

Day 9

Module III

Process of Seeking Information

Chapter 9

Complaint Process

Chapter Scheme

- ❑ List of Abbreviations / Acronyms.
- ❑ When can a Citizen Make a Complaint?
- ❑ Information Commission (IC) Inquiring into a Complaint.
- ❑ IC Deciding a Complaint.
- ❑ References.

List of Abbreviations / Acronyms

<i>APIO(s)</i>	Assistant Public Information Officer(s)	<i>PIO(s)</i>	Public Information Officer(s)
<i>IC(s)</i>	Information Commission(s)	<i>RTI</i>	Right to Information
<i>NGO(s)</i>	Non Government Organisation(s)	<i>S(s)</i>	Section(s)
<i>PAs</i>	Public Authority / Authorities	-	--

When Can a Citizen Make a Complaint?

Note: Unlike an appeal, a 'complaint' (as specified in the 'RTI Act, 2005') can be made **only** to the Central / State IC – as the case may be.

- ❑ A citizen can make a direct complaint to the IC under **S. 18**.
- ❑ An **IC** has the power and the function **to receive and inquire** into a complaint from any person made on such grounds as follows:
 - a) inability to submit a request to a PIO either because no such officer has been appointed under the Act or...

When Can a Citizen Make a Complaint?.....II

... because the **APIO** has refused to accept the **application** for information or **appeal** for **forwarding** to the concerned officer or IC

b) **refusal to access information** under the 'RTI Act, 2005'

c) **not getting a response** to a request for information or access to information within the **time** limit specified under this Act;

When Can a Citizen Make a Complaint?.....III

- (d) being required to pay an amount of fee which he / she considers unreasonable
- (e) believing that he / she has been given incomplete, misleading or false information under this Act and
- (f) any other matter relating to requesting or obtaining access to records under the 'RTI Act, 2005'.

Information Commission

Inquiring into a Complaint...

- ❑ Where the Central / State IC, 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. **[S.18(2)]**
- ❑ IC shall, **while inquiring** into any matter u. S. **[S.18(3)]**, have the **same powers** as are **vested** in a civil court while trying a suit under the Code of Civil Procedure, 1908.

Thus, it can...

IC Inquiring into a Complaint.....II

- ❑ Summon and enforce attendance of persons and compel them to give oral or written evidence on oath and produce documents or things
- ❑ Require discovery and inspection of documents
- ❑ Receive evidence on affidavit

IC Inquiring into a Complaint.....III

- ☐ Requisition any record or copies thereof from any court or office
- ☐ Issue summons for examination of witnesses or documents and
- ☐ Any other matter which may be prescribed

IC Inquiring into a Complaint.....IV

□ During an inquiry,

an IC may examine any record to which the 'RTI Act, 2005' applies

which is under the control of the PA

notwithstanding anything contained in any other Act of Parliament or State Legislature and

no such record may be withheld from it on any grounds. **[S. 18(3)]**

IC Deciding a Complaint...

- ❑ Central / State IC can require the PA to compensate the complainant for any loss or other detriment suffered. [s. 19(8)(b)]
- ❑ Central / State IC shall give a notice of its decision including any right of appeal to the complainant and the PA [s. 19(9)].
- ❑ Where a Central / State IC (at the time of deciding any complaint / appeal) is of the opinion that a PIO has, without any reasonable cause:

IC Deciding a ComplaintII

- refused to receive an application for information
- not furnished information within the time specified
- malafidely denied the request for information
- knowingly given incorrect, incomplete or misleading information
- destroyed information
- obstructed in any manner in furnishing the information...

IC Deciding a ComplaintIII

...It shall impose a penalty of Rs. 250/- each day
till application is received or
information is furnished,...

...however, the total amount of such penalty
shall not exceed 25,000 rupees. **[S. 20(1)]**

...the Central / State PIO... shall be given a reasonable
opportunity of being heard before any penalty is
imposed on him... **[S. 20(1)]**

IC Deciding a ComplaintIV

... the burden of proving that he / she acted reasonably and diligently shall be on the Central / State PIO... [s. 20(1)]

- ❑ IC shall recommend for disciplinary action against the Central / State PIO if he / she has, without any reasonable cause, persistently violated the provisions of the Act [as stated in S. 20(1)]. [s. 20(2)]

Note: Action in good faith will not be penalised as explained in Chapter 12, Module III.

- ❑ Central / State IC shall give a notice of its decision including any right of appeal to the complainant and the PA [s. 19(9)].

References

- 'Right to Information Act', 2005 – Bare Act. **A soft copy is available on this website. It is downloadable.**

☐ www.rti.gov.in

☐ www.cic.gov.in

End of Chapter 9

End of Module III

You must take the Quiz for this Chapter before
proceeding to the next Module!