



RTI Act, 2005

Case studies & Quiz *for training exercises*



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Case studies

&

Quiz

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C A S E S T U D I E S

Case 1: Request for Application made to Police Commissioner

Shri Ramesh Chandra Gupta applies to the office of the Police Commissioner, Delhi seeking information on the crime trend in the city for the last two years. Under normal circumstances of the implementation of the Act, the applicant has the right to receive a reply from the PIO. But in this case Mr. Gupta got a reply signed by the APIO.

Group Work

Discuss the possible reaction of the applicant and the stand that the PIO will take as per the relevant provisions of the Act. Make a presentation on your case analysis.

Case 2: Information Pertaining to Commercial and Trade Secrets

A proposal to increase sales tax on a particular product range has been prepared by the Commissioner, Commercial Taxes and the concerned Minister will table the proposal in the forthcoming session of the House, after it is approved by the Cabinet. A manufacturer will be adversely affected by the Amendment and has asked for a copy of the proposal to the PIO.

Group Work

You are the PIO for that Office. What will you do? Will you provide this information? Make a presentation on your case analysis.

Case 3: Access to Medical Information

Rajaram, a rickshaw-puller, has been admitted to a Government hospital in a serious condition. He has been treated at the hospital for a week but his condition has worsened. His wife has asked the PIO of the hospital to furnish details about the medicines and details of treatment administered to Rajaram after his admission. What action will the PIO take in this situation?

Group Work

Discuss the procedure that needs to be adopted by the PIO as per the relevant provisions of the Act. Make a presentation on your case analysis.

Case 4: Access to Information More Than 20 Years Old

20 years ago Govinda (since deceased) was working as a labourer on the employment guarantee scheme, which was a drought relief measure in Karjat Taluka of Ahmednagar District. His son has requested details about the number of employees with their attendance sheets; wages paid etc. who were then employed.

Group Work

Discuss the case in your group. Can Govinda obtain this information? Discuss the relevant provisions of the Act and Make a presentation on your case analysis.

Case 5: Information Pertaining to Third Party

In 1994, Public Interest Litigation was filed in the Bombay High Court regarding the malnutrition deaths of children in Melghat region of district Amravati, Maharashtra. A citizen of Uttaranchal has requested the Uttaranchal state government for a copy of the affidavit filed by the Maharashtra state government.

Group Work

Discuss the alternatives available for the PIO as per the relevant provisions of the Act. Make a presentation on your case analysis.

Case 6: Answer Sheets

Ms. Treasa has requested to furnish a photocopy of her evaluated answer sheet of the departmental exam. The PIO has refused to furnish the same on the ground that there is no public interest involved in her request. Ms. Treasa prefers an appeal to the Information Commission.

Group Work

What will be the decision of the Information Commission? Make a presentation of the case explaining the decision taken with relevant provisions of the Act.

Case 7: Public Interest and Privacy

The case pertains to one Dr. Venkateswar Prasad who had studied in AIIMS and got an MBBS degree in the year 1986 and later opened a deluxe hospital, the 'Krishna Institute of Medical Science (KIMS) in Hyderabad. Dr. Prasad treated Shri Sanjeev Kumar Jain's son who allegedly died at his hands. Shri Sanjeev Jain and his wife Smt. Anju Jain, a lecturer in Zoology, felt that Dr. Prasad was not a competent doctor and according to them on further enquiries, they discovered several discrepancies in the certificates the doctor had earned not only during his term of education, but even later. There were also discrepancies in the details of the passport that he had used to go to America. The couple, Shri Jain and Mrs. Anju Jain delved further into the matter and were convinced that this is a case of a fake doctor.

To strengthen their case, as also to procure documents to pursue the matter further, they applied to AIIMS to provide them with photocopies or certified copies of the degrees and certificates that the AIIMS has in possession regarding this doctor. They also applied to the Regional Passport office, New Delhi for details of the passport number as well as the photograph on Dr. Prasad's passport in order to find out whether he was using more than one passport.

Group Work

Discuss whether these disclosures invade the privacy of the Doctor? Is there public interest in disclosure of the requested information?

Case 8: Answer Sheets

Mr. Devender, a Section Officer has requested to furnish photocopies of evaluated answer sheets of the departmental exam of his four colleague Section Officers.

Group Work

You are the PIO for that Office. What will you do? Will you provide this information? Discuss the alternatives available for the PIO as per the relevant provisions of the Act. Make a presentation on your case analysis.

Case 9: File Notings

Syed Arshad Ali Azam Ali of Mumbai applied to the CPIO / Dy. Secy., Dep't. of Telecommunications, seeking the following information:

"As to why FR 22 C is substituted by FR 22 (I) (A) (I) and what are the aims and objects for substitution of the same. A certified copy of the relevant pages of the Note Sheets of the concerned File depicting the complete background of the substitution of the same be furnished for its proper meaning and/ or interpretation and also in cases where this proviso applied."

Group Work

Discuss the case in your group. Can file noting be obtained as information? Discuss the relevant provisions of the Act and Make a presentation on your case analysis.

Case 10: Inspection and Copy of the Records

Shri Hemant Garg M/S Shiva Industries, Trilokpur Road, Rampur Jattan, Kala Amb, District Sirmaur (H.P.) had filed an application dated 18.09.2006 seeking certain information under RTI Act, 2005 from Nodal Officer of Sales Tax Department, Nahan as under;

I. Copy of the pamphlet/poster, as pasted on Kala-Amb barrier for seizing and stopping of any goods/carrier related to Shiva Industries which is passing through barrier or any where else. And along with the orders, who gave the orders for this.

II. File inspection and copy of the records that how many firms/registered dealers/unrecognized dealers had filed the returns for “1st IMPORT BILL”, alongwith record of penalties imposed on them,

III. Inspection and supplying the records that how many cases are put on scrutiny for return submitted from 1st April, 2006 to till dated i.e. (2006-2007).

IV. Copy of records for seeking information that what action was taken on my complaints sent to Sales Tax Department.

Group Work

You are the PIO for that Office. What will you do? Will you provide this information? Discuss the alternatives available for the PIO as per the relevant provisions of the Act. Make a presentation on your case analysis.

CASE NO. 11 : Information Pertained to An Enquiry

Shri Anant Ram Negi had filed an application dated 15.10.2006 with APIO-cum-SDPO, Theog, District Shimla seeking information pertained to an enquiry being conducted by Police Department against the applicant under the RTI Act, 2005. The SDPO, Theog vide letter dated 30.10.2006 rejected the application as per the provisions of section 8(h) of the Act. Subsequently, Shri Negi, filed an appeal with the PIO-cum-superintendent of Police, Shimla. The PIO submitted his written comments on the appeal stating the information sought would impede the process of investigation, apprehension and prosecution of offenders, as such, there was no obligation to give information and was exempted from disclosure. Hence the application was rightly rejected as per provisions of section 8(h) of the RTI Act, 2005. The PIO further stated that since the application was rightly rejected, the present appeal may be dismissed. Mr. Negi decided to go the State Information Commission.

GROUP WORK

Discuss the possible reaction of the applicant. What will be the decision of the Information Commission? Make a representation of the case explaining the discussion taken with relevant provisions.

Quiz on Right to Information

Quiz 1

1. Which was the first country to have enacted a legislation providing for Citizens' Right to Information?
2. Which was the first State in India to have passed a legislation for right to information?
3. From which Article(s) of the Constitution of India does the RTI Act, 2005 derive its sanction?
4. Can a(n) requester / applicant seek opinions of authorities under the RTI Act?
5. Should requests / applications made under the Act be typewritten?
6. Can an Information Commission (IC) review its own decision?
7. Can an IC recommend disciplinary action against an 'Appellate Officer'?

Answers to Quiz I

1. Sweden in December, 1766.
2. Tamil Nadu in April, 1996.
3. Article 19, Clause 1, Sub-clause (a)
4. No. A requester cannot seek opinions of authorities under the RTI Act, 2005. A citizen can only access information held by or under control of public authorities and not seek creation of any information.
5. The requests / applications should be in writing (they cannot be oral). They need not be typewritten.
6. Yes. An Information Commission (IC) can review its own decision. Whether to admit a plea for review or not, will, of course, be the decision of the IC concerned, based upon certain considerations.
7. Yes. There have been instances of both Central & State Information Commissions doing so.

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Quiz II

1. Does the Right to Information Act, 2005 define “Information” that is under its purview?
2. Does the Right to Information Act, 2005 define a “Public Authority”?
3. Should the ‘First Appeal Officer’ in a ‘Public Authority’ be senior in rank to all the Public Information Officers (PIOs), as designated, in that Public Authority?
4. Does the Right to Information Act, 2005 define what would be a “reasonable cause” to deny a citizen information that is otherwise not exempted?
5. Are Information Commissions expected to bring out an Annual Report, which in turn is to be placed before the Legislature concerned (State Legislature or the Parliament, as the case may be)?
6. Does an appeal against the decision of a State Information Commission lie with the Central Information Commission?
7. Are Information Commissions independent and autonomous entities in their functioning?

Answers to Quiz II

- 1) Yes. The ‘RTI Act, 2005’ defines ‘Information’ under its purview.
- 2). Yes. The term ‘Public Authority’ has also been defined in the Act.
- 3) Yes. The ‘First Appeal Officer’ must be senior to all the ‘Public Information Officers’ (PIOs) of a given ‘Public Authority’.
- 4.) No. The ‘RTI Act, 2005’ does not define a “reasonable cause”, as such, for which information can be denied to a citizen. Such denial, or otherwise, is the PIO’s call, which he / she has to take based upon relevant provisions of the Act pertaining to, say, *exemptions ‘Third Party Information’, “unreasonable diversion of resources”* etc. An enlightened understanding of “*Public Interest*” is called for on the part of the PIO. Keeping himself / herself updated on decisions of ‘Information Commissions’ can come in handy for making such decisions.
5. Yes. All ‘Information Commissions’ (ICs) are required to bring out an ‘Annual Report’ (containing certain statutorily mandated information), which the “Appropriate Government” is to place before the Parliament or the State Legislature, as the case maybe.

6. An Appeal against a decision of a 'State Information Commission' does not lie with the 'Central Information Commission'.

7. Yes. Both 'Central' and 'State Information Commissions' are autonomous entities in their functioning. Their decisions will, ordinarily, be binding within their jurisdiction

Quiz III

- 1) Are 'Below Poverty Line' (BPL) Persons exempt from paying "further fees" (as, otherwise, applicable)?
2. What are the various known modes of collection of fees (as applicable) by a 'Public Authority' for the information to be provided as per request?
3. Is there a restriction on the number of 'Public Information Officers' (PIOs) that a 'Public Authority' can designate?
4. Who has to bear the "*onus / burden of proof*" through the "*Appeal(s) Process*" under the 'RTI Act, 2005'?
5. Does a 'Non Government Organisation' (NGO) [which can be categorised as 'Public Authority' under the 'RTI Act, 2005'] have any additional liabilities or special concessions under the said Act?
6. Can an 'Assistant Public Information Officer' (APIO) be penalised under the 'RTI Act, 2005' for non-compliance?
7. Who is to make necessary Rules under the 'RTI Act, 2005'?

Answers to Quiz III

1. Yes. 'Below Poverty Line' (BPL) persons are exempt from paying "further fees" as well.
2. The various modes of collection of fees by a 'Central Public Authority' (as applicable) are: Cash, Demand Draft, Banker's Cheque or Indian Postal Order. States can determine their own modes, which may, therefore, vary.
3. There is no restriction on the number of 'Public Information Officers' to be designated by a 'Public Authority'.
4. The PIO has to bear the "onus" / "burden of proof" through the 'Appeals Process(es)' under the 'RTI Act, 2005'.
5. A 'Non-Government Organisation' (NGO) categorized as a 'Public Authority' does not have any additional liabilities or special concessions – than a Government organisation does – under the 'RTI Act, 2005'.
6. Under Section 2(c) of the RTI Act, 'CPIO includes CAPIO'. A penalty may be imposed on an APIO. However, to our knowledge, there has been no instance, yet, of penalty being imposed on an APIO.

7. The “Appropriate Government” i.e. the Central Government or the State Government is to make the rules under the ‘RTI Act, 2005’, which will, accordingly, apply to Central & State ‘Public authorities’, as the case may be.

Quiz IV

1. Who decides which Governmental organisations will be exempted from the purview of the RTI Act, 2005'?
2. If information sought is available in the 'Official Gazette', is the PIO bound to furnish the information to the requester?
3. Should requests under 'RTI Act, 2005' be typewritten?
4. Can a PIO file an appeal with an 'Information Commission' against the decision of the 'First Appeals Officer'?
5. Can a 'First Appeal Officer' levy a penalty on a PIO?
6. Can a 'First Appeal Officer' recommend disciplinary action against a PIO?
7. Can a PIO cite his / her illiteracy as a reason for not accepting RTI applications in writing?

Answers to Quiz IV

- 1) Several Central Government organisations (exempted, subject to some caveats) have been listed in the Act itself (2nd Schedule). This list is amendable. As for exemption of State Public Authorities, the 'RTI Act, 2005' authorises the State Government(s) to decide.
2. The PIO should furnish the information asked for in a manner asked for provided it does not amount to unreasonable diversion of the authority's resources. However, the PIO may very well refer the applicant to the Official Gazette but should also provide necessary assistance to the applicant to be able to locate the information.
3. It is NOT necessary that requests for information under the RTI Act, 2005 be typewritten.
4. The 'RTI Act, 2005' does NOT provide for a PIO filing an appeal to an Information Commission against the decision of a 'First Appeal Officer'.
5. The 'RTI Act, 2005' does NOT provide for a 'First Appeal Officer' levying a penalty on a PIO. The First Appeal Officer is only to consider whether the decision of the PIO regarding NOT providing information or charging fees was in keeping with the provisions of the ACT, and if not, reverse the PIO's decision
7. A 'First Appeal Officer' also CANNOT recommend any disciplinary action against a PIO. He / She only has to decide whether a PIO's decision was in keeping

with the Act.

8. A PIO's illiteracy is no excuse or justification for not accepting RTI applications in writing. Nor can a PIO deny providing reasonable assistance to the applicant on this ground.

Quiz V

1. Does the 'RTI Act, 2005' have any provision(s) relating to 'Records Management' in 'Public Authorities'?
2. Can an 'Information Commission(s)' recommend disciplinary action (in addition to imposing a fine, as applicable) against an erring 'Public Information Officer' (PIO) or other official?
3. Can a PIO refuse to accept an application for information if it does not concern the 'Public Authority' he / she belongs to?
4. Can an applicant appeal to the "First Appeal Officer" within a 'Public Authority' if he / she feels aggrieved by the further fee charged by the PIO for providing information in a particular form / format?
5. Can an 'Information Commission', in its decision on a complaint, levy a penalty on the 'Public Authority for non-compliance'?
6. Is there a time limit specified in the 'RTI Act, 2005' within which an 'Information Commission' should decide on a complaint?
7. Can a Complaint be made to the "First Appeal Officer" within a 'Public Authority'?

Answers to Quiz V

1. Yes. Section 4(1)(a) of the 'RTI Act, 2005' stipulates that every Public Authority maintain its records duly catalogued and indexed... & ensure that all records appropriate to be computerised are within a reasonable period of time and subject to availability of resources computerised and connected through a network all over the country on different systems...' (This necessitates a review of existing practices of Records Management *followed by a 'Public Authority to bring them in line with the various requirements of the Act'*).
2. Yes. An 'Information Commission' (IC) can recommend disciplinary action against a 'Public Information Officer' (PIO) for persistent failure, without any reasonable cause, to receive application; to furnish information within specified time; and for malafide denial of request; for knowingly giving incorrect, incomplete or misleading information; for destroying requested information; or obstructing, in any manner, furnishing of information.

- 3.** No. A PIO cannot refuse an application pertaining to another 'Public Authority'. He / she has to accept it and forward it to the Authority concerned within 5 days (after which the 30 day clock starts ticking for the Public Authority) and inform the applicant accordingly.
- 4.** Yes. An applicant can appeal to the 'First Appeal Officer' in a 'Public Authority' against the decision of the PIO concerned to levy "further fees" and also the amount of the "further fees" so charged, if any of these seems at variance with the Rules, or otherwise unjustified or excessive
- 5.** Yes. As per Section 20(1) of the Act an IC can also impose monetary penalty at the time of deciding a complaint against a Central / State PIO. In this respect the grounds on which a complaint / appeal can be made are similar.
- 6.** No. An IC is not time-bound to decide on a complaint.
- 7.** The 'RTI Act, 2005' does not have any provision for making a complaint to the 'First Appeal Officer' in a 'Public Authority'. As per the Act, Complaints can only be made to the Central / State IC, as the case may be.

Quiz VI

1. What is 'Appropriate Government' as defined in the 'RTI Act, 2005'?
2. What is 'Competent Authority' as referred to in the 'RTI Act, 2005'?
3. What does the 'RTI Act, 2005' say about "exempted Information"?
4. What is 'Third Party' under the 'RTI Act, 2005'?
5. What is 'Third Party Information' under the 'RTI Act, 2005'?
6. Is there a limit to the monetary penalty to be imposed on a PIO for non-compliance with the provisions of the 'RTI Act, 2005'?
7. What is the provision regarding 'Compensation' under the 'RTI Act, 2005'?

Answers to Quiz VI

1. 'Appropriate Government' (for a 'Public Authority'), as per the 'RTI Act, 2005' would be the Central / State Government / Union Territory Administration that would have established, constituted, owned, controlled or substantially financed the 'Public Authority' in question.

2. 'Competent Authority' has been defined in terms of certain specified 'Public Authorities' and thus could vary. Such a 'Competent Authority' has the power to, by notification in the official Gazette, make rules to carry out the provisions of the 'RTI Act, 2005'. The term has been elaborated upon in Section 1(e)(i - v)

3. Certain categories of information are exempted from the purview of the 'RTI Act, 2005' from being provided on request (or being disclosed *suo motu* for that matter).

Providing such information, would normally, be a violation of the law. Such information could be of different kinds as listed in Sections 8(1)(a) through 8(1)(j) and Section 9 of the 'RTI Act, 2005'. However, if 'larger public interest' is served in disclosing such information, then it should be disclosed. Certain intelligence and security organisations (listed in the Act – the list is amendable. Relevant notifications are to be issued by State Governments) – more precisely the information held / controlled by them – are exempted from disclosure. However, with respect to this category, too there are exceptions regarding information pertaining to allegations of corruption or violation of human rights.

4. A 'Third Party' under the 'RTI 2005, Act' would be any entity – individual or organisation (private or public) - – other than the citizen making the request for information or the 'Public Authority' to whom the request is made.

5. Any information handed by a 'Third Party' (as explained earlier) to a 'Public Authority' **in confidence** is 'Third Party Information' (held by or under control of the 'Public Authority' in question).

6. Yes. The total amount of the monetary penalty to be imposed on a PIO for noncompliance with the provisions of the 'RTI Act, 2005' cannot exceed Rs. 25,000/-

7. The 'RTI Act, 2005' does provide for 'Compensation' – *'for any loss or detriment suffered'* by the citizen – to be decided by an Information Commission.

QUIZ VII

1. If a penalty is imposed by an 'Information Commission' (IC) on a 'Public Information Officer' (PIO) upon hearing an Appeal – is the penalty incident on the PIO or the 'Public Authority'?
2. Is an 'Information Commission' a Public Authority?
3. In hearing an Appeal, will the IC allow the PIO concerned to present her / his case?
4. What is the minimum and maximum number of Information Commissioners for a 'State Information Commission' (SIC)?
5. Is there a provision for a single IC for more than one State (as is the case with some High Courts in India)?
6. If a State Government fails to constitute an IC for the State in question or fails to provide for the required resources – infrastructure and personnel?
7. Does the Central IC have any jurisdiction over SICs?

Answers to Quiz VII

1. Under the 'RTI Act, 2005', the penalty imposed by the 'Information Commission' (IC) on a 'Public Information Officer' (PIO) is incident on the PIO, and NOT on the 'Public Authority' to which he / she belongs.
2. Yes. An IC is a 'Public Authority' for all ends and purposes of the 'RTI Act, 2005' and as such should, indeed, be an exemplar in its compliance with the provisions of the Act.
3. Yes. In hearing an appeal, an IC will have to give the PIO an opportunity to be heard to present her / his case. This derives from the principle of 'Natural Justice' in 'Jurisprudence' (i.e. philosophy / science of law), whereby nobody shall be condemned unheard.
4. As per the 'RTI Act, 2005', a State IC would have to have at least one '(Chief) Information Commissioner' and can have a maximum of 10 'Information Commissioners' (including the 'Chief Information Commissioner').
5. There is no provision in the 'RTI Act, 2005' for a single IC for more than one State. Every State has to have an IC, whose jurisdiction would extend to all the 'Public Authorities' in that State.

- 6.** There is nothing in the 'RTI Act, 2005' that specifies recourse to any action in the event of failure on part of an 'Appropriate Government' (Central / State Governments, as the case may be) to constitute an 'Information Commission' as per the 'RTI Act, 2005'. Clearly, however, it would a violation of the 'RTI Act, 2005' not to do so. As far as providing the ICs with required resources is concerned, it is the responsibility of the 'Appropriate Government'. How the latter goes about this is reflective of the seriousness with which it views the 'RTI Act, 2005' and its effective implementation.
- 7.** The Central IC has no jurisdiction, whatsoever, over the State ICs. Every IC is independent and autonomous in the exercise of its jurisdiction and in its functioning.

QUIZ VIII

1. Which is the nodal agency of the Government of India to oversee the general implementation of the 'RTI Act, 2005'?
2. Do the 'Information Commissions' (ICs) have the authority to recommend measures to 'Public Authorities' to better their compliance with the 'RTI Act, 2005'?
3. Is a 'Public Information Officer' (PIO) liable to be penalised if non-compliance or violation takes place owing to factors beyond her / his control?
4. What is the remedy available to a citizen, if a 'Public Authority' fails to comply with any or all the provision(s) of Section 4(1)(b) of the 'RTI Act, 2005'?
5. What is the nature of the adjudicative authority that the ICs exercise?
6. Do 'Information Commissioners' have security of tenure?
7. Is there a limit to the duration for which an 'Information Commissioner' can hold office?

Answers to Quiz VIII

1. The Department of Personnel and Training (DoPT), Government of India (GoI) is the nodal agency of the GoI to oversee the general implementation of the 'RTI Act'
2. Yes. Under S. 19(a), ICs can require (a) public authority to take any such steps as necessary to secure compliance with the Act.
3. There is protection for a 'Public Information Officer' (PIO) for her / his "action in good faith" even if it does not lead to desired results (or leads to undesirable results), owing to factors beyond the PIO's control. The PIO has indeed to act in accordance with the Act and maintain a register of her / his actions to strengthen her / his defense.
4. It may be argued that a Public Authority's failure to comply with the provisions of Section 4(1)(b) of the 'RTI Act, 2005' may be complained against to the Information Commission (IC) concerned by taking recourse to Section 18 of the Act – Section 18(f) in particular, under which an IC shall receive and inquire into a complaint ... *"in respect of any matter relating to requesting or obtaining access to records..."*
5. ICs are an enforcement agency for the implementation of the 'RTI Act, 2005'. They can hear (and decide upon) complaints / appeals from citizens regarding violation(s) of the Act's provisions. In hearing complaints ICs have authority on par with 'Civil Courts' - trying a suit. Furthermore, the ICs' decisions on appeals (taken in accordance with prescribed procedure) shall be binding.
6. Yes. The Information Commissioners once appointed, are to hold office for a period of five years or till they attain 65 years of age. They can be removed from office only in a

manner specified by the Act.

7) The 'RTI Act, 2005' specifies a limit for the duration for which an Information Commissioner (once appointed) can hold office. This limit is 5 years or till he or she attains 65 years of age. For a Central / State Information Commissioner appointed as Chief / State Chief Information Commissioner respectively 'the term of office shall not be more than five years in aggregate, as the Information Commissioner and the Chief Information Commissioner'.

QUIZ IX

1. Is an Information Commissioner eligible for reappointment?
2. Who is the '*Competent Authority*' as per the relevant provision(s) of the 'RTI Act, 2005' as far as the Union Judiciary – Supreme Court & High Courts – is concerned?
3. What is the "*overriding effect*" of the 'RTI Act, 2005'?
4. What is peculiar about the '*salaries and other allowances payable to and other terms and conditions of the service*' of Central and State Information Commissioners?
5. What does the '*FIRST SCHEDULE*' of the 'RTI Act, 2005' deal with?
6. What do *Sections 14 and 17* of the 'RTI Act, 2005' deal with?
7. What does the '*SECOND SCHEDULE*' of the 'RTI Act, 2005' deal with?

Answers to Quiz IX

1. A Central / State Information Commissioner is not eligible for reappointment as such. A Central / State Information Commissioner can, however, be appointed as the Chief Information Commissioner or the State Chief Information Commissioner (of that State) respectively, provided that the terms of office, in both these positions, shall not be more than five years in aggregate.
2. The 'Competent Authority' for the Supreme Court of India is the Chief Justice of India. For a High Court, it is the Chief Justice of that High Court.
3. Section 22 of the 'RTI Act, 2005' says that 'the provisions of this Act shall have effect notwithstanding anything inconsistent there with 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 this Act'. This is the "overriding effect" of the Act.
4. As per the 'RTI Act, 2005', the salaries and allowances and other terms and conditions of service of the:- Chief Information Commissioner shall be the same as that of the Chief Election Commissioner; Central Information Commissioner and the State Chief Information Commissioner shall be same as that of an Election Commissioner; and - State Information Commissioner shall be the same as that of the Chief Secretary to the State Government.
5. The '*FIRST SCHEDULE*' of the 'RTI Act, 2005' sets out 'the form of the oath / affirmation to be made and subscribed' by all Central and State Information Commissioners, before entering upon the office.
6. *Sections 14 & 17* of the 'RTI Act, 2005' contain provisions regarding removal of

Central & State Information Commissioners respectively.

7. The '*SECOND SCHEDULE*' of the 'RTI Act, 2005' specifies the intelligence and security

organisations established by the Central Government. The provisions of the Act do not apply to these organisations. However, information pertaining to allegations of corruption and human rights violations shall not be excluded. Information regarding allegation of violation of human rights shall only be provided after approval of the CIC and within 45 days of the receipt of such request.

QUIZ X

1. What is the provision regarding 'Bar on jurisdiction of courts' in the 'RTI Act, 2005'?
2. Who would be the 'Competent Authority' – under the 'RTI Act, 2005' – for Union Territories?
3. Can the Information Commissions establish offices in other places?
4. Does a 'Third Party' have a right to appeal the decision of a 'Public Information Officer' (PIO) about disclosure of information related tot the 'Third Party'?
5. What is the 'Severability' provision under the 'RTI Act, 2005'?
6. What are the key considerations for a 'Public Authority' for dissemination of information under Section 4 of the 'RTI Act, 2005'?
7. Does the 'Appropriate Government' have a role in facilitating programmes to help 'Public Authorities' secure compliance with the 'RTI Act, 2005'?

Answers to Quiz X

1. S. 23 (Chapter VI) of the Act states: *'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'*.

Thus, normally, courts would not have the authority to hear cases under the Act. However, this exemption applies only to lower courts (i.e. the 'Subordinate Judiciary'). The Supreme Court (SC) and the High Courts (HCs) cannot be so exempt from hearing appeals against decisions of Information Commissions (ICs). Whether or not to admit such appeals will, of course, be the decision of the SC / HCs.

2. Under the 'RTI Act, 2005', the 'Competent Authority' for Union Territories is the 'Administrator' appointed under Article 239 of the 'Constitution of India'.

3. Yes. ICs can establish offices at other places. However, to do so, the Central IC has to secure previous approval of the Central Government, whereas, a State IC has to secure previous approval

of the State Government (to establish offices at other places in the State concerned).

4. Yes. The 'RTI Act, 2005' gives a 'Third Party' the right to make an appeal (both, to the 'First Appeal Officer' concerned and, later even to the IC concerned) against a 'Public Information

Officer's (PIO) decision to disclose information about that 'Third Party'.

5. The 'Severability' provision under the 'RTI Act, 2005' [i.e. section 10 (1)] is about providing access to such part of the information (as per the information requested under

the Act) – which is not exempt under the Act – by reasonably severing it from the part that contains exempted information.

6. The key considerations for a ‘Public Authority’ (PA) for information dissemination under S. 4 of the Act are: - wide dissemination in such form and manner, as is easily accessible to the public; - cost-effectiveness, local language & most effective method of communication in that area, easy accessibility (with PIOs) in electronic format (to the extent possible), & free or priced availability (as prescribed); and - communication through notice boards, newspapers, public announcements, media broadcasts, internet and other means such as inspection of offices.

7. Yes. An ‘Appropriate Government’ (AG) has a role in facilitating programmes to help PAs secure compliance with the Act. section 26 (1),(2),(3) & (4) have elaborate provisions regarding such role of AGs, which includes, among other things, developing and organising educational programmes (particularly for disadvantaged communities) [and] even undertaking such programmes themselves.

Further, it is to ensure promotion of timely and accurate dissemination of information by PAs; training PIOs; producing relevant training material; preparing an easily comprehensible guide in its official language to enable exercise of this right; updating and publishing guidelines at regular intervals etc.

QUIZ XI

1. What is the provision regarding 'Protection of action taken in good faith'?
2. What "incidental information" is to be provided by a 'Public Information Officer' (PIO) to the requester of information when he / she applies the 'Severability' clause in giving requested information?
3. What is the procedure for constituting 'Information Commissions' (ICs)??
4. What should the 'Rules' made (under the 'RTI Act, 2005') by an 'Appropriate Government' provide for?
5. What should the Rules made (under the 'RTI Act, 2005') by the 'Competent Authority' provide for?
6. Who has the power to remove the difficulties arising in giving effect to the provisions of the 'RTI Act, 2005'?
7. What is the timeline specified under 'RTI Act, 2005' for the 'Appropriate Government' to compile a comprehensible guide containing information – in its official language – required to exercise any right specified in this Act?

Answers to Quiz XI

1. S. 21 accords protection against a suit, prosecution or legal proceeding for anything which is done in good faith or intended to be done under the 'RTI Act, 2005' or any rule made thereunder. This provision applies to all persons.
2. If, by reasonably applying the 'Severability' clause, a PIO has withheld certain information in her / his response to a request, he / she has to convey to the requester: **(a)** that only a part of the requested information is being provided; **(b)** the reasons for deciding to apply the severability clause, relevant findings and the material on which these findings have been based; **(c)** the name and designation of the person giving the decision; **(d)** the details of the fees calculated by him and the amount which the applicant is required to deposit; and **(e)** the applicant's rights for review of the decision regarding non-disclosure of part of the information or fees charged or form of access provided, the particulars of the senior officer (who would hear 'first appeal') and of the Information Commission (IC) concerned (which would hear the 'second appeal') and also the time limit, process (for appeals) and any other form of access.
3. Appointments to the Central IC are to be made by the President on the recommendation of a Committee consisting of: the Prime Minister (PM) [as the

Chairperson]; the Leader of the Opposition in the Lok Sabha (LS) (and where the of the Leader of Opposition, as such, is not recognised, the Leader of the single-largest-group-in-opposition in LS – as the deemed Leader of Opposition); and a Union Cabinet Minister (nominated by the PM). Appointments to a State IC are to be made by the Governor (of that State) on the recommendation of a Committee consisting of: the Chief Minister (CM) [as the Chairperson]; the Leader of the Opposition in the Legislative Assembly (LA) (and where the Leader of the Opposition, as such, is not recognised, the Leader of the single-largest-group-in-opposition in LA – as the deemed Leader of the Opposition); and a Cabinet Minister (nominated by the CM).

4. The rules made by an 'Appropriate Government' (AG) under the 'RTI Act, 2005', should (without prejudice to the generality of its power to make such rules) provide for:

i) the cost of the medium or print cost price of the materials to be disseminated under S. 4(4);

ii) the fee payable under S. 6(1) [application fee];

iii) the fee payable under S. 7(1) & (5) [fee for providing information in printed/electronic format];

iv) the salaries and allowances and terms and conditions of service of officers and other employees of Central / State ICs (necessary for the efficient performance of functions by Information Commissioners -- as applicable – under the Act).

v) the procedure to be adopted by ICs in deciding appeals; and

vi) any other matter which is required to be, or may be, prescribed

5. The rules made by a 'Competent Authority' under the 'RTI Act, 2005', should (without prejudice to the generality of its power to make such rules) provide for: the same things as stated in i), ii) and vi) in the answer to 4 and also for the fee payable under S. 7(5) [i.e. the fee for providing information in printed / electronic format].

6. The power to remove the difficulties arising in giving effects to the provisions of the 'RTI Act, 2005' is vested with the Central Government (Government of India).

7. The timeline specified under 'RTI Act, 2005' for the AG to compile a comprehensible guide, required to exercise "right to information", containing information – in its official language – is

eighteen months from the commencement of the Act [i.e. **within 18 months from 15th June, 2005**]. Thus, such a guide should have been compiled by AGs, latest, by 14th December, 2006.

QUIZ XII

- 1 Can a PIO ask for proof of citizenship from a person asking for information under the 'RTI Act, 2005'?
2. What can the Central Government do to remove 'any difficulty arising in giving effect to the provisions' of the "RTI Act, 2005"?
3. Who is a 'Deemed PIO'?
4. Does the 'RTI Act, 2005' accord protection to copyright(s)?
5. Who should be appointed as Information Commissioners under the 'RTI Act, 2005'?
6. How many Chapters does the 'RTI Act, 2005' have and what do they deal with?
7. How many Sections does the 'RTI Act, 2005' have?

Answers to Quiz XII

1. Yes. A 'Public Information Officer' (PIO) can ask a person asking for information under the 'RTI Act, 2005' for 'proof of citizenship'.
2. The 'RTI Act, 2005' [Article 30 (I)] empowers the 'Central Government' to make, by an order published in the 'Official Gazette', such provisions that appear to it to be necessary or expedient to remove 'any difficulty arising in giving effect to the provisions of the Act'. These provisions, however, cannot be inconsistent with the (existing) provisions of the Act. It has been stipulated that such order shall not be made after the expiry of a period of two years from the date of commencement of the Act (i.e. NOT after 15th June 2007). Article 30 (I) adds that 'all such orders – after being made – shall, be laid before each House of the Parliament.
3. A 'Deemed PIO' would be any official, within a given 'Public Authority' who, though not officially designated as the PIO, may be forwarded an 'RTI application' by the designated PIO, for, that official would be better placed to provide the requested information. A 'Deemed PIO' is equally liable for any contravention of the provisions of the 'RTI Act, 2005' as the designated PIO.
4. Yes. The 'RTI Act, 2005' accords protection to copyright(s) under Section 9, whereby, a PIO can reject an information request, fully / partially, if access would "involve an infringement of copyright subsisting in a person other than the State". The PIO should to provide reasons for rejecting the request and quote the section of the Act, as applicable. The applicant has a right to appeal such a decision and the PIO needs to inform the

applicant about this right and the time limits involved and also provide the applicant with the particulars of the Appellate Authorities – the ‘First Appeal Officer’ as well as the ‘Central / State (as the case may be) Information Commission’.

5. The ‘RTI Act, 2005’ stipulates that the ‘Information Commissioners’ (Central / State) “**shall** be persons of eminence in public life with wide knowledge and experience in law, science and technology, social service, management, journalism, mass communication or administration and governance.

6. The ‘RTI Act, 2005’ has (in addition to a ‘Preamble’) Six ‘Chapters’. These are: *‘Preliminary’; ‘RTI & Obligations of Public Authorities’; ‘The Central Information Commission’; ‘The State Information Commission’; ‘Powers & Functions of the Information Commissions, Appeal & Penalties’; and ‘Miscellaneous’.*

7. The ‘RTI Act, 2005’ has Thirty–One ‘Sections’ in all.

QUIZ XII

1. Does the 'RTI Act, 2005' lay down any criteria for designating 'Public Information Officers' (PIOs) and 'Assistant Public Information Officers' (APIOs)?
2. Does the 'RTI Act, 2005' lay down any specific criteria for designating 'First Appeal Officers' (FAOs)?
3. Is the PIO required to receive sanction from the Head of the 'Public Authority' (PA) (that he may belong to) regarding providing full or partial information or denying a request for information as per the 'RTI Act, 2005'?
4. Is the PIO required to receive sanction from the FAO of the PA regarding providing full or partial information or denying a request for information as per the 'RTI Act, 2005'?
5. Can the FAO in a PA be a 'Deemed PIO' with respect to information sought through a particular RTI application?
6. What are the reporting obligations of PAs and the designated APIOs / PIOs / FAOs with respect to their compliance with the 'RTI Act, 2005'?
7. Are 'Information Commissions' also PAs as per the 'RTI Act, 2005'?

Answers to Quiz XII

1. **No.** The '*RTI Act, 2005*' does not lay down any specific criteria for the designation of '*Public Information Officers*' (PIOs) or '*Assistant Public Information Officers*' (APIOs). It is clear though that all '*Public Authorities*' (PAs) [as defined by the '*RTI Act, 2005*'] shall have officials designated as such. It is, generally, understood that they should be so placed as to be able to carry out their tasks [as laid out in the '*RTI Act, 2005*'] efficiently and effectively.
2. **Yes.** The '*RTI Act, 2005*' clearly stipulates that those designated as '*First Appeal Officer*' (FAO) shall be senior to [all] the PIO(s) in a given PA. However, no such specification has been included in the '*RTI Act, 2005*' with respect to the FAOs' seniority vis-à-vis the APIO'(s)'.
3. **No.** A PIO being an authority in her / his own right under the '*RTI Act, 2005*', he / she need not seek or obtain any approval / sanction – from the head of the organisation [or from any other authority outside the organisation] – for providing [partial / complete] information as requested; and / or for providing it in the form requested; or for rejecting altogether [on valid grounds] a citizen's application for information.
4. **No.** For the same reason [as stated in 3] the PIO need not seek or obtain any approval or sanction from the FAO within the PA either.

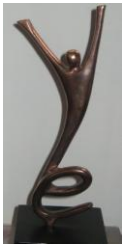
5. No. The PIO of a PA should be mindful of not forwarding an RTI application to an FAO [so as to make the latter a *deemed* PIO]...

There will be a clear conflict of interest in the event of the citizen-applicant not being satisfied with the “*deemed* PIOs” reply [to her / his application], and, hence, choosing to prefer an appeal in the PA which would lie with the same FAO.

6. The APIOs / PIOs / FAOs are, certainly, required to report on their receipt of applications or appeals [as the case may be] and the manner in which these applications / appeals were disposed. They are expected to maintain appropriate registers for this purpose. These reports, thus, collected and collated at the level of the PA and further at the level of the parent Department are supposed to reflect in the ‘*Annual Reports*’ of the ‘*Central*’ / ‘*State Information Commissions*’ (ICs).

The Central / State ICs are to submit their reports to the respective ‘*Appropriate Government(s)*’, which, are to be tabled [by the latter] in the *Parliament* or the *State Legislature(s)* [as the case may be]. S. 25(3) of the ‘*RTI Act, 2005*’ details the information that each ‘*Annual Report*’ of the ICs – pertaining to a given year contain. Understandably, the reporting obligations of the APIOs / PIOs / FAOs have to be in accordance with the requirement of S. 25(1). It goes without saying that they will also have to meet the necessary timelines.

7. Yes. The Central / State ICs are, indeed, PAs as per the definition of a PA in the ‘*RTI Act, 2005*’, for they have been constituted as per the provisions of an Act of the *Parliament of India*.



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