

Right to Information Law

1 Ques

- The Right to Information Act 2005.

In Reliance Petrochemicals Limited v. Indian Express Newspaper, in which the Supreme Court read into Article 21 the right to know, the Supreme Court held that Right to know is also a fundamental right.

Public Authority

'Public Authority' means 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 Organisation substantially financed.

directly or indirectly by funds provided by the appropriate Government. [Section 2(h)]

Ex:- IITSI, Municipality, SEBI, RBI, SBI, ONGC, Govt. department.

Record

'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
- (d) any other material produced by a computer or any other device.

[Section 2(i)]

Information

'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.

[Section 2(f)]

Right to information

Right to information includes :-

- a) taking notes, extracts or certified copies of documents or records.
- b) inspection of work, documents, records
- c) taking certified samples of material.

[Section 2(j)]

Third Party.

"Third party" means a person other than the citizen making a request for information and includes a public authority. [Section 2(n)]

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Obligations of Public Authority

As per Section 4(1)(b), every public authority has to publish within 120 days of the enactment of this Act:-

- The particulars of its organization, functions and duties.
- The powers and duties of its officers and employees.
- The norms set by it for the discharge of its functions.
- The rules, regulations, instructions, manuals and records used by its employees.
- The names, designations and other particulars of the public information officers
- details of the information available to or held by it, reduced in an electronic form.
- a directory of its officers and employees.
- Particulars of recipients of concessions, permits or authorizations granted by it.
- ~~name, designation and other particulars of the public information officer.~~
- Such other information as may be prescribed
- particulars of recipients of concessions, permits or authorizations granted by it.
- budget allocated to each of its agency

Record

Designation of Public Information Officers (PIO)

- Every public authority has to -
- Designate in all administrative units or offices central public information officers or ^{State} ~~Assistant~~ public information officers [CPIO or SPIO].
 - Designate at each sub-divisional level or sub district level central ~~Assistant~~ or state ~~Assistant~~ public information officers to receive the applications for information. (CAPI or SAPI).
 - No reasons to be given by the person making request for information ^(except that it may be necessary for contacting him).

Request for Obtaining Information

Exam Application is to be submitted in writing or electronically with prescribed fee, to public information officers (PIO).

- Information to be provided within 30 days (PIO)
- 35 days where request is given to Assistant PIO
- 40 days if interest of third party involve.
- 48 hours where ^{personal} life or liberty is involved.

Duties / D⁺ Time taken for calculation and intimation of fees excluded from the time frame,

- No action on application for 30 days is a deemed refusal
- No fees for delayed response

Duties of a PIO (Public Information Officer)

PIO shall deal with requests from persons seeking information and where the request cannot be made in writing, to render reasonable assistance to the person to reduce the same in writing.

If the information requested for is held by or its subject matter is closely connected with the function of another public authority, the PIO shall transfer within 5 days, the request to that other public authority and inform the applicant immediately.

~~It is~~ where the information requested for concerns the life or liberty of a person, the same shall be provided within 48 hrs of the receipt of the request.

If the PIO fails to give decision on the request within the period specified, he shall be deemed to have refused the request. Where the request has been rejected, the PIO shall communicate to the requester -

- (i) the reasons for such rejection
- (ii) the period within which an appeal against such rejection may be preferred, and
- (iii) the particulars of the appellate authority.

if allowing partial access, the PIO shall give a notice to the applicant, informing:-

(i) that only part of the record requested, after severance of the record containing information which is exempt from disclosure, is being provided.

(ii) the reasons for the decision, including any findings on any material question of fact, referring to the material on which those findings based.

(iii) the name and designation of the person giving the decision.

(iv) the details of the fees calculated by him or her and the amount of fee which the applicant is required to deposit and.

(v) his or her rights with respect to review of the decision regarding non disclosure of part of the information, the amt. of fee charged or the form of access provided.

* If information sought has been supplied by third party or is treated as confidential by that third party, the PIO shall give a written notice to the third party within 5 days from the receipt of the request.

Third party must be given a chance to make a representation before the PIO within 10 days from the date of receipt of such notice.

Exam

Exemption from Disclosure - (Section 8)

Disclosure prejudicially affecting

- 1) Where disclosure prejudicially affects the sovereignty and integrity of India, the security, strategic, scientific or economic interests of the state, relation with foreign state lead to incitement to an offence.
- 2) Expressly forbidden by court or tribunal \Rightarrow information which has been expressly forbidden by any court or tribunal or the disclosure of which may constitute ~~breach~~ contempt of court.
- 3) Breach of Privilege of Parliament or State Legislature \Rightarrow where disclosure would cause a breach of privilege of parliament or the state legislature.
- 4) Harming competitive position \Rightarrow information regarding commercial confidence, trade secrets, intellectual property, where disclosure would harm competitive position of a third party, or available to a person in his fiduciary relationship, unless larger public interest so warrants.

- 5) confidence from a third party => information received in confidence from a foreign government.
- 6) Disclosure endangering life or physical safety => Disclosure of which endangers life or physical safety of any person or identities confidential source of information or assistance.
- 7) Impede the process of investigation or apprehension or prosecution.
- 8) cabinet papers => cabinet papers including records of deliberations of the Council of Ministers, Secretaries and other officers.
- 9) personal information - information which does not relate to personal information the disclosure of which has no relation to any public activity or interest.

Rejection of Request

The Public Information Officer has been empowered to reject a request for information where an infringement of a copyright subsisting in a person would be involved. (Section 9).

Information Commissions

The act envisages constitution of central information commission and the state information commission.

Who manage
PIO and CPIO.

Central Information Commission

- The central information commission is to be constituted by central government through a gazette notification.
- The central information commission consists of the chief information commissioner and central information commissioners not exceeding 10. *Hiralal Simastia.*
- These shall be appointed by :-
 - President of India on the recommendation of a committee consisting of Prime Minister who is the chairman of the committee.
 - The leader of opposition in the Lok Sabha.
 - Union cabinet minister to be nominated by the P.M.

When

Term of office and conditions of service of central information commission | state information commission.

- (1) The CIC shall hold office for such term as may be prescribed by the central government and shall not be eligible for re-appointment.

Provided that NO CIC shall hold office as such after he has attained the age of 65 years.

Provided further that where the information commissioner is appointed as the chief information commissioner, his term of office shall not be more than 5 yrs in aggregate as the information commissioner and the chief information commissioner.

(1P) The salaries and allowances payable to CIC and Information Commissioners shall be such as may be prescribed by the Central Govt.

State Information Commission

The State Information Commission will be constituted by the State Government through a gazette notification.

— The state information commission consist of one State Chief Information Commissioner (SCIC) and not more than 10 State Information Commissioners (SIC)

Term of office and conditions of service of State Information Commission

(P) as term as of CSJ same.

→ These shall be appointed by the Governor on the recommendations of a committee consisting of the Chief Minister who is the chairman of the committee.

○ The members include the leader of the opposition in the Legislative Assembly and one cabinet minister nominated by the chief minister.

Powers of Information Commissions.

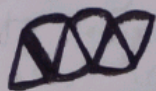
The CIC and SIC has a duty to receive complaints from any person -

- who has not been able to submit an information request because a PIO has not been appointed.
- who has been refused information that was requested.
- where disclosure would cause a breach of privilege of Parliament of the state legislature.
- who has received no response to his/her information request within the specified time limits.
- who thinks the fees charged are unreasonable.
- who thinks information given is incomplete or false or misleading.
- who thinks any other matter.

Appellate Authorities.

Exam First Appeal.

- made by - Aggrieved person
- made to - officer who is senior to PIO
- Time limit - within 30 days from the expiry of the prescribed time limit for from the receipt of the decision
- Disposal time - within 30 days from the date of receipt (extension possible 15 days).
- Extension of time to file appeal - maybe granted if there is substantial cause.



Right to Information.

Third party appeal
+ same

aditya
Date
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Second Appeal.

- made by - Aggrieved person.
- Made to - CIC or SIC.
- Time limit - within 90 days of the first appeal decision.
- Extension of time to file appeal - may be granted if there is sufficient cause.

Penalties

- Penalties imposed by - Information Commission - CIC or SIC
- Penalties imposed on - PIO
- ✓ Fine - Rs. 250 per day upto maximum of Rs. 25000/-
- Reasons for

- Imposing penalties -
- if PIO does not accept an application
 - Delay in providing information without reasonable cause
 - Malafidely denying information.
 - knowingly giving incomplete information, incorrect misleading information.
 - if he destroys the requested information.
 - if he obstructs furnishing of information

In *CIC vs DDA and others*, HC Quashed CIC (Management) regulation 2007 framed by CIC ruling that CIC does not have authority to constitute benches. Appeal was made. SC held that RTI's Act Purpose is to promote transparency and accountability. For effective implementation LIC must upgrade efficiently. Court held that CIC had authority to manage its affairs including forming benches to handle its increasing case load. The formation of benches created for timely disposal of cases ensuring efficient use of resources and upholding

up

• As per sec. 23 lower courts are barred from entertaining suits or applications against any order made under this Act - Jurisdiction of court.

Date _____
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Case Laws.

1. Central Board of Secondary Education and Anr. vs. Aditya Bandopadhyay and Ors.

= In CBSE vs. Aditya Bandopadhyay Supreme Court highlighted that RTI requests must be prescribed and related to transparency and accountability. The Act provides access to existing information only. CBSE maintains Answer Books for 3 months after which they are disposed off. RTI obligation is to provide access to existing information maintained as per the rules and regulation. Applicant are entitled to information only if it is sought where it is available with public authority.

2. Kayalvizhi vs. CPIO, Office of the Income tax Officer, Ward - 1.

2 In case of Kayalvizhi vs. CPIO Office of the Income tax Officer; appellant has sought income related details of her brother and mother. CIC denied the request under section 8(1)(f). CIC observed that personal records such as name, address, physical, mental, psychological status, marks obtained, grades and answer sheets are considered as personal information.

3. Chief Information Commissioner vs. High Court of Gujarat and Ors.

= In Chief Information Commissioner vs. High Court of Gujarat appeal addressed right of a third party to obtain certified copy from High Court under RTI Act instead of following Gujarat High Court rules Supreme Court rule that people should use simple, existing, procedure to get certified copy from High Court which involves filing an application with necessary fee.

4. N.N. Dhumane vs. PIO, Department of Posts.

= In N.N. Dhumane vs. PIO, Department of Posts appellant March 2017 pension was delayed due to ad-hoc linking issues affecting 55 other pensioners. Judgment stated that public authority cannot delay pension payment to senior citizen and retired employee in name of ad-hoc linking suddenly violate fundamental right to life.

[Pension delay & linking issues violation of life]
[only for senior citizens]

5. HN Malviya vs. CPIO, Department of Personnel and Training

Exam

= In HN Malviya vs. CPIO, Department of Personnel and Training appellant sought information on employee seniority. Commission rules that it is not covered by RTI Act. CPIO should not be required to make guesses or put them with risk of penalties.

Law relating to civil procedure

6. Mr. Raj Kumar vs. CPIO Gurey Teg Bahadur Hospital

=> In Mr. Raj Kumar vs CPIO Gurey Teg Bahadur Hospital complainant sought information on salary records and DA implementation. Although CPIO provide pointwise reply complainant was dissatisfied & filed a first appeal which was not addressed. Complainant then filed a complain with CIC but was absent during the hearing. CIC directed the respondent to provide a complete & correct information within 21 days ensuring importance of transparency & accountability.

=> Exam upto and Arsal Shandway
In Reliance Petrochemicals Ltd v. Indian Express Newspaper

=> SC recognize Right to know as part of Right of life and liberty under Article 21. It stated that this right is necessary

for participatory democracy as people need information to form and express their opinions. This Right is connected to freedom of speech and expression under Article 19(1)(a) which allows people to express their views. However this right is restricted in certain cases like for National Security or public order. The right to receive information is essential for exercising freedom of speech and expression, helping people make informed decisions.

This ruling led to RTI Act 2005 which guarantees people right to access information from govt bodies, ensuring more transparency and accountability in governance.