

**UTTARAKHAND JUDICIAL AND LEGAL ACADEMY,
BHOWALI, DISTRICT- NAINITAL**

**Workshop
on
Right to Information Act, 2005
(07.05.2025 through Virtual mode)
< Reading Material >**

INDEX OF CONTENTS

Sr. No.	CONTENT	PAGE
1.	Origin, History and Object of RTI Act, 2005.	2-7
2.	Overview of RTI Act, 2005 : Important Definitions & Provisions.	8-36
3.	Rules Regarding RTI Act in the State of Uttarakhand.	37-46
4.	Guide on The Right To Information Act, 2005.	47-80
5.	Directions issued by Hon'ble Supreme Court in Kishan Chand Jain Versus Union of India & Ors [2023 INSC 915]	81-82
6.	Important Judgments on RTI Act, 2005.	83-85

ORIGIN, HISTORY AND OBJECT OF RTI ACT, 2005

WHAT IS THE RTI ACT, 2005 :

The Right to Information Act, 2005 is a social welfare legislation and is a special law, enacted to ensure smoother and greater access to public information by the establishment of machinery and to ensure maximum disclosure of the information. This is an Act 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.

HISTORY OF RTI ACT IN INDIA :

First RTI law developed by Sweden in 1766. Followed after two centuries by the US (1966), Norway (1970), France and Netherlands (1978), Australia, New Zealand and Canada (1982), Denmark (1985), Greece (1986), Austria (1987) and Italy (1990). In the year 1989, Mr. V. P. Singh, then the Prime Minister of India, promised the people of India to bring transparency law and amend the Official Secrets Act, but they could not materialize this promise. First grassroots campaign for the introduction of RTI started by Mazdoor Kisan Shakti Sangathan (MKSS) in 1994.

NATIONAL CAMPAIGN FOR PEOPLE'S RTI :

- Formed in 1996; initial draft of RTI law, with the assistance of the Press Council of India under the guidance of Justice PB Savant, and sent it the Government of India.

- In the year 1997, the **Shourie Committee** was created by the government to gather recommendations regarding the bill's implementation.
- **Tamil Nadu** became first Indian state to pass RTI law in 1997 followed by other states like Karnataka (2000), Delhi (2001), Rajasthan (2002) implemented the Right to Information Laws in the states.
- ***Freedom of Information (FOI) Act, 2002*** was passed, but it could not be implemented by Government of India.
- RTI Bill was introduced before the Parliament on recommendations of National Advisory Council, and was passed by the Parliament on May 2005, and came into operation on **October 12, 2005**.

WHAT IS THE CONCEPT OF RIGHT TO INFORMATION ?

Hon'ble Supreme Court on Right to Information

On the emerging concept of an “open Government”, the Constitution Bench of Hon'ble Supreme Court in **State of U.P. v. Raj Narain [(1975) 4 SCC 428 (para 74) : AIR 1975 SC 865]** has observed -

“74. ... The people of this country have a right to know every public act, everything that is done in a public way, by their public functionaries. They are entitled to know the particulars of every public transaction in all its bearing. The right to know, which is derived from the concept of freedom of speech, though not absolute, is a factor which should make one wary, when secrecy is claimed for transactions which can, at any rate, have no repercussion on public security.”

In **Ministry of Information & Broadcasting, Govt. of India v. Cricket Assn. of Bengal {(1995) 2 SCC 161}**, Hon'ble Supreme Court has held that right to acquire information and to disseminate it is an intrinsic component of

freedom of speech and expression under Article 19(a) of the Constitution of India.

In **Reliance Petrochemicals Ltd. v. Indian Express Newspapers Bombay (P) Ltd.** {(1988) 4 SCC 592 (para 34)}, Hon'ble Supreme Court recognised that the right to information is a fundamental right under Article 21 of the Constitution. Hon'ble Supreme Court has held :

“34. ... We must remember that the people at large have a right to know in order to be able to take part in a participatory development in the industrial life and democracy. Right to know is a basic right which citizens of a free country aspire in the broader horizon of the right to live in this age in our land under Article 21 of our Constitution. That right has reached new dimensions and urgency. That right puts greater responsibility upon those who take upon themselves the responsibility to inform.”

In **S.P. Gupta v. Union of India** {1981 Supp SCC 87 : AIR 1982 SC 149 (para -67)}, Hon'ble Apex Court has held -

“67. ... The concept of an open Government is the direct emanation from the right to know which seems to be implicit in the right of free speech and expression guaranteed under Article 19(1)(a). Therefore, disclosure of information in regard to the functioning of Government must be the rule and secrecy an exception justified only where the strictest requirement of public interest so demands. The approach of the court must be to attenuate the area of secrecy as much as possible consistently with the requirement of public interest, bearing in mind all the time that disclosure also serves an important aspect of public interest.”

In **People's Union for Civil Liberties v. Union of India**{(2004) 2 SCC 476}, hon'ble Supreme Court reiterated, relying on the aforesaid judgments, that right to information is a facet of the right to freedom of “speech and

expression” as contained in Article 19(1)(a) of the Constitution of India and also held that right to information is definitely a fundamental right. In coming to this conclusion, Hon’ble Supreme Court traced the origin of the said right from the Universal Declaration of Human Rights, 1948 and also Article 19 of the International Covenant on Civil and Political Rights, which was ratified by India in 1978. Hon’ble Supreme Court also found a similar enunciation of principle in the Declaration of European Convention for the Protection of Human Rights (1950) and found that the spirit of the Universal Declaration of 1948 is echoed in Article 19(1)(a) of the Constitution.

WHAT IS THE OBJECT OF RTI ACT ?

In **Chief Information Commr. v. State of Manipur** {(2011) 15 SCC 1 (para 6)}, Hon’ble Apex Court has observed that-

“6. As its Preamble shows, the Act was enacted to promote transparency and accountability in the working of every public authority in order to strengthen the core constitutional values of a democratic republic. It is clear that Parliament enacted the said Act keeping in mind the rights of an informed citizenry in which transparency of information is vital in curbing corruption and making the Government and its instrumentalities accountable. The Act is meant to harmonise the conflicting interests of the Government to preserve the confidentiality of sensitive information with the right of citizens to know the functioning of the governmental process in such a way as to preserve the paramountcy of the democratic ideal. The Preamble would obviously show that the Act is based on the concept of an open society.”

In **ICAI v. Shaunak H. Satya**{(2011) 8 SCC 781 (para 24 & 25)}, the Hon’ble Supreme Court has held -

“24. One of the objects of democracy is to bring about transparency of information to contain corruption and bring about accountability. But achieving this object does not mean that other equally important public interests including efficient functioning of the Governments and public authorities, optimum use of limited fiscal resources, preservation of confidentiality of sensitive information, etc. are to be ignored or sacrificed. The object of the RTI Act is to harmonise the conflicting public interests, that is, ensuring transparency to bring in accountability and containing corruption on the one hand, and at the same time ensure that the revelation of information, in actual practice, does not harm or adversely affect other public interests which include efficient functioning of the Governments, optimum use of limited fiscal resources and preservation of confidentiality of sensitive information, on the other hand.

In Chief Information Commr. v. High Court of Gujarat, (2020) 4 SCC 702 (para 25), full bench of Hon’ble Supreme Court has laid down -

“25.... The Preamble opens with a reference to the Constitution having established a democratic republic and the need, therefore, for an informed citizenry. The preamble reveals that legislature was conscious of the likely conflict with other public interest including efficient operations of the Governments and optimum use of limited fiscal resources and the preservation of confidentiality of sensitive information and the necessity to harmonise these conflicting interests. A citizen of India has every right to ask for any information subject to the limitation prescribed under the Act. The right to seek information is only to fulfil the objectives of the Act laid down in the Preamble, that is, to promote transparency of information.”

WHAT IS THE SCOPE OF PENALTY TO CPIO WHEN INFORMATION NOT FURNISHED WITHIN 30 DAYS DUE TO NON AVAILABILITY OF RECORD?

No penalty to CPIO when information not furnished within 30 days due to non-availability of record-

Information under the RTI Act, 2005 is required to be supplied within 30 days only if record is available with the office. Right to seek information is not to be extended to the extent that even if file is not available for good reasons, still steps are required to be taken by the CPIO to procure file and to supply information. No penalty u/s. 20 of the RTI Act can be imposed upon the CPIO for his lapse to supply information due to non-availability of the record. {See : **S.P. Arora vs. SIC, Haryana, AIR 2009 P & H 53 (D.B.)**}

OVERVIEW OF RTI ACT, 2005 :

IMPOTANT DEFINITIONS & PROVISIONS

"State Public Information Officer" Section 2 (m)

"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;

Information {Section 2(f)}

"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;

WHAT IS THE SCOPE OF APPLICATION UNDER RTI ACT?

Firms, Associations, Corporate entities and HUF to be treated as applicants under the RTI Act

The Central Information Commission has observed that an application or appeal from an association or a partnership firm or a Hindu undivided family (HUF) or from some other group of individuals constituted as a body or otherwise should be accepted and allowed under the RTI Act, 2005. Elaborating the objectives of the RTI Act, the CIC has further observed that

the objective behind the RTI Act is to secure access of information to all citizens to promote transparency and accountability. The CIC has also clarified that since all superior courts have been admitting applications in exercise of their extra ordinary jurisdiction from companies, societies and associations under the provisions of the Constitution of which the RTI Act, 2005 is a child and if the courts can give relief to such entities, the CPIOs should also not throw them out on a mere technical ground that such applicants happen to be a legal person and not a citizen.

Information relating to Vigilance/Departmental Enquiries

The Central Information Commission has ruled that an official facing vigilance or departmental enquiry is entitled to make inspections of the file of such enquiries and can also seek permissible information available on the record of such enquiries.

Information regarding proceedings of DPC

The Central Information Commission has ruled that an official is entitled to obtain information under the RTI Act, 2005 concerning the proceedings held by the departmental promotion committee (DPC) about his own promotion and also of other co-officials.

Information regarding file notings by Bureaucrats

The CIC has clarified that an applicant under the RTI Act, 2005 is entitled to access to file notings recorded by the Bureaucrats unless such notings are exempted under the provisions of Sec. 8 & 9 of the RTI Act, 2005.

Information regarding the list of the names of corrupt officials accessible

The CIC has ruled (regarding the names of Senior Customs & Excise Officials) that an applicant is entitled to information under the RTI Act, 2005 regarding the names of those officials who are known for their indulgence

into corrupt practices in any department and also the names of such officials against whom complaints as to corruption have been made or are pending.

Information regarding ACR are accessible under the RTI Act, 2005

The CIC has ruled that an official/officer is entitled under the RTI Act, 2005 to access to information regarding his annual assessment or entries recorded in his ACR. A recent decision from the Supreme Court has also ruled that an employee is fully entitled to know about his annual character roll entries whether commendatory or condemnatory. [Sukhdev Singh Vs. Union of India (UOI) and Ors. (2013) 9 SCC 566]

Information regarding private properties of bureaucrats accessible under RTI Act, 2005

The CIC has ruled that an applicant is entitled to get information under the provisions of RTI Act, 2005 regarding the movable and immovable property of any Govt. Servant.

Cabinet decision accessible under RTI Act, 2005

The CIC has ruled that once the decisions taken by cabinet are declared, all the documents relating to the cabinet decisions become accessible to an applicant under the provisions of RTI Act, 2005. (Source—Report dated 27.10.2008 published in the Lucknow issue of the Daily Hindi Newspaper Dainik Jagran)

Income Tax Returns of political parties accessible under RTI Act

The CIC has ruled that a citizen is entitled under the RTI Act, 2005 to seek information from political parties regarding their funding and income tax returns.

Disqualification of the State Chief Information Commissioner

Allegations against the Commissioner that his appointment was ill-motivated and that it was made due to undue influence and that there were allegations of corruption and irregularities against him was also not established and under these circumstances the **appointment of the Commissioner u/s. 15(3) of the RTI Act, 2005** was found valid and disqualification was refused. See--- **[Rural Litigation and Entitlement Kendra vs. State of Uttaranchal, 2006 (6) ALJ 430 (Uttaranchal High Court—D.B.)]**

In **Union of India Versus R.S. Khan {AIR 2011 Delhi 50}**, Hon'ble Delhi High Court has laid down -

Information includes file notings during disciplinary proceedings which are in form of views and comments expressed by various officials dealing with the files.

In **Celsa Pinto Versus Goa State Information Commission {AIR 2008 Bombay 120}**, Hon'ble Bombay High Court has held-

The definition of information under S. 2(f) cannot include within its fold answers to the question 'why' which would be the same thing as asking the reason for a justification for a particular thing.

In **CBSE v. Aditya Bandopadhyay {2011 AIR SCW 4888}**, Hon'ble Supreme Court has observed-

Right to information - Scope Information not available with public authority Information which require drawing of inferences and/or making of assumptions giving 'advice' or 'opinion' to an appellant, or to obtain and furnish any 'opinion' or 'advice' to an applicant Does not fall in its scope.

In **Khanapuram Gandaiah v. Administrative Officer, (2010) 2 SCC 1 (para 10,11 & 13)** Hon'ble Supreme Court has laid down :

“10. This definition shows that an applicant under Section 6 of the RTI Act can get any information which is already in existence and accessible to the public authority under law. Of course, under the RTI Act an applicant is entitled to get copy of the opinions, advices, circulars, orders, etc. but he cannot ask for any information as to why such opinions, advices, circulars, orders, etc. have been passed, especially in matters pertaining to judicial decisions.

11. A Judge speaks through his judgments or orders passed by him. If any **party feels aggrieved by the order/judgment passed by a Judge, the remedy available to such a party is either to challenge the same by way of appeal or by revision** or any other legally permissible mode. No litigant can be allowed to seek information as to why and for what reasons the Judge had come to a particular decision or conclusion. A Judge is not bound to explain later on for what reasons he had come to such a conclusion.

13. **A Judge cannot be expected to give reasons other than those that have been enumerated in the judgment or order.....** A judicial officer is entitled to get protection and the object of the same is not to protect malicious or corrupt Judges, but to protect the public from the dangers to which the administration of justice would be exposed if the judicial officers concerned were subject to inquiry as to malice, or to litigation with those whom their decisions might offend. If anything is done contrary to this, it would certainly affect the independence of the judiciary. A Judge should be free to make independent decisions.”

In **Supreme Court of India v. Subhash Chandra Agarwal**, (2020) 5 SCC 481, the Constitutional Bench of hon’ble Supreme Court has laid down –

22. When information is accessible by a public authority, that is, held or under its control, then the information must be furnished to the information seeker under the RTI Act even if there are conditions or prohibitions under

another statute already in force or under the Official Secrets Act, 1923, that restricts or prohibits access to information by the public. any prohibition or condition which prevents a citizen from having access to information would not apply. Restriction on the right of citizens is erased.

Section 22 of the RTI Act is a key that unlocks prohibitions/limitations in any prior enactment on the right of a citizen to access information which is accessible by a public authority. It is not a key with the public authority that can be used to undo and erase prohibitions/limitations on the right of the public authority to access information. In other words, a private body will be entitled to the same protection as is available to them under the laws of this country.

In Chief Information Commr. v. High Court of Gujarat, (2020) 4 SCC 702 (para 23, 24, 26, 27 & 32), full bench of hon'ble Supreme Court has laid down -

“23. Let us briefly refer to the various categories of information held by the High Court, which are broadly as under:

23.1. (a) Information held by the High Court relating to the parties to the litigation/proceedings — pleadings, documents and other materials and memo of grounds raised by the parties.

23.2. (b) Orders and judgments passed by the High Court, notes of proceedings, etc.

23.3. (c) In exercise of power of superintendence over the other courts and tribunals, information received in the records submitted/called for by those courts and tribunals like subordinate judiciary, various tribunals like Income Tax Appellate Tribunal, Customs Excise and Service Tax Appellate Tribunal and the other tribunals.

23.4. (d) Information on the administrative side of the High Court viz. appointments, transfers and postings of the judicial officers, staff members of the High Court and the district judiciary, disciplinary action taken against the judicial officers and the staff members and such other information relating to the administrative work.

23.5. (e) Correspondence by the High Court with the Supreme Court, Government and with the district judiciary, etc.

23.6. (f) Information on the administrative side as to the decision taken by the collegium of the High Court in making recommendations of the Judges to be appointed to the High Court; information as to the assets of the sitting Judges held by the Chief Justice of the High Court.

24. Information under Categories (a), (b) and (c) and other information on the judicial side can be accessed/certified copies of documents and orders could be obtained by the parties to the proceedings in terms of the High Court Rules and the parties to the proceedings are entitled to the same. So far as the third parties are concerned, as of right, they are not entitled to access the information/obtain the certified copies of the documents, orders and other proceedings. As per the rules framed by the High Court, a third party can obtain the certified copies of the documents, orders or judgments or can have access to the information only by filing an application/affidavit and by stating the reason for which the information/copies of documents or orders are required.

Insofar as on the administrative side i.e. Categories (d), (e) and (f), one can have access to the information or copies of the documents could be obtained under the rules framed by the various High Courts or under the rules framed by the High Court under the RTI Act. Insofar as the disclosure of information as to the assets of the Judges held by the Chief Justice of the High Court, the

same is now covered by the judgment of the Constitution Bench in **Supreme Court of India v. Subhash Chandra Agarwal, (2020) 5 SCC 481**.

27. The information held by the High Court on the judicial side is the “personal information” of the litigants like title cases and family court matters, etc. Under the guise of seeking information under the RTI Act, the process of the court is not to be abused and information not to be misused.

32. Sub-section (2) of Section 4 of the RTI Act provides that every public authority to take steps to provide as much information suo motu to the public at regular intervals through various means of communications including the internet, so that the public have minimum resort to the use of the RTI Act to obtain information. Suo motu disclosure of information on important aspects of working of a public authority is, therefore, an essential component of information regime. The judgments and orders passed by the High Courts are all available in the website of the respective High Courts and any person can have access to these judgments and orders.

WHAT IS THE MEANING OF “PUBLIC AUTHORITY” UNDER RTI ACT ?

Public Authority {S. 2(h)}

"public authority" means any authority or body or institution of self-government established or constituted—

(a) by or under the Constitution;

(b) by any other law made by Parliament;

(c) by any other law made by State Legislature;

(d) by notification issued or order made by the appropriate Government, and includes any—

(i) body owned, controlled or substantially financed;

(ii) non-Government organisation substantially financed, directly or indirectly by funds provided by the appropriate Government;

In Sri. Bhavana Rishi Co-op. House Building Society Versus A.P. Information Commission{AIR 2010 AP 127}, Hon'ble Andhra Pradesh High Court has observed -

Information concerning private body also forms part of information provided such information is liable or capable of being accessed by public authority under any other law in force.

In Supreme Court of India v. Subhash Chandra Agarwal, (2020) 5 SCC 481, the Constitutional Bench of hon'ble Supreme Court has laid down -

22. When information is accessible by a public authority, that is, held or under its control, then the information must be furnished to the information seeker under the RTI Act even if there are conditions or prohibitions under another statute already in force or under the Official Secrets Act, 1923, that restricts or prohibits access to information by the public. any prohibition or condition which prevents a citizen from having access to information would not apply. Restriction on the right of citizens is erased.

However, when access to information by a public authority itself is prohibited or is accessible subject to conditions, then the prohibition is not obliterated and the preconditions are not erased. Section 2(f) read with Section 22 of the RTI Act does not bring any modification or amendment in any other enactment, which bars or prohibits or imposes precondition for accessing information of the private bodies. Rather, clause (f) to Section 2 upholds and accepts the said position when it uses the expression — “which can be accessed”, that is, the public authority should be in a position and be entitled to ask for the said information.

Section 22 of the RTI Act, an overriding provision, does not militate against the interpretation as there is no contradiction or conflict between the provisions of Section 2(f) of the RTI Act and other statutory enactments/law. Section 22 of the RTI Act is a key that unlocks prohibitions/limitations in any prior enactment on the right of a citizen to access information which is accessible by a public authority. It is not a key with the public authority that can be used to undo and erase prohibitions/limitations on the right of the public authority to access information. In other words, a private body will be entitled to the same protection as is available to them under the laws of this country.

MEANING OF “RECORD” UNDER RTI ACT ?

Section 2 (i) - "record" includes—

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

MEANING OF “RIGHT TO INFORMATION” UNDER RTI ACT ?

Section 2(j) - "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—

- (i) inspection of work, documents, records;
- (ii) taking notes, extracts or certified copies of documents or records;

- (iii) taking certified samples of material;
- (iv) 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;

MEANING OF “THIRD PARTY” UNDER RTI ACT ?

Section 2 (n) - "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

“RIGHT TO INFORMATION” ? [Sec. 3]

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

In **Pritam Rooj Versus University of Calcutta & Ors.**{AIR 2008 Cal 118}, hon’ble Calcutta High Court has observed -

The Act begins with a citizen's right to obtain information and ends with the information being made available to him or his request being justly rejected on the grounds recognised by the Act; what happens before and what may be the consequence of the information being made available or rightfully denied is a matter beyond the operation of the Act.

REQUEST FOR OBTAINING INFORMATION [Sec. 6]

(1) 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:

Provided that where such request cannot be made in writing, the Central Public Information Officer or State Public Information Officer, as the case may be, shall render all reasonable assistance to the person making the request orally to reduce the same in writing.

(2) 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.

(3) Where an application is made to a public authority requesting for an information -

- (i) which is *held by another public authority*; or

- (ii) the subject matter of which is more closely connected with the functions of another public authority, the public authority, to which such application is made, *shall transfer the application* or such part of it as may be appropriate to that other public authority and *inform the applicant immediately about such transfer*:

Provided that the *transfer* of an application pursuant to this sub-section *shall be made as soon as practicable* but in *no case later than five days* from the date of receipt of the application.

DISPOSAL OF REQUEST [Sec. 7]

(1) Subject to the proviso to sub-section (2) of section 5 or the proviso to sub-section (3) of section 6, the Central Public Information Officer or State Public Information Officer, as the case may be, on receipt of a request under section 6 shall, *as expeditiously as possible, and in any case within thirty days* of the receipt of the request, either provide the information on payment of such fee as may be prescribed or reject the request for any of the reasons specified in sections 8 and 9:

Provided that where the information sought for concerns the life or liberty of a person, the same shall be provided within forty-eight hours of the receipt of the request.

(2) If the Central Public Information Officer or State Public Information Officer, as the case may be, *fails to give decision on the request* for information within the period specified under sub-section (1), the Central Public Information Officer or State Public Information Officer, as the case may be, shall be *deemed to have refused* the request.

(3) Where a decision is taken to provide the information on payment of any further fee representing the cost of providing the information, the Central Public Information Officer or State Public Information Officer, as the case may be, shall send an intimation to the person making the request, giving :

(a) the *details of further fees* representing the *cost of providing the information* as determined by him, *together with the calculations* made to arrive at the amount in accordance with fee prescribed under sub-section (1), requesting him to deposit that fees, and the period intervening between the dispatch of the said intimation and payment of fees shall be excluded for the purpose of calculating the period of thirty days referred to in that sub- section;

(b) information concerning his or her right with respect to review the decision as to the amount of fees charged or the form of access provided, including the particulars of the appellate authority, time limit, process and any other forms.

(4) Where access to the record or a part thereof is required to be provided under this Act and the person to whom access is to be provided is sensorily disabled, the Central Public Information Officer or State Public Information Officer, as the case may be, shall provide assistance to enable access to the information, including providing such assistance as may be appropriate for the inspection.

(5) Where access to information is to be provided in the printed or in any electronic format, the applicant shall, subject to the provisions of sub-section (6), pay such fee as may be prescribed:

Provided that the fee prescribed under sub-section (1) of section 6 and sub-sections (1) and (5) of section 7 shall be reasonable and no such fee shall be charged from the persons who are of below poverty line as may be determined by the appropriate Government.

(6) Notwithstanding anything contained in sub-section (5), the person making request for the information shall be provided the information free of charge where a public authority fails to comply with the time limits specified in sub-section (1).

(7) Before taking any decision under sub-section (1), the Central Public Information Officer or State Public Information Officer, as the case may be, shall take into consideration the representation made by a third party under section 11.

(8) Where a request has been rejected under sub-section (1), the Central Public Information Officer or State Public Information Officer, as the case may be, shall communicate to the person making the request,—

- (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.

(9) An information shall ordinarily be provided in the form in which it is sought unless it would disproportionately divert the resources of the public authority or would be detrimental to the safety or preservation of the record in question.

In **Common Cause v. High Court of Allahabad, (2018) 14 SCC 39**, Hon'ble Supreme Court has held that no motive, for seeking the information, needs to be disclosed in view of the scheme of the Act.

In **Gokalbhai Nanabhai Patel Versus Chief Information Commissioner & Ors {AIR 2008 Gujrat 2}**, Hon'ble Gujrat High Court has laid down-

Under the Right to Information Act, 2005, the authority has a basic function to be performed either to give the information or to deny to furnish the information. Additional prayers like demolition, etc., can- not be granted by the authority under the Act, 2005, which takes away substantive rights of the party.

INFORMATION MAY BE PROVIDED IN EXISTING FORM

In **State Consumer Disputes Redressal Commission v. Uttarakhand State Information Commission {AIR 2015 Uttrakhand 106}**, divisional bench of Hon'ble High Court Uttarakhand has observed-

Demand for supply of information in translated version- Tenability- Pronouncement of judgment by President of State Consumer Disputes Redressal Commission in English language - is not forbidden in law- Applicant cannot seek translation of judgment in Hindi - Duty cast upon public authority to provide information as it is - Act does not provide for giving information in language of choice of applicant.

APPLICATION IN PHYSICAL FORM OR THROUGH ELECTRONIC MEANS

In **Pravasi Legal Cell v. Union of India**{2023 SCC OnLine SC 1229 (para 5)}, full bench of hon'ble Supreme Court has observed-

“5. Section 6(1) of the Right to Information Act, 2005 stipulates that a person who desires to obtain any information under the Act shall make a request in writing “or through electronic means” specifying the particulars of the information sought. This provision indicates that an RTI applicant has a statutory right to move an application through electronic means.

“10. The High Courts shall make adequate provisions to facilitate the supply of information through online web portals and for all incidental purposes connected with the implementation of the Right to Information Act, 2005.”

EXEMPTION FROM DISCLOSURE OF INFORMATION [Sec. 8]

(1) Notwithstanding anything contained in this Act, 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:

Provided that the decisions of Council of Ministers, the reasons thereof, and the material on the basis of which the decisions were taken shall be made public after the decision has been taken, and the matter is complete, or over:

Provided further that those matters which come under the exemptions specified in this section shall not be disclosed;

(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.

(2) Notwithstanding anything in the Official Secrets Act, 1923 (19 of 1923) nor any of the exemptions permissible in accordance with sub-section (1), a public authority may allow access to information, if public interest in disclosure outweighs the harm to the protected interests.

(3) Subject to the provisions of clauses (a), (c) and (i) of sub-section (1), any information relating to any occurrence, event or matter which has taken place, occurred or happened twenty years before the date on which any request is made under section 6 shall be provided to any person making a request under that section:

Provided that where any question arises as to the date from which the said period of twenty years has to be computed, the decision of the Central Government shall be final, subject to the usual appeals provided for in this Act.

In **Institute of Chartered Accountants vs Shaunak H. Satya**{AIR 2011 SC 3336}, hon'ble Supreme Court has observed-

When S. 8 exempts certain information from being disclosed, it should not be considered to be a fetter on the right to information, but as an equally important provision protecting other public interests essential for the fulfillment and preservation of democratic ideals.

In **R.K. Jain v. Union of India, (2013) 14 SCC 794**, hon'ble Supreme Court has observed :

“13. Section 8 deals with exemption from disclosure of information. Under clause (j) of Section 8(1), there shall be no obligation to give any citizen 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 is satisfied that the larger public interest justifies the disclosure of such information”

GROUND FOR REJECTION TO ACCESS IN CERTAIN CASES **[Sec. 9]**

Without prejudice to the provisions of section 8, a Central Public Information Officer or a State Public Information Officer, as the case may be, *may reject a request* for information where such a request for providing access would involve *an infringement of copyright* subsisting in a person other than the State.

SEVERABILITY [Sec. 10]

(1) Where a request for access to information is rejected on the ground that it is in relation to information which is exempt from disclosure, then, notwithstanding anything contained in this Act, *access may be provided to that part of the record which does not contain* any information which is *exempt from disclosure* under this Act and which can reasonably be severed from any part that contains exempt information.

(2) Where access is granted to a part of the record under sub-section (1), the Central Public Information Officer or State Public Information Officer, as the case may be, *shall give a notice to the applicant*, informing—

- (a) that *only part of the record* requested, after severance of the record containing information which is exempt from disclosure, is being *provided*;
- (b) *the reasons for the decision*, including any findings on any material question of fact, referring to the material on which those findings were based;
- (c) the name and designation of the person giving the decision;
- (d) the details of the fees calculated by him or her and the amount of fee which the applicant is required to deposit; and
- (e) his or her rights with respect to review of the decision regarding non-disclosure of part of the information, the amount of fee charged or the form of access provided, including the particulars of the senior officer specified under sub-section (1) of section 19 or the Central Information Commission or the State Information Commission, as the case may be, time limit, process and any other form of access.

Third party information [Sec. 11]

(1) Where a Central Public Information Officer or a State Public Information Officer, as the case may be, intends to disclose any information or record, or part thereof on a request made under this Act, which relates to or has been supplied by a third party and has been treated as confidential by that third party, the Central Public Information Officer or State Public Information Officer, as the case may be, shall, *within five days from the receipt of the request*, give a written *notice to such third party* of the request and of the fact that the Central Public Information Officer or State Public Information Officer, as the case may be, intends to disclose the information or record, or part thereof, and invite the third party to make a submission in writing or orally, regarding whether the information should be disclosed, and such submission of the third party shall be kept in view while taking a decision about disclosure of information:

Provided 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.

(2) Where a notice is served by the Central Public Information Officer or State Public Information Officer, as the case may be, under sub-section (1) to a third party in respect of any information or record or part thereof, the third party shall, within ten days from the date of receipt of such notice, be given the opportunity to make representation against the proposed disclosure.

(3) Notwithstanding anything contained in section 7, the Central Public Information Officer or State Public Information Officer, as the case may be, shall, within forty days after receipt of the request under section 6, if the third

party has been given an opportunity to make representation under sub-section (2), make a decision as to whether or not to disclose the information or record or part thereof and give in writing the notice of his decision to the third party.

(4) A notice given under sub-section (3) shall include a statement that the third party to whom the notice is given is entitled to prefer an appeal under section 19 against the decision.

In Girish Ramchandra Deshpande v. Central Information Commissioner.(2013) 1 SCC 212 (para no. 12 & 13), hon'ble Supreme Court has observed -

“12. We are in agreement with the CIC and the courts below that the details called for by the petitioner i.e. copies of all memos issued to the third respondent, show-cause notices and orders of censure/punishment, etc. are qualified to be personal information as defined in clause (j) of Section 8(1) of the RTI Act. The performance of an employee/officer in an organisation is primarily a matter between the employee and the employer and normally those aspects are governed by the service rules which fall under the expression ‘personal information’, the disclosure of which has no relationship to any public activity or public interest. On the other hand, the disclosure of which would cause unwarranted invasion of privacy of that individual. Of course, in a given case, if the Central Public Information Officer or the State Public Information Officer or the appellate authority is satisfied that the larger public interest justifies the disclosure of such information, appropriate orders could be passed but the petitioner cannot claim those details as a matter of right.

13. The details disclosed by a person in his income tax returns are ‘personal information’ which stand exempted from disclosure under clause (j) of Section 8(1) of the RTI Act, unless involves a larger public interest and the Central Public Information Officer or the State Public Information Officer or

the appellate authority is satisfied that the larger public interest justifies the disclosure of such information.”

This principle was followed in **R.K. Jain v. Union of India**, (2013) 14 SCC 794.

PROVISION OF APPEAL [Sec. 19]

(1) 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:

Provided that such officer may admit the appeal after the expiry of the period of thirty days if he or she is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) 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.

(3) 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:

Provided that the Central Information Commission or the State Information Commission, as the case may be, may admit the appeal after the expiry of the period of ninety days if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(4) 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.

(5) 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.

(6) 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.

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

(8) In its decision, the Central Information Commission or State Information Commission, as the case may be, has the power to-

(a) require the public authority to take any such steps as may be necessary to secure compliance with the provisions of this Act, including—

(i) by providing access to information, if so requested, in a particular form;

(ii) by appointing a Central Public Information Officer or State Public Information Officer, as the case may be;

(iii) by publishing certain information or categories of information;

(iv) by making necessary changes to its practices in relation to the maintenance, management and destruction of records;

(v) by enhancing the provision of training on the right to information for its officials;

(vi) by providing it with an annual report in compliance with clause (b) of sub-section (1) of section 4;

(b) require the public authority to compensate the complainant for any loss or other detriment suffered;

(c) impose any of the penalties provided under this Act;

(d) reject the application.

(9) The Central Information Commission or State Information Commission, as the case may be, shall give notice of its decision, including any right of appeal, to the complainant and the public authority.

(10) The Central Information Commission or State Information Commission, as the case may be, shall decide the appeal in accordance with such procedure as may be prescribed.

PENALTIES [Sec. 20]

(1) Where the Central Information Commission or the State Information Commission, as the case may be, at the time of deciding any complaint or appeal is of the opinion that the Central Public Information Officer or the State Public Information Officer, as the case may be, has, without any reasonable cause, refused to receive an application for information or has not furnished information within the time specified under sub-section (1) of section 7 or malafidely denied the request for information or knowingly

given incorrect, incomplete or misleading information or destroyed information which was the subject of the request or obstructed in any manner in furnishing the information, it shall impose a penalty of two hundred and fifty rupees each day till application is received or information is furnished, so however, the total amount of such penalty shall not exceed twenty-five thousand rupees:

Provided that the Central Public Information Officer or the State Public Information Officer, as the case may be, shall be given a reasonable opportunity of being heard before any penalty is imposed on him:

Provided further that the burden of proving that he acted reasonably and diligently shall be on the Central Public Information Officer or the State Public Information Officer, as the case may be.

(2) Where the Central Information Commission or the State Information Commission, as the case may be, at the time of deciding any complaint or appeal is of the opinion that the Central Public Information Officer or the State Public Information Officer, as the case may be, has, without any reasonable cause and persistently, failed to receive an application for information or has not furnished information within the time specified under sub-section (1) of section 7 or malafidely denied (...Continue) the request for information or knowingly given incorrect, incomplete or misleading information or destroyed information which was the subject of the request or obstructed in any manner in furnishing the information, it shall recommend for disciplinary action against the Central Public Information Officer or the State Public Information Officer, as the case may be, under the service rules applicable to him.

PROTECTION OF ACTION TAKEN IN GOOD FAITH [Sec. 21]

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.

ACT TO HAVE OVERRIDING EFFECT [Sec. 22]

The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in the Official Secrets Act, 1923 (19 of 1923), and any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act.

In Chief Information Commr. v. High Court of Gujarat, (2020) 4 SCC 702 (para 33 to 35), full bench of hon'ble Supreme Court has held-

33. Section 22 of the RTI Act lays down that the provisions of the RTI Act shall have effect notwithstanding anything inconsistent therewith contained in the Official Secrets Act, 1923, and any other law for the time being in force or in any instrument having effect by virtue of any law other than the RTI Act.

The learned Senior Counsel for the appellant has submitted that since the requirement under Rule 151 of the Gujarat High Court Rules of filing an affidavit stating the grounds for seeking the information is directly contrary to Section 6(2) of the RTI Act and there is direct inconsistency between the provisions of the RTI Act and the Gujarat High Court Rules and in the event of conflict between the provisions of the RTI Act and any other law made by Parliament or a State Legislature or any other authority, the RTI Act must prevail.

34. In the non obstante clause of Section 22 of the RTI Act, three categories have been mentioned:

- (i) the Official Secrets Act, 1923; and
- (ii) any other law for the time being in force; or
- (iii) any instrument having effect by virtue of any law other than this Act.

In case of inconsistency of any law with the provisions of the Right to Information Act, overriding effect has been given to the provisions of the Right to Information Act. Section 31 of the RTI Act which is a repealing clause repeals only the Freedom of Information Act, 2002 and not other laws. The Right to Information Act has not repealed the Official Secrets Act or any of the laws providing confidentiality which prohibits the authorities to disclose information. Therefore, all those enactments including Official Secrets Act, 1923 continue to be in force. This Act however, has an overriding effect to the extent they are inconsistent.

35. The non obstante clause of the RTI Act does not mean an implied repeal of the High Court Rules and orders framed under Article 225 of the Constitution of India; but only has an overriding effect in case of inconsistency. A special enactment or rule cannot be held to be overridden by a later general enactment simply because the latter opens up with a non obstante clause, unless there is clear inconsistency between the two legislations.

BAR OF JURISDICTION OF COURTS [Sec. 23]

No court shall entertain any suit, application or other proceeding in respect of any order made under this Act and no such order shall be called in question otherwise than by way of an appeal under this Act.

ACT NOT TO APPLY IN CERTAIN ORGANISATIONS [Sec. 24]

(1) Nothing contained in this Act shall apply to the intelligence and security organisations specified in the Second Schedule, being organisations established by the Central Government or any information furnished by such organisations to that Government:

Provided that the information pertaining to the allegations of corruption and human rights violations shall not be excluded under this sub-section:

Provided further that in the case of information sought for is in respect of allegations of violation of human rights, the information shall only be provided after the approval of the Central Information Commission, and notwithstanding anything contained in section 7, such information shall be provided within forty-five days from the date of the receipt of request.

RULES REGARDING RTI IN THE STATE OF UTTARAKHAND

Various Rules and Regulations formulated by the Central Government, the Government of Uttarakhand and the Uttarakhand High Court to carry out the provisions of the RTI Act, 2005 are enumerated as under :

- (i) The Right to Information Rules, 2012**
- (ii) Uttrakhand RTI Rules, 2013.**
- (iii) The Uttarakhand High Court (Right to Information) Rules, 2009.**
- (iv) Different G.Os. and Notifications issued by Govt. of Uttarakhand.**

THE RIGHT TO INFORMATION RULES, 2012

Ministry of Personal, Public Grievances and Pensions Notification No. G.S.R. 603(E) dated July 31, 2012, in suppression of the Central Information Commission (Appeal Procedure) Rules 2005 and the Right to Information (Regulation of Fee and Cost) Rules 2005

Rule 3. Application Fee - An application under sub-section (1) of section 6 of the Act shall be accompanied by a *fee of rupees ten* and shall *ordinarily not contain more than five hundred words*, excluding annexures, containing address of the Central Public Information Officers and of the applicant :

Provided that no application shall be rejected only on the ground that it contains more than five hundred words.

Rule 4. Fee for providing information – Fee for providing information under sub-section (1) of section 7, the fee shall be charged at the following rates:-

- (a) rupees two for each page in A3 or smaller size paper;
- (b) actual cost or price of a photocopy in larger size paper;

- (c) actual cost or price for samples or models; and
- (d) rupees fifty per diskette or floppy;
- (e) price fixed for a publication or rupees two per page of photocopy for extracts from the publication;
- (f) no fee for inspection of records for the first hour of inspection; and a fee of rupees five for each subsequent hour or fraction thereof.
- (g) so much of postal charges involved in supply of information that exceeds fifty rupees.

THE CENTRAL INFORMATION COMMISSION **(APPEAL PROCEDURE) RULES, 2005**

3. Contents of appeal- An appeal to the Commission shall contain the following information, namely:

- (i) name and address of the appellant;
- (ii) name and address of the Central Public Information Officer against the decision of whom the appeal is preferred;
- (iii) particulars of the order including number, if any, against which the appeal is preferred;
- (iv) brief facts leading to the appeal;
- (v) if the appeal is preferred against deemed refusal, the particulars of the application, including number and date and name and address of the Central Public Information Officer to whom the application was made;
- (vi) prayer or relief sought;
- (vii) grounds for the prayer or relief;

- (viii) verification by the appellant; and
- (ix) any other information which the Commission may deem necessary for deciding the appeal.

7. Personal presence of the appellant or complainant.

- (1) The appellant or the complainant, as the case may be, shall in every case be informed of the date of hearing at least seven clear days before that date.
- (2) The appellant or the complainant, as the case may be, may at his discretion at the time of hearing of the appeal or complaint by the Commission be present in person or through his duly authorised representative or may opt not to be present.
- (3) Where the Commission is satisfied that the circumstances exist due to which the appellant or the complainant, as the case may be, is being prevented from attending the hearing of the Commission, then, the Commission may afford the appellant or the complainant, as the case may be, another opportunity of being heard before a final decision is taken or take any other appropriate action as it may deem fit.
- (4) The appellant or the complainant, as the case may be, may seek the assistance of any person in the process of the appeal while presenting his points and the person representing him may not be a legal practitioner.

THE UTTARAKHAND HIGH COURT
RIGHT TO INFORMATION RULES, 2009

(as amended by notification No. 264/UHC/Admin. B, dated March 29, 2010)

No. 157/UHC/Admn. B--In exercise of the powers conferred under section 28(1) of the Right to Information Act, 2005 and all enabling provisions in that behalf, the Chief Justice of Uttarakhand High Court at Nainital makes the following Rules for carrying out the provisions of the Right to Information Act, 2005.

Rule 1: Short Title Commencement and Application :

- (i) These rules shall be called the Uttarakhand High Court Right to Information Rules, 2009.
- (ii) They shall come into force with effect from the date of publication in the Official Gazette.
- (iii) These Rules *shall be applicable* to the High Court of Uttarakhand and *all the subordinate courts* under its administrative control.

Rule 2 : Definitions: In these Rules, unless the context otherwise requires:

- (a) ‘Act’ means the Right to Information Act, 2005.
- (b) ‘Chief Justice’ means the Chief Justice of the High Court of Uttarakhand.
- (c) ‘State Public Information Officer’ with reference to High Court means such Officer or Authority of the High Court as would be designated by the Chief Justice by a separate order and with reference to Subordinate Court means *such officer or authority as designated by the District Judge by a separate order*.

(d) 'State Assistant Public Information Officer' with reference to Subordinate Court means the officer appointed *at outlying courts by the District Judge* to discharge function under section 5 (2).

(e) 'Subordinate Courts' means and includes all Civil, Criminal and other courts in the State of Uttarakhand, which are subordinate to or under the control and supervision of the High Court.

(f) 'Appellate Authority' with reference to High Court means such officer as may be designated by the Chief Justice by a separate order and the Appellate Authority with reference to Subordinate Courts shall be the District Judge or any Judicial Officer, as *designated by District Judge* by a separate order.

Rule 3. Request for furnishing information :

(i) Any Request for obtaining information shall be made in the prescribed form accompanied with a fee of Rs. 10/- payable through cash, draft or by way of postal order or adhesive Court fee stamps and the complete address of the applicant for communication. The application for information shall be submitted to the State Public Information Officer or to the State Assistant Public Information Officer, as the case may be in the normal office working hours.

(ii) Where information is available in electronic form and is to be supplied or asked in electronic form e.g. floppy, CD etc. then the applicant shall be charged a sum of Rs. 50/- per floppy/CD through cash, draft or by way of postal order or adhesive court fee stamp.

(iii) No fees and charges shall be payable by a person belonging to below poverty line (BPL), provided that such person encloses with the application a certified copy of the below poverty line card or a certificate issued in that behalf by the concerned District Magistrate or the Sub Divisional Officer of the concerned sub division.

Rule 4 : Request for inspection of record :

Application for inspection of the record shall be made in the prescribed form. The fee for inspection of documents or records shall be Rs. 20/- per document for one hour or part of an hour payable through cash, draft or by way of postal order or adhesive court fee stamp :

Provided that the State Public Information Officer shall not entertain any application for inspection of any judicial record which can be inspected under the provisions of Rules of the Court, 1952 and General Rule (Civil/Criminal), as the case may be.

Rule 5 : Procedure regarding inspection of documents :

The applicant shall not cause any hindrance to the office work and shall cooperate with the staff and complete the inspection as soon as possible.

The Applicant shall abide the rules of inspection and shall not use or possess pen, ink or eraser with him.

State Public Information Officer concerned shall have the right to fix the time and date of the inspection according to administrative convenience and his decision shall be final.

Rule 6 : Information shall be provided in the form of certified copies

- (1) Information shall be provided in question answer form certified to be true by the State Public Information Officer and documents or records shall be provided in the form of certified copies, certified to be true by the State Public Information Officer as per the request of the applicant.

- (2) State Public Information Officer shall not be liable to provide any information, which can be obtained under the provision of the Rules of the Court, 1952 in case of High Court and under General Rule (Civil/Criminal) in case of subordinate Courts. Such information may be obtained by adhering to the prescribed procedure and payment of fees prescribed in the Rules of the Court, 1952, or General Rules (Civil/Criminal), as the case may be.

Rule 7 : Register to be maintained :

The State Public Information Officer/State Assistant Public Information Officer shall maintain a register in the format as per the appendix and other records as would required from time to time.

Rule 8 : Appeal :

An appeal under section 19 of the Act may be preferred to the Appellate Authority.

Appendix

Register of Information

Sl. No.	Date of application	Name and address of the party	Purpose of request	Fee paid	Date & time of requisition of record	Date & time of information furnished or inspection made	Date of and time of return of record	Signature of the applicant	Remarks
1	2	3	4	5	6	7	8	9	10

Application Form for Inspection of record
Court fee

To,

The State Public Information Officer/State Assistant

Public Information Officer.....

Please grant me permission to inspect the documents named in the following list, for which I tender herewith the requisite fee of Rs.....

Full description of document of which the inspection is wanted.	Name of the Office or officer/official in whose possession the document is lying.

Dated:

Signature and Full Address of the applicant

Form of Application for information

To,

The State Public Information Officer/

The State Public Assistant Information Officer

.....
Please furnish the following information for which the requisite fees of Rs..... is being paid.

Full particular of the Department/Section to which the document is concerned regarding which the information is required.	Full particular of the document or record regarding which the information sought
--	---

Dated:

Signature and Full address of the Applicant

Brief description of information sought	Information furnished
--	------------------------------

Dated:

Signature of the State Public Information Officer

Seal

IN THE HIGH COURT OF UTTARAKHAND Writ Petition No. 2110 of 2009 Decided On: 12.03.2010 High Court of Uttarakhand Vs. State Information Commissioner and Ors [2011(1)RCR(Civil)375, 2010(1)U.D.360] it has been observed that-

“37. A perusal of the order dated 26.9.2009Learned Counsel for the High Court Sri Arvind Vashisth states that the present appellate authority of the High Court is a judicial officer of the rank of Additional District Judge and it is also possible that in a given situation, the public information officer of the High Court may also be a judicial officer. The order of the Information Commission directing these judicial officers to be present before the Commission in person without there being any plausible explanation for the same is not proper.

GUIDE ON THE RIGHT TO INFORMATION ACT, 2005

No. 1/32/2013-IR

Government of India

Ministry of Personnel, Public Grievances & Pensions

Department of Personnel & Training

.....

North Block, New Delhi

Dated: the 28th November, 2013

OFFICE MEMORANDUM

Subject: Guide on the Right to Information Act, 2005 - updated Version.

Section 26 of the RTI Act requires the Government to compile a guide containing such information, in an easily comprehensible form and manner, as may reasonably be required by a person who wishes to exercise any right specified in the Act. Further, it requires the Government to update the guide at regular intervals. Accordingly an updated Guide on the Act is hereby published online which would help all the stake-holders viz. information seekers in getting information, public information officers in dealing with the RTI applications, first appellate authorities in taking cogent decisions on appeals and the public authorities in implementing various provisions of the Act in right earnest.

(SANDEEP JAIN)

Director

DISCLAIMER

Though all possible care has been taken to ensure accuracy and consistency, in the event of a conflict between the Guide and Government orders/ instructions on the subject, the latter will prevail.

Any information given herein cannot be cited in any dispute or litigation, nor is it a substitute for a legal interpretation/ evidence. The user will be solely responsible for any consequence of the decision taken on the basis of information contained in this Guide.

GUIDE ON RIGHT TO INFORMATION ACT, 2005

The right to information is implicitly guaranteed by the Constitution. However, with a view to set out a practical regime for the citizens to secure information as a matter of right, the Indian Parliament enacted the Right to Information Act, 2005. This law is very comprehensive and covers almost all matters of governance. This Law has a wide reach, being applicable to Government at all levels- Union, State and Local as well as to the recipients of substantial government funds.

2. The present guide is an updated and consolidated guide for the use of all stake- holders. This guide contains five parts. Part I of the guide discusses some aspects of the Act which all the stake-holders are required to know. Rest of the four parts are specifically relevant to the public authorities, the information seekers, the public information officers and the first appellate authorities respectively.

3. Contents of this guide are specifically relevant in relation to the Central Government but are equally applicable to the State Governments except in relation to rules about payment of fee or deciding of appeals by the Information Commissions. It may be noted that this guide uses the term Public Information Officer in place of Central Public Information Officer/State Public Information Officer. Likewise Assistant Public Information Officer has been used for Central Assistant Public

Information Officer/State Assistant Public Information Officer and Information Commission for Central Information Commission/State Information Commission except where it was considered necessary to make specific reference to the Central Public Information Officer/Central Information Commission etc.

Part I

FOR ALL STAKEHOLDERS

Object of the Right to Information Act

4. 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.

What is Information

5. 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.

What is a Public Authority

6. 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.

Public Information Officer

7. Public authorities have designated some of its officers as Public Information Officers. They are responsible to give information to a person who seeks information under the RTI Act.

Assistant Public Information Officer

8. 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.

9. 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. Right to Information under the Act

10. 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.

11. 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.

12. 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.

13. 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.

14. 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.

Right to Information Vis-a-Vis other Acts

15. The RTI Act has over-riding effect vis-à-vis other laws. It implies that if any of the provisions of the RTI Act are not consistent with any other law for the time being in force including the Official Secrets Act, 1923, the provisions of the RTI Act would have effect.

Supply of Information to Associations etc.

16. 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.

Fee for Seeking Information

17. 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.

18. The applicant may also be required to pay further fee towards the cost of providing the information, details of which shall be intimated to the applicant by the PIO as prescribed by the Right to Information Rules, 2012. Rates of fee as prescribed in the Rules are given below:

- (a) rupees two (Rs. 2/-) for each page (in A-3 or smaller size paper) ;
- (b) actual cost or price of a photocopy in larger size paper;
- (c) actual cost or price for samples or models;
- (d) rupees fifty (Rs.50/-) per diskette or floppy; and
- (e) price fixed for a publication or rupees two per page of photocopy for extracts from the publication.
- (f) so much of postal charges involved in supply of information that exceeds fifty rupees.

19. A citizen has a right to inspect the records of a public authority. For inspection of records, the public authority shall charge no fee for the first hour. But a fee of rupees five (Rs.5/-) for each subsequent hour (or fraction thereof) shall be charged.

20. If the applicant belongs to the 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 fee of Rs.10/- 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. It may be pointed out that there is no bar on the public authority to supply information in response to such applications. However, provisions of Act would not apply to such cases.

Format of Application

21. 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.

22. The information seeker is not required to give reasons for seeking information.

Information Exempted From Disclosure

23. Sub-section (1) of section 8 and section 9 of the Act enumerate the types of information which is exempt from disclosure. Sub-section (2) of section 8, however, provides that information exempted under sub-section (1) or exempted under the Official Secrets Act, 1923 can be disclosed if public interest in disclosure overweighs the harm to the protected interests.

24. The information which, in normal course, is exempt from disclosure under sub-section (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.

Record Retention Schedule and the Act

25. 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.

Assistance Available to the Applicant

26. 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.

Time Period for Supply of Information

27. In normal course, information to an applicant shall be supplied within 30 days from the receipt of application by the public authority. If information sought concerns the life or liberty of a person, it shall be supplied within 48 hours. Further details in this regard are given in part IV viz. 'For the Public Information Officers.'

Appeals

28. If an applicant is not supplied information within the prescribed time of thirty days or 48 hours, as the case may be, or is not satisfied with the information furnished to him, he may prefer an appeal to the first appellate

authority who is an officer senior in rank to the Public Information Officer. Such an appeal should be filed within a period of thirty days from the date on which the limit of 30 days of supply of information is expired or from the date on which the information or decision of the Public Information Officer is received. The appellate authority of the public authority shall dispose of the appeal within a period of thirty days or in exceptional cases within 45 days of the receipt of the appeal.

29. If the first appellate authority fails to pass an order on the appeal within the prescribed period or if the appellant is not satisfied with the order of the first appellate authority, he may prefer a second appeal with the Information Commission within ninety days from the date on which the decision should have been made by the first appellate authority or was actually received by the appellant.

Complaints

30. If any person is unable to submit a request to a Public Information Officer either by reason that such an officer has not been appointed by the concerned public authority; or the Assistant Public Information Officer has refused to accept his or her application or appeal for forwarding the same to the Public Information Officer or the appellate authority, as the case may be; or he has been refused access to any information requested by him under the RTI Act; or he has not been given a response to a request for information within the time limit specified in the Act; or he has been required to pay an amount of fee which he considers unreasonable; or he believes that he has been given incomplete, misleading or false information, he can make a complaint to the Information Commission.

Third Party Information

31. Third party in relation to the Act means a person other than the citizen making a request for information. The definition of third party includes a

public authority other than the public authority to which the request has been made.

Disclosure of Third Party Information

32. Information including commercial confidence, trade secrets or intellectual property, the disclosure of which would harm the competitive position of a third party, is exempt from disclosure. Such information should not be disclosed unless the competent authority is satisfied that larger public interest warrants the disclosure of such information.

33. In regard to a third party information which the third party has treated as confidential, the Public Information Officer should follow the procedure as given in part IV viz. **‘FOR PUBLIC INFORMATION OFFICERS’**. The third party should be given full opportunity to put his case for non-disclosure if he desires that the information should not be disclosed.

RTI ONLINE

34. Department of Personnel & Training has launched a web portal namely RTI online with URL www.rtionline.gov.in for all Central Ministries/Departments. This is a facility for the Indian citizens to file RTI applications and first appeals online to all Central Ministries/Departments. The prescribed RTI fees can also be paid online. Reply to the RTI applications and first appeals received online can also be given online by the respective PIOs/FAAs.

Compilation of OMs and notifications on RTI

35. Department of Personnel and Training has launched an online compilation of its Office Memorandums and Notifications on Right to Information Act, 2005, with topic based search facility. This compilation is available on the website of the Department namely www.persmin.nic.in and is beneficial to all the stake holders.

Part II

FOR PUBLIC AUTHORITIES

Public authorities are the repository of information which the citizens have a right to access under the Right to Information Act, 2005. The Act casts important obligations on public authorities so as to facilitate the citizens of the country to access the information held under their control.

Maintenance and Computerisation of Records

2. Proper management of records is of utmost importance for effective implementation of the provisions of the Act. A public authority should, therefore, maintain all its records properly. It should ensure that the records are duly catalogued and indexed in such a manner and form that it may facilitate the right to information.

Suo Motu Disclosure

3. Every public authority should provide as much information suo motu to the public through various means of communications so that the public have minimum need to use the Act to obtain information. Internet being one of the most effective means of communication, the information may be posted on the website.

4. Section 4(1)(b) of the Act, in particular, requires every public authority to publish following sixteen categories of information:

- (i) the particulars of its organisation, functions and duties;
- (ii) the powers and duties of its officers and employees;
- (iii) the procedure followed in the decision making process, including channels of supervision and accountability;
- (iv) the norms set by it for the discharge of its functions;

- (v) the rules, regulations, instructions, manuals and records, held by it or under its control or used by its employees for discharging its functions;
- (vi) a statement of the categories of documents that are held by it or under its control;
- (vii) the particulars of any arrangement that exists for consultation with, or representation by, the members of the public in relation to the formulation of its policy or implementation thereof;
- (viii) a statement of the boards, councils, committees and other bodies consisting of two or more persons constituted as its part or for the purpose of its advice, and as to whether meetings of those boards, councils, committees and other bodies are open to the public, or the minutes of such meetings are accessible for public;
- (ix) directory of its officers and employees;
- (x) the monthly remuneration received by each of its officers and employees, including the system of compensation as provided in its regulations;
- (xi) the budget allocated to each of its agency, indicating the particulars of all plans, proposed expenditures and reports on disbursements made;
- (xii) the manner of execution of subsidy programmes, including the amounts allocated and the details of beneficiaries of such programmes;
- (xiii) particulars of recipients of concessions, permits or authorisations granted by it;
- (xiv) details in respect of the information, available to or held by it, reduced in an electronic form;

(xv) the particulars of facilities available to citizens for obtaining information, including the working hours of a library or reading room, if maintained for public use;

(xvi) the names, designations and other particulars of the Public Information Officers.

5. Besides the categories of information enumerated above, the Government has issued guidelines that the following categories of information may be published by the public authorities:

- i. Information relating to procurement
- ii. Public Private Partnerships
- iii. Transfer Policy and Transfer Orders
- iv. RTI Applications
- v. CAG & PAC paras
- vi. Citizens Charter
- vii. Discretionary and Non-discretionary grants
- viii. Foreign Tours of PM/Ministers and senior officers

6. In addition, the Government may prescribe other categories of information to be published by any public authority. It need be stressed that publication of the information as referred to above is not optional. It is a statutory requirement which every public authority is bound to meet.

7. Proactive disclosure should be done in the local language so that it remains accessible to public. It should be presented in a form that is easily understood and if technical words are used they should be carefully explained. As provided in section 4, disclosure should be made in as many

mediums as feasible such as notice boards, newspapers, public announcements, media broadcast, the internet or any other means. The disclosures should be kept up to date. The disclosure of Information may be made keeping in mind the provisions of Section 8 to 11 of the RTI Act.

8. Every public authority should keep in view that Proactive disclosures on its website are complete, easily accessible, technology and platform neutral and in a form which conveys the desired information in an effective and user-friendly manner.

9. Each Central Ministry/ Public Authority should get its proactive disclosure package audited by third party every year. Such audit should be communicated to the Central Information Commission annually through publication on their own websites. All Public Authorities should proactively disclose the names of the third party auditors on their website. For carrying out third party audit through outside consultants also, Ministries/Public Authorities should utilize their plan/non-plan funds.

10. Each Central Ministry/ Public Authority should appoint a senior officer not below the rank of a Joint Secretary and not below rank of Additional HOD in case of attached offices for ensuring compliance with the proactive disclosure guidelines. Designation of PIOs and APIOs etc.

11. Every public authority is required to designate Public Information Officers in all the administrative units or offices under it. Every public authority is also required to designate Assistant Public Information Officers at each sub-divisional level. The Government of India has decided that Central Assistant Public Information Officers (CAPIOs) appointed by the Department of Posts would act as CAPIOs for all the public authorities under the Government of India.

Designation of Appellate Authority

12. Sub-section (8) of Section 7 of the RTI Act provides that where a request for information is rejected, the Public Information Officer shall, inter-alia, communicate the particulars of the Appellate Authority to the person making the request. Thus, the applicant is informed about the particulars of the Appellate Authority when a request for information is rejected but there may be cases where the Public Information Officer does not reject the application, but the applicant does not receive a decision within the time as specified in the Act or he is aggrieved by the decision of the Public Information Officer. In such a case the applicant may like to exercise his right to appeal. But in absence of the particulars of the appellate authority, the applicant may face difficulty in making an appeal. All the public authorities should also designate the First Appellate Authorities and publish their particulars alongwith the particulars of the Public Information Officers.

Acceptance of Fee

13. According to the Right to Information Rules, 2012, an applicant can make payment of fee in cash to the public authority or CAPIO or by demand draft or banker's cheque or Indian Postal Order payable to the Accounts Officer of the public authority.

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. The public authority should ensure that payment by any of the above modes is not denied or the applicant is not compelled to draw IPO etc. in the name of any officer other than the Accounts Officer. If any public authority does not have any Accounts Officer, it should designate an officer as such for the purpose of receiving fee under the RTI Act and Rules made thereunder.

Compliance of the Orders of the Information Commission

14. The decisions of the Commission are binding. The public authority should ensure that the orders passed by the Commission are implemented. If any public authority or a PIO is of the view that an order of the Commission is not in consonance with the provisions of the Act, it may approach the High Court by way of a Writ Petition.

Creation of RTI Cell

15. Sub-section (1) of Section 5 of the Right to Information Act, 2005 mandates all public authorities to designate as many Public Information Officers as necessary to provide information under the Act. Where a public authority designates more than one Public Information Officer (PIO), an applicant is likely to face difficulty in approaching the appropriate Public Information Officer. The applicants would also face problem in identifying the officer senior in rank to the Public Information Officer to whom an appeal under sub-section (1) of Section 19 of the Act can be made. Therefore all public authorities with more than one PIO should create a RTI Cell within the organisation to receive all the RTI applications and first appeals and to route them to the concerned PIOs/FAAs. Detailed instructions regarding setting up of RTI Cell, its functions and financial assistance in setting up RTI Cell have been issued by the Department.

Transfer of Applications

16. The Act provides that if an application is made to a public authority requesting for an information, which is held by another public authority; or the subject matter of which is more closely connected with the functions of another public authority, the public authority, to which such application is made, shall transfer the application or relevant part of it to that other public authority within five days from the receipt of the

application. The public authority should sensitize its officers about this provision of the Act lest the public authority is held responsible for delay.

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.

Annual Report of the CIC

19. The Information Commissions, after the end of each year, are required to prepare reports on the implementation of the provisions of the Act during that year. Each Ministry or Department is required, in relation to the public authorities within its jurisdiction, to collect and provide information to the concerned Information Commission for preparation of

the report. The report of the Commission, inter-alia, contains following information in respect of the year to which the report relates—

- (a) the number of requests made to each public authority;
- (b) the number of decisions where applicants were not entitled to access to the documents pursuant to the requests, the provisions of the Act under which these decisions were made and the number of times such provisions were invoked;
- (c) particulars of any disciplinary action taken against any officer in respect of the administration of the Act;
- (e) the amount of charges collected by each public authority under the Act; and
- (f) any facts which indicate an effort by the public authorities to administer and implement the spirit and intention of the Act.

20. Every public authority should send necessary material to its administrative Ministry/Department soon after the end of the year so that the Ministry/Department may send the information to the Commission and the Commission may incorporate the same in its report. For this purpose, a web based software called “RTI Annual Report Information System” is available on the website of CIC namely ***www.cic.gov.in*** through which public authorities are required to upload requisite reports on quarterly basis. It is important that all public authorities should get themselves registered with CIC for the purpose of this report and also upload their quarterly returns regularly and on time.

21. If it appears to the Information Commission that a practice of a public authority in relation to the exercise of its functions under the Act does not conform with the provisions or spirit of the Act, it may give a recommendation to the authority specifying the steps ought to be taken for

promoting such conformity. The concerned public authority should take necessary action to bring its practice in conformity with the Act.

Part III

FOR INFORMATION SEEKERS

Method of Seeking Information

A citizen, who desires to obtain any information under the Act, should make an application to the Public Information Officer of the concerned public authority in writing in English or Hindi or in the official language of the area in which the application is made. The application should be precise and specific. He should make payment of application fee at the time of submitting the application as prescribed in the RTI Rules, 2012. The applicant can send the application by post or through electronic means or can deliver it personally in the office of the public authority. The application can also be sent through an Assistant Public Information Officer.

Application to the concerned Public Authority

2. 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.
3. 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.

Fee for Seeking Information

4. Along with the application, the applicant should send application fee to the Public Information Officer. In case of Government of India, the prescribed application fee is Rs. 10/- which can be paid through a demand draft or a banker's cheque or an Indian Postal Order payable to the Accounts Officer of the public authority. The payment of fee can also be made by way of cash to the public authority or to the Assistant Public Information Officer against proper receipt. In case of online applications to Central Ministries/departments, fee can be paid online through internet banking of State Bank of India or through Master/Visa credit/debit cards.

5. The applicant may also be required to pay further fee towards the cost of providing the information, details of which shall be intimated to the applicant by the Public Information Officer. The fee so demanded can be paid the same way as application fee.

6. 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.

Format of Application

7. There is no prescribed format of application for seeking information. The application can be made on a 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.

Filing of Appeal

8. An applicant can file an appeal to the first appellate authority if the information is not supplied to him within the prescribed time of thirty days or 48 hours, as the case may be, or is not satisfied with the information furnished to him. Such an appeal should be filed within a period of thirty days from the date on which the limit of 30 days of supply of information is expired or from the date on which the information or decision of the Public Information Officer is received. The first appellate authority of the public authority shall dispose of the appeal within a period of thirty days or in exceptional cases within 45 days of the receipt of the appeal.

9. If the first appellate authority fails to pass an order on the appeal within the prescribed period or if the appellant is not satisfied with the order of the first appellate authority, he may prefer a second appeal with the Information Commission within ninety days from the date on which the decision should have been made by the first appellate authority or was actually received by the appellant.

10. The appeal made to the Central Information Commission should contain the following information: -

- (i) Name and address of the appellant;
- (ii) Name and address of the Public Information Officer to whom the application was addressed;
- (iii) Name and address of the Public Information Officer who gave reply to the application;
- (iv) Name and address of the First Appellate Authority who decided the first appeal;

- (v) Particulars of the application;
- (vi) Particulars of the order including number, if any, against which the appeal is preferred;
- (vii) Brief facts leading to the appeal;
- (viii) Prayer or relief sought;
- (ix) Grounds for prayer or relief;
- (x) Any other information relevant to the appeal;
- (xi) Verification/authentication by the appellant.

11. The appeal made to the Central Information Commission should be accompanied by the following documents, duly authenticated and verified by the appellant, namely:

- (i) a copy of the application submitted to the CPIO;
- (ii) a copy of the reply received, if any , from the CPIO;
- (iii) a copy of the appeal made to the FAA;
- (iv) a copy of the order received, if any, from the FAA;
- (v) Copies of other documents relied upon by the appellant and referred to in his appeal; and
- (vi) an index of the documents referred to in the appeal.

Filing of Complaints

12. A person can make a complaint to the Information Commission if he is unable to submit a request to a Public Information Officer either by reason that such an officer has not been appointed by the concerned public

authority; or the Assistant Public Information Officer has refused to accept his or her application or appeal for forwarding the same to the Public Information Officer or the appellate authority, as the case may be; or he has been refused access to any information requested by him under the RTI Act; or he has not been given a response to a request for information within the time limit specified in the Act; or he has been required to pay an amount of fee which he considers unreasonable; or he believes that he has been given incomplete, misleading or false information.

Part IV

FOR PUBLIC INFORMATION OFFICERS

The Public Information Officer of a public authority plays a pivotal role in making the right of citizens to information a reality. The Act casts specific duties on him and makes him liable for penalty in case of default. It is, therefore, essential for a Public Information Officer to study the Act carefully and understand its provisions correctly. Besides the issues discussed elsewhere in this document, a Public Information Officer should keep the following aspects in view while dealing with the applications under the Act.

Applications Received Without Fee

2. 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.

3. 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.

Rendering Assistance to Applicants

4. The RTI Act provides that the Public Information Officer has a duty to render reasonable assistance to the persons seeking information. As per provisions of the Act, a person, who desires to obtain any information is required to 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 made. If a person seeking information is not able to make such request in writing, the Public Information Officer should render reasonable assistance to him to reduce the same in writing.

5. Where access to a record is required to be provided to a sensorily disabled person, the Public Information Officer should provide assistance to such person to enable him to access the information. He should also provide such assistance to the person as may be appropriate for the inspection of records where such inspection is involved.

Assistance Available to PIO

6. 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.

7. 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.

Supply of Information

8. The answering Public Information Officer should check whether the information sought or a part thereof is exempt from disclosure under Section 8 or Section 9 of the Act. Request in respect of the part of the application which is so exempt may be rejected and rest of the information should be provided immediately or after receipt of additional fees, as the case may be.

9. 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) the period within which an appeal against such rejection may be preferred; and
- (iii) the particulars of the authority to whom an appeal can be made.

10. If additional fee is required to be paid by the applicant as provided in the Fee and Cost Rules, the Public Information Officer should inform the applicant:

- (i) the details of further fees required to be paid;
- (ii) the calculations made to arrive at the amount of fees asked for;
- (iii) the fact that the applicant has a right to make appeal about the amount of fees so demanded;
- (iv) the particulars of the authority to whom such an appeal can be made; and
- (v) the time limit within which the appeal can be made.

11. Though there is no hard and fast rule as to when exactly intimation about additional fees is to be given to the applicant, such intimation should be given soon after receipt of RTI application. Supply of Part Information by Severance

12. 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.

Time Period for Supply of Information

13. The following table shows the maximum time (from the receipt of application) which may be taken to dispose off the applications in different situations:

Sr. No.	Situation	Time limit for disposing off applications
1.	Supply of information in normal course	30 days
2.	Supply of information if the application is received through APIO.	05 days shall be added to the time period indicated at Sr. No. 1
3.	Supply of information if it concerns the life or liberty of a person	48 hours
4.	Transfer of application to other public authority under section 6(3) of the Act	05 days
5.	Supply of information if application/request is received after transfer from another public authority: (a) In normal course	(a) Within 30 days of the receipt of the application by the concerned public

	(b) In case the information concerns the life or liberty of a person.	authority. (b) Within 48 hours of receipt of the application by the concerned public authority.
6.	Supply of information where the applicant is asked to pay additional fee.	The period intervening between informing the applicant about additional fee and the receipt of such fee by the public authority shall be excluded for calculating the period of reply.
7.	Supply of information by organizations specified in the Second Schedule: (a) If information relates to allegations of violation of human rights (after approval of the Central Information Commission) (b) In case information relates to allegations of corruption.	(a) 45 days from the receipt of application. (b) Within 30 days of the receipt of application.

14. If the Public Information Officer fails to give decision on the request for information within the prescribed period, he shall be deemed to have refused the request. It is pertinent to note that if a public authority fails to comply with the specified time limit, the information to the concerned applicant would have to be provided free of charge.

Disclosure of Third Party Information

15. Information including commercial confidence, trade secrets or intellectual property, the disclosure of which would harm the competitive

position of a third party, is exempt from disclosure. Such information shall not be disclosed unless the competent authority is satisfied that larger public interest warrants the disclosure of such information.

16. 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.

17. 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.

18. 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.

19. 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.

20. 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.

Imposition of Penalty

21. An applicant under the Act has a right to appeal to the Information Commission and also to make complaint to the Commission. Where the Information Commission at the time of deciding any complaint or appeal is of the opinion that the Public Information Officer has without any reasonable cause, refused to receive an application for information or has not furnished information within the time specified or malafidely denied the request for information or knowingly given incorrect, incomplete or misleading information or destroyed information which was the subject of the request or obstructed in any manner in furnishing the information, it shall impose a penalty of two hundred and fifty rupees each day till application is received or information is furnished subject to the condition that the total amount of such penalty shall not exceed twenty- five thousand rupees. The Public Information Officer shall, however, be given a reasonable opportunity of being heard before any penalty is imposed on him. The burden of proving that he acted reasonably and diligently and in case of denial of a request that such denial was justified shall be on the Public Information Officer.

Disciplinary Action Against PIO

22. Where the Information Commission at the time of deciding any complaint or appeal is of the opinion that the Public Information Officer

has without any reasonable cause and persistently, failed to receive an application for information or has not furnished information within the time specified or malafidely denied the request for information or knowingly given incorrect, incomplete or misleading information or destroyed information which was the subject of the request or obstructed in any manner in furnishing the information, it may recommend disciplinary action against the Public Information Officer.

Protection for Work Done in Good Faith

23. Section 21 of the Act provides that 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 the Act or any rule made thereunder. A Public Information Officer should, however, note that it would be his responsibility to prove that his action was in good faith.

Part V

FOR FIRST APPELLATE AUTHORITIES

The first Appellate Authority has a very important role under the RTI Act, 2005. The independent and judicious examination of appeals by the First Appellate Authorities would lead to higher satisfaction to the appellants. This would, in turn, result in less number of second appeals to the Information Commission.

2. The information sought by an applicant should either be supplied to him by the Public Information Officer or his application should be rejected within the time prescribed under the Act. If additional fee need be charged from the applicant, timely communication in this regard should be sent to him.

First Appeal

3. If the applicant does not receive information or decision about rejection of request or communication about payment of additional fee within the specified time, he can make an appeal to the First Appellate Authority. Appeal can also be made if the applicant is aggrieved by the decision of the Public Information Officer regarding supply of information or the quantum of fee decided by the Public Information Officer. The applicant may prefer the first appeal within thirty days from the expiry of such period or from the receipt of such a decision of the Public Information Officer.

4. The First Appellate Authority may admit the appeal after expiry of the period of thirty days if he or she is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

5. A third party can also prefer an appeal to the First Appellate Authority against the order of the Public Information Officer to disclose third party information. Such an appeal shall be made within thirty days from the date of the order.

Disposal of Appeal

6. While disposing off first appeals, the first Appellate Authorities should act in a fair and judicious manner. It is very important that the order passed by the first appellate authority should be a detailed and speaking order, giving justification for the decision arrived at.

7. If an appellate authority while deciding an appeal comes to a conclusion that the appellant should be supplied information in addition to what has been supplied by the Public Information Officer, he may either (i) pass an order directing the Public Information Officer to give such information to the appellant; or (ii) he himself may give information to the appellant. In

the first case the appellate authority should ensure that the information ordered by him to be supplied is supplied to the appellant immediately. It would, however, be better if the appellate authority chooses the second course of action and he himself furnishes the information alongwith the order passed by him in the matter.

8. If, in any case, the Public Information Officer does not implement the order passed by the appellate authority and the appellate authority feels that intervention of higher authority is required to get his order implemented, he should bring the matter to the notice of the officer in the public authority competent to take action against the Public Information Officer. Such competent officer shall take necessary action so as to ensure implementation of the provisions of the RTI Act.

Time limit for disposal of appeal

9. The first appellate authority should dispose off the appeal within 30 days of receipt of the appeal. In some exceptional cases, the Appellate Authority may take 45 days for its disposal. However, in such cases, the Appellate Authority should record, in writing, the reasons for not deciding the appeal within 30 days.

DIRECTIONS ISSUED BY HON'BLE SUPREME COURT OF INDIA
FOR THE BETTER FUNCTIONING OF THE STATE
INFORMATION COMMISSIONS UNDER THE RIGHT TO
INFORMATION ACT, 2005 IN

Kishan Chand Jain

Versus

Union of India & Ors

[2023 INSC 915]

“23. In view of the above discussion, we are of the considered view that access to the Information Commissions is integral to securing the right to information, which is a necessary concomitant of right to equality under Article 14, the freedom of speech and expression under Article 19(1)(a) of the Constitution, and the right to life under Article 21. Accordingly, we direct that all SICs across the country must provide hybrid modes of hearing to all litigants for the hearing of complaints as well as appeals. All SICs must provide an option for availing of a hybrid mode of hearing which shall be at the discretion of the applicant, or as the case may be, the appellant. The links for availing of the option must be stipulated in the daily cause list of the Information Commissions across the country. This shall be operationalized no later than by 31 December 2023.

24. That apart, there can be no gainsaying the fact that e-filing provides round the clock access to courts, and in the process, facilitates the convenience of lawyers and litigants.¹⁸ We direct that all SICs must

ensure that e-filing of complaints and appeals is provided in a streamlined manner to every litigant. Steps should also be taken having regard to the provisions of Section 26 of the RTI Act to ensure that service is effected on the Public Information Officers through the electronic mode. This shall also be implemented by 31 december 2023.

25. All Central and State Ministries shall take steps within a period of one month from the date of this order to compile the email addresses of the Central and State Public Information Officers which shall be furnished to the CIC and to all the SICs, as the case may be.

26. In order to facilitate the implementation of this order, we direct that the Secretary, Department of Personnel and Training shall convene a meeting of all the Central and State Information Commissioners within a period of one month from the date of this order. Comprehensive modalities for the implementation of the above directions shall be set up.

27. All the State Governments shall cooperate in the implementation of the order. The State Governments shall, where funds are required, ensure provision of necessary funds to all the SICs for setting up the infrastructure for conducting virtual hearings. The CIC and SICs would be at liberty to avail of the facilities which have been provided by the NIC for setting up the websites on the S3 WAS Platform which provides for ease of access in the electronic mode.

28. We are hopeful that with the fulfilment of the above directions, the implementation of the RTI Act would be streamlined to facilitate access to justice and information to citizens.

29. The writ petition is accordingly disposed of.”

IMPORTANT JUDGMENTS
ON
RIGHT TO INFORMATION ACT ,2005

1. Chargesheets and final reports not equivalent to FIRs can't be published on State Websites for public access.

- Saurav Das v. Union of India
2023 SCC Online SC 58

2. All collegium discussions can't be in public domain; only final decisions are to be uploaded on SC website .

- Anjali Bhardwaj v. CPIO, Supreme Court of India (RTI Cell)
2022 SCC Online SC 1698

3. Right to Information vis-a-vis Right to Privacy; SC invokes doctrine of ex debito justitiae to hear HDFC's plea challenging RBI directions mandating disclosure of confidential & sensitive information.

- HDFC Bank Ltd. v. Union of India
2022 SCC Online SC 1337

4. Fraudulent Trading| SEBI must disclose all relevant material, including Investigation Report to notice except certain sensitive information.

- T. Takano v. SEBI

2022 SCC Online SC 210

5. Information held on the judicial side of the Court cannot be accessed under the RTI Act regime.

- Chief Information Commissioner v. High Court of Gujarat
(2020) 4 SCC 702

6. Information regarding the appointment SC & HC judges is 'third party information', compliance of S. 11 (1) RTI Act is must.

- Supreme Court of India v. Subhash Chandra Agarwal
(2020) 5 SCC 481

7. NGO/ Society/ Institution neither owned or controlled by Government nor created by an Act or notification is public authority if financed directly or indirectly by Government.

- DAV College Trust and Managing Society v Director of Public Instructions
(2019) 9 SCC 185

8. [Rafale Deal] Exemption under S. 8 RTI can be waived when public interest outweighs the harm to protected interest; Hon'ble Supreme Court allowed admissibility of leaked documents.

- Yashwant Sinha v. CBI
(2019) 6 SCC 1

9. Delhi High Court | Disclosure of reports and dossiers relating to terrorist's act under investigation is barred by RTI Act.

- Ehtesham Qutubuddin Siddiqui v CPIO
[W.P.(C) 9773/2018 – Decided on 16.01.2019]

10. 'A' diary of civil & criminal proceedings cannot be obtained by filing RTI; Kerala HC upholds constitutional validity of Rule 12 of RTI (Subordinate Courts and Tribunals) Rules, 2006.

- M.P. Chothy v. Registrar General, High Court of Kerala
[WP(C) No. 23224 of 2022 – Decided on 20.07.2022]
