

RTI HANDBOOK

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understanding & using the RIGHT TO INFORMATION ACT for PERSONAL & NATION'S BENEFIT

Prepared in national
interest by NyayaBhoomi,
a social organization



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NyayaBhoomi is spearheading the movement for transparency and accountability in the government. Let the government officials who are corrupt and delinquent beware that any action taken on behalf of NyayaBhoomi will be taken to its logical conclusion. That no amount of obstacles placed in our path will deter us from forging ahead and exposing corruption.

To continue to consolidate this image and to seek faster positive action by the government on your complaints, applications and appeals, please use NyayaBhoomi's specially created universally acceptable forms.

Every change that curtails one's powers is initially resisted. With time, the change becomes acceptable. In the long term interests of our country, we urge you not to let obstacles and resistance put you off

An information regime should be created such that citizens would have easy access to information without making any formal request for it - CIC

CONTENTS

THE HANDBOOK.....	4
INTRODUCTION.....	5
UNDERSTANDING & USING THE RIGHT TO INFORMATION ACT (“RTI ACT”).....	6
WHAT IS INFORMATION.....	6
COVERAGE AND APPLICABILITY.....	6
OBLIGATIONS OF PUBLIC AUTHORITIES.....	6
PUBLIC INFORMATION OFFICERS (PIO).....	6
APPLYING FOR INFORMATION.....	7
HOW DOES A “PIO” DEAL WITH YOUR APPLICATION.....	7
FEES.....	8
TIME LIMITS.....	8
THIRD PARTY.....	9
BARRED INFORMATION WHICH CANNOT BE DISCLOSED TO YOU.....	9
EXEMPTIONS.....	10
APPEALS.....	10
INFORMATION COMMISSIONS.....	11
OTHER IMPORTANT POINTS.....	11
ISSUES AND SUBJECTS FOR WHICH TO USE “RTI”.....	12
DECISIONS OF “CENTRAL INFORMATION COMMISSION” + IMPLICATIONS.....	13
IMPORTANT GUIDELINES.....	15
HOW TO USE THE INFORMATION OBTAINED.....	16
SPECIMEN APPLICATION FORM.....	17
SPECIMEN OF FIRST APPEAL.....	19
SPECIMEN FORM OF APPEAL TO THE COMMISSION (2ND APPEAL).....	20
USEFUL CONTACTS.....	27
SAMPLE APPLICATIONS.....	30
GAS CYLINDER DELIVERY.....	31
PENDING WORK IN ANY GOVERNMENT DEPARTMENT.....	32
TAKE COPIES OF RATION DOCUMENTS.....	33
WATER PROBLEM.....	34
INSANITARY CONDITIONS.....	35
STREET LIGHTS NOT FUNCTIONING.....	36
HORTICULTURE.....	37
DETAILS OF ALL ROADS WHICH ARE CUT.....	39
DETAILS OF “STREET AND ROAD WORKS” CARRIED OUT.....	40
INSPECT GOVERNMENT WORKS.....	42
COPIES OF ALL WORKS CARRIED OUT IN A WARD.....	43
MLA DEVELOPMENT FUND.....	44
MISUSE OF OFFICIAL VEHICLES.....	45
STATUS OF ALL CORRUPTION COMPLAINTS RECEIVED.....	46
ENCROACHMENTS.....	47
COMMERCIALIZATION.....	48
APPLICATION FOR SEEKING RECORDS ABOUT WATER MANAGEMENT.....	49
BARE ACT.....	50
FULL ACT – AS IT WAS ENACTED.....	51
INTRODUCTION TO NYAYABHOOMI.....	65

THE HANDBOOK

INTRODUCTION

Do you have any pending work with any department of the Government?

Are they not doing your work and expecting or demanding a bribe?

Did you file a grievance application in a government department but they are simply not acting on it?

Did you make any complaint against any official/citizen or any wrongdoing, but without any result?

You can use the Right to Information Act to know the status of your application or work. The government will have to provide you the information within 30 days. Demanding the status under the law almost always forces them to act and do your work first & then report a positive status. How can they say they did nothing!

HAVE YOU EVER THOUGHT

Why are the streets and colonies so dirty?

Why the manhole covers or footpath slabs over sewer lines missing, posing a danger to life?

Why are the roads in your area in such a pathetic condition?

Why are people dying of starvation in various parts of the country?

Why are still so many people forced to live in abject poverty?

Why your local municipality does so little and always claims that they have no funds?

Why your local ration shop never has any ration?

Why there is never any doctor or medicines at the government hospital?

Where have all the teachers in the government schools gone?

Some of us feel that we need good politicians and good bureaucrats. However, real change can come only when the people of this country have the power to hold their governments accountable. When that happens, no government or politician would dare to be corrupt, inefficient or insensitive.

HOW DO WE HOLD THE GOVERNMENT ACCOUNTABLE?

To make the government accountable, we need information regarding government decisions and functioning.

The Right to Information Act empowers us to do just that. It gives us the right to obtain information from the government about matters that affect us in thousands of ways. Used innovatively, such information could lead to exposure of corruption and inaction, and make the government responsive and accountable.

The government spends so much money on various works in your area. You may and should ask for the details of all the works carried out by the municipal body in your area. How much money was spent? On what works was it spent? Similar information was asked by people all over the country since October 2005. When the information was physically verified, it turned out that a number of works existed only on paper. Won't you like to hold the government similarly accountable in your area?

Under the RTI Act, you can demand from any government body:

- **any information** pertaining to any of its departments.
- **photocopies** of government contracts, payments, estimates, measurements of engineering works, etc.
- **samples of material** used in the construction of roads, drains, buildings, etc.
- to **inspect any under-construction or completed work** done by the government.
- to **inspect government documents** – books, registers, drawings, records, absolutely anything.
- the **status of your complaints** and requests

Using the RTI Act is quite simple. An average citizen with average education can begin to use it effortlessly within 5 minutes. This is the time it takes to learn the broad rules. Having said this, we have prepared this Handbook in order to facilitate a thorough understanding of the Act. Once you have read and understood it, consider yourself an M.A. (RTI) – Master in the Application of RTI.

UNDERSTANDING & USING THE RIGHT TO INFORMATION ACT (“RTI ACT”)

This chapter is a simplified yet correct explanation of the Act. If the contents of this chapter do not satisfy your needs, please refer to the full Act in this Handbook which has many progressive provisions.

NOTES

1. Central Information Commission posts all its decisions on <http://cic.gov.in>. Since the RTI Act is fairly new, such decisions act as clarifications of many clauses of the Act. Therefore, these decisions become important precedents and must be read regularly. You may visit www.nyayabhoomi.org/decisions for an updated summary of the important decisions and their impact on your applications.
2. *Certain parts of this chapter carry comments in grey colour which enhance your understanding.*
3. **TEXT IN THIS COLOUR AND STYLE HIGHLIGHTS SHORTCOMINGS IN THE ACT WHICH NEED TO BE REMOVED. WE ARE LOBBYING THE GOVERNMENT TO BRING AN ALL COMPREHENSIVE AMENDMENT TO THE ACT AND MAKE IT AN IDEAL RTI ACT WHICH THE ENTIRE WORLD CAN EMULATE.**

The RTI Act came into force on 12th October 2005. It’s purpose is to ensure that the public has access to information which is under the control of various government authorities. It is designed to promote transparency and accountability in the working of every government department or institution at both central and state levels. This Act overrides and has supremacy over the Official Secrets Act 1923, where applicable.

WHAT IS INFORMATION

Information means any material in any form, including records, documents, manuscripts, memos, emails, opinions, advices, file notings, press releases, circulars, orders, logbooks, contracts, reports, papers, samples and models. Also data held in any electronic form such as fax, microfilm, microfiche, etc.

1. You can take certified copies of documents, notes, extracts, contracts, etc.
2. Inspect documents and records at government offices.
3. Inspect works such as quality of roads.
4. Obtain information in the form of printouts, disks, etc.
5. Take certified samples of materials, such as, polluted water, road material, cement.

COVERAGE AND APPLICABILITY

Any authority, body, institution, department, panchayat, etc. which is part of the government is covered. NGOs substantially financed directly or indirectly by the government are also covered. All such bodies are referred to as a “Public Authority” in the Act.

THE ACT SHOULD ALSO APPLY TO ALL LISTED COMPANIES, NOT-FOR-PROFIT AND SOCIAL ORGANIZATIONS (NGOs), POLITICAL PARTIES, HOUSING SOCIETIES, ETC., THOUGH A LIMIT COULD BE SET ON THE SCOPE OF INFORMATION AVAILABLE IN SUCH CASES.

Certain intelligence and security organizations are exempt from providing information (see the Second Schedule on the last page of the Act in this book). However, information pertaining to corruption and violation of human rights in these organizations is not exempt.

The Act applies to the whole of India with the exception of the state of Jammu and Kashmir.

OBLIGATIONS OF PUBLIC AUTHORITIES

Govt. departments are required to automatically publish a lot of information. Please see Section 4 of the Act.

PUBLIC INFORMATION OFFICERS (PIO)

Every Public Authority (government department) is supposed to appoint a PIO in all its administrative units to provide information to citizens.

Some departments have appointed just one central PIO, whereas others have appointed separate PIOs for separate functions/offices. One way or the other, you’ll be able to find a PIO who will accept your application and provide you information. You may also visit <http://rti.gov.in> for help. Or, email your application to rti@nyayabhoomi.org. We will find the right PIO for you.

THE PRACTICE OF DESIGNATING ONE OR MORE PIOs FOR EACH SUB-DEPARTMENT OFTEN CAUSES CONFUSION AND HARASSMENT. TO KNOW WHO IS THE RIGHT PIO IS A DIFFICULT TASK. IDEALLY, THERE SHOULD BE JUST ONE PIO FOR A PUBLIC AUTHORITY, AND SEVERAL ASSISTANT PIOs. THE ACT NEEDS AN AMENDMENT IN THIS RESPECT.

There is supposed to be an Assistant PIO (“APIO”) at each sub-district level (tehsil). His job is to receive your application for information or appeal and forward it immediately to the concerned PIO. Also, an officer in several post offices acts as an Assistant PIO for many Public Authorities.

Most public authorities have not appointed any APIO. This violates the law. Many NGOs, including NyayaBhoomi, are pursuing this issue with the government.

A PIO may, from time to time, require the assistance of other officers in his department. If the other officers do not assist the PIO, they will be held liable and can be penalised in place of the PIO.

APPLYING FOR INFORMATION

1. First you must know the name and address of the concerned PIO. Details in many cases are available on the website of the concerned Public Authority. A visit to <http://rti.gov.in> may also be useful. You can also email your application to us at rti@nyayabhoomi.org and we will find the right PIO for you.
2. Apply in any of the following ways.

THE ACT SAYS THAT YOU CAN APPLY THROUGH ELECTRONIC MEANS. THIS POINTS TO EMAILS. HOWEVER, SINCE FEE CANNOT BE PAID ELECTRONICALLY, THE ONLY WAY TO MAKE AN APPLICATION IS BY A VISIT. THE ACT SHOULD PROVIDE FOR ONLINE TRANSACTIONS AND ACCEPTANCE OF PERSONAL CHEQUES UPTO A VALUE OF Rs.100.

Some states or some public authorities have specified a particular form for application. It is usually titled as “Form A”. All the contents of Form A have been incorporated into NyayaBhoomi’s “Application Form A” & you can safely use it anywhere in India.

- a. Apply on a plain paper in English, Hindi or local language.
 - b. Use the application form prepared by NyayaBhoomi called “Application Form A”. It contains essential clarifications and instructions for the concerned PIO.
 - c. Or, you may visit www.nyayabhoomi.org and download the above “Application Form A”. You can save it as a template and use it any number of times.
 - d. If a request cannot be made in writing, the applicant can make an oral request and the PIO will record it in writing.
3. Your application should be accompanied by a fee (1) in cash or (2) by DD or (3) pay order.

Fee for all central government public authorities is Rs.10.

Different states have prescribed different rates of fee. For example, for Haryana, it is Rs.50.

Some states also accept fee through other methods. For example, in Haryana, you can pay through treasury challan.

THE STATES HAVE BEEN GIVEN THE POWER TO MAKE RULES. SOME STATES HAVE ALREADY STARTED TO MISUSE THIS POWER IN ORDER TO RENDER THE ACT TOTALLY DUD. FOR EXAMPLE, THEY HAVE PRESCRIBED CHARGES SO HIGH THAT ONE DARE NOT SEEK INFORMATION. RULES OF SOME STATES ARE A CLEAR VIOLATION OF THE ACT ITSELF.

4. Deposit the application together with fee at the counter of the concerned Public Authority. Obtain acknowledgement on the photocopy of the application together with a receipt for the fee.

Many public authorities can make you run from pillar to post on one pretext or the other and hassle you so much that you may give up the idea of filing the application. Usually, they hassle you about application timings, fee deposit methods, and identification of the right PIO. As concerned and responsible citizens, it is our duty to make sure that the public authorities know that such obstacles will not deter us from seeking information. Gradually, the resistance from the government authorities will die down and they will accept RTI as our right.

5. You are not required to give any reason for asking for the information.
6. You are not required to give personal details. Only contact details are sufficient.
7. You must be a citizen of India, but you are not required to give any proof.
8. Only individuals can apply; Corporates, NGOs and institutions cannot apply. However, you can prepare your application on the letter head of an NGO or institution if you want.

HOW DOES A “PIO” DEAL WITH YOUR APPLICATION

1. There are several possible scenarios:

- a. The PIO gives/communicates the information to you within 30 days.
- b. The PIO is entitled to a short extension of time. (*See “Time Limits”*)
- c. The PIO rejects your request for reasons specified under “*Barred Information*”. Or he rejects part of your application, and gives you only partial information. (*Decide if you should file an appeal. For more guidance, read on*)
- d. The PIO does not give you the information within the time limit. In this case, he will be deemed to have refused your request for information. (*File an appeal*)
- e. The PIO gives you vague, evasive or partial information. (*File an appeal*)
- f. The PIO discovers that jurisdiction for the whole or some part of the information lies with another Public Authority. He will transfer this part to another Public Authority and intimate to you about the transfer within 5 days (*if he takes more than 5 days, complaint to Commission*). The PIO is still responsible for the rest of the information. For the transferred part, the PIO of another Public Authority has to give you information within 30 days from the date of transfer.

THE PROVISION DEALING WITH THE TRANSFER OF YOUR REQUEST IS APPLICABLE ONLY WHEN THE TRANSFER IS MADE FROM ONE PUBLIC AUTHORITY TO ANOTHER PUBLIC AUTHORITY. HOWEVER, PIOs REGULARLY MISUSE THIS PROVISION FOR EVEN FORWARDING THE APPLICATION TO ANOTHER PART OF THEIR OWN DEPARTMENT. FORTUNATELY, IN A DECISION, THE CENTRAL COMMISSION HAS CLARIFIED THAT SUCH A PRACTICE IS NOT ONLY UNACCEPTABLE, BUT ALSO A PIO CANNOT FORWARD AN APPLICATION WITHIN HIS OWN DEPARTMENT. THE PIO WITH WHOM THE APPLICATION IS MARKED HAS TO PROVIDE THE INFORMATION & HE CANNOT FORWARD IT ANOTHER PIO IN HIS OWN DEPARTMENT.

- g. Information is about a third party and the PIO needs time. *See section “Third Party”*.
2. PIO shall ordinarily provide information in the requested form/format.
3. Where a request has been rejected in whole or in part, the PIO shall communicate to you
 - a. the reasons for rejection/decision
 - b. the period within which you may make an appeal, and
 - c. the particulars of the appellate authority

FEES

1. A fee of Rs.10 is deposited along with the application if it is a central government public authority.
2. Different state government have prescribed different fees. Usually, it is not over Rs.50 per application.
3. There is no fee if the applicant belongs to “Below Poverty Line” category.
4. If the PIO exceeds time limit, information will be given free of charge no matter how high the cost is.
5. In many cases, payment of further fee may be required. The PIO shall intimate the calculations of further fees in writing, and request you to deposit this. He will also intimate
 - a. your right to review of fee
 - b. to whom to request for review
 - c. the process and time frame for review
6. The following standard charges will apply in the case of central government public authorities;
 - a. Rs.2 for each page created or copied or photocopied upto A3 size.
 - b. Actual charge for larger sizes
 - c. Actual cost or price for samples and models, and published material at the price fixed
 - d. Rs.50 for each CD, floppy disk or other similar media
 - e. For inspection of records, no fee for the first hour and Rs.5 for each subsequent hour
7. State governments have prescribed their own charges. Some are outrageously high. For example, for Haryana and Punjab, the charge for each page is Rs.10.

TIME LIMITS

1. PIO shall provide information or reject your request for information within 30 days.

2. Information concerning the life or liberty of a person to be provided within 48 hours – even on holidays.
3. When submitting an application with Assistant PIO, add 5 days.
4. When application is transferred from one Public Authority to another, add 5 days.
5. If the PIO fails to give a decision in time, he shall be deemed to have refused the request. Go to appeal.

Refusal is different from rejection. PIO has the right to reject, but has no right ever to refuse.

6. First appeal may be made within 30 days. More time may be given on reasonable grounds. This appeal shall be disposed of within 30 days. The first appellate authority may take upto 45 days but has to record the reason for delay in its decision.

THE ACT STIPULATES THAT WHEN IT CONCERNS THE LIFE OR LIBERTY OF A PERSON, INFORMATION SHALL BE PROVIDED WITHIN 48 HOURS. HOWEVER, IF THE REQUEST FOR INFORMATION IS REFUSED/REJECTED, THE PROCEDURE FOR THE FIRST APPEAL TAKES THE USUAL 30 DAYS. THE PERSON MAY WELL BE DEAD IN THAT TIME PERIOD.

7. Second appeal may be made within 90 days. More time may be given on reasonable grounds. The commission generally gives its decision within 90 days.
8. Where the fee is more, intervening period between intimation by the PIO and receipt of fee by him will be added to the applicable time limit.
9. In cases of human rights violation where the Commission's approval is necessary, the information will be supplied within 45 days.
10. Where the interests of third party are involved and there is no objection by the third party after being heard, the information will be provided within 40 days.
11. If the third party objects, then the third party will go through standard appeals process.

THIRD PARTY

1. If the information sought concerns the interests of a third party, the PIO shall give a written notice to the third party within 5 days from the receipt of the request and take its representation into consideration.
2. Third party shall be given 10 days to make a representation before the PIO.
3. The PIO shall, within 40 days of application and after giving the third party an opportunity of being heard, make a decision whether or not to disclose information and give in writing the notice of his decision to third party. The third party may appeal against the decision, and standard appeals procedures shall be followed. Until all these procedures are completed, information cannot be given to you. Time taken by such procedures shall be added onto the time limit of 40 days.

BARRED INFORMATION WHICH CANNOT BE DISCLOSED TO YOU

1. Information which could affect the sovereignty, integrity, security, strategic, scientific or economic interests of the country, or relations with foreign State.
2. Information which could lead to incitement of an offence.
3. Information the disclosure of which may constitute contempt of court.
4. Information, the disclosure of which would endanger the life or physical safety of any person.
5. Information which would impede investigation or apprehension or prosecution of offenders.
6. Information which may harm commercial interests of a third party unless larger public interest is served.
7. Information available to a person in his fiduciary relationship unless larger public interest is served.
8. No copyrighted information can be provided.
9. Cabinet papers generated during the process of making a decision cannot be disclosed until the decision has been taken.
10. Personal information which serves no public interest, or which would cause unwarranted invasion of the privacy of the individual unless the PIO is satisfied of the larger public interest. However, any information which cannot be denied to parliament or state legislature shall not be denied to you.

EXEMPTIONS

1. Regardless of exemptions, PIO may allow access if public interest outweighs harm to protected interests.
2. Any 20 year old information shall be open for access. Decision about when 20 years end shall be taken by the Central Government but will be subject to the usual appeals provided for in this Act.

APPEALS

1. There are two levels of appeal: the First appeal, and the Second appeal.
2. In case of no or bad decision, first appeal may be preferred within 30 days. First appellate authority shall be a designated officer senior in rank to the concerned PIO in the concerned department. His/her name is usually posted on the same website/notice-board/document where the details of PIOs are posted.
3. In appeal proceedings, the onus to prove that a denial was justified shall be on the PIO.
4. First appeal shall be disposed of within 30 days. May be 45 days for reasons recorded in writing
5. First appeal may be preferred in writing on a plain paper and should include:

You may also use NyayaBhoomi's "Appeal Form". It includes columns/fields for all of the essential details listed below.

- a. name/designation and address of the first appellate authority
- b. your name and contact details
- c. concerned PIO's name and designation
- d. application ID no. and/or fee receipt no. issued by the authority at the time of applying, if any
- e. photocopy of the application form – if the enclosures are too many, don't enclose them
- f. photocopy of the rejection letter or reply, if available
- g. detailed "grounds of appeal"
- h. "prayers" – this is basically a list of your demands/requests to the first appellate authority

IT IS OUR EXPERIENCE THAT THE FIRST APPEAL IS NORMALLY, BUT NOT ALWAYS, A SHAM. BEFORE REJECTING YOUR APPLICATION, THE PIO USUALLY CONSULTS THE OFFICER WHO WILL BE THE FIRST APPELLATE AUTHORITY, AND IT IS WITH HIS COVERT SUPPORT THAT THE APPLICATION IS FULLY OR PARTIALLY REJECTED. WHEN THE APPEAL GOES TO THE FIRST APPELLATE AUTHORITY, HE WOULD HAVE ALREADY MADE HIS DECISION TO DISMISS YOUR APPEAL ON ONE GROUND OR THE OTHER. THEREFORE, WE ARE OF THE BELIEF THAT THE FIRST APPEAL REQUIREMENT IS MEANINGLESS AND SHOULD BE DELETED. WE ARE LOBBYING THE GOVERNMENT FOR AN AMENDMENT IN THE ACT.

6. If the first appeal is partially or fully dismissed, you may prefer a second appeal which lies with the Commission within 90. More time may be admitted on reasonable grounds.
7. No time limit has been set in the Act for the disposal of appeal with the Commission. It is a shortcoming of the Act which we are pursuing with the government. Usually, the Central Information Commission delivers its decision within 90 days.

THE ACT HAS NOT PUT A CAP ON THE TIME WITHIN WHICH AN APPEAL WITH THE COMMISSION HAS TO BE DISPOSED OF. IN THEORY, THE COMMISSION COULD TAKE 50 YEARS IF IT WANTED TO.

8. The decision of the Commission shall be binding. However, you are always at liberty to approach a High Court with a writ petition.
9. In its decision, the Commission may impose a penalty of Rs.250 for each day's delay on the PIO, subject to an upper limit of Rs.25,000.

THERE IS NO PROVISION FOR MONETARY PENALTY IN THE FIRST APPEAL. IT EFFECTIVELY GIVES A PIO ANOTHER UPTO 30 DAYS DURING WHICH YOU WILL HAVE TO FILE THE FIRST APPEAL, AND THEN AGAIN 30 MORE DAYS FOR THE FIRST APPEAL TO BE DISPOSED OF. WHEN THE FIRST APPEAL IS SUCCESSFUL, THE PIO IS AGAIN USUALLY GIVEN 15 DAYS TO PROVIDE THE INFORMATION. THE ENTIRE PROCESS RESULTS IN A PERIOD OF 105 DAYS BEING AVAILABLE TO A PIO TO PROVIDE YOU THE INFORMATION WITHOUT THE FEAR OF PENALTY ON ACCOUNT OF THE DELAY.

THE PROVISION FOR MONETARY PENALTY SEEMS TO HAVE BEEN LEFT AT THE DISCRETION OF THE COMMISSION. PUTTING AN UPPER LIMIT ON THE PENALTY AMOUNT MAY ALSO GIVE LEEWAY TO GOVERNMENT OFFICERS WHO ARE INVOLVED IN LARGE SCALE CORRUPTION AND WHERE EVIDENCE MAY BE TAMPERED WITH IF TIME IS ON THE OFFICERS' SIDE.

10. In its decision, the Commission may require the Public Authority to compensate the complainant.

11. It is advisable that you seek the help of NyayaBhoomi or other expert organizations in preparing appeals that lie with the Commissions. If you are sending it to NyayaBhoomi, make sure that you send a photocopy of absolutely every document, together with other documents which may be useful.

INFORMATION COMMISSIONS

1. Throughout this Handbook, we refer to both Central Information Commission and State Information Commission as just “Commission(s)”.
2. Central Information Commission is for central government matters, whereas State Information Commissions are for state government cases. These are all independent bodies. No appeal against a decision of a State Commission lies with the Central Commission.

IDEALLY, THE FIRST APPEAL SHOULD LIE WITH THE STATE INFORMATION COMMISSIONS, AND THE SECOND APPEAL SHOULD GO TO CENTRAL COMMISSION. IN THE CASE OF CENTRAL PUBLIC AUTHORITIES, A SEPARATE BODY SHOULD BE ESTABLISHED FOR FIRST APPEALS. THIS HAS NOT BEEN PROVIDED FOR. THIS MAY CRIPPLE THE ACT IN STATES WHERE LOCAL INFLUENCE AND POLITICS CASTS ITS SHADOW ON STATE INSTITUTIONS.

3. Each Commission has one Chief Information Commissioner and upto ten Information Commissioners. They are the people of eminence, and cannot pursue any other profession. HO of Central Commission is in Delhi. Head offices of the State Information Commissions are likely to be in their capital cities.
4. Commissions can receive and inquire into complaints where:
 - a. PIO has not been appointed, or the Assistant PIO has refused to accept an application
 - b. information is not given, or is incomplete, misleading, or false
 - c. time limits are not met
 - d. amount of fee is seen as unreasonable
 - e. in respect of any other matter relating to RTI

For b, c and d above, instead of a complaint, it is best to go for First Appeal and if necessary, then the Second Appeal.

5. Commissions shall have the same powers as a civil court. They can
 - a. summon persons, compel them to give evidence and produce documents or things
 - b. require the discovery of documents
 - c. examine any record of a Public Authority including records which are exempt from disclosure
6. Burden of proving that he acted reasonably and diligently shall be on the PIO.
7. Where a PIO fails persistently in his duties, the commission can recommend disciplinary action.
8. Commissions shall prepare a comprehensive and exhaustive report on the implementation of this Act every year. This report would include detailed statistics.
9. Commissions can recommend measures for reforms in general or in respect of particular Public Authorities in order that RTI can be properly operated.

OTHER IMPORTANT POINTS

PUBLIC AUTHORITIES RARELY TAKEN ACTION ON YOUR COMPLAINTS, AND RARER STILL IS THE FEEDBACK TO YOU ON WHAT HAPPENED. THE ONLY RECOURSE IS FOR YOU TO LODGE A COMPLAINT FIRST, AND THEN SEEK INFORMATION UNDER THE ACT AFTER A WEEK. IT WOULD HAVE BEEN FAR MORE EFFECTIVE, TIME AND COST SAVING, AND TRUST BUILDING IF THE ACT ITSELF HAD PROVIDED FOR A COMPLAINT HANDLING MECHANISM. UNDER THIS, YOU COULD LODGE A COMPLAINT AND BE ENTITLED TO GETTING THE FINAL REPORT AUTOMATICALLY WITHIN 30 DAYS.

OFTEN, YOU MAY WANT INFORMATION WHICH IS NOT STATIC BUT CONTINUES TO EVOLVE. FOR INSTANCE, YOU MAY WANT A PROGRESS REPORT IN A PARTICULAR INVESTIGATION, OR THE STATUS OF A PARTICULAR PROJECT. IT IS QUITE OBVIOUS THAT YOUR INTENTION IS TO BE KEPT UPDATED AS THINGS MOVE ALONG. THE ACT DOES NOT CLEARLY PROVIDE FOR SUCH A POSSIBILITY. ONCE YOU HAVE GOT ACCESS TO INFORMATION AVAILABLE AT A GIVEN POINT WITHIN 30 DAYS AS REQUESTED IN YOUR APPLICATION, THAT APPLICATION IS DEEMED TO HAVE BEEN DISPOSED OF. TO RECEIVE FURTHER RELATED INFORMATION THAT GETS CREATED IN FUTURE, YOU WILL HAVE TO APPLY AGAIN.

ISSUES AND SUBJECTS FOR WHICH TO USE "RTI"

The list produced below is by no means comprehensive and is only indicative of the issues and areas on which you can obtain information.

- | | |
|---|---------------------------------|
| 1. MLAs/MPs constituency funds | 29. Municipality budget |
| 2. Bad roads | 30. Misuse of official vehicles |
| 3. Streetlights | 31. Railway station |
| 4. Water | 32. Traffic challans |
| 5. Parks | 33. Passport office |
| 6. Sanitation - with pictures | 34. Driving license |
| 7. Electricity | 35. Pensioners |
| 8. Electricity receivables from politicians | 36. Water statistics |
| 9. Telephones | 37. Water leakage inspection |
| 10. Telephones' receivables from politicians | 38. Out of turn promotions |
| 11. Missing manhole covers | 39. Income tax |
| 12. Parking facilities | 40. Sales tax |
| 13. Bus stands | 41. Government schemes for poor |
| 14. Local bus service and night service | 42. Forests, environment |
| 15. Bus stop facilities | 43. Government land |
| 16. Post office | 44. House tax |
| 17. Gas cylinder | 45. Irrigation water |
| 18. Police station | 46. Patwari |
| 19. Petrol, diesel check | 47. PSU banks |
| 20. Educational and training institutes | 48. Animal Husbandry |
| 21. Hospitals and ESI centres - unused machines | 49. Tourism |
| 22. Ration shops | 50. Food department |
| 23. Statistics of complaints in a government department | 51. Sewerage |
| 24. Encroachments - court cases, notices, with pictures | 52. Labour inspector |
| 25. Unjust cancellatin of tender or other similar grievance | |
| 26. Pending work in government department | |
| 27. Shelter homes | |
| 28. All works carried out in a city/ward | |

DECISIONS OF “CENTRAL INFORMATION COMMISSION” + IMPLICATIONS

1. Decision no. refers to the no. as posted on the CIC’s website.
2. The following appeals/decisions must be read in full:
 - a. 10/1/2005/CIC dated 25.02.06.
 - b. ICPB/C1/CIC/2006 dated 06.03.06.

DECISIONS & IMPLICATIONS

1. Information includes file notings. ([ICPB/A-1/CIC/2006 dated 31.01.06](#))
2. A public authority can divide responsibilities amongst PIOs, but every PIO has to accept every application. ([10/1/2005/CIC dated 25.02.06](#))
3. The PIO with whom the application is submitted has to provide the information. He cannot forward to another PIO within his department. Also, he cannot ask the applicant to approach another PIO for submission or obtaining information. ([ICPB/C1/CIC/2006 dated 06.03.06](#))
4. Only PIOs can provide information. Other officers and APIOs cannot provide information. APIOs job is to only forward the application or the appeal. ([10/1/2005/CIC dated 25.02.06](#))
5. Transfer under section 6(3) is not possible within a single public authority. ([10/1/2005/CIC dated 25.02.06](#) & [ICPB/C1/CIC/2006 dated 06.03.06](#))
6. A public authority can prescribe a form for making application. However, it was clarified in a subsequent review order that an application can still be made on plain paper and it cannot be rejected. ([CIC/C/I/2006 dated 16.01.06](#) & [CICI/C/1/2006 dated 30.01.06](#))
7. The onus for timely dispatch of replies is on the PIO alone. ([CIC/OK/A/2006/00049 dated 02.05.06](#))
8. An appellant can seek the help of others in proceedings. ([10/1/2005/CIC dt. 25.02.06](#))
9. One has to serve documents on the opposite parties also. ([10/1/2005/CIC dt. 25.02.06](#))
10. It is possible to seek reviews of Commission’s decisions. ([CICI/C/1/2006 dated 30.01.06](#) & [CIC/A/3/2006 dated 03.04.06](#))
11. An appellant has a right to be heard by the first appellate authority. ([CIC/AT/A/2006/00040 dated 27.03.06](#))
12. A public authority can only ask for costs as prescribed in the Act and the Rules, and cannot ask for compensation for their time and other costs incurred. ([23/IC\(A\)/2006 dated 10.04.06](#))
13. Use of lawyers for representation is discouraged by the Commission. ([CIC/MA/A/2005/00004 dated 02.05.06](#))
14. Even if the information is available on the government’s website, one can ask for it through an application. ([CIC/OK/A/2006/00046 dated 02.05.06](#))
15. A tender cannot be cancelled without giving reasons. In fact, every action of a public authority must have a reason and it should be transparent to all. ([ICPB/A-4/CIC/2006 dated 10.02.06](#) & [ICPB/A-6/CIC/2006 dated 27.02.06](#))
16. Information cannot be denied under section 7(9). This provision only deals with the form in which information is to be supplied. ([10/1/2005/CIC dated 25.02.06](#))
17. The government cannot wrongly classify its documents as Secret and then claim exemption from disclosure. ([CIC/A/12/2006 dated 21.02.06](#))
18. Excuse of “potential misuse” is not sufficient to deny information. ([10/1/2005/CIC dated 25.02.06](#))

19. Jailed or under-trial people is not personal information and is not invasion of privacy. (CIC/WB/A/2006/00120 dated 01.05.06)
20. Tour programmes and travel expenses of a public authority are not personal information. (07/IC(A)/CIC/2006 dated 06.03.06)
21. Bio-datas and application forms together with enclosures for appoint in public authorities cannot be denied. (ICPB/A-9/CIC/2006 dated 03.04.06)
22. Names of officers who are under discreet watch due to suspicion of corruption but still have been promoted have to be disclosed. (CIC/MA/A/2006/116 dated 01.05.06)
23. Complainants should be in the know of the progress of their complaints about income tax evasion. (CIC/MA/A/2006/118 dated 01.06.06)
24. PA can be directed to provide information after investigation is completed under intimation to the CIC. (CIC/MA/A/2006/118 dated 01.06.06)
25. Where information sought is not clear, the Commission may direct the appellant to clarify and PIO to provide information within 10 days. (CIC/AT/A/2006/074 dated 01.06.06)
26. Data protection under section 8(1)(j) and 11 cannot be invoked to deny information not held in confidence. (CIC/WB/A/2006/126 dated 01.06.06)
27. Personal performance assessment/appraisal forms of government employees cannot be disclosed. (29/IC(A)/06 dated 20.04.06)
28. PAN, TAN Numbers are confidential. (05/IC(A)/CIC/2006 dated 03.03.06)
29. Evaluated answer sheets of self or others cannot be disclosed. However, “answer key” and “award of marks” cannot be kept secret. (ICPB/A-2/CIC/2006 dated 06.02.06 & ICPB/A-3/CIC/2006 dated 10.02.06 & 11/53/2006-CIC dated 02.05.06)
30. One cannot prefer a second appeal directly with the Commission without first preferring the first appeal. (CIC/A/1/2006 dated 18.01.2006)
31. For a valid reason, this appeal was referred back to the first appellate authority. However, the appellant was advised that he can revive the appeal if the first appellate authority failed to act within the extended time. (ICPB/A-5/CIC/2006 dated 17.02.06)
32. PIOs cannot appeal against the decisions of first appellate authorities. (06/IC(A)/CIC/2006 dated 03.03.06)
33. Exemption provided to the organizations listed in Second Schedule of the Act are absolute in nature. (CIC/AT/A/2006/00055 and 30 dated 27.04.06)
34. The provision that “information that can be given to the Parliament can be given to the application also” is meaningless. The Commission has not accepted it even once. In this case, it even asked for a cause of action which is not allowed in the Act. (02/IC(A)/CIC/2006 dated 22.02.06)
35. Even a Supreme Court PIO is not exempt from penalty. He narrowly avoided it in this case. (CIC/A/3/2006 dated 07.02.06 and 03.04.06)
36. Investigation should be taken as completed only after the competent authority makes a prima-facie determination about the presence or absence of guilt on receipt of the investigation report from the investigating officer. (CIC/AT/A/2006/039 dated 01.06.06)

IMPORTANT GUIDELINES

1. The degree of your success with RTI depends upon how you frame your questions. Be specific, clear and comprehensive about the information you need or the work and records that you want to inspect, or the certified samples of materials that you want to collect. Do not hesitate to write them in as much detail as is necessary. Write them in the form of a list. Make sure each point deals with just one piece of information or work or record. And then write as many points or sub-points as you want. Do not hesitate even if the whole application becomes thicker than an encyclopaedia.
2. Try to limit one application to one subject. You are more likely to get more information within the time limits in this way rather than by stuffing a lot of related questions and requests in a single application.
3. The more you already know about the department and its functioning, the more effective your questions will be. Therefore, try to get the application verified by someone who is from within the system.
4. Government departments normally ignore your complaints and reports of corruption. To force them to act on them, we have devised a highly successful strategy as follows:
 - a. Send a complaint to the department concerned.
 - b. Make sure that you send a copy of this letter to other appropriate agencies such as CBI, CVC, Anti-Corruption Branch of the state government, etc. by registered or speed post.
 - c. A week after sending this letter, file your application for information with not only the public authority, but also CBI, CVC and other anti-corruption agencies to whom copies were sent. The applications should be to seek status of your complaint.
 - d. Since the CBI, CVC etc. have to provide you the information requested, they will first seek this information from the concerned public authority by writing to them.
 - e. Imagine a government officer receiving a letter from CBI talking about corruption and seeking a status report. **YOUR WORK IS CONSIDERED DONE!**
5. Use faxes and emails, but make sure you have a proof of every communication that you send to PIOs, appellate authorities, and Commissions. Regd./Speed post are the best methods for sending applications, complaints and appeals. For reminders and the rest, use normal post UPC (“Under Postal Certificate”).
6. After filing your application, it is best to send a reminder by fax, email or phone after 10 days. In some cases, the public authorities simply lose or forget about the application. Therefore, a reminder will help.
7. Send a fortnightly reminder to CIC/SICs.
8. If you face any resistance, incompetence, inefficiency or lack of interest in implementing the RTI in any of the Public Authorities, do bring this to the notice of the Commission by writing to them.
9. Many state governments had enacted their own RTI laws. Now, however, the central RTI Act has come into force and it is more powerful and effective. So you do not need to use any of the state RTI laws.
10. Do forward us a summary of your success story together with copies of all documents upon receipt of information. There is always something to be learnt from each application. We will try to post every application on the website for the benefit of others.

HOW TO USE THE INFORMATION OBTAINED

Information is meaningless and useless if it cannot be put to good use. You have obtained information from the government department and you have got the evidence of corruption in your hands. What do you do now? What is the next logical step?

Of course, the next step would be to let people know and bring the guilty to book. Some of the most effective methods are listed below:

1. Submit your findings to various vigilance agencies such as CBI, Central Vigilance Commission, local police, etc. and ask them to take action. Also ask them to tell you within 15 days what action will be taken.
2. Write to the concerned department and mark copies to your local MLA, MP, Chief Minister, Prime Minister, High Court, etc. Send them all proof and ask them to take action, and give you a status report within 15 days.
3. After a gap of three weeks, file RTI applications with every government agency to whom you had sent your findings, and demand status report on your complaint. Since they have to give you the status report, and they cannot afford to say “we have done nothing”, they will first take action and then give you a positive status report. If nothing at all, they will start an investigation in the matter. You should file an application every month for an update on the status of investigation.
4. Plan and organize a Jan Sunwai and invite the media, RWAs, other NGOs, politicians. It is a gathering of affected and interested people before whom all facts, records and evidences are placed.
5. Make your findings public through media, your personal contacts, NGOs/RWAs and by holding street or colony level meetings.
6. Send us all details in a file and we might be able to suggest additional ways of using the information to good effect. Using your initial discovery, we may perhaps help you discover and expose even more corruption.

Since even CBI and CVC are now bound by law to respond to your RTI application, they will first have to take some action and then report this to you. Imagine, the corrupt government officer or department receiving a letter from CBI asking uncomfortable questions!



My ref.:.....dated Your ref.:..... dated

APPLICANT'S NAME & ADDRESS (Applicant is an Indian citizen)	PIO FROM WHOM INFORMATION IS REQUIRED (PIO's name, designation, address, telephone, etc. where available)

1. Does this application concern the life and liberty of a person Yes NO
2. Is the applicant below poverty line Yes NO
3. Fee Rs..... Payment details.....
(If postal orders are enclosed, I have left the beneficiary's field blank. Please fill in the details yourself.)
4. Type of info. reqd. (in addition to questions asked):
 - Documents copies
 - Inspection of records
 - Inspection of work
 - Samples of material
5. Method of supply of information:
 - Speed/registered post
 - I will arrange collection
 - Email
 - Other
6. Third party's name and address
7. Period for which info required:
8. Subject/summary of the information required

NOTES CONCERNING COMMONLY MADE MISTAKES BY PUBLIC AUTHORITIES

Following notes have been culled from CIC's various decisions. For specific decision no./date, contact us.

- PIO named in the application has to provide information. He cannot forward to another PIO internally.
- Section 6(3) of the Act cannot be invoked to transfer an application within the same PA.
- Section 7(9) cannot be used to refuse information. It only means that PIO can provide information in the available format if the requested format disproportionately diverts resources of the PA.
- Any attempt at frustrating an applicant from submitting the application invites complaint under section 18(1). Such complaints are dealt with seriously and compensation to complainant can be awarded.
- An APIO's job is only to receive an application or an appeal and forward it to the concerned PIO or AA. He cannot be part of the process of providing information any further.

CIC = Central Information Commission; PA = Public Authority; PIO = Public Information Officer; APIO = Assistant PIO

IMPORTANT NOTES

1. Please mention my ref. no. in all your letters. Otherwise, I wont be able to relate it to this application.
2. Where the no. of pages exceeds 20, please scan them and provide them on a CD.
3. Provide information to each point separately. No clubbing of points even if information is repeated.

COMPLETE DESCRIPTION OF INFORMATION REQUIRED

120 Scindia House, Connaught Lane
Above Anand Restaurant, New Delhi - 1
Tel: 099 111 55555, mail@nyayabhoomi.org



RTI • PUBLIC TPT • SANITATION • TOBACCO • ENVIRONMENT

25 July 2007

Special Commissioner – Transport
5/9 Underhill Road
New Delhi – 110054

FIRST APPEAL UNDER SECTION 19 OF THE RIGHT TO INFORMATION ACT 2005

MY REFERENCE: 604

I had filed an application for information – copy enclosed – on 06 June 2007, and the reply was received – copy enclosed – dated 12.07.07. Since I am not satisfied with the reply, I am preferring this appeal. My query/pointwise comments are as under:

1. I have been referred to a website. The PIO ought to have provided the information in hard format to me as requested.
2. It appears from a combined reading of the replies in response to points 7, 8 and 9 that the Smart Card Readers were put to use by the office staff and not by the enforcement and other staff “in the field”. Please, therefore, direct the PIO to provide correct information.
3. Noted
4. Noted. Timings for the inspection will be fixed with the Deputy Commissioner (Ops.).
5. Noted
6. Information provided goes to show when and how TSR was deleted, not how it was added. It is not clear how licences can be issued for TSRs when no such class exists. The PIO ought to have clarified this point.

RELIEFS SOUGHT

The PIO be ordered to provide complete and comprehensive information as asked for.

Yours sincerely,

Rakesh Agarwal

Appellant

ENCLOSED

1. Application for information dated 06.06.07 – 4 pages
2. PIO’s reply

SPECIMEN FORM OF APPEAL TO THE COMMISSION (2ND APPEAL)

CENTRAL INFORMATION COMMISSION
APPEAL UNDER SECTION 19(3) OF THE RTI ACT 2005

1

Rakesh Agarwal

versus

Deependra Pathak & Another

LIST OF DATES

<u>Description</u>	<u>Date</u>
Second appeal.....	25.07.07
Decision of the first appellate authority	02.07.07
First appeal.....	30.05.07
Letters from several officers of the public authority	24.04.07 to 18.05.07
PIO's another letter further transferring	17.04.07
PIO's letter transferring the application.....	12.04.07
RTI application.....	10.04.07

25 July 2007

Appellant

CENTRAL INFORMATION COMMISSION
APPEAL UNDER SECTION 19(3) OF THE RTI ACT 2005

Rakesh Agarwal

versus

Deependra Pathak & Another

INDEX OF DOCUMENTS

<u>Document</u>	<u>Page No.</u>
List of Dates.....	1
Index of documents	2
Certificate	3
Proof of service of appeal to the Respondents.....	4
This appeal along with verification.....	5 – 7
Decision of the first appellate authority.....	8 – 10
First appeal.....	11 – 14
Letters from several officers of the public authority	15 – 29
PIO's another letter further transferring	30
PIO's letter transferring the application.....	31
RTI application.....	32 – 33

25 July 2007

Appellant

CENTRAL INFORMATION COMMISSION
APPEAL UNDER SECTION 19(3) OF THE RTI ACT 2005

Rakesh Agarwal

versus

Deependra Pathak & Another

CERTIFICATE

It is hereby certified that the enclosed matter under appeal/complaint has not been previously filed, or is pending with any court or tribunal or with any other authority.

25 July 2007

Appellant

PROOF OF SERVICE OF APPEAL TO THE RESPONDENTS

CENTRAL INFORMATION COMMISSION
APPEAL UNDER SECTION 19(3) OF THE RTI ACT 2005

5

Rakesh Agarwal

120 Scindia House

Connaught Lane

New Delhi - 110001 **Appellant**

VERSUS

Deependra Pathak (PIO)

Additional Commissioner of Police (Gen. Admin.)

Delhi Police

Police Head Quarters

I P Estate

New Delhi – 110002 **Respondent No. 1**

and

Satish Chandra (Appellate Authority)

Joint Commissioner of Police (HQ)

Delhi Police

Police Head Quarters

I P Estate

New Delhi – 110002 **Respondent No. 2****BRIEF FACTS OF THE CASE**

1. The Appellant had filed an application for information on 10.04.07.
2. The Appellant received two letters dated 12.04.07 and 17.04.07 from Respondent no. 1 or on his behalf, using section 6(3) to transfer the application internally within the same public authority.
3. Incomplete and evasive information – some of it contradictory – was received from several officers of the public authority between 24.04.07 and 18.05.07.

4. On not being satisfied with the way the information was being provided/denied, the Appellant filed first appeal on 30.05.07.
5. The first appellate authority, without calling the Appellant for a hearing, passed an undated order despatched on 02.07.07.
6. The first appellate authority has not addressed the issues raised in the appeal, hence this appeal before the Hon'ble Commission.

GROUND OF APPEAL

1. My appeal dated 30.05.07 to the first appellate authority may be considered part and parcel of this appeal, and the same is not being repeated for the sake of brevity.
2. Delhi Police being one single authority, the Respondent had no legal basis to invoke section 6(3) to transfer the application. In his decision dated 25.02.06 in appeal no. 10/1/2005-CIC, the CCIC Shri Wajahat Habibullah had clarified that in a matter concerning one single public authority, section 6(3) can not apply. A copy of the relevant pages of the decision are enclosed as part of the first appeal.
3. Several officers of the public authority have invoked section 8(1)(j) and section 11 to avoid giving information. It is submitted that the information sought cannot cause invasion of anyone's privacy by any stretch of imagination. Further, section 11 deals with the process of representation made by a third party, and cannot be used to deny information.
4. The information has been requested in public interest. Every taxi and autorickshaw driver in Delhi is required to apply for and obtain a "badge" before he is eligible to drive a passenger public service vehicle. The process involves verification of his antecedents by the local police. The appellant has come across thousands of instances where the applications for badges are pending for several years due to the failure of police to conduct verification. This clearly calls for fixing of accountability as to who is responsible for such failures. The RTI application of the appellant is one such means to fix this accountability by asking for the right type of information.

5. Mr. Jaspal Singh, DCP (North-East District, Delhi) has provided information running into a few hundred pages. The information is not in the format as requested, and is even otherwise totally useless. The appellant will present the information during the course of the hearing before the Hon'ble Commission.

RELIEFS SOUGHT

1. The Respondent be directed to provide complete and comprehensive information free of cost in one batch without forwarding any query to anyone internally.
2. Penalty be imposed on the Respondent under section 20(1) of the Act for the delay in providing information.

Place: Delhi

Dated: 25 July 2007

Appellant

VERIFICATION

Verified at Delhi on the day aforementioned that the contents of the above appeal are true to my knowledge and nothing has been concealed therefrom.

Appellant

USEFUL CONTACTS

Many states have formed their own specific Acts also. With the central Act coming into force, you don't really need them. Still, if you are curious, you may visit www.righttoinformation.info.

1. **Central Information Commission** (<http://cic.gov.in>)
Old JNU Campus, Block IV, 5th Floor, New Delhi – 110067, Tel/fax: 011-26717354
2. **Main RTI Portal of the government** (<http://rti.gov.in/>)
This portal has a wealth of information such as, a listing of PIOs of many central, state govt. departments, and proactive disclosures provided by those departments.
3. **RTI Portal of Ministry of Personnel, Public Grievances and Pensions**
Has useful information for legally inclined readers. (<http://persmin.nic.in/RTI/WelcomeRTI.htm>)
4. **Hum Janenge** (<http://in.groups.yahoo.com/group/HumJanenge/>)
A very useful discussion board focussed entirely on RTI.
5. **STATE INFORMATION COMMISSIONS**

<u>Andhra Pradesh</u>	<u>Chattisgarh</u>	<u>Dadra & Nagar Haveli</u>
<i>Shri C.D. Arha (Retd. IAS)</i> 040-55405566, 09949099801 <i>Mr. R. Dileep Reddy (Journ.)</i> 09949099802 <i>Mr. Kalakuntla Sudhakara Rao</i> 09949099803	<i>A.K. Vijayvargia (Ex. Chief Sec)</i> akvijayvargia@nic.in Nirmal Chayya Bhawan Mira Dattar Road Nr. Bottle House, Shankar Nagar Raipur - 492007 Tel: 0771-2221259, 4080013 Fax: 0771-2221204	<i>Development Commissioner</i> Secretariat KV-66 Road Dadra Nagar Haveli-296230 Tel: 0260-2632126 Fax: 0260-2645466
<u>Gujarat</u>	<u>Haryana</u>	<u>Himachal Pradesh</u>
<i>Dr. P.K. Das</i> gscic@gujarat.gov.in 079-23252701, Res: 23230993 Secretary: 079-23252966 Bureau of Eco & Statistics Bldg. 1 st Floor, Sector 18 Gandhinagar - 382018	<i>Shri G. Madhavan</i> madhavang@hry.cic.in Telefax: 0172-2726568 Res: 0172-2793628 State Information Commission SCO No. 70-71, Sector 8C Madhya Marg, Chandigarh	<i>Shri P.S. Rana (Retd. IAS)</i> scic-hp@nic.in H.P. Govt. Secretariat Shimla – 171002
<u>Karnataka</u>	<u>Kerala</u>	<u>Madhya Pradesh</u>
<i>Shri K.K. Mishra (Ex Chief Sec)</i> Tel: 080-22371191/93/94 Fax: 080-22371192 State Information Commission Third Floor, Third Stage Multi-storied Buildings Dr. Ambedkar Road Bangalore – 560001	<i>Palat Mohanadhas (Retd. IAS)</i> Tel: 0471-2320920 Fax: 0471-2330920 Off: 0471-2333147 The Secretary State Information Commission Punnen Road Thiruvananthapuram – 695039	<i>Shri T.N. Shrivastava</i> Tel: 0755-2441019 B-22, Char Imli Bhopal
<u>Maharashtra</u>	<u>Manipur</u>	<u>Meghalaya</u>
<i>Dr. Suresh V. Joshi</i> Tel: 022-22856078, 22793103 13 th Floor, Mantralaya New Admin. Building Mumbai - 400032	<i>Sunderlal Singh (Sec. - DP & AR)</i> sunderlal@nic.in Telefax: 0385-2220981 State Information Commission Old Secretariat Imphal – 795001	<i>Shri G.P. Wahlang</i> gpw@shillong.meg.nic.in Tel: 064-2226102 Meghalaya Secretariat Shillong – 1

<u>Orissa</u>	<u>Pondicherry</u>	<u>Punjab</u>
<p><i>Shri D.N. Nath Padhi (IAS)</i> hon_scic@ori.nic.in <i>Shri Radhamohan</i> sic@ori.nic.in Orissa Soochana Commission State Guest House Annexe Room No. 44, Unit 5 Bhubaneswar – 751001 Tel: 0674-2534300 http://orissasoochanacommission.nic.in</p>	<p><i>Shri C.S. Khairwal (Chief Sec)</i> cs@pon.nic.in Tel: 0413-2334144 Fax: 0413-2337575 Res: 0413-2274872 Chief Secretariat Beach Road Pondicherry</p>	<p><i>Shri Rajan Kashyap (Retd. IAS)</i> scic@punjabmail.gov.in kashyap_rajan@rediffmail.com Tel: 0172-2740543 SCO: 84-85 Sector 17C Chandigarh</p>
<u>Tamilnadu</u>	<u>Uttranchal</u>	<u>West Bengal</u>
<p><i>S. Ramakrishnan - Retd. IAS</i> <i>G Ramakrishnan - Retd. IAS</i> <i>R. Rathinasamy - Retd. IAS</i> Tamilnadu Information Comm. Krishna Vilas Bungalow 89 Dr. Alagappa Road Purasaiwalkam Chennai – 600084 Fax: 044-26403355</p>	<p><i>Dr. R.S. Tolia</i> Telefax: 0135-2666778 State Information Commission Sector 1, C-10, Defence Colony Dehradun – 248001</p>	<p><i>Mr. Arun Bhattacharya</i> Tel/Fax: 033-24791966 Bhawani Bhawan, 2nd Floor Alipur Kolkata – 700027</p>

USE THIS SPACE TO ADD YOUR OWN USEFUL CONTACTS

SAMPLE APPLICATIONS

GAS CYLINDER DELIVERY

Often delivery of gas cylinder is chronically late. Whether the cause of delay is from the lack of supply or because the deliverer is waiting for a bribe, you can find out the details. Asking for this information can often speed up the service. Here are sample questions to send to the gas cylinder company's PIO.

Please supply me information about domestic and commercial cylinder gas customers and the details of demand and supply in the following format in respect of the gas agency

Month and year	No. of dom. customers	No. of comm. customers	Cylinders procured	Cylinders booked	Cylinders delivered	Average delivery period

1. How many domestic and commercial customers have one, two and more than two gas cylinders as at today?
2. I would like to inspect certain registers that record booking and delivery details at the named gas agency. Please let me know 3 separate dates and times and the venue for such an inspection. At the time of inspection, I might ask for the photocopies of certain documents, records, and entries.
3. Please provide me the following details in the following format for the first working day of the last month:

Customer's name	Customer's number	Cylinders in his name	Domestic or commercial	Booking date of cylinder	Date of delivery	Booking no.	Days elapsed in the interim

4. Has the supplier of cylinders to the above gas agency taken any action against any gas agency in the state on account of erratic distribution of gas cylinders. If so, please provide the names and addresses of such gas agencies together with the details of action taken.

PENDING WORK IN ANY GOVERNMENT DEPARTMENT

I had applied for a new electricity connection and a copy of the appropriate document is enclosed herewith. No satisfactory action has been taken on my application so far. Please provide the following information with respect to the same:

1. Daily progress made on my application till date.
2. Names and designations of the officials with whom my application was lying during this period. Please intimate the periods when it was lying with which officer and what action was taken by that official during that period on what dates.
3. Please give a the proof of receipt and dispatch of my application in the offices of each of these officials.
4. According to your rules or citizens charter or any other order, in how many days should such a matter be dealt with and resolved. Please provide a copy of these rules.
5. The above officials have not adhered to the time limit mentioned in these rules and are guilty of violating these rules and hence guilty of misconduct under their conduct rules. Please give a copy of their conduct rule, which they have violated by violating the above mentioned rule.
6. These officials have caused serious mental injury to me by making me run around all this while. Are these officials guilty of causing mental harassment to the public?
7. What action will be taken against these officials for violating all the above rules and for causing mental agony to the public?
8. By when this action would be taken?
9. When will I get my connection?

TAKE COPIES OF RATION DOCUMENTS

If some ration shop is not giving rations properly, you should conduct an audit by seeking his records from the Food Department. After you receive these records, conduct a physical verification by speaking to card holders and matching the entries in their ration cards. On the basis of this verification, the “quantum of defalcation” (the number and amount of discrepancies found) should be calculated and a complaint should be made with the concerned Assistant Commissioner, Additional Commissioner and the Commissioner, to have appropriate action taken against the shopkeeper. You may also lodge a report with the police and send your letters of complaint to CBI and CVC.

Please give copies of the following registers for the months of for shop no.....

1. Card register
2. Daily sales register
3. Inspection register
4. Monthly stock register
5. Daily stock register
6. Copies of cash memos

WATER PROBLEM

1. What is the total population of as per your records?
2. What is the number of connections given by you in this area?
3. What is the theoretical requirement of drinking water on a daily basis as per your estimates?
4. What are the different sources through which water is being provided presently to this area?
5. How much water is being provided through each source daily?
6. According to your estimates, what is the quantum of water scarcity?
7. Since the year 2001, how has the water scarcity been increasing? Please give year-wise figures of water scarcity that existed as per your records since 2001.
8. What are the reasons for water scarcity?
9. What steps have been taken by you to address this problem since 2001?
10. What are the short term and long term solutions to solve this problem according to you?
11. What steps have been taken so far and what are the hurdles in implementing these solutions?
12. Under sec 2(j)(i) of the Right to Information Act, 2005, I would like to inspect the quantum of water being supplied by you from different sources – both at the source from where the water starts and the place at which it reaches my address. Please intimate the date, time and venue when this inspection would be arranged by you.
13. Please provide a list of all the complaints received by you from any source – in writing or in central control room or on phone or through the internet, with respect to water problem in the stated area. The list should be provided for the period from 01.04.2003 to 31.03.2006. The list should contain the following details:
 - a. Name and areas of the complainant
 - b. Date of complaint
 - c. Brief description of complaint
 - d. Action taken
 - e. Date of action.
14. The water in my area is very dirty. I want you to collect sample of water in my presence and given to me in a sealed condition duly certified. Please intimate the date and time when the sample would be collected from my house.

INSANITARY CONDITIONS

Please provide the following information with respect to sanitary services of the area/ward in which my house falls:

1. The list of all sweepers and sanitation officials with their addresses and contact numbers working in this area.
2. Please provide me a hierarchical chart outlining who reports to whom, the attendance process, and how they get paid their wages and salaries.
3. Please provide me a copy of the attendance register for this area for the stated period.
4. Please provide me a copy of the muster roll for this area for the stated period.
5. Please mention against each sweeper and official his/her geographical area, working hours, functional job responsibilities, & what he/she is supposed to be doing in that area.
6. Please provide the names, addresses and contact numbers of the supervisory officials right upto the Sanitary Superintendent.

There are many garbage bins located in my area. Please provide the following information:

7. The number of different types of garbage bins located in this area along with the bin type, size, and exact location.
8. Address of the Depot from where the loader and the truck for the bins in my street/road are sent.
9. Vehicle no. of the truck(s) and the loader(s) assigned for picking up garbage from these bins.
10. As per the vehicle beat register maintained at the Depot, please give the time when these vehicles left the Depot and at what time they returned on each day during the month of
11. On each of the days during this month, please mention the addresses of the garbage bins which were serviced by these vehicles in my street/road.
12. The numbers of trips made by the truck on each of these days.
13. On each of these trips, please mention the weight of the garbage picked up by this truck, as per the weighment receipts at landfill sites.
14. The area SI/supervisor is supposed to send balance report to the workshop SI/supervisor everyday giving details of the garbage left unattended. On the basis of this report, the workshop SI/supervisor is supposed to get such garbage picked up. Please give copies of balance reports sent by the area SI/supervisor for each day during the month offor these bins.
15. Does the balance report for each of these days mention that the garbage at these bins is not being picked up on some days?
16. If no, why has the area SI/supervisor not been mentioning the same?
17. For this lapse, what action will you be taking against the guilty persons?
18. Please keep me updated on the progress of the action being taken until the matter has finally been concluded.

After I receive the list of sweepers, I will inform the people in the entire area about the names of the sweepers and other sanitary officials employed in respective streets by means of leaflets, meetings, etc. The people may like to keep a watch whether the sweepers and other employees are coming or not. Specific complaints will then be made to the authorities about who was absent and when.

STREET LIGHTS NOT FUNCTIONING

The following questions assume that the street-lights are maintained by a contractor. If the municipal body is doing the maintenance by itself, please rephrase the questions accordingly.

The following street lights have not been functioning for a long period.

Several complaints have been made so far, the details of which are given below, however, no action has been taken so far. Please provide following information:

1. Who have you contracted maintenance of street-lights of this area? Provide a copy of the contract.
2. Within how much time of a complaint made by the citizens should the contractor replace/repair defective lights? Please provide relevant extracts of the contract or letter etc. which makes a mention of this.
3. If the street light is not repaired or replaced within this time period, what action can be taken against the contractor? Please provide relevant extracts of the contract or letter etc. which makes a mention of this.
4. Under what circumstances can the payment of the contractor be deducted? Please provide relevant extracts of the contract or letter etc. which makes a mention of this.
5. Can the payment of the contractor be deducted in the circumstances arising out of my complaints? If not, why?
6. If yes, within how much time will you deduct the contractor's payment?
7. Under what conditions can the contract be cancelled? Please provide relevant extracts of the contract or letter etc. which makes a mention of this.
8. Can the contract be cancelled in the circumstances arising out of my complaints?
9. If yes, within how much time will you cancel the contract?
10. What powers do you have to force the contractor to do his job properly?
11. Please provide me copies of all letters or directions issued by you to the contractor immediately after they have now received this application under Right to Information Act 2005.

HORTICULTURE

Here is the area for which I want the information:

1. Please provide the following details of funds (both plan & non-plan) allocated to horticulture department or for horticultural activities in this area during the stated period:

- a. Amount allocated under each head during budget estimates and revised estimates for each year.
- b. Amount actually spent under each head for each year.

2. Please provide the list of works carried out or items purchased by the horticulture department in the above area during the stated period. The list should contain the following details:

- a. Name of work
- b. Work order no.
- c. Rate at which work awarded
- d. Amount sanctioned
- e. Amount paid so far
- f. Head of account
- g. Status of work
- h. Name of agency
- i. Date of start
- j. Date of completion
- k. Basis of decision to do that work
- l. Sketch of each work
- m. Copy of layout sketch of this ward

3. I would also like to inspect the work order registers for this ward for the above period to ascertain that the list provided to me is correct. Please intimate the date, time and venue when I could come and inspect the same.

4. Please give the addresses of all the parks maintained by horticulture department in this area.

5. Please give the sanctioned strength and working strength of employees at each level from bottom to the top employed in horticulture.

6. I would like to draw your attention to the following parks:

7. Please give the names, contact numbers and office addresses of employees (at all levels) who have jurisdiction over these parks along with their designations and responsibilities.

8. Please provide the duty chart and duty timings for employees responsible for these parks.
9. What activities of daily, weekly, monthly, quarterly or annual maintenance are supposed to be carried out on these parks as per rules including watering , weeding out etc.?
10. Which employees are supposed to carry out these activities?
11. Have these activities been carried out during the stated period?
12. Who is the supervisory officer for each of these parks?
13. Is he supposed to inspect the maintenance work daily?
14. Did he inspect the work daily during the stated period?
15. Did he find the work satisfactory? Please specify dates along with details and photocopies of appropriate documents when the work was not found satisfactory.
16. Please give the list of all works carried out on these parks during the stated period.
17. Under sec 2(j)(i) of the Right to Information Act, 2005, I would like to inspect all works. Please indicate the date, time and venue when I should come and inspect the works along with my colleagues and media persons. At the time of inspection, I would also like to inspect the records related to these works.

DETAILS OF ALL ROADS WHICH ARE CUT

During the stated period, please give the following information with respect to all the works carried out to restore the roads cut by various agencies in the area outlined below:

1. Name of the agency which carried out road cutting
2. Purpose for which it was carried out
3. The period when it was carried out.
4. Amount of money deposited, if any, by the agency and dates of such deposit
5. Exact location with copies of sketches to indicate where the permission was granted to cut the road
6. Did the agency adhere to the locations for which permission was granted or was there any deviation?
7. How was this deposit money utilized by you?
8. Please give list of all the works carried out through the use of deposit money indicating the name of work, amount booked under that work and the location which was repaired under each work, with copy of sketch.

DETAILS OF "STREET AND ROAD WORKS" CARRIED OUT

Many roads are repaired only on paper & lakhs and crores of rupees disappear without a trace. Would you like to get to the bottom of the road repair conundrum? You should ask the following questions:

Here is the area/roads/streets for which I want the information:

1. Please give a list of all the works related to improvement of roads and streets carried out in this area during the stated period.
2. How many times have repairs (both minor and major) been carried out on each road and street in this area? For each repair work, the list should contain
 - a. the length of the street or the road repaired and identify the starting and the ending point by house numbers or other methods
 - b. exact location of spots where the work was carried out
 - c. the name of the work
 - d. work order no.
 - e. length of repair
 - f. average width of repair
 - g. method of repair
 - h. what was the composition of repair
 - i. actual date of start
 - j. actual date of completion
 - k. amount paid or payable
 - l. status of work
 - m. name of the contractor
 - n. mode of improvement of that road or street
3. If the work was done departmentally, please also provide the following information:
 - a. Copy of relevant portion of stock register
 - b. Copy of relevant portion of labour register
4. If the work was done through a contractor, please also provide the following information:
 - a. Copy of measurement book (both abstract entries & record entries)
 - b. Copy of sketch
 - c. Copy of details of estimates
 - d. Names of the Assistant Engineer and the Executive Engineer who inspected each of these works and passed payments.

- e. Which portions of these works were inspected by them?
 - f. If there was any guarantee clause in the contract, copy of that portion of the contract which mentions this guarantee clause and the conditions in which this clause can be invoked.
 - g. Has the guarantee clause been invoked till now? If no, why in spite of the fact that the roads are in such bad condition.
5. After you have prepared the above information, I would like to inspect your measurement books and work order registers related to these works to ensure that you have given complete information. Please let me know a date and time and the venue where I can come for inspection.
 6. The roads are totally broken these days. Please give specific reasons for the bad condition of each of these roads separately.
 7. If any of the roads is broken due to water staying on the road, please intimate whether it is due to wrong camber or due to clogged drains?
 8. If it is due to wrong camber, how was the payment passed?
 9. What action will be taken against the engineer who inspected the road and let it pass like this?
 10. If it is due to clogged drain, please provide the following information from the concerned department which dealt with it:
 - a. When were these drains cleaned during the stated period?
 - b. Give copy of the measurement book of the cleaning carried out?
 - c. Provide the names of the officials who inspected and passed the payments.
 - d. This means that these officials did not do their job properly. Their inaction has caused so much loss to the exchequer and so much inconvenience to the public. They are also guilty of criminal misconduct under section 13(1)(d) of the Prevention of corruption Act. By when will action be taken against them and what action will you take?
 11. The fact that these roads have broken shows that very bad material has been used in the roads.
 - a. What enquiries will be made to ascertain the quality of the roads?
 - b. How will you fix responsibilities?
 - c. By when the enquiries will be completed?
 12. The payments seem to have been done fraudulently and the inspection carried out by the engineers was faulty. What enquiries will be instituted against the engineers who passed the payments and did faulty inspection?
 13. I want to take sample of material of each of these roads under section 2(j)(iii) of the Right to Information Act, 2005. The sample should be collected from the place of my choice. It should be collected in my presence and should be sealed and certified. Please intimate me the date, time and venue where I should come to collect the samples.
 14. When will these roads be repaired now?

INSPECT GOVERNMENT WORKS

You can inspect an old work which has already been completed, or a current ongoing work. If you inspect an old work, you can expose corruption that might have taken place. But if you inspect an ongoing work, you will be able to prevent corruption from taking place.

Most of the corruption takes place in records. For instance, only 100 metres of road would be built, but the officials would show it as 500 metres in their records and pay for 500 metres. This is because the officials know that the corruption will remain in records and nobody would come to know about it. Even if there is a vigilance or audit inspection, the officials think that they would be able to bribe their way through. But suppose, you file an application under the RTI Act before the start of a work that you would inspect that work once it is completed and would also take a sample of material, the officials would know that someone from the public is going to inspect their work. Now, they will not enter wrong measurements in records. They will also be careful in using inferior material if you have asked for samples of material. Imagine people all over India filing such applications under the RTI Act.

Whenever you see any government work taking place in any area, just file an application under the RTI Act stating that you would like to inspect that work and take samples of material when that work is completed. This will act as a real deterrent to corruption.

According to sections 2(j)(i) and 2(j)(iii) of the Right to Information Act, 2005, any citizen can inspect any government work or demand sample of material.

- 1. I wish to inspect the works listed below. Please let me know the date(s), time(s) and venue(s) when I should come to inspect them along with my colleagues, domain experts and media professionals.

- 2. At the time of inspection, I would also like to inspect the following documents related to these works. These records should be made available to me for inspection when I come to inspect the works:

- a. Measurement Book including record entries and abstract entries

NOTE for the reader: When a work is in progress, the Junior Engineer is supposed to physically measure the work everyday and enter the progress made in this **Measurement Book**. These are called record entries. When the work gets completed, the totals of these record entries are taken at one place in the measurement book and added up to prepare the final bill. These entries in this final bill are called abstract entries

Work Order Register is the register in which the basic details of each work is written, such as the name of work, amount sanctioned, name of contractor, date of start, date of completion, etc. These details are written in this register in a tabular form. This is like a master register which will contain the list of all the works carried out in any division.

- b. Details of Estimates
- c. Sketches

- 3. I would like to take a sample of material for each of the works. Each sample should be collected by you in my presence, should be sealed, and should be certified to be a true sample of the material of that work.

COPIES OF ALL WORKS CARRIED OUT IN A WARD

1. Please intimate the name and number of the ward in which my address falls.
2. Please provide a list of all the works done or awarded by you in this whole ward for the stated period. The list should contain the following details:
 - a. Name of the work
 - b. Work order no.
 - c. Name of contractor, if any
 - d. Date of start
 - e. Date of completion
 - f. Rate at which work awarded
 - g. Sanctioned amount
 - h. Amount paid so far
 - i. Head of account
 - j. Status of work
 - k. Basis for decision to undertake this work
 - l. Sketch of each of these works
 - m. Copy of the layout sketch of this ward
3. I would also like to inspect the work order registers to ascertain that the list provided to me is correct. Please intimate the date, time and venue when I could come and inspect the same.

MLA DEVELOPMENT FUND

Every MLA in India gets 2 crore rupees a year to spend on works for the development of his constituency. Often, the money is spent on works which have little utility for the people. But when the people go to the MLA with a request for any work, the MLA sends them back saying funds are not available. Now you can use the RTI Act to find the fund utilization position with your MLA.

You can also seek to know the details of works on which your MLA spent money and verify the status of these works and whether these works were required at all by the people of that area. Ask for the following details from the concerned department of your state government (for each state, there may be a separate department which can provide this information. NGOs and retired government officers can also help find out the details of the concerned department):

Please provide the following details for all the works awarded during the financial years and out of the MLA Constituency Development Fund for my constituency:

1. Name of work
2. Brief description of work
3. Amount sanctioned
4. Date of sanction
5. Completion status
6. Name of the agency
7. Date of start
8. Date of completion
9. Rate at which work awarded
10. Amount paid
11. Copy of sketch
12. How was the decision to carry out this work? Please provide all related documents.

Please also tell me the following in respect of the MLA:

1. How much money was allotted during the current year & how much has been carried over from previous years?
2. Out of the above, projects worth how much money have already been sanctioned?
3. How many projects worth how much money are awaiting sanction?
4. How much balance is left in his/her account?

MISUSE OF OFFICIAL VEHICLES

1. Please provide copies of log books of all the official vehicles, which are either at the disposal of _____ or were used by him/her during the FY _____.
2. Please provide a copy of the rules that apply to the usage of official vehicles by politicians/bureaucrats at his/her level. Please also provide copies of rules governing recovery of excess usage done by them.

STATUS OF ALL CORRUPTION COMPLAINTS RECEIVED

Public complaints of corruption against government officials are often not acted upon, because of pressure. We can put pressure for action to be taken by asking the following questions from the concerned department (You can ask any department for such information):

You can file a similar application to know the details of "How a particular department handles public grievances".

1. List of all complaints received by you during the stated period containing the date of complaint, brief description of complaint, whether complaint was anonymous, details (name and designation) of the official or authority complained against.
2. Please give copies of these complaints (If you want, you may hide the details of complainants).
3. Which of the complaints were rejected and closed without investigation? Please explain reasons individually?
4. How many cases have been received by you since 01.04.2002?
5. Which of the complaints were taken up for subsequent investigations? Also provide date of initiating investigation against each complaint.
6. Which one of those taken up for subsequent investigations have been closed? Please provide me copies of enquiry reports on the basis of which the complaints were closed.
7. In which cases has penal action been initiated? What penal action has been initiated?
8. In which cases, criminal complaints have been filed? What is the status of these cases now?
9. Which cases are pending and when is it expected that investigation would be completed in them?
10. According to various laws, guidelines, rules, procedures, manuals etc., in how much time should an investigation be completed after its receipt? Please provide copies of such guidelines, which prescribe time limits for various stages starting from receipt of a complaint up to filing of prosecution or imposition of penalties.
11. In how many of those cases taken up for investigations, were the above time limits followed?
12. What penalty is prescribed against the officials if they do not adhere to these time limits?

ENCROACHMENTS

The following properties have encroached on the public land:

Please provide following information:

1. Please intimate the size of public land on which encroachment has been done.
2. Please intimate the nature of encroachment.
3. Please indicate whether this encroachment is already in the knowledge of the authorities.
4. If yes, when did it first come to their knowledge?
5. What steps have been taken by the authorities to remove it till now?
6. If no steps have been taken, why?
7. Please provide the names, designations and contact details of the officials who were supposed to report these encroachments.
8. Please provide the names, designations and contact details of the officials who are supposed to remove these encroachments.
9. Are these officials guilty of violation of sec 217 of IPC and sec 13(1)(d) of Prevention of Corruption Act for not taking action as per law and as required of them?
10. What action will be taken against the officials and when?
11. I would like to inspect all the files related to removal of this encroachment. Please intimate the date, time and venue, when I can come to inspect these files.
12. By when will the said encroachment be removed?

COMMERCIALIZATION

A large number of properties in are using their premises for commercial purposes in violation of all the rules and laws, thus causing inconvenience to the residents. Please provide the following information on this issue:

1. List of all the properties, which are being used for commercial purposes in violation of laws.
2. Please intimate the nature of violation in each case.
3. When did each of this violation first come to the knowledge of appropriate authorities?
4. Please indicate in detail the process followed by the appropriate authority for taking action against such violations, as soon as such violations come to the notice of the appropriate authority.
5. Please give the details of the laws, rules or Government orders, which are violated by such commercial use of residential properties.
6. Please indicate the punishment prescribed under various laws for such violations.
7. What is the exact process followed by the appropriate authority to impose such punishment.
8. What steps have been taken by the authorities in each case so far? Please give details of each case separately.
9. If no steps have been taken in any case, why?
10. I would like to inspect all the files related to action taken on each of these violations. Please intimate the date, time and venue, when I can come to inspect these files.
11. Please provide the names, designations and contact details of the officials who have the duty to report such violations.
12. Please provide the names, designations and contact details of the officials who have the duty to take action against these violations.
13. Are these officials guilty of violation of sec 217 of IPC and sec 13(1)(d) of Prevention of Corruption Act for not reporting or taking action as per law and as required of them?
14. These officials are guilty of conniving with the offenders of law and procuring benefit to them in contravention of the law. They are also guilty of abetting the crime through their inaction. They are also guilty of dereliction of duty. By when will these cases be referred to the vigilance?
15. What further action will be taken against the officials and when?
16. By when will the said violations be removed now?
17. How many complaints has the appropriate authority received from any quarters regarding commercial use of residential properties in this area during the stated period?
18. Please provide details of the daily progress made on each of these complaints.
19. Please give the names and designations of the officials with whom each of these complaints were lying during this period along with the duration when it was lying with which officer and what was the action taken by that official during that period.

APPLICATION FOR SEEKING RECORDS ABOUT WATER MANAGEMENT

Please provide the following information in relation to the involvement of private companies in management of water:

1. Please provide a list of all the files and documents related to the project titled as _____ since the time it was first considered by the Government to approach World Bank or other funding agencies for funding till date. The files should include all aspects of this project including, but not limited to, all correspondence, minutes of all meetings, award of contracts, payments made, terms of reference for various consultants, all agreements including draft agreements, various reports made by the consultants including draft reports, all file notings, etc.
2. I also wish to inspect all the above files. Since I do not have any idea, whatsoever, of the files available on this subject, I will not be able to mention specifically the names of the files desired by me at this stage. After inspection, I would indicate the documents, which I want and would request copies thereof. Please let me know a date, time and venue when I could come for the inspection.
3. Please give a list of all the consultants hired for this project for any purpose at any time, purpose for which it was hired, when was it hired and lists of reports submitted by them so far.
4. What is the present status of this project now? Which Central Government and State Government ministries have accorded what approvals (including initial in principle approvals, if any) so far?
5. Please give a detailed note on why the project was conceived, how was it conceived and an account of all the developments so far.

BARE ACT

FULL ACT – AS IT WAS ENACTED

(Act No. 22 of 2005, published in the Gazette of India dated 21.06.2005)

A Bill to provide for setting out the practical regime of right to information for citizens to secure access to information under the control of public authorities, in order to promote transparency and accountability in the working of every public authority, the constitution of a Central Information Commission and State Information Commissions and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:-

CHAPTER I PRELIMINARY

1. Short title, extent and commencement

- (1) This Act may be called the Right to Information Act, 2005.
- (2) It extends to the whole of India except the State of Jammu and Kashmir.
- (3) The provisions of sub-section (1) of section 4, sub-section (1) and (2) of section 5, section 12, 13, 15, 16, 24, 27 and 28 shall come into force at once, and the remaining provisions of this Act shall come into force on the one hundred and twentieth day of its enactment.

2. Definitions

In this Act, unless the context otherwise requires,

- (a) "appropriate Government" means in relation to a public authority which is established, constituted, owned, controlled or substantially financed by funds provided directly or indirectly—
 - (i) by the Central Government or a Union territory administration, the Central Government;
 - (ii) by the State Government, the State Government;
- (b) "Central Information Commission" means the Central Information Commission constituted under sub-section (1) of section 12;
- (c) "Central Public Information Officer" means the Central Public Information Officer designated under sub-section (1) and includes a Central Assistant Public Information Officer designated as such under sub-section (2) of section 5;
- (d) "Chief Information Commissioner" and "Information Commissioner" mean the Chief Information Commissioner and Information Commissioner appointed under sub-section (3) of section 12;
- (e) "competent authority" means
 - (i) the Speaker in the case of the House of the People or the Legislative Assembly of a state or a Union territory having such Assembly and the Chairman in the case of the Council of States or a Legislative Council of a State;
 - (ii) The Chief Justice of India in the case of the Supreme Court;
 - (iii) The Chief Justice of the High Court in the case of a High Court;
 - (iv) the President or the Governor, as the case may be, in the case of other authorities established or constituted by or under the Constitution;
 - (v) the administrator appointed under article 239 of the Constitution;
- (f) "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;
- (g) "prescribed" means prescribed by rules made under this Act by the appropriate Government or the competent authority, as the case may be;
- (h) "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 organisation substantially financed, directly or indirectly by funds provided by the appropriate Government;
- (i) "record" includes—
 - (a) any document, manuscript and file;
 - (b) any microfilm, microfiche and facsimile copy of a document;

- (c) any reproduction of image or images embodied in such microfilm (whether enlarged or not); and,
- (d) any other material produced by a computer or any other device;
- (j) "right to information" means the right to information accessible under this Act which is held by or under the control of any public authority and includes the right to—
 - (i) inspection of work, documents, records;
 - (ii) taking notes, extracts, or certified copies of documents or records;
 - (iii) taking certified samples of material;
 - (iv) obtaining information in the form of diskettes, floppies, tapes, video cassettes or in any other electronic mode or through printouts where such information is stored in a computer or in any other device;
- (k) "State Information Commission" means the State Information Commission constituted under sub-section (1) of section 15;
- (l) "State Chief Information Commissioner" and "State Information Commissioner" mean the State Chief Information Commissioner and the State Information Commissioner appointed under sub-section (3) of section 15;
- (m) "State Public Information Officer" means the State Public Information Officer designated under sub-section (1) and includes a State Assistant Public Information Officer designated as such under sub-section (2) of section 5;
- (n) "third party" means a person other than the citizen making a request for information and includes a public authority.

CHAPTER II

RIGHT TO INFORMATION AND OBLIGATIONS OF PUBLIC AUTHORITIES

3. Right to information

Subject to the provisions of this Act, all citizens shall have the right to information.

4. Obligations of public authorities

- (1) Every public authority shall—
 - (a) maintain all its records duly catalogued and indexed in a manner and 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;
 - (b) publish within 120 days from the enactment of this Act,
 - (i) the particulars of its organisation, 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 advise, 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) a 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 authorisations 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; ,

(xvii) such other information as may be prescribed;

and thereafter update these publications every year;

(c) publish all relevant facts while formulating important policies or announcing the decisions which affect public;

(d) provide reasons for its administrative or *quasi judicial* decisions to affected persons;

(2) It shall be a constant endeavour of every public authority to take steps in accordance with the requirements of clause (b) of sub-section (1) to provide as much information *suo moto* to the public at regular intervals through various means of communications, including internet, so that the public have minimum resort to the use of this Act to obtain information.

(3) For the purposes of sub-section (1), every information shall be disseminated widely and in such form and manner which is easily accessible to the public.

(4) All materials shall be disseminated taking into consideration the cost, effectiveness, local language and the most effective method of communication in that local area and the information should be easily accessible, to the extent possible in electronic format with the Central Public Information Officer, or State Public Information Officer, as the case may be, available free or at such cost of the medium or the print cost price as may be prescribed.

Explanation: For the purposes of sub-sections (3) and (4), "disseminated" means making known or communicated the information to the public through notice boards, newspapers, public announcements, media broadcasts, the internet or any other means, including inspection of offices of any public authority.

5. Designation of Public Information Officers

(1) Every public authority shall, within one hundred days of the enactment of this Act, designate as many officers as the Central Public Information Officers or State Public Information Officers, as the case may be in all administrative units or offices under it as may be necessary to provide information to persons requesting for the information under this Act.

(2) Without prejudice to the provisions of sub-section (1), every public authority shall designate an officer, within one hundred days of the enactment of this Act, at each sub divisional level or other sub-district level as a Central Assistant Public Information Officer or a State Assistant Public Information Officer, as the case may be, to receive the applications for information or appeals under this Act for forwarding the same forthwith to the Central Public Information Officer or the State Public Information Officer or senior officer specified under sub-section (1) of section 19 or the Central Information Commission or the State Information Commission, as the case may be:

PROVIDED that where an application for information or appeal is given to a Central Assistant Public Information Officer or a State Assistant Public Information Officer, as the case may be, a period of five days shall be added in computing the period for response specified under sub-section (1) of section 7.

(3) Every Central Public Information Officer or State Public Information Officer, as the case may be, shall deal with requests from persons seeking information and render reasonable assistance to the persons seeking such information.

(4) The Central Public Information Officer or State Public Information Officer, as the case may be, may seek the assistance of any other officer as he or she considers it necessary for the proper discharge of his or her duties.

(5) Any officer, whose assistance has been sought under sub-section (4), shall render all assistance to the Central Public Information Officer or State Public Information Officer, as the case may be, seeking his or her assistance and for the purposes of any contravention of the provisions of this Act, such other officer shall be treated as a Central Public Information Officer or State Public Information Officer, as the case may be.

6. Request for obtaining information

(1) A person, who desires to obtain any information under this Act, shall make a request in writing or through electronic means in English or Hindi or in the official language of the area in which the application is being made, accompanying such fee as may be prescribed, to—

(a) the Central Public Information Officer or State Public Information Officer, as the case may be, of the concerned public authority;

(b) the Central Assistant Public Information Officer or State Assistant Public Information Officer, as the case may be,

specifying the particulars of the information sought by him or her:

PROVIDED that where such request cannot be made in writing, the Central Public Information Officer or State Public Information Officer, as the case may be, shall render all reasonable assistance to the person making the request orally to reduce the same in writing.

(2) An applicant making request for information shall not be required to give any reason for requesting the information or any other personal details except those that may be necessary for contacting him.

(3) Where an application is made to a public authority requesting for an information,—

(i) which is held by another public authority; or

(ii) 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 such part of it as may be appropriate to that other public authority and inform the applicant immediately about such transfer:

PROVIDED that the transfer of an application pursuant to this sub-section shall be made as soon as practicable but in no case later than five days from the date of receipt of the application.

7. Disposal of request

(1) Subject to the proviso to sub-section (2) of section 5 or the proviso to sub-section (3) of section 6, the Central Public Information Officer or State Public Information Officer, as the case may be, on receipt of a request under section 6 shall, as expeditiously as possible, and in any case within thirty days of the receipt of the request, either provide the information on payment of such fee as may be prescribed or reject the request for any of the reasons specified in sections 8 and 9:

PROVIDED that where the information sought for concerns the life or liberty of a person, the same shall be provided within forty-eight hours of the receipt of the request.

(2) If the Central Public Information Officer or State Public Information Officer, as the case may be fails to give decision on the request for information within the period specified under sub-section (1), the Central Public Information Officer or State Public Information Officer, as the case may be, shall be deemed to have refused the request.

(3) Where a decision is taken to provide the information on payment of any further fee representing the cost of providing the information, Central Public Information Officer or State Public Information Officer, as the case may be, shall send an intimation to the person making the request, giving—

- (a) the details of further fees representing the cost of providing the information as determined by him, together with the calculations made to arrive at the amount in accordance with fee prescribed under sub-section (1), requesting him to deposit that fees, and the period intervening between the despatch of the said intimation and payment of fees shall be excluded for the purpose of calculating the period of thirty days referred to in that sub-section;
- (b) information concerning his or her right with respect to review the decision as to the amount of fees charged or the form of access provided, including the particulars of the appellate authority, time limit, process and any other forms.

(4) Where access to the record or a part thereof is required to be provided under this Act and the person to whom access is to be provided is sensorily disabled, the Central Public Information Officer or State Public Information Officer, as the case may be shall provide assistance to enable access to the information, including providing such assistance as may be appropriate for the inspection.

(5) Where access to information is to be provided in the printed or in any electronic format, the applicant shall, subject to the Provisions sub-section (6), pay such fee as may be prescribed:

PROVIDED that the fee prescribed under sub-section (1) of section 6 and sub-section (1) and (5) of section 7 shall be reasonable and no such fee shall charged from the persons who are of below poverty line as may be determined by the appropriate Government.

(6) Notwithstanding anything contained in sub-section (5), the person making request for the information shall be provided the information free of charge where a public authority fails to comply with the time limits specified in sub-section (1).

(7) Before taking any decision under sub-section (1), the Central Public Information Officer or State Public Information Officer, as the case may be shall take into consideration the representation made by a third party under section 11.

(8) Where a request has been rejected under subsection (1), the Central Public Information Officer or State Public Information Officer, as the case may be shall communicate to the person making the request, —

- (i) the reasons for such rejection;
- (ii) the period within which an appeal against such rejection may be preferred; and
- (iii) the particulars of the appellate authority.

(9) An information shall ordinarily be provided in the form in which it is sought unless it would disproportionately divert the resources of the public authority or would be detrimental to the safety or preservation of the record in question.

8. Exemption from disclosure of information

(1) Notwithstanding anything contained in this Act, there shall be no obligation to give any citizen, —

- (a) 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;
- (b) 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;
- (c) information, the disclosure of which would cause a breach of privilege of Parliament or the State Legislature;

- (d) 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;
- (e) 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;
- (f) information received in confidence from foreign government;
- (g) information, the disclosure of which would endanger the life or physical safety of any person or identify the source of information or assistance given in confidence for law enforcement or security purposes;
- (h) information which would impede the process of investigation or apprehension or prosecution of offenders;
- (i) cabinet papers including records of deliberations of the Council of Ministers, Secretaries and other officers:

PROVIDED that the decisions of Council of Ministers, the reasons thereof, and the material on the basis of which the decisions were taken shall be made public after the decision has been taken, and the matter is complete, or over:

PROVIDED FURTHER that those matters which come under the exemptions specified in this section shall not be disclosed;

- (j) 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 unless the Central Public Information Officer or the State Public Information Officer or the appellate authority, as the case may be, is satisfied that the larger public interest justifies the disclosure of such information:

PROVIDED that the information, which cannot be denied to the Parliament or a State Legislature shall not be denied to any person.

(2) Notwithstanding anything in the Official Secrets Act, 1923 nor any of the exemptions permissible in accordance with sub-section (1), a public authority may allow access to information, if public interests in disclosure outweighs the harm to the protected interests.

(3) Subject to the provisions of clauses (a), (c) and (i) of sub-section (1), any information relating to any occurrence, event or matter which has taken place, occurred or happened twenty years before the date on which any request is made under section 6 shall be provided to any person making a request under that section:

PROVIDED that where any question arises as to the date from which the said period of twenty years has to be computed, the decision of the Central Government shall be final, subject to the usual appeals provided for in this Act.

9. Grounds for rejection to access in certain cases

Without prejudice to the provisions of section 8, a Central Public Information Officer or a State Public Information Officer, as the case may be, may reject a request for information where such a request for providing access would involve an infringement of copyright subsisting in a person other than the State.

10. Severability

(1) Where a request for access to information is rejected on the ground that it is in relation to information which is exempt from disclosure, then, notwithstanding anything contained in this Act, access may be provided to that part of the record which does not contain any information which is exempt from disclosure under this Act and which can reasonably be severed from any part that contains exempt information.

(2) Where access is granted to a part of the record under sub-Section (1), the Central Public Information Officer or State Public Information Officer, as the case may be, shall give a notice to the applicant, informing,—

- (a) that only part of the record requested, after severance of the record containing information which is exempt from disclosure, is being provided;
- (b) the reasons for the decision, including any findings on any material question of fact, referring to the material on which those findings were based;
- (c) the name and designation of the person giving the decision;
- (d) the details of the fees calculated by him or her and the amount of fee which the applicant is required to deposit; and
- (e) his or her rights with respect to review of the decision regarding nondisclosure of part of the information, the amount of fee charged or the form of access provided, including the particulars of the senior officer specified under sub-section (1) of section 19 or the Central Information Commission or the State Information Commission, as the case may be, time limit, process and any other form of access.

11. Third party information

(1) Where a Central Public Information Officer or the State Public Information Officer, as the case may be, intends to disclose any information or record, or part thereof on a request made under this Act, which relates to or has been supplied by a third party and has been treated as confidential by that third party, the Central Public Information Officer or State Public Information Officer, as the case may be, shall, within five days from the receipt of the request, give a written notice to such third party of the request and of the fact that the Central Public Information Officer or State Public Information Officer, as the case may be, intends to disclose the information or record, or part thereof, and invite the third party to make

a submission in writing or orally, regarding whether the information should be disclosed, and such submission of the third party shall be kept in view while taking a decision about disclosure of information:

PROVIDED that except in the case of trade or commercial secrets protected by law, disclosure may be allowed if the public interest in disclosure outweighs in importance any possible harm or injury to the interests of such third party.

(2) Where a notice is served by the Central Public Information Officer or State Public Information Officer, as the case may be, under sub-section (1) to a third party in respect of any information or record or part thereof, the third party shall, within ten days from the date of receipt of such notice, be given the opportunity to make representation against the proposed disclosure.

(3) Notwithstanding anything contained in section 7, the Central Public Information Officer or State Public Information Officer, as the case may be, shall, within forty days after receipt of the request under section 6, if the third party has been given an opportunity to make representation under sub-section (2), make a decision as to whether or not to disclose the information or record or part thereof and give in writing the notice of his decision to the third party.

(4) A notice given under sub-section (3) shall include a statement that the third party to whom the notice is given is entitled to prefer an appeal under section 19 against the decision.

CHAPTER III THE CENTRAL INFORMATION COMMISSION

12. Constitution of Central Information Commission

(1) The Central Government shall, by notification in the Official Gazette, constitute a body to be known as the Central Information Commission to exercise the powers conferred on, and to perform the functions assigned to, it under this Act.

(2) The Central Information Commission shall consist of—

- (a) the Chief Information Commissioner; and
- (b) such number of Central Information Commissioners not exceeding ten as may be deemed necessary.

(3) The Chief Information Commissioner and Information Commissioners shall be appointed by the President on the recommendation of a committee consisting of—

- (i) the Prime Minister, who shall be the Chairperson of the committee;
- (ii) the Leader of Opposition in the Lok Sabha; and
- (iii) A Union Cabinet Minister to be nominated by the Prime Minister.

Explanation: For the purposes of removal of doubts, it is hereby declared that where the Leader of Opposition in the House of the People has not been recognised as such, the Leader of the single largest group in opposition of the Government in the House of the People shall be deemed to be the Leader of the Opposition.

(4) The general superintendence, direction and management of the affairs of the Central Information Commission shall vest in the Chief Information Commissioner who shall be assisted by the Information Commissioners and may exercise all such powers and do all such acts and things which may be exercised or done by the Central Information Commission autonomously without being subjected to directions by any other authority under this act.

(5) The Chief Information Commissioner and Information Commissioners shall be persons of eminence in public life with wide knowledge and experience in law, science and technology, social service, management, journalism, mass media or administration and governance.

(6) The Chief Information Commissioner or an Information Commissioner shall not be a Member of Parliament or Member of the Legislature of any State or Union territory, as the case may be, or hold any other office of profit or connected with any political party or carrying on any business or pursuing any profession.

(7) The headquarters of the Central Information Commission shall be at Delhi and the Central Information Commission may, with the previous approval of the Central Government, establish offices at other places in India.

13. Term of office and conditions of service

(1) The Chief Information Commissioner shall hold office for a term of five years from the date on which he enters upon his office and shall not be eligible for reappointment:

PROVIDED that no Chief Information Commissioner shall hold office as such after he has attained the age of sixty-five years.

(2) Every Information Commissioner shall hold office for a term of five years from the date on which he enters upon his office or till he attains the age of sixty – five years, whichever is earlier, and shall not be eligible for reappointment as such Information Commissioner:

PROVIDED that every Information Commissioner shall, on vacating his office under this sub –section be eligible for appointment as the Chief Information Commissioner in the manner specified in sub-section (3) of section 12:

PROVIDED FURTHER that where the Information Commissioner is appointed as the Chief Information Commissioner, his term of office shall not be more than five years in aggregate as the Information Commissioner and the Chief Information Commissioner.

(3) The Chief Information Commissioner or an Information Commissioner, shall before he enters upon his office make and subscribe before the President or some other person appointed by him in that behalf, an oath or affirmation according to the form set out for the purpose in the First Schedule.

(4) The Chief Information Commissioner or an Information Commissioner may, at any time, by writing under his hand addressed to the President, resign from his office:

PROVIDED that the Chief Information Commissioner or an Information Commissioner may be removed in the manner specified under section 14.

(5) The salaries and allowances payable to and other terms and conditions of service of—

- (a) the Chief Information Commissioner shall be the same as that of the Chief Election Commissioner;
- (b) an Information Commissioner shall be the same as that of an Election Commissioner,

PROVIDED that the if the Chief Information Commissioner or an Information Commissioner, at the time of his appointment is, in receipt of a pension (other than a disability or wound pension) in respect of any previous service under the Government of India or under the Government of a State, his salary in respect of the service as the Chief Information Commissioner or an Information Commissioner shall be reduced by the amount of that pension including any portion of pension which was commuted and pension equivalent of other forms of retirement benefits excluding pension equivalent of retirement gratuity:

PROVIDED FURTHER that if the Chief Information Commissioner or an Information Commissioner if, at the time of his appointment is, in receipt of retirement benefits in respect of any previous service rendered in a Corporation established by or under any Central Act or State Act or a Government company owned or controlled by the Central Government or the State Government, his salary in respect of the service as the Chief Information Commissioner or an Information Commissioner shall be reduced by the amount of pension equivalent to the retirement benefits:

PROVIDED ALSO that the salaries, allowances and other conditions of service of the Chief Information Commissioner and the Information Commissioners shall not be varied to their disadvantage after their appointment.

(6) The Central Government shall provide the Chief Information Commissioner and the Information Commissioners with such officers and employees as may be necessary for the efficient performance of their functions under this Act, and the salaries and allowances payable to, and the terms and conditions of service of the officers and other employees appointed for the purpose of this Act shall be such as may be prescribed.

14. Removal of Information Commissioner or Deputy Information Commissioner

(1) Subject to the provisions of sub-section (3), the Chief Information Commissioner or any Information Commissioner shall be removed from his office only by order of the President on the ground of proved misbehaviour or incapacity after the Supreme Court, on a reference made to it by the President, has, on inquiry, reported that the Chief Information Commissioner or any Information Commissioner, as the case may be, ought on such ground be removed.

(2) The President may suspend from office, and if deem necessary prohibit also from attending the office during inquiry, the Chief Information Commissioner or Information Commissioner in respect of whom a reference has been made to the Supreme Court under sub-section (1) until the President has passed orders on receipt of the report of the Supreme Court on such reference.

(3) Notwithstanding anything contained in sub-section (1), the President may by order remove from office the Chief Information Commissioner or any Information Commissioner if the Chief Information Commissioner or a Information Commissioner, as the case may be,—

- (a) is adjudged an insolvent; or
- (b) has been convicted of an offence which, in the opinion of the President, involves moral turpitude; or
- (c) engages during his term of office in any paid employment out side the duties of his office; or
- (d) is, in the opinion of the President, unfit to continue in office by reason of infirmity of mind or body; or
- (e) has acquired such financial or other interest as is likely to affect prejudicially his functions as the Chief Information Commissioner or a Information Commissioner.

(4) If the Chief Information Commissioner or an Information Commissioner in any way, concerned or interested in any contract or agreement made by or on behalf of the Government of India or participates in any way in the profit thereof or in any benefit or emolument arising therefrom otherwise than as a member and in common with the other members of an incorporated company, he shall, for the purposes of sub-section (1), be deemed to be guilty of misbehaviour.

CHAPTER IV

THE STATE INFORMATION COMMISSION

15. Constitution of State Information Commission

(1) Every State Government shall, by notification in the Official Gazette, constitute a body to be known as the..... (name of the State) Information Commission to exercise the powers conferred on, and to perform the functions assigned to, it under this Act.

(2) The State Information Commission shall consist of—

- (a) the State Chief Information Commissioner; and

(b) such number of State Information Commissioners, not exceeding ten, as may be deemed necessary.

(3) The State Chief Information Commissioner and the State Information Commissioners shall be appointed by the Governor on the recommendation of a committee consisting of—

- (i) the Chief Minister, who shall be the Chairperson of the committee;
- (ii) the Leader of opposition in the Legislative Assembly; and
- (iii) a Cabinet Minister to be nominated by the Chief Minister.

Explanation: For the purposes of removal of doubts, it is hereby declared that where the Leader of Opposition in the Legislative Assembly has not been recognized as such, the Leader of the single largest group in opposition of the Government in the Legislative Assembly shall be deemed to be the Leader of Opposition.

(4) The general superintendence, direction and management of the affairs of the State Information Commission shall vest in the State Chief Information Commissioner who shall be assisted by the State Information Commissioners and may exercise all such powers and do all such acts and things which may be exercised or done by the State Information Commission autonomously without being subjected to directions by any other authority under this act.

(5) The State Chief Information Commissioner and the State Information Commissioners shall be persons of eminence in public life with wide knowledge and experience in law, science and technology, social service, management, journalism, mass media or administration and governance.

(6) The State Chief Information Commissioner or a State Information Commissioner shall not be a Member of Parliament or Member of the Legislature of any State or Union Territory, as the case may be, or hold any other office of profit or connected with any political party or carrying on any business or pursuing any profession.

(7) The headquarters of the State Information Commission shall be at such place in the State as the State Government may, by notification in the Official Gazette, specify and the State Information Commission may, with the previous approval of the State Government, establish offices at other places in the State.

16. Term of office and conditions of service

(1) The State Chief Information Commissioner shall hold office for a term of five years from the date on which he enters upon his office and shall not be eligible for reappointment:

PROVIDED that no State Chief Information Commissioner shall hold office as such after he has attained the age of sixty five years.

(2) Every State Information Commissioner shall hold office for a term of five years from the date on which he enters upon his office or till he attains the age of sixty five years, whichever is earlier, and shall not be eligible for reappointment as such State Information Commissioner:

PROVIDED that every State Information Commissioner shall, on vacating his office under this sub-section, be eligible for appointment as the State Chief Information Commissioner in the manner specified in sub-section (3) of section 15:

PROVIDED FURTHER that where the State Information Commissioner is appointed as the State Chief Information Commissioner, his term of office shall not be more than five years in aggregate as the State Information Commissioner and the State Chief Information commissioner.

(3) The State Chief Information Commissioner or a State Information Commissioner, shall before he enters upon his office make and subscribe before the Governor or some other person appointed by him in that behalf, an oath or affirmation according to the form set out for the purpose in the First schedule.

(4) The State Chief Information Commissioner or a State Information Commissioner may, at an time, by writing under his hand addressed to the Governor, resign from his office:

PROVIDED that the State Chief Information Commissioner or a State Information Commissioner may be removed in the manner specified under section 17.

(5) The salaries and allowances payable to and other terms and conditions of service of—

- (a) the State Chief Information Commissioner shall be the same as that of an Election Commissioner;
- (b) the State Information Commissioner shall be the same as that of the Chief Secretary to the State Government:

PROVIDED that if the State Chief Information Commissioner or a State Information Commissioner, at the time of his appointment is, in receipt of a pension (other than a disability or wound pension) in respect of any previous service under the Government of India or under the Government of a State, his salary in respect of the service as the State Chief Information Commissioner or a State Information Commissioner shall be reduced by the amount of that pension including any portion of pension which was commuted and pension equivalent of other forms of retirement benefits excluding pension equivalent of retirement gratuity:

PROVIDED FURTHER that where the State Chief Information Commissioner or a State Information Commissioner if, at the time of his appointment is, in receipt of retirement benefits in respect of any previous service rendered in a Corporation established by or under any Central Act or State Act or a Government company owned or controlled by the Central Government or the State Government, his salary in respect of the service as the State Chief Information Commissioner or the State Information Commissioner shall be reduced by the amount of pension equivalent to the retirement benefits:

PROVIDED ALSO that the salaries, allowances and other conditions of service of the State Chief Information Commissioner and the State Information Commissioners shall not be varied to their disadvantage after their appointment.

(6) The State Government shall provide the State Chief Information Commissioner and the State Information Commissioners with such officers and employees as may be necessary for the efficient performance of their functions under this Act, and the salaries and allowances payable to and the terms and conditions of service of the officers and other employees appointed for the purpose of this Act shall be such as may be prescribed.

17. Removal of State Chief Information Commissioner or State Information Commissioner

(1) Subject to the provisions of sub-section (3), the State Chief Information Commissioner or a State Information Commissioner shall be removed from his office only by order of the Governor on the ground of proved misbehaviour or incapacity after the Supreme Court, on a reference made to it by the Governor, has on inquiry, reported that the State Chief Information Commissioner, or a State Information Commissioner, as the case may be, ought on such ground be removed.

(2) The Governor may suspend from office, and if deem necessary prohibit also from attending the office during inquiry, the State Chief Information Commissioner or a State Information Commissioner in respect of whom a reference has been made to the Supreme Court under sub-section (1) until the Governor has passed orders on receipt of the report of the Supreme Court on such reference.

(3) Notwithstanding anything contained in sub-section (1), the Governor may by order remove from office the State Chief Information Commissioner or a State Information Commissioner if a State Chief Information Commissioner or a State Information Commissioner, as the case may be, —

- (a) is adjudged an insolvent; or
- (b) has been convicted of an offence which, in the opinion of the Governor, involves moral turpitude; or
- (c) engages during his term of office in any paid employment outside the duties of his office; or
- (d) is, in the opinion of the Governor, unfit to continue in office by reason of infirmity of mind or body; or
- (e) has acquired such financial or other interest as is likely to affect prejudicially his functions as the State Chief Information Commissioner or a State Information Commissioner.

(4) If the State Chief Information Commissioner or any State Information Commissioner in any way, concerned or interested in any contract or agreement made by or on behalf of the Government of the State or participates in any way in the profit thereof or in any benefit or emoluments arising therefrom otherwise than as a member and in common with the other members of an incorporated company, he shall, for the purposes of sub-section (1), be deemed to be guilty of misbehaviour.

CHAPTER V

POWERS AND FUNCTIONS OF THE INFORMATION COMMISSIONS, APPEAL AND PENALTIES

18. Powers and functions of Commission

(1) Subject to the provisions of this Act, it shall be the duty of the Central Information Commission or State Information Commission as the case may be to receive and inquire into a complaint from any person, —

- (a) who has been unable to submit a request to a Central Public Information Officer, or State Public Information Officer, as the case may be, either by reason that no such officer has been appointed under this Act, or because the Central Assistant Public Information Officer or State Assistant Public Information Officer, as the case may be, has refused to accept his or her application for information or appeal under this Act for forwarding the same to the Central Public Information Officer or State Public Information Officer or senior officer specified in sub section (1) of section 19 or the Central Information Commission or the State Information Commission, as the case may be;
- (b) who has been refused access to any information requested under this Act;
- (c) who has not been given a response to a request for information or access to information within the time limits specified under this Act;
- (d) who has been required to pay an amount of fee which he or she considers unreasonable;
- (e) who believes that he or she has been given incomplete, misleading or false information under this Act; and
- (f) in respect of any other matter relating to requesting or obtaining access to records under this Act.

(2) Where the Central Information Commission or State Information Commission, as the case may be, is satisfied that there are reasonable grounds to inquire into the matter, it may initiate an inquiry in respect thereof.

(3) The Central Information Commission or State Information Commission, as the case may be shall, while inquiring into any matter under this section, have the same powers as are vested in a civil court while trying a suit under the Code of Civil Procedure, 1908, in respect of the following matters, namely:—

- (a) summoning and enforcing the attendance of persons and compel them to give oral or written evidence on oath and to produce the documents or things;
- (b) requiring the discovery and inspection of documents;
- (c) receiving evidence on affidavit;

- (d) requisitioning any public record or copies thereof from any court or office;
- (e) issuing summons for examination of witnesses or documents; and
- (f) any other matter which may be prescribed.

(4) Notwithstanding anything inconsistent contained in any other Act of Parliament, or the State Legislature, as the case may be, the Central Information Commission or the State Information Commission, as the case may be, may, during the inquiry of any complaint under this Act, examine any record to which this Act applies which is under the control of the public authority, and no such record may be withheld from it on any grounds.

19. Appeal

(1) Any person who, does not receive a decision within the time specified in sub section (1) or clause (a) of sub-section (3) of section 7, or is aggrieved by a decision of the Central Public Information Officer or State Public Information Officer, as the case may be, may within thirty days from the expiry of such period or from the receipt of such a decision prefer an appeal to such officer who is senior in rank to the Central Public Information Officer or State Public Information Officer, as the case may be, in each public authority:

PROVIDED that such officer may admit the appeal after the expiry of the period of thirty days if he or she is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) Where an appeal is preferred against an order made by a Central Public Information Officer or a State Public Information Officer, as the case may be, under section 11 to disclose third party information, the appeal by the concerned third party shall be made within thirty days from the date of the order.

(3) A second appeal against the decision under sub-section (1) shall lie within ninety days from the date on which the decision should have been made or was actually received, with the Central Information Commission or the State Information Commission:

PROVIDED that the Central Information Commission or the State Information Commission, as the case may be, may admit the appeal after the expiry of the period of ninety days if it is satisfied that the applicant was prevented by sufficient cause from filing the appeal in time;

(4) If the decision of the Central Public Information Officer or State Public Information Officer, as the case may be, against which an appeal is preferred relates to information of a third party, the Central Information Commission or State Information Commission, as the case may be, shall give a reasonable opportunity of being heard to that third party.

(5) In any appeal proceedings, the onus to prove that a denial of a request was justified shall be on the Central Public Information Officer or State Public Information Officer, as the case may be, who denied the request.

(6) An appeal under sub-section (1) or sub-section (2) shall be disposed of within thirty days of the receipt of the appeal or within such extended period not exceeding a total of forty-five days from the date of filing thereof, as the case may be, for reasons to be recorded in writing.

(7) The decision of the Central Information Commission or State Information Commission, as the case may be, shall be binding.

(8) In its decision, the Central Information Commission or State Information Commission, as the case may be, has the power to,—

- (a) require the public authority to take any such steps as may be necessary to secure compliance with the provisions of this Act, including
 - (i) by providing access to information, if so requested, in a particular form;
 - (ii) by appointing a Central Public Information Officer or State Public Information Officer, as the case may be;
 - (iii) by publishing certain information or categories of information;
 - (iv) by making necessary changes to its practices in relation to the maintenance, management and destruction of records;
 - (v) by enhancing the provision of training on the right to information for its officials;
 - (vi) by providing it with an annual report in compliance with clause (b) of sub-section (1) of section 4;
- (b) require the public authority to compensate the complainant for any loss or other detriment suffered;
- (c) impose any of the penalties provided under this Act;
- (d) reject the application.

(9) The Central Information Commission or State Information Commission, as the case may be, shall give notice of its decision, including any right of appeal, to the complainant and the public authority.

(10) The Central Information Commission or State Information Commission, as the case may be, shall decide the appeal in accordance with such procedure as may be prescribed.

20. Penalties

(1) Where the Central Information Commission or the State Information Commission, as the case may be, at the time of deciding any complaint or appeal is of the opinion that the Central Public Information Officer or the State Public Information Officer, as the case may be, has, without any reasonable cause, refused to receive an application for

information or has not furnished information within the time specified under sub-section (1) of section 7 or malafidely denied the request for information or knowingly given incorrect, incomplete or misleading information or destroyed information which was the subject of the request or obstructed in any manner in furnishing the information, it shall impose a penalty of two hundred and fifty rupees each day till application is received or information is furnished, so however, the total amount of such penalty shall not exceed twenty five thousand rupees;

PROVIDED that the Central Public Information Officer or the State Public Information Officer, as the case may be, shall be given a reasonable opportunity of being heard before any penalty is imposed on him:

PROVIDED FURTHER that the burden of proving that he acted reasonably and diligently shall be on the Central Public Information Officer or the State Public Information Officer, as the case may be.

(2) Where the Central Information Commission or the State Information Commission, as the case may be, at the time of deciding any complaint or appeal is of the opinion that the Central Public Information Officer or the State Public Information Officer, as the case may be, has, without any reasonable cause and persistently, failed to receive an application for information or has not furnished information within the time specified under sub-section (1) of section 7 or malafidely denied the request for information or knowingly given incorrect, incomplete or misleading information or destroyed information which was the subject of the request or obstructed in any manner in furnishing the information, it shall recommend for disciplinary action against the Central Public Information Officer or the State Public Information Officer, as the case may be, under the service rules applicable to him.

CHAPTER VI MISCELLANEOUS

21. Protection of action taken in good faith

No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act or any rule made there under.

22. Act to have overriding effect

The provisions of this Act shall have effect notwithstanding anything inconsistent therewith 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.

23. Bar of jurisdiction of courts

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.

24. Act not to apply to certain organizations

(1) Nothing contained in this Act shall apply to the intelligence and security organisations specified in the Second Schedule, being organisations established by the Central Government or any information furnished by such organisations to that Government:

PROVIDED that the information pertaining to the allegations of corruption and human rights violations shall not be excluded under this sub-section:

PROVIDED FURTHER that in the case of information sought for is in respect of allegations of violation of human rights, the information shall only be provided after the approval of the Central Information Commission, and notwithstanding anything contained in section 7, such information shall be provided within forty five days from the date of the receipt of request;

(2) The Central Government may, by notification in the Official Gazette, amend the Schedule by including therein any other intelligence or security organisation established by that Government or omitting therefrom any organisation already specified therein and on the publication of such notification, such organisation shall be deemed to be included in or, as the case may be, omitted from the Schedule.

(3) Every notification issued under sub-section (2) shall be laid before each House of Parliament.

(4) Nothing contained in this Act shall apply to such intelligence and security organisations, being organisations established by the State Government, as that Government may, from time to time, by notification in the official gazette, specify:

PROVIDED that the information pertaining to the allegations of corruption and human rights violations shall not be excluded under this sub-section:

PROVIDED FURTHER that in the case of information sought for is in respect of allegations of violation of human rights, the information shall only be provided after the approval of the State Information Commission and, notwithstanding anything contained in section 7, such information shall be provided within forty five days from the date of the receipt of request.

(5) Every notification issued under sub-section (4) shall be laid before the State Legislature.

25. Monitoring and reporting

(1) The Central Information Commission or State Information Commission, as the case may be, shall, as soon as practicable after the end of each year, prepare a report on the implementation of the provisions of this Act during that year and forward a copy thereof to the appropriate Government.

(2) Each Ministry or Department shall, in relation to the public authorities within their jurisdiction, collect and provide such information to the Central Information Commission or State Information Commission, as the case may be, as is required to prepare the report under this section and comply with the requirements concerning the furnishing of that information and keeping of records for the purposes of this section.

(3) Each report shall state 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 this Act under which these decisions were made and the number of times such provisions were invoked;
- (c) the number of appeals referred to the Central Information Commission or State Information Commission, as the case may be, for review, the nature of the appeals and the outcome of the appeals;
- (d) particulars of any disciplinary action taken against any officer in respect of the administration of this Act;
- (e) the amount of charges collected by each public authority under this Act;
- (f) any facts which indicate an effort by the public authorities to administer and implement the spirit and intention of this Act;
- (g) recommendations for reform, including recommendations in respect of the particular public authorities, for the development, improvement, modernisation, reform or amendment to this Act or other legislation or common law or any other matter relevant for operationalising the right to access information.

(4) The Central Government or the State Government, as the case may be, as soon as practicable after the end of each year, cause a copy of the report of the Central Information Commission or the State Information Commission, as the case may be, referred to in sub-section (1) to be laid before each House of Parliament or, as the case may be, before each House of the State Legislature, where there are two houses, and where there is one House of the State Legislature before that House.

(5) If it appears to the Central Information Commission or State Information Commission, as the case may be that the practice of a public authority in relation to the exercise of its functions under this Act does not conform with the provisions or spirit of this Act, it may give to the authority a recommendation specifying the steps which ought in its opinion to be taken for promoting such conformity.

26. Appropriate government to prepare programmes

(1) The appropriate Government may, to the extent of availability of financial and other resources, —

- (a) develop and organise educational programmes to advance the understanding of the public, in particular of disadvantaged communities as to how to exercise the rights contemplated under this Act;
- (b) encourage public authorities to participate in the development and organisation of programmes referred to in clause (a) and to undertake such programmes themselves;
- (c) promote timely and effective dissemination of accurate information by public authorities about their activities; and
- (d) train Central Public Information Officers or State Public Information Officers, as the case may be, of public authorities and produce relevant training materials for use by the public authorities themselves.

(2) The appropriate Government shall, within eighteen months from the commencement of this Act, compile in its official language a guide containing such information, in an easily comprehensible form and manner, as may reasonably be required by a person who wishes to exercise any right specified in this Act.

(3) The appropriate Government shall, if necessary, update and publish the guidelines referred to in sub-section (2) at regular intervals which shall, in particular and without prejudice to the generality of sub-section (2), include—

- (a) the objects of this Act;
- (b) the postal and street address, the phone and fax number and, if available, electronic mail address of the Central Public Information Officer or State Public Information Officer, as the case may be of every public authority appointed under sub-section (1) of section 5;
- (c) the manner and the form in which request for access to an information shall be made to a Central Public Information Officer or State Public Information Officer, as the case may be;
- (d) the assistance available from and the duties of the Central Public Information Officer or State Public Information Officer, as the case may be of a public authority under this Act;
- (e) the assistance available from the Central Information Commission or State Information Commission, as the case may be;
- (f) all remedies in law available regarding an act or failure to act in respect of a right or duty conferred or imposed by this Act including the manner of filing an appeal to the Commission;
- (g) the provisions providing for the voluntary disclosure of categories of records in accordance with section 4;
- (h) the notices regarding fees to be paid in relation to requests for access to an information; and

(i) any additional regulations or circulars made or issued in relation to obtaining access to an information in accordance with this Act.

(4) The appropriate Government must, if necessary, update and publish the guidelines at regular intervals.

27. Power to make rules by appropriate government

(1) The appropriate Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely: —

- (a) the cost of the medium or print cost price of the materials to be disseminated under sub-section (4) of section 4;
- (b) the fee payable under sub-section (1) of section 6;
- (c) the fee payable under sub-section (1) and (5) of section 7;
- (d) the salaries and allowances payable to and the terms and conditions of service of the officers and other employees under sub-section (6) of section 13 and sub-section (6) of section 16;
- (e) the procedure to be adopted by the Central Information Commission or State Information Commission, as the case may be, in deciding the appeals under sub-section (10) of section 19; and
- (f) any other matter which is required to be, or may be, prescribed.

28. Power to make rules by competent authorities

(1) The competent authority may, by notification in the Official Gazette, make rules to carry out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely: —

- (i) the cost of the medium or print cost price of the materials to be disseminated under sub-section (4) of section 4;
- (ii) the fee payable under sub-section (1) of section 6;
- (iii) the fee payable under sub-section (1) of section 7;
- (iv) any other matter which is required to be, or may be, prescribed.

29. Laying of rules

(1) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

(2) Every rule made under this Act by a State Government shall be laid, as soon as may be after it is notified, before the State Legislature.

30. Power to remove difficulties

(1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removal of the difficulty:

PROVIDED that no such order shall be made after the expiry of a period of two years from the date of the commencement of this Act.

(2) Every order made under this section shall, as soon as after it is made, be laid before each House of Parliament.

31. Repeal

The Freedom of Information Act, 2002 is hereby repealed.

THE FIRST SCHEDULE

[Refer sections 13(3) and 16(3)]

FORM OF OATH OR AFFIRMATION TO BE MADE BY THE CHIEF INFORMATION COMMISSIONER/THE INFORMATION COMMISSIONER/ THE STATE CHIEF INFORMATION COMMISSIONER/ THE STATE INFORMATION COMMISSIONER

“I,....., having been appointed Chief Information Commissioner/Information Commissioner/State Chief Information Commissioner/ State Information Commissioner swear in the name of God/ solemnly affirm that I will bear true faith and allegiance to the Constitution of India as by law established, that I will uphold the sovereignty and integrity of India, that I will duly and faithfully and to the best of my ability, knowledge and judgement perform the duties of my office without fear or favour, affection or ill-will and that I will uphold the Constitution and the laws.”

THE SECOND SCHEDULE

[Refer section 24]

INTELLIGENCE AND SECURITY ORGANISATION ESTABLISHED BY THE CENTRAL GOVERNMENT

1. Intelligence Bureau.
2. Research and Analysis Wing of the Cabinet Secretariat.
3. Directorate of Revenue Intelligence.
4. Central Economic Intelligence Bureau.
5. Directorate of Enforcement.
6. Narcotics Control Bureau.
7. Aviation Research Centre
8. Special Frontier Force.
9. Border Security Force.
10. Central Reserve Police Force.
11. Indo-Tibetan Border Police.
12. Central Industrial Security Force.
13. National Security Guards.
14. Assam Rifles.
15. Special Service Bureau.
16. Special Branch (CID), Andaman and Nicobar.
17. The Crime Branch-CID- CB, Dadra and Nagar Haveli.
18. Special Branch, Lakshadweep Police.

* * *

NOTE FROM NYAYABHOOMI

1. Regulation of Fee and Cost Rules, 2005 have been incorporated in the chapter “Understanding & Using the Right to Information Act” under section “Fees”.
2. Appeal Procedure Rules, 2005 with the Central Information Commission have not been included. You may visit <http://rti.gov.in> or <http://cic.gov.in> to read them. It is advised that you contact either NyayaBhoomi or any other social organization to help you draft your appeal with the commission.

* * *

INTRODUCTION TO NYAYABHOOMI

The citizen of India is awakening. There is a new purpose, a new hope, and a new determination in his eager eyes. He has started to assert himself like never before. Having waited long enough at the doorstep of the ruling elite with a begging bowl, he now wants a life of dignity, prosperity and equal opportunities, and he wants it pronto. The tables are turning.

In this unexpected evolution of Indian society, NyayaBhoomi fit right in.

Conceived in early 1990s but founded in 2002, we are a no run-of-the-mill NGO. As a fiercely independent, reformist, and result-delivering grassroots organization, we take impartial stand on issues, fear no one, and work tirelessly towards building a prosperous and modern society firmly grounded in values, ethics, and a sense of justice. Our projects benefit people directly, measurably, and often, in a short span of time.

To best use our limited resources, we exercise great caution while selecting an issue to work on. It has to be within our means, a large section of the population should be affected by it, and there should be huge potential for reversal of injustice. Our involvement should also bring about fundamental change and the masses should be able to participate in it.

Most projects should also be self sustainable, scalable, socially and morally kosher, capital light, and tightly manageable.

Subject to the parameters defined above, we are open to taking up new issues as long as volunteers in sufficient numbers who are deeply passionate about them come on board.



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PRESIDENT (founder)



RAKESH AGARWAL
SECRETARY (founder)

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