



Right to
Information

Right to Information Act, 2005
e-Handbook for Officials



Institute of Management in Government
Thiruvananthapuram



Institute of Management in Government

Institute of Management in Government (IMG) is the Apex Training Institute of the Government of Kerala. It was established as an autonomous body under the auspices of the Government of Kerala in 1981 with the objective of developing managerial skills, organisational abilities, leadership qualities and decision making skills among different categories of employees of Government, Private and Public sector. IMG, headquartered at Trivandrum, has two regional centres at Kochi and Kozhikode, to cater to the regional training requirements.

The Mission Statement of IMG **"To become a Centre of Excellence for Capacity Building for providing an efficient, transparent, equitable and citizen centric public service delivery system in a knowledge society"** proclaims that the decision-makers envisioned IMG as an organisation not merely catering to the needs of training of administrative staff or civil servants, but also to make it an Apex Institution that carries out research, evolve ideas and concepts which are appropriate to the nation. This would also formulate policy alternatives, in support of the State's economic and social aspects.

Scan here to view
the bare act of RTI Act, 2005





RIGHT TO INFORMATION ACT, 2005

e-HANDBOOK FOR OFFICIALS



**INSTITUTE OF MANGEMENT IN GOVERNMENT
THIRUVANANTHAPURAM**

2023



FOREWORD

The Right to Information Act, 2005 is a watershed in the history of Indian Democracy. A legislation, however progressive, has to be operationalized and facilitated in its true spirit to realize its potential. The benefits of the RTI Act 2005, the entitlements it confers on public, the procedures to be followed to obtain and dispense information have to be understood in its true spirit. It is only then, that the potential of the Act could be realized.

The Institute of Management in Government has set up an online portal and runs an online certificate program. This e-handbook seeks to complement the efforts of the Institute of Management in Government to propagate information on RTI.

A handwritten signature in black ink, appearing to read 'K. Jayakumar'.

K. JAYAKUMAR
Director

Thiruvananthapuram
9th February, 2023



PREFACE

The Right to Information Act, 2005 comprising of 6 Chapters and 31 Sections symbolizes the maturity of our Parliamentary Democracy. Even after 17 glorious years of its implementation, there still remain several doubts among officials and general public, regarding the applicability and practicability of this law. Many do not know how to make use of this Act.

This e-book has been prepared with the financial aid provided by the Department of Personnel & Training, Government of India which is intended to help various Government Officials. This e-hand book comprises of two parts, where the first part provides an overview on various important sections of the RTI Act and the latter comprises of 100 Frequently Asked Questions with its Answers. This handbook serves as a compendium and a reference guide for all the stakeholders in the effective implementation of the RTI Act and thereby make Government more accountable to the public.

A handwritten signature in cursive script, reading "Ram Mohan R", written over a horizontal line.

Dr. Ram Mohan R.

Professor & Nodal Officer,
RTI Knowledge Centre,
Institute of Management in Government
Thiruvananthapuram

Thiruvananthapuram
10th February, 2023

Right to Information Act, 2005

India has adopted a democratic form of Government and is the largest democracy in the world. Democracy requires an informed citizenry and transparency of information in public space is vital for its functioning. Lack of transparency is the primary cause of corruption. The Supreme Court of India has emphasized the importance of freedom of information and described it as a fundamental right under the facet of “Freedom of Speech and Expression” as contained in Article 14, 19(1) (a) and Article 21 of the Constitution. The Court has upheld this through numerous judgements.

Globally, the first such legislation was enacted in 1776 by Sweden, followed by Finland (1951), US (1966), Norway (1970) and several other countries. As per the website (<http://www.access.info.org>) 125 countries have enacted Right to Information (RTI) or similar legislations.

In India, the campaign by *Mazdoor Kissan Shakti Sangathan* (MKSS) in Rajasthan paved the way for passing legislations, similar to RTI with features of openness and transparency in several States. The national campaign for Right to Information later received a major boost during UPA Government when activists like Aruna Roy, JeanDrez and others consistently pressurized the Government to pass the bill and enact a law. Accordingly, the Right to Information Bill 2004 was tabled on 23rd December 2004. This Bill was referred by Parliament to the Standing Committee on Personnel, Public Grievances, Law and Justice for consideration.

Several civil society activists gave evidence before the Committee. The Report of the Committee along with the amended version of the RTI Bill was passed by the Lok Sabha on 11th May 2005 and it got the assent of the President on 15th June 2005. With the presidential assent, the Central & State Governments had 120 days to implement the provisions of the Bill in its entirety. The Act formally came into force on 12th October 2005. The Act covers the Central Government, State Governments and local bodies (except those in the State of Jammu and Kashmir).

A. Preamble and Objectives

The preamble states that “the Act provide for setting a practical regime of right to information for citizens to secure access to information under the control of public authorities, in order to promote transparency and accountability in the working of every public authority, it also provides for the constitution of a Central Information Commission and State Information Commission and for matters connected or incidental thereto.”

Accordingly, citizens have access of Government transactions and can actively participate in governance. It also hold Governments and their instrumentalities accountable to the governed and helps in containing corruption. The crux behind this is to ensure that the taxpayers’ money is utilized by Government agencies effectively for welfare and development activities and for other purposes intended.

B. Act

This Act has 6 Chapters and 31 sections. Chapter 1 deals with definition of important terms used in the Act. As per Section 3, all citizens shall have the right to information.

1. Information

As per Section 2(1) (f) any material in any form held by the Public Authority (PA) including records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, log books, contracts, reports, papers, samples, models, data available in any electronic form and information relating to any private body which can be accessed by a public authority under any other law. It may be noted that opinions and advices are those made in the note file by some other officer and the Public Information Officer is not expected to give his opinion or advice or inference on any matter in RTI related queries, other than disclosing the information held by the Public Authority (PA) in the relevant file. Moreover the Act gives an opportunity

to access documents of private bodies to a certain extent, by making an application to the regulatory body of that private body.

2. Right to Information

Section 2 (j) means the right to information accessible under this Act which is held by or under the control of any PA. It includes :

- a. Right of inspection of work, documents, records,
- b. Taking notes, extracts or certified copies of documents or records,
- c. Taking certified samples of materials,
- d. Obtaining information in the form of CD, tapes, video cassettes or any electronic mode or print outs from computer or any other device.

3. Record [Sec 2 (i)]

This includes

- a. Any document, manuscript and files,
- b. Any microfilm, facsimile copy of a document,
- c. Reproduction of image embodied in such microfilms,
- d. Material provided by a computer or any other device.

4. Third Party [Sec 2 (n)]

This means any person other than the citizen requesting for information and includes a Public Authority.

5. State Public Information Officer (SPIO)

S/he is the Officer (Statutory post) designated by the PA to deal with requests/ petitions under RTI in State Government Departments.

6. Central Public Information Officer (CPIO)

S/he is the officer designated by the PA to deal with requests/applications under RTI in Central Government Departments.

It may be noted that PIO is the main communication link between the applicant and the PA. A Department can designate as many PIO's as required depending as the volume of transactions handled by the Department. The PA may also designate PIO's or APIO's on all its divisional / sub-divisional offices for the effective implementation of the Act.

Assistant Public Information Officers (APIOs) are not legally responsible for providing the information and S/he is expected to collect the application or appeal from the citizen, maintain a register of the details of application received and transfer it to the concerned PIO within five days.

7. Processing of RTI Application

- a. There is no prescribed form for applying. The citizen can apply to the PIO by e-mail or by post in English or Hindi or the official language of the State. The PIO shall render all reasonable assistance to the person making the request orally to reduce the same in writing [Sec 6 (1)].
- b. The applicant need not give any reason for requesting the information. However S/he shall provide all details regarding the particulars of the information sought by him/her and also the details (address) for contacting him/her [Sec 6 (2)].
- c. While processing, if the PIO finds that the information sought is held by another PA or the subject matter is more closely connected with the functions of another PA, the PIO shall transfer it or part of it to the other PA (which possess the information) and inform the applicant about such transfer, as soon as possible and in no case later than 5 days from the date of receipt of the application [Sec 6 (3)].
- d. The PIO shall as expeditiously as possible and in any case within 30 days (calendar days, not working days) of the receipt of the request, provide

the information after payment of such fees as prescribed by State Government or reject the application for any reason specified in Sec 8 or 9 of the Act. If the information sought by the applicant relates to the life or liberty of a person, the same shall be provided within 48 hours of the receipt of the request. Here the applicant will have to substantiate that the information sought by him/her, relates to the life or liberty of the person.

8. Application Fee

The prescribed fee of Rs. 10/- shall be remitted in the following modes.

State Government Organizations

- i. Court fee stamp,
- ii. Treasury challan (0070-60-118-99),
- iii. Demand Draft/ Bankers Cheque, Pay Order payable to PIO &
- iv. Directly by cash in the office of PIO

Central Government Organizations

- i. By cash
- ii. DD / Bankers Cheque / Indian Postal Order

Moreover citizens can also use the GOI, RTI Portal (rti.gov.in) for uploading applications. Here the fee can be remitted using debit card/net banking and other payment gateways.

However in the case of public authorities other than the Government Departments (Universities, Public Sector Undertakings, Autonomous Bodies) the fee shall be remitted to the account of such PA by cash or in the form of cheque or DD drawn in favor of Accounts officer of such public authority.

PIO may provide information free of cost to persons who are below Poverty Line (BPL). Here the BPL citizen shall provide certificate issued by Grama/ Block Panchayat Secretary or Municipal/Corporation Secretary in this regard.

C. RTI Operational Part

a. While examining an application, if the PIO finds that the information sought is held by a section of his office, by a UO note S/he may transfer it to that section stating the time limit for disposal. Once the file is received by the concerned section, the Section Officer or Assistant (who is the custodian of information) shall provide the relevant file and other records along with a draft reply, without delay to the PIO. As per Sec 5 (4), the PIO for the purpose of discharge of his/her duties, may seek the assistance of any officer (senior or junior). Such officer whose assistance has been sought shall render all assistance to the PIO and for the purpose of any contravention of the provisions of this Act, such officer shall be treated as deemed PIO [Sec 5 (5)]. In short, the Act places responsibility not only on the PIO but also on every officer of the PA. It may be noted that in circumstances where the senior officer fails to provide information kept by him/her, the fact may be noted in the note file.

b. On deciding to provide information, the PIO shall ascertain any further fee regarding the cost of information. The details of further fee representing the cost of information together with the calculation made to arrive at the amount shall be intimated to the applicant as early as possible. Here the period intervening between the dispatch of the above intimation and payment of fee shall be excluded for the purpose of calculating the period of 30 days [Sec 7 (3)]. The applicant has the right to review the decision regarding the further fee fixed by the PIO and in the intimation letter, the details of appellate authority, time limit etc. may also be stated.

c. Fees

The fee for providing information shall be charged as

- i. Rs. 3 for each page in A4 Size.
- ii. Actual charge or cost of the copy in larger size paper.
- iii. Actual cost or price for samples, map, plans etc.
- iv. For inspection of records, there is no fee for the first hour and a fee of Rs. 10/- for every subsequent 30 minutes or fraction thereof.

- v. Rs.75 for providing information in electronic mode.
- vi. In case of fees statutorily fixed by Departments like BTR (Basic Tax Register), sketch map, satellite maps, encumbrance certificate, copy of answer sheets etc. and for various services rendered by it, such fees as fixed by the PA shall be collected, even if requested under RTI Act. [GO dt. 18.02.2022]

d. Reply/Rejection

- a. PIO has to provide the entire information requested by any applicant free of cost, if S/he fails to give a reply (provide information or reject under section 8 and 9) within 30 days. Interim reply stating that the 'record is being searched is not entertained under RTI.
- b. While rejecting the request for information from an applicant, the SPIO shall communicate to the person the following :
 - i. The reason for such rejection.
 - ii. The period within which an appeal against such rejection is preferred.
 - iii. The particulars (details) of the appellate authority [Sec 8 (8)].

e. Information

Information shall be provided in the form in which it is sought. If the information requested is voluminous or scattered in different sections which would divert the resources of the PA (including human resources), or would be detrimental to the safety and preservation of the records, then the PIO can use any other form as stated in Sec 2(j) for divulging information. The PIO in this case may request the applicant to visit this office on a particular day/time, inspect the records and take copies etc. if required by paying the prescribed fee.

D. Exempted Information

As per Sec 8(1), the PIO has no obligation to give information on certain aspects. They are :

- 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 could 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 to government and other Officers
- 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, the appellate authority, as the case may be, is satisfied that the larger public, interest justifies the disclosure of such information:

However, even if exempted, the PA may allow access to information, if public interest in disclosure outweighs the harm to the protected interest.

Moreover as per Section 8(3), any information relating to an event or matter which happened 20 years prior to the date of request shall be provided to any person initiating a request, except the exempted provisions of clauses (a) (c) and (i) of Section 8.

It is clarified that there is no time limit for retention of files, records or documents in RTI by the PA. However, the records retention schedule as per the Manual of Office Procedure (MOP) will prevail, and if the document requested by the citizen has been legally destroyed as per MOP, the application can be rejected stating this. In addition, a PIO can reject a request for information involving infringement of copy right of a person. But this does not apply to copyright of the Government (Section 9).

- k. Section 10 deals with supply of part information by severance. When a request received is partly exempted from disclosure, such part can be severed in such a way that part of the record which is not exempted, may be provided to the applicant
- l. Section 11 deals with third party information. If an applicant seeks information which relates to a third party and that third party has treated that information as confidential, the PIO shall within 5 days from the receipt of application, give a written notice to the 3rd party that the information has been sought under RTI Act by another person and that S/he intends to disclose it. The 3rd party may within 10 days give a submission orally or in writing, to the PIO whether the information should be disclosed or not. The PIO should take a decision within 40 days regarding disclosure keeping in view the submission of the 3rd party. After taking the decision, the PIO shall give a notice of his decision to the 3rd party in writing. The notice should include a statement that the third party is entitled to prefer an appeal to the First Appellate Authority against the decision of PIO. If an appeal has been filed by the third party against PIO's decision, the information requested need not be disclosed till the appeal is decided.

E. SuoMotu Disclosure

As per Section 4 (1) (b), every PA should disclose SuoMotu to the public, 17 sets of information through various means of communication (including internet) so that the public has minimum need to apply for information under the Act. This information has to be updated periodically.

F. Appeals

If an applicant is not satisfied with the information furnished by PIO, or if the PIO fails to provide information within the prescribed time limit, the citizen can prefer an appeal to the First Appellate Authority (FAA) within a period of 30 days. The first appeal shall be disposed of within a period of 30 days or in exceptional cases within 45 days of the receipt of the appeal. If the FAA fails to pass an order within time or if the applicant is not satisfied with the order of FAA, S/he can prefer a second appeal with the State Information Commission (for State Government Departments) and Central Information Commission (for Central Government Departments). The Information Commission after hearing the parties shall take a decision. However, there is no time limit for this. The decisions of the Commission are binding and can be challenged only in a higher court of law. The law protects PIOs as per Section 21, which says that no suit, prosecution or other legal proceedings shall lie against any person for anything done in good faith.

G. Powers of the Commission

The Commission may require the PA to take steps as may be necessary to secure compliance with the provisions of the Act. This includes:

- i. by providing access to information in a particular form
- ii. by appointing a PIO, if not done
- iii. by publishing certain information
- iv. by making necessary changes to its practices in relation to the maintenance, management and destruction of records
- v. by enhancing the provision for training on RTI to its officials

- vi. by providing the powers of the Commission with an annual report in compliance with the provisions of the Act

H. Penalties

The Information Commission at the time of deciding an appeal shall impose penalty of Rs. 250/- each day of delay beyond the permissible time subject to the maximum of Rs. 25,000/- if under the following circumstances:

- i. If the PIO refuses to receive an application for information
- ii. If the PIO rejects an application without any reasonable cause
- iii. Not furnishing information within the time specified
- iv. Mala fide denial of the request
- v. Knowingly giving incorrect, incomplete or misleading information
- vi. Destroy information which is the subject of the request
- vii. Obstructs in any manner, furnishing information

If the Commission finds that the PIO persistently fails to furnish information, it shall recommend disciplinary action against the PIO. It can even require the PA to compensate the complainant for any loss or other detriment suffered in deserving cases.

I. Conclusion

To sum up, RTI is one of the progressive legislations that the Indian Parliament has enacted since the country attained Independence. It is a powerful tool vested in the hands of the citizen to fix accountability & address corruption related issues in Government. The PIO & other officers of the Public Authority have to be fully acquainted with the provisions of the Act, the recent court judgments, circulars & GO's issued by the State Government for discharge of their duties and ensure transparency for the effective implementation of the Act in its true spirit.

FREQUENTLY ASKED QUESTIONS

1. What is 'information' under the RTI Act?

Any material in any tangible form, is deemed an information vide RTI Act Sec. 2(f) eg., Files including file noting, registers, records, equipment, vehicles, buildings etc., Information related to a private body which can be accessed by a public authority under any other law is also information under the RTI Act.

2. What is 'RTI'?

The right to information is the right of a citizen for getting information which is held by or under the control of the public authority. The Act does not provide for generating new information and collecting information by taking administrative action, eg., issuance of new certificates, taking action on complaints or other application for administrative action does not come under the purview of the Act.

3. Are opinion and advice 'information'.

Opinion and advice as recorded in the files and opinion obtained on file from other sections/departments are information. A request to generate and provide opinion or advice is not envisaged under the Act.

4. Can an employee of an organization submit an application for information in his organization.

Yes, all citizens have the right to information as per RTI Act Section 2 (j). Whether the applicant is an insider or outsider is not taken into consideration.

5. What is the statutory designation of PIO's?

- i. State PIO for the PIO's in all public authorities under the control of the State Government.

- ii. Central PIO for the PIOs in all public authorities under the control of the Central Government.

6. How many PIO's shall be designated in an office?

There is no limit. There shall be as many PIO's as may be necessary to provide such information.

7. Is it necessary that PIO's be designated in all offices or administrative units.

Yes, PIO's shall be designated in all offices/administrative units. However at the sub-divisional level or sub-district level, the public authority can designate an APIO for receiving application / appeal for forwarding to the PIO concerned.

8. Can an application be rejected for the reasons that it is defective.

No, The PIO shall deal with the application and give reasonable assistance to rectify the defect (not signed, application fee not remitted etc.)

9. Where shall an application be submitted?

The application shall be submitted before the PIO/APIO of the concerned public authority.

10. What are the modes of remittance of application fee?

For Kerala State Government departments :

- a) Court fee stamp
- b) By remittance in treasury
- c) By cash remittance in the office of the public authority
- d) By DD/bankers Cheque

For Central Government Offices state and Central PSUs and other public Authorities :

- a) By cash remittance in the office of the public authority
- b) By DD/Bankers Cheque

11. How is the fee or cost of information demanded?

The exact amount together with the basis of calculation shall be intimated by the PIO in the demand notice. The applicant has the right to appeal.

12. How is the communication of denial of information made?

The communication shall include:

- a) reasons for the rejection [provision under section 8(1) or (9)].
- b) particulars of Appellate Authority.
- c) Time limit for filing the appeal (30 days).

13. What are the grounds under which information can be denied?

The information sought for, in an application under the RTI Act can be denied only for any of the reasons given under section 8(1) or 9 of the RTI Act. The information cannot be denied under the provisions of other laws.

14. Which are the authorities authorized to issue BPL certificates?

Secretary of the Panchayats/ Municipal Corporation /City Corporation are the authorities concerned.

15. Whether any fee other than what is prescribed by Rules can be demanded.

No fee other than the prescribed fee and cost of information shall be demanded from the applicant.

16. Whether BPL applicants are exempted from payment of postal charges and fee prescribed by other laws?

BPL applicants are exempted from payment of application fee and the fee prescribed by rules under the RTI Act only. Postal charges have to be met by the PA's. Moreover, as specific to Kerala State, cost of information or photocopying charges upto 20 pages is exempted. BPL applicants will have to pay if the number of photocopied pages exceed 20, at the same rate as prescribed by Rules.

17. Can the citizen ask for consolidation/codification of materials from various records and for a reply in the form of reports.

No. The right to information is for inspection of records and to get certified copies of records/documents. If the citizen is unable to submit application for information as above, the PIO shall give all reasonable assistance to access the information. The PA is not expected to consolidate or provide information held by them in any prescribed proforma or format.

18. Can the citizen submit a format and ask the PIO to fill up the same and return.

No. The records can be inspected by the citizen and he can take copies of the documents and take necessary notes. PIO need to give information only in the form available in the records.

19. Is it mandatory that the information shall be given in the form in which it is sought.

The information shall ordinarily be given in the form in which is sought in the form under section 2 (j). However, the information can be given in another form if,

- i. it would otherwise disproportionately divert the resources of the public authority or

- ii. would be detrimental to the safety or
- iii. preservation of records in question

20. What are the consequences if the information is not given within the prescribed time limit?

- i. It will be deemed that the request was rejected.
- ii. Later the information shall be given free of cost; if directed by First Appeal Authority (FAA) / Secondary Appeal Authority (SAA)
- iii. Will attract provisions of Section 20.

21. Can the PIO ask for more time to give the information.

There is no provision for asking for more time in the Act.

22. Can an information be denied on the ground that the information is related to a case pending in a court of law.

The information can be denied only if,

- a) The disclosure would amount to be contempt of court.
- b) Disclosure is expressly forbidden to be published by a court.

23. Can information related to disciplinary proceedings and domestic inquiries denied under section 8(1)(h).

No. Section 8(1) (h) is applicable only to investigation under Cr. PC and not disciplinary proceedings. Even in the case of investigation under the Cr. PC, the information can be denied only if the disclosure of this information would impede the process of investigation, or apprehension or prosecution of offenders.

24. Can the personal information related to the applicant denied under section 8(1) (j).

Yes, it can be denied if it would made into the privacy of the individual.

25. Can information related to events which happened more than 20 years before the date of request be denied under section 8(3).

Section 8(3) deals with the provision to disclose the information pertaining to exemptions other than those under section 8(1) (a), 8(1) (e) and 8(1) (i) after 20 years. Hence information except section 8(1) (a), 8(1) (e) and 8(1) (i) need to be disclosed after 20 years from the period it has been computed.

26. Can third party information be denied for the only reason that the third party has objected to the disclosure.

No. The information shall be disclosed if the public interest in disclosure (as claimed by the applicant) outweighs in importance the possible harm or damage to the interest of the third party.

27. Is the PIO or APIO under obligation to receive applications addressed to the PIO of other PAs and their transfer the application to the other PA.

No. The PIO is required to accept applications made to him / her only. The APIO is required to accept applications addressed to the PIOs of PA for which he/she is designated as APIO.

28. What are the offences for which penalty may be imposed on the PIO under section 20(1) ?

- a) For not accepting the application and not providing the information within the time limit, without reasonable cause.
- b) For malafide denial information.
- c) For knowingly giving incorrect, incomplete or misleading information
- d) For destroying information

- e) For obstructing, in any manner, furnishing of information.

29. What are the circumstances under which the Commission shall recommend disciplinary action against the PIO?

- a) For not accepting the application and not providing the information within the time limit, without reasonable cause.
- b) For malafide denial the information.
- c) For knowingly giving incorrect, incomplete or misleading information
- d) For destroying the information
- e) For obstructing, in any manner, furnishing of solicited information.

30. Can the decision of SPIO or AA challenged in a court of law.

No. The decision of the PIO can be challenged only by an appeal before the Appellate Authority (AA) or a complainant before the Information Commission (IC). The decision of the AA can be challenged only by an appeal before the IC.

31. Can a PIO or AA be instructed by their superiors for making decision under the RTI Act.

The PIO and AA are statutorily designated officers. They shall perform their function as per the provisions of the Act and hence cannot be instructed or forced to take decisions pertaining to RTI.

32. 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. can such information be given under the RTI Act.

PSUs fall within the category of public authorities. But if an applicant seeks information about trade secrets or Intellectual Property Rights

(IPRs), 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. Even if the law constituting the 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 asked under RTI Act.

33. Government Offices have been providing information to people on the basis of their verbal requests in the past. Does the RTI Act require that such informal practices be ended.

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

34. 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.

Yes. In this case, they will have to pay the statutory fee fixed by the respective PA and not the fee as prescribed under RTI rules.

35. Every department performs different kinds of functions at different levels of operation from the Secretariat to the Taluk Level. Will disclosure under Section 4 have to be designed for each of these levels separately.

Section 4 is designed to ensure that public authorities give certain information which is important to the public voluntarily at every level of

operation. If implemented properly, Section 4 will reduce the workload of officials and public authorities because it will mean that information which is regularly needed by the public can be accessed by them without the need for a specific request.

36. The production of 17 manuals under Section 4 (i), Will it be very difficult and burdensome.

Section 4 deals with proactive disclosure, 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 are 17 categories of information that a public authority is required to prepare and disseminate, proactively, through books, notice boards, print and electronic media. Most of the information required to be published proactively under this section may already be available within the public authority in a scattered manner. These will need to be collected and collated to fulfil the requirement of Section 4. Several officials / offices are favouring this, within Section 4, as it will help them streamline their own housekeeping procedures.

37. Is it enough to disseminate information under Section 4 (1) (b) on the Web.

No. Proactive disclosure of information could be made possible through various print and electronic means. It may be disseminated in one or a series of documents in print. They could all be uploaded on the website of the concerned department. Certain categories of information such as the name and designation of the officers concerned in each office, broad norms of service etc., may be put up on notice boards. Information regarding beneficiaries of various development schemes, concessions and permits may be published from time to time on the website.

38. Is it enough to publish information under Section 4 once at the time of the commencement of the RTI Act.

Updating of information is very important under Section 4 of the RTI Act. This is a statutory requirement. The State Government will have to come out with general instructions for time bound updating of all categories of information. Every public authority may, in turn, issue detailed instructions for updating information that is specific to its functions. For example, information on subsidy schemes [Sec. 4 (xii)] needs to be published and updated regularly if it is to be useful in terms of enabling the public to verify whether they are receiving proper subsidies and ensure that corruption is minimized.

39. What will be the penalty if a department is not able to meet the deadline for proactive disclosure (120 days) ?

There is no penalty for not meeting this deadline. But it is advisable to publish as much information as possible within the deadline and give wide media publicity so that people know that Government is earnest about implementing the law. It must be noted that the Information Commission has the power [Sec. 19(8)(a)(vi)] to receive from a public authority an annual compliance report in relation to Sec. 4. This reporting mechanism will technically make the public authority answerable to the Information Commission on all acts of commission and omission in relation to proactive disclosure.

40. Can a request be denied if it is too big. If not, how can such requests be handled best? How much information can a citizen request in one application?

OR

If one asks 20–30 different sets 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. If a large number of records are involved in relation to a request, the PIO can contact the requestor / summon him to the office to verify the records and facilitate photocopies of the required documents on payment of the prescribed fee. This recognizes the fact that in some cases at least, a broad application may be submitted simply because the requestor was not sure what was available.

41. If in a single application the applicant requests information that relates to the work of several departments, is the PIO responsible for giving all that information within the deadline.

No, the RTI Act makes it clear that the PIO has the power to transfer an application or parts of it, if this relates to information held by another public authority or relates more closely to the activities of any other public authority [Section 6(3)]. The PIO is not responsible for collecting information from other public authorities especially if it is likely to take more than 30 days to secure such information. It is better to transfer the application to the concerned PIO and inform the applicant about the transfer in writing immediately Section 6 (3). This amounts to action taken in good faith and will not attract any penalty to the PIO.

42. Previous experience has shown that some elements may misuse this law and use information to blackmail honest officers. Should the PIO not be given the power to verify the intentions of the applicant ?

While it is possible that some elements may misuse the RTI Act, there is very little opportunity for the PIO to verify the intentions of the applicant. While personal contact details of the applicant are available,

it is impossible to verify his/her intention in seeking information. Furthermore Section 6(2) makes it clear that the applicant will not be required to give reasons for seeking information. An honest and sincere officer need not fear blackmailing. The best way to avoid blackmailing is to make available as much information as possible proactively. As far as possible upload all information, disclosed upon request, on the website. When information is accessible by a large number of people the possibility of blackmailing may not arise.

43. Some unscrupulous elements may tamper the copies of documents they access under the RTI Act and misuse them. How does one prevent such misuse of information released under the RTI Act?

One suggestion is to mark every page of a document accessed under the RTI Act with a rubber stamp impression saying "Documents released under the RTI Act contains XX pages". If electronic files are requested the same may be provided in pdf or tiff format on floppies or CDs. This will also obviate the need for certifying the documents separately if the requestor wishes to use the same in some litigation.

44. If the same kind of information is sought by more than one person should it be made available to all such requestors.

Yes. Every public authority should assess the information needs of people who contact it from time to time and make available information to all requestors.

45. If the information requested by a citizen has already been proactively disclosed can a PIO refuse to accept the request.

No. There is nothing in the RTI Act that states that information disclosed proactively should not be provided to a citizen on request. Section 4 (4) requires that all materials disseminated under this Act should be available with the PIO and as far as possible in electronic format. The

purpose behind this requirement is that the citizen need not wait for 30 days to get access to information that is already being proactively disseminated. If available in printed format the PIO may make copies of the same or provide photocopies of the relevant pages to the citizen. If such information is available only in electronic format, the same may be provided on floppies, CDs or in the form of printouts upon payment of fees at rates prescribed by the Government.

46. 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. An APIO may be appointed at the sub-district or sub-divisional level where a public authority may not have an office or administrative unit designated a PIO. He is expected to receive applications and appeals and forward the same to the PIO concerned.

47. What are responsibilities of the APIO?

The APIO has only two responsibilities under the RTI Act - Receive applications for information from citizens and forward them to the concerned PIO immediately or within five days (if he is not in possession of the requested information) and Receive appeals from citizens and forward them to the departmental Appellate Authority immediately or within five days. An APIO is liable for penalty if s/he refuses to receive applications or appeals. S/he is also liable for penalty if s/he does not forward the same to the appropriate authority within the 5-day deadline.

48. If the information requested by the applicant is in the possession of the APIO should s/he not give that information to the applicant?

The RTI Act is meant for giving citizens easy access to information held by public authorities. There is nothing in this law to stop the APIO

from giving information under his/her possession to the information requestor. As PIO is the statutorily designated officer responsible for providing information under the Act, it would be better for the APIO to forward the information under intimation to the PIO.

49. What is the procedure to be followed for giving samples of materials?

The Government will have to issue detailed guidelines as regards the procedure to be followed for collecting samples. Witnesses may be required to be present for the purpose of certifying the samples collected.

50. Should the PIO give information if the applicant does not submit proof of payment of application fees, or proof of BPL identity attached to the application? Should the APIO forward such applications to the PIO?

The PIO is required to take a decision about giving or not giving information only if the application is complete in all respects. An application is complete only if it has all contact details about the applicant and the nature of information requested along with proof of payment of application fees or proof of BPL identity for claiming fee waiver. An APIO may forward only complete applications to the PIO. If the applicant has submitted an incomplete application, it is the duty of the PIO or the APIO, as the case may be, to request the applicant to complete the application in all respects to facilitate the commencement of processing of the information request by the PIO.

51. How will PIOs collect application fees and additional fees for providing information if the request is received by email?

The Government has not specified the mode of fee payment for applications received by email. They could provide for online payment

options or the applicant may be sent an email asking him/her to pay fees in cash or send proof of payment by any other means prescribed by Government in the rules.

52. If the applicant does not pay the additional fees towards cost of providing information within the 30 day deadline will the PIO be penalized 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 order issued by the PIO and restarts on the date on which the applicant pays the additional fee. For example, if the PIO dispatches the intimation letter on the 5th day from, the date of receipt of the application only 5 days would have elapsed from the 30 day limit. The clock will restart on the date on which the applicant pays the additional fees. The PIO will have to provide the information within 25 days from the date of payment of additional fees. If the applicant chooses to seek a review of the additional fee from the FAA or the SIC the period taken for giving a decision on this matter will not be included in the 30 day limit.

53. If the applicant does not respond to the intimation letter of the PIO requesting payment of additional fee, will the PIO be duty bound to provide information to the applicant? Is the PIO duty bound to provide information within 30 days even in such cases.

No. The PIO does not have a duty 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 additional fee, as may be determined [Sec. 7(1)] by him/her. However, if the PIO does not receive a response to his/her intimation letter from the applicant then the PIO need not take any action. This action of the PIO will not amount to unreasonable denial of information and will therefore not invite any penalty. It is advisable for the Government to specify the time period limit for such cases in the rules or in the guidelines.

54. How does a PIO decide whether the information requested relates to the life and liberty of the individual? If the requestor threatens suicide in the event of being denied access to information, should it be given within 48 hours.

This category of information usually relates to the work of law enforcement and security agencies, government hospitals, health sector officials and so on. Detailed guidelines are available in other jurisdictions for dealing with such applications. The State Government will have to come up with guidelines for treating such information requests with due diligence and urgency. However, information requests made under suicide threats must be dealt with due caution and the applicant must be reassured that action will be taken in good faith while dealing with his/her information request.

55. Officials are required to give information about themselves and their families under the law. Can the public request this kind of information? Should it be given?

Not necessarily so. This may be private or personal information which is exempted under Section 8(1)(j). Again, this must be decided on a case-by-case basis. If larger public interest justifies the disclosure of such information, it must be given.

56. Some of the exemptions are difficult to interpret. How will ambiguities be clarified and what can be done to support officials to apply exemptions properly?

It is important for the Government to prepare detailed guidance notes for PIOs and FAAs explaining each of the exemptions in section 8 and giving practical examples to assist them to apply these exemptions properly. State Government and Information Commission should also be involved in the process. Nevertheless, it is not possible to provide guidelines on exemptions applicable to all situations. It is important for

Information Commissions and the Courts to publish their judgments to provide additional guidance to officials and the public which will become part of the developing case law on RTI. International experience supports the production of an 'annotated Act' incorporating the explanatory and interpretative portions of judgments explaining every provision. In Canada and Queensland, Australia for example, their information access case law is uploaded on-line and every provision therein has links to relevant judgments. The citizens can also refer the website of Kerala SIC, GoI and High Courts for similar cases, now that the Act has been in existence for more than 15 years.

57. 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.

The Government should come out with detailed guidelines regarding the protection available for copyrighted materials and intellectual property rights held by public authorities. If disclosure of building plans and designs affect the economic or security interests of the State in a prejudicial manner then such information falls under Section 8(1)(a). But if the PIO is able to justify before the concerned appellate authority that s/he had provided reasons for denying access to such plans, no penalty will be imposed. The appellate authority is appointed precisely to give quasi-judicial decisions on the finer points of the law. Therefore, if the PIO has taken action in good faith the appellate authority may not impose a penalty even if it decides in favour of disclosing such plans and designs.

58. If a case is still under consideration (ie., 'live' or 'current file') for final decision can that file be made available to the requestor before the decision has been taken.

Yes. Aspects of the file which are pending decision also need to be disclosed unless exempted under Section 8 or 9.

59. What if existing departmental manuals prevent disclosure of information to the people?

As per Section 22, RTI Act has an overriding effect over any law for the time being in force. Hence such information even if the Department manuals prevent the disclosure has to be disclosed if requested under RTI.

60. 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 penalized for this.

If a record has been destroyed legally, the question of penalization does not arise. The PIO cannot create a record in order to meet a request. Hence the information cannot be given if it has been legally destroyed.

61. 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 not always the deciding authority for granting partial access to records that may contain exempt information. The PIO is required to give the name and designation of the person giving the decision of partial access while intimating the same to the applicant. With the exception of cases where information requested belongs to the category of personal information where the PIO has the authority to decide whether disclosure is in public

interest [Section 8(1)(j)], it is the public authority or the competent authority which has the power to grant full access or partial access in public interest. The Government should specify in the rules the level at which the decision to grant complete or partial access to exempt records must be taken within the public authority. Care must be taken to ensure that decision in such cases must be taken within the time limit stipulated in the law as there is no grace period provided for this process.

62. Will a PIO be penalized if the senior officer verbally orders him not to release information to the requestor.

No. All officers must assist PIOs to process applications and provide information, if requested by the PIO. All such officers will be considered to be PIOs for the purpose of contravention of this Act. If a PIO is not given information by a senior when he requests their assistance, accordingly it is the senior, who will be penalized and not the PIO. To protect against a penalty, it is advisable that PIOs make this in writing.

63. The revision of charges/fees effected vide G.O. (P)No.409/2014/ FIN Dated,23-09-2014 of Finance (Revenue Monitoring Cell) Department of Government of Kerala has any relevance to the fee prescribed vide Rules 3 and 4 of the Kerala Right To Information (Regulation Of Fee And Cost) Rules, 2006.

The GO mentioned above relates to revision of user fee for various services offered by the Departments. It has no relevance to the Kerala RTI (Regulation of Fee & Cost Rules) 2006 and 2007

64. Whether Intelligence and Security Organizations' are exempted from RTI Act?

Yes, but information pertaining to allegations of corruption and human rights violation have not been excluded.

65. What does the term 'Opinion' under Sec. 2(f) mean?

It means the opinion noted in the note file by some officer at some point of time. The PIO is not expected to give his/her opinion on a request but just to furnish the matter requested as in the file.

66. Can a citizen approach the STC directly for information.

No. S/he has to first file the application in the PA with the PIO. If the PIO fails to provide information within the time limit or provide incorrect, false information, s/he can prefer first appeal with the FAA of the Public Authority. The citizen can approach the SIC only after the first appeal is disposed by the PA.

However the citizen can file a complaint before the SIC if s/he has been unable to submit a request to PIO as no such officer has been appointed or because the PIO has refused to accept his application for information or appeal under the Act.

67. What can be PIO do if the information sought has been legally destroyed as per Manual of Office Procedure (MoP)?

In this case the PIO can reject the request stating that it has been legally destroyed. However the PA should maintain disposal register with date and details of files disposed. S/he is not expected to create information.

68. Whether the applicant has to bear the postal expenses in connection with disposal of information.

No postal charges shall be met by the Public Authority.

69. Can an Appellate Authority take 45 days for disposal of appeal in normal cases.

As per Section 19 (6), an appeal shall be normally disposed within 30 days of the receipt of the appeal or with an extended period not exceeding

45 days from the date of filing, and the reasons shall be recorded in writing. The FAA has the powers to summon the applicant and hear him if found necessary.

70. What is the procedure for disposing 'Third Party Information'?

Here the PIO shall within 5 days from the receipt of the request, give a written notice to the third party of the request and the PIO's intention to disclose the information or record. The third party may make a submission regarding whether the information should be disclosed or not. The submission shall be kept in view while taking a decision before disclosing by the PIO.

71. When did the amended RTI Act came into force?

The 2019 amendment bill amended Section 13 and Section 16 of the Act, 2005, regarding term of office and conditions of service of Information Commissioners.

72. Can an interim reply be given on the information sought if this is scattered in different Section / Offices.

There is no such provision for interim reply. But PIO can invoke provisions of Sec 7 (9) and request the applicant to visit his/her office (with date and time specified) and inspect the files and take photocopies by paying the fees as prescribed by Rules.

73. What does the term 'Fiduciary' relationship as stated in Sec 8 (1) (e) mean?

In law, fiduciary denotes trust, especially with regard to the relationship between a trustee and a beneficiary. An example is the relationship between banker and depositor. Here the fiduciary has the duty to act in the best interest of other party (beneficiary).

74. Can a citizen/ applicant claim compensation for the loss suffered by him/her due to non-receipt of information under RTI Act.

The Information Commission can require the PA to compensate the complainant for any loss or other detriment suffered by him/her under Sec 19 (8) (b) of RTI Act.

75. What protection is available to the PIO before SIC imposes penalty?

The PIO shall be given a reasonable opportunity of being heard before any penalty is imposed on him/her. The burden of proving that s/he acted reasonably and diligently shall be on the PIO.

76. Under what circumstance is disciplinary action recommended by SIC/ CIC.

It in the opinion of SIC, if the PIO has without any reasonable cause and persistently failed to furnish information or has knowingly given incorrect incomplete or misleading information or destroyed or obstructed in any manner in furnishing information, the SIC shall recommend disciplinary action against the PIO under the service rules applicable to him/her.

77. What is the implication of Sec. 5(4) and Sec. 5(5) ?

Under Sec 5(4) of the Act, the PIO can seek the assistance of any officer for the purpose of proper discharge of his duties. Such officer whose assistance has been sought, shall render all assistance and for the purposes of any contravention of the provisions of the Act, such officer shall be treated as PIO. This means that if the officer whose assistance has been sought, fails to provide documents / file/ information, inspite of repeated reminders, s/he shall be treated as deemed PIO and is liable for paying penalty for non-compliance, as decided by SIC.

This is a very powerful section as the responsibility for furnishing information rests not only with the PIO but also with all officers whose assistance has been sought under RTI Act.

78. Can a citizen ask for information related to a private body.

Though private organizations do not come within the purview of this Act, a citizen can get information from the regulatory body of the private firm. For eg., for collecting details from ration shops (which is a private dealer) the citizen can apply to the Taluk Supply Officer and get details. Similarly, co-operative societies do not come within the purview of the Act, but application can be made to the Registrar of Co-operative Societies and information collected on such societies.

79. Are decisions of CIC binding on State owned Public Authorities.

CIC is the Apex Body of Central Government Organizations' and has the same Status of SIC. Their decisions / judgments can be referred to, but are pronounced based on a case to case basis. Hence CIC decisions are not binding on state owned public authorities.

80. Are Ministers in the Union Government and State Governments, deemed as public authorities under sec 2 (h) of the Act.

No. The High Court of Delhi in Union of India and others VsCIC, set aside the decision of the CIC declaring 'Ministers as public authority, under Sec 2(h) of the Act.

81. Whether co-operative society is a public authority and how can a citizen get information relating to a Co-operative Society as per Sec 2 (f).

The Supreme Court in Thalappalam Service Co-operative Bank Vs State of Kerala in 2013 held that Co-operative Society is not a Public Authority as the society, is not controlled by the appropriate Government or is

substantially financed by the Government. However when a citizen seeks for information from the Registrar of Co-operative Societies, who is a Public Authority under Sec 2(h), such Registrar in turn can direct the Co-operative Society to furnish the information and the Co-operative Society would be bound to supply the information to the requestor.

82. Are the PIO's expected to compile information and answer to hypothetical questions.

An Office Memorandum has been issued by the Department of Personnel and Training (DoPT), the Central Nodal Agency to oversee implementation of the RTI Act regarding collecting and compiling information by the PIO. As per Sec 7(a), information shall normally be given in the form in which it is sought by the requestor. This does not mean that s/he has to compile, re-shape or supply the conclusion from the material held by the Public Authority. S/he is not required to do research on behalf of the citizen to deduce anything from the material and then supply to him/her. The PIO is not expected to answer to non-existent information or hypothetical questions. In this regard it has been made clear that only such information which exists and is held in the public domain need to be disclosed.

83. Can an APIO sign a response letter.

The Act limits the APIO's role to receiving application for information and forwarding the same to the PIO concerned. In the normal course reply has to be given by the PIO and in his/her absence in certain cases where the last date for responding expires, there is no legal issue if the APIO replies on behalf of the PIO.

84. Can the PIO excuse himself/herself from the responsibility under the Act on the ground that the request for information was not made to the PIO, but to the Public Authority (PA).

When a request for information is made to a PA, it is a request made to the PIO who has been designated by the PA to provide information. Here the PA or its administrative unit which receives the application has to hand over the same to the PIO concerned for disposal.

85. Should a request be typewritten?

PIO cannot reject an RTI application stating that it is not typewritten. Sec 6(1) of the Act specially provides for application to be submitted 'in writing' and not necessarily in a typed form.

86. Can IT returns be disclosed by Income Tax Department.

IT returns filed by an assessee are confidential information which include details of commercial activities and that it relates to 3rd party information, which are submitted in fiduciary capacities. It is exempted under Sec 8(1)(j) and there is no public interest involved in the matter.

87. Can a PIO file an appeal with CIC against the order of an Appellate Officer.

PIO is the provider of information and not the seeker. There is no provision in the Act to consider such appeals or complaints by the PIO against an order of the first Appellate Authority.

88. What is the procedure in deciding an appeal ?

As per the provisions of Sec 19(6), 1st appeal shall be disposed within 30 days or within such extended period not exceeding 45 days, from the date of receipt. While disposing the 1st appeal, the first Appellate Authority may give notice to the PIO / deemed PIO and to the appellant, conduct a hearing (if required), pass speaking orders and communicate to the PIO under intimation to the applicant.

89. When can Sec. 11 of RTI Act be invoked?

Section 11 can be invoked only if the information relates to or has been supplied by a third party and has been treated as confidential by the 3rd party.

90. What is 'severability' provision?

As per Sec 10 of the Act, whenever a request for access to information is rejected as it is exempted from disclosure, part of the record that does not contain any exempted information, can reasonably be severed from such part that contains the exempted information and provided.

91. Can travel expenses of a Government officer be disclosed.

The travel expenses are met from the state exchequer, and hence disclosure cannot be denied on the grounds of 'personal information', 'not a public activity' or 'no public interest involved'. Travel performed as part of official duty and the records related to the same are public records and therefore a citizen has the right to seek disclosure.

92. Can medical records of an officer be disclosed.

This falls under the category of 'personal information' which is exempted from disclosure under Sec. 8(1)(j) unless larger public interest justifies the disclosure of such information.

93. What does 'personal information', mean as per the Act?

Personal information does not mean information related to the information seeker, but about a third party. Hence the Section states about 'unwarranted invasion of the privacy of an individual'. It is seen that majority of appeals revolve around the exemption on personal information. The Department of Personnel and Training (DoPT),

Government of India based on the Supreme Court judgement dated 3rd October 2012 (Girish Ramachandra Deshpande V/s CIC and others) held as follows:

“The performance of an employee is primarily a matter between the employee and the employer and normally those aspects are governed by the service rules which fall under the expression personal information, the disclosure of which has no relationship to any public activity or public interest, on the other hand, the disclosure of which would cause unwarranted invasion of privacy of that individual”.

94. Can the name and address of the member of the Selection Board be disclosed.

As per Supreme Court ruling in a case, the disclosure of ‘name and address of the Selection Board would exfacia endanger their lives or physical safety’. Hence this need not be disclosed.

95. Whether disclosure of various documents submitted by the bidders affects trade secret or commercial confidence or intellectual property?

When tenders are invited by the PA, and the eligibility of a tender or bidder is decided on the basis of tender documents. Therefore these tender documents cannot be kept secret on the ground that this has trade secrets or would lead to disclosure of commercial confidence. Hence the documents can be disclosed after the work order is issued. Once the tender process is completed and contract has been awarded, it will not influence the contract.

96. What is the procedure for rejection of requests under RTI?

PIO has to give reasons of rejection and not merely quote the bare clause of the Act. The PIO is expected to intimate clearly as to how s/he

came to the conclusion that rule 8(1) was applicable in the particular case, through a speaking order. The applicant, is entitled to receive clear-cut replies for all his/her queries. S/he has to give his/her name, and also the time limit within which appeal can be preferred and also the name, address of Appellate officer in his/her communication.

Sometimes information may fall under exemption under Sec 8, but still PIO can disclose 'if public interest in disclosure outweighs the harm to the protected interests'. In such cases the PIO may record the following:

- factors favoring public interest in disclosure
- factors favoring non-disclosure
- Documents produced by requester as evidence to prove public interest.
- How and why the factors favoring the above are more important as to take a decision to disclose or not.

97. Can the Service Book of an employee in public service be demanded under RTI.

Those parts of the Service Book which are of a personal nature need not be revealed, whereas those parts of the service book like employment details, salary, promotion, leave particulars, (excluding those availed under medical ground) etc., can be revealed.

98. Can the details regarding disciplinary procedure against an employee be demanded.

The details regarding disciplinary procedure against an employee can be revealed only if it is can be established that the public interest outweighs individual privacy. If there is no convincing public interest in the disciplinary procedure / process of an employee, such aspects need not be revealed.

99. If the charges for providing details are prescribed by any department, can this be superseded by the charges prescribed under RTI.

This is a grey area and decision in regard to this is pending before the High Court of Kerala. However, Government has issued a clarification that if the services for providing certificate/copies of department like Revenue, Registration, Survey, etc., are fixed, the statutory fee for obtaining such certificates/ services cannot be circumvented by RTI. However the RTI applicant is at liberty to examine the file, if such file is not of a confidential nature by due process.

100. Whether the ration card is an acceptable document to claim the BPL status of an applicant under RTI Act.

The copy of the ration card is not acceptable under the RTI Act to claim the BPL Status of an applicant. BPL certificate issued by Secretaries of Panchayats / Municipal Corporations / City Corporations is only acceptable.

Acknowledgement

1. I would like to thank the Department of Personnel & Training, Government of India for providing us with the financial aid and support.
2. I profoundly express my gratitude to Shri. K. Jayakumar, Director, IMG who is our guiding spirit.
3. I owe a special word of acknowledgement to Dr. Jaya S. Anand (Former Professor, IMG), Shri. P. V. Chandrabose (Additional Secretary, Law Department, Government of Kerala), Shri. Mohananadha Babu (Former Additional Secretary to Government of Kerala), Shri. Lalith Babu (Former Deputy Tehsildar, Revenue Department, Government of Kerala), Smt. Liny Jose K (Assistant Professor, IMG, Kochi) for their academic contributions in the preparation of this e-handbook.
4. I would like to thank Shri. T. K. Aswin (Research Assistant, IMG), Smt. Nabeesath A. (Section Officer, Programme & Planning Division), Shri. Harishankar (Assistant, Programme & Planning Division) and Smt. Manju N. S. (Confidential Assistant, IMG) for their support and rendering an enabling environment in the preparation of this e-handbook.

Dr. Ram Mohan R.

Professor & Nodal Officer,

RTI Knowledge Centre,

Institute of Management in Government

Thiruvananthapuram

RTI Knowledge Portal

(www.rti.img.kerala.gov.in)

Institute of Management in Government has started an online portal for the wider propagation and dissemination regarding the application and relevance of the Right to Information Act, 2005. The portal was formally launched by then Vice President of India Dr. M. Hameed Ansari in July 2010. The portal is unique as it serves as a single referral point for the users on all information relating to RTI Act. The main objective of the portal is to educate the general public and government officials, help the learner to understand the application of the Right to Information Act, 2005 in its true spirit to achieve the objectives imbibed in the Act.

The e-learning course on RTI which is provided through the portal enables persons to register for the course when it is announced, to learn and to get certified. The Act has been divided in to eight simple and user friendly modules in a manner wherein a learner can read, comprehend and learn about the provisions of the Act. Learners may complete the course by 14 days and get certified by after the eighth module.



**RTI Knowledge Centre
Institute of Management in Government**

IMG has been identified by the Department of Personnel and Training (DoPT), Government of India as the Nodal Agency in the State of Kerala for Capacity Building on Right to Information Act. RTI Knowledge Centre was established in 2009 with the objective of strengthening the demand and supply side of RTI Act, 2005. RTI Knowledge Centre imparts and instills knowledge and awareness among the general public and Government Officials regarding the RTI Act.

RTI Knowledge Centre organises training, workshops, seminars on the RTI Act with the support of Central and State Government. RTI Knowledge Centre proposes to be a single referral point for the general public and officials relating to RTI Act.

For more information, Kindly Contact

Dr. Ram Mohan R
(Professor and Nodal Officer)

T. K. Aswin
(Research Assistant)

**Institute of Management in Government
Vikas Bhavan P O, Thiruvananthapuram 695033**

Phone : **0471 2780850, 8301051083**

Email: **rti.img@kerala.gov.in**

Web: **www.rti.img.kerala.gov.in**



Published by:
Dr. Ram Mohan R,
Professor & Nodal Officer,
RTI Knowledge Centre,
Institute of Management in Government,
Thiruvananthapuram 695033