



Right to
Information

Institute of
Management in
Government



Right to Information Act, 2005
Handbook



Institute of Management in Government

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RTI Act 2005



RIGHT TO INFORMATION ACT 2005

HANDBOOK



Institute of Management in Government

Thiruvananthapuram

2024

This handbook has been prepared with the financial aid of



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कार्मिक एवं प्रशिक्षण विभाग
DEPARTMENT OF
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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. I hope this handbook which provides fundamental knowledge on RTI Act will be used extensively.

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

K. Jayakumar
Director
IMG

Thiruvananthapuram
January 2024

PREFACE



The Right to Information Act, 2005 comprising of 6 Chapters and 31 Sections symbolises the maturity and wisdom of our Parliamentary Democracy. Even 18 years after its implementation, there is scepticism among officials and the general public, regarding the effective use of this Act.

This handbook prepared with the financial aid of the Department of Personnel & Training, Government of India intend to handhold Government Officials and public in the operability of the Act. This handbook comprises of two parts; the first part provides an overview on important sections of the RTI Act and the latter part comprises of Frequently Asked Questions with their Answers.

I hope that this handbook serves as a reference for all stakeholders in the effective implementation of the RTI Act.

A handwritten signature in black ink that reads 'Ram Mohan R'. The signature is written in a cursive style and is positioned above a horizontal line.

Dr. Ram Mohan R.
Professor & Nodal Officer
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Thiruvananthapuram
January 2024

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. 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 19(1) (a), 21 and 32 of the Indian Constitution. The Supreme Court has upheld this in numerous cases.

Globally, Sweden has been the first country to enact a law related to the right to information, known as the Freedom of the Press Act in 1766. As of now, 125 countries have enacted laws similar to Right to Information. Right to Information Act of 2005 is considered as a landmark legislation in the history of independent India.

The basic objective of the Right to Information Act is to empower the citizens, promote transparency and accountability in the working of the Public Authorities, contain corruption and make our democracy work for the people in real sense. With the enactment of this Act, citizens have access to Government transactions and can actively participate in governance. It also holds 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 intended purposes.

This Act comprises of 6 chapters and 31 sections. The Right to Information Act was passed by the Indian Parliament in May 2005 which received the Presidential assent on June 15th, 2005 and was published in the Gazette of India on the same day. Sections 4(1), 5(1) & (2), 12, 13, 15, 16, 24, 27, 28 of this Act came into effect on that day. The other sections of this law came into effect 120 days after its publication, which was on October 12th, 2005.

The specific directives for all public officials in the country to effectively implement the current law have been provided within the 120 days. Each public office must disclose information related to their functioning with due diligence [Section 4(1)] and this includes the constitution of Information Commissions, the Public Information Officers and the Appellate Authorities.

DEFINITIONS

Information

As per Section 2(f) of the RTI Act, 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.

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 Public Authority. 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.

Record [Sec 2 (i)]

This includes :

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

Third Party

Any individual or a public official who is not an applicant, comes under the purview of third party under the Right to Information Act.

First Party - Applicant (An individual applying for information under the Right to Information Act)

Second Party - Public Information Officer

Third Party- Another Individual/Public Authority other than the Applicant

Public Information Officer

State Public Information Officer (SPIO): S/he is the officer (Statutory post) designated by the Public Authority to deal with requests/petitions under RTI in State Government Departments/Institutions.

Central Public Information Officer (CPIO): S/he is the officer designated by the Public Authority to deal with requests/applications under RTI in Central Government Departments/Institutions.

It may be noted that PIO is the main communication link between the applicant and the Public Authority, Department can designate as many PIO's as required depending on the volume of transactions handled by the Department. The Public Authority may also designate PIO's or APIO's on

all its divisional / sub-divisional offices for the effective implementation of the Act.

According to the Right to Information Act, a person responsible for providing information under the Act is the Public Information Officer. For example, in a village office, the State Public Information Officer is the official responsible for providing information in that organization.

The following may be verified/noted by Public Information Officers while processing applications under Right to Information Act:

1. The application does not have a specified format.
2. The applicant must provide necessary information to contact them [Section 6(2)] (address or phone number or email address, etc.).
3. The application should be affixed with the ten rupee court fee stamp/ treasury challan (0070-60-118-99) /demand draft/ banker's cheque/pay order. The application fee can also be paid directly. However, some Public Sector Undertakings, Autonomous Institutions, Universities does not accept court fee stamps as application fee.
4. Every Central or State Public Information Officer, as the case may be, shall deal with requests from persons seeking information and render reasonable assistance to the persons seeking such information. [Section 5(3)].
5. In Central Government institutions, fees can be paid in cash to the CPIO or by D.D./banker's cheque/Indian Postal Order. The fees can also be paid online through the central government's RTI portal(rtionline.gov.in). Payment can be made using Debit Card/ Net Banking or other Payment Gateway methods (RTI Central Rules 2012).

6. The applicant may specify the particulars of the information sought by him or her [Section 6(1)]. If the details requested are not clear, it is the responsibility of the PIO to request the applicant to provide clarification.
7. When the application is received via fax/email, ensure that the application fee have been paid.
8. If the information sought are not available with the office where the application was accepted or if the application needs to be transferred to another public authority, the applicant must be notified within five days from the date of receipt of the application [Section 6(3)]. No separate directions may be provided, while transferring the application to another public authority, the application or part of it may be transferred as such.
9. The details requested under the Right to Information (RTI) application need not specify the intended purpose [Section 6 (2)]. If information sought concerns the life or liberty of a person, it shall be supplied within 48 hours.
10. Initiate necessary actions on the day on which the application is accepted. If no response or information has been received within 30 days, the applicant may consider the application as rejected [Section 7(2)] or the applicant could assume that the Public Information Officer has declined to provide the information. In such cases, the applicant reserves the right to complaint to the Central/State Information Commission directly.
11. If the information sought in the application is related to another section of the same office, the Public Information Officer (PIO) may instruct the concerned sections to submit the necessary details as soon as possible.

12. The information may be provided only after levying the cost of information. Also, the basis of calculation maybe intimated to the applicant and he/she has the right to appeal.
13. In cases where applicants need assistance for scrutinizing records and in other related matters, the Public Information Officer (PIO) and other officials have the legal responsibility to provide the necessary support. This legal responsibility is applicable not only to the PIO but also to other officials within the department/organization.
14. The Public Information Officer (PIO) is required to provide all necessary assistance to the applicant in preparing the application [Section 6(1)].

Application

The application under the Right to Information Act can be either in English, Hindi or the official regional language of that area in which the application is made. The application can be submitted in writing or in electronic format.

Application Fee

The application fee can be paid through affixing 10 rupee court fee stamp, treasury challan (0070-60-118-99), demand draft, banker's cheque or pay order. The application fee also may be paid directly at the office of Public Authority.

In public sector/autonomous institutions, the mode of fee payment is determined by the respective institutions and is not specified by law. The concerned authorities of such institutions may decide on the mode of fee payment.

Applicants under the BPL (Below Poverty Line) category are exempted from remitting the application fee. To avail this concession, BPL category individuals may submit their BPL Certificate issued for this purpose by the Secretary of Gram/Block Panchayat, Municipality or Municipal Corporation.

BPL category individuals are entitled to free copies of documents and the number of pages for such copies is limited to 20 pages in state government departments/institutions, as specified in the Government Order (G.O.) No. 20/2015/P&ARD dated January 17, 2015.

Fees for Providing Information (Cost of Information)

Under Section 27 of the Right to Information (RTI) Act, the respective state governments are authorized to establish rules for the effective implementation of the Act. Consequently, the Kerala Government has promulgated the Kerala RTI (Regulation of Fee & Cost) Rules in 2006. Rule 4 of these regulations outlines the fees for furnishing information as follows:

- ❖ Rs. 3/- for each page in 'A4' size paper
- ❖ Actual charge or cost price of the copy in larger size paper
- ❖ Actual cost or price for samples or models, maps, plans, etc.
- ❖ For inspection of records, no fee for the first hour, and a fee of rupees ten for every subsequent thirty minutes or fraction thereof.
- ❖ For information provided in diskette or floppy or CD or any other electronic mode, Rs. 75/- (for each)
- ❖ For information provided in printed form, Rs.2/- for each page or the actual price fixed for such publication

The Public Information Officer (PIO) should intimate the applicant in writing to pay the cost of information along with the basis of calculation, which can be remitted through Treasury Challan (0070-60-118-99), Demand Draft, Banker's Cheque, Pay Order or directly at the office.

Section 7(3) mandates that the demand notice should include the applicant's right to seek a revision of the fee fixed for providing information and provide the address of the first appellant.

Government Orders in connection with providing Information:

Kerala RTI (Regulation of Fee & Cost) Rules 2006 dated 09.05.2006

G.O.(P) No. 30/2021/GAD Dated 28.10.2021

Deemed PIO [Section 5(4) & 5(5)]

The PIO, responsible for providing information, may not be the sole custodian of the requested information. The Central Public Information Officer or State Public Information Officer may seek the assistance of any other officer as he or she considers it necessary for the proper discharge of his or her duties. The officer, whose assistance has been sought shall render all assistance to the Public Information Officer seeking his or her assistance and for the purposes of any contravention of the provisions of this Act, such other officer shall be treated as a Central Public Information Officer or State Public Information Officer, as the case may be for the purpose of contravention of the provisions of the Act.

Exemptions from Disclosure of Information [Section 8(1) (a) - (j)]

- 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 which come under the exemptions specified in this section shall not be disclosed;
- j) information which relates to personal information the disclosure of which has not relationship to any public activity or interest, or which would cause unwarranted invasion of the privacy of the individual unless the Central Public Information Officer or the State 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.

However, even if exempted, the PA may allow access to information, if public interest in disclosure outweighs the harm to the protected interest [Section 8(2)].

Moreover as per Sec 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 could be rejected stating this.

Things to be included while giving reply to RTI Applications:

The reply should however essentially contain the following information:

- i) RTI application number, date and date of its receipt in the public authority.
- ii) The name, designation, official telephone number and email ID of the CPIO/SPIO.
- iii) In case the information requested for is denied, detailed reasons for denial quoting the relevant sections of the RTI Act should be clearly mentioned.
- iv) In case the information pertains to other public authority and the application is transferred under section 6(3) of the RTI Act, details of the public authority to whom the application is transferred should be given.
- v) In the concluding para of the reply, it should be clearly mentioned that the First Appeal, if any, against the reply of the CPIO/SPIO

may be made to the First Appellate Authority within 30 days of receipt of reply of CPIO/SPIO.

- vi) The Designation, address, official telephone number and e-mail ID of the First Appellate Authority should also be clearly mentioned.

Section 7(9)

As per Section 7(9), An 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.

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.

Section 9

Section 9 of the Right to Information Act, 2005 states that a public information officer may reject a request for information if providing access would infringe someone else's copyright. But this does not apply to copyright of the Government.

Section 10

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.

Third Party Information (Section 11)

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 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.

Suo Motu Disclosure

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

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. The decisions of the Commission are binding and can be challenged only in a higher court of law. The law protects PIOs as per Sec 21, which says that no suit, prosecution or other legal proceedings shall lie against any person for anything done in good faith.

Central/State Information Commission

The Central Information Commission (CIC) and State Information Commissions (SIC) are statutory bodies established under the Right to Information Act of 2005. The Central Information Commission/State Information Commission has a duty to receive complaints from any person:

- a) who has not been able to submit an information request because a PIO has not been appointed;
- b) who has been refused information that was requested;
- c) who has received no response to his/her information request within the specified time limits;
- d) who thinks the fees charged are unreasonable;
- e) who thinks information given is incomplete or false or misleading; and
- f) any other matter relating to obtaining information under this law.
- g) Power to order inquiry if there are reasonable grounds.

CIC/SIC will have powers of Civil Court on matters pertaining to:

- a) summoning and enforcing attendance of persons, directing them to give oral or written evidence on oath and to produce documents or things;
- b) requiring the discovery and inspection of documents;
- c) receiving evidence on affidavit;

- d) requisitioning public records or copies from any court or office
- e) issuing summons for examination of witnesses or documents
- f) any other matter which may be prescribed.
- g) All records covered by this law (including those covered by exemptions) must be given to CIC/SIC during inquiry for examination.

Power to secure compliance of its decisions from the Public Authority includes:

- a) providing access to information in a particular form;
- b) directing the public authority to appoint a PIO/APIO where none exists;
- c) publishing information or categories of information;
- d) making necessary changes to the practices relating to management, maintenance and destruction of records;
- e) enhancing training provision for officials on RTI;
- f) seeking an annual report from the public authority on compliance with this law;
- g) require it to compensate for any loss or other detriment suffered by the applicant;
- h) impose penalties under this law; or
- i) reject the application. (S.18 and S.19)

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:

- a) If the PIO refuses to receive an application for information,
- b) If the PIO rejects an application without any reasonable cause,
- c) Not furnishing information within the time specified,
- d) *Malafide* denial of the request,
- e) Knowingly giving incorrect, incomplete or misleading information,
- f) Destroy information which is the subject of the request,
- g) Obstructs in any manner for 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.

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 ensure accountability & transparency in Government. The PIO & other officers of the Public Authority have to be fully acquainted with the provisions of the Act, the court judgments, circulars & GO's issued by the Central/State Government for discharge of their duties and are essential 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 as information vide RTI Act Section 2(f). This includes file notes, registers, records, etc. Information related to a private body that can be accessed by a public authority under any other law is also information under the RTI Act.

2. Are opinion and advice considered '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 considered as information under the Act.

3. What does Right to Information mean?

The Right to Information is the right of a citizen to have access to information that is held by or under the control of a public authority. The Act does not envisage for creating/generating new information and collecting information through administrative actions, e.g., issuance of new certificates, taking action on complaints or other applications for administrative action do not come under the purview of the Act.

4. Could the citizen submit a format and ask the Public Information Officer to fill up the same and return ?

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

5. Could the citizen ask for consolidation/codification of materials from various records and to provide a reply in the form of a report?

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 Public Authority is not expected to consolidate or provide information held by them in any prescribed proforma or format.

6. As per the section 7(9) of the act, 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 it is sought [As per 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

7. What does the term 'Opinion' mean under Section 2(f)?

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

8. Could a citizen ask for information related to a private body?

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

9. Should a record held by a public authority be translated into another language as per the applicant's request?

The certified copy of the information may be provided as such and should not be translated into any other language as per the applicant's request.

10. Should the reply to the Right to Information application be given in the same language in which the request was submitted?

The reply to the Right to Information application should be given in the same language in which the request was submitted, whether it is in

English, Hindi, the regional language or the officially recognized regional language in the area where the application is filed.

11. In the state of Kerala, which all regional languages are officially recognised?

Tamil - The taluk of Thiruvananthapuram in Thiruvananthapuram District, Devikulam, Peerumedu, Udumbanchola Taluks in Idukki District and Palakkad and Chittoor taluks in Palakkad District.

Kannada - The Taluk of Manjeshwar in Kasaragod district.

12. Could an employee of a department/organization submit an application for information in his/her own department/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.

13. Can a person below 18 years of age in India submit a Right to Information (RTI) application?

According to the Right to Information Act, submitting an application for information is not restricted by an age limit. Therefore, an Indian citizen below the age of 18 can also submit a request for information under the RTI Act.

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

- i) **State Public Information Officer** for the PIOs in all public authorities under the control of the State Government.
- ii) **Central Public Information Officer** for the PIOs in all public authorities under the control of the Central Government.

15. In an office, as per the provisions of the Right to Information Act, is it required to maintain a register for the applications received?

Yes, it is mandatory to maintain a separate register for applications received in accordance with the provisions of the Right to Information Act.

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

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

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

Yes, PIO's shall be designated in all offices/administrative units.

18. With respect to the Right to Information Act, whose details should be displayed on the board affixed in the front office?

The details of the First Appellate Authority, State Public Information Officer and State Assistant Public Information Officer should be displayed on the board affixed in the front office.

19. Where shall RTI applications be submitted?

The application shall be submitted before the PIO/APIO of the concerned public authority, who shall, in turn, issue a receipt to the applicant.

20. Could multiple individuals collectively submit a Right to Information application?

No, only an individual citizen of India can submit a Right to Information application.

21. Could the Right to Information application be submitted in the name of an organization, association or in his/her designation or title (e.g., Secretary/President/Director, etc.) of an institution?

No, it is not possible to consider an application for the right to information submitted in the name of an organization, association or in his/her designation or title of an institution (e.g., Secretary/President/Director, etc.). Unless the application is made in the name of the individual applicant, the application cannot be processed as a legally compliant request.

22. Are requests for information received via official email considered to be valid?

While such requests are considered to be valid, it is important to note that the Public Information Officer (PIO) should ensure that the prescribed application fee under the RTI Act has been paid. If the receipt for the application fee is submitted via email, it may be considered as sufficient.

23. How will PIO's 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. The applicant may be intimated through email asking him/her to pay fees in cash or send proof of payment by any other means prescribed by the Government as per the rules.

24. Is it required to send the receipts by post if the application is received via post?

Regarding this, there is no mention in the Right to Information Act or related statutes. For applications sent via post, if a receipt is required, the applicant can affix a postage stamp to the envelope with their return address along with the application.

25. Is it possible for the applicant to be queried by the Public Information Officer about the purpose of seeking information?

No. Section 6(2) makes it clear that the applicant is not required to give reasons for seeking information.

26. Should a request be typewritten?

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

27. Can applications for information in the despatch section be processed like regular mail?

No. If applications for information are received in the despatch section, they must be promptly forwarded to the concerned Public Information

Officer (PIO) or Assistant Public Information Officer (APIO). These officers must, in turn, associate them with the specific Right to Information register, assign a unique number and initiate processing. The time frame for disposing a RTI application starts from the date of receipt in the office.

28. If the information requested in the application is under the control of multiple Public Information Officers (PIOs) within a public authority, does each PIO need to provide a separate response?

No, Each Public Information Officer (PIO) may individually generate their responses and these may be centrally compiled in a particular section. The applicant can then receive the comprehensive response containing all individual responses.

29. What are the different modes of remittance of application fee?

For **Kerala State Government** Departments/Offices:

- a) Court fee stamp
- b) By remittance in treasury(0070-60-118-99)
- c) By cash remittance in the office of the public authority
- d) By DD/Bankers Cheque /Pay Order

For **Central Government** Departments /Offices:

- a) By cash remittance in the office of the public authority
- b) By DD/Bankers Cheque
- c) e-Payment through specified gateways

30. In the response provided to the applicant, is it necessary to document the date on which the Right to Information application was submitted/received in the office?

Yes, it is required to document the date on which the application was filed/received in the office.

31. Is it required to certify all the copies of records provided in accordance with the Right to Information Act?

Yes, according to the Right to Information Act, it is mandatory for the Public Information Officer to certify the copies of records provided to the applicant.

32. According to the Right to Information Act, is it necessary to include the official details of the Public Information Officer in the response filed for the application?

The response to the Right to Information application must include the name, official address, official phone number and official email of the Public Information Officer, as mandated.

33. Is it permissible to use the Digital Signature of the Public Information Officer when the response to the application is processed electronically in the e-Office according to the Right to Information Act?

Yes, it is permissible.

34. Does the applicant have to bear the postal expenses in connection with the disposal of information?

No. Postal charges shall be met by the concerned Public Authority.

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

Secretary of the Gram Panchayat/Block Panchayats/Municipal Corporation/Municipality are the authorities concerned to issue BPL certificates.

36. What is the maximum number of pages to be secured at free of cost for BPL applicants?

BPL applicants are exempted from payment of application fee and the fee prescribed by rules under the RTI Act only. Moreover, as specific to Kerala State, the cost of information or photocopying charges up to 20 pages is exempted. BPL applicants will have to pay if the number of photocopied pages exceeds 20, at the same rate as prescribed by the rules.

37. 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 Gram Panchayat/Block Panchayat/Municipal Corporation/Municipality is only acceptable.

38. In the case of an applicant within the BPL category, whether it is mandatory to furnish the original BPL certificate along with the application. Whether copy of the BPL certificate issued for another purpose is acceptable or not?

Yes, it is mandatory to furnish the original BPL certificate along with the application for fee waiver. The directive stipulates the submission of the original BPL certificate specifically obtained for this purpose by the applicant.

39. How is the fee for 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.

40. Can any fee other than what is prescribed by rules be demanded?

If any public authority requires a specific fee to be demanded for providing certain records, it must be included and communicated for calculation and awareness.

41. Can an application be rejected for the reason 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.)

42. 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.

43. 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 first appeal (30 days).

44. 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) / Second Appeal Authority (SAA)
- iii) Will attract provisions of Section 20.

45. Could the PIO ask for more time to give the information?

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

46. Could 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 contempt of court.
- b) Disclosure is expressly forbidden to be published by a court.

47. Can information related to investigation/ internal inquiries be denied under section 8(1)(h) ?

Section 8(1) (h) is applicable only to investigation under Cr. PC . 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.

48. Can information related to events that 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 sections 8(1) (a), 8(1)

(c) and 8(1) (i) after 20 years. Hence, information except sections 8(1) (a), 8(1) (c) and 8(1) (i) has to be disclosed after 20 years from the period it has been computed.

49. What if existing departmental manuals prevent disclosure of information to the citizens?

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

50. When can Section 11 of RTI Act be invoked?

Section 11 deals with third-party information. If an applicant seeks information that 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 third party that the information has been sought under RTI Act by another person and that S/he intends to disclose it. The third party may, within 10 days, give a submission in writing, to the PIO regarding whether the information should be disclosed or not. If an appeal has been filed by the third party against the PIO's decision, the information requested need not be disclosed till the appeal is decided.

51. 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 outweighs the interest of the third party.

52. By disregarding the submission of the third party, if the Public Information Officer (PIO) decides to disclose the information, can the third party appeal again?

Yes, it is possible. With the decision to disclose information by disregarding the submission of the third party, the right to appeal under Section 19(2) of the Right to Information Act is available to the third party. However, after the final decision of this appeal, only then can the PIO proceed with further actions regarding this matter. The third party has a period of at least 30 days to submit the appeal after the PIO's decision.

53. What is the procedure in deciding an appeal?

According to Section 19(6) of the Right to Information Act, the appellate authority, upon receiving an appeal, is required to render a decision within 30 days or within an extended period of 45 days in case of a justifiable delay. If deemed necessary, notices may be issued to the Public Information Officer (PIO) or the designated PIO mentioned in the appeal. Any additional evidence or circumstances forming the basis of the appeal should be presented convincingly. Following the decision on the appeal, the appellate authority must inform the concerned third-party/appellant, providing a detailed response and notify the PIO. If it has taken more than 30 days for the disposing of an appeal, an explanation for the delay must be clearly stated in the final appeal decision.

54. Is it permissible for an individual to request a personal hearing during the processing of the Right to Information application or during the first appeal?

Yes, it is permissible. However, if the applicant or appellant is unable to attend the hearing for a valid reason, the provision of information may not be withheld. In cases where the appellant does not participate in the first appeal hearing, a fair decision on the appeal should be reached by considering details from the file and other pertinent circumstances.

55. Is it possible for another person to submit an appeal on behalf of an applicant?

It is not possible for another person to submit an appeal on behalf of an applicant.

56. Is it necessary for the First Appellate Authority (FAA) should be a senior official in higher position than the Public Information Officer (PIO) as per the Right to Information Act?

The Act stipulates that the First Appellate Authority should be a senior official in a higher position than the Public Information Officer.

57. As per the Right to Information Act, is it possible for the First Appellate Authority to directly provide the information to the appellant after deciding on the first appeal?

No, the First Appellate Authority, after deciding the first appeal, can direct the Public Information Officer to provide the information sought by the applicant. It is the responsibility of the PIO to provide the information to the applicant as per the Act.

58. Can a PIO file an appeal with CIC against the order of the Appellate Authority?

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.

59. Is the PIO or APIO under obligation to receive applications addressed to the PIO of another Public Authority and transfer the application to the other Public Authority?

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.

60. As per Section 6(3) of the Act, if information is held by another public authority, within how many days should the application be transferred? Is the time frame for this calculated from the date of receipt in the office or from the date on which it is received by the Public Information Officer?

Within 5 days the application shall be transferred to the Public Authority who is the original custodian of the information. The time frame is calculated from the date on which the Right to Information application is received in the office of the public authority.

61. According to Section 6(3) of the Right to Information Act, when information is to be provided by another public authority, can any directive be given in this regard when the application is transferred to that public authority?

No directives can be given in such cases. The PIO is only required to forward the application. The Public Information Officer who has

received the transferred application holds the responsibility for determining the necessary course of action based on the RTI application.

62. Under Section 6(3) of the Right to Information Act, if the sought information is in possession of another public authority, it is to be transferred accordingly. However, in the event that the receiving public authority is not the custodian of the information, to whom should it be appropriately directed?

The PIO shall transfer the RTI application to another public authority who is the original custodian of the information in his/her confidence and understanding. However, if the information is not available with the receiving public authority, then the PIO of the receiving Public Authority may direct it to the rightful custodian to provide information to the applicant.

63. Under Section 18(1) of the Right to Information Act, in what circumstances can a complaint be submitted directly to the Information Commission?

Under Section 18(1) of the Right to Information Act, the Information Commission has the authority to accept complaints directly in the following circumstances:

- ❖ If the Public Information Officer (PIO) or the Assistant Public Information Officer (APIO) has not been designated
- ❖ If the Public Information Officer refuses to accept the application
- ❖ If a response is not received within the specified time frame
- ❖ If the fee is unreasonably high, which he or she considers unreasonable
- ❖ In cases where a complaint is considered, the authority of the Civil Court will also be vested with the Commission.
- ❖ The Commission has the power to summon witnesses and request records on the occasion of considering a complaint.
- ❖ There is no prescribed format for submitting complaints.

64. What are the circumstances under which the Commission shall recommend disciplinary action/penalty?

- a) For not accepting the application and not providing the information within the time limit without a reasonable cause
- b) For *malafide* denial of 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.

65. Are decisions of the Central Information Commission binding on State-owned Public Authorities?

Central Information Commission decisions are not binding on state-owned public authorities. Central Information Commission is the Second Appellate Authority of Central Government Departments/ Organizations under the RTI Act and has the same status of State Information Commission. However, the various decisions / judgments of CIC have been referred occasionally by the State Information Commission on a case to case basis.

66. Can the applicant request additional information during the appeal process, which was not sought in the original RTI application?

No, During the appeal process it is not possible to request additional information that was not originally sought in the Right to Information application.

67. Can decisions of the State Public Information Officer or the Appellate Authority be challenged in court before a second appeal?

No, it is not possible under Section 23 of the Right to Information Act. If there is an objection to the decision of the Public Information Officer (PIO), an appeal can be submitted to First Appellate Authority. If there is an objection to the decision of the First Appellate Authority, an appeal can be submitted to the Information Commission (Second Appellate

Authority) under Section 19 of the Right to Information Act before filing a court petition.

68. In the decision-making process under the Right to Information Act, is it mandatory for the Public Information Officer or the First Appellate Authority to seek directions from their higher authority?

Both the Public Information Officer and the First Appellate Authority are statutorily designated officials who should independently discharge their duties according to the provisions of the Right to Information Act. They are mandated to function in accordance with the provisions of the law. Therefore, there is no obligation for them to seek directions or instructions from higher authorities in the decision-making process under the Right to Information Act.

69. Does the date for providing information or certified copies shall be calculated on the date on which the applicant has paid the Challan or on the date on which the applicant has presented the Challan before PIO?

The date for providing information or certified copies shall be calculated from the date on which the applicant has presented the Challan before PIO.

70. When being informed to inspect the records, should the date and time for inspection shall be intimated in advance?

Yes, the date and time for inspecting the records should be communicated in advance to the applicant.

71. How long is it necessary to retain the file associated with the Right to Information application?

There are no specific guidelines regarding this. Each department must follow its own specific destruction rules. It is appropriate to adhere to the time frame specified as per the K-Disposal (K-Dis) in Manual of Office Procedure.

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

PSU's 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 of 2005 overrides any such law in force. Hence the PIO of the organisation has to provide the information sought under RTI Act.

73. 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 Public Authority and not the fee as prescribed under RTI rules.

74. Which 17 manuals are required to be voluntarily disclosed under Section 4 (1) (b) of the Right to Information Act?

- ❖ Particulars of organization
- ❖ Power and duties of officers/Employees
- ❖ Procedure for Decision Making
- ❖ Norms for discharge of functions
- ❖ Rules, Regulations for discharge of functions
- ❖ Statement of categories
- ❖ Details of consultative committees and other bodies
- ❖ List of boards, councils, committees and other bodies
- ❖ Directory of officers/employees
- ❖ Monthly remuneration of officers/employees
- ❖ Budget allocated to each agency
- ❖ Execution of subsidy program
- ❖ Particulars of recipients of concessions, permits

- ❖ Information available in an electronic form
- ❖ Facilities available for obtaining information
- ❖ Particulars of PIOs
- ❖ Other information Prescribed

75. Every department performs different kinds of functions at different levels, from the Secretariat to the Taluk Level. Will disclosure under Section 4 have to be prepared for each of these levels separately?

Section 4 is envisaged to ensure that public authorities voluntarily give certain information that is important to the public 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.

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

Updating information is very important under Section 4 of the RTI Act. This is a statutory requirement. 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 to enable the public to verify whether they are receiving proper subsidies and ensure that corruption is minimized.

77. What will be the penalty if a department is not able to meet the deadline for proactive disclosure ?

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 the 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 related to proactive disclosure.

78. Will the preparation of 17 manuals under Section 4 (1)(b) 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(1) 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 organized and consolidated to fulfil the requirement of Section 4.

79. Is it enough to disseminate information under Section 4 (1) (b) on the Website alone?

No. Proactive disclosure of information could be made available 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.

80. If the information requested by a citizen has already been proactively disclosed, can a PIO refuse to accept individual RTI 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 in electronic format as far as possible. 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 print upon payment of fees at rates prescribed by the Government.

81. Can a request be denied if it is too big? If not, how can such requests be handled? How much information can a citizen request in one application? 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 ask the applicant and summon him to the office to inspect the records and facilitate photocopies of the required documents on payment of the prescribed fee [section 7(9)].

82. 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 under Section 6 (3).

83. Some unscrupulous elements may tamper and misuse the copies of documents they access under the RTI Act. 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 "Documents provided 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. The PIO is required to provide certified copies of records provided under RTI Act [Section 2(j)].

84. If the same kind of information is sought by more than one applicant, should it be made available to all such applicants?

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

85. What are the 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 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.

86. If the information requested by the applicant is in the possession of the APIO, could s/he give that information directly to the applicant?

The RTI Act is meant to give citizens easy access to information held by public authorities. As the PIO is the statutorily designated officer responsible for providing information under the Act, the APIO should only provide information with the approval of the PIO.

87. 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 the 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.

88. If the applicant does not pay the additional fees towards cost of providing information within the 30 days 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 days 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 days 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 days limit.

89. If the applicant does not respond to the intimation letter of the PIO requesting payment of the additional fee, will the PIO be duty bound to provide information to the applicant? Is the PIO 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 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 an unreasonable denial of information and will, therefore, not invite any penalty.

90. How does a PIO decide whether the information requested relates to the life and liberty of the individual?

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 PIO, in such cases, may verify how far the application is related to the life and liberty of the individual and make a suitable decision.

91. If the requestor threatens suicide in the event of being denied access to information, should it be given within 48 hours?

No. 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.

92. 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 G.O. 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.

93. Under Section 24 of the Right to Information Act, which all central and state government institutions/offices are excluded from the ambit of the Right to Information Act as referred in the second schedule of the RTI Act?

The excluded organizations under the **Central Government** are as follows:

- ❖ Intelligence Bureau
- ❖ Research and Analysis Wing of the Cabinet Secretariat
- ❖ Directorate of Revenue Intelligence
- ❖ Central Economic Intelligence Bureau
- ❖ Directorate of Enforcement
- ❖ Narcotics Control Bureau
- ❖ Aviation Research Centre of the Cabinet Secretariat
- ❖ Special Frontier Force
- ❖ Border Security Force
- ❖ Central Reserve Police Force

- ❖ Indo-Tibetan Border Police
- ❖ Central Industrial Security Force
- ❖ National Security Guard
- ❖ Assam Rifles
- ❖ Shastra Seema Bal
- ❖ Directorate General of Income Tax (Investigation)
- ❖ National Technical Research Organisation
- ❖ Financial Intelligence Unit, India
- ❖ Special Protection Group
- ❖ Defence Research & Development Organisation
- ❖ Border Road Development Board
- ❖ National Security Council Secretariat
- ❖ Central Bureau of Investigation
- ❖ National Investigation Agency
- ❖ National Intelligence Grid
- ❖ Strategic Force Command

The excluded organizations under the **State Government** are as follows:

- ❖ Special Branch (CID)
- ❖ Crime Branch (CID)
- ❖ District Special Branches in all districts and cities
- ❖ District Crime Records Bureaus
- ❖ Police Telecommunication Departments
- ❖ State Police Headquarters' Confidential Section and all Police Station's Confidential Sections

- ❖ State, Regional Forensic Laboratories
- ❖ State-District Fingerprint Bureaus.

94. Are intelligence and Security Organizations exempted from the RTI Act?

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

95. Can a citizen approach the State Information Commission directly for information?

No. S/he has to first file the RTI application in the Public Authority (PA) with the PIO. If the PIO fails to provide information within the time limit or provides incorrect, false information, s/he can prefer the first appeal with the FAA of the Public Authority. The citizen can approach the SIC only after the first appeal is disposed of by the PA. However, the citizen could also file a complaint as per section 18 before the SIC if s/he has been unable to submit a request to the 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.

96. What could the 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 may provide the relevant part of the disposal register with the date and details of files disposed of. The PIO is not expected to create information.

97. 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 of 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 power to summon the applicant and hear him if found necessary.

98. What is the procedure in deciding an application related to 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 being disclosed by the PIO. The total time limit is 40 days in this case.

99. What amendment was made to the RTI Act in 2019?

The Section 13 and Section 16 of the Act 2005 were amended in 2019. It is regarding the term of office and service conditions of Information Commissioners.

100. Can an interim reply be given on the information sought if it is scattered in different Sections/ 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), inspect the files and take photocopies by paying the fees as prescribed by Rules.

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

Legally, fiduciary denotes trust, especially with regard to the relationship between a trustee and a beneficiary. An example is the relationship between government office and government pleader. Here, the fiduciary has the duty to act in the best interest of other party (beneficiary).

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

The Information Commission could order and direct the Public Authority to compensate the complainant for any loss or other detriment suffered by him/her under Sec 19 (8) (b) of the RTI Act.

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

The PIO shall be given a reasonable opportunity to be 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.

104. What is the implication of Section 5(4) and Section 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 / files/ information, in spite of repeated reminders, s/he shall be treated as deemed PIO and is liable for paying a penalty for non-compliance, as decided by SIC.

105. Could information from the central and state minister's offices accessed?

Yes, information from the offices of central and state ministers could be accessed through the respective Public Information Officers (PIOs).

106. Is co-operative society a public authority. 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 v/s State of Kerala in 2013 held that a 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 information from the Registrar of Co-operative Societies, who is a Public Authority under Sec 2(h), the Co-operative Society would be bound to supply the information through Registrar of Co-operative Societies.

107. Are the PIOs expected to compile information and answer 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 it 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 needs to be disclosed.

108. Can an APIO sign a response letter?

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

109. 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.

110. What is the '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.

111. 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 the majority of appeals revolve around the exemption on personal

information. Personal Information 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, as well as, the disclosure of which would cause unwarranted invasion of privacy of that individual”.

112. Officials are required to furnish information about themselves and their families periodically to the public authority. Could the citizens request this kind of information? Should it be given? Can the personal information be denied under section 8(1) (j)?

According to Section 8(1)(j) of the Right to Information Act, information that pertains to an individual’s privacy is not required to be disclosed unless it is deemed necessary in the context of public interest or it has to be decided under Section 11 of the RTI Act. However, the decision to disclose such information must be made based on the substantial public interest that justifies it.

(This provision is subject to the Digital Personal Data Protection Act of 2023 and all personal information is exempt from disclosure unless it is otherwise specified).

113. Can travel expenses of a Government officer be disclosed?

The travel expenses that are met by the state exchequer 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.

114. 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.

115. 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?

Section 8(1) (d) and Section 9 of the RTI Act are related to the preservation of copyrighted documents and intellectual property held by public authorities. If the PIO feels that the disclosure of plans, designs of buildings and bridges would adversely affect the financial and security interests of the State, then such information shall be included in the exempted information as stipulated in Section 8(1) (a). There will be no penal action after the PIO is able to justify the reasons for rejection of the information before the appellate authority.

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

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

117. Periodic weeding of files results in the 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.

118. Will a PIO be penalized if the senior officer verbally orders him not to provide information to the requestor?

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 official, 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.

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

In Kerala Public Service Commission v/s State Information Commission, Supreme Court has held that disclosing the details including the names and information of valuation experts may risk their life or physical safety. Therefore, such information shall not be disclosed.

120. Does disclosure of various documents submitted by the bidders affect trade secrets or commercial confidence or intellectual property?

When tenders are invited by the PA, 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 grounds 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 the contract has been awarded, it will not influence the contract.

121. Could the Service Book of an employee in public service be demanded under RTI?

Those parts of the Service Book that 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., could be revealed.

122. Information regarding the disciplinary action has been denied. Is the decision appropriate?

Information requested in the Right to Information (RTI) application can be denied, if it falls within the reasons mentioned in Sections 8 and 9 of the Act. Information related to disciplinary action could be denied as per Section 8 of the RTI Act.

123. Can IT returns be disclosed by the Income Tax Department?

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

124. If an individual applies for Permanent Employee Number (PEN) of an official under the Right to Information Act, should it be provided?

Yes, it could be provided as it is a published information.

125. Whether information related to an individual's salary deductions should be provided under the Right to Information Act?

No, information about an individual's salary deductions is of a personal nature and therefore, is not to be made available.

126. If an individual submits Aadhaar card details along with an application for another service, could another individual get the copy of the Aadhaar card under RTI Act?

No, Aadhaar card details are of a personal nature and therefore, not to be made available under the Right to Information Act as it pertains to an individual's privacy.

127. Is it possible to obtain private information related to a deceased individual (e.g., bank account details, etc.) under the Right to Information Act by another person?

No, it is not possible. The privacy of an individual remains intact even after their death.

Note: The 'RTI Act 2005: Handbook' is a reference guide for the officials and public . Changes may occur after it is published. It is hereby informed that information contained in this handbook may not be cited in orders and replies and not to treat this handbook as an authoritative document like rules and regulations.

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RTI Knowledge Portal

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

Institute of Management in Government has 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 notified, 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.

RTI Knowledge Centre Institute of Management in Government

Institute of Management in Government is 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 & awareness among the Government Officials and the general public on the RTI Act.

RTI Knowledge Centre organises trainings, workshops, seminars on the RTI Act with the support of Central and State Governments. RTI Knowledge Centre proposes to be a single referral point for all information related to RTI Act.

In 2023 calendar year, IMG imparted training and awareness to 5437 Officials of 24 State Government Departments and 7268 General Public on the RTI Act 2005.

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