

**HAND BOOK ON RTI :**  
**GUIDE FOR THE INFORMATION SEEKERS,**  
**CENTRAL PUBLIC INFORMATION OFFICERS(CPIO) AND PUBLIC AUTHORITIES**

HOW TO GET INFORMATION  
FROM THE PUBLIC AUTHORITIES OF THE CENTRAL GOVERNMENT  
UNDER  
THE RIGHT TO INFORMATION ACT, 2005

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## **A GUIDE FOR THE INFORMATION SEEKERS UNDER THE RIGHT TO INFORMATION ACT, 2005.**

### **Object of the Right to Information Act**

The basic object of the Right to Information Act is to empower the citizens, promote transparency and accountability in the working of the Government, contain corruption, and make our democracy work for the people in real sense. An informed citizenry will be better equipped to keep necessary vigil on the instruments of governance and make the government more accountable to the governed. The Act has created a practical regime through which the citizens of the country may have access to information under the control of public authorities.

### **What is Information**

2. Information is any material in any form. It includes records, documents, memos, e-mails, opinions, advises, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material held in any electronic form. It also includes information relating to any private body which can be accessed by the public authority under any law for the time being in force.

### **Right to Information under the Act**

3. A citizen has a right to seek such information from a public authority which is held by the public authority or which is held under its control. This right includes inspection of work, documents and records; taking notes, extracts or certified copies of documents or records; taking certified samples of material held by the public authority or held under the control of the public authority.

4. The public authority under the RTI Act is not supposed to create information; or to interpret information; or to solve the problems raised by the applicants; or to furnish replies to hypothetical questions. Only such information can be had under the Act which already exists with the public authority.

5. A citizen has a right to obtain information in the form of diskettes, floppies, tapes, video cassettes or in any other electronic mode or through print-outs provided

information is already stored in a computer or in any other device from which the information may be transferred to diskettes etc.

6. The information to the applicant shall ordinarily be provided in the form in which it is sought. However, if the supply of information sought in a particular form would disproportionately divert the resources of the public authority or may cause harm to the safety or preservation of the records, supply of information in that form may be denied.

7. The Act gives the right to information only to the citizens of India. It does not make provision for giving information to Corporations, Associations, Companies etc. which are legal entities/persons, but not citizens. However, if an application is made by an employee or office-bearer of any Corporation, Association, Company, NGO etc. who is also a citizen of India, information shall be supplied to him/her, provided the applicant gives his/her full name. In such cases, it will be presumed that a citizen has sought information at the address of the Corporation etc.

### **Exemptions from Disclosure**

8. The right to seek information from a public authority is not absolute. Sections 8 and 9 of the Act enumerate the categories of information which are exempt from disclosure.

9. The applicants should abstain from seeking information which is exempt under Section 8 and 9 and also from the organizations included in the Second Schedule except information relating to allegations of corruption and human rights violations.

### **Central Public Information Officers**

10. Application for seeking information should be made to an officer of the public authority who is designated as Central Public Information Officer (CPIO). All the public authorities have designated their Central Public Information Officers and have posted their particulars on their respective web-sites. This information is also available on the Department website (<http://moef.gov.in/>) Persons seeking information are advised to refer to the web-site of the concerned public authority for ascertaining the name of the concerned CPIO. If it is found difficult to identify or locate the concerned Central Public Information Officer of a public

authority, application may be sent to the Central Public Information Officer without specifying the name of the CPIO at the address of the public authority.

### **Assistance Available From CPIOs**

11. The Central Public Information Officer shall render reasonable assistance to the persons seeking information. If a person is unable to make a request in writing, he may seek the help of the CPIO to write his application. Where a decision is taken to give access to a sensorily disabled person to any document, the Central Public Information Officer, shall provide such assistance to enable access to information, including providing such assistance to the person as may be appropriate for the inspection.

### **Suo Motu Disclosure**

12. The Act makes it obligatory for every public authority to make suo-motu disclosure in respect of the particulars of its organization, functions, duties etc. as provided in section 4 of the Act. Besides, some public authorities under the Central Government have published other information and have posted them on their websites.

### **Method of Seeking Information**

13. A citizen who desires to obtain any information under the Act, should make an application to the Central Public Information Officer (CPIO) of the concerned public authority in writing in English or Hindi or in the official language of the area in which the application is made. The applicant can send the application by post or through electronic means or can deliver it personally in the office of the public authority i.e. Under Secretary & Nodal Officer (RTI), Jal Block 1<sup>st</sup> Floor, Indira Paryavaran Bhawan, Jor Bagh Road, Aliganj, New Delhi 110003. The application can also be sent through a Central Assistant Public Information Officer appointed by the Department.

### **Fee for Seeking Information**

14. The applicant, along with the application, should send a demand draft or a banker's cheque or an Indian Postal Order of Rs.10/- (Rupees ten), payable to the Accounts Officer of the public authority as fee prescribed for seeking information. The payment of fee can also be made by way of cash to the Accounts Officer of the public authority or to the Central Assistant Public Information Officer against proper receipt.

15. The applicant may also be required to pay further fee towards the cost of providing the information, details of which shall be intimated to the applicant by the CPIO as prescribed by the Right to Information (Regulation of Fee and Cost) Rules, 2005. Rates of fee as prescribed in the Rules are given below:

(a) rupees two (Rs. 2/-) for each page (in A-4 or A-3 size paper) created or copied;

(b) actual charge or cost price of a copy in larger size paper;

(c) actual cost or price for samples or models;

(d) for inspection of records, no fee for the first hour; and a fee of rupees five (Rs.5/-) for each subsequent hour (or fraction thereof);

(e) for information provided in diskette or floppy rupees fifty (Rs.50/-) per diskette or floppy; and

(f) for information provided in printed form at the price fixed for such publication or rupees two per page of photocopy for extracts from the publication.

16. If the applicant belongs to below poverty line (BPL) category, he is not required to pay any fee. However, he should submit a proof in support of his claim to belong to the below poverty line. The application not accompanied by the prescribed fee of Rs.10/- or proof of the applicant's belonging to below poverty line, as the case may be, shall not be a valid application under the Act and therefore, does not entitle the applicant to get information.

### **Format of Application**

17. There is no prescribed form of application for seeking information. The application can be made on plain paper. The application should, however, have the name and complete postal address of the applicant. In cases where the information is sought electronically, the application should contain name and postal address of the applicant, alongwith his/her e-mail id.

18. The information seeker is not required to give reasons for seeking information.

### **Disposal of the Request**

19. The CPIO is required to provide information to the applicant within thirty days of the receipt of a valid application. If the information sought for concerns the life or liberty of a

person, the information shall be provided within forty-eight hours of the receipt of the request. If the CPIO is of the view that the information sought for cannot be supplied under the provisions of the Act, he would reject the application. However, while rejecting the application, he shall inform the applicant the reasons for such rejection and the particulars of the appellate authority. He would also inform the applicant the period within which appeal may be preferred.

20. If an applicant is required to make payment for obtaining information, in addition to the application fee, the Central Public Information Officer would inform the applicant about the details of further fees alongwith the calculation made to arrive at the amount payable by the applicant. After receiving such a communication from the CPIO, the applicant may deposit the amount by way of cash against proper receipt or by Demand Draft or by Banker's cheque or by Indian Postal Order in favour of the Accounts Officer of the concerned public authority. The CPIO is under no obligation to make available the information if the additional fee intimated by him is not deposited by the applicant.

21. Where an additional fee is required to be paid, the period intervening between the dispatch of the intimation regarding payment of additional fee and payment of fee by the applicant shall be excluded for the purpose of computing the period of thirty days within which the CPIO is required to furnish the information.

22. If the CPIO fails to send decision on the request on the information within the period of thirty days or forty-eight hours, as the case may be, the information may be deemed to have been refused.

### **First Appeal**

23. If an applicant is not supplied information within the prescribed time of **thirty days or 48 hours**, as the case may be, or is not satisfied with the information furnished to him, he may prefer an appeal to the first appellate authority who is an officer senior in rank to the CPIO. Such an appeal, should be filed within a period of **thirty days** from the date on which the limit of 30 days of supply of information is expired or from the date on which the information or decision of the CPIO is received.

24. The appellate authority of the public authority shall dispose of the appeal within a period of thirty days or in exceptional cases within 45 days of the receipt of the appeal.



## **Second Appeal**

25. If the appellate authority fails to pass an order on the appeal within the prescribed period or if the appellant is not satisfied with the order of the first appellate authority, he may prefer a second appeal with the Central Information Commission within ninety days from the date on which the decision should have been made by the first appellate authority or was actually received by the appellant. The appeal made to the Central Information Commission should contain the following information: -

- (i) Name and address of the appellant;
- (ii) Name and address of the Central Public Information Officer against the decision of whom the appeal is preferred;
- (iii) Particulars of the order including number, if any, against which the appeal is preferred;
- (iv) Brief facts leading to the appeal;
- (v) If the appeal is preferred against deemed refusal, particulars of the application, including number and date and name and address of the Central Public Information Officer to whom the application was made;
- (vi) Prayer or relief sought;
- (vii) Grounds for prayer or relief;
- (viii) Verification by the appellant; and
- (ix) Any other information, which the Commission may deem necessary for deciding the appeal.

26. The appeal made to the Central Information Commission should be accompanied by the following documents:

- (i) Self-attested copies of the orders or documents against which appeal is made;
- (ii) Copies of the documents relied upon by the appellant and referred to in the appeal; and
- (iii) An index of the documents referred to in the appeal.

## **Complaints**

27. If any person is unable to submit a request to a Central Public Information Officer either by reason that such an officer has not been appointed by the concerned public authority; or the Central Assistant Central Public Information Officer has refused to accept his or her application or appeal for forwarding the same to the Central Public Information Officer or the appellate authority, as the case may be; or he has been refused access to any information requested by him under the RTI Act; or he has not been given a response to a request for information within the time limit specified in the Act; or he has been required to pay an amount of fee which he considers unreasonable; or he believes that he has been given incomplete, misleading or false information, he can make a complaint to the Central Information Commission.

## **Disposal of Appeals and Complaints by the CIC**

28. The Central Information Commission decides the appeals and complaints and conveys its decision to the appellant/complainant and first appellate authority/CPIO. The Commission may decide an appeal/complaint after hearing the parties to the appeal/complaint or by inspection of documents produced by the appellant/complainant and CPIO or such senior officer of the public authority who decided the first appeal. If the Commission chooses to hear the parties before deciding the appeal or the complaint, the Commission will inform of the date of hearing to the appellant or the complainant at least seven clear days before the date of hearing. The appellant/complainant has the discretion to be present in person or through his authorized representative at the time of hearing or may opt not to be present.

## **Important Web-sites**

29. Given below are the addresses of some important web-sites which contain substantial information relevant to the right to information: -

- (i) Portal of the Government of India (<http://indiaimage.nic.in>).
- (ii) Portal on the Right to Information ([www.rti.gov.in](http://www.rti.gov.in)).
- (iii) Website of the Central Information Commission (<https://cic.gov.in/>).

## **Guide for the Central Public information officers**

The Right to Information Act, 2005 empowers citizens to get information from any 'public authority'. The Central Public Information Officer (CPIO) of a Public authority plays a pivotal role in making the right of a citizen to information a reality. The Act casts specific duties on him and makes him liable for penalty in case of default. It is, therefore, essential for a CPIO to study the Act carefully and understand its provisions correctly. Following aspects should particularly be kept in view while dealing with the applications under the Act.

### **What is Information**

2. Information is any material in any form. It includes records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material held in any electronic form. It also includes information relating to any private body which can be accessed by the public authority under any law for the time being in force.

### **Right to Information under the Act**

3 A citizen has a right to seek such information from a public authority which is held by the public authority or which is held under its control. This right includes inspection of work, documents and records: taking notes, extracts or certified copies of documents or records; and taking certified samples of material held by the public authority or held under the control of the public authority.

4. The Act gives the citizens a right to information at par with the Members of Parliament and the Members of State Legislatures. According to the Act, the information which cannot be denied to the Parliament or a State Legislature, shall not be denied to any person.

5. A citizen has a right to obtain an information in the form of diskettes, floppies, tapes, video cassettes or in any other electronic mode or through print-outs provided such information is already stored in a computer or in any other device from which the information may be transferred to diskettes etc.

6. The information to the applicant should ordinarily be provided in the form in which it is sought. However, if the supply of information sought in a particular form would

disproportionately divert the resources of the public authority or may cause harm to the safety or preservation of the records, supply of information in that form may be denied.

7. The Act gives the right to information only to the citizens of India. It does not make provision for giving information to Corporations, Associations, Companies etc. which are legal entities/persons, but not citizens. However, if an application is made by an employee or office-bearer of any Corporation, Association, Company. NGO etc. indicating his name and such employee/office bearer is a citizen of India, information may be supplied to him/her. In such cases, it would be presumed that a citizen has sought information at the address of the Corporation etc.

8. Only such information is required to be supplied under the Act which already exists and is held by the public authority or held under the control of the public authority. The CPIO is not supposed to create information; or to interpret information; or to solve the problems raised by the applicants; or to furnish replies to hypothetical questions.

### **Information Exempted from Disclosure**

9. Sub-section (1) of section 8 and section 9 of the Act enumerate the types of information which is exempt from disclosure. Sub-section (2) of section 8, however, provides that information exempted under sub-section (1) or exempted under the Official Secrets Act, 1923 can be disclosed if public interest in disclosure overweighs the harm to the protected interest. Further, sub-section (3) of section 8 provides that information exempt from disclosure under sub-section (1), except as provided in clauses (a), (c) and (i) thereof, would cease to be exempted after 20 years from the date of occurrence of the related event etc.

10. It may be noted that section 8(3) of the Act does not require the public authorities to retain records for indefinite period. The records should be retained as per the record retention schedule applicable to the concerned public authority. Information generated in a file may survive in the form of an OM or a letter or in any other form even after destruction of the file/record. The Act requires furnishing of information so available after the lapse of 20 years even if such information was exempt from disclosure under sub-section (1) of Section 8. It means that the information which, in normal course, is exempt from disclosure under sub-section (1) of Section 8 of the Act, would cease to be exempted if 20 years have lapsed after occurrence

of the incident to which the information relates. However, the following types of information would continue to be exempt and there would be no obligation, even after lapse of 20 years, to give any citizen-

(i) information disclosure of which would prejudicially affect the sovereignty and integrity of India, the security, strategic, scientific or economic interest of the State, relation with foreign state or lead to incitement of an offence;

(ii) information the disclosure of which would cause a breach of privilege of Parliament or State Legislature; or

(iii) cabinet papers including records of deliberations of the Council of Ministers. Secretaries and other Officers subject to the conditions given in proviso to clause (i) of sub-section (1) of Section 8 of the Act.

#### **Right to Information Vis-a-Vis other Acts**

11. The RTI Act has over-riding effect vis-à-vis other laws inasmuch as the provisions of the RTI Act would 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 the RTI Act.

#### **Rendering Assistance to Applicants**

12. The Central Public Information Officer has a duty to render reasonable assistance to the persons seeking information. As per provisions of the Act, a person, who desires to obtain any information is required to 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 made. If a person seeking information is not able to make such request in writing, the Central Public Information Officer should render reasonable assistance to him to reduce the same in writing.

13. Where access to a record is required to be provided to a sensorily disabled person, the Central Public Information Officer should provide assistance to such person to enable him to access the information. He should also provide such assistance to the person as may be appropriate for the inspection of records where such inspection is involved.

### **Assistance Available to CPIO**

14. The Central Public Information Officer may seek the assistance of any other officer as he or she considers necessary for the proper discharge of his or her duties. The officer, whose assistance is so sought by the CPIO, would render all assistance to him. Such an officer shall be deemed to be a Central Public Information Officer and would be liable for contravention of any provisions of the Act the same way as any other Central Public Information Officer. It would be advisable for the CPIO to inform the officer whose assistance is sought, about the above provision, at the time of seeking his assistance.

### **Suo Motu Disclosure**

15. The Act makes it obligatory for every public authority to make suo-motu disclosure in respect of the particulars of its organization, functions, duties and other matters, as provided in section 4 of the Act. The information so published, according to sub-section (4) of section 4, should be easily accessible with the CPIO in electronic format. The CPIO should, therefore, make concerned efforts to ensure that the requirements of the Section 4 are met and maximum information in respect of the public authority is made available on the internet. It would help him in two ways. First, the number of applications under the Act would be reduced and secondly, it would facilitate his work of providing information inasmuch as most of the information would be available to him at one place.

### **Fee for Seeking Information**

16. An applicant, along with his application, is required to send a demand draft or a banker's cheque or an Indian Postal Order of Rs.10/- (Rupees ten), payable to the Accounts Officer of the public authority as fee prescribed for seeking information. He can also make payment of fee by way of cash to the Accounts Officer of the public authority or to the Central Assistant Public Information Officer against proper receipt.

17. Additional fee has been prescribed by the Right to Information (Regulation of Fee and Cost) Rules, 2005 for supply of information as given below.

- (a) rupees two (Rs. 2/-) for each page (in A-4 or A-3 size paper) created or copied;
- (b) actual charge or cost price of a copy in larger size paper;
- (c) actual cost or price for samples or models;
- (d) for inspection of records. no fee for the first hour; and a fee of rupees five (Rs.5/-) for each subsequent hour (or fraction thereof);
- (e) for information provided in diskette or floppy rupees fifty (Rs.50/-) per diskette or floppy; and
- (f) for information provided in printed form at the price fixed for such publication or rupees two per page of photocopy for extracts from the publication.

18. If the applicant belongs to below poverty line (BPL) category, he is not required to pay any fee. However, he should submit a proof in support of his claim to belong to the below poverty line. The application not accompanied by the prescribed fee of Rs.10/- or proof of the applicant's belonging to below poverty line, as the case may be, shall not be a valid application under the Act and, therefore, does not entitle the applicant to get information.

### **Contents and Format of Application**

19. An applicant making request for information is not required to give any reason for requesting the information or any other personal details except those that may be necessary for contacting him. Also, the Act or the Rules do not prescribe any format of application for seeking information. Therefore, the applicant should not be asked to give justification for seeking information or to give details of his job etc. or to submit application in any particular form.

### **Invalid Applications**

20. Soon after receiving the application, the CPIO should check whether the applicant has made the payment of application fee of Rs. 10 or whether the applicant is a person belonging to a Below Poverty Line (BPL) family. if application is not accompanied by the prescribed fee or the BPL Certificate, it cannot be treated as a valid application under the RTI Act and may be ignored.

### **Transfer of Application**

21. If the application is accompanied by the prescribed fee or the Below Poverty Line Certificate, the CPIO should check whether the subject matter of the application or a part thereof concerns some other public authority. If the subject matter of the application concerns any other public authority, it should be transferred to that public authority. If only a part of the application concerns the other public authority, a copy of the application may be sent to that public authority, clearly specifying the part which relates to that public authority. While transferring the application or sending a copy thereof, the concerned public authority should be informed that the application fee has been received. The applicant should also be informed about the transfer of his application and the particulars of the public authority to whom the application or a copy thereof has been sent.

22. Transfer of application or part thereof as the case may be, should be made as soon as possible and in any case within five days from the date of receipt of the application. If a CPIO transfers an application after five days from the receipt of the application, he would be responsible for delay in disposing of the application to the extent of number of days which he takes in transferring the application beyond 5 days.

23. The CPIO of the public authority to whom the application is transferred, should not refuse acceptance of transfer of the application on the ground that it was not transferred to him within 5 days.

24. A public authority may designate as many CPIOs for it, as it may deem necessary. It is possible that in a public authority with more than one CPIO, an application is received by the CPIO other than the concerned CPIO. In such a case, the CPIO receiving the application should transfer it to the concerned CPIO immediately, preferably the same day. Time period of five days for transfer of the application applies only when the application is transferred from one public authority to another public authority and not for transfer from one CPIO to another in the same public authority.

### **Supply of Information**

25. The answering CPIO should check whether the information sought or a part thereof is exempt from disclosure under section 8 or Section 9 of the Act. Request in respect of the part of



the application which is so exempt may be rejected and rest of the information should be provided immediately or after receipt of additional fees, as the case may be.

26. Where a request for information is rejected, the Central Public Information Officer should communicate to the person making the request—

- (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 authority to whom an appeal can be made.

27. If additional fee is required to be paid by the applicant as provided in the Right to Information (Regulation of Fee and Cost) Rules, 2005. the Central Public Information Officer should inform the applicant:

- (i) the details of further fees required to be paid;
- (ii) the calculations made to arrive at the amount of fees asked for;
- (iii) the fact that the applicant has a right to make appeal about the amount of fees so demanded;
- (iv) the particulars of the authority to whom such an appeal can be made; and
- (v) the time limit within which the appeal can be made.

#### **Supply of Part Information by Severance**

28. Where a request is received for access to information which is exempt from disclosure but a part of which is not exempt and such part can be severed in such a way that the severed part does not contain exempt information then, access to that part of the information/record may be provided to the applicant. Where access is granted to a part of the record in such a way, the Central Public Information Officer should inform the applicant that the information asked for is exempt from disclosure and that only part of the record is being provided. after severance, which is not exempt from disclosure. While doing so, he should give the reasons for the decision, including any findings on any material question of fact, referring to the material on which those findings were based. The CPIO should take the approval of appropriate authority before supply of information in such a case and should inform the name and designation of the person giving the decision to the applicant also.

### **Time Period for Supply of Information**

29. The CPIO should supply the information within thirty days of the receipt of the request. Where the information sought for concerns the life or liberty of a person, the same should be provided within forty-eight hours of the receipt of the request.

30. Every public authority is required to designate an officer at each sub-divisional level or other sub-district level as a Central Assistant Public Information Officer (CAPIO) to receive the applications or appeals under the Act for forwarding the same to the Central Public Information Officer or the first Appellate Authority or the Central Information Commission. If request for information is received through the CAPIO, the information may be provided within 35 days of receipt of application by the CAPIO in normal course and 48 hours plus 5 days in case the information sought concerns the life or liberty of a person.

31. In case of an application transferred from one public authority to another public authority, as referred to in para 21, reply should be provided by the concerned public authority within 30 days of the receipt of the application by that public authority in normal course and within 48 hours in case the information sought concerns the life or liberty of a person.

32. Where the applicant is asked to pay additional fee, the period intervening between the dispatch of the intimation about payment of fee and the payment of fee by the applicant shall be excluded for the purpose of calculating the period of reply. The following table shows the maximum time which may be taken to dispose off the applications in different situations:

<b>Sr. No.</b>	<b>Situation</b>	<b>Time limit for disposing off applications</b>
1.	Supply of information in normal course.	30 days
2.	Supply of information if it concerns the life or liberty of a person	48 hours
3.	Supply of information if the application/request is received through CAPIO.	05 days shall be added to the time period indicated at Sr. No. 1 and 2.
4.	Supply of information if application/request is received after transfer from another public authority: (a) In normal course (b) In case the information concerns the life or liberty of a person.	(a) Within 30 days of the receipt of the application by the concerned public authority.

		(b) Within 48 hours of receipt of application by the concerned public authority.
5.	Supply of information by organizations specified in the Second Schedule. (a) If information relates to allegations of violation of human rights. (b) In case information relates to allegations of corruption.	(a) 45 days from the receipt of application. (b) Within 30 days of the receipt of application.
6.	Supply of information if it relates to third party and the third party has treated it as confidential.	Should be provided after following the procedure given in para 37 to 41 of these guidelines.
7.	Supply of information where the applicant is asked to pay additional fee.	The period intervening between informing the applicant about additional fee and the payment of fee by the application shall be excluded for calculating the period of reply.

33. If the CPIO fails to give decision on the request for information within the prescribed period, the Central Public Information Officer shall be deemed to have refused the request. It is pertinent to note that if a public authority fails to comply with the specified time limit, the information to the concerned applicant would have to be provided free of charge.

### **Third Party Information**

34. Third party in relation to the Act means a person other than the citizen who has made request for information. Any public authority other than the public authority to whom the request has been made shall also be included in the definition of third party.

35. It may be noted that information including commercial confidence, trade secrets or intellectual property, the disclosure of which would harm the competitive position of a third party, is exempt from disclosure. **Section 8(1)(d) requires that such information should not be disclosed unless the competent authority is satisfied that larger public interest warrants the disclosure of such information.**

36. **If an applicant seeks any information which relates to or has been supplied by a third party and that third party has treated that information as confidential, the Central Public Information Officer should consider whether the information should be disclosed or not. The guiding principle in such cases should be 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.** However, procedure as given below should be followed before disclosing such information. It may be noted that this procedure need be followed only when the third part has treated the information as confidential.

37. If the CPIO intends to disclose the information, he should within five days from the receipt of the application, give a written notice to the third party that the information has been sought by the applicant under the RTI Act and that he intends to disclose the information. He should request the third party to make a submission in writing or orally. regarding whether the information should be disclosed. The third party should be given a time of ten days. from the date of receipt of the notice by him, to make representation against the proposed disclosure, if any.

38. The Central Public Information Officer should make a decision regarding disclosure of the information keeping in view the submission of the third party. Such a decision should oe taken **within forty days** from the receipt of the request for information. After taking the decision, the CPIO should give a notice of his decision to the third party in writing. The notice given to the third party should include a statement that the third party is entitled to prefer an appeal under section 19 against the decision.

39. The third party can prefer an appeal to the First Appellate Authority against the decision made by the Central Public Information Officer within thirty days from the date of the receipt of notice. If not satisfied with the decision of the First Appellate Authority, the third party can prefer the second appeal to the Central Information Commission.

40. If an appeal has been filed by the third party against the decision of the CPIO to disclose the third party information, the information should not be disclosed till the appeal is decided.

### **Appeals and Complaints**

41. If an applicant is not supplied information within the prescribed time limit, or is not satisfied with the information furnished to him, he may prefer an appeal to the first appellate authority who is an officer senior in rank to the CPIO. Such an appeal can be made within a period of 30 days from the date on which time limit for supply of information expires or the decision of the CPIO is received. The appellate authority of the public authority is expected to dispose of the appeal within a period of **thirty days** or in exceptional cases within **45 days** of the receipt of the appeal. If the first appellate authority fails to pass an order on the appeal within the prescribed period of if the appellate is not satisfied with the order of the first appellate authority, he may prefer a second appeal with the Central Information Commission within ninety days from the date on which the decision should have been made by the first appellate authority or was actually received by the appellant.

42. If any person is unable to submit a request to a Central Public Information Officer either by reason that such an officer has not been appointed by the concerned public authority; or the Central Assistant Central Public Information Officer has refused to accept his or her application or appeal for forwarding the same to the Central Public Information Officer or the appellate authority, as the case may be; or he has been refused access to any information requested by him under the RTI Act; or he has not been given a response to a request for information within the time limit specified in the Act; or he has been required to pay an amount of fee which he considers unreasonable; or he believes that he has been given incomplete, misleading or false information, he can make a complaint to the Central Information Commission.

### **Imposition of Penalty**

43. As pointed out above, an applicant under the Act has a right to appeal to the Central Information Commission and also to make complaint to the Commission. Where the Central Information Commission at the time of deciding any complaint or appeal is of the opinion that the Central Public Information Officer has without any reasonable cause, refused to receive an application for information or has not furnished information within the time specified 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 subject to the

condition that the total amount of such penalty shall not exceed twenty-five thousand rupees. The Central Public Information Officer however, be given a reasonable opportunity of being heard before any penalty is imposed on him. The burden of proving that he acted reasonably and diligently and in case of denial of a request that such denial was justified shall be on the Central Public Information Officer.

### **Disciplinary Action Against CPIO**

44. Where the Central Information Commission at the time of deciding any complaint or appeal is of the opinion that the Central Public Information Officer has without any reasonable cause and persistently failed to receive an application for information or has not furnished information within the time specified 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 may recommend for disciplinary action against the Central Public Information Officer.

### **Protection for Work Done in Good Faith**

45. Section 21 of the Act provides that 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 the Act or any rule made thereunder. A CPIO should however, note that it would be his responsibility to prove that his action was in good faith.

### **Annual Report of the CIC**

46. The Central Information Commission prepares a report on the implementation of the provisions of the RTI Act every year, which is laid before each House of the Parliament. This report inter-alia, has to include information about the number of requests made to each public authority, the number of decisions where the applicants were not entitled to access to documents requested for, the provisions of the Act under which these decisions were made and the number of times such provisions were invoked, the amount of charges collected by each public authority under the Act. Each Ministry/Department is required to collect such information from all the public authorities under its jurisdiction and send the same to the Commission. The CPIOs should maintain the requisite information in this regard so that it may be supplied to their administrative

Ministry/Department soon after the end of the year, which in turn may supply to the Commission.

### **Guide for the Public Authorities**

Public authorities are the repository of information which the citizens have a right to have under the Right to Information Act, 2005. As defined in the Act, a "public authority" is any authority or body or institution of self government established or constituted by or under the Constitution; or by any other law made by the Parliament or a State Legislature; or by notification issued or order made by the Central Government or a State Government. Bodies owned, controlled or substantially financed by the Central Government or a State Government and non-Government organisations substantially financed by the Central Government or a State Government also fall within the definition of public authority. The financing of the body or the NGO by the Government may be direct or indirect.

2. The Act casts important obligations on public authorities so as to facilitate the citizens of the country to access the information held under their control. The obligations of a public authority are basically the obligations of the head of the authority, who should ensure that these are met in 'right earnest. Reference made to public authority in this document is, in fact, a reference to the head of the public authority.

### **What is Information**

3. Information is not an abstract concept under the RTI Act. It is conceived as being contained in any material 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. It also includes information relating to any private body which can be accessed by the public authority under any law for the time being in force.

### **Right to Information under the Act**

4. A citizen has a right to seek such information from a public authority which is held by the public authority or which is held under its control. This right includes inspection of work, documents and records; taking notes, extracts or certified copies of documents or records; and taking certified samples of material held by the public authority or held under the control of the public authority.

5. The Act gives the citizens a right to information at par with the Members of Parliament and the Members of State Legislatures. According to the Act, the information which cannot be denied to the Parliament or a State Legislature, shall not be denied to any person.

6. A citizen has a right to obtain an information in the form of diskettes, floppies, tapes, video cassettes or in any other electronic mode or through print-outs provided such information is already stored in a computer or in any other device from which the information may be transferred to diskettes etc.

7. The information to the applicant should ordinarily be provided in the form in which it is sought. However, if the supply of information sought in a particular form would disproportionately divert the resources of the public authority or may cause harm to the safety or preservation of the records, supply of information in that form may be denied.

8. The Act gives the right to information only to the citizens of India. It does not make provision for giving information to Corporations, Associations, Companies etc. which are legal entities/persons, but not citizens. However, if an application is made by an employee or office-bearer of any Corporation, Association, Company, NGO etc. indicating his name and such employee/office bearer is a citizen of India, information may be supplied to him/her. In such cases, it would be presumed that a citizen has sought information at the address of the Corporation etc.

9. Only such information is required to be supplied under the Act which already exists and is held by the public authority or held under the control of the public authority. It is not required



under the Act to create information; or to interpret information; or to solve the problems raised by the applicants; or to furnish replies to hypothetical questions.

### **Information Exempted From Disclosure**

10. Sub-section (1) of section 8 and section 9 of the Act enumerate the types of information which is exempt from disclosure. Sub-section (2) of section 8, however, provides that information exempted under sub-section (1) or exempted under the Official Secrets Act, 1923 can be disclosed if public interest in disclosure overweighs the harm to the protected interest. Further, sub-section (3) of section 8 provides that information exempt from disclosure under sub-section (1), except as provided in clauses (a), (c) and (I) thereof, would cease to be exempted after 20 years from the date of occurrence of the related event etc.

11. It may be noted that section 8(3) of the Act does not require the public authorities to retain records for indefinite period. The records should be retained as per the record retention schedule applicable to the concerned public authority. Information generated in a file may survive in the form of an OM or a letter or in any other form even after destruction of the file/record. The Act requires furnishing of information so available after the lapse of 20 years even if such information was exempt from disclosure under sub-section(1) of Section 8. It means that the information which, in normal course, is exempt from disclosure under sub-section(1) of Section 8 of the Act, would cease to be exempted if 20 years have lapsed after occurrence of the incident to which the information relates. However, the following types of information would continue to be exempt and there would be no obligation, even after lapse of 20 years, to give any citizen-

(i) information disclosure of which would prejudicially affect the sovereignty and integrity of India, the security, strategic, scientific or economic interest of the State, relation with foreign state or lead to incitement of an offence;

(ii) information the disclosure of which would cause a breach of privilege of Parliament or State Legislature; or

(iii) cabinet papers including records of deliberations of the Council of Ministers, Secretaries and other Officers subject to the conditions given in proviso to clause (I) of sub-section(1) of Section 8 of the Act.

### **Timely Supply of Information**

12. The Act requires that except in some special circumstances, decision on an application for information should be given within 30 days of the receipt of the request. Where the information sought for concerns the life or liberty of a person, the same should be provided within forty-eight hours of the receipt of the request. If the decision on the request for information is not given within the prescribed period, it is deemed that the request has been refused. It is pertinent to note that if a public authority fails to comply with the specified time limit, the information to the concerned applicant would have to be provided free of charge.

### **Right to Information Vis-a-Vis other Acts**

13. The RTI Act has over-riding effect vis-a-vis other laws inasmuch as the provisions of the RTI Act would 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 the RTI Act.

### **Maintenance and Computerisation of Records**

14. Proper management of records is of utmost importance for effective implementation of the provisions of the Act. A public authority should, therefore, maintain all its records properly. It should ensure that the records are duly catalogued and indexed in such a manner and form that it may facilitate the right to information.

15. The Public authorities should computerize all its records which are appropriate to be computerized. Records so computerised should be connected through a network on different systems so that access to such records is facilitated.

### **Suo Motu Disclosure**

16. Every public authority should provide as much information suo motu to the public through various means of communications so that the public have minimum resort to the use of the Act to obtain information. Internet being one of the most effective means of communications, the information may be posted on the website.

17. Section 4(1)(b) of the Act, in particular, requires every public authority to publish following sixteen categories of information:

- (1) 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;
- (ix) 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;

18. Besides the categories of information enumerated above, the Government may prescribe other categories of information to be published by any public authority. It need be stressed that publication of the information as referred to above is not optional. It is a statutory requirement which every public authority is bound to meet.

19. An another important point to note is that it is not sufficient to publish the above information once. The public authority is obliged to update such information every year. It is advisable that, as far as possible, the information should be updated as and when any development takes place. Particularly, in case of publication on the Internet, the information should be kept updated all the time.

### **Dissemination of Information**

20. The public authority should widely disseminate the information. Dissemination should be done in such form and manner which is easily accessible to the public. It may be done through notice boards, newspapers, public announcements, media broadcast, the Internet or any other means. The public authority should take into consideration the cost effectiveness, local language and most effective method of communication in the local area while disseminating the information.

### **Publication of Facts about Policies and Decisions**

21. Public authorities formulate policies and take various decisions from time to time. As provided in the Act, while formulating important policies or announcing the decisions affecting the public, the public authority should publish all relevant facts about such policies and decisions for the information of public at large.

### **Providing Reasons for Decisions**

22. The public authorities take various administrative and quasi-judicial decisions which affect the interests of certain persons. It is mandatory for the concerned public authority to provide reasons for such decisions to the affected persons. It may be done by using appropriate mode of communication.

### **Designation of CPIOs etc.**

23. Every public authority is required to designate Public Information Officers in all the administrative units or offices under it. The public authorities should also designate the First Appellate Authorities and publish the details thereof alongwith the details of the Public Information Officers. Every public authority is also required to designate Assistant Public Information Officers at each sub-divisional level. The Government has decided that Central Assistant Public Information Officers (CAPIOs) appointed by the Department of Posts would act as CAPIOs for all the public authorities under the Government of India.

### **Acceptance of Fee**

24. According to the Right to Information (Regulation of Fee and Cost) Rules, 2005 as amended by the Right to Information (Regulation of Fee and Cost) Rules, 2006, an applicant can make payment of fee in cash or by demand draft or banker's cheque or Indian Postal Order payable to the Accounts Officer of the public authority. The public authority should ensure that payment by any of the above modes is not denied or the applicant is not compelled to draw IPO etc. in the name of any officer other than the Accounts Officer. If any public authority does not have any Accounts Officer, an officer may be designated as such for the purpose of receiving fee under the RTI Act or rules made thereunder.

### **Transfer of Applications**

25. The Act provides that if an application is made to a public authority requesting for an information, which is held by another public authority; or 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 relevant part of it to that other public authority within five days from the receipt of the application. The public authority should sensitize its officers about this provision of the Act lest the public authority is held responsible for delay.

### **Compliance with the Orders of the CIC**

26. While deciding an appeal, the Central Information Commission, may require the concerned public authority to take such steps as may be necessary to secure compliance with the provisions of the Act. In this regard the Commission may pass an order to provide information to an applicant in a particular form; appoint a Public Information Officer; publish certain

information or categories of information; make necessary changes to its practices in relation to the maintenance, management and destruction of records; enhance the provision of training for its officials; provide an annual report as prepared in compliance with clause (b) of subsection (1) of section 4 of the Act.

27. The Commission has power to pass orders requiring a public authority to compensate the complainant for any loss or other detriment suffered by him. It also has power to impose penalty on the Public Information Officer as provided in the Act. It may be noted that penalty is imposed on the Public Information Officer which is to be paid by him. However, the compensation, ordered by the Commission to be paid to an applicant would have to be paid by the public authority,

28. The decisions of the Commission are binding. The public authority should ensure that the orders passed by the Commission are implemented. If any public authority is of the view that an order of the Commission is not in consonance with the provisions of the Act, it may approach the High Court by way of a Writ Petition.

### **Annual Report of the CIC**

29. The Central Information Commission, after the end of each year, is required to prepare a report on the implementation of the provisions of the Act during that year. Each Ministry or Department is required, in relation to the public authorities within its jurisdiction, to collect and provide information to the Central Information Commission for preparation of the report. The report of the Commission, inter-alia, contains following information 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 the Act under which these decisions were made and the number of times such provisions were invoked;
- (c) particulars of any disciplinary action taken against any officer in respect of the administration of the Act;
- (d) the amount of charges collected by each public authority under the Act; and

(e) any facts which indicate an effort by the public authorities to administer and implement the spirit and intention of the Act.

30. Every public authority should send necessary material to its administrative Ministry/Department soon after the end of the year so that the Ministry/Department may send the information to the Commission and the Commission may incorporate the same in its report.

31. If it appears to the Central Information Commission that a practice of a public authority in relation to the exercise of its functions under the Act does not conform with the provisions or spirit of the Act, it may give a recommendation to the authority specifying the steps ought to be taken for promoting such conformity. The concerned public authority should take necessary action to bring its practice in conformity with the Act.

#### **Development of Programmes etc.**

32. It is expected of each public authority that it would 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 the Act; and ensure timely and effective dissemination of accurate information about their activities. Training of the Public Information Officers and other officers of a public authority is very important for meeting these expectations and effective implementation of the provisions of the Act. The public authorities should, therefore, arrange for training of their officers designated as Public Information Officer/First Appellate Authority and other officers who are directly or indirectly involved in the implementation of the provisions of the Act.