

## GUIDANCE DOCUMENT

The Right to Information Act, 2005 empowers citizen to get information from any public authority. The Central Public Information Officer (CPIO) of public authority plays a pivotal role in making the right of citizen to information a reality.

### **What is Information:**

Information is any material in any form. It includes records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, log-books, contracts, reports, papers, samples, models, data material held in electronic form and information relating to any private body which can be accessed by a public authority under other law for the time being in force.

### **Right to Information under the Act :**

- 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 which is held under its control.
- The Act gives the citizen a right to information at par with the Members of Parliament and the Members of State Legislature. According to the Act, the information which cannot be denied to the Parliament or a State Legislature shall not be denied to any person.
- A citizen has a right to obtain information in the form of diskettes, floppies, tapes, video cassettes or any other electronic mode or through print-outs provided such information is already stored in a computer or in any other device from which the information may be transferred to diskettes etc.
- The Act gives the right to information only to the citizens of India. It does not make provision for giving information to Corporations, Associates, Companies etc. Which are legal entities/persons, but not citizens. However, if an application is made by an employee or office-bearer of any Corporations, Association, Company, NGO etc, indicating his name and such employee/office bearer is a citizen of India; information may be supplied to him/her.
- Only such information is required to be supplied under the Act which already exists and is held by the public authority or held under the control of the public authority. The CPIO is not supposed to create information; or interpret information; or to solve the problems raised by the applicants; or to furnish replies to hypothetical questions.

### **Information Exempted from Discloser :-**

- Sub-section (1) of Section 8 and Section 9 of the Act enumerate the types of information which is exempt from discloser. 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 discloser overweighs the harm to the protected interest. Further, sub-section(3) of Section 8 provides that information exempt from discloser under sub-section(1), except as provided in clauses (a), (c) and (i) thereof would cease to be exempted after 20 years from the date of occurrence of related event etc. 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 discloser of which would cause a breach of privilege of Parliament or State Legislature, or
  - (iii) Cabinet papers including records of deliberation of 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.

### **Assistance Available to CPIO:**

- The CPIO may seek the assistance of any other officer as he /she considers necessary for the proper discharge of his/her duties. The officer, whose assistance is so sought by CPIO, would render all assistance to him. It would be advisable for the CPIO to inform the officer whose assistance is sought, about the above provision, at the time of seeking his assistance.

### **Suo Motu Disclosure :**

- The Act makes it obligatory for every public authority to make *suo-motu* disclosure in respect of the particulars of its organization, functions, duties and other matters, as provided in Section 4 of the Act. The information so published, according to sub-section (4) of Section 4, should be easily accessible with CPIO in electronic format. The CPIO should, therefore, make concerned efforts to ensure that the requirements of the Section 4 are met and maximum information in respect of public authority is made available on the internet. It would be help in him in two ways. First, the number of applications under the Act would be reduced and secondly, it would facilitate his work of providing information in as much as most of the information would be available to him at one place.

### **Fee for Seeking Information:**

- An applicant, along with his application, is required to send a demand draft or a banker's cheque or Indian Postal Order of Rs. 10/- (Rupees Ten), payable to Pay

& Account Officer, DGHS, Nirman Bhawan, New Delhi-110011. He can also make payment of fee by way of cash to PAO, DGHS Nirman Bhawan against proper receipt.

- Additional fee has been prescribed by the RTI Rules for supply of information as given below:
  - (1) Rupees Two (Rs.2/-) for each page (in A-4 or A-3 size paper) created/ copied;
  - (2) Actual charge or cost price of a copy in larger size paper;
  - (3) Actual cost or price for samples or models;
  - (4) For inspection of records, no fee for the first hour, and a fee of rupees five (Rs.5/-) for each subsequent hour (or fraction thereof);
  - (5) For information provided in diskette or floppy rupees fifty (Rs.50/-) per diskette or floppy and
  - (6) For information provided in printed form at the price fixed for such publication or rupees two per page of photocopy for extracts from publication.
- If the application 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 BPL category. The application not accompanied by the prescribed fee of Rs.10/- or proof of the applicant's belonging to BPL category, as the case may be, shall not be a valid application under the Act and, therefore, does not entitle the applicant to get information.

#### **Contents and Format of Application :**

- An applicant making request for information is not required to give any reason for requesting the information or any other personal details except those that may be necessary for contacting him. Also, the Act or the rules do not prescribe any format of application for seeking information. Therefore, the applicant should not be asked to give justification for seeking information or to give details of his job etc or to submit application in any particular form.

#### **Invalid Applications :**

- Soon after receiving the application, the CPIO should check whether the applicant has made the payment of application fee of Rs.10/- or whether the applicant is a person belonging to BPL family. If application is not accompanied by the prescribed fee or BPL Certificate, it cannot be treated as a valid application under the RTI Act and may be ignored.

#### **Transfer of Application:**

- If the application is accompanied by the prescribed fee or the BPL Certificate, the CPIO should check whether the subject matter of the application or a part thereof concerns some other public authority, it should be transferred to that public authority. If only a part of the application concerns the other public

authority, a copy of the application may be sent to that authority, clearly specifying the part which relates to that authority. While transferring the application or sending a copy thereof, the concerned public authority should be informed that the fee has been received. The applicant should also be informed about the transfer of his application and particulars of the public authority to whom the application or a copy thereof has been sent.

- Transfer of application or part thereof, as the case may be, should be made as soon as possible and in any case within five days from the date of receipt of the application.
- The CPIO of the public authority to whom the application is transferred, should not refuse acceptance of transfer of the application on the ground that it was not transferred to him within 5 days.

#### **Supply of Information:**

- The answering CPIO 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.
- Where a request for information is rejected, the CPIO should communicate to the person making request :-
  - (i) The reason 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.
- If additional fee is required to be paid by the applicant as provided in the Right to Information (Regulation of Fee & Cost) Rules, 2005, the CPIO 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;
  - (v) The time limit within which the appeal can be made.

#### **Supply of Information by Severance:**

- Where a request is received for access to information which is exempt from disclosure but a part does not contain 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 CPIO 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. The CPIO should take the approval of appropriate authority before supply of information in such case and should inform the name & designation of the person giving the decision to the applicant also.

**Time Period for Supply of Information :**

The following table showing maximum time which may be taken to dispose off the applications in different situations:-

Sr. No.	Situation	Time Limit for Disposing off the Application
1.	Supply of Information in normal course	30 days
2.	Supply of Information, if it concerns the life or liberty of a person	48 hours
3.	Supply of Information, if the application is received through CAPIO	05 days shall be added to the time period indicated at Sr. No. 1 and 2.
4.	Supply of Information, if application/request is received after transfer from another public authority: (a) In Normal course  (b) In case the information concerns the life or liberty of a person.	(a) Within 30 days of the receipt of the application by concerned public authority, (b) Within 48 hours of receipt of application by the concerned public authority.
5.	Supply of Information by organization specified in the Second Schedule :- (a) If information relates to allegation of violation of human rights. (b) In case information relates to allegation of corruption.	(a) 45 days from the receipt of the application. (b) within 30 days of the receipt of the application
6.	Supply of Information, if it relates to third party & the third party has treated it as confidential.	Should be provided after following the procedure given in this document.
7.	Supply of Information where the applicant is asked to pay additional fee	The period intervening between informing the applicant about additional fee and payment of fee by the applicant shall be excluded for calculating the period of reply.

**Third Party Information:**

- Third party in relation to the Act means a person other than the citizen who has made request for information. Any public authority other than the public authority to whom the request has been made shall also be included in the definition of third party.
- It may be noted that 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. Section 8(1)(d) requires that such information should not be disclosed unless the competent authority is satisfied that larger public interest warrants the disclosure of such information.
- If an applicant seeks any information which relates to or has been supplied by third party and that third party has treated that information as confidential, the CPIO should consider whether the information should be disclosed or not. The guiding principle in such cases should be that the except in 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 interest of such third party. However, procedure as given below should be followed before disclosing such information. It may be noted that this procedure need be followed only when the third party has treated the information as confidential.
- If the CPIO intend to disclose the information, he should 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 RTI Act and that he intend to disclose the information. He should request the third party to make a submission in writing or orally, regarding whether the information should be disclosed. The third party should 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.
- The CPIO should 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 CPIO should give a notice to third party in writing. The notice given to third party should include a statement that the third party is entitled to prefer an appeal under Section 19 against the decision.
- The third party is can prefer an appeal to the First Appellate Authority against the decision made by CPIO within 30 days, from the date of the receipt of notice. If not satisfied with the decision of First Appellate Authority, the third party can prefer the second appeal to Central Information Commission.

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