



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)



■ ***“I believe that the passage of this Bill will see the dawn of a new era in our processes of governance, an era of performance and efficiency, an era which will ensure that benefits of growth flow to all sections of our people, an era which will eliminate the scourge of corruption, an era which will bring the common man’s concern to the heart of all processes of governance, an era which will truly fulfill the hopes of the founding fathers of our Republic.”***

Dr. Manmohan Singh

Prime Minister of India

Speech in Parliament on May 11, 2005.



Right to Information:

Key Concepts

- Transparency & Accountability in the working of every public authority
- The right of any citizen of India to request access to information and the corresponding duty of Govt. to meet the request, except the exempted information (Secs. 18/19)
- The duty of Govt. to pro-actively make available key information to all (Sec 4).
- A responsibility on all sections: citizenry, NGOs, Media



Obligations

- S 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 governments, and
 - all bodies owned, controlled or substantially financed;
 - 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 information relating to private body which can be accessed by under any other law for the time being in force (2(f))



What is a Public Authority?

- "public authority" means any authority or body or institution of self- government established or constituted—
- (a) by or under the Constitution;
- (b) by any other law made by Parliament;
- (c) by any other law made by State Legislature;
- (d) by notification issued or order made by the appropriate Government, and includes any—
- **(i) body owned, controlled or substantially financed;**
- **(ii) non-Government organization substantially financed, directly or indirectly by funds provided by the appropriate Government;**



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 Asst. 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;

Contd.



What is not open to disclosure?

Contd

- information, the disclosure of which would cause a breach of privilege of Parliament or the State Legislature;
- information including **commercial confidence, trade secrets or intellectual property, the disclosure of which would harm the competitive position of a third party**, unless the competent authority is satisfied that larger public interest warrants the disclosure of such information;
- 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

Contd.



What is not open to disclosure?

Contd

- 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 or 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 contd.

- Infringes copyright, except of the state.
- Where practicable, part of record can be released.
- Intelligence and security agencies exempt (S 24)– **except cases of corruption and human rights violation**
- Third party information to be released after giving notice to third party
- 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 to i), a public authority may allow access to information, if public interests in disclosure outweighs the harm to the protected interests.



Central Information Commission:

What can I complain about?

- The Central Information Commission is an autonomous body set up to inquire into complaints received from citizens
- You can complain that you have been refused access to information. You can also complain about how the public authority has handled your request, for instance;
 - + failure to respond to your request within 30 working days (or failure to explain why an extension to the 45 days is needed)
 - + failure to give you proper advice and help within the stipulated time
 - + failure to give information in the form in which you asked for it
 - + failure to properly explain reasons for refusing your request, for instance if the public authority believes that giving you information would harm a criminal investigation.



What information does the CIC need?

To deal with complaint promptly, send the following details to CIC:

- name and address of the appellant;
- name and address of the Central Public Information Officer against the decision of whom the appeal is preferred;
- particulars of the order including number, if any, against which the appeal is preferred;
- brief facts leading to the appeal



What information does the CIC need?

Contd....

- if the appeal is preferred against deemed refusal, the particulars of the application, including number and date and name and address of the Central Public Information Officer to whom the application was
- prayer of relief sought;
- grounds for the prayer or relief; verification by the appellant; and
- any other information which the Commission may deem necessary for deciding the appeal



State Information Commissions

RTI Acts in States

1.	Tamil Nadu	1977	11 Kerala	2005
2.	Goa	1977	12 Gujarat	2005
3.	Rajasthan	2000	13 Chattisgarh	2005
4.	Karnataka	2000	14 Haryana	2005
5.	Delhi	2001	15 Punjab	2005
6.	Maharashtra	2002	16 Tripura	2005
7.	Assam	2002	17 Andhra Pradesh	2005
8.	M P	2003	18 Uttaranchal	2005
9.	J&K	2004	19 Meghalaya	2005
10.	Orissa	2005	20 West Bengal	2005



RTI Act 2005 - Penalties

■ Penalties

imposable by Information Commission on PIO or officer asked to assist PIO

- ❑ For unreasonable delay – Rs 250 per day up to Rs 25,000
- ❑ For illegitimate refusal to accept application, malafide denial, knowingly providing false information, destruction of information, etc. – up to Rs. 25,000 fine
- ❑ Recommendation for departmental action for persistent or serious violations

However, no criminal liability

- **Immunity for actions done in good faith (S. 21).**



RTI Act 2005 - Access

Universal Access – especially to the Poor

- ❑ Fee at a reasonable level – though quantum not specified. No fee for BPL.
- ❑ Assistant Public Information Officers at sub-district levels to facilitate filing of applications/appeals
- ❑ No need to specify reason for seeking information or other personal details
- ❑ Provision to reduce oral requests into writing
- ❑ Provision to provide all required assistance, including to disabled persons.
- ❑ Information to be provided in local languages
- ❑ Provision for damages
- ❑ Open only to citizens of India.



RTI Act 2005–Responsibilities of Public Authorities

- Appointing PIOs/Asst. PIOs within 100 days of enactment (5(1)).
- Maintaining, cataloguing, indexing, computerising 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)).



Public Awareness and Educational Programmes

Sec 26

- Develop and organize educational programmes to advance the **understanding of the public, particularly the disadvantaged**, to exercise right to information.
- Government to:
- Encourage public authorities to participate in programmes; promote timely/ effective dissemination of accurate info on activities.
- Train CPIOs and produce relevant training materials – user guide and related matter.



**Thank you for
listening!**