

The Right to Information – Process & Appeals (The Right to Truth)

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ABSTRACT

The Right to Information Act-2005 was enacted by the parliament in the fifty-sixth year of the Republic of India. It is an Act to offer for setting out the practical administration of right to information for citizens of India to secure access to information under the control of public authorities. In order to uphold precision and answerability 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 brought down by the government.

RIGHT TO INFORMATION ACT- WHAT IT IS-

It is an authoritative tool for

- Strengthening Democracy and
- Enhancing Good Governance

The Right to Information is a fundamental right under the Constitution of India demanding and being given information as a matter of right is called "Right to Information".

One of the very crucial laws in the country, the Central legislation RTI act flows from two Fundamental Rights preserved in the Constitution of India.

ARTICLE 19-FREEDOM OF SPEECH AND EXPRESSION:

The Article puts down that the Information is required to shape and articulate opinions, dissent or support on any matter. It is therefore a part of Article 19 (1) (a)

ARTICLE 21-RIGHT TO LIFE AND LIBERTY:

The Article says that the Information is essential for protection of the right to life and liberty. It is therefore a part of Article 21.

RIGHT TO INFORMATION ACT - WHEN AND WHERE. :-

The RTI act 2005 was enacted by consent and authority of His Excellency, President of India. This act was enacted by the Parliament on 15.06.2005 and notified in the Gazette of India dated 21.06.2005.

It extends to the whole of India except the State of Jammu and Kashmir.

Who can exercise his / her right under The RTI Act 2005?

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

RIGHT TO INFORMATION ACT - WHY

In India, the Official Secrets Act, 1923 throws a veil of secrecy on government procedures and in turn there comes the problem of undue secrecy. Therefore, much of the common person's anguish and helplessness is traceable to lack of access to information and lack of knowledge of decision-making processes". The Right to Information has already received judicial recognition as a part of the fundamental right to free speech and expression. An Act is needed to provide a statutory frame work for this right.

As it is widely believed that Information is vital for the functioning of a true democracy, people have to be kept informed about current affairs and broad issues – political, social and economic. Free exchange of ideas and free debate are essentially desirable for the Government of a free country.

And if this information is buried, it will be the single most cause responsible for corruption in society. It facilitates clandestine deals, arbitrary decisions, manipulations and embezzlements.

So, with an aim to bring transparency in dealings and to provide Indian citizens access to the government proceeding, the act was brought down in the country.

Overriding effect [Sec.22]

It is clearly mentioned in the section 22 of the RTI act-05 that the provisions of the Act have a superseding effect over anything inconsistent contained in the Official Secrets Act, 1923 or any other law or instrument.

CHRONOLOGY OF RTI-

The act has finally come in to effect after passing through the number of laws made earlier. Following is the chronology.

- . FOI law first enacted, Sweden, 1766
- . Raj Narain vs. State of UP, India, 1776
- . Mazdoor Kisan Shakti Sangathan (MKSS) Movement in Rajasthan, India, 1990
- . Freedom of Information Act, India, 2002
- . Right to Information Act, 2005

Objectives of RTI act-05

- . To frame a realistic regime of right to information for citizens
- . To ensure access to information under public authorities control
- . To prop up transparency and accountability in the working of every public authority
- . To hold corruption

- To raise citizens' awareness and ability to use their other rights
- To offer them to partake importantly in the development process

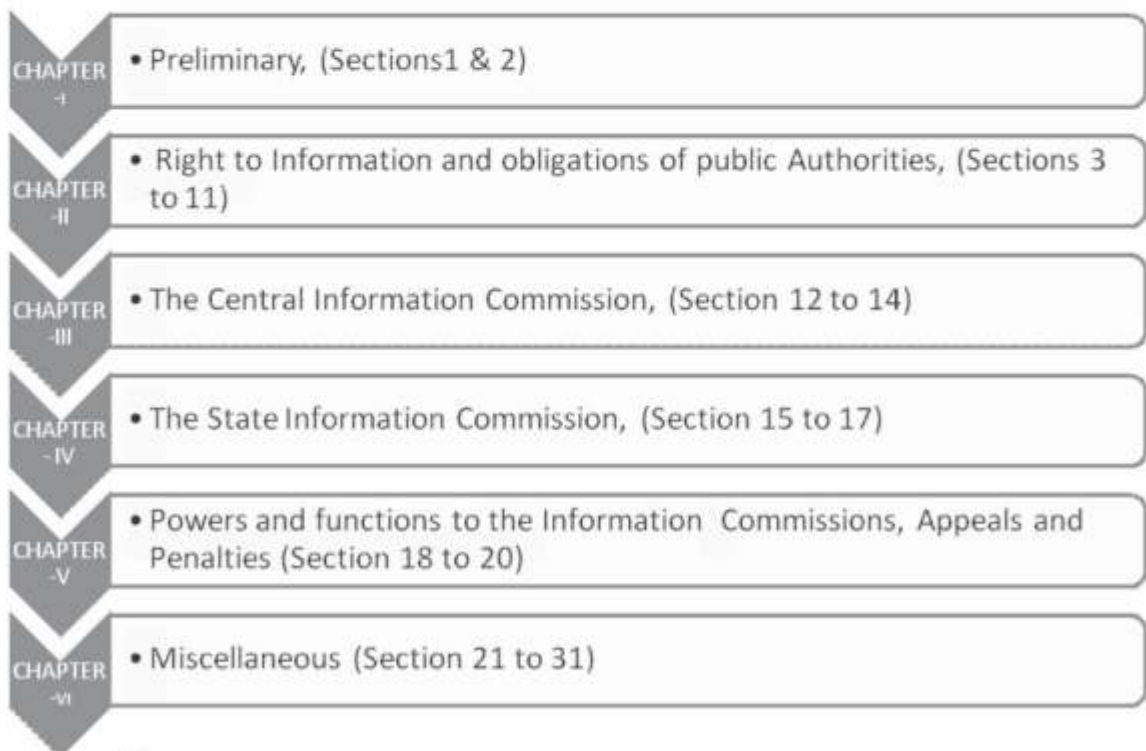
Logo of RTI Act-

The Logo provided is very simple and iconic. It depicts a sheet of paper engraved information on it and the authority figure in background providing the information. This basically symbolizes two key stakeholders in the course of sharing information under the RTI Act. To be more elaborative, the lines drew on the sheet of paper are espoused in a manner that makes it look translucent, viewing throughout the form of 'i' from behind.

Here the "i" is used to portray of the human form or it can simply be related to i for information. The bright blue color sets for transparency and purity (free from misconducts) of process.



The act contains 6 chapters, 31 sections and 2 schedules. Structure of the act is as follows-



As per the RTI act-2005, it is a right to access information held by public authority, information under the control of public authority and includes the right to a citizen that-

- He can examine work, documents, and records and take notes, extracts or certified copies of documents or records.
- He can take certified samples of material and can obtain information in the form of diskettes, floppies, Tapes, video cassettes or in any other electronic mode.
- He can also take the information through printouts where such information is stored in a computer or in any other device.

Whom does the Act apply to?

The RTI act is applicable to whole India except the state of J&K. The act gives Indian citizen right to ask information held by "public authorities" which includes authorities, bodies, institution of self governments which are established or constituted –

- by the Indian constitution
- by a law of parliament or a state legislature
- by a notification or order of the State or Central Governments, bodies owned, controlled or substantially financed by the State or Central Governments.

It also includes non-government organizations which obtain substantial government funds directly or indirectly.

Whom does the act not apply?

As no law is absolute and contains some limitations with it, the RTI act also has some constraints. There are some areas of information that should remain protected in public and national interest, so the act has clear provision that the right given under the act shall not be applicable to the information in respect of the these matters- (1) International relations and national security; (2) Law enforcement and prevention of crime; (3) Internal deliberations of the government; (4) Information obtained in confidence from some source outside the Government; (5) Information which, if disclosed, would violate the privacy of an individual; (6) Information particularly of an economic nature, when disclosed, would confer an unfair advantage on some person or subject or government; (7) Information which is covered by legal/professional privilege, like communication between a legal advisor and his client and (8) Information about scientific discoveries and inventions and improvements, essentially in the field of weapons.

However, there is provision given to the citizens that they can seek information in respect of allegations of violations of human rights from the expelled organizations. In this case, these organizations may give the information within 45 days with the approval of the Information Commission concerned.

As far as the private bodies are concerned, they are not directly covered under the act but, all the information relating to private bodies, which can be accessed by a public authority, can be

accessed by the Indian citizen.

Coming to the non-Government organizations, they need to comply with the act, if these non-Government organizations are substantially financed directly or indirectly by Government funds.

What are the benefits of the Act?

The act gives a right for a common man to ask any information about his/her applications or complaints regarding ration cards, electricity connections, water connections and so on, pending with the public authorities and force them to restore his/her grievances speedily without any need of paying bribes.

INFORMATION :-

The S 2 (t) of the act defines Information as any material in any form which includes records, documents, memos, emails, 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 :-

As per the act, Records includes-

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

PUBLIC AUTHORITY :-

It is any authority or body or institution of self government established or constituted.

- By or under the Constitution
- By any other law made by Parliament
- By any other law made by State Legislature

By notification issued or order made by the appropriate government, and includes any-body owned, controlled or substantially financed, non-government organization substantially financed, directly or indirectly by funds provided by the government.

COMPETENT AUTHORITY :-

Under the act, the competent authority includes-

- 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
- b) The Chairman in the case of the Council of States or Legislative Council of a State
- c) The Chief Justice of India in the case of the Supreme Court
- d) The Chief Justice of the High Court in the case of a High Court
- e) The President or the Governor, as the case may be, in the case of other authorities established or constituted by or under the Constitution
- f) The administrator appointed under article 239 of the Constitution.

PUBLIC INFORMATION OFFICERS (PIOS)

PIOs are officers designated by the public authorities in all administrative units or offices under it to provide information to the citizens requesting for information under the Act.

Any other officer, whose assistance has been sought by the PIO for the appropriate discharge of his or her duties, shall render all assistance and for the purpose of breaching of the provisions of this Act, shall be treated as a PIO.

CENTRAL INFORMATION COMMISSION

It is an autonomous body to inquire into complaints received from citizens. A person can complain to the CIC if refused access to information or how the public authority has handled his requested.

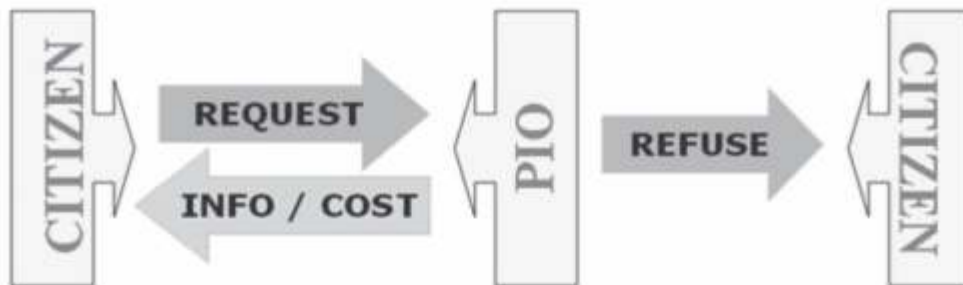
THIRD PARTY –

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

How to apply for Information from a Public Authority?

If anyone wants to request for information under RTI act has to give his/her application to the Public Information officer appointed by any public authority. The request will need to be sent in English/Hindi/official language of that area or e-mail. In this, particulars of the information are needed to be mentioned with the details to contact. Therefore, no one is required to disclose reasons for the request and personal details.

The person who is applying the request needs to pay prescribed fee for application. But If you are a person below poverty line, you need not pay any fee.



**FLOWCHART SHOWING INFORMATION SHARING MECHANISM.
INFORMATION SHALL BE PROVIDED WITHIN 30 CALENDAR DAYS**

What is the requisite fee?

Under the act, the Government of India has prescribed the following fees in respect of information requested from Government of India departments.

The fees can be in form of draft / banker's cheque / Indian postal order payable to the Accounts Officer of the public authority. Fees may vary from one state to another.

| | |
|--|-----------------------------|
| To Submit Request | Rs.10.00 |
| To Receive Information | |
| For each page created / copied (in A-4 or A-3 size paper) | Rs. 2-00 |
| If the paper is in larger size | Actual charge / cost price |
| Diskette / floppy | Rs. 50.00 |
| Samples / Models | Actual charge / cost price |
| Printed matter Price fixed | Rs. 2 for page of photocopy |
| For Inspection of records | |
| First hour | Free |
| Each subsequent 15 minutes | Rs. 5. 00 |

Time Period given to Authority to reply:-

| | |
|---|----------|
| From the date of receipt of application | 30 days |
| If Application for information is given to Assistant Public Information Officer | 35 days |
| For information concerning the life and liberty of a person | 48 Hours |
| where the interests of a third party | 40 days |
| For information pertaining to allegations of violation of human rights violations from security and intelligence organizations from the Second Schedule of the Act subject to approval of the Information Commission concerned. | 45 days |

It is clearly noted that failure to provide information within the specified period is deemed as refusal.

OBLIGATIONS OF PUBLIC AUTHORITIES:-

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.

The authorities will publish all relevant facts decisions affecting public and will do constant endeavourer to take steps to provide as much information suo motu to the public at regular intervals through various means of communications, including internet, so that the public have minimum resort to the use of this Act to obtain information.

The public authority will designate PIOs and APIOs In 100 days.

DISSEMINATION OF INFORMATION –

The public authorizes can disseminate the information through various means that include-

- Notice boards
- Newspapers

- Public announcements
- Media broadcasts
- Internet
- Inspection of offices
- Other means

PARTICULARS TO BE PUBLISHED

Its obligation of public authorities to publish following information -

- Particulars, functions and duties of the organization
- Powers, duties of officers & employees
- Procedure followed in decision making including channels of supervision
- Norms set for discharge of functions
- Rules, regulations, instructions, manuals, records used
- Statement of categories of documents held

ROLE OF PIO & APIO :-

PIO- He provides information to anyone requesting for it

APIO- He receives applications and forwards them to PIO.

FUNCTIONS OF PIO -

After receiving requests for information, he should

- Offer reasonable assistance to applicant
- Provide access-enabling assistance to sensorily disabled
- Seek assistance from any other officer as considered necessary
- For the purpose of contravention of this act, such other officer will be treated as PIO.

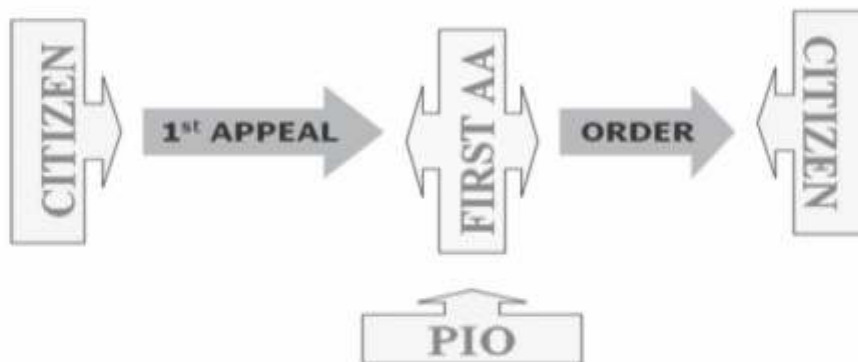
APPEALS -

If, the person asking information does not get the information, he can file appeal to a senior officer in the public authority (Designated Appellate Officer) as follows-

FIRST APPEAL

| | |
|---|--|
| If party is aggrieved by the decision of the Public Information Officer | within 30 days from the receipt of the decision |
| If you do not receive any response from the Public Information Officer | within 30 days from the expiry of the time limit |

Appeal to be disposed of within a period of 30 days is extendable up to a total of 45 days.



**FLOWCHART SHOWING FIRST APPEAL MECHANISM
ORDER SHALL BE PASSED WITHIN 30-45 DAYS**

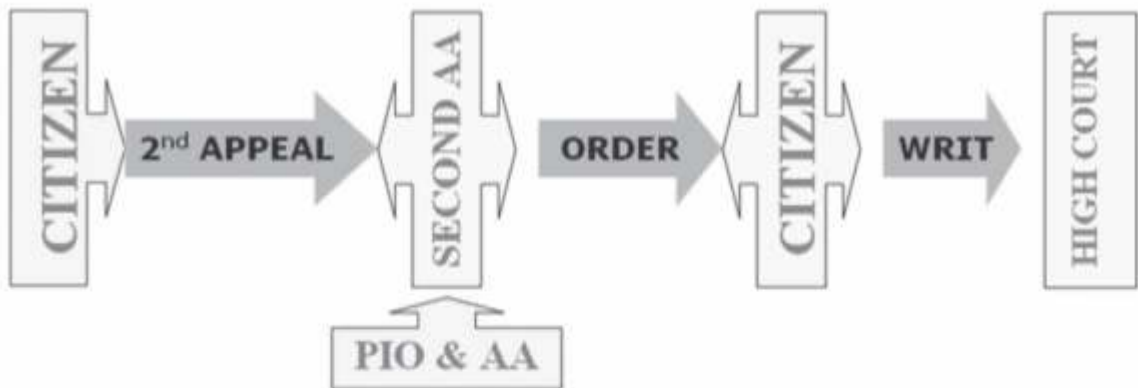
SECOND APPEAL:-

A party can make second appeal to the Central / State Information Commission:-

- If no Public Information Officer is appointed.
- If the APIO or the PIO refuses your request.
- If unreasonable fees are demanded by the PIO.
- If incomplete, misleading or false information is given.

| | |
|---|--|
| Against the decision of the first appellate officer | Within 90 days from the date of the receipt of the decision or expected date of the decision where no such decision was given. |
|---|--|

If there is delay in filing an appeal a sufficient cause should be shown. And it is also provided that if the party has suffered any loss or harm, it can claim compensation from the public authority.



**FLOWCHART SHOWING SECOND APPEAL MECHANISM
NO TIME LIMIT FOR PASSING THE ORDER. PENDENCY IS VERY HIGH.**

After getting an appeal, the Information Commission first hears the PIO, so that unless it agrees with the PIO, the party need not be bothered with personal presence before the Commission .However, if the Commission sees good point in the PIO's arguments, party will be given an opportunity to present its case in person / through any other person duly authorized by it. Decision of the CIC/SIC is final and binding.)

PENALTY:-

The Information Commission can impose penalty of Rs. 250/- per day, up to a maximum of Rs. 25,000/- on mistaken PIOs, If he without any reasonable cause:

refused an application

delayed information release without reasonable cause

Ill fully denied information

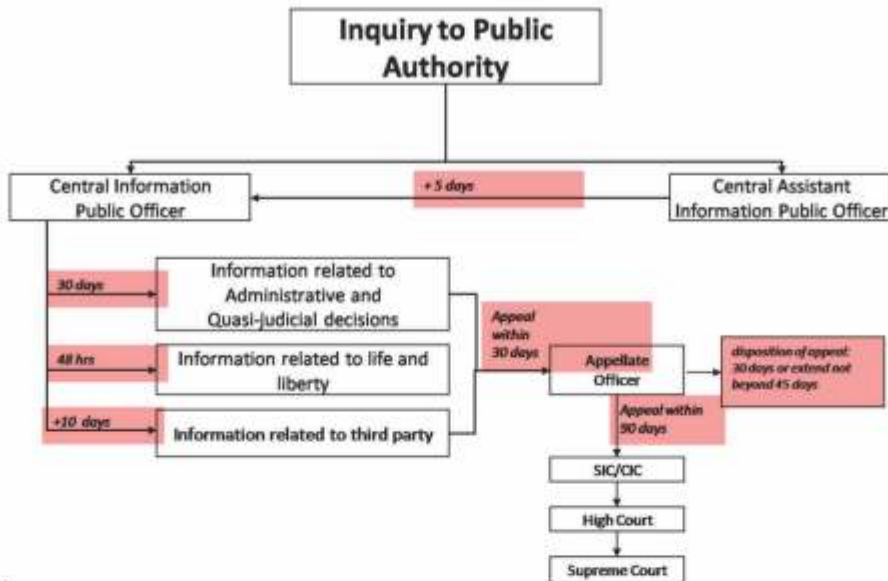
Knowingly gave incomplete, incorrect, misleading information

destroyed information that has been requested

obstructed furnishing of information in any manner

The Commission also has powers to recommend disciplinary action against PIOs. It can also direct compensation to be paid to the appellant by the public authority.

THE DIAGRAMMATICAL REPETITION OF APPLICATION PROCESS:-



APPLICATION FORMAT FOR SEEKING INFORMATION UNDER RTI-2005

| Sl. No. | Particulars | Information to be provided by the information seeker |
|----------------|--|---|
| 1 | Name | |
| 2 | Nationality / citizenship | |
| 3 | Permanent address Phone : Email ID: | |
| 4 | Address for correspondence Phone : Email ID: | |
| 5 | Details of information required (If necessary a separate sheet may be attached) | |
| 6 | Details of application fee paid Demand Daft No. & date Amount Drawn in favor of | |

Date:.....

To,

The Public Information Officer

(Name of the Public Authority)

(Address of the Public Authority)

Sir / Madam:

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

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

_ ...

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

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

Kindly inform me the date and time for my visit.

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

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

Sincerely,

(Applicant's signature/Thumb Impression)

Applicant's Name:

Applicant's Address:

Applicant's Phone Number/e-Mail Address

Place:

Date:

The Right to Information act -2005 is one of the major successful events of UPA government; the utility of the act of a common Indian man can be described as followed.

In The Preamble of our constitution drafted 56 years ago, We, The People of India, determined to secure ourselves, LIBERTY of thought, expression.

Article 19(1) promises us the right to freedom of speech and expression and as recognized by the Supreme Court it also includes full right to information. The Right to Information Act, 2005 ("the Act") has established the necessary practical regime of right to information.

Right to information can authorize citizens to take charge by participating in decision-making and by challenging corrupt and arbitrary actions at all levels. With access to government records, citizens can evaluate and conclude whether the government they have elected is delivering the results that are expected. RTI is thus a tool that can change the role of the citizens from being mere spectators to that of being active participants in the process of governance.

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SUGGESTIONS -

In my view-

To make the Act more effective-

- 1, There should be a facilitation centre explaining the details of filing an RTI.
2. There should be a user manual/ guide present in every department, where RTI applications are filled.
3. Create more awareness among people by way of Television/ social media.

REFERENCES

WEBSTIES :-

- <http://rti.gov.in>
- www.icar.org.in
- Scribe
- Wikipedia

Act - THE RIGHT TO INFORMATION ACT, 2005