

Right to Information Act 2005

Obligations &
Responsibilities

The real Swaraj will come not by the acquisition of authority by a few but by the acquisition of capacity by all to resist authority when abused.

Mahatma Gandhi

‘Democracy requires an informed citizenry and transparency of information which are vital to its functioning and also to contain corruption and to hold Governments and their instrumentalities accountable to the governed’

Right to information Act 2005

What is Information ?

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 and information relating to any private body which can be accessed ;by a public authority under any other law for the time being in force- Section 2(f)

Obligations

Section 4 (1) Every public authority shall-(a) maintain all its records duly catalogued and indexed in a manner and the form which facilitates the right to information under this Act and ensure that all records that are appropriate to be computerised are, within a reasonable time and subject to availability of resources, computerised and connected through a network all over the country on different systems so that access to such records is facilitated

The RTI Act 2005: Coverage

- Came into effect from October 12, 2005
- Covers Central, State and Local Government , and
 1. all bodies owned, controlled or substantially financed;
 2. non-government organisation substantially financed, directly or indirectly by funds provided by the appropriate Government(2(h))
- Covers executive, judiciary and legislature 2(e)
- Includes material in any form and information relating to any private body which can be accessed by a public authority under any other law for the time being in force (2(f))

What does Right to Information Mean?

It includes the right to :

- i. Inspect works, documents, records.
- ii. Take notes, extracts; or certified copies of documents or records.
- iii. Take certified samples of material.
- iv. Obtain information in form of printouts, diskettes, floppies, tapes, video cassettes or in any other electronic mode or through printouts.[S.2(j)]

The RTI Act 2005 - Processes

- Application to be submitted in writing or electronically, with prescribed fee, to public Information Officer (PIO).
- Envisages PIO in each department/agency to receive requests and provide information. Assistant PIO at sub-district levels to receive applications/appeals/complaints. Forward to appropriate PIO. These will be existing officers.
- Information to be provided within 30 days. 48 hours where life or liberty is involved. 35 days where request is given to Assistant PIO, 40 days where third party is involved and 45 days for human rights violation information from listed security intelligence agencies.
- Time taken for calculation and intimation of fees excluded from the time frame.
- No action on application for 30 days is a deemed refusal.
- No fee for delayed response.

What is not open to disclosure?

The following is exempt from disclosure [S.8]

- Information, disclosure of which would prejudicially affect the sovereignty and integrity of India, the security, strategic, scientific or economic interests of the State, relation with foreign State or lead to incitement of an offence;
- Information which has been expressly forbidden to be published by any court of law or tribunal or the disclosure of which may constitute contempt of court;
- Information, the disclosure of which would cause a breach of privilege of Parliament or the State legislature;

What is not open to disclosure ?

- information including commercial confidence, trade secrets or 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;
- 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.
- Information received in confidence from foreign Government;

What is not open to disclosure ?

- Information which would impede the process of investigation or apprehension or prosecution of offenders;
- Cabinet papers including records of deliberations of the Council of Ministers, Secretaries and other officers;
- Information which relates to personal information the disclosure of which has no relationship to any public activity of interest, or which would cause unwarranted invasion of the privacy of the individual;
- Notwithstanding any of the exemptions listed above, a public authority may allow access to information, if public interest in disclosure outweighs the harm to the protected interests.

RTI Act 2005 - Exemptions

- Infringes copyright, except of the state.
- Where practicable, part of record can be released.
- Intelligence and security agencies exempt (S24) - except cases of corruption and human rights violation.
- Most exempt information to be released after 20 years (with some exceptions).
- Provided that the information, which cannot be denied to the Parliament or a State Legislature shall not be denied to any person.
- Notwithstanding anything in the Official Secrets Act, 1923 nor any of the exemptions, a public authority may allow access to information, if public interests in disclosure outweighs the harm to the protected interests.

RTI Act 2005 – Responsibilities of public Authorities.

- Appointing PIOs/Asst. PIOs within 100 days of enactment (5(1)).
- Maintaining, cataloguing, indexing, computerising and networking and networking records (4(1)(a)).
- Publishing within 120 days of enactment a whole set of information and updating it every year (4(1)(b)).
- Publishing all relevant facts while formulating important policies or announcing the decisions which affect public (4(1)(c)).

RTI Act 2005 – Responsibilities of Public Authorities Contd...

- Providing reasons for its administrative or quasi-judicial decisions to affected persons(4(1)(d)).
- Providing information suo moto (4(2)).
- Providing information to Information Commission (25(2)).
- Raising awareness, educating and training (26(1)).
- Compiling in 18 Months and updating regularly local language guide to information (26(2)(3)).