

## Chapter : 14

## Right to Information

In R.P. Limited v. Indian Express Newspaper, the Supreme Court read into Article 21 the right to know. Court held that Right to know is a necessary ingredient of participatory democracy and the expression liberty must receive an expanded meaning.

Article 21 confers to all persons a right to know which include a right to receive information.

A citizen has a right to receive information and this right is derived from the concept of freedom of speech and expression comprise in Article 19 (1) (a).

Right to impart and receive information is a species of right to freedom of speech and expression 19 (1) (a) and reasonable restriction can be imposed as per 19 (2)

## Salient Features of the Act -

- ① The RTI act extends to the whole of India
- ② It shall apply to public authorities
- ③ All citizens shall have the right to information
- ④ The Public information officers (PIO) / Assistant public information officer (APIO) will be responsible to deal with request of information.
- ⑤ fee will be payable by applicant depending upon the nature of information
- ⑥ certain informations have been exempted from disclosure u/s 8 & 9.

## Objective ↵

The RTI Act confers to all citizens a right to information. And provide the citizens a secure access to information held by public authorities to promote transparency and accountability in working of every public authority.

## Obligations of Public Authority ↵

Every public authority within 120 days after the enactment of this Act publish-

- i. the particulars of its organization, functions & duties
- ii. the powers & duties of its officers & employees
- iii. a directory of its officers and employees
- iv. the monthly remuneration received by each of its officers and employees.
- v. details of information available or held by it
- vi. the names, designations and other particulars of P.I.O.
- vii. such other info. as may prescribe.

## Public Information officers (P.I.O)

Every public authority has to designate in all administrative units or offices C.P.I.O or S.P.I.O to provide information who have made a request for it

designate at each sub-divisional level or sub-district level a central or state Assistant Public Information officer to receive application and forward it to CPIO or SPIO.

No reason is required to be given by the person making the request for information.

## Request for Information ~

Person who desires to obtain any information shall make a request in writing through electronic means in English or Hindi to the CPIO or APIO.

- > Information is to be provided within 30 days.
- > 35 days when request is given to APIO.
- > 40 days if interest of 3<sup>rd</sup> party is involved
- > 48 hours where life or liberty is involved.

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

## Duties of PIO ~

PIO shall deal with the request made for seeking information and where the request is not made in writing, assist the person to make the same in writing.

If the request is related to the function of another public authority, the PIO shall transfer it within 5 days and inform applicant immediately.

PIO shall within 30 days provide the information or reject the request for any any reason specified in section 8 & 9.

On rejection of request the PIO shall communicate to the requester-

- the reason for such rejection
- period within which an appeal against such rejection may preferred.
- particulars of Appellate authority.

If allowing partial access, the PIO shall give a notice to applicant, informing

- that only part of record requested is being provided, other are exempt from disclosure.
- the reason for decision including any findings.
- name & designation of person giving information
- details of fees calculated by him and amount required to be deposited
- their right to review the decision

Information Exempt from disclosure (Sec-8)

- ① Information which would prejudicially affect the sovereignty and integrity of India, the Security, Strategic, scientific or economic interest or lead to incitement of an offence.
- ② Information which has been expressly forbidden to be published by any court of law.

- ③ Information which would cause a breach of privilege of parliament or the state legislature
- ④ Information including commercial confidence, trade secrets or intellectual property, whose disclosure would harm the competitive position of a 3<sup>rd</sup> party
- ⑤ Information received in confidence from foreign gov.
- ⑥ The disclosure of which would endanger the life or physical safety of any person
- ⑦ Information which would impede the process of investigation or prosecution of offender.
- ⑧ Cabinet paper including records of Council of ministers and other officers.
- ⑨ Information which relates to personal info. which would cause unwarranted invasion of the privacy of any individual.

### Rejection of Request ~

The PIO has been empowered to reject a request where an infringement of a copyright subsisting in a person would be involved.

### Central Information Commission [CIC]

The CIC is to be constituted by the Central Government through a Gazette Notification.

- > The CIC consists of chief information commissioner and central information commissioner not exceeding 10.
- > These are appointed by the President of India on the recommendation of a committee consisting of PM, leader of opposition of Lok Sabha, Union Cabinet Minister.
- > CIC/IC shall not be a member of Parliament or member of legislature. He shall not hold any other office or connection with political party.

### Term of office

- The CIC shall hold office for such term as may be prescribed by the Central Government.
- shall not be eligible for re-appointment
- No CIC shall hold the office after the age of 65 yrs
- Every IC shall hold office for such term as may be prescribed by the CG or till he attains the age of 65 yrs.
- Not be eligible for reappointment

where the IC is appointed as CIC, his term of office shall not be more than 5 yrs in aggregate as IC & CIC.

The salaries and allowances are decided by the Central Government.

## State Information Commission (SIC)

- > The State Information Commission is constituted by the state government through Gazette Notification
- > The SIC consists of one State Chief Information Commissioner (SCIC) and not more than 10 SIC
- > These shall be appointed by the Governor of an recommendation of a committee consisting of Chief minister and leader of opposition & one cabinet minister nominated by the CM

### Term of Office ~

- > The SIC shall hold the office for such period as may be prescribed by the central Government and shall not be eligible for reappointment
- > No SCIC shall hold office after the age of 65 yrs where SIC is appointed as SCIC, his term of office in aggregate shall not be more than 5 years.
- > Salaries and allowances will be decided by the central Government.

### Powers of Information Commissions -

Central / State Information Commission has a duty to receive complaints from any person related to-

- ① Non-Appointment of PIO
- ② Refusal of information that was requested
- ③ No response on request
- ④ Unreasonable fees charged
- ⑤ Incomplete or misleading information

## Appellate Authorities

- > First appeal shall made by Aggrieved party to officer who is senior to PIO.
- > Appeal shall made within 30 days from receipt of decision.
- > Dispose within 30 days
- > Extension of time may be granted
- > Second appeal made by aggrieved party to CIC or SIC within 90 days from appeal decision, extension can be granted.

## Penalties-

- Penalties are imposed by CIC or SIC on PIO
- Amount  $\rightarrow$  Rs 250 per day max. Rs 25000
- Reasons-
  - > Delay in providing information
  - > Malafidely delay
  - > Incomplete information
  - > destroys the request

## who is Excluded-

Following information are excluded under Act -

- Central Intelligence and Security agency
- Central Economic Intelligence Bureau
- Aviation Research centre
- BSF, CRPF, ITBP
- Crime Branch - CID - CB
- etc