

# **STATE LEVEL WORKSHOP**

**ON**

## **THE RIGHT TO INFORMATION ACT**

*Conference Hall, Armsdale,  
20<sup>th</sup> May , 2006*

### **PURPOSE OF WORKSHOP**

- *To review action taken so far*
- *To analyse feedback ,including from DCs ,  
on problems encountered*
- *To plan for action on issues yet to be  
addressed*

# SESSION 1

10.00 am to 11.00 am

## Overview of Right to Information Act.

### OBJECT OF ACT

- To ensure citizen's access to information under control of Public Authorities (PA), in order to promote transparency and accountability in the working of PAs.
- Because democracy requires an improved citizenry and transparency of information.
- To contain corruption and hold Govts. and their instrumentalities accountable.
- To harmonise efficient operation of Govt and need for transparency

## DEFINITION OF 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
  - Includes information relating to any private body which can be accessed by a public authority under any other law for the time being in force.

## PUBLIC AUTHORITIES

(Definition)

- Public Authorities defined in Section 2 (h) and includes any authority or body or institution of self governance established or constituted:-
  - under the Constitution.
  - by law or notification
- includes bodies/organization substantially financed by Govt.

## PUBLIC AUTHORITIES

(Obligation)

- Public Authorities given the obligation to:-
  - maintain indexed records; to be computerized (Section 4 (1)(a))
  - Publish annually details of constitution, functions and working (Section 4(1)(b) ).
- Proactively disseminate information under section 4 (1)(b) through internet and other electronic formats as well as other cost effective means (Section 4 (2)- (4)).

## PUBLIC AUTHORITIES

(Appointing PIOs)

- Each PA to designate PIOs who are responsible for receiving application for information and deciding the request within 30 days (Sec 5(1), Sec 7 (1) ).Add 5 days if application given to APIO.
  - if life or liberty is involved information to be provided in 48 hours (sec 7 (1))
  - if third party is involved , 40 days to decide whether to disclose(see 11(3) ).
  - time taken between intimation of fees and receipt of the fee excluded from 30 days (sec 7(3) (a) )

# APPLICATIONS AND DISPOSAL

## Rule 3&4

- Proforma of application for information is in [Form A](#) of Rules.
- Proforma of Application for inspection is [Form D](#) of Rules
- If information is to be given, details and further fee required to be paid is intimated as given in [Form B](#) of Rules.
- 4 copies of challan for the amount signed by DDO is to be enclosed.
- Application can be processed even if it is not in prescribed form so long as it contains all necessary information.

# APPLICATIONS AND DISPOSAL<sub>(contd)</sub>

## Rule 3&4

- Application for information to be entered in Register given in [Appendix 1](#) to the Rules.
- Inspection Requests entered in Register given in [Appendix II](#) to the Rules.
- Monthly statement of applications processed and inspection requests to ARU.
- Annual Statement as on 31<sup>st</sup> March to CIC

# FEES

## Rule5

- In State Rules framed under the Act, application is to be made alongwith fee of Rs. 10 (except for BPL).
- Further Fees (Except for BPL) are prescribed for information as follows:-
  - Priced publication: At printed price
  - Papers : Rs. 10 per A-4 or smaller  
Rs. 20 or actual for A-3 or larger

# FEES (contd)

## Rule5

- |             |                    |
|-------------|--------------------|
| -Floppy/CD  | Rs.50/Rs. 100      |
| -Inspection | Rs. 10 per 15 min. |

- All fees are paid by Try. Challan or Demand Draft. All DDOs have been authorized under the receipt Head.
- No fees for BPL (Section 7 (5) proviso. Proof of BPL to be taken on record.
- No further fee for information not supplied in time (see 7(6)).

## EXEMPTION FROM DISCLOSURE

( Sec 8 (1))

- In some cases, PIOs can refuse to disclose information eg:-
  - Information whose disclosure may constitute contempt of Court or breach of privilege of Parliament/ Assembly.
  - Information given in confidence for law enforcement or security or which would impede investigation, apprehension, or prosecution of offenders.

## EXEMPTION FROM DISCLOSURE Sec 8

(1) (contd)

- Cabinet papers, including records of deliberations of the Council of Ministers, Secretaries and other officers.
- Personal information unrelated to public interest.
- Where part of the information is exempt from disclosure, the remaining information should be provided.
- Reasons for non disclosure and appeal procedures to be disclosed.

## DISCLOSURE

- Information in form requested unless too costly or likely to harm record (Section 7(9)).
- Despite OSA or exemption under Section 8(1) information can be disclosed by PA if public interest outweighs harm.
- If information relates to matter more than 20 years old, must be disclosed unless it affects sovereignty/integrity/security, or constitutes breach of privilege or are Cabinet papers.

## APPEALS

(Procedure)

- First appeal against refusal or fee assessed or decision to reveal 3<sup>rd</sup> party information, to departmental appellate authority (sec 19 (1)&(2)) within 30 days of order.
- Second appeal within 90 days (from the date when decision should have been made or was received) to State Information Commission (CIC). (Sec 19(3)).
- Appeal can be admitted even beyond limitation if sufficient cause established.
- Appeal to be decided in 30 days plus upto 15 days for reasons to be recorded.



## APPEALS (contd)

- Onus of proving that denial of information was justified is on PIO (Section 19(5)).
- Any officer from whom PIO seeks assistance deemed a PIO qua liability for contravention (Sec 5(5))
- CICs decisions are binding and include:-
  - requiring PA to comply with provision of Act.
  - compensating complainant.
  - penalty under section 20 of Rs. 250 per day max. Rs. 25,000)etc.

## DISCUSSION On

- ▶ Definition of Information
- ▶ Public Authorities
- ▶ Applications and Disposal
- ▶ Fees
- ▶ Appeals

## SESSION II

11.00 am to 12.00 noon

Section 8: Exemption from disclosure

Section 9: Copyright

Section 10: Severability

Section 11: Third Party information

## EXEMPTION FROM DISCLOSURE

(Section 8(1))

- (a) information, disclosure of which would prejudicially affect the sovereignty and integrity of India, the security, strategic, scientific or economic interests of the State, relations with foreign State or lead to incitement of an offence;
- (b) information 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;

## EXEMPTION FROM DISCLOSURE

(Section 8(1))<sub>(contd)</sub>

- (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;

## EXEMPTION FROM DISCLOSURE

(Section 8(1))<sub>(contd)</sub>

- (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 of prosecution of offenders;

## EXEMPTION FROM DISCLOSURE

(Section 8(1))(contd)

(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;

## EXEMPTION FROM DISCLOSURE

(Section 8(1))(contd)

(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 larger public interest justifies the disclosure of such information;

- Information which cannot be denied to the Parliament or a State Legislature shall not be denied to any person.
- But where copyright is with person other than State request can be rejected (see Sec 9)

## PROVIDING PART INFORMATION

(Section 10)

- See 10 allows for providing such part of the record which is not exempt from disclosure.
- In such cases PIO to give notice to applicant informing him:
  - a) that only part of the record requested, after severance of the record containing information which is exempted 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;

## PROVIDING PART INFORMATION

(contd)

- 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 application is required to deposit;
- e) his or her rights with respect to review 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 officers 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 other form of access.

# THIRD PARTY INFORMATION

(Section 11)

- If information relates to or has been supplied by a third part and has been treated as confidential by that third party:-
  - PIO shall within 5 days give notice to the 3<sup>rd</sup> party; inviting written or oral submission.
  - 10 days time to 3<sup>rd</sup> party to represent.
  - PIO shall within 40 days of request take a decision whether to disclose the information and intimate 3<sup>rd</sup> party in writing ; mentioning the right to appeal under Section 19.

## DISCUSSION on

- ▶ Exemption from Disclosure
- ▶ Providing part information
- ▶ Third Party information

# SESSION III

12.00 noon to 1.00pm

Section 4: Annual publication ,  
Proactive  
Disclosures and  
Websites

## DUTIES OF GOVT.

Sec 26

- Programmes to:
  - develop public understanding of Act
  - Train PIOs and prepare training materials
  
- Publishing and regularly updating a Guide to help public exercise its rights under the Act

## ANNUAL PUBLICATION

- Every P.A shall publish under Sec 4(1)(b),annually:-
  - (i) the particulars of its organization, 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;

## ANNUAL PUBLICATION (contd)

- (v) the rules, regulation, 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;



## ANNUAL PUBLICATION (contd)

- (viii) a statement of the Boards, Councils, Committees and other bodies consisting of two or more persons ,and as to whether meetings are open to the public, or the minutes of such meetings are accessible for public;
- (ix) a 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;

## ANNUAL PUBLICATION (contd)

- (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 authorizations granted by it;

## ANNUAL PUBLICATION (contd)

- (xiii) details in respect of the information, available to or held by it, reduced in an electronic form;
- (xiv) 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;
- (xv) the names, designations and other particulars of the Public Information Officers;
- (xvi) such other information as may be prescribed.

## PROACTIVE DISCLOSURE

### Sec 4(2)

- PA to provide information as per Sec 4(1)(b) suo motu through various means including internet so public have minimum need to resort to Act
- PA to publish all relevant facts while formulating policies or decisions affecting the public (4(1)(c).
  - PA to provide reasons for its administrative or quasi- judicial decisions to affected persons (4(1)(d))
- PA to disseminate information in local language subject to cost effectiveness and accessibility

# RECORDS MANAGEMENT

## sec4(1)(a)

- PA to ensure in respect of its records:
  - Cataloguing and indexing
  - Computerisation
  - Accessibility over network
  
- Information to be accessible as far as possible in electronic format with PIO..sec 4(4)

## SUMMARY OF ACTION

- All PAs to publish Handbook/Manual U/S 4(1) (b) and inform ARU by 31<sup>st</sup> May 2006
- All PAs to put out material proactively U/S 4(2)
- For publication of Guide U/S 26, PAs to give ARU by 31<sup>st</sup> May 2006 :
  - List of PIOs and Appellate Authorities
  - Provisions for Proactive Disclosure(including Website)
- All PAs to give monthly statement of cases ,in [proforma](#) given by ARU
- All PAs to give details of cases processed upto 31<sup>st</sup> Mar. 2006 on [Proforma](#) to CIC with copy to ARU

Form 'A'  
(See rule-3(1))

APPLICATION FOR INFORMATION UNDER THE RIGHT TO INFORMATION ACT 2005

To

The Public Information Officer/Assistant Public Information Officer.  
(Name of the Department from which the information is sought)

a) Subject matter of the information

b) Period to which the information relates.  
Month & year

c) Description of the information required.  
d) File No. if available.

e) Whether the applicant claims exemption as below poverty line  
family, if yes, attach proof.

f) Particulars of Demand Draft or Treasury Challan No. amount and date of depositing  
application fee under rule 4 be attached.

Applicant

Name \_\_\_\_\_

Address \_\_\_\_\_

Telephone No. \_\_\_\_\_

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Form 'B'  
(See rule 3(3))

From

Designation of the  
Public Information Officer/Assistant Public  
Information Officer.  
(Department \_\_\_\_\_)

To

(Name of the applicant)  
Address of the applicant.

Reference

:Application No. \_\_\_\_\_ Dated \_\_\_\_\_

Subject:-

Sir,

Please refer to your application dated \_\_\_\_\_ referred to above. The  
Information required by you consists of \_\_\_\_\_ pages and printed publication cost Rs \_\_\_\_.  
The additional fee for supplying this information to you is Rs. \_\_\_\_\_. In case you  
desire the information to be sent to you by post, an additional amount of Rs \_\_\_\_\_ will  
need to be deposited.

2. You are requested to pay the aforesaid amount of the additional fee by way  
of Demand Draft payable to the Department/ Public Authority or deposit it through challan  
(enclosed) and send a copy to the undersigned.

3. If you are not satisfied with the amount of additional fee levied, you have a  
right to prefer appeal to \_\_\_\_\_ within a period of 30 days.

Public Information Officer/Assistant  
Public Information Officer  
Telephone No. \_\_\_\_\_

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## Form 'C'

From

(See rule 3(3) & 6(1))

Designation of the  
Public Information Officer/Assistant Public  
Information Officer  
(Department \_\_\_\_\_)

To

(Name of the applicant)  
Address of the applicant.

Reference: Application No. \_\_\_\_\_ Dated \_\_\_\_\_

Subject:

Sir,

Please refer to your application dated \_\_\_\_\_ referred to above.

2. The information required by you is ready. You are directed to collect the information from the office of the undersigned on any working day of the week during 12.00 to 3.30 p.m.

Public Information Officer/  
Assistant Public Information Officer  
Telephone No.

## Form 'D' See rule-4(1))

### APPLICATION FOR INSPECTION UNDER THE RIGHT TO INFORMATION ACT 2005

To

The Public Information Officer/Assistant Public  
Information Officer.

(Name of the Department from which the inspection is sought)

(a) Subject matter of the information  
-----

(b) Period of which the information relates. Month & year.  
-----

(c) Description of the information required.

(d) File No. if available  
-----

(e) Whether the applicant claims exemption as below poverty  
line family, if yes, attach proof.  
-----

(f) Particulars of Demand Draft or Challan No, amount and date.

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Applicant

Name -----

Address-----

Telephone no.-----

## REGISTER OF APPLICATIONS FOR INFORMATION UNDER THE RIGHT TO INFORMATION ACT 2005

### PART I

Sl. No.	Name & full postal address of the applicant	Whether below poverty line (BPL)	Date of receipt of application	Tentative date on which the record would be ready	Mode by which information is sent	DD or challan No. and date	Signature of PIO/APIO
1.	2.	3.	4.	5.	6.	7.	8.

## REGISTER OF APPLICATIONS FOR INFORMATION UNDER THE RIGHT TO INFORMATION ACT 2005

### PART-II

Actual date when the information is ready	Number of actual pages	Amount of additional fee	Signature of applicant with date in token of receipt if the information is delivered in person or if the information is sent by post its particulars and date	Signature of PIO/APIO
1.	2.	3.	4.	5.
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