

## **GUIDELINES TO PROCESS APPLICATIONS FILED UNDER RTI**

- (1) The Public Authority ie Institution shall display the Board on the names, designations and other particulars of the Information Officers under sub-section (1) (b) of Section 4 of RTI Act 2005. The AP Information Commission has the authority to impose penalties, if anybody made a complaint, for non-compliance of Section 4 of RTI Act.
- (2) The Heads of the Sections in the Institution shall maintain all records duly catalogued and indexed in a manner and the form which facilitates the right to information under this Act under Section 4 (1) (a) of the RTI Act 2005.
- (3) The Heads of Sections in the Institution shall update information on the points covered in Sub-section (1) (b) of Section 4 of the RTI Act. If the updated information is not published and placed in the website of the Council, such action invites summons and penalty under RTI Act.
- (4) 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 (Section 7 (9))
- (5) Responsibility of other Officers to assist PIO - Act provides that PIO may seek the assistance of any other Officer for proper discharge of duties. Such other Officer would be deemed to be a PIO and would liable for contraventions of the provisions of the Act, the same way as the PIO himself. (Sub-Section 5 of Section 5 of RTI Act)
- (6) The authority to decide to disclose the information or not, whether the disclosure of information involves public interest or not etc., vests to PIO and FAA subject to the conditions prescribed in Section 8 of RTI Act.
- (7) **Important Definitions**

### **7.1 Section 2 (j) of RTI Act – on “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."*

7.2 "Third Party" means a person other than the citizen making a request for information and includes a Public Authority.

7.3 "Record" includes

- (i) Any document, manuscript and file
- (ii) Any microfilm, microfiche and facsimile copy of a document
- (iii) Any reproduction of image or images embodied in such microfilm (whether enlarged or not) and
- (iv) Any other material produced by a computer or any other device.

7.4 "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.

7.5 "Public Authority" means any authority or body or institution of self-government established or constituted-

- (i) By or under the Constitution
- (ii) By any other law made by Parliament
- (iii) By any other law made by State Legislature
- (iv) By Notification issued or order made by the appropriate Government, and includes, any
  - (a) Body owned, controlled, or substantially financed
  - (b) Non-Government organization substantially financed, directly or indirectly by funds provided by the appropriate government.

7.6 "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.

(8) Application fee to accompany request for obtaining information

- (i) in respect of PIOs at village level : no cost
- (ii) in respect of PIOs at mandal level : Rs. 5/- per application
- (iii) in respect of PIOs at other than above: Rs.10/- per application

(9) Fee to be charged for providing information

- (i) Printed material A4 or A3 : Rs. 2/-
- (ii) Printed material other than above : Actual cost
- (iii) Material in 1.44 MB Floppy : Rs. 50/-
- (iv) Material in 700 MB CD : Rs. 100/-
- (v) Material in DVD CD : Rs. 200/-
- (v) inspection of Records : Rs. 5/- from 2<sup>nd</sup> hour
- (vi) Material to be sent by post : Actual postal charges
- (vii) White card holder : Free of cost

(10) 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 the Act.

(11) Transfer of application to another Public Authority: 5 days  
Answering RTI Application : 30 days

(12) In cases where the life or liberty of a person is involved, information has to be provided in : 48 hours.

(13) The CIC or SIC, at the time of deciding any compliant or appeal, shall impose penalty of Rs. 250 for each day and not exceeding Rs. 25,000 and or recommend for disciplinary action against the PIO under the following grounds:

- (i) Refused to receive an application for information
- (ii) Not furnished information within the time
- (iii) Malafidely denied the request for information
- (iv) Knowingly given incorrect, incomplete or misleading information or destroyed information

- (v) Obstructed in any manner in furnishing information
- (14) Procedure in deciding appeal – the Commission may (i) hear oral or written evidence on oath or an affidavit from concerned or interested person (ii) peruse or inspect the documents, public records or copies thereof (iii) inquire through authorized officer further details or facts (iv) inquire through the authorized officer further details or facts (v) hear PIO who decide the first appeal or such person against whom the complaint is made (vi) hear third party and (vi) receive evidence on the affidavits of SPIO who decided the first appeal, such person against whom the complaint lies or the third party; (GO Ms.No. 66 GAD dt. 25.2.2006)
- (15) The personal details of RTI applicant should not be disclosed as they do not serve any public interest. It is further clarified that the personal details would include name, designation, address, email ID and telephone number including mobile number of the applicant (OM No. FNo. 1/1/2013-IR dt. 7.10.2016)
- (16) A person makes an application to a Public Authority for some information, which concerns some, another public authority. In such a case, the PIO receiving the application should transfer the application to the concerned public authority under intimation to the applicant.

A person makes an application to a public authority for information, as part of which is available with that public authority and the rest of the information is scattered with more than one other public authorities. In such a case, the PIO of the Public Authority receiving the application should give information relating to it and advise the applicant to make separate applications to the concerned public authorities for obtaining information from them.

If no part of the information sought, is available with it but is scattered with more than one other public authorities, the PIO should inform the applicant that information is not available with the public authority and that the applicant should make separate applications to the concerned public authorities for obtaining information from them. (OM No. 10/2/2008-IR dt. 12.6.2008).

- (17) The PIO is required to supply such material to the citizen who seeks it. The Act, however, does not require the Public Information Officer to deduce some conclusion from the 'material' and supply the 'conclusion' so deduced to the applicant. The PIO is required to supply the 'material' in the form as held by the public authority and is

not required to do research on behalf of the citizen to deduce anything from the material and then supply to him. (Govt. of India OM No.11/2/2008-Ir dated 10.7.2008)

- (18) The import of sub-section (5) of Section 5 of RTI Act is that, if the Officer whose assistance is sought by the PIO, does not render necessary help to him, the Information Commission may impose penalty on such Officer or recommend disciplinary action against him / her the same way as the Commission may impose penalty on or recommended disciplinary action against the PIO. (OM No.1/14/2008-IR dt. 28.7.2008)
- (19) The only exemption of Section 8 (1) which might remotely apply is Section 8 (1) (b) which states, '*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;*' can be denied.

This clause does not cover sub-judice matters, and unless an exemption is specifically mentioned, information cannot be denied. Disclosing information on matters which are sub judice does not constitute contempt of Court, unless there is a specific order forbidding its disclosure.

This Commission rules that a matter being sub-judice cannot be used as a reason for denying information under the Right to Information Act. (Decision of CIC in 2008).

- (20) It is clearly stated at Section 11 (1) that 'submission of third party shall be kept in view while taking a decision about disclosure of information'. Section 11 does not give a third party an unrestrained veto to refuse disclosing information. It only gives the third party an opportunity to voice its objections to disclosing information. The PIO will keep these in mind and denial of information can only be on the basis of exemption under Section 8 (1) of the RTI act. (Decision of CIC in 2008).
- (21) The definition of information cannot include within its fold answers to the question "why" which would be same thing as asking the reason for a justification for a particular thing. The Public Information Authorities cannot expect to communicate to the citizen the reason why a certain thing was done or not done in the sense of a justification because the citizen makes a requisition about information. Justifications are matter within the domain of

adjudicating authorities and cannot properly be classified as information. (Govt. of India OM No. 1/7/2009-IR dated 1.6.2009)

- (22) Since Right to Information is a fundamental right of Citizens, where denial has to be only on the basis of the exemptions under Section 8 (1), it is necessary to carefully explain the reasons of how any of the exemptions apply, when a PIO wishes to deny information on the basis of the exemptions. Merely quoting the Subsection of Section 8 is not adequate. Giving information is the rule and denial the exception. In the absence of any reasoning, the exemption under Section 8 (1) is held to have been applied without any basis. (Decision of CIC in 2009).
- (i) Exemption under Section 8 (1) (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.
  - (ii) Exemption under Section 8 (j) – Information which relates to personal information the disclosure of which has no relationship to any public authority or interest, or which would cause unwarranted invasion of the privacy of the individual unless the CPIO or SPIO or the appellate authority is satisfied that the larger public interest justifies the disclosure of such information.
- (23) The performance of an employee / Officer in an organization is primarily a matter between the employee and employer and normally those aspects are governed by the service rules which fall under the expression of personal information, the disclosure of which has no relationship to any public authority or public interest. On the other hand, the disclosure of which could cause unwarranted invasion of the privacy of the individual. The Supreme Court further held that such information could be disclosed only if it would serve a larger public interest. (Govt. of India OM No. 11/2/2013 dt. 14.8.2013).
- (24) Responding to such repeated applications and continuing the same in first and second appeals will block the activity of public authority, FAA and information Commission and deprive the other genuine first applications waiting for information or adjudication. Reckless repetition of this kind without any feel about responsibility is nothing but abusing of RTI. (CIC Decision in 2014)

- (25) There should be a system within the Public Authority to tackle such misconduct of any serving employee/retired employee or by any other staff member/outsourced or similar nature, because they are becoming potential hazards of RTI misuse. Public authority should have evolved a mechanism and service rules or include in conduct rules, to initiate departmental action against existing/retired employees for such misbehavior or misconduct and impose penalty in the nature of cutting increments or pension emoluments for serving or retiring employees accordingly. If the RTI application from its own employee reflects a grievance or complaint, the public authority should address grievance immediately and inform him within one month. If RTI application is repeated, frivolous or useless one and only meant for harassing other employees or public authority as a whole, then the disciplinary action should be initiated for such alleged misconduct, leading to appropriate action. If they do not act at all against such characters (retired or not retired employees) in indulging in such misconduct of filing frivolous and entertain these repeated. (CIC Decision in 2014)
- (26) The PIOs of the respondent authority to prepare a comprehensive note on the number of RTI applications filed by the appellant, with his background, the responses given by them in the first appeal and second appeals, etc, and put it on the official website under the heading "Do not misuse RTI". The official website also should publish this order. If the applicant files another repeated RTI application, public authority can give a single line reply to refer to these two files on the website and reject the application. (CIC Decision in 2014)
- (27) PIO need not answer any RTI question or request, if filed by this appellant again in coming days, for information pertaining to officers mentioned in these various applications and appeals, or if part of new RTI request was already covered by his earlier RTI request for the reasons discussed above and also on the principle of res judicata, in order to prevent such appellants from hijacking time of public authorities that is to be used in service of public genera. (CIC Decision in 2014)
- (28) CIC decision in 2014 that:
- (i) No scope of repeating under RTI Act
  - (ii) Citizen has no Right to Repeat
  - (iii) Repetition shall be ground of refusal
  - (iv) Appeals can be rejected

- (29) It is not required to provide 'advice' or 'opinion' to an applicant, nor required to obtain and furnish any 'opinion' or 'advice' to an applicant. The reference to 'opinion' or 'advice' in the definition of 'information' in Section 2 (f) of the Act, only refers to such material available in the records the public authority. Many public authorities have, as a public relation exercise, provided advice, guidance and opinion to the citizens. But that is purely voluntary and should not be confused with any obligation under the RTI Act (OM No. 1/18/2011 dt. 16.9.2011).
- (30) an information which has been sought for 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, , even if the Public Authority has got that information, is not bound to furnish the same to an applicant, unless he is satisfied that the larger public interest justifies the disclosure of such information, that too, for reasons to be recorded in writing.(Supreme Court judgement dt. 7.10.2013)
- (31) As regards the objection that under Section 6(3) of the Act, the public authority has to transfer the application to another public authority if information is not available, the said provision should also normally be complied with except where the public authority dealing with the application is not aware as to which other authority will be the appropriate authority. (Supreme Court judgement dt. 20-10-2018).