

GUIDELINES ON RIGHT TO INFORMATION ACT, 2005

The right to information is implicitly guaranteed by the Constitution. However, with a view to set out a practical regime for securing information, the Indian Parliament enacted the Right to Information Act, 2005 and thus gave a powerful tool to the citizens to get information from the Government as a matter of right. This law is very comprehensive and covers almost all matters of governance and has the widest possible reach, being applicable to Government at all levels- Union, State and Local as well as recipients of government grants.

Labour Bureau being an attached office of Ministry of Labour & Employment is a public authority and comes under the ambit of RTI Act, 2005.

Object of the Right to Information Act

The basic object of the Right to Information Act is to empower the citizens, promote transparency and accountability in the working of the Government, contain corruption, and make our democracy work for the people in real sense. It goes without saying that an informed citizen is better equipped to keep necessary vigil on the instruments of governance and make the government more accountable to the governed. The Act is a big step towards making the citizens informed about the activities of the Government.

What is Information

Information is any material in any form. It includes records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material held in any electronic form. It also includes information relating to any private body which can be accessed by the public authority under any law for the time being in force.

What is a Public Authority

A "public authority" is any authority or body or institution of self government established or constituted by or under the Constitution; or by any other law made by the Parliament or a State Legislature; or by notification issued or order made by the Central Government or a State Government. The bodies owned, controlled or substantially financed by the Central Government or a State Government and non-Government organisations substantially financed by the Central Government or a State Government also fall within the definition of public authority. The financing of the body or the NGO by the Government may be direct or indirect. Labour Bureau being an attached office of Ministry of Labour & Employment, is a public authority.

Central Public Information Officer

Labour Bureau has designated officer of the rank of Director as Central Public Information Officer. He is responsible to give information to a person who seeks information under the RTI Act.

Assistant Central Public Information Officer

These are the officers at sub-divisional level to whom a person can give his RTI application or appeal. These officers send the application or appeal to the Central Public Information Officer of the public authority or the concerned appellate authority. An Assistant Public Information Officer is not responsible to supply the information.

In Labour Bureau there are seven ACPIO's at Chandigarh, Shimla offices and at all the Regional Offices (Chennai, Ahmedabad, Kolkata, Kanpur, Guwahati)

Right to Information under the Act

A citizen has a right to seek such information from a public authority which is held by the public authority or which is held under its control. This right includes inspection of work, documents and records; taking notes, extracts or certified copies of documents or records; and taking certified samples of material held by the public authority or held under the control of the public authority. It is important to note that only such information can be supplied under the Act which already exists and is held by the public authority or held under the control of the public authority. The Central Public Information Officer is not supposed to create information; or to interpret information; or to solve the problems raised by the applicants; or to furnish replies to hypothetical questions.

The Act gives the citizens a right to information at par with the Members of Parliament and the Members of State Legislatures. According to the Act, the information which cannot be denied to the Parliament or a State Legislature shall not be denied to any person.

A citizen has a right to obtain information from a public authority in the form of diskettes, floppies, tapes, video cassettes or in any other electronic mode or through print-outs provided such information is already stored in a computer or in any other device from which the information may be e-mailed or transferred to diskettes etc.

The information to the applicant should ordinarily be provided in the form in which it is sought. However, if the supply of information sought in a particular form would disproportionately

divert the resources of the public authority or may cause harm to the safety or preservation of the records, supply of information in that form may be denied

In some cases, the applicants expect the Central Public Information Officer to give information in some particular proforma devised by them on the plea that they have a right to get information in the form in which it is sought. It need be noted that the provision in the Act simply means that if the information is sought in the form of photocopy, it shall be provided in the form of photocopy, or if it is sought in the form of a floppy, it shall be provided in that form subject to the conditions given in the Act. It does not mean that the CPIO shall re-shape the information. This is substantiated by the definition of the term 'right to information' as given in the Act, according to which, it includes right to obtaining information in the form of diskettes, floppies, tapes, video cassettes or in any other electronic mode or through print-outs provided such information is already stored in a computer or in any other device. Everywhere in the Act, the word 'form' has been used to represent this meaning.

Some Information seekers request the Central Public Information Officers to cull out information from some document(s) and give such extracted information to them. A citizen has a right to get 'material' from a public authority which is held by or under the control of that public authority. The Act, however, does not require the Central Public Information Officer to deduce some conclusion from the 'material' and supply the 'conclusion' so deduced to the applicant. It means that the Central Public Information Officer is required to supply the 'material' in the form as held by the public authority, but not to do research on behalf of the citizen to deduce anything from the material and then supply it to him.

Right to Information Vis-à-Vis other Acts

The RTI Act has over-riding effect vis-à-vis other laws inasmuch as the provisions of the RTI Act would 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 the RTI Act.

Supply of Information to Associations etc

The Act gives the right to information only to the citizens of India. It does not make provision for giving information to Corporations, Associations, Companies etc. which are legal entities/persons, but not citizens. However, if an application is made by an employee or office-bearer of any Corporation, Association, Company, NGO etc. indicating his name and such employee/office bearer is a citizen of India, information may be supplied to him/her. In such cases, it would be presumed that a citizen has sought information at the address of the Corporation etc.

Fee for Seeking Information

A person who desires to seek some information from a public authority is required to send, along with the application, a demand draft or a banker's cheque or an Indian Postal Order of Rs. 10/- (Rupees ten), payable to the Accounts Officer of the public authority as fee prescribed for seeking information. The payment of fee can also be made by way of cash to the Accounts Officer of the public authority or to the Assistant Public Information Officer against proper receipt.

The applicant may also be required to pay further fee towards the cost of providing the information, details of which shall be intimated to the applicant by the CPIO as prescribed by the Right to Information (Regulation of Fee and Cost) Rules, 2005. Rates of fee as prescribed in the Rules are given below: (a) rupees two (Rs. 2/-) for each page (in A-4 or A-3 size paper) created or copied; (b) actual charge or cost price of a copy in larger size paper; (c) actual cost or price for samples or models; (d) for information provided in diskette or floppy, rupees fifty (Rs. 50/-) per diskette or floppy; and (e) for information provided in printed form, at the price fixed for such publication or rupees two per page of photocopy for extracts from the publication.

As already pointed out, a citizen has a right to inspect the records of a public authority. For inspection of records, the public authority shall charge no fee for the first hour. But a fee of rupees five (Rs. 5/-) for each subsequent hour (or fraction thereof) shall be charged.

If the applicant belongs to below poverty line (BPL) category, he is not required to pay any fee. However, he should submit a proof in support of his claim to belong to the below poverty line. The application not accompanied by the prescribed fee of Rs. 10/- or proof of the applicant's belonging to below poverty line, as the case may be, shall not be a valid application under the Act. It may be pointed out that there is no bar on the public authority to supply information in response to such applications. However, provisions of Act would not apply to such cases.

Format of Application

There is no prescribed format of application for seeking information. The application can be made on plain paper. The application should, however, have the name and complete postal address of the applicant. Even in cases where the information is sought electronically, the application should contain name and postal address of the applicant. He can also provide his contact number and e-mail id.

The information seeker is not required to give reasons for seeking information.

Information Exempted from Disclosure

Sub-section (1) of section 8 and section 9 of the Act enumerate the types of information which is exempt from disclosure. Sub-section (2) of section 8, however, provides that information exempted under sub-section (1) or exempted under the Official Secrets Act, 1923 can be disclosed if public interest in disclosure overweighs the harm to the protected interest.

The information which, in normal course, is exempt from disclosure under sub-section(1) of Section 8 of the Act, would cease to be exempted if 20 years have lapsed after occurrence of the incident to which the information relates. However, the following types of information would continue to be exempt and there would be no obligation, even after lapse of 20 years, to give any citizen: (i) information disclosure of which would prejudicially affect the sovereignty and integrity of India, the security, strategic, scientific or economic interest of the State, relation with foreign state or lead to incitement of an offence; (ii) information the disclosure of which would cause a breach of privilege of Parliament or State Legislature; or (iii) cabinet papers including records of deliberations of the Council of Ministers, Secretaries and other Officers subject to the conditions given in proviso to clause (i) of sub-section(1) of Section 8 of the Act.

Record Retention Schedule and the Act

The Act does not require the public authorities to retain records for indefinite period. The records need be retained as per the record retention schedule applicable to the concerned public authority. Information generated in a file may survive in the form of an OM or a letter or in any other form even after destruction of the file/record. Section 8(3) of the Act requires furnishing of information so available after the lapse of 20 years even if such information was exempt from disclosure under sub-section(1) of Section 8.

Assistance Available to the Applicant

If a person is unable to make a request in writing, he may seek the help of the Central Public Information Officer to write his application and the CPIO should render him reasonable assistance. Where a decision is taken to give access to a sensorily disabled person to any document, the CPIO, shall provide such assistance to the person as may be appropriate for inspection.

Time Period for Supply of Information

In normal course, information to an applicant shall be supplied within 30 days from the receipt of application by the public authority. If information sought concerns the life or liberty of a person, it shall be supplied within 48 hours. In case the application is sent through the Assistant

Public Information Officer or it is sent to a wrong public authority, five days shall be added to the period of thirty days or 48 hours, as the case may be.

Appeals

If an applicant is not supplied information within the prescribed time of thirty days or 48 hours, as the case may be, or is not satisfied with the information furnished to him, he may prefer an appeal to the first appellate authority who is an officer senior in rank to the CPIO. Such an appeal, should be filed within a period of thirty days from the date on which the limit of 30 days of supply of information is expired or from the date on which the information or decision of the CPIO is received. The appellate authority of the public authority shall dispose of the appeal within a period of thirty days or in exceptional cases within 45 days of the receipt of the appeal.

If the first appellate authority fails to pass an order on the appeal within the prescribed period or if the appellant is not satisfied with the order of the first appellate authority, he may prefer a second appeal with the Central Information Commission within ninety days from the date on which the decision should have been made by the first appellate authority or was actually received by the appellant.

Complaints

If any person is unable to submit a request to a Central Public Information Officer either by reason that such an officer has not been appointed by the concerned public authority or the Assistant Public Information Officer has refused to accept his or her application or appeal for forwarding the same to the Central Public Information Officer or the appellate authority, as the case may be; or he has been refused access to any information requested by him under the RTI Act; or he has not been given a response to a request for information within the time limit specified in the Act; or he has been required to pay an amount of fee which he considers unreasonable; or he believes that he has been given incomplete, misleading or false information, he can make a complaint to the Information Commission.

Disposal of Appeals and Complaints by the CIC

The Central Information Commission decides the appeals and complaints and conveys its decision to the appellant/complainant and first appellate authority/ Central Public Information Officer. The Commission may decide an appeal/complaint after hearing the parties to the appeal/complaint or by inspection of documents produced by the appellant/complainant and CPIO or such senior officer of the public authority who decided the first appeal. If the Commission chooses to hear the parties before deciding the appeal or the complaint, the Commission will inform the date of hearing to the appellant or the complainant at least seven clear days before the date of hearing. The appellant/complainant has the discretion to be

present in person or through his authorized representative at the time of hearing or not to be present.

Third Party Information

Third party in relation to the Act means a person other than the citizen who has made request for information. The definition of third party includes a public authority other than the public authority to whom the request has been made.

Disclosure of Third Party Information

Information including commercial confidence, trade secrets or intellectual property, the disclosure of which would harm the competitive position of a third party, is exempt from disclosure. Such information should not be disclosed unless the competent authority is satisfied that larger public interest warrants the disclosure of such information. The third party should be given full opportunity to put his case for non-disclosure if he desires that the information should not be disclosed.

GUIDELINES FOR USE OF RTI ONLINE PORTAL

The RTI application pertaining to Labour Bureau can also be filed online on RTI online portal by selecting Ministry of Labour & Employment as concerned Ministry/Department/ Apex body and Labour Bureau as the concerned public authority.

1. This Web Portal can be used by Indian citizens to file RTI application online and also to make payment for RTI application online. First appeal can also be filed online.
2. On clicking at "Submit Request", the applicant has to fill the required details on the page that will appear. The fields marked * are mandatory while the others are optional.
3. The text of the application may be written at the prescribed column.
4. At present, the text of an application that can be uploaded at the prescribed column is confined to 3000 characters only.
5. In case an application contains more than 3000 characters, it can be uploaded as an attachment, by using column "Supporting document". (only pdf upto 1 MB)
6. After filling the first page, the applicant has to click on "Make Payment" to make payment of the prescribed fee.
7. The applicant can pay the prescribed fee through the following:
 - (a) Internet banking through SBI and its associated banks;
 - (b) Using Credit/Debit cards of Master/Visa.
 - (c) Using RuPay Card.

8. Fee for making an application is as prescribed in the RTI Rules, 2012.
9. After making payment, an application can be submitted.
10. No RTI fee is required to be paid by any citizen who is below poverty line as per RTI Rules, 2012. However, the applicant must attach a copy of the certificate issued by the appropriate government in this regard, alongwith the application.
11. On submission of an application, a unique registration number would be issued, which may be referred by the applicant for any references in future.
12. The application filed through this Web Portal would reach electronically to the "Nodal Officer" of Labour Bureau who would transmit the RTI application electronically to the concerned CPIO.
13. In case additional fee is required representing the cost for providing information, the CPIO would intimate the applicant through this portal. This intimation can be seen by the applicant through Status Report or through his/her e-mail alert.
14. For making an appeal to the first Appellate Authority, the applicant has to click at "Submit First Appeal" and fill up the page that will appear.
15. The registration number of original application has to be used for reference.
16. As per RTI Act, no fee has to be paid for first appeal.
17. The applicant/the appellant should submit his/her mobile number and e-mail id to receive alerts.
18. Status of the RTI application/first appeal filed online can be seen by the applicant/appellant by clicking at "View Status".
19. All the requirements for filing an RTI application and first appeal as well as other provisions regarding time limit, exemptions etc., as provided in the RTI Act, 2005 will continue to apply.