
Overview & Salient features of RTI Act 2005

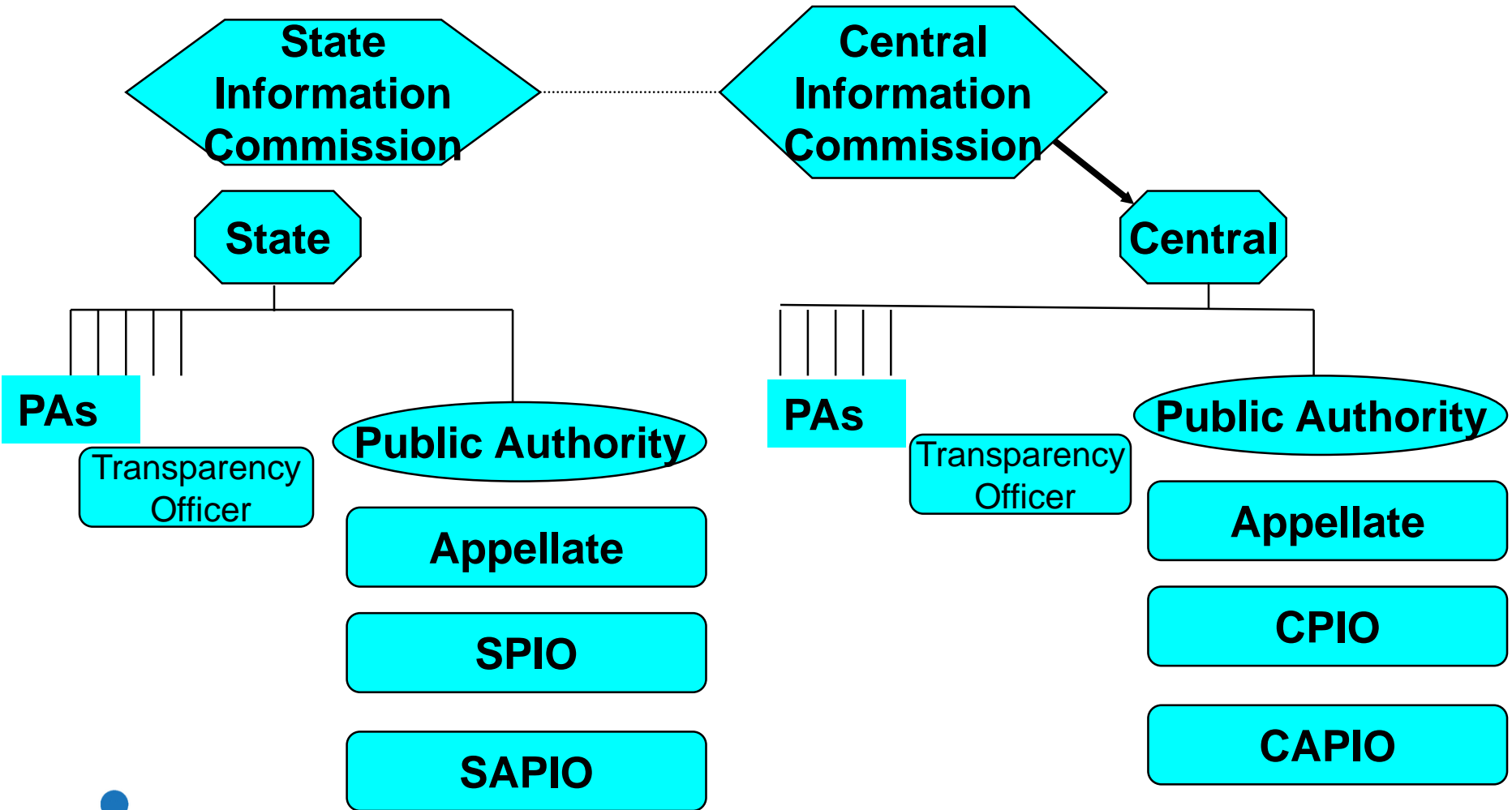
Objectives of RTI Act

- Transparency
- Accountability
- Contain corruption.
- Democracy requires informed citizenry which in turn is vital for its functioning.
- To hold govt. and their instrumentalities accountable to the governed.

Applicability

- Applicability excluding the state of J&K.
- To citizens only?

Structure for implementation of Act



Information

- Any material in any form
- Records, documents, memos, e-mail
opinions,advices,press releases, circulars
orders,logbooks,contracts,reports,papers,samples,
- Models, data held in any electronic form, and
- Information relating to any private body which can be
accessed by a public authority under any law

Section 2(f)

Defining the term “File”

- 'Manual of Office Procedure' of the DoPT. Section 27 of Chapter II: 'Definitions', clearly states,
- 'File means a collection of papers on a specific subject matter assigned a file number and consisting of one or more of the following parts:
 - (a) Correspondence
 - (b) Notes
 - (c) Appendix to Correspondence
 - (d) Appendix to Notes'

Record

- Any document, manuscript and file;
- Any microfilm, microfiche and facsimile copy of a document;
- Any reproduction of images or images embodied in such microfilm and
- Any other material produced by a computer or any other device .

Section 2(I)

Mode of access

- Inspection of works ,documents,records
- Taking notes,extracts or certified copies of documents or records;
- Taking certified samples of materials;
- Obtaining information in the form of diskettes, floppies,tapes,video cassettes or any other electronic mode or through printouts

Section 2(J)

Public authority

- Any authority or body or institution of self –government established under or constituted
- (a) by or under the constitution.
- (b) by any law made by the Parliament/ state legislature
- (c) Established by notification by the appropriate govt.
which include any
- Body owned, controlled or substantially financed
- NGO substantially financed-- directly or indirectly by funds provided by the appropriate govt.

Section 2(h)

PIO

- To be designated by the public authority within 100 days of the enactment of this Act;
- As many as the case may be;
- In all administrative units;
- To provide information to persons requesting for the information under this act
- Concept of deemed PIO

APIO

- To be designated within 100 days
- At sub-divisional /sub- district level

Responsibilities of APIO:

- To receive information requests and appeals,
- To forward it to the PIO or the appellate authority or to the CIC/SIC as the case may be
- Where an application for information or appeal is given to a APIO a period of five days shall be added in computing the period of response. Section 5(2)

Request for information

- In writing or through electronic means ;in Hindi /English/in the official language of the area, accompanied by the prescribed fee;
- PIO to help the person seeking information to convert oral request for information into black and white.
- To give reasons for the requested information not mandatory
- Personal details only to the extent required for contacting the requestor

Section 6

Request

- The public authority, if requested for information, which is held by another public authority or the subject matter of which is more closely connected with the functions of another public authority, shall transfer the application or such part of it as may be appropriate to that other public authority under intimation to the applicant
- The transfer of the application must happen within five day's of the receipt of the request

Section 6(2)

Disposal of request

1. As **expeditiously** as possible within 30 days and 48 hours, if it is concerned with violations of human Rights and reject if comes under Secs. 8 or 9.
2. If not given within time – it is deemed to have been refused.(**Deemed refusal**)
3. Provide **details of cost** and inform about the review right on cost
4. Provide **assistance** to the sensorily disabled persons.
5. If information sought is published /electronic format charge the fee prescribed. (No fee for BPL card holders)
6. PIO to **consult third parties** before providing information.
7. Public Information Authority may **reject by giving reasons**, appeal privileges and appellate authority particulars..
8. Information shall be **provided in the format sought**.

Section 7

Information Exemptions

- a. Disclosure would prejudicially affect the sovereignty and integrity of India.(e.g. interception directions)
- b. Expressly forbidden to be published by any court. (Draft judgment cannot be given; Inspection of land on which there was pending suit)
- c. Which would cause a breach of privilege of Parliament (Five privileges – speech, control over its affairs, publication, arrest and punish contempt eg., standing committee materials, budget proposals)
- d. Commercial confidence, trade secrets or intellectual property
- e. Information available to a person in his fiduciary relationship, (examiners, doctors, advocates - legal opinions Visitors registers of police stations are exempted.
- f. Information received in confidence from Foreign Government
- g. Which would endanger the life or physical safety of any person
- h. Which would impede the process of investigation
- i. Cabinet papers including records of deliberations.
- j. Information of personal nature

Section 8 (1)

Rejection

- Requests involving infringement of copyright subsisting in a person other than the state may be rejected.

Section 9

Severability

- the part of information not covered by the exemptions under section 8 may be disclosed.

Section 10

Third Party Cases

1. Information supplied by third party to be treated as confidential, PIO must cause a notice to third party inviting his submission within 5 days. Except trade secrets, disclosure may be made if the public interest outweighs.
2. The third party within ten days to make representation on disclosure.
3. PIO to decide within 40 days and make a decision.
4. Third party to whom notice is given may prefer an appeal under Sec. 19. (Third party to be heard before imparting information)

Section 11

RTI ACT 2005 :- who is not covered.

- Intelligence Bureau, Research & Analysis Wing, Directorate of Revenue Intelligence, Central Economic Intelligence Bureau, Department of Enforcement, Narcotics Control Bureau, Aviation Research Centre, Special Frontier Force, BSF, CRPF, ITBP, CISF, NSG, Special Service Bureau, Assam Rifles, Special Branch (CID) Andaman & Nicobar, Crime Branch (CID) Dadra And Nagar Havelli, Special Branch LakshawEEP Police.....list is expanding
- However no exemption –in matters relating to human rights violations and corruption, Information can be given only if concerned IC approves-Time limit 45 days

Fees

- Application Fee Rs 10/- (for Central PAs)
- Material cost to be paid by applicant (photocopy, CD, sample etc.)
 - Rs 2 per A4/A3 page
 - inspection of documents- no fee for first hour, Rs. 5 for every subsequent hour or fraction thereof
 - Rs 50 for CD
- No application Fee/cost of information for BPL applicants
- No cost of information if supplied after 30 days period
- States have their own rates

Information supply Time limits

1. Information to be provided in 30 days from the date of application
 2. 48 hours for information concerning the life and liberty of a person
 3. 5 days shall be added to the above response time, in case the application for information is given to Assistant Public Information Officer.
 4. If the interests of a third party are involved then time limit will be 40 days (maximum period + time given to the party to make representation).
- Failure to provide information within the specified period is a deemed refusal.

RTI ACT 2005 ----- Appeal

Appeal :

- Who can appeal?
 - Any person who does not receive a decision within the time specified
 - Who is aggrieved by the decision of the PIO
- First appeal with appellate authority in Public Authority
 - Apply within 30 days of PIOs order
 - Decision on appeals within 30-45 days
- Second appeal to CIC or SIC
 - within ninety days of order of appellate authority or from the date on which order was due

section19

Penalty & Compensation

- CIC/SIC can impose penalty of Rs 250/- per day on PIOs found guilty for:
 - i. not accepting an application;
 - ii. delaying information release without reasonable cause;
 - iii. Malafidely denying information;
 - iv. knowingly giving incomplete, incorrect, misleading information;
 - v. destroying information that has been requested and
 - vi. obstructing furnishing of information in any manner.
- CIC/SIC can recommend disciplinary action against errant PIO
- Compensation to applicant

Section 20

Other sections

Sec. 12. Constitution of CIC:

(No. of Ics, selection committee, CIC powers of general superintendence, qualification of CIC & Cis, not to hold office of profit & HQ Delhi.)

Sec. 13. Term of office and conditions of service.

(5yrs., including aggregate, oath and resignation)

Sec. 14. Removal of C.I. Commissioner.

Sec. 15. Constitution of SIC.

Sec. 16. Term of office and conditions of service.

Sec. 17. Removal of S.I. Commissioner.

Other sections

Sec. 18. Powers and function of Information Commissions – appeals and penalties.

Functions : 1. Receive and inquire in to complaints of:

- a. who has not been able to file because PIO is not appointed ,
- b. on refusals;
- c. not responded;
- d. unreasonable fee;
- e. incomplete or misleading information etc.,
- f. Any other matter

2. Initiate inquiry if reasonable grounds exist.

3. It enjoys the same powers as that of civil courts such as;

Enforce attendance; inspection of documents; receiving evidence in affidavit; Requesting any public record; issuing summons etc.,

4. Examine any records and such records shall not be withheld.

Other sections

Sec. 19. Appeals – First and Second appeal.

Sec. 20. Penalties – fine upon hearing him and disciplinary actions under service rules

Sec. 21. Protection of action taken in good faith

Sec. 22. Overriding effect of the Act.

Sec. 23. Bar on Judn. of courts.

Sec. 24. Act not to apply for certain organizations.(18 Organisations)

Sec. 25. Monitoring and Reporting.

Sec. 26. Govt. to prepare programmes.

Sec. 27. Power to make rules by App. Govt.

Sec. 28. Power to make rules by Competent Authorities.

Sec. 29. Laying of rules before Parliament.