

Right To Information Act 2005

Background:

- The objective behind introduction of this act is to bring transparency and accountability in the working of every public authority.
- Every public authority has been assigned with a duty to maintain records and publish manuals, rules, regulations etc in its possession as prescribed under this act.
- Further, it is obligatory on every public authority to publish the information about various particulars prescribed under the act within 120 days of the enactment.
- The right to information Act, 2005 came into force w.e.f. 12th October 2005.
- The RTI Act applies over whole of India except J&K.

Features of this Act:

- It shall apply to public authorities.
- All citizens shall have a right to information, subject to the other provisions of the act.
- The public information officers will be responsible to deal with the request for information and also to assist persons seeking information.
- Fees will be payable by the applicant depending on the nature of information sought.
- Specified category of information are exempted from disclosure as per section 8 & 9 of the act
- To provide transparency in public offices working and accountability.

Definitions:

Public authority {Section 2(h)}: Means any authority or body or institutions of the self government established or constituted –

- By or under the constitution.
- By any other law made by parliament
- By and other law made by state legislature
- By notification issued or order made by the appropriate government.

Record includes (Section 2(i))

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

Information : means any material in any form, including records, documents, memos, e-mails, opinions, advices, press releases, circulars, order, logbooks, contract, reports, samples, models data, material held in any electronic form.

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 –

- Taking notes, extracts, or certified copies of documents or records.
- Inspection of work, documents, records.
- Taking certified samples of material.
- Obtaining information in the form of diskettes, floppies, tapes, video cassettes or in any other electronic mode, where such information is stored in a computer or in any other device.

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

Obligations of public authority under RTI Act 2005(Section 4):

- Every public authority has been assigned with a duty to maintain records and publish manuals, rules, regulations etc in its possession as prescribed under this act{section 4 (1)(a)}.
- As per section 4(1)(b),every public authority has to publish within 120 days of the enactment of the act-
 - Information of its organization ,functions and duties.
 - The power and duties of its officers and employees.
 - The procedure followed in its decision making process ,including channels of supervision and accountability.
 - The norms set by it for the discharge of its functions
 - Rules. Regulations used by the employees for discharging their functions
 - A statement of the categories of the document held by it or under its control.
 - A directory of its officers and employees
 - Names ,designations and other particulars of the public information officers.
 - Any other information as may be required as per this act.

Designation of public information officers (PIO) Section 5:

Every public authority has to

- Appoint –PIO to provide information to persons who have made a request for the information in all the offices of the central or state government
- Appoint at each level i.e. at sub divisional level or sub district level central or state assistant public information officers to receive the applications for information or appeals for forwarding the same to the central or state public information officers.

Request for obtaining information section 6:

The act specify the manner in which request may be made –

- Application is to be submitted in writing or electronically with prescribed fee, to the PIO.
- Information to be provided within 30 days.
- Information shall be provided within 48 hours in case of where life or liberty is involved.
- In case request is made to Assistant PIO ,information shall be provided within 35 days.
- Time taken for calculation and intimation of fees excluded from the time frame.
- No action taken by any authority within 30 days, is deemed to be refusal to give information.
- If 3rd party also involved ,then the time limit will be 40 days

Duties of PIO under the act-

- PIO shall provide necessary help to the person in making application.
- If the information requested for is held by any other public authority ,the PIO shall transfers ,within 5 days to such authority and then accordingly inform same to applicant immediately.
- PIO may seek the assistance of any other officer for the proper discharge of his/her duties and in that case PIO within 30 days of the receipt of the request ,either provide the information or reject the same with reason.
- PIO shall provide information in the form in which it is sought unless it is contrary to the provisions of the act or detrimental to the safety.

- If PIO allows partial access to information, he should communicate the same to the applicant.
- If the request has been rejected the PIO shall intimate the applicant-
 - He will mention reasons for rejection.
 - Mention period within which appeal has been for rejection.
 - The authority to whom such appeal shall be made.

Exemptions from disclosure:

- If disclosure of the information prejudicially affects the sovereignty and integrity of India.
- Information which has been expressly forbidden by any court or tribunal.
- If disclosure would cause a breach of privilege of parliament or the state legislature
- Information include commercial confidence
- Information received in confidence from a foreign government
- Information the disclosure of which endangers life or physical safety of any person or identify confidential source of information.
- Information that would stay the process of investigation.
- Personal information which would cause invasion of the privacy unless larger public interest justify it.

Rejection of request:

The public information officer has been empowered to reject a request for information where an infringement of a copyright subsisting in a person would be involved.

Partial disclosure allowed(Section 10):

As per this section, only that part of the record which does not contain any information which is exempt from disclosures may be provided.

Who is excluded from disclosures of information

- The act excludes Central intelligence and security agencies specified in the 2nd schedule like directorate of revenue intelligence, Central economic intelligence Bureau, BSF, CRPF etc. the exclusion is not absolute and these organizations have an obligation to provide information pertaining to allegations of corruption and human right violations.

Information commissions:

Central Information Commission (CIC)-

- The Central Information Commission is to be constituted by the Central Government through a Gazette notification.
- The Central Information Commission consists of the Chief Information Commissioner and Central Information Commissioners not exceeding 10.
- These shall be appointed by the President of India on the recommendations of a committee consisting of PM who is the Chairman of the committee; the leader of Opposition in the Lok Sabha; and a Union Cabinet Minister to be nominated by the Prime Minister.
- 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.
- CIC/IC shall not be a Member of Parliament or Member of the Legislature of any State or Union Territory. He shall not hold any other office of profit or connected with any political party or carrying on any business or pursuing any profession.
- The general superintendence, direction and management of the affairs of the Commission vests in the Chief Information Commissioner who shall be assisted by the Information Commissioners.

- Commission shall have its Headquarters in Delhi.
- Other offices may be established in other parts of the country with the approval of the Central Government. Commission will exercise its powers without being subjected to directions by any other authority. (Section 12)
- CIC shall be appointed for a term of 5 years from date on which he enters upon his office or till he attains the age of 65 years, whichever is earlier.
- CIC is not eligible for reappointment.
- Salary will be the same as that of the Chief Election Commissioner.

State Information Commission (SIC)-

- The State Information Commission will be constituted by the State Government through a Gazette notification.
- The State Information Commission consists of one State Chief Information Commissioner (SCIC) and not more than 10 State Information Commissioners (SIC).
- These shall be appointed by the Governor on the recommendations of a committee consisting of the Chief Minister who is the Chairman of the committee.
- Other members include the Leader of the Opposition in the Legislative Assembly and one Cabinet Minister nominated by the Chief Minister.
- The qualifications for appointment as SCIC/SIC shall be the same as that for Central Commissioners.
- The salary of the SCIC will be the same as that of an Election Commissioner.
- The salary of the SIC will be the same as that of the Chief Secretary of the State Government.
- The commission will exercise its powers without being subjected to any other authority.
- The Headquarters of the State Information Commission shall be at such place as the State Government may specify.
- Other offices may be established in other parts of the state with the approval of the State Government. (Section 15 & 16)

Powers of Information Commission-

The Central Information Commission/ State Information Commission has a duty to receive complaints from any person-

- Who has not been able to submit an information request because a PIO has not been appointed
- Who has been refused information that was requested;
- Who has received no response to his/her information request within the specified time limits;
- Who thinks the fees charged are unreasonable;
- Who thinks information given is incomplete or false or misleading
- Any other matter relating to obtaining information under this law.

The Central Information Commission or the State Information Commission during the inquiry of any complaint under this act may examine any record which is under the control of the public authority and no such record may be withheld from it on any grounds. (Section 18)

Appellate Authorities:

- Any person who does not receive a decision within the specified time or is aggrieved by a decision of the PIO may file an appeal under the act.
- **First Appeal:** First Appeal to the officer senior in rank to the PIO in the concerned Public Authority within 30 days from the expiry of the prescribed time limit or from the receipt of the decision (delay may be condoned by the Appellate Authority if sufficient cause is shown)
- **Second Appeal:** Second appeal to the Central Information Commission or the State Information Commission as the case may be, within 90 days of the date on which the decision was given or should have been made by the First Appellate Authority (delay may be condoned by the Commission if sufficient cause is shown.)

- **Third Party Appeal** against PIO's decision must be filed within 30 days before first Appellate Authority and within 90 days of the decision on the first appeal, before the appropriate Information Commission which is the second appellate authority.
- Burden of proving that denial of information was justified lies with the PIO. First appeal shall be disposed of within 30 days from the date of its receipt or within such extended period not exceeding a total of forty-five days from the date of filing thereof, for reasons to be recorded in writing. Time period could be extended by 15 days if necessary. (Section 19)

Penalties

- Section 20 of the Act imposes stringent penalty on a Public Information Officer (PIO) for failing to provide information.
- Every PIO will be liable for fine of Rs. 250 per day, up to a maximum of Rs. 25,000/- for
 - Not accepting an application;
 - Delaying information release without reasonable cause;
 - Malafidely denying information;
 - Knowingly giving incomplete, incorrect, misleading information;
 - Destroying information that has been requested; and
 - Obstructing furnishing of information in any manner.
- The Information Commission (IC) at the Centre and the State levels will have the power to impose this penalty.
- They can also recommend disciplinary action for violation of the law against the PIO for persistently failing to provide information without any reasonable cause within the specified period.

Jurisdiction of Courts

As per section 23, lower courts are barred from entertaining suits or applications against any order made under this act.

Role of Central/ State Governments

Section 26 explains the Role of Central/ State Governments. It authorizes the Central/ State Governments to:

- Develop and organize educational programmes for the public especially disadvantaged communities on RTI.
- Encourage public authorities to participate in the development and organization of such programmes
- Promote timely and effective dissemination of accurate information by the public authorities
- Train officers and develop training materials
- Compile and disseminate a user guide for the public in the respective official language
- Publish names, designation, post 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.

T20 CHAPTER REVISION:

- Right to know is a necessary ingredient of participatory democracy. The Government enacted Right to Information (RTI) Act, 2005 which came into force on October 12, 2005.
- The RTI Act provides for setting out the practical regime of right to information for citizens to secure access to information held by public authorities to promote transparency and accountability in the working of every public authority. Every public authority under the Act has been entrusted with a duty to maintain records and publish manuals, rules, regulations, instructions, etc. in its possession as prescribed under the Act. Further, it is obligatory on every public authority to publish the information about various particulars prescribed under the Act within one hundred and twenty days of the enactment of this Act.

- Every public authority has to designate in all administrative units or offices Central or State Public Information Officers to provide information to persons who have made a request for the information. The Public Information Officers/Assistant Public Information Officers will be responsible to deal with the requests for information and also to assist persons seeking information.
- The Act specifies the manner in which requests may be made by a citizen to the authority for obtaining the information. It also provides for transferring the request to the other concerned public authority who may hold the information.
- Certain categories of information have been exempted from disclosure under Section 8 and 9 of the Act.
- Intelligence and security agencies specified in Schedule II to the Act have been exempted from the ambit of the Act, subject to certain conditions.
- The Public Information Officer has been empowered to reject a request for information where an infringement of a copyright subsisting in a person would be involved.
- Only that part of the record which does not contain any information which is exempt from disclosure and which can reasonably be severed from any part that contains exempt information, may be provided.
- The Act envisages constitution of Central Information Commission and the State Information Commissions.
- The Central Information Commission is to be constituted by the Central Government through a Gazette Notification. The Central Information Commission consists of: (i) The Chief Information Commissioner; (ii) Central Information Commissioners not exceeding 10.
- 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.
- CIC shall be appointed for a term of 5 years from date on which he enters upon his office or till he attains the age of 65 years, whichever is earlier. CIC is not eligible for reappointment.
- The State Information Commission will be constituted by the State Government through a Gazette notification. The State Information Commission consists of: (i) One State Chief Information Commissioner (SCIC) and (ii) Not more than 10 State Information Commissioners (SIC).
- The Central /State Commission have been authorized to receive and enquire into a complaint from any person who has been denied information by the concerned authorities due to various reasons as specified under the Act. If the Commission feels satisfied, an enquiry may be initiated and while initiating an enquiry the Commission has same powers as vested in a Civil Court.
- Any person who does not receive a decision within the specified time or is aggrieved by a decision of the PIO may file an appeal under the Act.
- Stringent penalty may be imposed on a Public Information Officer for failing to provide information. The Information Commission (IC) at the Centre and at the State levels will have the power to impose this penalty.
- The Act also stipulates the role of the Central/State Governments