

A Manual for Public Authorities, Information Officers & Appellate Authorities

(The Right to Information Act, 2005)



Capacity Building for
Access to Information

NiA

A GoI-UNDP Initiative

June 2006

While all efforts have been made to make this Manual as accurate and elaborate as possible, the information given in this book is merely for reference and must not be taken as binding in any way. This Manual is intended to provide guidance to the readers, but cannot be a substitute for the Act and the Rules made thereunder.

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Introduction to the Manual

The enactment of the Right to Information Act, 2005 is a historic event in the annals of democracy in India. Information is power and now a citizen has the right to access information “held by or under control of” the public authorities. Concurrently, it is the duty of all public authorities to provide information sought by citizens. A sea change can be achieved towards transparency and accountability in governance by implementing the Act in letter and spirit.

The Act mandates a legal-institutional framework for setting out the practical regime of right to information for every citizen to secure access to information under the control of public authorities. It prescribes mandatory disclosure of certain information to citizens, and designation of Public Information Officers (“PIOs”) and Assistant Public Information Officers (“APIOs”) in all public authorities to attend to requests from citizens for information within stipulated time limits. It provides for appeal to officers senior in rank to Public Information Officers [to be referred to as ‘Appellate Officers’ (“AOs”) in this Manual] against the decisions of PIOs. It also mandates the constitution of a Central Information Commission (CIC) and State Information Commissions (SICs) to inquire into complaints, hear second appeals, and guide implementation of the Act.

In realising the objectives of the RTI Act, the role of APIOs, PIOs and AOs as laid out in the Act assumes considerable importance. These authorities have to ensure that the relevant information is maintained, processed and made accessible to the citizens in a timely manner. To enable the authorities to discharge their mandated functions, there is a need for systematic capacity building programmes for their key functionaries from time to time.

The Centre for Good Governance (CGG), Hyderabad in partnership with Yashwantrao Chavan Academy of Development Administration (YASHADA), Pune, has been designated as the ‘National Implementing Agency’ (NIA), under the Department of Personnel and Training (DoPT), Ministry of Personnel, Government of India and United Nations Development Programme (UNDP) supported ‘Capacity Building for Access to Information’ (CBAI) Project.

This Project intends to promote capacity building activities for implementing the Right to Information Act, 2005 in 24 districts in 12 selected States (2 Districts in each State) in the country over the period 2005-08. Under the project, the NIA is carrying out various activities

like training of resource persons (who in turn would conduct training programmes at State and District levels for APIOs/PIOs/AOs, other Government officials, NGOs, CSOs, media representatives etc.), launching the R2Inet – a comprehensive portal/network on Right to Information, conducting workshops with various stakeholders, preparing handbooks and manuals to guide smooth implementation of the Act and undertaking other advocacy and dissemination activities.

As a part of the agenda of the CBAI Project, the NIA is publishing manuals for use by various stakeholders including public authorities, civil society and citizen groups who play a key role in making the right to information a tool for good governance and effective service delivery. This Manual, prepared by the 'CBAI–NIA team' at CGG as a guide for APIOs, PIOs and Appellate Authorities, is a part of the activities planned under the project during 2006-08. It provides comprehensive guidelines to the relevant authorities for effectively discharging their functions. The specific objectives of the Manual are to:

- Provide perspectives on access to information and an overview on the Right to Information Act, 2005 to APIOs, PIOs, Appellate Authorities and other entities;
- Enumerate and clarify the roles, responsibilities and duties of APIOs, PIOs, AOs and the Information Commission under the Act;
- Elucidate the Principles underlying the RTI Act and the Legal-institutional Framework mandated therein which covers APIOs, PIOs, AOs and the Information Commissions;
- Assist APIOs, PIOs, AOs and Information Commissions with a reference / ready reckoner on various provisions of the Act to enable them to effectively discharge their legitimate functions on a day-to-day basis;
- Assist public authorities to undertake various preparatory activities including establishing support systems for APIOs/PIOs/AOs/Information Commissions to usher in the practical regime of right to information for all citizens;
- Prepare APIOs, PIOs and AOs to handle various kinds of situations that may arise during the course of implementation of the Act's provisions;
- Clarify on the penal provisions of the Act relating to PIOs, the circumstances in which penalties could be imposed on PIOs, the disciplinary action that could be recommended against them by the Information Commission; and

- Suggest the records to be maintained by APIOs/PIOs/AOs/Information Commissions, procedures to be followed and actions to be taken by PIOs/AOs for promptly disposing information requests/appeals, furnishing data to the Information Commission for the preparation of its Annual Report, and rendering services to citizens under the Act.

Chapter 1 of the Manual provides the international and Indian perspectives on right to information. **Chapter 2** presents an overview of the Right to Information Act, 2005. Chapter 3 highlights the role of Public Authorities under the Act. **Chapters 4 and 5** describe the functions of Public Information Officers and Appellate Authorities respectively. (Appellate Officers and Information Commissions have been taken together to mean Appellate Authorities). **Chapter 6** discusses the need for record keeping and monitoring systems to be put in place and suggests formats for the same. **Chapter 7** provides a list of Important Questions for the benefit of Information Officers and Appellate Officers in Public Authorities.

Appendices 1 and 2 suggest proformae for registers to be maintained by Public Authorities including APIOs, PIOs and AOs and by the Information Commissions. **Appendix 3** suggests proformae for compilation of annual consolidated statements to monitor the status of implementation of the Act.

Appendix 4 presents some Important Notifications issued by the Government of India, with respect to the implementation of the RTI Act, 2005. **Appendix 5** gives a List of Select Resources on 'Access to Information' on the Web.

This Manual is primarily intended for the use by officials implementing the RTI Act. The structure of the Manual is designed to deal with key issues including legal and other matters that may come up for interpretation during the implementation of the Act.

Chapter 7 containing Some Important Questions clarifies terminologies and queries for which explanations have been frequently sought. This Manual aims at helping the officials understand the Act and guiding them in successfully implementing it.

The NIA Team hopes that the contents of this guide would be of assistance to APIOs, PIOs, AOs and Information Commissions in discharging the roles expected of them in accordance with the provisions of the Act.

Chapter 1 – Perspectives on Right to Information

Everyone has the right to freedom of opinion and expression; the right includes the right to hold opinions without interference and to seek, receive and impart information and ideas through media regardless of frontiers.

Universal Declaration of Human Rights: Article 19

1.1 The Dawn of a New Era

The Right to information Act, 2005 (“the Act”), which came fully into effect on 12 October, 2005 (on the 120th day after its enactment), is one of the most significant legislations enacted by the Parliament of India. The Act enables the establishment of an unprecedented regime of right to Information for the citizens of the country. It overrides the ‘Official Secrets Act’ and similar laws/rules. It strikes at the heart of the paradigm long practised by Government officials and public functionaries that ‘*confidentiality is the rule and disclosure is an exception*’. The Act seeks to establish that “*transparency is the norm and secrecy is an exception*” in the working of every public authority. It aims to ensure maximum openness and transparency in the machinery and functioning of Government at all levels: Central, State and Local.

The right to information is expected to lead to an informed citizenry and transparency of information which are vital to the functioning of a democracy. It will contain corruption and enable holding Governments and their instrumentalities accountable to the governed.

The ‘People’s Right to Know’ has a long history of prolonged debates, deliberations, discussions, struggles and movements at both national and international levels.

1.2 Freedom of Information - International Perspective

The importance accorded to Freedom of Information internationally can be gauged from the fact that the United Nations General Assembly, in its very first session in 1946, adopted Resolution 59 (I), which states:

“Freedom of information is a fundamental human right and . . . the touchstone of all the freedoms to which the UN is consecrated”.

Article 19 of the 'Universal Declaration of Human Rights', a United Nations General Assembly Resolution 217(III) A of 1948, has laid out equal rights for all people and three fundamental principles governing human rights: these rights are "universal", meaning that rights apply to everyone whoever or wherever that person is; "inalienable", in that they precede state authority and are based on the "humanity" of the people; and indivisible in that all rights are of equal importance. The Declaration recognises Freedom of Expression (FoE) - including Freedom of Information (FoI) and Free Press - a fundamental human right. Freedom of Expression includes the right to seek, receive and impart information and right to access information held by public authorities.

Article 19 (2) of the 'International Covenant on Civil and Political Rights' (ICCPR), a United Nations General Assembly Resolution 2200A(XXI) of 1966 states:

"Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice."

Article I of the UNESCO Declaration on 'Fundamental Principles concerning the Contribution of the Mass Media to Strengthening Peace and International Understanding, to the Promotion of Human Rights and to Countering Racism, Apartheid and Incitement to War' [1978] states:

"The strengthening of peace and international understanding, the promotion of human rights and the countering of racism, apartheid and incitement to war demand a free flow and a wider and better balanced dissemination of information."

Article II of the Declaration states:

"...the exercise of freedom of opinion, expression and information, recognized as an integral part of human rights and fundamental freedoms, is a vital factor in the strengthening of peace and international understanding..."

Article 13 of the 'UN Convention against Corruption', adopted by the United Nations General Assembly on 31 October 2003 identifies: '(i) effective access to information

for public; (ii) undertaking public information activities contributing to non-tolerance of corruption (including conducting public education programmes) and (iii) respecting, promoting and protecting the freedom to seek, receive, publish and disseminate information concerning corruption...' as important measures to be taken by Governments for ensuring the participation of society in governance.

Article 10 of the 'UN Convention against Corruption' states: "... to combat corruption, each (member State) shall, in accordance with the fundamental principles of its domestic law, take such measures as may be necessary to enhance transparency in its public administration, including with regard to its organization, functioning and decision-making processes and take measures for:

- (a) Adopting procedures or regulations allowing members of the general public to obtain, where appropriate, information on the organization, functioning and decision-making processes of its public administration and, with due regard for the protection of privacy and personal data, on decisions and legal acts that concern members of the public;
- (b) Simplifying administrative procedures, where appropriate, in order to facilitate public access to the competent decision-making authorities; and
- (c) Publishing information, (including) periodic reports on the risks of corruption in its public administration."

Freedom of Expression and Information has been adopted as fundamental human right by regional human right treaties from time to time e.g. the European Convention of Human Rights, 1950, the African Charter on Human and Peoples' Rights 1981, the Inter-American Declaration of Principles of Freedom of Expression 2000 and Declaration of the Principle of Freedom of Expression in Africa 2002. These conventions have reiterated Article 19 of the Universal Declaration of Human Rights. For example, Principle IV of the Declaration of Principles of Freedom of Expression in Africa states:

“Public bodies hold information not for themselves, but as custodians of the public good and every one has a right to access this information, subject only to clearly defined rules established by law”.

Principle III of the Recommendations on Access to Official Documents adopted by the Committee of Ministers of the Council of Europe in October 2002 provides:

“Member states should guarantee the right of everyone to have access, on request, to official documents held by public authorities. This principle should apply without discrimination on any ground, including that of national origin”.

The World Conference on Human Rights, held in Vienna in 1993 has declared that the Right to Development adopted by United Nations General Assembly in 1986 is a universal and inalienable right and an integral part of fundamental human rights. The declaration recognises that democracy, development and respect for human rights and fundamental freedoms are interdependent, and mutually reinforcing. Right to Freedom of Expression is regarded as closely linked to the Right to Development. The right to seek, receive and impart information is not merely a corollary of freedom of opinion and expression; it is a right in and of itself. As such, it is one of the rights upon which free and democratic societies depend. It is also a right that gives meaning to the right to participate which has been acknowledged as fundamental to the realization of the Right to Development.

The fundamental values associated with the concept of freedom of expression and right to information in a democratic society, are widely acclaimed internationally as follows:

- (1) Freedom of expression is essential to the development of an individual's personality. The “right to express” and to communicate is central to self-development and realization of one's potentiality as a human being. Any restriction on expression of opinion or access to information can adversely affect individual dignity, integrity and growth.

- (2) If development is to be realized, people need the freedom to participate in public life with full information as “informed” citizens, exercise their “right to say”, put forth their views, and demand, without fear of discrimination, that their Governments uphold their obligations and deliver.
- (3) Knowledge is power and freedom of information is vital to the advancement of knowledge society. Enlightened judgment is possible only if one is provided with opportunity to consider all facts and ideas, from whatever source, and to test one’s conclusion against opposing views.
- (4) Sustained human development requires that the people, especially the poor have the “right to know” and are provided with access to relevant information, including that relating to the conservation of the environment so that they can take their own “informed” decisions and realise their right to development.
- (5) Free flow of information promotes accountability and transparency, prevents corruption, and strengthens the capacity of community groups and civil society organizations to participate in decision-making. The right to freedom of information is crucial not only in determining policy but also in checking the Government in its implementation of policy.
- (6) The lack of access to information on Government policies, programmes, schemes, benefits and deliveries makes corrupt practices thrive. When corruption siphons off amounts from employment guarantee, unemployment or disability benefit, misdirects public funds for service delivery or delays pension and social security payments, it is usually the poor who suffer the most. Freedom of information can be a potent tool to prevent and fight corruption, i.e. the abuse of public power for private gains.
- (7) Freedom of information is a necessary part of our democratic polity. All power in a democracy belongs to the people who are the masters and the Government is their servant. If the people are to perform their role as sovereign and instruct their Government, they must have access to all information, ideas, and points of view. Thus, democracy must extend beyond the ballot box and be deepened through “social citizenship” and “citizen governance”.

- (8) Freedom of information is vital to the process of peaceful social change. It allows ideas to be tested in advance before action is taken, it legitimises the decision reached, and it permits adaptation to new conditions without the use of force or violence.

Realising the importance of the freedom of speech and expression including the freedom to receive and impart information, many countries – Sweden, the United States of America, Finland, the Netherlands, Australia, Canada, the United Kingdom, Japan, South Korea, Jamaica, Israel, South Africa, Thailand, India etc. – have enacted Freedom of/Right to Information Acts. The objective behind these enactments is to ensure that Governmental activity is transparent, fair and open. Most enactments are based on the paradigm that except in matters of defence, atomic energy and matters concerning the security of a country, there is no room for secrecy in the affairs of the Government. Whether it is a matter of taking a decision affecting the people or whether it is a transaction involving purchase or sale of Government property or whether the matter relates to entering into contracts - in all these matters, the Government should act in a transparent manner. This means that every citizen who wishes to obtain any information with respect to any of those matters should be entitled to receive it.

1.3 The Indian Context

Article 19 (Part III) of the Constitution of India, guarantees to all citizens, among other things, the Fundamental Right to Freedom of Speech and Expression, subject to certain “reasonable restrictions”, imposed by law, on the exercise of such a right... in the interest of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency / morality, or in relation to contempt of court, defamation or incitement to an offence.

Right to receive and right to impart information have been held to be a part of freedom of speech and expression guaranteed by sub-clause (a) of clause (1) of Article 19 of the Constitution subject of course to the reasonable restrictions, if any, that may be placed on such right in terms of and to the extent permitted by clause (2) of the said Article. It has been held by the Supreme Court in *Secretary, Ministry of I & B, Government of India v Cricket Association of Bengal* ((1995) 2 SCC 161) that:

“The freedom of speech and expression includes right to acquire information and to disseminate it. Freedom of speech and expression is necessary, for self-expression which is an important means of free conscience and self-fulfillment. It enables people to contribute to debates on social and moral issues. It is the best way to find a truest model of anything, since it is only through it that the widest possible range of ideas can circulate. It is the only vehicle of political discourse so essential to democracy. Equally important is the role it plays in facilitating artistic and scholarly endeavours of all sorts. The right to communicate, therefore, includes right to communicate through any media that is available whether print or electronic or audio-visual such as advertisement, movie, article, speech, etc. That is why freedom of speech and expression includes freedom of the press. The freedom of the press in turn includes right to circulate and also to determine the volume of such circulation. This freedom includes the freedom to communicate or circulate one’s opinion without interference to as large a population in the country, as well as abroad, as is possible to reach.”

In ‘The Cricket Association of Bengal’ case, it was held that the right to impart and receive information from electronic media is a part of the right to freedom of speech and expression.

That the right to information is a fundamental right flowing from Article 19(1)(a) of the Constitution, is now well-settled. Over the years, the Supreme Court has consistently ruled in favour of the citizen’s right to know. The nature of this right and the relevant restrictions thereto, has been discussed by the Supreme Court in a number of other cases as follows:

- In *Bennett Coleman*,¹ the right to information was held to be included within the right to freedom of speech and expression guaranteed by Article 19 (1) (a).
- In *Raj Narain*,² the Court explicitly stated: ‘The people of this country have a right to know every public act, everything that is done in a public way by their public functionaries. They are entitled to know the particulars of every public transaction in all its bearings.’

1 *Bennett Coleman v. Union of India*, AIR 1973 SC 60.

2 *State of UP v. Raj Narain*, (1975) 4 SCC 428.

Further, it is not in the interest of the public to 'cover with a veil of secrecy the common routine business... the responsibility of officials to explain and to justify their acts is the chief safeguard against oppression and corruption.'

- In *S.P. Gupta*,¹ the right of the people to know about every public act, and the details of every public transaction undertaken by public functionaries was described.
- In *P.U.C.L.*,² the right to information was further elevated to the status of a human right, necessary for making governance transparent and accountable. It was also emphasized that governance must be participatory.

1.4 Movement for Right to Freedom of Information

Notwithstanding the Constitutional provisions and Supreme Court judgments, the real movement for right to information in India originated from the grass roots level. A mass-based organisation called the Mazdoor Kisan Shakti Sangathan (MKSS) took an initiative to lead the people in a very backward region of Rajasthan - Bhim Tehsil - to assert their right to information by asking for copies of bills and vouchers and names of persons who have been shown in the muster rolls on the construction of schools, dispensaries, small dams and community centres as having been paid wages. On paper such development projects were all completed, but it was common knowledge of the villagers that there was gross misappropriation of funds with roofless school buildings, dispensaries without walls, dams left incomplete, community centres having no doors and windows, and poor quality of cement being used for construction.

After years of knocking at officials' doors and despite the usual apathy of the State Government, MKSS succeeded in getting photocopies of certain relevant documents. Misappropriation of funds was clearly obvious. In some cases, the muster rolls contained names of persons who either did not exist at all or had died years before.

1 *S.P. Gupta v. UOI*, AIR 1982 SC 149.

2 *People's Union for Civil Liberties v. UOI*, 2004 (2) SCC 476.

MKSS organised a *Jan Sunwai* (People's hearing), the first ever in the history of Rajasthan. Politicians, administrators, landless labourers, private contractors were all invited to listen, respond and, if willing, to defend themselves. Popular response was phenomenal, whereas, understandably, most Government officials and politicians stayed away and remained silent.

Between December 1994 and April 1995, several other public hearings were organised. People's anger made one engineer of the State Electricity Board to return, in public, an amount of Rs.15,000 he had extracted from a poor farmer. This grassroots movement spread fast to other areas of Rajasthan and to other States establishing firmly that information is power and people should have the right to official information – how public money is spent and how the same is accounted for. 'Loksatta', an NGO in Andhra Pradesh has undertaken mass awareness campaigns across the State and through a 'post card campaign' made representations to the Prime Minister of India demanding the enactment of a right to information law.

The Rajasthan experience on demanding right to information was echoed in other States. The growing demand for a right to public information from various sections of the society, led by civil society organisations in these States could no longer be ignored. The need to enact a law on right to information was recognised unanimously by the Chief Ministers Conference on "Effective and Responsive Government", held on 24th May, 1997 at New Delhi. The Government of India, Department of Personnel, decided to set-up a 'Working Group' (on the 'Right to Information and Promotion of Open and Transparent Government') in January 1997 under the chairmanship of Mr. H. D. Shouri, which submitted its comprehensive and detailed report and the draft Bill on Freedom of Information in May 1997.

The Press Council of India, the Press Institute of India, the 'National Campaign for People's Right to Information' and the Forum for Right to Information unanimously submitted a resolution to the Government of India to amend the proposed Bill in February, 2000.

The Government of India introduced the Freedom of Information Bill, 2000 (Bill No.98 of 2000) in the Lok Sabha on 25th July, 2000. The Bill, which cast an obligation upon public authorities to furnish such information wherever asked for, was passed by the Parliament as the Freedom of Information (Fol) Act, 2002. However, the Act could not be brought into force because the date from which the Act could come into force, was not notified in the Official Gazette.

The United Progressive Alliance (UPA) Government at the Centre, which came into power in 2004, set up a National Advisory Council (NAC). The Council suggested important changes to be incorporated in the Fol Act. These suggestions were examined by the UPA Government, which decided to make the Fol Act more progressive, participatory and meaningful. Later, however, the UPA Government decided to repeal the Fol Act, and enacted a new legislation, the Right to Information Act, 2005, to provide an effective framework for effectuating the right of information recognised under Article 19 of the Constitution of India.

1.5 Fol Legislations in States

Even before the Fol Act was passed by the Parliament, several States in India had enacted their own legislations on Freedom of / Right to Information. The fact that some of the States in the country took a lead in enacting right to information legislations (or codes of disclosure of certain categories of information), and the lessons that were learnt from the implementation of these various legislations were indeed helpful, in framing the provisions of the Right to Information Act, 2005 in detail. A brief overview of the State Acts in operation prior to the enactment of the RTI Act is provided below:

Tamil Nadu was the first State to introduce the Right to Information Act in April 1996. The legislation aimed at ensuring access to information about Government administration. The Bill was modelled on the draft legislation recommended by the Press Council of India. However, the enacted legislation was full of exemptions and inadequacies. So it failed to evoke much response from the public and NGOs and other concerned activists.

Goa was the second State to enact the Right to Information legislation in 1997. The Goa Act contained several provisions, which allowed the State to withhold information without substantiating reasons for it.

The grassroots movement led by MKSS compelled the Rajasthan Government to act in the direction to prepare the Right to Information Bill. Several other sister organisations also joined hands with MKSS to start an agitation on a large scale and declared an indefinite strike. It was called off when a high level committee was appointed to work out the modalities of how photocopies could be provided in relation to the order issued in April 1996. The Rajasthan Right to Information Act, 2000, had 13 sections in all, 10 of which established categories of exemptions. It contained a provision for one internal appeal and also for an appeal to an independent body.

The Karnataka Government took steps to make information available to the public as far back as 1997, starting with many government departments issuing executive orders to provide access to information on development projects undertaken by them and to keep relevant records open for inspection or available for copying for a nominal fee.

In August 2000, the executive orders were supplemented by the Right to Information ordinance recognising the necessity to enact a comprehensive legislation. The State Legislative Assembly was not in session. Hence an ordinance was passed on the matter as a first step.

The Karnataka Right to Information Act 2000 was enacted soon after by the State Assembly in December 2000. Unfortunately, however the Act could not be operationalised properly until July 2002, when the Government of Karnataka notified the Karnataka Right to Information Rules.

The Maharashtra Right to Information Act, 2000 had nine sections in all and 22 categories of exemptions. However, it did not provide for the establishment of an appellate authority which would review refusals. It did not have provisions for providing information proactively, or penalties for withholding or destroying information either.

The Delhi Legislature passed the Delhi Right to Information Act in 2001. This law had been along the lines of the Goa Act, containing the standard exemptions and provided for an appeal to an independent body, as well as establishing an advisory body, the State Council for Right to Information.

Assam passed the 'Assam Right to Information Act' in 2001. Section 4(2) provides 11 exemptions from disclosure of information.

Even, before a bill was introduced in the Madhya Pradesh Assembly, in certain places like Bilaspur and Korba, the local authorities provided access to information. The Divisional Commissioner, Bilaspur initiated it in the matter of the Public Distribution System (PDS) and allowed the citizens to access details of food-grains and commodities allotted to their areas and their distribution. The scheme was soon extended to development programmes and pollution awareness. It was observed that the right to information considerably reduced black-marketing and corruption in the PDS. Moreover, in polluted areas like Korba, the sharing of information on pollution level raised public consciousness. As a result, officials became careful about monitoring and controlling pollution levels. Surprisingly, bowing to popular demand, the Government passed a bouquet of executive orders dealing with right of access to Government records. The Madhya Pradesh Assembly passed the Right to Information Act in 2002.

Jammu & Kashmir passed the Jammu & Kashmir Right to Information Act in 2004. Section 6 of this Act provides 7 restrictions on right to information.

It needs to be noted that not only is the Right to Information Act, 2005 a landmark legislation in the Indian context, it also places India among a group of some of the more evolved democracies of the world, to have enacted such a law in an effort towards deepening democracy.

It also needs to be noted that the RTI Act is in keeping with the provisions of some of the path-breaking international covenants. However, progress on the part of public authorities towards effective implementation of the Act in right earnest, and the Act's large scale acceptance and use by the people, as an instrument for pressing

transparency and accountability of public bodies / officials – will be the true indicator of the success of the Act. In order for the Act to achieve its objectives, all the stakeholders concerned with implementation of the Act – both from supply and demand sides – will have to work in partnership and in a mission mode.

1.6 Right to Information & Good Governance

Right to information can be used as an effective tool to usher in a regime of good governance. The major characteristics of good governance include: strategic vision and consensus orientation, participation, rule of law, transparency, responsiveness, equity and inclusiveness, effectiveness, efficiency and accountability.

Transparency means that decisions are taken openly and enforced in a manner that follows rules and regulations. It requires that information is freely available and directly accessible to those who will be affected by such decisions and their enforcement. It also means that enough information is provided to all the stakeholders in easily understandable forms and media.

Public accountability means that public institutions are answerable to the people and to their institutional stakeholders. In general an organisation or an institution is accountable to those who will be affected by its decisions or actions. Accountability cannot be enforced without transparency.

In the above background, the right to information can be an instrument to lead to transparency and accountability in the working of public bodies and to good governance. Internationally, the campaign for good governance has included the right to information as a significant element.

Chapter 2 – The Right to Information Act, 2005: An Overview

The Real 'Swaraj' will come not by the acquisition of authority by a few but by the acquisition of capacity by all to resist authority when abused.

- Mahatma Gandhi

2.1 Citizen's Right to Information

Section 3 of the Right to Information Act, 2005 states: "Subject to the provisions of this Act, all citizens shall have the right to information". The Act defines "Information", "Record" and "Right to Information" as follows:

Definition of "Information" [Section 2 (f)]

"any material in any form, including:

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

"Record" [Section 2 (i)] Includes

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

Definition of “Right to Information”

[Section 2 (j)]

- right to information accessible under the RTI Act which is held by or under the control of any public authority and includes the right to—
 - (i) inspection of work, documents, records;
 - (ii) taking notes, extracts or certified copies of documents or records;
 - (iii) taking certified samples of material;
 - (iv) obtaining information in the form of diskettes, floppies, tapes, video cassettes or in any other electronic mode or through printouts where such information is stored in a computer or in any other device.

2.2 Institutional Framework

The Right to Information Act, 2005 envisages a legal-institutional framework to establish and promote the practical regime of Right to Information for every citizen of the country.

This framework comprises some critical authorities as follows:

- Public Authorities
- Public Information Officer (PIO)
- Assistant Public Information Officer (APIO)
- Other Officers
- Designated Appellate Officers
- Information Commission
- Ministries & Departments
- Appropriate Government
- Competent Authority

The roles and responsibilities of various authorities and functionaries under the Act are described below:

2.3 Public Authorities

Public Authority is defined under Section 2 (h) of the Act as an authority or body or institutions of self-government established or constituted —

(a) by or under the Constitution; (b) by any other law made by Parliament; (c) by any other law made by State Legislature; (d) by notification issued or order made by the appropriate Government; and includes any – (i) body owned, controlled or substantially financed and (ii) non-Government Organisation substantially financed, directly or indirectly by funds provided by the appropriate Government. The Act stipulates that every Public Authority:

- shall maintain all its records duly catalogued, indexed, computerized and connected through network [Section 4(1) (a)]
- shall proactively disclose stipulated information [Section 4(1) (b), (c) & (d)]
- shall provide information *suo motu* at regular intervals and disseminate the same widely [Section 4 (2), (3) & (4)]
- shall designate Public Information Officers (PIOs) and Assistant Public Information Officers (APIOs) [Section 5 (1) & (2)]
- shall make information accessible with PIOs [Section 4 (4)]
- shall transfer misdirected requests for information to appropriate Public Authorities [Section 6 (3)]
- shall implement the decisions of the Information Commission, which are binding under Section 19 (7) of the Act - complying with the provisions of the Act, including providing information; designating a PIO; publishing certain information; [*suo motu* disclosure under Section 4 (1) (b)] making changes to record management practices; arranging training for officials; providing the Information Commission with annual report; compensating the complainant for any loss or other detriment suffered; ensuring that the concerned PIOs pay the penalties imposed by the Commission on them; and taking disciplinary action against the concerned PIOs based on recommendations of the Information Commission.

2.4 Public Information Officer (PIO)

Central Public Information Officer or State Public Information Officer designated under the Act:

- shall receive requests from persons seeking information and dispose such requests, either providing the information requested on payment of prescribed fee or rejecting the request for reasons to be specified within the time period stipulated under the Act [Section 5 (3), 5(4) & 7(1)]

2.5 Assistant Public Information Officer (APIO)

Central Assistant Public Information Officer or State Assistant Public Information Officer designated under the Act:

- shall receive applications for information or appeals under the Act for forwarding the same to the Public Information Officer, Appellate Officer or the Information Commission concerned [Section 5 (2)]

2.6 Other Officers

Other Officers whose assistance is sought by a Public Information Officer:

- shall render all assistance to the Public Information Officer who sought his or her assistance - to be treated as a Public Information Officer for the purpose of any contravention of the provisions of the Act [Section 5 (5)]

2.7 Designated Appellate Officer

Designated Appellate Officer (officer senior in rank to Public Information Officer) shall deal with and dispose

- appeals from any person who, does not receive a decision on request for information within the stipulated time or is aggrieved by a decision of the Public Information Officer [Section 19 (1)]
- appeal by a third party against an order made by a PIO [Section 19 (2)].

2.8 Information Commission

Central Information Commission constituted under Section 12 or State Information Commission constituted under Section 15 of the Act:

- shall receive and inquire into 'complaints' from any person relating to access to information held by or under the control of public authorities (may require public authorities to compensate the complainants, impose penalties on erring Public Information Officers and recommend disciplinary action against them [Section 18 (1) to 18(4) & Section 20];
- shall deal with and dispose appeals against the decisions of the designated appellate officers (may impose penalties on and recommend disciplinary action against erring Public Information Officers [Section 19 (3) to 19 (5), 19 (7) to 19 (10) & Section 20];
- may make recommendation to public authorities not conforming with the provisions or the spirit of the Act, specifying the steps to be taken for promoting such conformity [Section 25 (5)].

2.9 Ministries & Departments

Ministries and Departments in Government:

- shall collect and provide such information in relation to the public authorities within their jurisdiction, to the concerned Information Commission, as is required by it to prepare its annual report and comply with the requirements concerning the furnishing of that information and keeping of records for the purposes [Section 25 (2)]

2.10 Appropriate Government

The Central Government or the State Government, as the case may be, in relation to a public authority, may:

- cause a copy of the report of the Information Commission laid before the Parliament or State Legislature, as the case may be [Section 25 (4)];
- may, to the extent of availability of financial and other resources —
 - (a) develop and organise educational programmes to advance the understanding of RTI, in particular among disadvantaged communities;
 - (b) encourage public authorities to participate in and themselves undertake educational programmes on RTI;
 - (c) promote timely and effective dissemination of accurate information by public authorities about their activities; and
 - (d) train Public Information Officers and produce relevant training materials for use by the public authorities themselves (Section 26).
- shall, within 18 months from the commencement of the Act, compile in its official language a guide containing such guidelines or information, in an easily comprehensible form and manner, as may reasonably be required by a person who wishes to exercise any right specified in the Act and, if necessary, update and publish such guidelines at regular intervals (Section 26).
- may, by notification in the Official Gazette, make rules to carry out the provisions of the Act [Sections 27].

2.11 Competent Authority

The Speaker in the case of the House of the People or the Legislative Assembly of a State or a Union Territory having such Assembly and the Chairman in the case of the Council of States or Legislative Council of a State; the Chief Justice of India in the case of the Supreme Court; the Chief Justice of the High Court in the case of a High

Court; the President or the Governor, as the case may be, in the case of other authorities established or constituted by or under the Constitution; the Administrator appointed under Article 239 of the Constitution (Section 2 (e)).

- may, by notification in the Official Gazette, make rules to carry out the provisions of the Act [Sections 28].

2.12 Information Exempted from Disclosure

Section 8 of the Act provides a list of 10 categories of information 8 (1)(a) to 8 (1)(j) as follows:

Information Exempted from Disclosure

[Section 8(1)]

- (a) information, disclosure of which would prejudicially affect the sovereignty and integrity of India, the security, strategic, scientific or economic interests of the State, relation with foreign State or lead to incitement of an offence;
- (b) information which has been expressly forbidden to be published by any court of law or tribunal or the disclosure of which may constitute contempt of court;
- (c) information, the disclosure of which would cause a breach of privilege of Parliament or the State Legislature;
- (d) information including commercial confidence, trade secrets or intellectual property, the disclosure of which would harm the competitive position of a third party, unless the competent authority is satisfied that larger public interest warrants the disclosure of such information;
- (e) information available to a person in his fiduciary relationship, unless the competent authority is satisfied that the larger public interest warrants the disclosure of such information;
- (f) information received in confidence from foreign Government;
- (g) information, the disclosure of which would endanger the life or physical safety of any person or identify the source of information or assistance given in confidence for law enforcement or security purposes;
- (h) information which would impede the process of investigation or apprehension or prosecution of offenders;
- (i) cabinet papers including records of deliberations of the Council of Ministers, Secretaries and other officers:

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

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

- (j) information which relates to personal information the disclosure of which has no relationship to any public activity or interest, or which would cause unwarranted invasion of the privacy of the individual unless the Public Information Officer or the appellate authority, as the case may be, is satisfied that the larger public interest justifies the disclosure of such information:

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

2.13 Protection of Copyright

Without prejudice to the provisions of Section 8, a Central Public Information Officer or a State Public Information Officer may reject a request for information where such a request for providing access would involve an infringement of copyright subsisting in a person other than the State (Section 9).

2.14 Primacy of Public Interest

Section 8(2) of the Act provides that notwithstanding anything in the Official Secrets Act, 1923, nor any of the exemptions permissible under Section 8(1) of the Right to Information Act, a public authority may allow access to information, if public interest in disclosure outweighs the harm to the protected interests.

2.15 Non-applicability to Certain Organisations

Section 24 (1) provides that the Act shall not apply to the following intelligence and security organisations established by the Central Government:

Intelligence and Security Organisations established by the Central Government exempted from Right to Information Act, 2005

1. Intelligence Bureau.
2. Research and Analysis Wing of the Cabinet Secretariat.
3. Directorate of Revenue Intelligence.
4. Central Economic Intelligence Bureau.
5. Directorate of Enforcement.
6. Narcotics Control Bureau.
7. Aviation Research Centre.
8. Special Frontier Force.

9. Border Security Force.
10. Central Reserve Police Force.
11. Indo-Tibetan Border Police.
12. Central Industrial Security Force.
13. National Security Guards.
14. Assam Rifles.
15. Special Service Bureau
16. Special Branch (CID), Andaman and Nicobar.
17. The Crime Branch-C.I.D.-CB, Dadra and Nagar Haveli.
18. Special Branch, Lakshadweep Police.

However, the information pertaining to allegations of corruption and human rights violations shall not be excluded. In the case of information sought in respect of allegations of violation of human rights, the information shall only be provided after the approval of the Central Information Commission, and such information shall be provided within 45 days from the date of the receipt of request for information [Section 24 (1)].

Section 24 (4) of the Act stipulates that the Act shall not apply to such intelligence and security organisations established by the State Government, as that Government may, from time to time, by notification in the Official Gazette, specify. However, the information pertaining to the allegations of corruption and human rights violations shall not be excluded and further that in the case of information sought for in respect of allegations of violation of human rights, the information shall only be provided after the approval of the State Information Commission and such information shall be provided within 45 days from the date of the receipt of request for information [Section 24 (4)].

2.16 Action in Good Faith

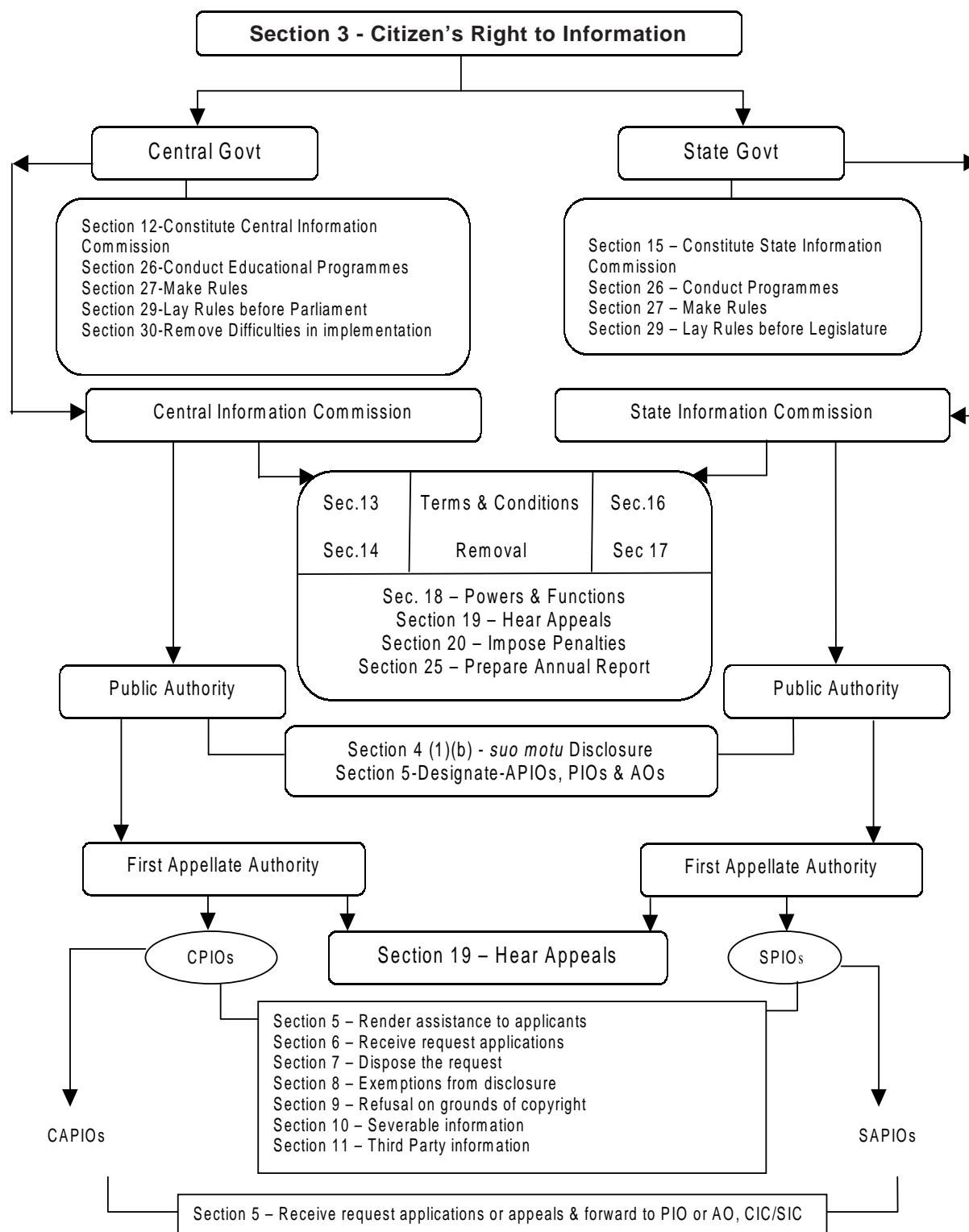
Section 21 of the Act provides that no suit, prosecution or other legal proceeding shall lie against any person for action done in good faith under the Act or rules.

2.17 Overriding Effect of Act

Section 22 of the Act contends that the provisions of the Act shall have effect notwithstanding anything inconsistent therewith contained in the Official Secrets Act, 1923, and any other law for the time being in force or in any instrument having effect by virtue of any law other than the Act.

2.18 Bar of Jurisdiction of Courts

Section 23 of the Act provides that no court shall entertain any suit, application or other proceeding in respect of any order made under the Act and no such order shall be called in question otherwise than by way of an appeal under the Act.



Paradigm-Scheme of RTI Act at a Glance

Chapter 3 – Role of Public Authorities

3.1 Definition of Public Authorities

The Act defines public authorities as including all authorities, bodies or institutions of self-government established or constituted by or under the Constitution of India, by the laws passed by Parliament / State Legislatures as also those set up by notification(s) or orders issued by the Central or State Government as the case may be. They include bodies owned, controlled or substantially financed and also Non-Government Organisations substantially financed, directly or indirectly by Government funds [Section 2(h)].

The Act extends to the whole of India (except the State of Jammu & Kashmir), at all levels of the Government: Central, State and Local. It covers both Houses of Parliament, States & UTs, all Courts, and all Municipal and Panchayati Raj Bodies. In so far as the Government is concerned, ideally, it is for the Ministries/Departments to identify the public authorities falling under their jurisdiction including Public Sector Undertakings and NGOs ‘substantially financed’ by Government. However, it would be appropriate if the Appropriate Government notifies a “Directory of Public Authorities” and updates it from time to time.

The obligations of public authorities under the Act are enumerated in the sections below:

3.2 Record Management

Section 4 (1) (a) of the Act stipulates that every public authority shall:

- maintain all its records duly catalogued and indexed in a manner and the form which facilitates the right to information under the Act;
- ensure that all records that are appropriate to be computerised are, within a reasonable time and subject to availability of resources, computerised and connected through a network all over the country on different systems so that access to such records is facilitated .

The above provisions of the Act may necessitate a critical review of the existing record management practices, record retention schedules for different categories of records and systems of indexing and numbering of records in public authorities. They may also call for changes in the legal framework for record management, especially with regard to the creation and destruction of electronic records. The proper cataloguing and indexing of records based on country-wide data/meta data standards is critically important. Pending the above, appropriate up-gradation of the existing record management systems in public authorities would also be necessary in most cases.

3.3 Proactive Disclosure of Information

Section 4 (1) (b) of the Act provides that every public authority shall:

- publish within 120 days from the enactment of the Right to Information Act
 - i. the particulars of its organisation, functions and duties;
 - ii. the powers and duties of its officers and employees;
 - iii. the procedure followed in the decision making process, including channels of supervision and accountability;
 - iv. the norms set by it for the discharge of its functions;
 - v. the rules, regulations, instructions, manuals and records, held by it or under its control or used by its employees for discharging its functions;
 - vi. a statement of the categories of documents that are held by it or under its control;
 - vii. the particulars of any arrangement that exists for consultation with, or representation by, the members of the public in relation to the formulation of its policy or implementation thereof;
 - viii. a statement of the boards, councils, committees and other bodies consisting of two or more persons constituted as its part or for the purpose of its advice, and as to whether meetings of those boards, councils, committees and other bodies are open to the public, or the minutes of such meetings are accessible for public;
 - ix. a directory of its officers and employees;
 - x. the monthly remuneration received by each of its officers and employees, including the system of compensation as provided in its regulations;

- xi. the budget allocated to each of its agency, indicating the particulars of all plans, proposed expenditures and reports on disbursements made;
 - xii. the manner of execution of subsidy programmes, including the amounts allocated and the details of beneficiaries of such programmes;
 - xiii. particulars of recipients of concessions, permits or authorisations granted by it;
 - xiv. details in respect of the information, available to or held by it, reduced in an electronic form;
 - xv. the particulars of facilities available to citizens for obtaining information, including the working hours of a library or reading room, if maintained for public use;
 - xvi. the names, designations and other particulars of the Public Information Officers;
 - xvii. such other information as may be prescribed;
- update the publications under Section 4(1)(b) (i) to (xvii) every year;

Section 4 (1) (c) of the Act requires that every public authority shall publish all relevant facts while formulating important policies or announcing the decisions which affect the public. Section 4 (1) (d) requires that it shall provide reasons for administrative or quasi-judicial decisions to affected persons.

To facilitate disclosure of various categories of information listed out in Section 4(1) (b) of the Act, sets of templates or guidelines have been prepared and circulated by many State Governments to their departments and public authorities. These templates are meant to achieve uniformity among the public authorities in their publication schemes and to facilitate convenient and easy access of information to citizens. There is a need to review these templates and revise the same taking into account the experience gained. Where necessary, individual public authorities may devise their own modified formats, while broadly conforming to the templates and having due regard to the nature of functions being performed by them.

The fact that a public authority is required to proactively publish information under various categories following the comprehensive list included in the Act under Section 4(1)(b), does not prevent the public authority from carrying on its existing publication

schemes like bringing out periodicals, annual reports etc. Public authorities may continue their existing disclosure activities with the necessary additions to the information already being published, as per the requirements of the Act. It may be appropriate that the obligation of proactive disclosure by public authorities be linked to the publication of their 'Citizen's Charters' which specify timelines and standards for delivery of various services.

3.4 Dissemination of Information

Sections 4 (2), (3) & (4) call for a regime of maximum disclosure on the part of the public authorities *suo motu* so that the public sparingly resort to the use of the Right to Information Act to obtain information. The law stipulates that every public authority shall:

- constantly endeavour to take steps in accordance with publication under Section 4 (1) (b) to provide as much information as possible *suo motu* to the public at regular intervals through various means of communications, including internet;
- proactively disseminate information widely and in such form and manner which is easily accessible to the public, subject to taking into consideration the cost effectiveness, local language and the most effective method of communication in that local area.

All published material may be made available to the public at a reasonable price as determined by the concerned public authority conforming to rules, if any, made under the Act. In addition, information can be communicated through notice boards, news papers, public announcements, media broadcasts, the internet or any other means. Maximum *suo motu* disclosure should be the norm for every public authority. Use of standard formats that facilitate easy access of citizens to public information is highly desirable. Accordingly, all public authorities and departments should undertake standardisation exercises. These assume critical importance in the context of the nation-wide networking of information envisaged under Section 4(1) (a) of the Act so that a citizen can access official information "any where" and "any time".

3.5 Designation of Information Officers

According to Section 5 of the Act, every public authority shall:

- designate, within 100 days of the enactment of the Act, as many officers as Central Public Information Officers or State Public Information Officers (referred to as “PIOs” in this Manual), as the case may be, in all administrative units or offices under it as may be necessary to provide information to persons requesting for information under the Act;
- designate an officer, within 100 days of the enactment of the Act, at each sub-divisional/sub-district level as a Central Assistant Public Information Officer or a State Assistant Public Information Officer (referred to as “APIOs” in this Manual), as the case may be.

The number and level of officers designated as PIOs would vary from authority to authority. However, in order to be able to meet the expectations of persons requesting for various kinds of information, the number of PIOs designated by a public authority should be reasonably large in keeping with the size and functions of the authority.

Since PIOs are the points of decision-making on the requests by citizens for information, the rank of the officers assumes considerable importance. If they are relatively senior officers then they can take quick decisions, accessing information available with other officers in the authority concerned.

3.6 Availability of Information with PIOs

Section 4 (4) of the Act requires every public authority to make information easily accessible, to the extent possible in electronic format with the Central Public Information Officer or State Public Information Officer, as the case may be, so that the same can be made available to applicants requesting for information free or at such cost of the medium or the print cost price as may be prescribed. This is important because the PIOs are required under the law to provide information to the applicants within 30 days, in general.

3.7 Transfer of Misdirected Requests

Section 6 (3) of the Act prescribes that every public authority shall transfer request for information (i) which is held by another public authority; or (ii) the subject matter of which is more closely connected with the functions of another public authority, in full or part, as may be appropriate to that other public authority within 5 days of receipt, informing the applicant immediately about such transfer.

3.8 Implementation of Decisions on Appeals

Section 19 (7) of the Act stipulates that the decisions of the Information Commission on appeals “shall be binding”. Thus, every public authority will be required to implement the decisions of the Information Commission regarding taking steps to secure compliance with the provisions of the Act, compensating the complainant for loss or other detriment suffered, imposing penalties on erring Public Information Officers etc. under Sections 19 and 20.

As per Section 19 (8), the Information Commission may require compliance by a public authority with the provisions of the Act in terms of one or more of the following:

- provide access to Information in the form in which it is sought;
- designate a PIO;
- publish information;
- bring in necessary changes in existing systems of maintenance, management and destruction of records;
- organise training of officials for effective implementation; and
- submit annual report.

Similarly, the Information Commission may require payment of compensation to a complainant, impose penalty on and recommend disciplinary action against PIOs.

3.9 Management Information Systems

Under Section 25 (1) of the Act, the Information Commission is required to prepare an Annual Report and the same would be laid before the appropriate Legislature. Section 25 (2) indicates that all public authorities keep records and provide information as

required by the concerned Ministry or Department every year in connection with furnishing of consolidated information needed by the Information Commission for its Annual Report. This calls for the adoption and maintenance of appropriate Management Information Systems by public authorities, and departments. Proper tracking systems covering aspects such as number of requests for information of different kinds, type and manner of information provided, fees collected, grounds for denial of information, whether any appeals were preferred to Appellate Officer/Information Commission, the decisions on appeal, action taken on those decisions etc. will facilitate electronic consolidation of information for the Information Commission's Report.

Sections 4(1) (a) and 4 (1) (b) suggest that it would be appropriate and beneficial for ministries, departments and public authorities to develop standard online information systems such as Human Resources Management Information System, Financial Management Information System, Social Benefit Management Information System, Project Management Information System, Performance Management Information System etc. These would promote easy access to information held by public authorities to Public Information Officers, other officers and citizens across the country through electronic networks being created under the National e-Governance Plan.

Section 4 (3) of the Act requires every public authority to disseminate information widely and also in such form and manner that is easily accessible to the public. In this regard, shifting to the electronic medium for storage and dissemination of information will be greatly beneficial in extending the outreach of information maintained at one level to other levels geographically.

Given the requirement of Section 4 (1) (b) in connection with *suo motu* disclosure of information and that of Section 25 (2) in connection with keeping records for providing annual information to the Information Commission, it is suggested that every department/public authority publishes an annual report of its own conforming to the vision, mission and priorities of the department/authority, the explicit requirements of disclosure under the Act, and those required by the Information Commission. The spirit of the Act requires every public authority to be duty-bound to create, maintain, store, retrieve, publish and disseminate information as widely as possible so that the citizens

will have no need to take recourse to requesting for information following the procedure stipulated under the Act. Right to information needs to be preceded by the duty to inform, on the part of public authorities and functionaries.

Chapter 4 – Role of Public Information Officers

4.1 Designation of PIOs & APIOs

Section 5 (1) of the Act requires a Public Authority to designate “as many” officers as Central Public Information Officer or the State Public Information Officer, as the case may be, in all administrative units and offices under it as may be necessary to provide information to persons requesting for the same. They were to be designated within 100 days of the enactment of the Act.

Similarly, Central or State Assistant Public Information Officers are to be designated at “each sub-divisional level or other sub-district level” to receive applications or appeals and forward them on to the concerned Public Information Officers, Designated Appellate Officers and the Information Commission [Section 5(2)]. This is to ensure that the public can apply for information in their own local areas without the need for travelling long distances to the offices of the Public Information Officers.

4.2 Duties & Responsibilities

The Act prescribes the obligations of a Public Information Officer (PIO), Assistant Public Information Officer (APIO) and other officers as follows:

Public Information Officer

- to deal with requests from persons seeking information and render reasonable assistance to the persons seeking such information, taking the assistance of any other officer, if considered necessary by him or her for the proper discharge of duties [Section 5(3) & 5(4)];
- to render ‘all reasonable assistance’, where request for information cannot be made in writing, to the person making the request orally to reduce the same into writing [Section 6(1)];
- to dispose request for information under the Act, either providing the information requested on payment of prescribed fee or rejecting the request for reasons to be specified within the time period stipulated under the Act [Section 7(1)].

Assistant Public Information Officer

- to receive applications for information or appeals under the Act for forwarding the same forthwith to the Central Public Information Officer or the State Public Information Officer or Appellate Officer or the Central Information Commission or the State Information Commission, as the case may be [Section 5 (2)].

Officer whose Assistance is Sought

- to render all assistance to the Public Information Officer who sought his or her assistance;
- to be treated as a Public Information Officer for the purposes of any contravention of the provisions of the Act.

[Section 5 (5)]

4.3 Procedure for Request for Information

Section 6 of the Act stipulates that the request for information may be made to the Central Public Information Officer or State Public Information Officer, as the case may be, of the concerned public authority or given to the Central Assistant Public Information Officer or State Assistant Public Information Officer, as the case may be.

The request for information can be made as follows:

- in writing or through electronic means in English or Hindi or in the official language of the area in which the application is being made;
- oral request to be reduced to writing with assistance sought from Public Information Officer, where such request cannot be made in writing;
- to specify the particulars of the information being sought by the applicant;
- to be accompanied by fee as prescribed under the rules made under the Act;
- applicant not to be required to give reason for requesting the information or any other personal details except those that may be necessary for the purpose of contacting.

Suggested specimen format for 'application' is provided below. It is important, however, to note that the law does not specify any format(s). The sample provided below is only for guidance to authorities.

A Model Letter of Application / Request

Date:.....

To

The Public Information Officer

(Name of the Public Authority)

(Address of the Public Authority)

Sir / Madam:

Sub: Request for Information under the Right to Information Act, 2005

Kindly, provide me the following information:..... (Mention the information you want as specifically and clearly as possible and the period of time to which the information pertains)

- ...
- ...

[if applicable] I request for receipt of the information in the following format(s) – true copy / print out / diskette / floppy / tape / video cassettes / certified copies of documents or records – in person / by post / by e-Mail.

[if applicable] I would like to inspect the following works / documents / records/ take notes/extracts..... (Mention clearly and specifically what is wanted for inspection). Kindly inform me the date and time for my visit.

[if applicable] Kindly, provide me certified samples of material (Mention specifically and clearly the material). I request for receipt of the certified samples (Describe)

The details of fees paid by me are as follows (Specify)..... /I belong to the 'Below Poverty Line Category' [if applicable, attach a photocopy of the proof] and I am not required to pay any fees.

Sincerely,

(Applicant's signature/Thumb Impression)

Applicant's Name:

Applicant's Address:

Applicant's Phone Number/e-Mail Address (optional):

Place:

Note: This is a suggested format, and need not necessarily be adhered to. The RTI Act, 2005 does not specify any 'Model Letter of Application' for requesting information.

4.4 Disposal of Request for Information

Section 7 of the Act makes provisions regarding the disposal of request for information as follows:

- request for information shall be disposed by the Public Information Officer within
 - 30 days of receipt in general cases and 48 hours of receipt in cases where the information sought for concerns the life or liberty of a person [section 7 (1)];
 - a period of 5 days shall be added in computing the response time where an application for information is given to an Assistant Public Information Officer [Section 5(2)];
- request to be deemed to have been refused by the Public Information Officer, if decision on the request for information is not given within the period specified as above [Section 7(2)];
- where a decision is taken to provide the information on payment of any further fee representing the cost of providing the information, the Public Information Officer shall send an intimation to the person making the request, giving (a) the details of further fees representing the cost of providing the information as determined by him or her, together with the calculations made to arrive at the amount in accordance with fee prescribed, requesting him/her to deposit that fees, and the period intervening between the despatch of the said intimation and payment of fees shall be excluded for the purpose of calculating the period of 30 days and (b) information concerning the right of the person making request with respect to review the decision as to the amount of fees charged or the form of access provided, including the particulars of the appellate authority, time limit, process and any other forms [Section 7(3)];
- where access to the record or a part thereof is required to be provided under the Act and the person to whom access is to be provided is sensorily disabled, the Public Information Officer shall provide assistance to enable access to the information, including providing such assistance as may be appropriate for the inspection [Section 7(4)];
- where access to information is to be provided in the printed or in any electronic format, the applicant shall pay the fee prescribed [Section 7(5)];
- before taking any decision to provide information, the Public Information Officer shall take into consideration the representation made by a third party [Section 11(1)];

- where a request has been rejected, the Public Information Officer shall 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 appellate authority [Section 7(8)].

A Model Intimation for Payment of Further Fees [Section 7 (3)]

PIO Office Reference No:		Date:.....
To The Applicant (Name & Address)		
Dear Sir / Madam		
Subject: Payment of Further Fees for Providing Information [Section 7 (1) & 7 (5) of the Right to Information Act, 2005] Ref: Your Application Dated:		
Please refer to your Application requesting for Information [Briefly describe]dated addressed to		
With reference to your request, this is to inform that you are required to pay fees towards the cost of providing the requested information as follows:		
Form of Access/Information Provided: Amount of Fees to be Paid for Access: Basis for Calculation of Fees: Mode of Payment [How the Fees are to be Deposited]:		
In case you intend to prefer an appeal for a review of the decision as to amount of fees charged or form of access provided, you may do so to the following under Section 19 (1) of the Right to Information Act, 2005 within [30] days from the date of receipt of this letter:		
Name & Designation of Appellate Authority for Review on Fees/Form of Access: Address of the Authority:		
Sincerely,		
Signature of PIO: Name of the PIO: Designation: Place:		
Encl. : A sample Appeal form		

Note: This is a suggested format, and need not necessarily be adhered to. The RTI Act, 2005 does not specify any 'Model Intimation for Payment of Further Fees'.

4.5 Fees & Costs to be Charged

The Act prescribes the following fees and costs to be charged from persons making request for information:

- (1) Cost: Section 4 (4) – Cost of medium: electronic or print or print cost price
- (2) Fee: Section 6 (1) – Fee accompanying application of request for information
- (3) Fee: Section 7 (1) – Fee as prescribed under rules for furnishing information
- (4) Fee: Section 7(3) – Further fee representing the cost of providing the information requested as determined by PIO
- (5) Fee: Section 7 (5) – Fee prescribed under rules for supply of information in printed or electronic format.

[Fees under Section 7 (3) and Section 7 (5) can be combined together.]

Other charges and costs, if any, need to be specified while disposing requests for information.

No fee shall be charged from the persons who are of below poverty line as may be determined by the appropriate Government [Section 7(5)];

Further, the person making request for information shall be provided the information free of charge where a public authority fails to comply with the stipulated time limits for disposal of request applications [Section 7(6)];

4.6. Scale of Fees

The Department of Personnel & Training, Government of India has, under the Right to Information (Regulation of Fees and Cost) Rules, 2005, prescribed an application fee of rupees ten for a request for obtaining information under Section 6(1). This could be in cash against proper receipt or by demand draft or by banker's cheque or Indian Postal Order payable to the Accounts Officer of the public authority.

The Government of India Right to Information (Regulation of Fees and Cost) Rules, 2005 provide that the public authority may also charge the following as fees for providing information under Section 7(1):

- a) Rs 2/- for each page (in A4 or A3 size paper) created or copied.
- b) actual charges or cost of a copy in larger size paper.

- c) actual cost or price for samples or models.
- d) for inspection of records, no fees for the first hour; and a fee of Rs 5 for each hour (or fraction thereof) thereafter.

The fee amounts could be paid in cash against proper receipt or by demand draft or by banker's cheque or Indian Postal Order payable to the Accounts Officer of the concerned public authority.

Further, for providing information under Section 7(5), the prescribed fee pattern is:

- a) for information provided in diskette or floppy - Rs 50/- per diskette or floppy.
- b) for information provided in printed form at the price fixed for such publication or Rs. 2/- per page of photocopy for extracts from the publication.

The above fee pattern could be a model for State Governments to determine the structure of fees to be applicable in the respective States.

4.7 Form of Access to Information

Section 7 (9) provides that information shall ordinarily be provided in the form in which it is sought unless it would "disproportionately divert the resources of the public authority or would be detrimental to the safety or preservation of the record in question".

The information provided to an applicant, to the extent possible, has to be in the form which is easily understandable to him or her. The information becomes more meaningful if the same is given in the local language.

An aspect to be considered here is: whether any information supplied under this Act could be properly stamped as, for example, 'supplied under RTI Act' for easy identification of such material supplied.

4.8 Time Limits for Disposal of Requests

Section 7 (1) requires that the information requested by an applicant to a PIO shall be furnished “as expeditiously as possible”. The time limits prescribed under the Act for disposal of requests for information are as follows:

- 30 days: On receipt of a request for information, the PIO has either to provide information on payment of such fees as prescribed or reject the request with reasons for the same.
- 48 hours: If the information sought concerns the life or liberty of a person, the same has to be provided immediately, in any case, within 48 hours.
- 35 days: 5 more days to be added to the above time limits if the application is submitted to the Assistant Public Information Officer.
- 40 days: Where third party is involved (If the PIO intends to disclose any information which relates to or has been supplied by a third party and has been treated as confidential by it, the PIO has to give a written notice to such third party within 5 days from the receipt of request inviting such third party to make a submission).
- 45 days: Information pertaining to allegations of human right violations from scheduled security and intelligence agencies.

Under Section 6 (3) of the Act, if a request application is made to a public authority on a subject that pertains to another public authority, the same shall be transferred to that other authority within 5 days from the date of receipt of the application. The other public authority will be subject to time limit for disposal from the date of receipt of the application.

As per Section 7 (3) of the Act, the period intervening between the despatch of Intimation to the applicant and the deposit of further fees representing the cost of providing the information shall be excluded from the stipulated time limit of 30 days.

4.9 Information up to 20 Years

Section 8(3) of the Act stipulates that subject to exemptions relating to information linked to sovereignty, integrity and security matters, breach of privilege of Parliament or the State Legislature and cabinet papers, any information relating to any occurrence, event or matter which has taken place, occurred or happened 20 years before the date on which any request is made, shall be provided to any person making a request under the Act. However, where any question arises as to the date from which the period of 20 years has to be computed, the decision of the Central Government shall be final, subject to the usual appeals provided for in the Act.

4.10 Protection of Copyright

Section 9 of the Act provides that a Public Information Officer may reject a request for information where such a request for providing access would involve an infringement of copyright subsisting in a person other than the State.

4.11 Access to Part of Record

Section 10 provides that where a request for access to information is rejected on the ground that it is in relation to information which is exempt from disclosure, access may be provided to that part of the record “which does not contain any information which is exempt from disclosure under the Act” and “which can reasonably be severed from any part that contains exempt information”. Where access is granted to a part of the record the Public Information Officer shall give a notice to the applicant under Section 10 (2), informing—

- (a) that only part of the record requested, after severance of the record containing information which is exempt from disclosure, is being provided;
- (b) the reasons for the decision, including any findings on any material question of fact, referring to the material on which those findings were based;
- (c) the name and designation of the person giving the decision;
- (d) the details of the fees calculated by him or her and the amount of fee which the applicant is required to deposit; and
- (e) his or her rights with respect to review of the decision regarding non-disclosure of part of the information, the amount of fee charged or the form of access provided, including the particulars of the Appellate Officer or the Information Commission, time limit, process and any other form of access.

4.12 Third Party Information

“Third Party” is defined under the Act to mean a person other than the citizen making a request for information and the public authority to whom the request is made. It could be a private individual or a public authority [Section 2 (n)].

Section 11 of the Act requires that if the information sought by the citizen pertains to a record or part thereof relates to, or has been supplied by a third party and if it is not treated as confidential by that third party, the PIO is at liberty to provide the same to the applicant.

If, however such above information is treated as ‘confidential’ by that third party, the following steps will have to be taken:

- The PIO gives a written notice to the third party, within 5 days of receipt of the application, and conveys his intention to disclose the information or record while requiring the third party to make a submission, within 10 days from the date of receipt of such notice, regarding whether the information should be disclosed or not.
- The third party should, within 10 days from the date of receipt of notice from the PIO, make a representation in writing or orally against the proposed disclosure and give written notice to the third party.
- The PIO can, within 40 days after the receipt of application for information, if the third party has been given an opportunity to make representation, make a decision on disclosure and give a written notice to the third party.
- The third party is entitled to prefer an appeal against the decision of the PIO.

Except in the case of “trade or commercial secrets protected by law”, disclosures involving third party information may be allowed, if the public interest in disclosure outweighs the importance of any possible harm or injury to the interests of such third party. If the third party is a private individual, the PIO has to be very cautious and properly weigh the consequences as privacy of an individual is important and protected under Section 8 (1) (j).

A sample format for notice to a Third Party is provided below:

A Model Notice to Third Party

PIO Office Reference No:	
Date:.....	
To	
The Third Party	
(Name & Address)	
Dear Sir / Madam	
Ref: Application from	Dated:
1. This is to inform you that an applicant has requested for the following Information under the Right to Information Act, 2005 [Please Describe]	
(i).....	
(ii).....	
2. With reference to the application referred to above, the undersigned intends to disclose the following information relating to you/supplied by you – treated as confidential to the applicant:	
(i).....	
(ii).....	
You are hereby notified to make a submission in writing or orally regarding whether the information proposed to be disclosed should be disclosed to the applicant or not within 10 days from the date of receipt of this notice, failing which the information will be provided:	
3. In case you intend to prefer an appeal against the decision of the undersigned, as per Section 19 (2) of the Right to Information Act, 2005, you may do so to the following Appellate Authority, within 30 days of the order.	
Name & Designation of Appellate Authority:	
Address of the Authority:	
Sincerely,	
Signature of PIO:	
Name of the PIO:	
Designation of the PIO:	
Place:	

Note: This is a suggested format, and need not necessarily be adhered to. The RTI Act, 2005 does not specify any 'Model Notice to Third Party'.

The fact of notice to the third party may be intimated to the applicant.

4.13 Steps for Disposal of Requests

The procedure to be followed by the PIO right from the stage of receipt of application for information till the disposal involves a number of steps as follows:

- receives application along with the application fee.
- scrutinizes the application received and the fees prescribed.
- If required, renders reasonable assistance to the applicant by reducing the oral request in writing.
- registers the application in the Inward Register.
- Issues acknowledgement/ receipt to the applicant.
- Transfers the application / part of it to another public authority, if required.
- Informs the applicant about such transfers.
- Makes necessary entries in the Register being maintained.
- Considers the representations of a 'third party', if any.
- In case of rejection, conveys reason for it, the period within which the appeal may be preferred and the details of the Appellate Authority to whom appeal can be preferred.
- Sends intimation to the applicant the further fee, representing the cost of providing the information, to be paid along with its calculations.
- Also intimates about the modalities of deposit of fee, the right of the applicant for review of the fees charged and appeal against the calculation or the form of access.
- Wherever required, provides assistance to citizens for inspection of works, documents, records and taking samples of material.
- Waives fees for citizens Below Poverty Line.
- Retains record on each application, disposal etc. so that materials as required may be furnished to appellate authorities in case first/second appeal is preferred.

4.14 Inspection of Work/Record/Taking Sample(s)

Right to Information includes, *inter alia*, inspection of work, documents, records, taking notes, extracts and certified samples of material. In consultation with the concerned

sections/divisions/offices in Government Departments, PIOs may fix a day or two of the week for applicants to take samples and for inspection of material. Such an arrangement may not disturb the work in the section/division/office and the citizen would also be aware of the days of visit to the PIO/Public Authority.

The General Clauses Act, 1897 defines:

‘document’: shall include any matter written, expressed or described upon any substance by means of letters figures or marks, or by more than one of those means which is intended to be used or which may be used, for the purpose of recording that matter.

Further, the *Oxford Dictionary of English* (2nd edition revised) defines some of the terms used in the RTI Act as follows:

- ‘inspect’: look at (something) closely, typically, to assess its condition or to discover its shortcomings...;
- ‘material’: the matter from which a thing is or can be made, things needed for an activity, the basic material from which a product is made;
- ‘sample’: a small part or quantity intended to show what the whole is like;
- ‘work’: activity involving mental or physical effort done in order to achieve a result, denoting things or parts made of a specified material or with specified tools... denoting a mechanism or structure of a specified kind...

4.15 Grounds for Rejection of Requests

(a) Section 8 (1): Exemptions from disclosure of information.

There is no obligation on the part of a PIO to give any citizen the following:

- a) Information where disclosure would prejudicially affect the sovereignty and integrity of India, the security, strategic, scientific or economic interests of the State, relation with the foreign State or lead to incitement of an offence;
- b) information expressly forbidden to be published by any court of law or tribunal or the disclosure of which may constitute contempt of court;

- c) information, the disclosure of which would cause a breach of privilege of Parliament or State Legislature;
- d) information including commercial confidence, trade secrets or intellectual property where disclosure would harm the competitive position of a third party, unless larger public interest warrants the disclosure of such information;
- e) information available to a person in his fiduciary relationship, unless larger public interest warrants the disclosure of such information;
- f) Information received in confidence from a foreign Government;
- g) Information, the disclosure of which would endanger the life or physical safety of any person or identity the source of information or assistance given in confidence for law enforcement or security purposes;
- h) Information which would impede the process of investigation or apprehension or prosecution of offenders;
- i) Cabinet papers including records of deliberations of the Council of Ministers, Secretaries and other officers;
- j) Personal information, which would cause unwarranted invasion of the privacy of the individual unless larger public interest justifies the disclosure of such information.

(The information which cannot be denied to the Parliament or State Legislature shall not be denied to a person making request for the same).

However, a PIO may allow access to information if public interest in disclosure outweighs the harm to the protected interest.

(b) Section 9: Infringement of the copyright subsisting in a person other than the State. This is the only absolute exemption. Here the PIO need not consider the public interest in disclosure.

(c) Section 11: Third party information treated as confidential by the concerned and involving the case of trade or commercial secrets protected by law and other third party information where the public interest in disclosure does not outweigh the importance of any possible harm or injury to the interests of such third party.

(d) Section 24: Information of exempted intelligence and security organisations except information pertaining to allegations of corruption and human rights violations.

4.16 Procedure for Rejection of Requests

A PIO is required under the Act to either provide the information, on payment of the requisite fee or reject the request within the time limit prescribed. The Act stipulates that where a request for information is rejected by the PIO, the PIO will communicate the decision to the person making the request along with:

- i) the reasons for rejection.
- ii) the period within which an appeal against such rejection may be preferred (within 30 days of the date of the rejection)
- iii) the particulars of the Appellate Authority.

A sample format for rejection of request (with/without Part Access) is placed below:

A Model Communication for Partial Access / Rejection of Request

PIO Office Reference No:		Date:.....
<p>To The Applicant (Name & Address) Dear Sir / Madam</p>		
Ref: Your Application Dated:		
<p>1. Please refer to your Application datedrequesting for Information [Please provide a gist] addressed to</p>		
<p>2. With reference to your request, this is to inform that the following information [Please describe the Part proposed to be disclosed and the Form of Access] is proposed to be provided to you:</p>		
<p>(i).....</p>		
<p>(ii).....</p>		
<p>You are required to pay the following fees towards the cost of providing the information [Please describe – refer to the Model Communication for Further Fees]:</p>		
<p>3. The following [Part - Describe] information asked for cannot be supplied due to the reasons mentioned against them [describe the grounds for rejection and mention the Section/Sub-Section under the Right to Information Act, 2005]:-</p>		
<p>(i).....[grounds for rejection]</p>		
<p>(ii).....[grounds for rejection]</p>		
<p>4. In case you intend to prefer an appeal, as per Section 19 of the Right to Information Act, 2005, you may do so to the following Appellate Authority, within 30 days of the receipt of this letter*.</p>		

Name & Designation of Appellate Authority:

Address of the Authority:

* In the event you intend to prefer a Second Appeal against the decision of the Appellate Authority referred to above, you may do so to the [Central/State - as applicable] Information Commission [Please provide address] within the time limit prescribed under Section 19 of the Right to Information Act, 2005].

Sincerely,

Signature of PIO:

Name of the PIO:

Designation of the PIO:

Place:

Encl.: Sample Appeal form

Note: This is a suggested format, and need not be necessarily adhered to. The RTI Act, 2005 does not specify any 'Model Communication for Partial Access / Rejection of Request.

Within 30 days from the date on which the decision should have been made or was actually received a first appeal can be preferred with the concerned Appellate Officer under Section 19 (1) of the Act [Second Appeal within 90 days]. A Model of Appeal, which can be used for the First Appeal is placed below:

A Model of Appeal

Date:.....

To,

The Appellate Officer

(Name of the Public Authority)

(Address of the Public Authority)

An appeal under Section 19 of the Right to Information Act, 2005

Ref: [PIO/Appellate Officers' Decision Reference No. & Date, received on
..... (Date)

/Date of Deemed Refusal]

Dear Sir / Madam:

[Please Describe the details about Appeal and Grounds why Appeal is preferred:

Date & Description of the Application:

Name and Address of the PIO:

Details of Decision of the PIO:

Grounds of Appeal:

Decision Requested:

Sincerely,

(Appellant's signature)

Appellant's Name:

Appellant's Address:

Appellant's Phone Number / e-Mail Address (optional):

Place:

Note : This is a suggested format, and need not be necessarily adhered to. The RTI Act, 2005 does not specify any 'Model of Appeal' for preferring appeal.

4.17 Delays & Incomplete Information

In the case of delay in providing the requisite information to the person seeking the same or if the information provided is incomplete, such an eventuality could be a basis for appeal. Therefore, the PIO, in addition to maintaining registers for receipt of requests for information and disposal of such requests, will also have to develop checklists and keep a check on the pendency and/or completeness of the information provided. This is important because the burden of proving that the PIO acted reasonably and diligently would be solely on the PIO himself or herself and that would certainly require production of documentary evidence.

4.18 Check Slip for PIOs

To enable the PIOs to discharge their functions effectively, it will be useful for the PIOs to be ready with the following:

- Full details of the administrative unit/office/organisation.
- Full details of the department of which the public authority is a part.
- Information proactively published by the public authority.
- Information made available electronically.
- Annual report and other documents published by the public authority.
- Names, addresses and other details of the Appellate Authorities: Designated Appellate Officers and Information Commission.
- The contact details of the other Public Authorities, PIOs and APIOs.
- Proforma for the receipt of application for request of information.

- Forms for receipt of fees and acknowledgement, communication of decision including rejection.
- Proper seating arrangements to facilitate easy accessibility of citizens to information handbooks, portals, websites etc.
- Register for receipt, acknowledgements - separately for inward and outward and *roznama*.
- Checklist for monitoring the disposal, pendency and disposal of the applications for information.
- Arrangements for inspection of records/taking samples by persons making requests and fix a particular day or two in the week for the above purposes and be ready with an appropriate contingency plan.

4.19 Some Important Tips for PIOs

The PIOs need to constantly keep the following in mind:

- information which cannot be denied to the Parliament or the State Legislature shall not be denied to any citizen.
- notwithstanding the exemptions permissible under Section 8 (1) of the Act, access to information is to be allowed, if public interest in disclosure outweighs the harm to the protected interest.
- the Right to Information Act, 2005 overrides the Official Secrets Act, 1923.
- any material relating to occurrence, event or matter, which has taken place, occurred or happened 20 years before the date of the application has to be given to the applicant.
- access to information should not involve an infringement of copyright subsisting in a person other than the State.
- information supplied by a third party can be provided by the PIO subject to legal safeguards under Section 11.
- the burden is on the PIO to prove before the Information Commission in appeal that he acted reasonably and diligently. He has to support the same with documentary evidence.
- The PIO is personally liable to pay penalty if the same is imposed by the Information Commission while deciding on complaints and appeals.

4.20 Dealings with APIOs & Other Departments.

The PIO has to keep in constant touch with the APIOs. The appointment of APIOs has been envisaged under the Act to enable citizens to make request for information from sub-district/district levels to the place of location of the PIOs. Where an application or an appeal is received by the APIO, a period of 5 days is to be added in computing the time limit for response.

The APIOs need to inform the PIO from time to time about the status of the applications received along with date of receipt, sent to PIOs, the fees paid, etc. Similarly the PIO needs to inform the concerned APIOs about the information provided, information denied, the grounds for denial, applications wherein the decision has extended beyond the prescribed time limit etc.

PIO may transfer the request for information either in totality or partially to another public authority if the subject matter pertains to that other Public Authority. Similarly a PIO could get a request transferred to him from another Public Authority. In both the cases, a period of 5 days is to be added in computing the time limit for response.

The responsibility of the PIO does not cease when a request is transferred to another public authority. While transferring he/she has to concurrently inform the applicant about the same. He/she is also required to keep a record of transfer in his/her Outward Register for future reference and monitoring. Coordination between the two public authorities in such cases would also enable the PIOs concerned to present the correct picture before the Appellate Officer or Information Commission, as the case may be, if and when the applicant prefers an appeal.

4.21 Dealing with Citizens

With the Right to Information Act, 2005 firmly in place, disclosure is the rule and secrecy or exemption is an exception.

The Act confers a right to 'information' and not just 'records' or 'documents'. "Information" is defined by the Act very broadly. Right to Information includes inspection covering taking of samples by a citizen. Keeping the importance attached to the citizens' Right to Information, the Act bars the courts from entertaining any suit application or other proceeding in respect of any order made under this Act and no such order shall be called in question "otherwise than by way of an appeal under this Act". Seeking information is the citizen's right and an applicant making a request for information

cannot be asked to give any reason for requesting the information or any other personal details except those that may be necessary for contacting that applicant. There is provision of compensation to the citizens.

An individual's right to privacy, however, is protected under the Act. The exemption accorded to private information under the Act reflects the underlying public interest to protect personal privacy and prevent "unwarranted invasion" of the same.

The PIOs are required to render reasonable assistance to applicants for information. The help from the PIO to citizens could be in any form as stated below:

- Where a citizen is unable to make a request in writing, the PIO shall render assistance to the person making the request orally to present the same in writing;
- Where the information sought concerns the life or liberty of a person the PIO shall take all steps to provide the required information within 48 hours of receipt of such request.
- When the person to whom the access to record is to be provided is sensorily disabled, the PIO shall provide necessary assistance to enable access to the information, including such assistance appropriate for the inspection.
- When the right to information includes inspection of records, the PIO will reserve place and time for such inspection. Necessary arrangements have to be made to ensure that the citizen can carry out the inspection without any disturbance or distraction.
- The PIO would also make necessary arrangements for giving material samples, wherever required.

"Justice delayed is justice denied". There should not be any undue delay in providing information sought by the public. The Act, therefore, stipulates time limits for supply of information. If the requisite information is not provided to the applicant within the stipulated period, the same will be construed as deemed refusal under the Act and the applicant can prefer an appeal against it.

4.22 Dealing with Appellate Authorities

The PIOs should be well conversant with the powers and functions of the Appellate Officer and the Information Commission as envisaged under the Act.

While conveying information or rejecting request for information or conveying the fee amount to be paid etc., the PIO is required to indicate the right to appeal and the details of the Appellate Authority to whom the applicant can appeal. This amounts to paving the way for appeal to be preferred, if considered necessary by the applicant, and getting ready for meeting the requirements of the Appellate Authority.

The State / Central Information Commission (as the case may be) is mandatorily required to impose a penalty on an erring PIO, if in its opinion the PIO has without any reasonable cause:

- i. Refused to receive the application for information.
- ii. Not furnished information within the specified time or
- iii. Malafidely denied the request for information or
- iv. Destroyed the information which was the subject matter of the request or
- v. Obstructed in any manner the furnishing of the requested information.

In the event of the above, the Information Commission shall impose a penalty of Rs. 250/- per day on the PIO till application is received or information is furnished subject to the total amount of such penalty not exceeding Rs.25000/-. The Information Commission shall recommend for disciplinary action against the PIO under the service rules applicable to him in certain cases. If he/she persistently violates the provisions of the Act, without any reasonable cause.

The Information Commission is legally bound to give an opportunity to the PIO to be heard before deciding to impose a penalty. The PIO has, therefore, to prepare himself/herself to justify the action taken by him/her and prove that he/she acted reasonably and diligently. It is needless to say that the PIO keeps public interest paramount all the time. When it comes to making a decision to determine public interest versus private interest, it is important that the PIO makes a decision after considering all possible aspects of the issues at hand – the pros and cons and the legal position.

4.23 Guidelines for Authorities & Officers

It will be proper for the appropriate Government/public authorities to prepare guides/manuals for Public Authorities/Public Information Officers and Assistant Public Information Officers/Appellate Officers. A simplified “Dos and Don’ts” list in official language of the area could be prepared by every public authority for use as a check list by the APIOs, PIOs and Appellate Officers.

As time proceeds, more and more information may be made available in the electronic form to citizens by the public authorities. All the APIOs, PIOs, and Appellate Officers may be provided access to computer facility and networks; and adequate training in the use of computers and information systems for retrieval of information may also be provided to them.

4.24 Capacity Building Programmes

The Public Information Officer plays a pivotal role in the implementation of the Right to Information Act, 2005. The compliance with various provisions of the Act requires a certain level of preparedness on part of the PIO. He/she should have complete knowledge of and experience in office procedures. He/she should have adequate knowledge of record management systems in the public authority, including retrieval of information from the internet. He/she needs to know the structure, functions and delegation of powers within the organization. He/she should be well-versed with the organization chart, the levels of disposal of cases, appeals etc. He/She should be fully conversant with all the provisions of the Act.

The PIO should be good in negotiations with the public, colleagues, third parties and others so that he/she could have smooth interactions with all these stakeholders and effectively attend to his/her duties. The PIO should also have good drafting skills so as to be able to issue well-reasoned orders.

The tasks required to be performed as PIO, for an official, will be in addition to the work he/she performs as an officer of the public authority. The PIO should be able to judiciously apportion time available with him/her to the various activities entrusted to him/her and RTI-related work. Availability of inadequate time cannot be a justification for delay in the disposal of requests for information or for supply of incomplete information.

The PIOs need to be prepared, motivated and trained in right to information, office procedures, information management, good governance, change management etc. from time to time.

Similarly, Appellate Officers and other officers should be trained regularly. Simultaneously, training and awareness programmes need to be launched to address the demand side issues like mobilisation of people, civil society action, legal literacy etc.

Chapter 5 – Role of Appellate Officers & Information Commission

5.1 Channels of Appeal

The Act provides two channels of appeals against the decision of a PIO on the request for information by a citizen – an internal or ‘first’ appeal to a designated “officer senior in rank” to the PIO – the first appellate authority (called “Appellate Officer” in this Manual) as notified by the Public Authority and a ‘second’ appeal to the Information Commission. The Act also provides for preferring complaints to the Information Commission regarding non-implementation of the legal provisions.

If an applicant is aggrieved by the decision of a PIO, he or she can make an appeal to the Appellate Officer who, as required by law, would be an “officer senior in rank” to the PIO.

A second appeal, against the decision of the Appellate Officer, lies to the Information Commission.

5.2 First Appellate Authority

The Act does not define the first appellate authority precisely. Under Section 7(b), it refers to “appellate authority” to whom appeal can be made by a person whose request has been rejected. Section 19 (1) refers to first appeal being made to such “officer who is senior in rank to the Central Public Information Officer or State Public Information Officer, as the case may be”. The Information Commission is also the second appellate authority. Thus, in this Manual we use the term “Appellate Officer” to connote the appellate authority to whom first appeal can be preferred under the Act. Needless to say that the Appellate Officer must be an officer superior to the PIO such that he is fully conversant with the work of the organization, the subjects dealt with by it and the functions discharged by various PIOs. The number of designated Appellate Officers in a Public Authority could be small as compared to the number of PIOs. One Appellate Officer could easily meet the requirement of appeals arising out of the decisions of a number of PIOs. However, keeping the nature of responsibilities to be discharged

under the Act and the structure and functions of the organisation at various levels in view, each Public Authority has to determine the number of senior officers to be designated as appellate authorities, the levels of such officers and the PIOs against whose decisions they would hear appeals. As the Appellate Officers could be transferred, they may be notified as appellate authorities by designation.

A question arises whether the head of a public authority himself or herself can be an appellate authority to hear first appeals. There may be distinct advantages if the head of a public authority is also the Appellate Officer due to the reasons that he or she:

- (1) Is fully conversant with the functioning of the organisation;
- (2) Would be the best judge to command various sources of information of the authority and meet the access requirements of the public;
- (3) Can present to the parent department a complete and correct picture regarding the state of implementation of the Act by the authority;
- (4) Would usually have first hand knowledge of the operation of the Act within his/her organisation.
- (5) Would be in a position to explain to the next appellate authority, i.e. the Information Commission regarding the reasons behind the outcomes of first appeals.
- (6) The fact that he/she is the Appellate Officer may inculcate a sense of responsibility on the part of PIOs in the authority to be responsive to the requests of citizens for information.

Furthermore as the head of the authority, analysing the type of information sought from the organization, he or she can be in a better position to determine additional areas requiring proactive disclosure / publication.

The advantages listed above may be weighed against factors such as whether the head of the public authority would be in a position to devote time for deciding time-consuming appeals, given the nature and extent of his/her workload. The departments concerned may take appropriate decisions weighing the pros and cons. However, it should be kept in mind that appeal lies to the Information Commission against the

decisions of the Appellate Officers and therefore, the levels of the latter should be reasonably high.

5.3 Disposal of First Appeals

Section 19 (1) and (2) of the Act stipulate that any person who, does not receive a decision on request for information within the stipulated time or is aggrieved by a decision of the Public Information Officer including communication of fees to be paid may within 30 days from the expiry of such period or from the receipt of such a decision prefer an appeal to the designated Appellate Officer, senior in rank to the Public Information Officer. The Appellate Officer may admit the appeal after the expiry of the period of 30 days if he or she is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

Where an appeal is preferred against an order made by a Public Information Officer to disclose third party information, the appeal by the concerned third party shall be made within 30 days from the date of the order.

The Act prescribes that the appeal shall be disposed of within 30 days of the receipt of the appeal or within such extended period not exceeding a total of 45 days from the date of filing thereof, as the case may be, for reasons to be recorded in writing.

5.4 Information Commissions

Section 12 and Section 15 of the Act provide for the constitution of the Central Information Commission (CIC) and State Information Commission (SIC) respectively to exercise powers conferred on it by the Act (Chapter V, Sections 18-20). The setting up of these Commissions to ensure the effective implementation of right to information regime in the country is one of the most important provisions of the Act. Its importance can be judged from the fact that the long title of the Act itself makes a mention about the Commissions.

The key provisions for the Central and State Information Commissions relate to the following:

- the (Central / State) Information Commission shall consist of (a) the Chief Information Commissioner / State Chief Information Commissioner and (b) such

number of (Central / State) Information Commissioners, not exceeding 10, as may be deemed necessary [Section 12 (1) and Section 15 (1)];

- the Chief Information Commissioner/State Chief Information Commissioner and (Central / State) Information Commissioners shall be appointed by the President / Governor on the recommendation of a committee consisting of—
 - (i) the Prime Minister / Chief Minister, who shall be the Chairperson of the Committee;
 - (ii) the Leader of Opposition in the Lok Sabha / State Legislative Assembly; and
 - (iii) a Union Cabinet Minister / Cabinet Minister in the State to be nominated by the Prime Minister / Chief Minister (Section 12 (3) and Section 15 (3));
- each Commission would function as an autonomous body exercising the powers conferred on, and performing the functions assigned to it under the Act (Section 12 (4) and Section 15 (4));
- the general superintendence, direction and management of the affairs of the Commission shall vest in the Chief Information Commissioner / State Chief Information Commissioner who shall be assisted by the respective Information Commissioners (Section 12 (4) and Section 15 (4));
- the Chief Information Commissioner/State Chief Information Commissioner and every Information Commissioner shall hold office for a term of five years from the date of entering upon office or till attaining the age of 65 years whichever is earlier (Section 13 and Section 16);
- the Chief Information Commissioner/State Chief Information Commissioner or any Information Commissioner shall be removed from office only by order of the President / Governor on the ground of proved misbehaviour or incapacity after the Supreme Court, on a reference made to it by the President / Governor, has, on inquiry, reported that the Chief Information Commissioner/State Chief Information Commissioner or any Information Commissioner, as the case may be, ought on such ground be removed (Section 14 (1) and Section 17 (1));

- the Central / State Government shall provide the Chief Information Commissioner/ State Chief Information Commissioner and the Information Commissioners with such officers and employees as may be necessary for the efficient performance of their functions under the Act and the salaries and allowances payable to and the terms and conditions of service of the officers and other employees appointed for the purpose of the Act shall be such as prescribed (Section 13 (6) and Section 16 (6)).

The Act empowers the Central Information Commission and State Information Commission, as the case may be, to receive and inquire into complaint from any person relating to access to information under the control of public authorities, including imposing penalties on the erring PIOs and recommending disciplinary action against them. They are the authorities to deal with and dispose of appeals against the decisions of the designated appellate officers, including imposing penalties on and recommending disciplinary action against the erring PIOs. They may also make recommendation to public authorities not conforming with the provisions or the spirit of the Act, specifying the steps to be taken for promoting such conformity.

The Right to Information Act, 2005 envisages that the Information Commissions play the role of “remedy provider”, “enforcer” and “educator” as elsewhere in the world.

5.5 Inquiry into Complaints

Section 18 (1) of the Act stipulates that the Information Commission shall receive and inquire into a complaint from any person —

- (a) who has been unable to submit a request to a Public Information Officer either by reason that no such officer has been appointed under this Act, or because the Assistant Public Information Officer has refused to accept his or her application for information or appeal under the Act for forwarding the same to the Public Information Officer or Appellate Officer or the Information Commission as the case may be;
- (b) who has been refused access to any information requested under the Act;
- (c) who has not been given a response to a request for information or access to information within the time limit specified under the Act;
- (d) who has been required to pay an amount of fee which he or she considers unreasonable;

(e) who believes that he or she has been given incomplete, misleading or false information under the Act; and

(f) in respect of any other matter relating to requesting or obtaining access to records under the Act.

The Commission may initiate an inquiry in respect of complaint, if satisfied that there are reasonable grounds to inquire into the matter.

Section 18 further stipulates that while inquiring into a complaint, the Commission shall have the same powers as are vested in a civil court while trying a suit under the Code of Civil Procedure, 1908, in respect of the following matters, namely:—

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

Further, the Commission, during the inquiry of any complaint under the Act, may examine any record to which the Act applies which is under the control of the public authority. No such record may be withheld from it on any grounds notwithstanding anything inconsistent contained in any other Act of Parliament or State Legislature, as the case may be.

5.6 Disposal of Second Appeals

Section 19 (3) of the Act provides that a second appeal against the decision of the Appellate Officer shall lie within 90 days from the date on which the decision should have been made or was actually received, with the Information Commission. The Information Commission may admit the appeal after the expiry of the period of 90 days if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time;

If the decision of the Public Information Officer against which an appeal is preferred relates to information of a third party, the Information Commission shall give a reasonable opportunity of being heard to that third party;

5.7 Onus of Proof

Section 19 (5) of the Act provides that in any appeal proceedings, the onus to prove that a denial of a request was justified shall be on the Public Information Officer who denied the request.

5.8 Decisions in Second Appeals

The Act provides that appeal filed before the Information Commission shall be decided by it in accordance with the prescribed procedure and its decision shall be binding. The Information Commission has the power to—

- (a) require the public authority to take any such steps as may be necessary to secure compliance with the provisions of the Act, including—
 - (i) by providing access to information, if so requested, in a particular form;
 - (ii) by appointing a Public Information Officer;
 - (iii) by publishing certain information or categories of information;
 - (iv) by making necessary changes to its practices in relation to the maintenance, management and destruction of records;
 - (v) by enhancing the provision of training on the right to information for its officials;
 - (vi) by providing it with an annual report in compliance with clause (b) of subsection (1) of section 4;
- (b) require the public authority to compensate the complainant for any loss or other detriment suffered;
- (c) impose any of the penalties provided under the Act;
- (d) reject the application [Section 19 (8)].

The Information Commission is legally bound to give notice of its decision, including any right of appeal, to the complainant and the public authority.

Though it is for the concerned Government to give appropriate operational and budgetary autonomy to the Central or State Information Commission (as the case may be), every public authority needs to gear itself to provide all required support to the Information Commission. Among other things, to enable the Commission to arrive at consistent decisions, the public authority's information base has to be comprehensive and available in easily retrievable form and in a format which is also understandable.

The number of second appeals preferred would directly be proportionate to the way public authorities identify appropriate officials as PIOs and Appellate Officers, designate them in adequate numbers, the way they publish information proactively and finally the extent and quality of training imparted to the Public Information Officers and the Appellate Officers. In this regard, the Information Commissioners may have to be like 'roving' ambassadors and be on the move to see for themselves the manner in which the provisions of the Act are being implemented at various levels: State, District and Local.

5.9 Appeal Procedure

The Department of Personnel and Training, Government of India, has through a notification on 'Central Information Commission (Appeal Procedure) Rules, 2005' prescribed the procedure for deciding appeal by the Central Information Commission. These Rules require that the Order of the Commission shall be pronounced in open proceeding and be in writing duly authenticated by the Registrar or any other officer authorised by the Commission for this purpose.

The Central Information Commission (Appeal Procedure) Rules, 2005

Contents of appeal:

- (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, the 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 the prayer or relief.
 - (viii) Verification by the appellant; and
 - (ix) Any other information which the Commission may deem necessary for deciding the appeal.

Documents to accompany appeal:

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

Procedure in deciding appeal

- (i) hear oral or written evidence on oath or on affidavit from concerned or interested person;
- (ii) peruse or inspect documents, public records or copies thereof;
- (iii) inquire through authorised officer further details or facts;
- (iv) hear Central Public Information Officer, Central Assistant Public Information Officer or such Senior Officer who decide the first appeal, or such person against whom the complaint is made, as the case may be;
- (v) hear third party; and
- (vi) receive evidence on affidavits from Central Public Information Officer, Central Assistant Public Information Officer, such Senior Officer who decided the first appeal, such person against whom the complaint lies or the third party.

5.10 Imposition of Penalty

Section 20 (1) of the Act provides that the Commission, while deciding a complaint or appeal, shall impose penalty on erring PIOs in cases where the PIO has, without any reasonable cause:

- refused to receive an application for information or
- has not furnished information within the time specified [u/s 7(1)] 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.

The scale of the penalty to be imposed is Rs.250 each day till application is received or information is furnished subject to the total amount of such penalty not exceeding Rs.25,000.

The Information Commission is legally bound to give the Public Information Officer a reasonable opportunity of being heard by the Commission before any penalty is imposed on him or her.

The burden of proving that a Public Information Officer acted reasonably and diligently shall be on himself or herself.

5.11 Disciplinary Action

Section 20 (2) of the Act provides that the Commission shall, while deciding a complaint or appeal, recommend for disciplinary action against the Public Information Officer under the service rules applicable to him or her in cases where the PIO 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,

5.12 Importance of Public Interest

The Right to Information Act, 2005 calls for a paradigm shift in the approach to governance. It is an Act which will be implemented by the people and acted upon by the Government. The larger public interest will always be more important than private or protected interest. Only such Information which could lead to unwarranted invasion of the privacy of the individual may be denied by the PIO. Overall, if the public interest in disclosure to the citizen outweighs the harm to the protected interest, then the public authority will have to provide information and not reject the request for the same by citizens.

The Appellate Authorities would need to give due consideration to 'public interest' as the predominant consideration in the supply of information to citizens where dealing with appeals, including cases where the PIOs might have erred in judging the privacy of individual.

5.13 Action in Good Faith

Under section 21 of the Act, any action taken in good faith is protected. The General Clauses Act, 1897 defines 'good faith' as "a thing ... deemed to be done in "good faith", where it is in fact done honestly, whether it is done negligently or not."

No suit, prosecution or other legal proceeding lies against the person who has done or intended to do anything which is in good faith. That an action was done in good faith must, however, be proved based on documentary evidence.

The delay in providing information may be condoned if the PIO can prove with documentary evidence that the situation was beyond his control and there was no deliberate delay on his/her or part in providing information to a citizen, requesting for the same.

The documents to be presented as proof to establish that a decision was taken in good faith cannot be got prepared overnight. It totally depends on how the records are maintained and whether they are complete in all respects. The registers maintained like receipt of application, acknowledgement, registers for transfer of application to other public authority and officers with dates and their acknowledgement, basis for decision etc. would all be required. The entries in such registers have to be correct and complete.

Section 5(5) states that any officer whose assistance has been sought shall render all assistance to the PIO by furnishing information, and in the event of any default / violation of any provisions of the Act by such other officer, the said officer shall be deemed to be a PIO. Hence, it is important for the PIO to maintain acknowledgements for requests of information sought from other officers.

Since the Information Commission is to hear evidence, peruse and inspect documents and receive evidence for arriving at a decision on an appeal, if a decision is taken in good faith by the PIO, s/he is to be provided ample opportunity to defend him / herself with supporting records.

5.14 Well Reasoned Order

Where the Information Commission, at the time of deciding an appeal or complaint, is of the opinion that the PIO has, among others, malafidely denied the request for information it will then impose a penalty. However, before imposing the penalty, the commission would give reasonable opportunity to the PIO of being heard.

The onus to prove that a denial of request was justified is on the PIO, who denied the request. This burden of proof under Section 19 (5) has to be supported by documentary evidence.

As per the provision of Section 7 (8) of the Act, the PIO, when rejecting a request has to communicate (to the person making a request) the following:

- (I) The reasons for such rejection.
- (II) The period within which an appeal against such rejection may be preferred, and
- (III) The particulars of the Appellate Authority to whom appeal can be preferred.

Similarly, for the requests where information is provided, he/she is required to intimate the amount of fees to be paid, the details of fees levied and also that the decision of levying a certain amount of fee can be appealed against, details of Appellate Authority and the period within which the appeal could be preferred.

While providing requisite information or rejecting the request, the PIO has to issue well reasoned communications. The reasons are to be given in proper order and the rights of the citizen to appeal are to be explicitly stated.

Such communication should clarify the position to the applicants and enable the Appellate Authority to identify the cause for rejection or basis for fee determination etc. It will also help the Commission in issuing its decision(s) wherever appeal(s) have been preferred.

5.15 Principles of Natural Justice

The procedure for deciding an appeal by an Appellate Authority or the Information Commission must take into account the application of the principles of natural justice. No person should be condemned unheard. Both the sides will have to be given opportunity to be heard and also to submit any document etc. for perusal and inspection by the concerned, during appeal. Fair play will thus be an essential ingredient of any decision taken. The procedure for deciding appeal prescribed under the Central Information Commission (Appeal Procedure) Rules, 2005 by the Government of India does not provide any scope for arbitrariness in arriving at a decision or in imposing a penalty.

Necessary notices will have to be given by the Information Commission and the stipulated procedure framed under rules will have to be followed in the disposal of appeals. For this purpose, as has been suggested, the Information Commissioners act like 'roving' ambassadors, undertaking tours to observe for themselves how various public functionaries are performing their duties under the Act and whether the citizens are actually able to exercise their right to information. The Commissions should definitely ensure that they uphold the principles of natural justice in disposing appeals.

Chapter 6 – Implementation and Monitoring

6.1 Importance of Monitoring Systems

Public Authorities, Assistant Public Information Officers, Public Information Officers and Appellate Officers need to maintain registers properly, which would, in addition to facilitating effective discharge of their functions, enable them to produce documentary evidence in appeals before the Information Commission. Further, the successful implementation of the Act to usher in the practical regime of right to information will depend on the success of appropriate monitoring at the levels of PIO, Appellate Officer, Public Authority, Information Commission, Departments, Ministries and the Government. This will encompass the quality and quantity of data maintained and supplied at appropriate time by various authorities in the requisite forms.

Unless records are maintained properly and updated regularly, the furnishing of mandatory information as required by the concerned Information Commission for compiling its Annual Report under Section 25 of the Act would also not be possible.

6.2 Directory of APIOs, PIOs and Appellate Authorities

One of the initial activities of the Government/Departments/Public Authorities is to compile and publish a Directory of APIOs, PIOs and Appellate Authorities, including the Information Commissioners (suggested format placed below). People need to know the names, addresses and contact numbers of all the authorities connected with the implementation of the Act.

The Directory of APIOs, PIOs and Appellate Authorities needs to be given wide publicity so that the citizens are aware of whom to contact for information and whom to approach for appeal in the event of rejection of request for information or redressal of complaints.

The Directory may be updated every year as some officers are likely to be transferred during the course of a year.

Format for Directory of PIOs Appellate Authorities

Name of the Public Authority:

Sl.No	Name & Address of PIO & Contact No.	Area/Type of Information Available with PIO	Name & Address of APIOs & Contact No.	Name & Address of Appellate Officer & Contact Nos.	Names & Addresses of Commissioners & Contact Nos.

6.3. Inward / Outward Registers

Every PIO must maintain a record of receipts of application for requests in the format below and update the same from time to time.

Designation & Name of the Public Information Officer:

Sl. No	Date of Receipt of Application	Name and Address of Applicant	Subject / Area	Third Party Details	Details of Decision on Fee, Supply of Information etc.	Reference No. of Supply of Information/ Communication of Rejection with Date

Similar registers may be maintained by the Appellate Officers and Information Commission.

6.4 Report of Information Commissions

Section 25 of the Right to Information Act, 2005 mandates an Annual Report to be submitted by the Central/State Information Commission to the Parliament/State Legislature. The Central Information Commission or State Information Commission, as the case may be, shall, as soon as practicable after the end of each year, prepare a report on the implementation of the provisions of the Act during that year and forward a copy thereof to the appropriate Government for placing the same before the Parliament/State Legislature.

It is mandatory for the Annual Report of the Information Commission to contain, among other things, the following information:

- (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) the number of appeals referred to the Central Information Commission or State Information Commission, as the case may be, for review, the nature of the appeals and the outcome of the appeals;
- (d) particulars of any disciplinary action taken against any officer in respect of the administration of this Act;
- (e) the amount of charges collected by each public authority under this Act;
- (f) any facts which indicate an effort by the public authorities to administer and implement the spirit and intention of the Act;
- (g) recommendations for reform, including recommendations in respect of the particular public authorities, for the development, improvement, modernisation, reform or amendment to the Act or other legislation or common law or any other matter relevant for operationalising the right to access information.

Section 25 (2) of the Act clearly specifies that each Ministry or Department shall, in relation to the public authorities within their jurisdiction, collect and provide information required by the Information Commission to prepare its annual report and comply with the requirements concerning the furnishing of that information and keeping of records for the purposes of

the Act. **Appendices 1 – 2** suggest the formats of some registers that may be maintained by PIOs/Appellate Officers/Public Authorities with a view to meeting the requirements laid down by the Information Commission. **Appendix 3** suggests the formats for the annual consolidation of information at various levels, including the Information Commissions, for the purpose of reporting. The proformae suggested under these appendices are as follows:

Appendix 1: Proformae for Registers to be Maintained by the Public Authority

Proforma 1A: Register of Applications Received and Forwarded by Assistant Public Information Officer (APIO)

[To be maintained by Assistant Public Information Officer (PIO)]

Proforma 1B: Register of Requests for Information to & Disposal (inclusive of requests rejected) of Requests by Public Information Officer (PIO)

[To be maintained by Public Information Officer (PIO)]

Proforma 1C: Register of Rejection of Information Requests by Public Information Officers (PIO)

[To be maintained by Public Information Officer (PIO)]

Proforma 1D: Register of Costs, Fees and Charges Collected

[To be maintained by Public Information Officer (PIO)]

Proforma 1E: Register of First Appeals against Decisions of Public Information Officers

[To be maintained by First Appellate Officer (AO)]

Proforma 1F: Register of Implementation of Decisions / Suggestions of Information Commission

[To be maintained by Public Authority]

Appendix 2: Proformae of Registers to be Maintained by the Information Commissions

Proforma 2A: Register of Complaints to Information Commission

[To be maintained by Information Commission Secretariat]

Proforma 2B: Register of Appeals to Information Commission

[To be maintained by Information Commission Secretariat]

Appendix 3: Proformae for Annual Consolidated Statements

Proforma 3A: Information Requests Made & Access to Information Denied

Proforma 3B: Nature of Appeals Preferred to Information Commission

Proforma 3C: Outcomes of Appeals to Information Commission against Rejection of First Appeals

Proforma 3D: Nature of Appeals Rejected by Information Commission

Proforma 3E: Decisions by Information Commission requiring Compliance by Public Authorities with Section 19 of RTI Act, 2005

Proforma 3F: Penalties Imposed by Information Commission on Public Information Officers

Proforma 3G: Disciplinary Action against Officers under the RTI Act

6.5 Monitoring Implementation

It is important that the Public Information Officers, Appellate Officers, Public Authorities, Departments, Ministries and the Information Commission monitor the implementation of the Act regularly if right to information is to become a tool for accountable and transparent governance. Some suggested formats are placed below to enable effective and meaningful monitoring at department level annually. Similar formats can be used for monitoring at the level of public authorities.

Disposal of Information Requests by Public Information Officers Reporting Year:

Name of Department	No. of Request Pending at end of Last Year	No. of Requests Received during the Year	Total No. of Requests	No. of Requests Disposed	No. of Requests Rejected	No. of Requests deemed to be Refused : 7(2)	% of Cases Access to Information Denied*
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)

* $[(6) + (7)/(5) + (7)] \times 100$

Information Requests Rejected by Public Information Officers

Reporting Year:

Name of Department	Total No. of Requests Rejected	No. of Requests Rejected Section 8	No. of Requests Rejected Section 9	No. of Requests Rejected Section 11	No. of Requests Rejected Section 24	No. of Requests Rejected Other Sections
(1)	(2)	(3)	(4)	(5)	(6)	(7)

Disposal of First Appeals by Designated Appellate Officers

Reporting Year :

Name of Department	No. of First Appeals pending with Appellate Officers	No. of First Appeals preferred during the Year	Total No. of First Appeals with Appellate Officers	No. of First Appeals Disposed	No. of First Appeals Rejected	% of First Appeals Rejected (6) / (4) x 100	No. of First Appeals pending for more than 45 Days
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)

Disposal of Complaints by Information Commission

Reporting Year:

Name of Department	No. of Complaints pending with Information Commission at end of Last Year	No. of Complaints preferred during the Year	Total No. of Complaints with Information Commission	No. of Complaints Disposed	No. of Complaints Rejected	No. of Complaints pending for more than 90 Days
(1)	(2)	(3)	(4)	(5)	(6)	(7)

Reasons of Complaints to Information Commission

Reporting Year :

Reason for Complaint	No. of Complaints pending with Information Commission as on end of last year	No. of Complaints preferred during the Year	Total No. of Complaints with Information Commission (2) + (3)	No. of Complaints Disposed	No. of Complaints Rejected	No. of Complaints pending for more than 90 Days
(1)	(2)	(3)	(4)	(5)	(6)	(7)
18 (1) (a)						
18 (1) (b)						
18 (1) (c)						
18 (1) (d)						
18 (1) (e)						
18 (1) (f)						

Disposal of Second Appeals by Information Commission
Reporting Year :

Reason for Second Appeal	No. of Second Appeals pending with Information Commission at end of Last Year	No. of Second Appeals preferred during the Year	Total no. of Second Appeals with Information Commission (2) + (3)	No. of Second Appeals Disposed	No. of Second Appeals Rejected	No. of Second Appeals pending for more than 90 Days
(1)	(2)	(3)	(4)	(5)	(6)	(7)
7(2)						
8(1) (a)						
8(1)(b)						
8(1)(c)						
8(1)(d)						
8(1)(e)						
8(1)(f)						
8(1)(g)						
8(1)(h)						
8(1)(i)						
8(1)(j)						
9						
11						
24						
Others						

Disposal of Second Appeals by Information Commission

Reporting Year :

Name of Department	No. of Second Appeals pending with Information Commission at end of Last Year	No. of Second Appeals preferred during the Year	Total no. of Second Appeals with Information Commission (2) + (3)	No. of Second Appeals Disposed	No. of Second Appeals Rejected	No. of Second Appeals pending for more than 90 Days
(1)	(2)	(3)	(4)	(5)	(6)	(7)

Nature of Information Requests & Appeals Rejected

Reporting Year :

	PIO Level		First Appellate Authority Level		Information Commission Level	
Section	No. of Requests Rejected	Rejection/ Disposed %	No. of First Appeals Rejected	Rejection/ Disposed %	No. of Second Appeals Rejected	Rejection/ Disposed %
Section 8 (1) (a)						
Section 8 (1) (b)						
Section 8 (1) (c)						
Section 8 (1) (d)						
Section 8 (1) (e)						
Section 8 (1) (f)						
Section 8 (1) (g)						
Section 8 (1) (h)						
Section 8 (1) (i)						
Section 8 (1) (j)						
Section 9						
Section 11						
Section 24						
Other						

The formats presented above are suggested formats and may be modified by appropriate authorities if needed.

Compiling information in the above formats requires information systems to be set up, starting from the level of Assistant Public Information Officers up to the Information Commission, maintaining the same properly and undertaking periodic monitoring

Chapter 7 – Some Important Questions

(1) When did the Right to Information Act, 2005 come into force?

The Right to Information Act came into force fully on the 12th October, 2005 (120th day of its enactment i.e., 15th June, 2005). Some provisions came into force with immediate effect viz. obligations of public authorities [Section 4(1)], designation of Public Information Officers and Assistant Public Information Officers [Sections 5(1) and 5(2)], constitution of Central Information Commission [Sections 12 and 13], constitution of State Information Commission [Sections 15 and 16], non-applicability of the Act to Intelligence and Security Organizations [Section 24] and power to make rules to carry out the provisions of the Act [Sections 27 and 28].

(2) Who is covered under the Right to Information Act, 2005?

The Act extends to the whole of India except the State of Jammu and Kashmir [Section 1].

(3) Are “file notings” included in the definition of Information?

Section 2 (f) of the RTI Act defines ‘information’ which includes ‘record’. Section 2(i)(a) states that a ‘record’ includes any document, manuscript and file. The operative definition of a ‘file’ is given in the Manual of Office Procedure prepared by the Central Secretariat, Government of India. The definition of ‘file’ in the Manual includes ‘notes’ and ‘appendices to notes’.

In CIC Decision No. ICPB/A-1/CIC/2006 dt.31.01.2006, the CIC held that “file notings are not, as a matter of law, exempt from disclosure”. Thus, file notings can be disclosed under the Act.

(4) If the law under which a Public Sector Unit (PSU) has been constituted does not allow access to information to the people such as agendas of board meetings etc., will such information have to be given under the RTI Act?

PSUs fall within the category of public authorities. Even if the law constituting a PSU does not allow disclosure of certain categories of information, the RTI Act, 2005 overrides any such law in existence. Hence the designated PIO for the organisation under question has to provide the information.

However, if an applicant seeks information, that includes commercial confidence, trade secrets or Intellectual Property Rights (IPRs) etc. the disclosure of which will affect the competitive position of that PSU, such information may not be given unless there is a larger public interest involved.

(5) Government offices have been providing information to people on the basis of their oral requests in the past. Does the RTI Act require such informal practices to end?

No, there is no need to discontinue the conventional and informal practice of giving information upon oral request. The RTI Act does not put an end to such practices. If information can be given without delay upon oral request it is better to give such information to the requester rather than require him/her to put in a formal application. This helps reduce paper work for the public authority.

(6) Can Government officers get access to Annual Confidential Reports (ACRs) under the RTI Act?

As per decision No.18/IC(A)/2006 dt.28.03.2006, the CIC held that “the assessment reports by the superior officers are personal and confidential information and therefore exempted under Section 8 (1)(j) of the RTI Act”.

In the case stated above, the Central Information Commission upheld the public authority’s (Indian Oil Corporation’s) decision that ‘Annual Performance Appraisal Reports’ cannot be shared as they are confidential in nature.

(7) Can students ask for copies or inspection of their answer scripts if they are unhappy with the marks awarded by the examiner in public examinations?

The present position is that the Central Information Commission has ruled, on an appeal submitted to it, that students cannot have access to answer scripts / supplements [CIC Decision No. 22/ICPB/2006 dt. 18.05.2006]

(8) Every department performs different kinds of functions at different levels of operation from the Secretariat to the Taluka/Village level. Will disclosure under Section 4 (1) (b) have to be made for every one of these levels separately?

Yes. In several states more than one public authority are notified within every department from the secretariat level to the district and sub-district levels. Every such public authority will have to develop its own proactive disclosure documents or Information Handbooks unique to its powers, functions, area of operation etc.

Section 4 (1)(b) is designed to ensure that public authorities disclose certain information which are important to the public voluntarily at every level of operation. It is to be noted that, if implemented properly, Section 4(1) (b) will reduce the workload of officials and public authorities with regard to the requirement of providing information on request. This is because the information which is regularly needed by the public can be accessed by them without the need of going through a process of making specific request.

(9) Will not the publication of the 17 manuals mentioned under Section 4(1)(b) be very difficult and burdensome?

The requirement to publish ‘manuals’ reflects the objectives of Section 4 (1)(b) for proactive disclosure on the part of every public authority, which is simply to

publish and disseminate key information routinely in a manner and form which is easily accessible and understood by the public [Sections 4(3) and 4(4) of the RTI Act which specifically require this].

The 17 subsections of Section 4(1)(b) are 17 categories of information that a public authority is required to prepare and disseminate proactively through handbooks, notice boards, print and electronic media etc.

Most of the information required to be published proactively under this section may already be available within the public authority albeit in a scattered manner. These will need to be collected and collated to fulfil the requirement of Section 4(1)(b). Several officials are pleased with Section 4(1)(b) as it will help them streamline their own recordkeeping, monitoring and reporting procedures. Once the information is compiled and published in a suitable format it will be easy to update it.

Furthermore, not every public authority may be required to collate information under all categories of Section 4(1)(b). For example, the Finance Department in a State may not be issuing any permits or concessions. As it does not perform such functions the Finance Department will not be held at fault for not including this category of information in its Public Information Directory.

The CIC has, in one of its letters (dt. 10.05.2006) to all Ministries / Departments, stated that “it is in the interest of the public authorities to make available all the 17 manuals to the citizens, which is likely to reduce the volume of requests for information under the RTI Act”.

If appropriate management information systems are developed and maintained by departments using information and communication technologies, the preparation of the information to be published at different levels annually can be a simple affair

(10) Is it enough to disseminate information under Section 4 (1)(b) on the Internet?

Information under Section 4 (1) (b) shall be disseminated through notice boards, news papers, public announcements, media broadcasts, the Internet or any other means.

(11) Is it enough to publish information under Section 4 (1)(b) only once at the time of the commencement of the RTI Act?

No. The Act requires that every public authority has to update its publications under Section 4(1)(b) every year. The Central/State Government/ Departments will have to come out with general instructions for time-bound updating of all categories of information, including formats for publication. Every public authority may in turn publish updated information that is specific to its functions following the guidelines.

(12) What will be the penalty if a public authority/department is not able to meet the deadline for proactive disclosure (120 days)?

It is advisable to publish as much information as possible under Section 4(1)(b) within the deadline and give it wide media publicity so that people know that the public authority/department is earnest about implementing the law. Any person can make complaint to the relevant Information Commission under Section 18 (1)(f) of the Act and the Commission may even require the public authority to compensate the complainant for any loss or other detriment suffered.

It must be noted that the Information Commission has the power under Section 19(8)(a)(vi) to receive from a public authority an annual compliance report in relation to Section 4 (1)(b). This reporting mechanism will technically make the public authority answerable to the Information Commission for all acts of commission and omission in relation to proactive disclosure.

(13) Can a request be denied if it is too big? If not, how can we handle such requests best? How much information can a citizen request in one application? If he/she asks 20-30 kinds of information in one application should it be given? Or should the citizen be asked to put in fresh applications for each point of information requested and also be asked to pay application fees every time?

The Act does not permit rejection of an application simply because it relates to a large number of documents. Under Section 7 (9), information shall be provided in the form in which it is sought unless it would 'disproportionately' divert the resources of the public authority. A PIO can request the applicant to visit his/her office personally and inspect the required documents or files. However, the PIO shall communicate the date and time to the applicant for such inspection. The PIO has to determine and justify what constitutes 'disproportionately divert resources'.

An applicant can ask for 20 to 30 different kinds of information in the same application and cannot be asked to apply afresh.

If the information published under Section 4 (1) (b) of the Act is comprehensive and proper information systems are maintained to enable such publication, even if an applicant requests for many pieces of information, the same can be provided to the applicant without much difficulty. Appropriate record management systems need also to be instituted.

(14) If in a single application the applicant requests information that relates to a public authority and also other public authority/authorities, is the PIO responsible for giving all that information himself/herself?

The RTI Act makes it clear that the PIO has the power to transfer an application or parts of it if the same relates to information held by another public authority

[Section 6 (3)]. The application shall be transferred to the PIO concerned immediately - within 5 days - and the applicant has to be informed about the transfer in writing.

(15) Is it possible that some elements may misuse this law and use the information to blackmail/threaten officers?

The fact that the Act requires making as much information as possible available with the public authorities in the public domain may actually prevent blackmail to honest and sincere officers. If information is divided into two types, namely 'open to disclosure' and 'not open to disclosure', that which is not disclosed must be based only on the exemptions stipulated under the Act. Thus, the question of blackmail or threatening may not arise. As far as possible, information must be made public so as to reduce any possibility of blackmail. An honest and sincere officer need not fear blackmail at all. The strict adherence to the law would facilitate smooth functioning of such officers as they will be protected by law.

(16) Some unscrupulous elements may misuse the copies of documents they access under the RTI Act. How does one prevent such misuse of information released under the RTI Act?

The Government may have to devise a means of authenticating documents released under the RTI Act to ensure that they are not misused. One suggestion is to mark every page of a document accessed under the RTI Act with a rubber stamp impression saying -"Document released under the RTI Act containing XX pages." If electronic files are requested the same may be provided in PDF or TIF format on floppies or CDs. This will also obviate the need for certifying the documents separately if the requester wishes to use the same in some litigation.

(17) If there is a flood of applications for inspection of records how will the PIO provide access to all applicants and also do justice to his/her other designated duties? What if one such applicant mutilates or destroys a record during inspection?

Under the Act, every public authority will need to designate as many PIOs as may be required to deal with requests for information from citizens. The PIOs may fix one or two particular days in a week for inspection of records. The Competent Authority needs to make rules and guidelines for public authorities regarding the procedure to be followed for allowing inspection of records [The Public Records Rules (1997), Rule No. 11(2) prepared by the Government of India may be adopted as a model].

It is important that the PIO takes adequate precautions for the safety of records being inspected. If, however, it is found that a person examining a record or

document has mutilated or tampered with the document or attempted to do so it will be appropriate for the PIO/public authority to lodge a criminal complaint immediately.

(18) If the same kind of information is sought by more than one person should it be made available to all such requesters?

Yes, it has to be made available. However it is advisable that such records be digitised as far as possible and uploaded on the Internet to facilitate easy access.

(19) If the information requested by a citizen has already been proactively disclosed can a PIO refuse to accept the request?

There is nothing in the RTI Act that states that information disclosed proactively should not be provided to a citizen on request. If such information is requested the same can be provided in the available formats upon payment of fees/charges at rates prescribed by the Government.

(20) Is the Assistant Public Information Officer (APIO) an assistant to the Public Information Officer (PIO)?

No, the APIO is not an assistant to the PIO. A Central / State APIO (as the case may be) may be designated at the sub-district or sub-divisional level where a public authority may not have an office or administrative unit [Section 5(2)].

Designation of APIOs is particularly useful for Departments of the Government of India which rarely have offices below the district level. However, it has been decided that the CAPIOs of Department of Posts will also act as CAPIOs for other Central Government Public Authorities, which do not have an office / or an administrative unit operative at the sub-district / sub-divisional level.

These CAPIOs (of the Department of Posts) will receive requests on behalf of the Central Government public authorities and forward them to the CPIOs concerned.

(21) If the information requested by the applicant is in the possession of the APIO should he/she not give that information to the applicant?

Under the RTI Act, the APIO's obligation is confined to forwarding the request to the PIO concerned forthwith – within five days.

(22) If a PIO has touring duties as well, then he will not be physically present to receive application in the office. Will his absence amount to refusal to accept information request?

The best solution for such situations is for the public authority concerned to designate another official within the same public authority (to act as PIO) and to receive applications. The duty of this PIO in maintaining the PIO's register

will be the same. This will ensure that citizens' applications are always received to suit their convenience and prompt action is taken on the same.

Incidentally, a particular public authority may appoint multiple numbers of PIOs such that each PIO is designated for a specific area of the organisation's functioning. Yet, if an applicant approaches any PIO, he/she cannot refuse to accept the application on the ground that it does not belong to his/her jurisdiction.

Accepting the application, the PIO has to seek the requested information from the officer/s in control of the requested information (who may be another PIO, but for the purpose of dealing with this application, he/she becomes an 'Other Officer' – in control of the requested information). He / she cannot direct the applicant to take his / her application to the other PIO.

(23) Will Panchayats/Municipalities (or any local authority) have to appoint PIOs irrespective of the size of their office / administrative unit?

Yes. Every public authority shall have to appoint a PIO, irrespective of the size of its office / administrative unit.

(24) Should BPL applicants be charged the further fees for providing information requested?

Persons belonging to the 'Below Poverty Line' category cannot be charged any fees / charges at all. The form of access can be decided by the PIO concerned subject to the provision of the Act that information shall be provided in the form in which it is sought unless it would 'disproportionately' divert the resources of the public authority.

(25) If the applicant does not pay the additional fees towards cost of providing information within the 30 days deadline will the PIO be penalised for failing to provide information to the applicant?

No. The PIO will not invite any penalty in such cases. The 30-day clock stops ticking from the date of dispatching the intimation for further fees issued by the PIO and restarts on the date on which the applicant pays the additional fee [Sections 7(3)(a) & 7(3)(b)].

For example, if the PIO dispatches the intimation letter on the 5th day from the date of receipt of the complete application only 5 days would have elapsed from the 30 days limit. The clock will restart on the date on which the applicant pays the 'further fees'. The PIO will have to provide the information within 25 days from the date of payment of such further fees. If the applicant chooses to seek a review of the additional fee from the appellate authority or the SIC/CIC the period taken for giving a decision on this matter (if it is decided that no further payment is needed) or for actual payment of further fees (if it is decided that further fees would need to be paid), will not be included in the 30 day limit.

- (26) If the applicant does not respond to the intimation letter of the PIO requesting payment of further fee will the PIO be duty-bound to provide information to the applicant? Will the PIO be duty-bound to provide information within 30 days even in such cases?**

No. The PIO is not duty bound to provide information to the applicant in such cases. The RTI Act states very clearly that the PIO will provide access to information only upon payment of further fee as may be determined [Section 7(1)] by him/her (for non-BPL cases).

- (27) Are officials required to give information about themselves and their families under the law? Can the public request this kind of information? Should it be given?**

Officials are not required to provide private or personal information which is exempted under Section 8(1)(j) of the Act. Again, this must be decided on a case by case basis (as has indeed been the case with the decisions of the CIC). If public interest is served by disclosing such information then it must be given.

- (28) Can any citizen ask any information that is more than 20 years old even if it does fall within the category of exemptions? Will the PIO be penalised if he/she is unable to provide such information?**

Yes, any citizen can ask any information more than 20 years old held by or under the control of a public authority, irrespective of whether the information requested for falls within the category of exempted information or not. Nothing in the Act bars a citizen to ask for such information. The PIO concerned has to provide information 'held' under the control of the public authorities subject to the provisions of the Act relating to exemptions stipulated under the Act.

- (29) In cases where building plans and designs of bridges or other important public structures have been requested and if the PIO has reasonable suspicion that the applicant will use those plans for commercial purposes and make a profit out of it, should such information be given?**

If disclosure of building plans and designs would prejudicially affect the economic or security interests of the State or if they relate to commercial confidence, or trade secrets or intellectual property rights, the disclosure of which would harm the competitive position of a third party, then such information would attract exemption under the Act. However, if the concerned authority is satisfied that larger public interest warrants the disclosure of such information, the same can be disclosed.

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

A request cannot be rejected on this ground. The requester will have to be given the requested information. It is important to note, however, that such disclosure cannot run contrary to the provisions of the Act that exempt certain categories of information. If so, the PIO cannot provide such information, but has to clearly state the reasons for not doing so. If partial disclosure is possible and is not exempted, then the PIO should disclose that part of the record.

(31) What if existing departmental manuals prevent disclosure of information to the people?

All such manuals were drawn up before the RTI Act came into force. These manuals will have to be reviewed in the light of the new law and all procedures for denying access to information will have to be done away with unless they relate to the exempt categories of information. Even in the case of exempt information the manuals should be so designed as to facilitate complete or partial access in the public interest. All new departmental manuals likely to be drawn up in future must conform to the new regime of transparency set up under the RTI Act, 2005.

(32) Periodic weeding of files results in destruction of many documents which are not important enough to maintain for as long as 20 years or more. So it will not be possible to give such information after they have been destroyed. Will the PIO be penalised for this?

If a record has been destroyed legally the question of penalisation does not arise. But the RTI Act clearly requires a review of all weeding practices in existence to ensure that information which could be requested under the Act is not destroyed. More generally, it is necessary to consider a review of current records management processes.

(33) What is the process for taking a decision on granting partial access to a record? Who is the authority to make this decision within a public authority?

Section 10(2)(b) of the RTI Act makes it clear that the PIO is the deciding authority for granting partial access to records that may contain exempted information. However, when partial information is disclosed the PIO needs to provide valid reasons for the decision. He also needs to mention his name and designation as the decision maker and the applicant's right with respect to the review of the decision, including the particulars of the AO, time limit, process etc.

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.

(34) Will the APIO be punished for giving wrong or misleading information just as a PIO can be penalised under this Act?

Given that, under the RTI Act, the APIO's obligation is confined to forwarding the request to the PIO concerned forthwith - within five days, the question of punishment for an APIO for giving wrong or misleading information does not arise.

In one of its decisions, the CIC has stated that the APIO has a limited role of transmitting applications and appeals to their proper destination... and that the APIO's responsibilities are not co-extensive with the PIO.

(35) Will a PIO be penalised if the superior officer orders him not to release information to the requester?

It needs to be mentioned here that the PIO must note that it is not necessary on his / her part to seek the permission / approval of a superior officer of the public authority concerned for providing information under his / her control. The Act is clear about the fact that the PIO is an independent authority under the law and no approval is required from any superior official to release the requested information.

If a PIO acts upon any order of his/her superior and malafidely rejects requests fully / partially, he/she is liable to be penalised under the Act.

In case the information sought for is not available with a PIO, he/she can take the assistance of any other officer including asking for information under that officer's control and such officer will be treated as a PIO for the purpose of the Act and its penal provisions.

In the event a PIO seeks information from another official for providing information, his/her communication and receipt of information (to and from the other official) should be put down in writing and a proper record of the same should be maintained. This will be helpful, in the defense of the PIO concerned, should the information, turn out to be misleading or wrong, and an appeal is made against the PIO.

(36) If the information given by the PIO in response to a request turns out to be wrong, false or misleading but the PIO was not responsible for the creation of that record or such information will he/she be penalised by the ICs?

The RTI Act provides protection to the PIO for 'action taken in good faith'. If the requested record has not been prepared by the PIO but by some other officer or if the data compiled by the PIO was received from some other officer and the PIO merely passed on that information to the applicant without having prior knowledge that such information was wrong or false or misleading he/she is

not guilty of an offence under the RTI Act. The Information Commission will penalise PIO only in such cases where it may find him/her guilty of giving wrong, false or misleading information in a malafide manner.

(37) What if the applicant claims that he/she did not receive the intimation letter from the PIO and files an appeal with the AO and the Information Commission? Will the PIO be penalised?

The PIO would do well to maintain a copy of the intimation letter in his/her records for use in such cases. Furthermore, the PIO may send the intimation letter Under Certificate of Posting (UCP) to the applicant. This should be ample proof that the PIO had taken action in good faith. The PIO will not attract penalty in such cases.

The law requires that the PIO be given an opportunity to present his/her case before the relevant Information Commission issues a decision imposing penalty. But a default may invite penalty for the PIO.

(38) The PIO continues to be under the purview of the Official Secrets Act (OSA) of 1923. How will he reconcile his duties under the RTI Act with the secrecy required to be maintained under the OSA? What happens to the oath of secrecy every officer is required to take while joining service?

It must be noted that the provisions of the RTI Act, 2005 shall be effective notwithstanding anything that may be inconsistent with its provisions in the Official Secrets Act, or any other Act of the Union or the State Governments (see RTI Act, 2005, Chapter VI, Section 21).

The 'Oath of Secrecy' taken by Government employees therefore only applies to the information that has been exempted from the ambit of the provisions of the said Act. Broadly, this exempted information pertains to matters / issues related to national security, defence, and integrity of the country. The Oath will not be adequate and the test of public interest is the overriding consideration.

(39) What is "Public Interest"?

In the Indian context, and especially in the context of the RTI Act, 2005, a significant judgment of the Supreme Court of India can be taken note of in understanding the term "public interest".

In '*S. P. Gupta v President of India*', AIR 1982 SC 149, Justice Bhagwati, in referring to 'public interest', maintained:

"Redressing public injury, enforcing public duty, protecting social, collective, 'diffused' rights and interests vindicate public interest... [in the enforcement of which] the public or a class of the community have pecuniary interest or some interest by which their legal rights or liabilities are affected."

In *State of Gujarat v Mirzapur Moti Kureshi Kasab Jamat & others* AIR 2006 Supreme Court 212, the Apex Court held “the interest of general public [public interest] is of a wide import covering public order, public health, public security, morals, economic welfare of the community, and the objects mentioned in Part IV of the Constitution [i.e. Directive Principles of State Policy]”.

One of the decisions of the Central Information Commission also throws some light on this term. Public interest includes “disclosure of information that leads towards greater transparency and accountability” [in the working of a public authority] (Decision No. CIC/OK/A/2006/00046, dt. 02.05.2006).

(40) Who are the Appellate Authorities and what are the key provisions for appeal under the Act?

1. 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).
2. 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).
3. 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.
4. Burden of proving that denial of Information was justified lies with the PIO.
5. First Appeal shall be disposed of within 30 days from the date of its receipt. Period extendable by 15 days for reasons to be recorded in writing. [Section 19 (6)]

There is no time limit prescribed under the Act for deciding second appeals.

(41) What is the jurisdiction of courts?

Lower Courts are barred from entertaining suits, applications or other proceeding against any order made under this Act [Section 23]. However, the writ jurisdiction of the Supreme Court and High Courts under Articles 32 and 226 of the Constitution respectively remains unaffected.

For a more comprehensive and up-to-date understanding of the intricacies of the RTI Act, it is suggested that www.cic.gov.in may be referred to.

Appendix 1: Proformae for Registers to be Maintained by the Public Authority

Proforma 1A:

Register of Applications Received and Forwarded by Assistant Public Information Officer (APIO)

Name of Department:

Name of Public Authority:

Name of Assistant Public Information Officer:

Designation:

S. No.	Name & Address of the Applicant	Date of Application	If Application for Information:		If Application for First Appeal:		If Application for Second Appeal:		Date of intimation to the Applicant	Communication from PIO/AO/IC, if any
			Name & Address of the PIO to whom forwarded	Date of forwarding the Application	Name & Address of the first Appellate Officer (AO) to whom forwarded	Date of forwarding the Appeal	Name & Address of the Information Commission	Date of forwarding the Appeal		
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)

* To be maintained by Assistant Public Information Officer (APIO)

Proforma 1B: Register of Requests for Information to & Disposal of Requests by Public Information Officer (PIO)*

Name of Department:

Name of Public Authority:

Name of Public Information Officer:

Designation:

Sl. No.	Request Application No. & Date	Name of Applicant & Address	Whether applied to Asst PIO or PIO	Date of Receipt by PIO	Category of Applicant: BPL/ Other	Brief Description of Request for Information	Involving Third Party Information or Not	Involving Section 24 Approval of IC or not	Date Application Fee Paid	Amount of Application Fee Paid	Date of Intimation of Further Fee/ Cost
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)

Date of Further Fee/ Cost Paid	Amount of Further Fee/Cost Paid	Last Date of giving Information as per Time Limit	If Information provided, details				If rejected, details		Whether Appeal made against the Decision	Any Other Information
			Date Information Provided	Whether Full Information Provided	Whether Partial Information Provided	Whether Third Party Information Provided	Date of Rejection	Section under which information denied		
(13)	(14)	(15)	(16)	(17)	(18)	(19)	(20)	(21)	(22)	(23)

* To be maintained by Public Information Officer (PIO)

Proforma 1C: Register of Rejection of Information Requests by Public Information Officers (PIO)*

Name of Department:

Name of Public Authority:

Name of Public Information Officer:

Designation:

Sl. No.	Application No. & Date	Name of Applicant & Address	Date of Receipt of Application	Date of Rejection	Reason for Rejection – Section 8										Reason for Rejection – Other Sections			Other reasons (specify)
					8 (1) (a)	8 (1) (b)	8 (1) (c)	8 (1) (d)	8 (1) (e)	8 (1) (f)	8 (1) (g)	8 (1) (h)	8 (1) (i)	8 (1) (j)	9	11	24	
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)	(15)	(16)	(17)	(18)	(19)

* To be maintained by Public Information Officer

Proforma 1D: Register* of Costs, Fees & Charges Collected**

Name of Department:

Name of Public Authority:

Name of Public Information Officer:

Designation:

Sl. No.	Application No. & Date	Name of Applicant & Address	Date of Receipt of Application	Cost: Section 4 (4)	Fee: Section 6 (1)	Fee: Section 7 (1)	Fee: Section 7 (5)	Other Charges (Specify)	Total Collection
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)

*To be maintained by Public Information Officer

**Total of Collections under Section 4 – cost of the medium or print cost price of the materials for dissemination, Section 6(1) – initial application fee, Section 7 (1) – prescribed fee for photo copies, samples, inspection of records etc., Section 7(5) - further fee representing the cost of providing the information in printed or electronic format.

Proforma 1E: Register of First Appeals against Decisions of Public Information Officers*

Name of Department:

Name of Public Authority:

Name of Public Information Officer:

Designation:

Sl. No.	Appeal No. & Date	Name of Appellant & Address	Category of Applicant: BPL/ Other	Date of Receipt of Appeal by Appellate Officer	Name & Designation of PIO against whose decision Appeal filed	PIO's Decision No.	Date of Decision by PIO
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)

Section of RTI Act under which Access to Information denied **	Last Date of deciding Appeal as per Time Limit	Date of Decision by Appellate Authority	Whether Appeal Upheld	Whether Appeal Rejected	If Rejected, Section under which Access to Information denied	Whether Second Appeal has been preferred before Information Commission **	Any Other Information
(9)	(10)	(11)	(12)	(13)	(14)	(15)	(16)

* To be maintained by First Appellate Authority

** Sections 7(2) , 7(3) (b), 8(1)(a) - 8(1)(j), 8(3), 9, 10 (2) (e),11,24 and others

Proforma 1F: Register of Implementation of Decisions / Suggestions of Information Commission*

Name of Department:

Name of Public Authority:

Sl. No.	Reference No. from Information Commission	Date of Reference	Details of Decision	Action taken to Implement Decision	Details of Compensation to be Paid by Public Authority	Details of Compensation Paid	Details of Penalties Imposed
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)

Details of Penalties Collected	Details of Disciplinary Actions Recommended by Information	Details of Disciplinary Actions Taken	Suggestions of Information Commission	Details of Action Taken to Implement the Suggestions	Other Significant Actions Taken	Any Other Information
(9)	(10)	(11)	(12)	(13)	(14)	(15)

* To be maintained by Public Authority

Proforma 1G: Register of First Appeals against Decisions of Public Information Officers*

Name of Department:

Name of Public Authority:

Name of Public Information Officer:

Designation:

Sl. No.	Appeal No. & Date	Name of Appellant & Address	Category of Applicant: BPL/ Other	Date of Receipt of Appeal by Appellate Officer	Name & Designation of PIO against whose decision Appeal filed	PIO's Decision No.	Date of Decision by PIO
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)

Section of RTI Act under which Access to Information denied **	Last Date of deciding Appeal as per Time Limit	Date of Decision by Appellate Authority	Whether Appeal Upheld	Whether Appeal Rejected	If Rejected, Section under which Access to Information denied	Whether Second Appeal has been preferred before Information Commission **	Any Other Information
(9)	(10)	(11)	(12)	(13)	(14)	(15)	(16)

* To be maintained by First Appellate Authority

** Sections 7(2) , 7(3) (b), 8(1)(a) - 8(1)(j), 8(3), 9, 10(2) (e), 11,24 and others

Appendix 2: Proformae of Registers to be Maintained by the Information Commissions

Proforma 2A: Register of Complaints to Information Commission*

Sl. No.	Complaint No. & Date	Details of Complaint	Name & Address of Complainant	Category of Applicant: BPL/ Other	Reason for Complaint					
					18 (a)	18 (b)	18 (c)	18 (d)	18 (e)	18 (f)
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)

Whether Inquiry Initiated	Whether PIO summoned	Whether relevant Records accessed / examined by	Details & Date of Decision of Information Commission	Whether Public Authority is required to compensate the Complainant. If so details.	Whether Penalties imposed on PIO (Specify)	Reason for imposition of Penalties	Whether Disciplinary Action Recommended by Commission (Specify)	Reason for Recommending Disciplinary Action
(12)	(13)	(14)	(15)	(16)	(17)	(18)	(19)	(20)

* To be maintained by Information Commission Secretariat

Proforma 2B: Register of Appeals to Information Commission against Decisions of Appellate Officers*

Sl. No.	Appeal to Commission Case No.	Date of Appeal to Commission	Name & Address of concerned Ministry/ Department	Name & Address of concerned Public Authority	Name & Address of Appellant	Name & Address of concerned Public Information Officer	Request for Information Application No.	Category of Applicant: BPL/ Other	Date of Application to PIO	Details & Date of Decision by PIO	Name & Address of the First Appellate Authority	First Appeal Case No.
1	2	3	4	5	6	7	8	9	10	11	12	13

Date of First Appeal	Details & Date of Decision by First Appellate Authority	Details & Date of Disposal of Appeal by Information Commission	Whether Appeal Upheld	Whether Appeal Rejected	If Rejected, Section under which access to information denied	Details of Decisions Issued to Public Authority Section 19	Whether Compensation required to be paid by the Public Authority	If Appeal upheld whether Penalties imposed on PIO (Specify): Section 20 (1)	Reason for imposition of Penalties	If Appeal upheld whether Disciplinary Action Recommended (Specify): Section 20 (2)	Reason for Disciplinary Action
14	15	16	17	18	19	20	21	22	23	24	25

* To be maintained by Information Commission Secretariat

Appendix 3: Proformae for Annual Consolidated Statements
Proforma 3A: Information Requests Made & Access to Information Denied
Report for the Year:

Sl. No.	Name of Department	Name of Public Authority	Total No. of Requests to PIOs including those pending as on end of Last Year	Total No. disposed during the Year	Total No. of Cases Access Denied	No. of Deemed Refusal under Section 7(2)	Rejection under Section 8 *										Rejection under Other Sections *			
							8 (1) (a)	8 (1) (b)	8 (1) (c)	8 (1) (d)	8 (1) (e)	8 (1) (f)	8 (1) (g)	8 (1) (h)	8 (1) (i)	8 (1) (j)	9	11	24	Other**
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)	(15)	(16)	(17)	(18)	(19)	(20)	(21)
1.		1.																		
		2.																		
		3.																		
	Total for Department																			
2.		1.																		
		2.																		
		3.																		
	Total for Department																			

* A single request can be subject to more than one exemption. Total No. of individual exemptions used may be greater than the No. of cases where access denied.

** Others (Col. 21) include S 7 (3) (b), S10 (2) (e) and S 8 (3)

**Proforma 3B: Nature of Appeals Referred to Information Commission
Report for the Year:**

Sl. No.	Name of Department	Name of Public Authority	Total No. of Appeals pending as on end of Last Year	No. of Appeals Preferred during the year	Total No. of Appeals	No. of Appeals Referred to the Information Commission U/S														
						7 (2)	8 (1) (a)	8 (1) (b)	8 (1) (c)	8 (1) (d)	8 (1) (e)	8 (1) (f)	8 (1) (g)	8 (1) (h)	8 (1) (i)	8 (1) (j)	9	11	24	Others
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)	(15)	(16)	(17)	(18)	(19)	(20)	(21)
1.		1.																		
		2.																		
		3.																		
	Total for Department																			
2.		1.																		
		2.																		
		3.																		
	Total for Department																			

Proforma 3C: Outcomes of Appeals to Information Commission against Rejection of First Appeals

Report for the Year:

Sl. No.	Name of Department	Name of Public Authority	Total No. of Requests Made to PIOs including those pending as on end of last year	Total No. of Requests Rejected	Total No. of Appeals to First Appellate Authority including those pending end of Last Year	Total No. of Appeals Rejected by First Appellate Authority	Total No. of Appeals to Information Commission including those pending on end of Last Year	Total No. Decided in favor of Appellant	Total No. of Cases: Direction issued to secure Compliance Section 19 (8) (a)	Total No. of Cases Public Authority required to compensate Complainant Section 19 (8) (b)	Total No. of PIOs on whom Penalties Imposed Section 20(1)	Total No. of PIOs against whom Disciplinary Action Recommended Section 20(2)
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)
1.		1.										
		2.										
		3.										
	Total for Department											
2.		1.										
		2.										
		3.										
	Total for Department											

Proforma 3D: Nature of Appeals Rejected by Information Commission
Report for the Year:

Sl. No.	Name of Department	Name of Public Authority	Total No. of Appeals including those pending as on end of Last Year	No. of Appeals Disposed during the year	Total No. of Appeals Rejected	No. of Appeals Referred to the Information Commission U/S														
						7 (2)	8 (1) (a)	8 (1) (b)	8 (1) (c)	8 (1) (d)	8 (1) (e)	8 (1) (f)	8 (1) (g)	8 (1) (h)	8 (1) (i)	8 (1) (j)	9	11	24	Others
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)	(15)	(16)	(17)	(18)	(19)	(20)	(21)
1.		1.																		
		2.																		
		3.																		
	Total for Department																			
2.		1.																		
		2.																		
		3.																		
	Total for Department																			

**Proforma 3E: Decisions by Information Commission requiring Compliance by Public Authorities with
Section 19 of RTI Act, 2005**

Report for the Year:

Sl. No.	Name of Department	Name of Public Authority	Total No. of Decisions by Information	No. of Decisions Requiring Public Authorities to							Amount of Compensation required to be Paid
				Provide Access to Information in particular Form – 19 (8) (a) (i)	Appoint Public Information Officer -19 (8) (a) (ii)	Publish Information or categories of Information - 19 (8) (a) (iii)	Make changes in Record Management Practices - 19 (8) (a) (iv)	Provide Training on RTI - 19 (8) (a) (v)	Provide Section 4 (1) b Report - 19 (8) (a) (vi)	Compensate complainant - 19 (8) (b)	
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)
1.		1.									
		2.									
		3.									
	Total for Department										
2.		1.									
		2.									
		3.									
	Total for Department										

Proforma 3F: Penalties Imposed by Information Commission on Public Information Officers
Report for the Year:

Sl. No.	Name of Department	Name of Public Authority	No. of PIOs								Amount in Rs	
			Who refused to receive Application	Who did not furnish information within Time Limit	who malafidely denied request	Who knowingly gave incorrect, incomplete or misleading information	who destroyed information involved in the request	who obstructed furnishing information	On whom Penalty Imposed	from whom Penalty collected	Amount of Penalty Imposed	Amount of Penalty Collected
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)
1.		1.										
		2.										
		3.										
	Total for Department											
2.		1.										
		2.										
		3.										
	Total for Department											

Proforma 3G: Disciplinary Action against Officers under the RTI Act
Report for the Year:

Sl. No.	Name of Department	Name of Public Authority	No of Cases							
			PIOs against whom Disciplinary Action recommended by Information	where PIO failed to receive Application	where PIO did not furnish information within Time Limit	where PIO malafidely denied Request	where PIO knowingly gave incorrect, incomplete or misleading information	where PIO destroyed information	where PIO obstructed furnishing information	PIOs against whom Disciplinary Action Taken by Public Authority
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)
1.		1.								
		2.								
		3.								
	Total for Department									
2.		1.								
		2.								
		3.								
	Total for Department									

Appendix 4: RIGHT TO INFORMATION ACT: RULES/REGULATIONS
CENTRAL INFORMATION COMMISSION (APPEAL PROCEDURE) RULES, 2005
NOTIFICATION-F.NO.1/4/2005-IR,DATED 28.10.2005 ISSUED BY
DEPARTMENT OF PERSONNEL AND TRAINING

In exercise of the powers conferred by clauses (e) and (f) of sub-section (2) of section 27 of the Right to Information Act, 2005 (22 of 2005), the Central Government hereby makes the following rules, namely:-

Short title and commencement:

1. (1) These rules may be called the Central Information Commission (Appeal Procedure) Rules, 2005.
- (2) They shall come into force on the date of their publication in the Official Gazette.

Definitions:

2. In these rules, unless the context otherwise requires-
 - (a) "Act" means the Right to Information Act, 2005;
 - (b) "Section" means section of the Act.
 - (c) "Commission" means the Central Information Commission;
 - (d) Words and expressions used herein and not defined but defined in the Act shall have the meanings respectively assigned to them in that Act.

Contents of appeal:

3. An appeal to the Commission shall contain the following information, namely:
 - (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, the 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 the prayer or relief.
 - (viii) Verification by the appellant; and

- (ix) Any other information which the Commission may deem necessary for deciding the appeal.

Documents to accompany appeal:

4. Every appeal made to the Commission shall be accompanied by the following documents, namely:

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

Procedure in deciding appeal

5. In deciding the appeal the Commission may,

- (i) hear oral or written evidence on oath or on affidavit from concerned or interested person;
- (ii) peruse or inspect documents, public records or copies thereof;
- (iii) inquire through authorised officer further details or facts;
- (iv) hear Central Public Information Officer, Central Assistant Public Information Officer or such Senior Officer who decide the first appeal, or such person against whom the complaint is made, as the case may be;
- (v) hear third party; and
- (vi) receive evidence on affidavits from Central Public Information Officer, Central Assistant Public Information Officer, such Senior Officer who decided the first appeal, such person against whom the complaint lies or the third party.

Service of notice by Commission

6. Notice to be issued by the Commission may be served in any of the following modes, namely:

- (i) service by the party itself;
- (ii) by hand delivery (dasti) through Process Server;
- (iii) by registered post with acknowledgement due; or
- (iv) through Head of Office or Department

Personal presence of the appellant or complainant

7. (1) The appellant or the complainant, as the case may be, shall in every case be informed of the date of hearing at least seven clear days before that date.

(2) The appellant or the complainant as the case may be, may at his discretion at the time

of hearing of the appeal or complaint by the Commission be present in person or through his duly authorized representative or may opt not to be present.

(3) Where the Commission is satisfied that the circumstances exist due to which the appellant or the complainant, as the case may be, is being prevented from attending the hearing of the Commission, then, the Commission may afford the appellant or the complainant as the case may be, another opportunity of being heard before a final decision is taken or take any other appropriate action as it may deem fit.

(4) The appellant or the complainant, as the case may be may seek the assistance of any person in the process of the appeal while presenting his points and the person representing him may not be a legal practitioner.

Order of the Commission

8. Order of the Commission shall be pronounced in open proceeding and be in writing duly authenticated by the Registrar or any other officer authorised by the commission for this purpose.

RIGHT TO INFORMATION ACT RULES/REGULATIONS

**Government of India,
Ministry of Personal, Public Grievances and Pensions
(Department of Personal and Training)**

New Delhi, the 16th September, 2005.

NOTIFICATION

G.S.R....., In exercise of the powers conferred by clauses (b) and (c) of sub-section (2) of section 27 of the Right to Information Act, 2005 (22 of 2005), the Central Government hereby makes the following rules, namely :-

1. Short title and commencement - (1) These rules may be called the Right to Information (Regulation of Fee and Cost) Rules, 2005.

(2) They shall come into force on the date of their publication in the Official Gazette.

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

(a) 'Act' means the Right to Information Act, 2005;

(b) 'section' means section of the Act;

(c) all other words and expression used herein but not defined and defined in the Act shall have the meanings assigned to them in the Act.

3. A request for obtaining information under sub-section (1) of section 6 shall be accompanied by an application fee of rupees ten by way of cash against proper receipt or by demand draft or bankers cheque payable to the Accounts Officer of the public authority.

4. For providing the information under sub-section (1) of section 7, the fee shall be charged by way of cash against proper receipt or by demand draft or bankers cheque payable to the Accounts Officer of the public authority at following rates:-

- (a)** rupees two for each page (in A-4 or A-3 size paper) created or copied;
- (b)** actual charge or cost price of a copy in large size paper;
- (c)** actual cost or price for samples or models; and
- (d)** for inspection of records, no fee for the first hour; and a fee or rupees five for each fifteen minutes (or fraction thereof) thereafter.

5. For providing the information under sub-section (5) of section 7, the fee shall be charged by way of cash against proper receipt or by demand draft or bankers cheque payable to the Accounts Officer of the public authority at following rates:-

- (a)** for information provided in diskette or floppy rupees fifty per diskette or floppy; and
- (b)** 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.

Sd/-
Hari Kumar
Director

**Right to Information (Regulation of Fee and Cost) (Amendment) Rules, 2005 -
Amendment in Rule 4**

**NOTIFICATION NO. GSR 649(E), DATED 27-10-2005, ISSUED BY DEPARTMENT
OF PERSONNEL AND TRAINING**

In exercise of the powers conferred by clauses (b) and (c) of sub-section (2) of section 27 of the Right to Information Act, 2005 (22 of 2005), the Central Government hereby makes the following rules to amend the Right to Information (Regulation of Fee and Cost) Rules, 2005, namely:

Short title and commencement:

1. (1) These rules may be called the Right to Information (Regulation of Fee and Cost) (Amendment) Rules, 2005.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Right to Information (Regulation of Fee and Cost) Rules, 2005, in rule 4, for clause (d), the following clause shall be substituted, namely:

“(d) For inspection of records, no fee for the first hour; and a fee of rupees five for each subsequent hour (or fraction thereof).”

Government of India

Ministry of Personnel, Public Grievances and Pensions

(Department of Personnel and Training)

New Delhi, dated the 27th October, 2005

Notification

G.S.R.....(E)._ In exercise of the powers conferred by clauses (b) and (c) of sub-section (2) of section 27 of the Right to Information Act, 2005 (22 of 2005), the Central Government hereby makes the following rules to amend the Right to Information (Regulation of Fee and Cost) Rules, 2005, namely :-

1. Short title and commencement – (1) These rules may be called the Right to Information (Regulation of Fee and Cost) (Amendment) Rules, 2005.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Right to Information (Regulation of Fee and Cost) Rules, 2005, in rule 4, for clause (d), the following clause shall be substituted, namely.- “(d) for inspection of records, no fee for the first hour; and a fee of rupees five for each subsequent hour (or fraction thereof).”[F.No. 34012/8(s)/2005-Estt. (B)]

(T.Jacob)

Joint Secretary to the Government of India

Note.- The Principal rules were published in the Gazette of India vide Ministry of Personnel, Public Grievances and Pensions (Department of Personnel and Training) notification No. 34012/8(s)/2005-Estt. (B) dated 16th September, 2005 [G.S.R. No. 336 dated 1st October, 2005, Part II, section 3, sub-section (i)]

(T.Jacob)

Joint Secretary to the Government of India

Appendix 5: List of Select Resources on 'Right to Information' on the Web

- www.righttoinformation.gov.in
- www.rti.gov.in
- www.cic.gov.in
- www.r2inet.org
- www.righttoinformation.info
- www.freedominfo.org
- www.indiatogether.org
- www.humanrightsinitiative.org
- www.parivartan.com
- www.prajanet.org
- www.geocities.com/mahadhikar
- <http://groups.yahoo.com/group/mahadhikar>
- <http://indiarti.blogspot.com>
- <http://groups.yahoo.com/group/kria>
- <http://www.delhigovt.nic.in/right.asp>
- <http://www.nagrikchetna.org/>
- <http://www.mahadhikar.org/>
- www.nyayabhoomi.org
- www.agnimumbai.org
- <http://www.adrindia.org>
- <http://www.annahazare.net>
- <http://www.respondanet.com/>
- www.article19.org
- www.policypowertools.org
- <http://www.info.gov.hk/access/code.htm>
- <http://www.faife.dk/>
- <http://www.globalknowledge.org>
- www.opendemocracy.org.za
- www.freedomhouse.org
- www.foiadvocates.net
- www.ifitransparency.org
- www.transparency.org