

CHAPTER-6

RIGHT TO INFORMATION ACT, 2005

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Introduction: Since independence, India has grown, economy has boomed and people have benefited. At the same time, the government functioning also needed change to keep pace with changing times and fulfill the aspirations of people, empowering them to drive the government machinery in their best interest. It is a well accepted fact that how strong is the red tapism in our country, officials exploiting ignorance of citizens often taking shield of provisions of various acts, regulations such as official secret act, Indian Evidence Act etc. In June 2005, India enacted the RTI Act to overcome such issues. This write up gives an overview of the salient aspects of this act.

Learning Objectives:

- Understand objectives of RTI Act
- Understand Implementation machinery
- Learn the Process to get information
- Understand Salient provisions of the Act

Objectives of RTI Act:

1. Make government machinery Accountable
2. Contain Corruption
3. Promote Transparency

Objective of this act is to give a simple tool to Indian citizens to obtain information from

government machinery in a time bound manner. This act overrides all previous acts wherever conflict is found. Any citizen of India (applicant) can seek information of public interest from all covered central and state government units.

Implementation Machinery:

Public Authority: Under this act a concept of Public Authority has been introduced. All government owned departments, organizations, PSUs and NGOs substantially financed are called Public Authorities under this act and have to comply with its provisions. Each Public Authority has to designate following in its organization for implementing the Act: Central units are called CPAs and state units as SPAs. Public Authorities are required to disclose certain information to public suo motto at regular intervals. This directive covers budget, expenditure, salary of employees, subsidies, acts/rules/norms followed by PA for discharge of its duties etc.

PIO: Public Information Officer is the most important functionary under this act. The job entrusted is to receive RTI applications, process them and dispose such applications by supplying or denying information as per provisions of this Act. Central PIO are called CPIO and state as SPIO. PIOs decision which is based on application of provisions of this Act may lead to supply of full, partial or no information.

APIO: Assistant Public Information Officer has the task of receiving RTI requests/appeals and forwarding such cases to appropriate authority. Central and state APIOs are called CAPIO and SAPIO respectively.

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Appellate Authority: PIO is the first level of decision making authority to supply/deny information. An aggrieved applicant can file appeal to an officer senior in rank to PIO designated as Appellate authority. Appellate authority has to decide the case in 30-45 days time.

Information Commission (IC): Besides above functionaries, for monitoring implementation and ensuring compliance to the provisions of Act besides acting as second level of grievance handling, Information Commission has been created at center and all state levels. Applicants aggrieved at the decisions of Appellate authority are allowed to approach respective information commission for resolution of appeals/complaints.

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.

Applicant has been given the right to -

- (i) inspect works, documents, records.
- (ii) take notes, extracts or certified copies of documents or records.
- (iii) take certified samples of material.
- (iv) obtain information in form of printouts, diskettes, floppies, tapes, video cassettes or in any other electronic mode or through printouts

Process to get information:

Any applicant can submit application on plain paper to PIO or APIO. No reason for seeking information needs to be specified in the application. The name and contact details of applicant, addressed Public Authority and detail of information sought in the application are sufficient to seek information.

Applicant is required to pay the fee as prescribed. For Central Government Departments, it is Rs 10. However, different states have prescribed different fee. Cost of information is also charged. For getting information, one has to pay Rs 2 per page of information provided for Central Government Departments. It is different for different states. Similarly, there is a fee for inspection of documents. There is no fee for first hour of inspection, but after that, one has to pay Rs. 5 for every subsequent hour or fraction thereof. Applicant can deposit fee either in cash or through a DD or bankers cheque or postal order drawn in favor of that public authority. Applicant can seek review of the decision on fees charged by the PIO by applying to the appropriate Appellate Authority. No fees is charged from people living below the poverty line. Applicant must be provided information free of cost if the PIO fails to comply with the prescribed time limit.

APIO has to forward all requests/appeals within five days to appropriate authority. PIO is given 30 days to process and dispose the application. PIO collects sought information from concerned sections (called as custodians of information) and disposes the application by applying various provisions of the act. The act specifies category of information which is exempted from disclosure.

Salient aspects

Exempted information: It includes pertaining to National security, parliament privileges, fiduciary nature, cabinet papers, commercial confidence, trade secrets, any 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; information which would impede the process of investigation or apprehension or prosecution of offenders; etc. Even exempted information can be disclosed if public interest over weighs the secrecy benefits. Certain organizations dealing with intelligence and security are also broadly exempted. However corruption and human right violation cases of such agencies are not exempted from information disclosure. Such information is disclosed with the consent of concerned IC.

Time lines to get the information

1. 30 days from the date of application
2. 48 hours for information concerning the life and liberty of a person
3. 5 days shall be added to the above response time, in case the application for information is given to Assistant Public Information Officer.
4. If the interests of a third party are involved then time limit will be 40 days (maximum period + time given to the party to make representation).

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

Penalty: Every PIO will be liable for fine of Rs. 250 per day, up to a maximum of Rs.

25,000/-, for

- i. not accepting an application;

- ii. delaying information release without reasonable cause;
- iii. malafidely denying information;
- iv. knowingly giving incomplete, incorrect, misleading information;
- v. destroying information that has been requested and
- vi. obstructing furnishing of information in any manner.

The Information Commission (IC) at the Centre and the State levels has the power to impose this penalty. The Information Commission can also recommend disciplinary action for violation of the law against an erring PIO. For the purpose of penalty, concept of deemed PIO is used. Deemed PIO is the person responsible for delay or withholding of information and the onus of proving it lies on PIO.

Status in BSNL: Initially BSNL designated Appellate, PIO and APIO at corporate office and all Circles with all SSAs designating APIOs. Progressively PIO and Appellate officers are being designated in SSAs also. BSNL has also put mandatory information on its website www.bsnl.co.in The list of BSNL PIOs/APIOs is also available on website.

References: More information can be had on www.cic.gov.in and www.rti.gov.in