

## EXTRACTS OF THE RTI GUIDE, 2013 PREPARED BY DoPT

1. The basic object of the Right to Information Act is to empower the citizens, to promote transparency and accountability in the working of the Government, to contain corruption, and to enhance people's participation in democratic process thereby making our democracy work for the people in a real sense. It goes without saying that an informed citizen is better equipped to keep necessary vigil on the instruments of governance and make the government more accountable to the governed. The Act is a big step towards making the citizens informed about the activities of the Government.
2. What is Information:- Information is any material in any form. It includes records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material held in any electronic form. It also includes information relating to any private body which can be accessed by the public authority under any law for the time being in force.
3. What is a Public Authority:- A "public authority" is any authority or body or institution of self government established or constituted by or under the Constitution; or by any other law made by the Parliament or a State Legislature; or by notification issued or order made by the Central Government or a State Government. The bodies owned, controlled or substantially financed by the Central Government or a State Government are also public authorities. Non-Government organisations substantially financed by the Central Government or a State Government also fall within the definition of public authority. The substantial financing by the Central Government or a State Government may be direct or indirect. The Act does not define substantial financing. Various courts/Information Commissions have been deciding on this issue on case to case basis, depending upon the merits of each case.
4. These are the officers at sub-divisional level to whom a person can give his RTI application or appeal. These officers send the application or appeal to the Public Information Officer of the public authority or the concerned appellate authority. An Assistant Public Information Officer is not responsible to supply the information.
5. The Assistant Public Information Officers appointed by the Department of Posts in various post offices are working as Assistant Public Information Officers for all the public authorities under the Government of India.
6. A citizen has a right to seek such information from a public authority which is held by the public authority or which is held under its control. This right includes inspection of work, documents and records; taking notes, extracts or certified copies of documents or records; and taking certified samples of material held by the public authority or held under the control of the public authority. It is important to note that only such information can be supplied under the Act that is available and existing and is held by the public authority or is held under the control of the public authority. The Public Information Officer is not supposed to create information that is not a part of the record of the public authority. The Public Information Officer is also not required to furnish information which require drawing of inference and/or making of assumptions; or to

interpret information; or to solve the problems raised by the applicants; or to furnish replies to hypothetical questions.

7. A citizen has a right to obtain information from a public authority in the form of diskettes, floppies, tapes, video cassettes or in any other electronic mode or through print-outs provided such information is already stored in a computer or in any other device.
8. The information to the applicant should ordinarily be provided in the form in which it is sought. However, if the supply of information sought in a particular form would disproportionately divert the resources of the public authority or may cause harm to the safety or preservation of the records, supply of information in that form may be denied.
9. In some cases, the applicants expect the Public Information Officer to give information in some particular proforma devised by them on the plea that they have a right to get information in the form in which it is sought. It need be noted that the provision in the Act simply means that if the information is sought in the form of photocopy, it shall be provided in the form of photocopy, or if it is sought in the form of a floppy or in any other electronic mode, it shall be provided in that form, subject to the conditions given in the Act. It does not mean that the PIO shall re-shape the information.
10. Some Information Seekers request the Public Information Officers to cull out information from some document(s) and give such extracted information to them. A citizen has a right to get 'material' from a public authority which is held by or under the control of that public authority. The Act, however, does not require the Public Information Officer to deduce some conclusion from the 'material' and supply the 'conclusion' so deduced to the applicant. It means that the Public Information Officer is required to supply the 'material' in the form as held by the public authority, but not to do research on behalf of the citizen to deduce anything from the material and then supply it to him.
11. The Act gives the right to information only to the citizens of India. It does not make provision for giving information to Corporations, Associations, Companies etc. which are legal entities/persons, but not citizens. However, if an application is made by an employee or office-bearer of any Corporation, Association, Company, NGO etc. indicating his name and such employee/office bearer is a citizen of India, information may be supplied to him/her. In such cases, it would be presumed that a citizen has sought information at the address of the Corporation etc.
12. A citizen who desires to seek some information from a public authority is required to send, along with the application, a demand draft or a bankers cheque or an Indian Postal Order of Rs.10/-(Rupees ten), payable to the Accounts Officer of the public authority as fee prescribed for seeking information. The payment of fee can also be made by way of cash to the public authority or to the Assistant Public Information Officer, against a proper receipt. The payment of fee to the Central Ministries/departments can also be made online through internet banking of State Bank of India or through Master/Visa Debit/credit cards.

13. There is no prescribed format of application for seeking information. The application can be made on plain paper. The applicant should mention the address at which the information is required to be sent. The information seeker is not required to give reasons for seeking information.
14. The information which, in normal course, is exempt from disclosure under subsection (1) of Section 8 of the Act, would cease to be exempted if 20 years have lapsed after occurrence of the incident to which the information relates. However, the following types of information would continue to be exempt and there would be no obligation, even after lapse of 20 years, to give any citizen
  - i) Information, disclosure of which would prejudicially affect the sovereignty and integrity of India, the security, strategic, scientific or economic interest of the State, relation with foreign state or lead to incitement of an offence;
  - (ii) Information, the disclosure of which would cause a breach of privilege of Parliament or State Legislature; or
  - (iii) cabinet papers including records of deliberations of the Council of Ministers, Secretaries and other Officers subject to the conditions given in proviso to clause (i) of sub-section(1) of Section 8 of the Act.
15. The Act does not require the public authorities to retain records for indefinite period. The records need be retained as per the record retention schedule applicable to the concerned public authority.
16. If a person is unable to make a request in writing, he may seek the help of the Public Information Officer to write his application and the Public Information Officer should render him reasonable assistance. Where a decision is taken to give access to a sensorily disabled person to any document, the Public Information Officer, shall provide such assistance to the person as may be appropriate for inspection.
17. If a person makes an application to a public authority for information, a part of which is available with that public authority and the rest of the information is scattered with more than one other public authorities, in such a case, the PIO of the public authority receiving the application should give information relating to it and advise the applicant to make separate applications to the concerned public authorities for obtaining information from them. If no part of the information sought, is available with it but is scattered with more than one other public authorities, the PIO should inform the applicant that information is not available with the public authority and that the applicant should make separate applications to the concerned public authorities for obtaining information from them. However, if the details of public authorities who may have the information sought by the applicant are available with the PIO, such details may also be provided to the applicant.
18. If a person makes an application to a public authority for some information which is the concern of a public authority under any State Government or the Union Territory Administration, the

Central Public Information Officer (CPIO) of the public authority receiving the application should inform the applicant that the information may be had from the concerned State Government/UT Administration. Application, in such a case, need not be transferred to the State Government/UT Administration.

19. The applicant should make application to the Public Information Officer of the concerned public authority. He should make all efforts to ascertain as to which the public authority is concerned with the information. If the information sought by an applicant is related to different PIOs in a Public Authority or is related to different Public authorities, the supply of information is likely to take a lot more time than if the information sought is related to a single PIO in one Public Authority.
20. The applicant should not list out his grievances in the RTI application but should clearly mention which information or record he would like to seek. Further, if the drafting of the application is such that it pin points towards the specific documents required in relation to the information sought, there would be less scope of ambiguity, thereby resulting in less chances of denial of information by the Public Information Officer. For example instead of simply asking why my area is not being cleaned, cleaning schedule of the area should be asked. Similarly, instead of asking when we will get water supply, water supply planning of the area should be asked.
21. If the applicant belongs to below poverty line (BPL) category, he is not required to pay any fee. However, he should submit a proof in support of his claim as belonging to the below poverty line category. The application not accompanied by the prescribed application fee or proof of the applicant's belonging to below poverty line category, as the case may be, shall not be a valid application under the Act.
22. Soon after receiving the application, the Public Information Officer should check whether the applicant has made the payment of application fee or whether the applicant is a person belonging to a Below Poverty Line (BPL) category. If application is not accompanied by the prescribed fee or the BPL Certificate, it cannot be treated as an application under the RTI Act. It may, however, be noted that the Public Information Officer should consider such an application sympathetically and try to supply information sought by way of such an application.
23. **A public authority may designate as many Public Information Officers for it, as it may deem necessary. It is possible that in a public authority with more than one Public Information Officer, an application is received by the Public Information Officer other than the concerned Public Information Officer. In such a case, the Public Information Officer receiving the application should transfer it to the concerned Public Information Officer immediately, preferably the same day. Time period of five days for transfer of the application applies only when the application is transferred from one public authority to another public authority and not for transfer from one Public Information Officer to another in the same public authority.**
24. The Public Information Officer may seek the assistance of any other officer as he or she considers necessary for the proper discharge of his or her duties. The officer, whose assistance is so sought by the Public Information Officer, would render all assistance to him. Such an

officer shall be deemed to be a Public Information Officer and would be liable for contravention of any provisions of the Act the same way as any other Public Information Officer. It would be advisable for the Public Information Officer to inform the officer whose assistance is sought, about the above provision, at the time of seeking his assistance. Some Public Information Officers, on the basis of above referred provision of the Act, transfer the RTI applications received by them to other officers and direct them to send information to the applicants as deemed Public Information Officer. Thus, they use the above referred provision to designate other officers as Public Information Officer. According to the Act, it is the responsibility of the officer who is designated as the Public Information Officer by the public authority to provide information to the applicant or reject the application for any reasons specified in Sections 8 and 9 of the Act. The Act enables the Public Information Officer to seek assistance of any other officer to enable him to provide information to the information seeker, but it does not give him authority to designate any other officer as Public Information Officer and direct him to send reply to the applicant. The import of the provision is that, if the officer whose assistance is sought by the Public Information Officer, does not render necessary help to him, the Information Commission may impose penalty on such officer or recommend disciplinary action against him the same way as the Commission may impose penalty on or recommend disciplinary action against the Public Information Officer.

25. Where a request for information is rejected, the Public Information Officer should communicate to the person making the request—
  - (i) the reasons for such rejection;
  - (ii) (ii) the period within which an appeal against such rejection may be preferred; and
  - (iii) (iii) the particulars of the authority to whom an appeal can be made.
  
26. Where a request is received for access to information which is exempt from disclosure but a part of which is not exempt, and such part can be severed in such a way that the severed part does not contain exempt information then, access to that part of the information/record may be provided to the applicant. Where access is granted to a part of the record in such a way, the Public Information Officer should inform the applicant that the information asked for is exempt from disclosure and that only part of the record is being provided, after severance, which is not exempt from disclosure. While doing so, he should give the reasons for the decision, including any findings on any material question of fact, referring to the material on which those findings were based.
  
27. If an applicant seeks any information which relates to or has been supplied by a third party and that third party has treated that information as confidential, the Public Information Officer shall consider whether the information should be disclosed or not. The guiding principle in such cases is that except in the case of trade or commercial secrets protected by law, disclosure may be allowed if the public interest in disclosure outweighs in importance any possible harm or injury to the interests of such third party. However, the Public Information Officer would have to follow the following procedure before disclosing such information.
  
28. If the Public Information Officer intends to disclose the information, he shall within five days from the receipt of the application, give a written notice to the third party that the information

has been sought by the applicant under the RTI Act and that he intends to disclose the information. He shall request the third party to make a submission in writing or orally, regarding whether the information may be disclosed. The third party shall be given a time of ten days, from the date of receipt of the notice by him, to make representation against the proposed disclosure, if any.

29. The Public Information Officer shall make a decision regarding disclosure of the information keeping in view the submission of the third party. Such a decision should be taken within forty days from the receipt of the request for information. After taking the decision, the Public Information Officer should give a notice of his decision to the third party in writing. The notice given to the third party should include a statement that the third party is entitled to prefer an appeal under section 19 against the decision.
30. The third party can prefer an appeal to the First Appellate Authority against the decision made by the Public Information Officer within thirty days from the date of the receipt of notice. If not satisfied with the decision of the First Appellate Authority, the third party can prefer a second appeal to the Information Commission. If an appeal has been filed by the third party against the decision of the Public Information Officer to disclose the third party information, the information should not be disclosed till the appeal is decided.