frontier Force
- ◆ Border Security Force, Ministry of Home Affairs
- ◆ Central Reserve Police Force, Ministry of Home Affairs
- ◆ Indo-Tibetan Border Police, Ministry of Home Affairs
- ◆ Central Industrial Security Force, Ministry of Home Affairs
- ◆ National Security Guard, Ministry of Home Affairs
- ◆ Research & Analysis Wing of The Cabinet Secretariat
- ◆ Assam Rifles, Ministry of Home Affairs
- ◆ Sashastra Seema Bal, Ministry of Home Affairs
- ◆ Special Protection Group
- ◆ Defence Research and Development Organisation, Ministry of Defence
- ◆ Border Road Development Organisation
- ◆ Financial Intelligence Unit, India
- ◆ Directorate General Income Tax (Investigation)
- ◆ National Technical Research Organisation
- ◆ National Security Council Secretariat

**5. CENTRE NOTIFICATION ON RTI RULES, 2012**  
**MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS**  
**(Department of Personnel and Training) NOTIFICATION**  
**New Delhi, the 31st July, 2012**

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GS.R.603(E).-In exercise of the powers conferred by Section 27 of the Right to Information Act, 2005 (22 of 2005) and in supersession of the Central Information Commission (Appeal Procedure) Rules, 2005 and the Right to Information (Regulation of Fee and Cost) Rules, 2005 except as respects things done or omitted to be done before such supersession, the Central Government hereby makes the following rules, namely:-

**I. Short title and commencement -**

- (1) These rules may be called the Right to Information Rules, 2012.
- (2) They shall come into force on the date of their publication in the Official Gazette.

**2. Definitions -** In these rules, unless the context otherwise requires,-

- (a) "Act" means the Right to Information Act, 2005 (22 of 2005);
- (b) "Commission" means the Central Information Commission constituted under sub-section (1) of Section 12 of the Act;
- (c) "First Appellate Authority" means an officer in the public authority who is senior in rank to the Central Public Information Officer to whom an appeal under sub-section (1) of Section 19'of the Act lies;
- (d) "Registrar" means an officer of the Commission so designated and includes an Additional Registrar, Joint Registrar and Deputy Registrar;
- (e) "Section" means a Section of the Act; (Call other words and expressions used herein but not defined in these rules shall have the same meanings assigned to them in the Act.

**3. Application Fee.-**An application under sub-section (1) of Section 6 of the Act shall be accompanied by a fee of rupees ten and shall ordinarily not contain more than five hundred words, excluding annexures, containing address of the Central Public Information Officer and that of the applicant:

Provided that no application shall be rejected only on the ground that it contains more than five hundred words.

**4. Fees for providing information.-**Fee for providing information under sub-section (4) of Section 4 and sub-sections (I) and (5) of Section 7 of the Act shall be charged at the following rates, namely:-

- (a) rupees two for each page in A-3 or smaller size paper;
- (b) actual cost or price of a photocopy in large size paper;
- (c) actual cost or price for samples or models;
- (d) rupees fifty per diskette or floppy;

- (e) price fixed for a publication or rupees two per page of photocopy for extracts from the publication;
- (f) no fee for inspection of records for the first hour of inspection and a fee of rupees 5 for each subsequent hour or fraction thereof; and
- (g) so much of postal charge involved in supply of information that exceeds fifty rupees.

- 5. Exemption from Payment of Fee.**-No fee under rule 3 and rule 4 shall be charged from any person who, is below poverty line provided a copy of the certificate issued by the appropriate Government in this regard is submitted alongwith the application.
- 6. Mode of Payment of fee.**-Fees under these rules may be paid in any of the following manner, namely:-
- (a) in cash, to the public authority or to the Central Assistant Public Information Officer of the public authority, as the case may be, against a proper receipt; or
  - (b) by demand draft or bankers cheque or Indian Postal Order payable to the Accounts Officer of the public authority; or
  - (c) by electronic means to the Accounts Officer of the public authority, if facility for receiving fees through electronic means is available with the public authority.
- 7. Appointment of Secretary to the Commission.**-The Central Government shall appoint an officer not below the rank of Additional Secretary to the Government of India as Secretary to the Commission.
- 8. Appeal to the Commission.**- Any person aggrieved by an order passed by the First Appellate Authority or by non-disposal of his appeal by the First Appellate Authority, may file an appeal to the Commission in the format given in the Appendix and shall be accompanied by the following documents, duly authenticated and verified by the appellant, namely:
- (i) a copy of the application submitted to the Central Public Information Officer;
  - (ii) a copy of the reply received, if any, from the Central Public Information Officer;
  - (iii) a copy of the appeal made to the First Appellate Authority;
  - (iv) a copy of the Order received, if any, from the First Appellate Authority;
  - (v) copies of other documents relied upon by the appellant and referred to in his appeal; and
  - (vi) an index of the documents referred to in the appeal.
- 9. Return of Appeal.**-An appeal may be returned to the appellant, if it is not accompanied by the documents as specified in rule 8, for removing the deficiencies and filing the appeal complete in all respects.
- 10. Process of appeal.**-(1) On receipt of an appeal, if the Commission is not satisfied that it is a fit case to proceed with, it may, after giving an opportunity of being heard to the appellant and after recording its reasons, dismiss the appeal:
- Provided that no appeal shall be dismissed only on the ground that it has not been made in the specified format if it is accompanied by documents as specified in rule 8.
- (2) The Commission shall not consider an appeal unless it is satisfied that the appellant has availed of all the remedies available to him under the Act.
  - (3) For the purposes of sub-rule (2), a person shall be deemed to have availed of all the remedies available to him under the Act:
    - (a) if he had filed an appeal before the First Appellate Authority and the First

Appellate Authority or any other person competent to pass order on such appeal had made a final order on the appeal; or

- (b) where no final order has been made by the First Appellate Authority with regard to the appeal preferred, and a period of forty five days from the date on which such appeal was preferred has elapsed.

**11. Procedure for deciding appeals.-**The Commission, while deciding an appeal may.-

- (i) receive oral or written evidence on oath or on affidavit from concerned or interested person;
- (ii) peruse or inspect documents, public records or copies thereof;
- (iii) inquire through authorized officer further details or facts;
- (iv) hear Central Public Information Officer, Central Assistant Public Information Officer or the First Appellate Authority, or such person against whose action the appeal is preferred, as the case may be;
- (v) hear third party; and
- (vi) receive evidence on affidavits from Central Public Information Officer, Central Assistant Public Information Officer, First Appellate Authority and such other person against whom the appeal lies or the third party.

**12. Presence of the appellant before the Commission.-**

- (1) The appellant shall be informed of the date at least seven clear days before the date of hearing.
- (2) The appellant may be present in person or through his duly authorised representative or through video conferencing, if the facility of video conferencing is available, at the time of hearing of the appeal by the Commission.
- (3) Where the Commission is satisfied that the circumstances exist due to which the appellant is unable to attend the hearing, then, the Commission may afford the appellant another opportunity of being heard before a final decision is taken or take any other appropriate action as it may deem fit.

**13. Presentation by the Public Authority -** The public authority may authorise any representative of any of its officers to present its case.

**14. Service of notice by Commission.-**The Commission may issue the notice by name, which shall be served in any of the following modes, namely:-

- (i) service by the party itself;
- (ii) by hand delivery (dasti) through Process Server;
- (iii) by registered post with acknowledgement due;
- (iv) by electronic mail in case electronic address is available.

**15. Order of the Commission.-**The order of the Commission shall be in writing and issued under the seal of the Commission duly authenticated by the Registrar or any other officer authorised by the Commission for this purpose.

**FORMAT OF APPEAL****(See Rule 8)**

1. Name and address of the appellant
2. Name and address of the Central Public Information Officer to whom the application was addressed
3. Name and address of the Central Public Information Officer who gave reply to the Application
4. Name and address of the First Appellate Authority Who decided the First Appeal
5. Particulars of the application
6. Particulars of the order(s) including number, if any, against which the appeal is preferred
7. Brief facts leading to the appeal
8. Prayer or relief sought
9. Grounds for the prayer or relief
10. Any other information relevant to the appeal
11. Verification/authentication by the appellant

**6. Haryana Notification on RTI Rules 2009 & 2016  
and 2021 (Amendments)  
Notifications**

The 21st, December, 2009, No. S.O. 99./C.A. 22/2005/S. 27/2009 &  
5/4/2008-1AR dated 18.3.2016 and 61-2021/Ext, Chandigarh,  
dated 12.04.2021\*

Haryana Government, Administrative Reforms Department

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In exercise of the power'; conferred by sub-section (1) read with sub-section (2) of section 27 of the Right to Information Act, 2005 ( Act 22 of 2005), the Governor of Haryana hereby makes the following rules providing for information under the said Act, namely :--

**1. Short title and commencement**

- (1) These rules may be called the Haryana Right to Information Rules, 2009,
- (2) They shall come into force from 1st January, 2010.

**2. Definition**

- (1) In these rules, unless the context otherwise requires,
  - (a) "Act" means the Right to Information Act, 2005 (Act 22 of 2005)
  - (b) "Commission" means the Haryana Information Commission, constituted under section 15 of the Act.
  - (c) "Model Form" means a model form appended to these rules
  - (d) "section" means the section of the Act.
- (2) The words and expressions used in these rules, but not defined shall have the same meanings as respectively assigned to them in the Act.

**3. Application for obtaining information sections 2(m), 6 and 27**

- (1) A person who desires to obtain any information admissible under the Act, shall make an application, preferably in Model Form 'A' to the State Public Information Officer and in his absence to State Assistant Public Information Officer along with fee as specified in sub-rule (1) of rule 5 of these rules
- (2) On the receipt of an application, made under sub- rule (1), the State Public Information Officer or State Assistant Public Information Officer as the case may be, shall give a receipt in token thereof to the applicant.

**4. Deposit of fee section 6**

- (1) The fee shall be deposited with the State Public Information Officer either in Cash against proper receipt, by Bank Draft, by Indian Postal Order or by Treasury Challan in the following Beads of Account-

Major Head	0070- Other Administrative Services
Sub Major Head-	60-Other Services
Minor Head	800-Other Receipts
Sub Head-	86--Fee under the Right to Information Act,2005.
Detailed Head-	"0070--Other Administrative Services -60- Other Services-800- Other Receipts-86-Fee under the Right to Information Act, 2005".

- (2) The amount of fee shall be credited to the account as referred in sub-rule (1) :  
 Provided that the Boards, Corporations and other autonomous bodies of the State may get the amount of requisite fee deposited in their own accounts maintained by them.
- (3) On receipt of an application, submitted under sub-rule (1) of rule 3, the State Public Information Officer shall scrutinize the application and shall assess how much fee is required to be paid by the applicant for obtaining the information.
- (4) The fee assessed under sub-rule (3), shall be intimated to the applicant by the State Public Information Officer, expeditiously, in Model Form 'B' to ensure the delivery of information within time specified under sub section(1) of section 7 of the Act.
- (5) In case the applicant fails to deposit the requisite fee within a period of fifteen days after the issuance of the intimation given to him under subrule (4), it shall be construed that the applicant is no longer interested in obtaining the information sought for and his application shall be deemed to have been filed.

#### **5. Quantum of fee section 6 and 7**

Haryana RTI (Amendment) Rules vide notification 5/4/2008-1AR dated 18.3.2016

- (1) An application for obtaining any information under subsection (1) of the section (6) shall be accompanied with a fee of Rs. 10/- and shall ordinarily not contain more than five hundred words, excluding annexures, address of the Public Information Officer and that of the applicant:  
 Provided that no application shall be rejected only on the ground that it contains more than five hundred words.
- (2) For providing information under sub-section (1) of section 7, the fee shall be charged from the applicant at the following rates, namely:-
  - (a) Rs. 2/- for each page in A-4 or A-3 size paper, created or copied; and
  - (b) If information is to be provided on a large size of paper than that specified in clause (a), the actual cost shall be charged.
- (3) For providing information under sub-section (5) of section 7, the fee shall be charged from the applicant at the following rates, namely.-
  - (a) Rs. 50/- for providing information in a floppy;
  - (b) Rs. 50/- for providing information in diskette; and
  - (c) If information sought is of such a nature, which is contained in a printed document, of which a price has been fixed, then that information shall be provided after charging the price, fixed for that printed document. However, if only an extract or page of such a printed document is asked for, then a fee of Rs. 2/- per page shall be charged.
- (4) No fee for inspection of record shall be charged, if such an inspection is made for one hour only. However, if inspection is made for a period of more than one hour, then a fee of five rupees shall be charged for every subsequent hour or fraction thereof."

#### **6. Procedure for filing appeals. sections 19( I) and (3)**

- (1) The memorandum of appeal shall contain the following information, namely;-
  - (a) name and address of the appellant, including the details of contact telephone/mobile Numbers/e-mail address, if any:
  - (b) official designation' and address of State Public Information Officer or State Assistant Public Information Officer, as the case may be;

- (c) official designation and address of the Officer against the decision of whom the appeal is preferred;
  - (d) particulars of the order including number, if any, against which the appeal is preferred;
  - (e) brief facts leading to the appeal
  - (f) prayer or relief sought;
  - (g) grounds for the prayer or relief
  - (h) verification by the appellant; and
  - (i) any other information which the Commission may (kern necessary for deciding the appeal
- (2) The appellant shall submit three copies of the memorandum of appeal for official purpose.
- (3) Every appeal made to the Commission shall be accompanied by the following documents, namely :-
- (a) self attested copies of the Orders or documents against which the appeal is being preferred;
  - (b) copies of documents relied upon by the appellant and referred to in the appeal; and
  - (c) an index of the documents referred to in the appeal;

Provided that in case complete documents are not furnished, the appeal shall not be rejected but the appellant shall be asked to complete the above formalities.

**7. Procedure for deciding appeal. section 19(10)**

Before deciding an appeal, the Commission shall,

- (a) serve notice to the concerned persons;
- (b) entertain any evidence in support of appeal, which may be oral or in writing from the concerned persons;
- (c) examine on oath or an affidavits from the persons concerned;
- (d) examine the documents or any records or copies thereof;
- (e) inquire through the authorized office the facts of the appeal or may require facts in detail, if he so deems appropriate, hear the State Public Information Officer or any other senior officer who had decided the first appeal, as the case may be; and
- (f) receive evidence on affidavits from the State Public Information Officer or any senior officer who had decided the appeal or from any other person from whom the evidence may be deemed necessary.

**8. Serving notice. Section 19(10).**

The commission may serve notice to the person concerned in any of the following modes, namely:-

- (a) by hand delivery (dasti) through process server;

- (b) by Registered Post, Speed Post, Under Postal Certificate, Courier or such other means;
- (c) by electronic mail, if e-mail address is provided; or
- (d) by publication in the newspaper.

**9. Appearance of appellant/complainant Section 19.**

The appellant or the complainant as the case may be, shall in every case be informed of the date of hearing at least 15 clear days before that date. If the complainant/appellant fails to appear on the date of hearing, the Commission will decide the matter on merits:

Provided that where the Commission is satisfied that the circumstances exist due to which the complainant or appellant is being prevented from attending the hearing, then, he may afford the complainant or appellant another opportunity of being heard before taking a final decision.

**10. Order by Commission section 19(10).**

- (1) The Commission shall make order in writing and pronounce the same in the presence of the concerned parties.
- (2) The party concerned may obtain the copy of the order from the Commission.

**11. Repeal and Saving.**

The Haryana Right to Information Rules, 2005 are hereby repealed:

Provided that any order made or action taken under the rules so repealed shall be deemed to have been made or taken under the corresponding provisions of these rules.

**Model Form 'A' See  
rule 3(1)**

To

The State Public Information Officer/State Assistant Public Information Officer  
------(Name of the office with address)

- 1. Full name of applicant.
- 2. Address along with following I.D. (**Aadhar Card, Passport, Voter ID Card, PAN Card, PPT ID, Government issued Identity Card**)\*
- 3. Particulars of information required-
  - a. Subject matter of information\*
  - b. The period of which the information relates\*\*
  - c. Description of the information required\*\*\*
  - d. Whether information is required by post or in person (the actual postal charges shall be include in additional fee)
  - e. In case by post (Ordinary, Registered or Speed Post

Place; Date;

Signature of the applicant.

- \* Board category of the subject is indicated  
(such as grant/Government Land/Service Matters/Licenses etc.).
- \*\* Relevant period for which information is required to be indicated.
- \*\*\* Specific details of the information are required to be indicated.

ACKNOWLEDGEMENT

Received your application dated .....vide diary No .....  
 .....  
 dated.....

(Name of the Department/Office) Signatures  
 of State Public Information Officer/ State  
 Assistant Public Information Office

Model Form 'B' See rules 4(4)

From  
 / Designation of the State Public  
 Information Officer.

To,  
 Name of the applicant  
 Address of the applicant

Sir

,

Please refer to your application dated.....addressed to the undersigned  
 requesting for information under Right to Information Act, 2005.

1. The additional fee for supplying this information Rs.....
2. You are requested to pay the fee through any of the mode of payment i.e. either in Cash  
 against proper receipt, by Bank Draft, by Indian Postal Order or by Treasury challan as

mentioned in rule 4(1) of the Haryana Right to Information Rules, 2009 and send a copy of the proof thereof to this office so that the requisite information can be supplied to you

3. In case you are dissatisfied with the above estimate, you are requested to submit an appeal before the Appellate Authority, .....(Name of the department)

State Public Information Officer

**Annexure - C**

**Appeal under section 19 (3) of the Right to Information Act, 2005**

From

Applicant's Name and Address.

To

Name/Designation/Address of the appellate authority.

1. Full Address of the appellant
2. Address
3. Particulars of the Public Information Officer
4. Date of receipt of the order appealed against
5. Last date for filing the appeal
6. Particulars of Information: -
  - i) Nature and subject matter of the information required.
  - ii) Name of the Office or Department to which the information relates:
  - iii) The grounds for appeal

Place

Signature of the Appellant

Date

The following agencies are exempted from RTI Act in Haryana State

1. State Criminal Investigation Department (CID) including the Crime Branch
2. Haryana Armed Forces

3. Security Organizations of Police
4. Haryana Police Telecommunication Organization
5. India Reserve Battalion
6. Commando

## 7. Quiz on RTI Act (True/False)

1. The Universal Declaration of Human Rights recognizes FOI as a part of Freedom of Expression, which is a Fundamental Human Right.  
True/False
2. FoI/RTI laws are also referred to as “open-government laws” and “sunshine laws”.  
True/False
3. Sweden was the first country to introduce transparency law.  
True/False
4. Only a citizen and not the company or firm can have an access to the information under RTI Act.  
True/False
5. A citizen seeking information can make even an oral request under RTI Act.  
True/False
6. RTI is also a part of the Fundamental Rights.  
True/False
7. A public authority is supposed to maintain its records in duly catalogued and indexed form.  
True/False
8. A public authority is required to publish various details about itself.  
True/False
9. A public authority shall provide reasons for its administrative and quasi-judicial decisions to the affected person.  
True/False
10. The size and content of proactive disclosure reduces the number of application seeking information.  
True/False
11. A public authority designates only one PIO and one APIO.  
True/False
12. The details of Appellate Authorities are required to be published in Official Gazette.  
True/False
13. A RTI application can be submitted only on the prescribed format.  
True/False
14. A uniform format for RTI application has been prescribed under the Act throughout the country.

True/False

15. A PIO can enquire about the intention of the information seeker.  
True/False
16. An applicant is required to give reasons for seeking information.  
True/False
17. If the same information has been sought by a large number of people, information should be put on the website of the public authority to save Public Information Officer's time and resources.  
True/False
18. There is a limit on the number and type of information sought in a single application in the Act.  
True/False
19. If the same information is sought by a large number of people, it may be made available to only one person.  
True/False
20. Information is to be provided in the form in which it is asked unless it disproportionately diverts the resources of public authority.  
True/False
21. No penalty is imposed upon PIO if she/he took the action in good faith.  
True/False
22. Only the designated PIO and not the APIO is penalized by the Information Commission.  
True/False
23. The PIO has to transfer the application to the concerned public authority.  
True/False
24. Public Information Officer has to transfer the application to the concerned authority within a week.  
True/False
25. Time limit for providing information has been prescribed under the Act.  
True/False
26. If the applicant threatens to commit suicide in case of the denial of information, the requisite information should be given within 48 hours.  
True/False
27. Penalty can be levied on a PIO if she/he genuinely decides that the information requested does not relate to the life and liberty of the individual and provides the requisite information after 48 hours, but within 30 days.  
True/False

28. A BPL applicant is not required to pay application fee. Instead, she/he has to pay additional fee.  
True/False
29. Information is provided free to the applicant, if it is given after the time limit.  
True/False
30. An applicant can have access to the information even from an enquiry/investigation related file.  
True/False
31. Request for information can be made in writing or on email.  
True/False
32. Information provided in confidence by the third party or treated as confidential by third party, can be given to the applicant without given a notice to third party.  
True/False
33. If the request for information is received by email, the information will also be provided only through email.  
True/False
34. The PIO is concerned only with the definition of "Right to Information" and not with the definitions of 'Information'. and 'Record'  
True/False
35. The Right to information includes inspection of work and taking certified samples of material.  
True/False
36. There is no penalty on APIO even if she/he does not forward the application and appeal for information to PIO and the appellate authority as the case may be.  
True/False
37. The PIO and APIO both have to correspond with the applicant.  
True/False
38. Like the PIO, the APIO is also supposed to give information to the applicant.  
True/False
39. APIO is an assistant to the PIO.  
True/False
40. The PIO has to refund the RTI fee (application fee as well as additional fee received from the applicant), if information is not provided within the time limit.  
True/False
41. A BPL applicant is provided information free of cost.  
True/False

42. An Information has to be provided in Haryana even if the applicant does not pay additional fee within the prescribed limit of 15 days.  
True/False
43. A PIO can charge Rs. 50/- for the supply of such information in the diskette or floppy from a BPL candidate.  
True/False
44. The 1st AA cannot determine the 'reasonableness' of fee charges demanded for providing information.  
True/False
45. There is a provision at Central Government and in Haryana for collecting postal charges from the applicant.  
True/False
46. An application can be filed if the additional information has not been received by the PIO within the prescribed time limit of 15 days in Haryana.  
True/False
47. In Center & in Haryana Governments RTI Rules normally, an application excluding addresses should have not more than 500 words.  
True/False
48. An application can solely be rejected if it has more than 500 words.  
True/False
49. If the requested information relates to several Public authority, the PIO has to transfer it to the all of them.  
True/False
50. The Act has an overriding effect over the Official Secret Act, 1923.  
True/False
51. A PIO can reject the request if taking of sample/model causes damage to the concerned public work.  
True/False
52. PIO can fix particular days in the month for inspection of records.  
True/False
53. If requested, a PIO is bound to certify the information given to the applicant.  
True/False
54. A citizen can seek 40 years old information, if record retention schedule permits the preservation.  
True/False
55. Section 8 covers the exemptions from providing certain types of information.  
True/False

56. If third party says no to the notice served to it by PIO, information can't be disclosed to the applicant.  
True/False
57. Decisions of the SIC can be challenged in CIC.  
True/False
58. Notings on the files can be disclosed to the applicant.  
True/False
59. A PIO has to assist an illiterate applicant in writing the application.  
True/False
60. The decision of Information Commission cannot be challenged in High Court/Supreme Court.  
True/False
61. A distinct mark like a stamp impression could be put on the document issued under RTI Act.  
True/False
62. An applicant can approach the FAA within 30 days of dispatch of the PIOs decision.  
True/False
63. Instead of approaching the First Appellate Authority, the aggrieved applicant can directly make a complaint to the Information Commission.  
True/False
64. Only Information Commissioner can impose penalty  
True/False
65. There is a time limit to decide an appeal by the First Appellate Authority.  
True/False
66. IC can summon the FAA to appear before it.  
True/False
67. The committee for recommending the names of Chief Information Commissioner/Information Commissioners at the Central Level for appointment by President consists of the PM, Leader of Opposition in Lok Sabha and Speaker of Lok Sabha.  
True/False
68. At different levels, a PIO can also be an AA.  
True/False
69. The number of AAs can be more than the number of PIOs in a State.  
True/False
70. In no case, a PIO can be an officer senior to the FAA.

True/False

71. The Committee meant for recommending the name of Chief Information Commissioner/Information Commissioner at the state level for appointment by Governor consists of the CM, Leader of Opposition in Assembly and a Cabinet Minister nominated by CM.

True/False

72. The decision of the Information Commission is final and there cannot be any appeal against it in any court under the Act.

True/False

73. The maximum age for appointment as the Chief Information Commissioner and Information Commissioners is 62 years.

True/False

74. The term of the office of Information Commissioner and that of Chief Information Commissioner both as Information Commissioner and Chief Information Commissioner, shall not be more than five years in aggregate.

True/False

75. The salary of the Chief Information Commissioner in the SIC and that of Information Commissioner in the Central Information Commission is equivalent to that of a Central Election Commissioner.

True/False

76. In case of damages and harassment by PIO an applicant can request the Information Commission for award of compensation.

True/False

77. Compensation to the applicant is paid by the concerned PA.

True/False

78. For the First time contravention of RTI Act by the PIO, Information Commission can recommend disciplinary action against her/him.

True/False

79. The Central or State Government as the case may be, can exempt certain agencies & organizations from the ambit of the RTI Act.

True/False

80. The appropriate government can make rules for effective implementation of the RTI Act.

True/False

81. The appellant can make an appeal to the Information Commission only within 75 days of the decision of the FAA.

True/False

82. The applicant can request for personal examination of documents.  
True/False
83. A portion of the information can be given.  
True/False
84. Information relating to cabinet papers at the time of deliberation could be given to citizens on request.  
True/False
85. The PIO can reject a request for disclosure of information involving an infringement of copyright subsisting in a person other than the State.  
True/False
86. The RTI Act is not applicable to the High Courts and Supreme Court.  
True/False
87. A Government Employee cannot seek information from her/his own Department.  
True/False
88. In the Central Government, if the postal charges for supply of information are more than Rs. 50, then only that amount is charged from the applicant.  
True/False
89. Inspection of record is free in RTI for the first hour.  
True/False
90. After one hour of inspection, Rs. 05 are charged for every subsequent one hour or part there of in Haryana and Centre Government level.  
True/False
91. After following the third party procedure, PIO can disclose the personal information exempted in S.8(1) if public interest in disclosure outweighs the harm to the protected interests.  
True/False
92. The corruption and violation of human rights related information of the listed agencies also fall in the ambit of RTI Act.  
True/False
93. The postal charges for supplying information are to be charged from the applicant in Haryana.  
True/False
94. If it is difficult to provide information in the requested format, the PIO can supply it in any other or in the available format.  
True/False

95. A decision of the single Information Commissioner can be reviewed by the bigger bench of Information Commission.  
True/False
96. The role of an APFO is only that of virtually a post-office.  
True/False
97. Exemption under Sections 8&9 of the Act relate to categories of information and not categories of records.  
True/False
98. An Information which cannot be denied to Parliament or a State Legislature can be denied to the applicant.  
True/False
99. Quasi-judicial powers, in addition to administrative powers, have been given to Information Commission.  
True/False
100. AA has powers to accept an appeal preferred after the expiry of deadline.  
True/False
101. There is a fixed time limit of a maximum of 45 days for issuing order on an appeal by the FAA.  
True/False

**Answers**

- |       |              |               |
|-------|--------------|---------------|
| 1. T  | 51. T        | 98. F         |
| 2. T  | 52. T        | 99. T         |
| 3. T  | 53. T        | 100. <i>T</i> |
| 4. T  | 54. T        | 101. T        |
| 5. T  | 55. T        |               |
| 6. T  | 56. F        |               |
| 7. T  | 57. F        |               |
| 8. T  | 58. T        |               |
| 9. T  | 59. T        |               |
| 10. T | 60. <i>T</i> |               |
| 11. F | 61. T        |               |
| 12. F | 62. F        |               |
| 13. T | 63. T        |               |
| 14. F | 64. T        |               |
| 15. F | 65. T        |               |
| 16. F | 66. T        |               |
| 17. T | 67. T        |               |
| 18. F | 68. T        |               |
| 19. F | 69. F        |               |
| 20. T | 70. T        |               |
| 21. T | 71. T        |               |
| 22. F | 72. T        |               |
| 23. T | 73. F        |               |
| 24. F | 74. T        |               |
| 25. T | 75. T        |               |
| 26. F | 76. T        |               |
| 27. F | 77. T        |               |
| 28. F | 78. <i>T</i> |               |
| 29. T | 79. T        |               |
| 30. T | 80. T        |               |
| 31. T | 81. F        |               |
| 32. F | 82. T        |               |
| 33. F | 83. T        |               |
| 34. F | 84. F        |               |
| 35. T | 85. T        |               |
| 36. F | 86. F        |               |
| 37. T |              |               |

38. F  
39. F  
40. F  
41. T  
42. F  
43. F  
44. F  
45. T  
46. T  
47. T  
48. F  
49. T  
50. T

87. F  
88. T  
89. T  
90. F  
91. T  
92. T  
93. T  
94. T  
95. F  
96. T  
97. F

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