

No. ADR-A007/1/2023-Admin Reforms
Government of Himachal Pradesh
Department of Personnel
Administrative Reforms

From

The Additional Chief Secretary (AR) to the
Government of Himachal Pradesh.

To

1. All Administrative Secretaries to the
Government of Himachal Pradesh
2. The Resident Commissioner,
HP Himachal Bhawan Sikandra Road New Delhi
3. All Head of Departments in Himachal Pradesh.
4. All the Divisional Commissioners in H.P.
5. All the Deputy Commissioners in H.P.
6. The Secretary to Governor Himachal Pradesh Raj Bhawan,
Shimla-2.
7. The Secretary, Himachal Pradesh Vidhan Sabha Shimla-4.
8. The Secretary to Lokayukta, H.P. Shimla-2.
9. The Registrar General, H.P. High Court, Shimla-171001.
10. The Managing Directors/Chief Executive Officers/Secretaries/
Registrars of all the Boards/Commissions/Corporations/
Autonomous Bodies/PSUs Govt. Universities etc.

Dated: Shimla-2, the

22nd September, 2023

Subject:-

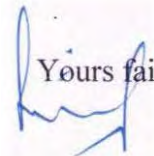
**Judgment of Hon'ble Supreme Court of India on implementation of
suo-motu disclosure under Section 4 of the RTI Act, 2005.**

Madam/Sir,

I am directed to enclose herewith a copy of D.O. No. SIC/PA/MISC-I-2023 dated 6th September, 2023 alongwith its enclosures received from Sh. R.D. Dhiman, State Chief Information Commissioner, Himachal Pradesh State Information Commission Shimla-171002, on the subject cited above and to say that the instructions contained in the D.O. letter may kindly be adhered to meticulously and ensure the implementation of guidelines in letter and spirit.

These instructions may kindly be brought to the notice of all concerned working under your kind control for proper compliance.

Yours faithfully,



(Vijay Kumar)
Special Secretary (AR) to the
Government of Himachal Pradesh
Phone No. 0177-2622498/2880400



R. D. DHIMAN

State Chief Information Commissioner

D.O. No. SIC/PA/MISC-I-2023

Dated the 6th September, 2023

Dear *Mr Paul esu*

Sub:- Judgment of Hon'ble Supreme Court of India on implementation of suo-motu disclosure under Section 4 of the RTI Act, 2005.

1. Hon'ble Supreme Court of India in the writ petition No. 990/2021, Kishan Chand Jain Vs. Union of India and others has directed the State Information Commissions to continuously monitor the implementation of the mandate of Section 4 of the RTI Act, 2005 as also prescribed by the Department of Personnel and Training vide guidelines issued from time to time particularly the instructions under O.M. Dated 07.11.2019(Copy enclosed).

In view of the above, your attention is invited to the guidelines issued by DoPT, Govt. of India vide O.M. dated 07.11.2019 covering the following topics:

- (i). Suo-Motu disclosure of more items under Section 4 of the RTI Act,2005.
- ii). Guidelines for digital publication of proactive disclosures under Section 4 of the Act.
- iii). Detailing of Section 4(1)(b)(iii). 4(1)(b)(iv). 4(1)(b)(xi) 4(1)(b)(xiv).
- iv). Compliance mechanism for Suo-motu disclosure (proactive disclosure) under the RTI Act, 2005.

2. All the Govt. Departments and attached offices/Subsidiary organizations/ Autonomous bodies/ PSU's under their control are required to undertake suo-motu disclosure as per above guidelines and ensure compliance based on these guidelines. Each Department/Public Authority shall ensure that guidelines for suo-motu disclosure under RTI are fully operationalized **within a period of six months from the date of issuance of this letter i.e. 06 09 2023**

3. Action Taken Report on the compliance of these guidelines should be sent along with the URL link to the Department of AR and IIP State Information Commission soon after the expiry of initial period of six months.

4. Each Public Authority should get its proactive disclosure package audited by third party every year as per the guidelines and such audit should be communicated to the Department of AR and HP SIC through publication on their own website.

5. A senior officer not below the rank of Joint Secretary and not below the rank of Additional HOD in case of the attached offices may be appointed as Nodal Officer for ensuring compliance with the proactive disclosure guidelines. Each Ministry/Department should nominate training institute for conducting transparency audit of their suo-motu disclosure under Section 4 of the RTI Act, 2005. Timelines for conducting third party audit exercise annually will be informed subsequently.

6. The Ministry/Department must make an analysis of information which is sought most often by applicants and provide it on their website as suo-motu disclosure. The Public Authorities shall constitute Consultative Committee consisting of office bearers of key stake holders, associations on rotational basis to have a systematic and regular interaction between the officials of the Public Authorities to advise as to what information needs to be uploaded as suo-motu.

Dis cum
8-9-23
SS(AR)
S.O(AR)
11/9/23
SL.RKS.

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the RTI Act would not be disclosed *suo motu*. Further, information about fees, tolls, or other kinds of revenue that may be collected under authorization from the Government, information in respect of outputs and outcomes, process of selection of the private sector party may also be proactively disclosed. All payments made under the PPP project may also be disclosed in a periodic manner along with the purpose of making such payment.

13 Transfer Policy and Transfer Orders

13.1 Transfer policy for different grades/cadres of employees serving in Public Authority should be proactively disclosed. All transfer orders should be publicized through the website or in any other manner listed in Section 4(4) of the Act. These guidelines would not be applicable in cases of transfers made keeping in view sovereignty, integrity, security, strategic, scientific or economic interests of the State and the exemptions covered under Section 8 of the Act. These instructions would not apply to security and intelligence organizations under the second schedule of the RTI Act.

14 RTI Applications

14.1 All Public Authorities shall proactively disclose RTI applications and appeals received and their responses, on the websites maintained by Public Authorities with search facility based on key words. RTI applications and appeals received and their responses relating to the personal information of an individual may not be disclosed, as they do not serve any public interest.

15 CAG & PAC paras

15.1 Public Authorities may proactively disclose the CAG & PAC paras and the Action Taken Reports (ATRs) only after these have been laid on the table of both the houses of the Parliament. However, CAG paras dealing with information about the issues of sovereignty, integrity, security, strategic, scientific or economic interests of the State and information covered under Section 8 of the RTI Act would be exempt.

16 Citizens Charter

16.1 Citizens Charter prepared by the Ministry/Department, as part of the Result Framework Document of the department/organization should be proactively disclosed and six monthly report on the performance against the benchmarks set in Citizens Charter should also be displayed on the website of public authorities.

17 Discretionary and Non-discretionary grants

171 All discretionary /non-discretionary grants/ allocations to state governments/ NGOs/Other institutions by Ministry/Department should be placed on the website of the Ministry/Department concerned. Annual Accounts of all legal entities who are provided grants by Public Authorities should be made available through publication, directly or indirectly on the Public Authority's website. Disclosures would be subject to provisions of Section 8 to 11 of the RTI Act.

18 Foreign Tours of PM/Ministers

181 A large number of RTI queries are being filed on official tours undertaken by Ministers or officials of various Government Ministries/Departments. Information regarding the nature, place and period of foreign and domestic tours of Prime Minister are already disclosed on the PMO's website.

182 As per DoPT's OM No. 1/8/2012-IR dated 11/9/2012, Public Authorities may proactively disclose the details of foreign and domestic official tours undertaken by the Minister(s) and officials of the rank of Joint Secretary to the Government of India and above and Heads of Departments, since 1st January, 2012. The disclosures may be updated once every quarter.

1.8.3. Information to be disclosed proactively may contain nature of the official tour, places visited, the period, number of people included in the official delegation and total cost of such travel undertaken. Exemptions under Section 8 of the RTI Act, 2005 may be kept in view while disclosing the information. These instructions would not apply to security and intelligence organisations under the second schedule of the RTI Act, 2005 and CVOs of public authorities.

20 Guidelines for digital publication of proactive disclosure under Section 4

21 Section 4 lays down that information should be provided through many mediums depending upon the level of the public authority and the recipient of information (for example, in case of Panchayat, wall painting may be more effective means of dissemination of information), and that more and more proactive disclosure would gradually be made through Internet. There is need for more clear guidelines for web-based publication of information for disclosure.

22 The Department of Information Technology has been working on setting of technical standards for government websites and the Department of Administrative Reforms & Public Grievances has published guidelines for websites of Government Departments. These guidelines prescribe the manner in which websites need to be designed and how information should be disclosed. While adhering to the standards of government guidelines as laid down by Department of Information Technology and Department of Administrative Reforms & Public Grievances, the following principles additionally should also be kept in view to ensure that websites' disclosures are complete, easily accessible, technology and platform neutral and in a form which conveys the desired information in an effective and user-friendly manner.

- a) It should be the endeavor of all public authorities that all entitlements to citizens and all transactions between the citizen and government are gradually made available through computer based interface. The 'Electronic Delivery of Services Bill, 2012' under formulation in Government of India would provide the necessary impetus.
- b) Websites should contain detailed information from the point of origin to the point of delivery of entitlements/services provided by the Public Authorities to citizens.
- c) Orders of the public authority should be uploaded on the website immediately after they have been issued.
- d) Website should contain all the relevant Acts, Rules, forms and other documents which are normally accessed by citizens.

- e) Websites should have detailed directory of key contacts, details of officials of the Public Authority.
- f) It is obligatory under Section 4(1)(b)(xiv) of the RTI Act for every Public Authority to proactively disclose 'details in respect of the information, available to or held by it, reduced in an electronic form'. The website should therefore indicate which digitally held information is made available publicly over the internet and which is not.
- g) As departments reorganize their systems and processes to enable themselves for electronic service delivery, it is recommended that the requirement of bringing due transparency as provided in the RTI Act is given adequate consideration at the design stage itself.
- h) To maintain reliability of information and its real time updation, information generation in a digital form should be automatically updated on the basis of key work outputs, like a muster roll and salary slip (NREGA in Andhra Pradesh) or formalization of a government order (Andhra Pradesh). Such an approach will lead to automation of proactive disclosure.
- i) Information must be presented from a user's perspective, which may require re-arranging it, simplifying it etc. However, original documents in original formats should continue to be made available because these are needed for community monitoring of government's functioning.
- j) The 'National Data Sharing and Accessibility Policy' by the Department of Science and Technology is based on the principle that all publicly funded information should be readily available. The policy has been notified in March, 2012 and the schedule should be strictly adhered to.
- k) Information and data should be presented in open data formats whereby it can be pulled by different Application Protocol Interfaces to be used in different fashions more appropriate to specific contexts and needs. Information/ data can, for instance, be presented in powerful visual ways using visualisation techniques. Such visual representation of information/ data can give insights that may remain largely

hidden in a textual or tabular presentation of data. In some contexts, pictures and audio/videos recordings etc may be more useful. There have been moves in some parts of the country to video record Gram Sabha meetings. A picture of a NREGA worksite, for instance, may tell much more than words can. All such different media and forms should be used for proactive disclosure.

- 1) Every webpage displaying information or data proactively disclosed under the RTI Act should, on the top right corner, display the mandatory field 'Date last updated (DD/MM/YY)'.

30 Guidelines for certain clauses of Section 4(1)(b) to make disclosure more effective

31 The elements of information listed in the various sub-clauses of Section 4(1)(b) must be disclosed in an integrated manner. For example, the functions and responsibilities of a public authority cannot be understood in isolation from the powers and functions of its employees, the norms that inform its decision making processes and the rules, instructions and manuals that are used in the discharge of its functions. Description of one element presupposes the existence of another. So every public authority must endeavour to integrate the information mentioned in these sub-clauses while preparing voluntary disclosure materials.

32 Considering that disclosure in regard to certain sub-clauses have been relatively weak, detailed guidelines for four sub-clauses are given below:

33 Guidelines for section 4(1)(b)(iii) - "the procedure followed in the decision-making processes, including channels of supervision and accountability".

331 All government departments have specific duties and responsibilities under the respective Allocation of Business Rules (AOB) issued by the appropriate Government. The constitutional provisions and statutes each department is required to implement are clearly laid down in the AOB. The manner of disposal of matters assigned to each Department/Ministry is described in the Transaction of Business Rules (TOB). Additionally, every department would have a specific set of schemes and development programmes which they are required to implement directly or through their subordinate offices or other designated agencies. These documents contain the specific operations that every Public Authority is required to undertake in the course of implementing the programme or scheme. Every operation mandated under the AOB read with the TOB would be linked to a specific decision-making chain. All government officers have to follow laid down office procedure manual or the other rules which gives details of how representations, petitions and applications from citizens must be dealt with. Templates, formats, and basic steps of decision-making are briefly explained in such manuals. These descriptions constitute the elements of decision-making processes in general.

332 Additionally, in the routine work of governance, government functionaries are required to make decisions in a discretionary manner but broad guiding principles are laid down in some rule or the other. For example, the General Financial Rules lay down procedures for a variety of operations relating to government finances. How sanction must be accorded for incurring expenditure; how losses to government must be reported; how responsibility for losses may be fixed on any government servant; how budgets, demand for grants are prepared and submitted; how public works must be sanctioned and executed; how commodities and services may be procured by a public authority; are all explained in these manuals which are updated from time to time. The challenge is to present a simplified version of the decision-making procedure that is of interest to a common citizen.

333 In view of the above, the guidelines for detailing the decision making processes are as follows:

- (a) Every public authority should specifically identify the major outputs/ tangible results/ services/ goods, as applicable, that it is responsible for providing to the public or to whosoever is the client of the public authority.
- (b) In respect of (a) above, the decision-making chain should be identified in the form of a flow chart explaining the rank/grade of the public functionaries involved in the decision-making process and the specific stages in the decision-making hierarchy.
- (c) The powers of each officer including powers of supervision over subordinates involved in the chain of decision-making must also be spelt out next to the flow chart or in a simple bullet-pointed format in a text-box. The exceptional circumstances when such standard decision-making processes may be overridden and by whom, should also be explained clearly. Where decentralization of decision-making has occurred in order to grant greater autonomy to public authorities, such procedures must also be clearly explained.
- (d) This design of presentation should then be extended to cover all statutory and discretionary operations that are part of the public authority's mandate under the AOB read with the TOB.

- (e) In the event of a public authority altering an existing decision-making process or adopting an entirely new process, such changes must be explained in simple language in order to enable people to easily understand the changes made.

34 Guidelines for Section 4(1)(b)(iv) - “the norms set by it for the discharge of its functions”.

341 Primarily, the intention of this clause is that every public authority should proactively disclose the standards by which its performance should be judged. Norms may be qualitative or quantitative in nature, or temporal or statutory norms. In order to ensure compliance with this clause, public authorities would need to disclose norms for major functions that are being performed.

342 Citizen Charters, which are mandatory, for each central Ministry/Department/Authority, are good examples of vehicles created for laying down norms of performance for major functions and for monitoring achievements against those standards.

343 Wherever norms have been specified for the discharge of its functions by any statute or government orders, they should be proactively disclosed, particularly linking them with the decision making processes as detailed earlier. All Public Authorities should proactively disclose the following:

- a) Defining the services and goods that the particular public authority/office provides directly (or indirectly through any other agency/contractor).
- b) Detailing and describing the processes by which the public can access and/or receive the goods and services that they are entitled to, from the public authority/office along with the forms, if any prescribed, for use by both the applicant and the service providing agency. Links to such forms (online), wherever available, should be given.
- c) Describing the conditions, criteria and priorities under which a person becomes eligible for the goods and services, and consequently the categories of people who are entitled to receive the goods and services.

- d) Defining the quantitative and tangible parameters, (weight, size, frequency etc.) and timelines, that are applicable to the goods and services that are accessible to the public.
- e) Defining the qualitative and quantitative outcomes that each public authority/office plans to achieve through the goods and services that it was obligated to provide.
- f) Laying down individual responsibility for providing the goods and services (who is responsible for delivery/implementation and who is responsible for supervision).

35 Guidelines for Section 4(1)(b)(xi)- “the budget allocated to each of its agency, indicating the particulars of all plans, proposed expenditures and reports on disbursements made”.

35.1 The public authorities while disclosing their budgets shall undertake the following:

- (a) Keeping in view of the technical nature of the government budgets, it is essential that Ministries/Departments prepare simplified versions of their budgets which can be understood easily by general public and place them in public domain. Budgets and their periodic monitoring reports may also be presented in a more user-friendly manner through graphs and tables, etc.
- (b) Outcome budget being prepared by Ministries/Departments of Government of India should be prominently displayed and be used as a basis to identify physical targets planned during the budgetary period and the actual achievement vis-à-vis those targets. A monthly programme implementation calendar method of reporting being followed in Kamataka is a useful model.
- (c) Funds released to various autonomous organizations/ statutory organizations/ attached offices/ Public Sector Enterprises/ Societies/ NGOs/ Corporations etc. should be put on the website on a quarterly basis and budgets of such authorities may be made accessible through links from the website of the Ministry/Department. If a subsidiary does not have a website then the budgets and expenditure reports of

such subsidiary authority may be uploaded on the website of the principal Public Authority.

- (d) Wherever required by law or executive instruction, sector specific allocations and achievements of every department or public authority (where feasible) must be highlighted. For example, budget allocation and target focusing on gender, children, Scheduled Castes and Scheduled Tribes and religious minorities should be specially highlighted. The sector-wise breakup of these targets and actual outcomes must be given in simplified form to enable the vulnerable segments of society to better understand the budgets of public authorities.

36 Guidelines for Section 4(1)(b)(xiv) – details in respect of information, available to or held by it, reduced in an electronic form.

361 On the one hand, this clause serves as a means of proactively disclosing the progress made in computerizing information under Section 4(1)(a) of the RTI Act in a periodic manner. On the other, it provides people with clarity about the kinds of electronic information that, although not held by the public authority, is available to them. For example the stocks of ration available with individual fair price shops may not be held by the District Civil Supplies office, but may be available at a subordinate formation.

362 Keeping in view the varied levels of computerization of records and documents in public authorities, data about records that have been digitized may be proactively disclosed on the respective websites, excluding those records /files /information that are exempted under Section 8. The data about digitized record may include the name of the record and any categorization or indexing used; the subject matter and any other information that is required to be compiled in relation to a file as prescribed by Manual of Office Procedure (and to be prescribed by MOP for electronic records that is under finalization by DARPG), the division/ section/ unit/ office where the record is normally held; the person, with designation, responsible for maintaining the record; and the life span of the record, as prescribed in the relevant record retention schedule.

4.0 Compliance with Provisions of *suo motu* (proactive) disclosure under the RTI Act

4.1 Each Ministry/Public Authority shall ensure that these guidelines are fully operationalized within a period of 6 months from the date of their issue.

4.2 Proactive disclosure as per these guidelines would require collating a large quantum of information and digitizing it. For this purpose, Ministries/Public Authorities may engage consultants or outsource such work to expeditiously comply with these guidelines. For this purpose, the plan/non-plan funds of that department may be utilized.

4.3 The Action Taken Report on the compliance of these guidelines should be sent, along with the URL link, to the Central Information Commission soon after the expiry of the initial period of 6 months.

4.4 Each Ministry/ Public Authority should get its proactive disclosure package audited by third party every year. The audit should cover compliance with the proactive disclosure guidelines as well as adequacy of the items included in the package. The audit should examine whether there are any other types of information which could be proactively disclosed. Such audit should be done annually and should be communicated to the Central Information Commission annually through publication on their own websites. Further, the task of undertaking transparency audits may be given to the respective Training Institutes under each Ministry/Department/Public Authority and across the States and Union Territories. *"However, in cases where no training institutue exists under the Ministries/Departments./Public Authorities the tasks of undertaking transparency audits may be given to any Government Training Insitutue."* All Public Authorities should proactively disclose the names of the third party auditors on their website. For carrying out third party audit through outside consultants also, Ministries/Public Authorities should utilize their plan/non-plan funds.

4.5 The Central Information Commission should examine the third-party audit reports for each Ministry/Public Authority and offer advice/recommendations to the concerned Ministries/ Public Authorities.

4.6 Central Information Commission should carry out sample audit of few of the Ministries/ Public Authorities each year with regard to adequacy of items included as well as compliance of the Ministry/Public Authority with these guidelines.

4.7 Compliance with the proactive disclosure guidelines, its audit by third party and its communication to the Central Information Commission should be included as RFD target.

5.0 Nodal Officer

5.1 Each Central Ministry/ Public Authority should appoint a senior officer not below the rank of a Joint Secretary and not below rank of Additional HOD in case of attached offices for ensuring compliance with the proactive disclosure guidelines. The Nodal Officer would work under the supervision of the Secretary of the Ministry/Department or the HOD of the attached office, as the case may be. Nodal Officers of Ministry/Department and HOD separately should also ensure that the formations below the Ministry/Department/Attached Office also disclose the information as per the proactive disclosure guidelines.

6.0 Annual Reports to Parliament/Legislatures

6.1 Government has issued directions to all Ministries/Departments to include a chapter on RTI Act in their Annual Reports submitted to the Parliament. Details about compliance with proactive disclosure guidelines should mandatorily be included in the relevant chapter in Annual Report of Ministry/Department.
