

Right to Information [RTI Act] – An Introduction

The right to information has been recognised' as a fundamental human right, which upholds the inherent dignity of all human beings. The right to information forms the crucial underpinning of participatory democracy – it is essential to ensure accountability and good governance. Right to Information [RTI] Act is a vital step towards attainment of good governance.



The greater the access of the citizen to information, the greater will be the responsiveness of government to community needs. Alternatively, the greater the restrictions that are placed on access, the greater the feelings of 'powerlessness' and 'alienation'. Without information, people cannot adequately exercise their rights as citizens or make informed choices.

Key Provisions of Right to Information Act 2005 [RTI Act]

Objectives of the Act

- To set out a practical regime of right to information
- To secure access to information under the control of public authorities.
- To promote transparency and accountability in the working of every public authority
- To constitute the Central and the State Information Commissions
- To contain corruption and to hold government and its instrumentalities accountable to the governed.
- To preserve the confidentiality of sensitive information.
- To uphold the democratic ideals with an informed citizenry and transparency of information.

What type of information may be obtained under the RTI Act?

The type of information which may be obtained is defined under section 2 (f) of the Act as any material in any form, including records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, log books, 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.

Who can seek information under the Right to Information Act, 2005 [RTI Act]?

As per section 3 of the RTI Act **any Indian citizen** can seek information under the Act.

Who all will come under the definition of “public authority” under the RTI Act?

Any authority or body or institutions of self-government established or constituted

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2. By law made by Parliament or State Legislature.
3. All bodies notified by the Central or State government including those bodies owned,

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3. All bodies notified by the Central or State government including those bodies owned, controlled or substantially financed and NGOs that are substantially financed by the government [directly or indirectly]

What are the obligations of Public Authorities under the RTI Act?

1. They shall maintain all its records duly catalogued and indexed to easy access of information.
2. They must ensure that all records that are appropriate to be computerised and within a reasonable time and subject to availability of resources be digitized.
3. Every public authority must designate an officer as **Central Public Information Officer / State Public Information Officer** as the case may be in all administrative units and offices. Also designate Assistant PIOs as required.

4. They have to publish all the particulars of its organisation, functions, duties, powers and duties of its officers, procedure followed in decision-making, statement of categories of documents held under its control, a directory of its officers and employees, budget allocated to each of its agency, details of monthly remuneration received by its officers, the manner of execution of its subsidy programmes, details of beneficiaries of subsidies, particulars of permits, concessions and authorisations granted by it, names and designation of PIOs etc in local languages and the most effective method of communication.

Can any information be exempted from disclosure under the RTI Act?

Section 8 of the Right to Information Act deals with those information that are exempted from disclosure.

1. Any 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;

2. Any 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;
3. Any information, the disclosure of which would cause a breach of privilege of Parliament or the State Legislature;
4. Any 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;*
5. Any 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;*
6. Any information received in confidence from foreign Government;
7. Any information, the disclosure of which would endanger the life or physical safety of any person

8. Any information which would impede the process of investigation or apprehension or prosecution of offenders;
9. Cabinet papers including records of deliberations of the Council of Ministers, Secretaries and other officers;
10. Any 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 it is satisfied that the larger public interest justifies the disclosure of such information:*

Section 8 comes with another clause that provides a general exception to all the above exempted information. In Section 8(2) of the Act, it is stated that irrespective of provisions in Official Secrets Act, 1923 or what is contained in Section 8, **a**

public authority may allow access to information, if public interest in disclosure outweighs the harm to the protected interests.

What are the bodies constituted under the RTI Act?

Central Information Commission : Constitution and Powers

Central Information Commission consisting of the Chief Information Commissioner and other Central Information Commissioners not exceeding ten in number.

They shall be appointed by the President on recommendation of a Committee consisting of the PM, Leader of Opposition and a Union Cabinet Minister nominated by PM.

The Chief Information Commissioner and information Commissioners shall be persons of eminence in public life with wide knowledge and experience in law, science and technology, social service, management, journalism, mass media or administration and governance. They shall hold office for a term of five years from the date on which he/she enters upon his office and shall not be eligible for reappointment.

They can be removed from office by the President on the grounds of proved misbehaviour or incapacity and as the same manner as UPSC Chairman or members are removed.

State Information Commission too have the above said powers under the Act with respect to public authorities in a State.

State Information Commission : Constitution

State Information Commission consisting of the Chief Information Commissioner and other Information Commissioners not exceeding ten in number.

They shall be appointed by the Governor on recommendation of a Committee consisting of the Chief Minister , Leader of Opposition and a Cabinet Minister nominated by CM.

The Chief Information Commissioner and information Commissioners shall be persons of eminence in public life with wide knowledge and experience in law, science and technology, social service, management, journalism, mass media or administration and governance. They shall hold office for a term of five years from the date on which he/she enters upon his office and shall not be eligible for reappointment.

Does the Act provide for any penalties under the RTI Act?

The Central Information Commission and the State Information Commission can impose a penalty of Rs 250/- each day till application is received or information is furnished and a maximum of Rs 25000/- , if the concerned PIO has refused the information or gave wrong information without any reasonable cause.

Are there any public authorities exempt from providing information under the RTI Act?

Yes, intelligence and security organizations specified in the Second Schedule to the Act are exempt from furnishing information under the Act.

However, this exemption does not apply if the requested information pertains to the allegations of corruption and human rights violations.

The last article in the series will give you insights upon the key recommendations of Second Administrative Commission on the valuable right of information and its implementation.

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 Fee Rules. 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 concerned public authority. It is advised that he should make all efforts to ascertain as to which is the public authority concerned with the information and should send application to the Public Information Officer of that public authority.
3. It is observed that some applicants seek information in respect of many subjects by way of one application. It creates problem for the Public Information Officer as well as the applicant. The applicant should, therefore, see to it that by way of one application, he seeks information in respect of one subject only.

Fee for Seeking Information

4. The applicant, along with the application, should send application fee to the Public Information Officer. In case of Government of India 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 Accounts Officer of the public authority or to the Assistant Public Information Officer against proper receipt.
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 to belong to the below poverty line. The application not accompanied by the prescribed application fee or proof of the applicant's belonging to below poverty line, 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 plain paper. The application should, however, have the name and complete postal address of the applicant. Even in cases where the information is sought electronically, the application should contain name and postal address of the applicant.

Filing of Appeal

8. An applicant can file an appeal to the first appellate authority if 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 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 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 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, particulars of the application, including number and date and name and address of the Public Information Officer to whom the application was made;
 - (vi) prayer or relief sought;
 - (v) grounds for prayer or relief;
 - (vi) verification by the appellant; and
 - (vii) any other information, which the Commission may deem necessary for deciding the appeal.
11. The appeal made to the Central Information Commission should be accompanied by the following documents:
 - (i) self-attested copies of the orders or documents against which appeal is made;
 - (ii) copies of the documents relied upon by the appellant and referred to in the appeal; and
 - (iii) 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.

The Right to Information Act

The Right to Information Act passed in 2005 extends to all states and union territories of India excepting the state of Jammu and Kashmir. This act gives Indian citizens the right to access information about any public authority or institution, including non-government organizations substantially funded by the government.

The main aims of the RTI act are to provide clarity of information to the citizens of India, to contain corruption and to promote accountability in the working of every public authority.

What is Information According to RTI?

"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." [S.2(f)]

What Does Right to Information Mean?

This includes the right to:

- i. inspect works, documents, records.
- ii. take notes, extracts or certified copies of documents or records.
- iii. take certified samples of material.
- iv. obtain information in form of printouts, diskettes, floppies, tapes, video cassettes or in any other electronic mode or through printouts.[S.2(j)]

What Does Public Authority Mean?

It 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 organization substantially financed directly or indirectly by the appropriate government. [S.2(h)]

What are the obligations of public authorities?

Public authorities are to maintain and catalogue records in accordance to the act and ensure that records that are appropriate are computerised within reasonable time and subject to availability of resources.[S.2(a)]

Who are Public Information Officers (PIOs)?

According to this act, Public Information Officers (PIOs) are "to provide information to persons requesting information under this Act." [S.2.(5)(1)]

How do you request for information?

A person can request information in writing or through electronic means in English, Hindi or in the official language of the area in which the application is being made, along with the prescribed application fee [S.6.(1)]. The application can be made to the Central Public Information officer, State Public Information Officer, Central Assistant Public Information Officer, or State Assistant Public Officer depending on the case.

What is the time limit to get information?

- Thirty days from the date of application.
- Forty-eight hours for information concerning the life and liberty of an individual
- An additional five days will be added to the above response time, in case of transfer of application Central Public Information Officer or State Public Information Officer.
- Failure to provide information within the specified period is deemed as a refusal.

What is the fee?

- There is an application fee of Rs.10 but it varies from state to state.
- If further fees are required, the person concerned has to be informed in writing along with calculation details of how the figure was arrived at.
- No fee will be charged to people living below the poverty line.
- Applicants can seek review of the decision on fees charged by the PIO by applying to the appropriate **Appellate (terms to know)**Authority.
- Applicant must be provided information free of cost if the PIO fails to provide information within the prescribed time limit.

Who are Appellate Authorities?

- An Appellate Authority is required to look into complaints made by people regarding
 - inability to submit requests to a Central or State Public Information Officer
 - denial of access to information
 - no response to information within the specified time limit
 - unreasonable fee amount to be paid
 - any other matter relating to requesting or obtaining access to information

- A first appeal can be made to a senior ranked Central Public Information Officer or State Public Information Officer within thirty days from the date of expiry or from receipt of decision. [S.5.(19)(1)]
- Third party appeal against decision made by the Public Information Officer (PIO) must be made within 30 days from date of decision.
- **A second appeal can be made to Central Information Commission or the State Information Commission within “ninety days from the date on which the decision should have been made or was actually received.”** [S.5.(19)(3)]
- The responsibility of proving denial for request lies with the Public Information Officer who denied the request. [S.5.(19)(5)]
- An appeal will be disposed of within 30 days from date of receipt or within an extended period of 15 days. [S.5.(19)(6)]

What are the penalty provisions?

- A penalty of Rs.250 up to a maximum of Rs.25,000 will be issued to any Public Information Officer on the following grounds
 - Refusing to receive an application for information
 - Not furnishing information within the specified time
 - Denying request for information in bad faith
 - Destroying information requested
 - Obstructing access to information.

What are the grounds for rejection?

- An application can be rejected if the disclosure of information
 - affects the sovereignty and integrity of India, the security, strategic, scientific or economic interests of India or would lead to incitement of an offence. [S.2.(8)(a)]
 - is forbidden to be published by any court, tribunal or if disclosure may constitute contempt of court. [S.2.(8)(b)]
 - including information such as trade secrets, commercial confidence, intellectual property. [S.2.(8)(d)]

Importance of the Right to Information Act

- This law empowers people to ask for information about central, state governments including non-governmental organizations which are substantially funded by the government.
- The law gives citizens of India the tools to fight against corruption.
- RTI gives people the right to hold the government and organizations substantially funded by the government accountable
- The Right to Information Act gives citizens the right to ask for information and decide, based on the information received, whether their constitutional rights have been met.
- This law arms individuals with information so that they can advocate for themselves.