

## **Part II**

### **FOR PUBLIC AUTHORITIES**

Public authorities are the repository of information which the citizens have a right to have under the Right to Information Act, 2005. The Act casts important obligations on public authorities so as to facilitate the citizens of the country to access the information held under their control. The obligations of a public authority are basically the obligations of the head of the authority, who should ensure that these are met in right earnest. Reference made to public authority in this document is, in fact, a reference to the head of the public authority.

#### **Maintenance and Computerization of Record**

2. Proper management of records is of utmost importance of effective implementation of the provisions of the Act. A public authority should, therefore, maintain all its records properly. It should ensure that the records are duly catalogued and indexed in such a manner and form that it may facilitate the right to information.

#### **Suo Motu Disclosure**

3. Every public authority should provide as much information suo motu to the public through various means of communications so that the public have minimum need to use the Act to obtain information. Internet being one of the most effective means of communications, the information may be posted on the website.

4. Section 4 (1) (b) of the Act, in particular, requires every public authority to publish following sixteen categories of information.

- (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;
- (v) the rules, regulations, 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;
- (viii) a statement of the boards, councils, committees and other bodies consisting of two or more persons constituted as its part or for the purpose of its advice, and as to whether meetings of those boards,

- councils, committees and other bodies are open to the public, or the minutes of such meetings are accessible for public;
- (ix) 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;
  - (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;
  - (xiv) Details in respect of the information, available to or held by it reduced in an electronic form;
  - (xv) 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;
  - (xvi) The names, designations and other particulars of the Public Information Officers.

5. Besides the categories of information enumerated above, the Government may prescribe other categories of information to be published by any public authority. It need be stressed that publication of the information as referred to above is not optional. It is a statutory requirement which every public authority is bound to meet.

6. Another important point to note is that it is not sufficient to publish the above information once. The public authority is obliged to update such information every year. It is advisable that, as far as possible, the information should be updated as and when any development takes place. Particularly, in case of publication on the internet, the information should be kept updated all the time.

#### **Dissemination of information**

7. The public authority should widely disseminate the information. Dissemination should be done in such form and manner which is easily accessible to the public. It may be done through notice boards, newspapers, public announcements, media broadcast, the internet or any other means. The public authority should take into consideration the cost effectiveness, local language and most effective method of communication in the local area while disseminating the information.

#### **Publication of Facts about Policies and Decisions**

8. Public authorities formulate policies and take various decisions from time to time. As provided in the Act, while formulating important policies or announcing

the decisions affecting the public, the public authority should publish all relevant facts about such policies and decisions for the information of public at large.

### **Providing Reasons for Decisions**

9. The public authorities take various administrative and quasi-judicial decisions which effect the interests of certain persons. It is mandatory for the concerned public authority to provide reasons for such decisions to the affected persons. It may be done by using appropriate mode of communication.

### **Designation of PIOs and APIOs etc.**

10. Every public authority is required to designate Public Information Officers in all the administrative units or offices under it. Every public authority is also required to designate Assistant Public Information Officers at each sub-divisional level. The Government of India has decided that Central Assistant Public Information Officers (CAPIOs) appointed by the Department of Posts would act as CAPIOs for all the public authorities under the Government of India.

### **Designation of Appellate Authority**

11. Sub-section (8) of Section 7 of the RTI Act provides that where a request for information is rejected the Public Information Officer shall, inter-alia, communicate the particulars of the Appellate Authority to the person making the request. Thus, the applicant is informed about the particulars of the Appellate Authority when a request for information is rejected but there may be cases where the Public Information Officer does not reject the application, but the applicant does not receive a decision within the time as specified in the Act or he is aggrieved by the decision of the Public Information Officer. In such a case the applicant may like to exercise his right to appeal. But in absence of the particulars of the appellate authority, the applicant may face difficulty in making an appeal. All the public authorities should, therefore, designate the First Appellate Authorities and publish their particulars along with the particulars of the Public Information Officers.

### **Acceptance of Fee**

12. According to the Right to Information (Regulation of Fee and Cost) Rules, 2005 as amended by the Right to Information (Regulation of Fee and Cost) Rules, 2006, an applicant can make payment of fee in cash or by demand draft or banker's cheque or Indian Postal Order payable to the Accounts Officer of the public authority. The public authority should ensure that payment by any of the above modes is not denied or the applicant is not compelled to draw IPO etc. In the name of any officer other than the Accounts Officer. If any public authority does not have any Accounts Officer, it should designate an officer as such for the purpose of receiving fee under the RTI Act or rules made there under.

### **Compliance of the Orders of the Information Commission**

13. While deciding an appeal, the Information Commission, may require the concerned public authority to take such steps as may be necessary to secure compliance with the provisions of the Act. In this regard the Commission may pass an order to provide information to an applicant in a particular form, appoint a Public Information Officer, publish certain Information or categories of information; make necessary changes to its practices in relation to the maintenance, management and destruction of records, enhance the provision of training for its officials, provide an annual report as prepared in compliance with clause (b) of subsection (1) of section 4 of the Act.

14. The Commission has power to pass orders requiring a public authority to compensate the complainant for any loss or other detriment suffered by him. It also has power to impose penalty on the Public Information Officer as provided in the Act. It may be noted that penalty is Imposed on the Public Information Officer which is to be paid by him. However, the compensation, ordered by the Commission to be paid to an applicant would have to be paid by the public authority.

15. The decisions of the Commission are binding. The public authority should ensure that the orders passed by the Commission are implemented. If any public authority or a PIO is of the view that an order of the Commission is not in consonance with the provisions of the Act, it may approach the High Court by way of a Writ Petition.

### **Development of Programmes etc.**

16. It is expected of each public authority that it would develop and organize educational programmes to advance the understanding of the public, in particular of disadvantaged communities, as to how to exercise the rights contemplated under the Act; and ensure timely and effective dissemination of accurate information about their activities. Training of the Public Information Officers and other officers of a public authority is very important for meeting these expectations and effective implementation of the provisions of the Act. The public authorities should, therefore, arrange for training of their officers designated as Public Information Officer/First Appellate Authority and other officers who are directly or indirectly involved in the implementation of the provisions of the Act (PIO), an applicant is likely to face difficulty in approaching the appropriate Public Information Officer. The applicants would also face problem in Identifying the officer senior in rank to the Public Information Officer to whom an appeal under sub-section (1) of Section 19 of the Act can be made. Therefore all public authorities with more than one PIO should create a central point within the organization where all the RTI applications and the appeals addressed to the First Appellate Authorities maybe received. An officer should be made responsible to

ensure that all the RTI application/appeals received at the central point are sent to the concerned Public Information Officers/Appellate Authorities, on the same day.

### **Creation of Central Point**

17. Sub-section (1) of Section 5 of the Right to Information Act, 2005 mandates all public authorities to designate as many Public Information Officers as necessary to provide information under the Act. Where a public authority designates more than one Public Information Officer (PIO), an applicant is likely to face difficulty in approaching the appropriate Public Information Officer. The applicants would also face problem in identifying the officer senior in rank to the Public Information Officer to whom an appeal under sub-section (1) of Section 19 of the Act can be made. Therefore all public authorities with more than one PIO should create a central point within the organization where all the RTI application and the appeals addressed to the First Appellate Authorities may be received. An officer should be made responsible to ensure that all the RTI applications/appeals received at the central point are sent to the concerned Public Information Officers/Appellate Authorities on the same day.

### **Transfer of Applications**

18. The Act provides that if an application is made to a public authority requesting for an information, which is held by another public authority, or the subject matter of which is more closely connected with the functions of another public authority, the public authority, to which such application is made, shall transfer the application or relevant part of it to that other public authority within five days from the receipt of the application. The public authority should sensitize its officers about this provisions of the Act lest the public authority is held responsible for delay.

### **Annual Report of the CIC**

19. The Information Commissions, after the end of each year, are required to prepare reports on the Implementation of the provisions of the Act during that year. Each Ministry or Department is required, in relation to the public authorities within its jurisdiction, to collect and provide information to the concerned Information Commission for preparation of the report. The report of the Commission, inter-alia, contains following information in respect of the year to which the report relates-

- (a) the number of requests made to each public authority;
- (b) the number of decisions where applicants were not entitled to access to the documents pursuant to the requests, the provisions of the Act under which these decisions were made and the number of times such provisions were invoked.
- (c) Particulars of any disciplinary action taken against any officer in respect of the administration of the Act;

- (d) the amount of charges collected by each public authority under the Act and**
- (e) any facts which indicate an effort by the public authorities to administer and implement the spirit and intention of the Act.**

**20. Every public authority should send necessary material to its administrative Ministry/Department soon after the end of the year so that the Ministry/Department may send the information to the Commission and the Commission may incorporate the same in the report.**

**21. If it appears to the Information Commission that a practice of a public authority in relation to the exercise of its functions under the Act does not conform with the provisions or spirit of the Act, it may give a recommendation to the authority specifying the steps ought to be taken for promoting such conformity. The concerned public authority should take necessary action to bring its practice in conformity with the Act.**