

## Right To Information Act 2005

### Introduction

In a democratic Republic, it is expedient to provide for furnishing certain information to citizens who desire to have it. Democracy requires an informed citizenry and transparency of information which are vital to its functioning and also to contain corruption and to hold Governments and their instrumentalities accountable to the governed. Revelation of information in actual practice is likely to conflict with other public interests including efficient operations of the Governments, optimum use of limited fiscal resources and the preservation of confidentiality of sensitive information. It is necessary to harmonise these conflicting interests while preserving the paramountcy of the democratic ideal.

Right to information is guaranteed to every citizen of India under section 3 of the Right To Information Act, 2005. This right is a potent weapon in the hands of citizens to gain access to public records. It not only provides information but also fosters accountability and transparency on the one hand and strengthens the democratic principles of a polity on the other.

The object of the Act is to provide for setting out the 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, the constitution of a Central Information Commission and State Information Commissions and for matters connected therewith or incidental thereto.

The Act was passed on 15th June, 2005 and extends to the whole of India except the State of Jammu and Kashmir.

### Definitions

'*appropriate Government*' means in relation to a public authority which is established, constituted, owned, controlled or substantially financed by funds provided directly or indirectly—(a) by the Central Government or the Union territory administration, the Central Government; (b) by the State Government, the State Government;



'*Central Information Commission*' means the Central Information Commission constituted under sub-section (1) of section 12;

'*Central Public Information Officer*' means the Central Public Information Officer designated under sub-section (1) and includes a Central Assistant Public Information Officer designated as such under sub-section (2) of section 5;

'*Chief Information Commissioner and Information Commissioner*' mean the Chief Information Commissioner and Information Commissioner appointed under sub-section (3) of section 12;

'*competent authority*' means—(a) the Speaker in the case of the House of the People or the Legislative Assembly of a State or a Union territory having such Assembly and the Chairman in the case of the Council of States or Legislative Council of a State; (b) the Chief Justice of India in the case of the Supreme Court; (c) the Chief Justice of the High Court in the case of a High Court; (d) the President or the Governor, as the case may be, in the case of other authorities established or constituted by or under the Constitution; (e) the administrator appointed under article 239 of the Constitution;

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

'*record*' 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;

'*right to information*' means the right to information accessible under this Act which is held by or under the control of any public authority and includes the right to—(a) inspection of work, documents, records; (b) taking notes, extracts or certified copies of documents or records; (c) taking certified samples of material; (d) obtaining information in the form of diskettes, floppies, tapes, video cassettes or in any other electronic mode or through printouts where such information is stored in a computer or in any other device;

'*State Information Commission*' means the State Information Commission constituted under sub-section (1) of section 15;

'*State Chief Information Commissioner and State Information Commissioner*' mean the State Chief Information Commissioner and the State Information Commissioner appointed under sub-section (3) of section 15;



'State Public Information Officer' means the State Public Information Officer designated under sub-section (1) and includes a State Assistant Public Information Officer designated as such under sub-section (2) of section 5;

'third party' means a person other than the citizen making a request for information and includes a public authority.

### **Right to information and obligations of public authorities**

Subject to the provisions of this Act, all *citizens* shall have the right to information.

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

Every public authority shall, within one hundred days of the enactment of this Act, designate as many officers as the Central Public Information Officers or State Public Information Officers, as the case may be, in all administrative units or offices under it as may be necessary to provide information to persons requesting for the information under this Act.

In subsection 3 of section 8, a duty is cast on the public authority to provide information regarding any occurrence, event or matter that has happened 20 years before the date of request for supply of information. This implies that authorities are under obligation to maintain the information or records of last and or next 20 years in such a manner so as to facilitate the enforcement of the RTI Act.

A person, who desires to obtain any information under this Act, shall make a request in writing or through electronic means in English or Hindi or in the official language of the area in which the application is being made, accompanying such fee as may be prescribed, to—(a) the Central Public Information Officer or State Public Information Officer, as the case may be, of the concerned public authority; (b) the Central Assistant Public Information Officer or State Assistant Public Information Officer, as the case may be; specifying the particulars of the information sought by him or her.

An applicant making request for information shall not be required to give any reason for requesting the information or any other personal details except those that may be necessary for contacting him.

Information shall ordinarily be provided in the form in which it is sought unless it would disproportionately divert the resources of the public author-



ity or would be detrimental to the safety or preservation of the record in question.

### Information that may be refused

There shall be no obligation to give any citizen,—

- (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;
- (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 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.



### The Central Information Commission

The Central Government shall constitute a body to be known as the Central Information Commission to exercise the powers conferred on, and to perform the functions assigned to, it under this Act.

The Central Information Commission shall consist of—(a) the Chief Information Commissioner; and (b) such number of Central Information Commissioners, not exceeding ten, as may be deemed necessary.

The Chief Information Commissioner and Information Commissioners shall be appointed by the President on the recommendation of a committee consisting of the (i) Prime Minister; (ii) the Leader of Opposition in the Lok Sabha; and (iii) a Union Cabinet Minister to be nominated by the Prime Minister.

The Chief Information Commissioner and Information Commissioners shall be persons of eminence in public life with wide knowledge and experience in law, science and technology, social service, management, journalism, mass media or administration and governance.

The headquarters of the Central Information Commission shall be at Delhi and the Central Information Commission may, with the previous approval of the Central Government, establish offices at other places in India.

### The State Information Commission

Every State Government shall constitute a body to be known as the State Information Commission to exercise the powers conferred on, and to perform the functions assigned to, it under this Act.

The State Information Commission shall consist of—(a) the State Chief Information Commissioner, and (b) such number of State Information Commissioners, not exceeding ten, as may be deemed necessary.

The State Chief Information Commissioner and the State Information Commissioners shall be appointed by the Governor on the recommendation of a committee consisting of—(i) the Chief Minister, who shall be the Chairperson of the committee; (ii) the Leader of Opposition in the Legislative Assembly; and (iii) a Cabinet Minister to be nominated by the Chief Minister.

The general superintendence, direction and management of the affairs of the State Information Commission shall vest in the State Chief Information Commissioner who shall be assisted by the State Information Commissioners and may exercise all such powers and do all such acts and things which may be exercised or done by the State Information Commission autonomously without being subjected to directions by any other authority under this Act.



The State Chief Information Commissioner and the State Information Commissioners shall be persons of eminence in public life with wide knowledge and experience in law, science and technology, social service, management, journalism, mass media or administration and governance.

The State Chief Information Commissioner or a State Information Commissioner shall not be a Member of Parliament or Member of the Legislature of any State or Union territory, as the case may be, or hold any other office of profit or connected with any political party or carrying on any business or pursuing any profession.

The headquarters of the State Information Commission shall be at such place in the State as the State Government may specify and the State Information Commission may establish offices at other places in the State.

The State Chief Information Commissioner shall hold office for a term of five years from the date on which he enters upon his office (maximum age of 65 years) and shall not be eligible for reappointment:

Every State Information Commissioner shall hold office for a term of five years from the date on which he enters upon his office or till he attains the age of sixty-five years, whichever is earlier, and shall not be eligible for reappointment as such State Information Commissioner:

The State Chief Information Commissioner or a State Information Commissioner shall before he enters upon his office make and subscribe before the Governor or some other person appointed by him in that behalf, an oath or affirmation according to the form set out for the purpose in the First Schedule.

The State Chief Information Commissioner or a State Information Commissioner may, at any time, by writing under his hand addressed to the Governor, resign from his office:

Any person who, does not receive a decision within the time specified in sub-section (1) or clause (a) of sub-section (3) of section 7, or is aggrieved by a decision of the Central Public Information Officer or State Public Information Officer, as the case may be, may within thirty days from the expiry of such period or from the receipt of such a decision prefer an appeal to such officer who is senior in rank to the Central Public Information Officer or State Public Information Officer as the case may be, in each public authority:

Where an appeal is preferred against an order made by a Central Public Information Officer or a State Public Information Officer, as the case may be, under section 11 to disclose third party information, the appeal by the concerned third party shall be made within thirty days from the date of the order.



A second appeal against the decision under sub-section (1) shall lie *within ninety days* from the date on which the decision should have been made or was actually received, with the Central Information Commission or the State Information Commission.

If the decision of the Central Public Information Officer or State Public Information Officer, as the case may be, against which an appeal is preferred relates to information of a third party, the Central Information Commission or State Information Commission, as the case may be, shall give a reasonable opportunity of being heard to that third party.

In any appeal proceedings, the onus to prove that a denial of a request was justified shall be on the Central Public Information Officer or State Public Information Officer, as the case may be, who denied the request.

An appeal under sub-section (1) or sub-section (2) shall be disposed of within *thirty days* of the receipt of the appeal or within such extended period not exceeding a total of *forty-five days* from the date of filing thereof, as the case may be, for reasons to be recorded in writing.

The decision of the Central Information Commission or State Information Commission, as the case may be, shall be binding.

### **Miscellaneous**

No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act or any rule made thereunder.

Provided that no such order shall be made after the expiry of a period of two years from the date of the commencement of this Act.

Every order made under this section shall be laid before each House of Parliament.

The Freedom of Information Act, 2002 is hereby repealed.

## **THE SECOND SCHEDULE\***

### **Intelligence and security organizations established by the Central Government**

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