

The Freedom of Information Act, 2002

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The Freedom of Information Act, 2002¹

[Act 5 of 2003]

[6th January, 2003]

[Repealed by Act 22 of 2005, S. 31 (w.e.f. on 120th day after 15-6-2005)]

An Act to provide for freedom to every citizen to secure access to information under the control of public authorities, consistent with public interest, in order to promote openness, transparency and accountability in administration and in relation to matters connected therewith or incidental thereto

Be it enacted by Parliament in the Fifty-third year of the Republic of India as follows:—

CHAPTER I PRELIMINARY

1. Short title, extent and commencement.—(1) This Act may be called the Freedom of Information Act, 2002.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. Definitions.—In this Act, unless the context otherwise requires,—

(a) “appropriate Government” means in relation to a public authority established, constituted, owned, substantially financed by funds provided directly or indirectly or controlled—

(i) by the Central Government, the Central Government;

(ii) by the State Government, the State Government;

(iii) by the Union territory, the Central Government;

(b) “competent authority” means—

(i) the Speaker in the case of the House of the People or the Legislative Assembly and the Chairman in the case of the Council of States or the Legislative Council;

(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 the High Court;

(iv) the President or the Governor, as the case may be, in case of other authorities created by or under the Constitution;

(v) the administrator appointed under Article 239 of the Constitution;

1. Received the assent of the President on January 6, 2003 and published in the Gazette of India, Extra., Pt. II, S. 1, dt. 7th January, 2003, pp. 1-8.

- (c) “freedom of information” means the right to obtain information from any public authority by means of,—
- (i) inspection, taking of extracts and notes;
 - (ii) certified copies of any records of such public authority;
 - (iii) diskettes, floppies or in any other electronic mode or through printouts where such information is stored in a computer or in any other device;
- (d) “information” means any material in any form relating to the administration, operations or decisions of a public authority;
- (e) “prescribed” means prescribed by rules made under this Act by the appropriate Government or the competent authority, as the case may be;
- (f) “public authority” means any authority or body established or constituted,—
- (i) by or under the Constitution;
 - (ii) by any law made by the appropriate Government,

and includes any other body owned, controlled or substantially financed by funds provided directly or indirectly by the appropriate Government;

- (g) “Public Information Officer” means the Public Information Officer appointed under sub-section (1) of Section 5;
- (h) “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 by any other device;
- (i) “third party” means a person other than the person making a request for information and includes a public authority.

CHAPTER II

FREEDOM OF INFORMATION AND OBLIGATIONS OF PUBLIC AUTHORITIES

3. Freedom of information.—Subject to the provisions of this Act, all citizens shall have freedom of information.

4. Obligations on public authorities.—Every public authority shall—

- (a) maintain all its records, in such manner and form as is consistent with its operational requirements duly catalogued and indexed;
- (b) publish at such intervals as may be prescribed by the appropriate Government or competent authority,—
 - (i) the particulars of its organisation, functions and duties;
 - (ii) the powers and duties of its officers and employees and the procedure followed by them in the decision-making process;
 - (iii) the norms set by the public authority for the discharge of its functions;

- (iv) rules, regulations, instructions, manuals and other categories of records under its control used by its employees for discharging its functions;
 - (v) the details of facilities available to citizens for obtaining information; and
 - (vi) the name, designation and other particulars of the Public Information Officer;
- (c) publish all relevant facts concerning important decisions and policies that affect the public while announcing such decisions and policies;
 - (d) give reasons for its decisions, whether administrative or quasi-judicial to those affected by such decisions;
 - (e) before initiating any project, publish or communicate to the public generally or to the persons affected or likely to be affected by the project in particular, the facts available to it or to which it has reasonable access which in its opinion should be known to them in the best interests of natural justice and promotion of democratic principles.

5. Appointment of Public Information Officers.—(1) Every public authority shall for the purposes of this Act, appoint one or more officers as Public Information Officers.

(2) Every Public Information Officer shall deal with requests for information and shall render reasonable assistance to any person seeking such information.

(3) The Public Information Officer may seek the assistance of any other officer as he considers necessary for the proper discharge of his duties.

(4) Any officer whose assistance has been sought under sub-section (3), shall render all assistance to the Public Information Officer seeking his assistance.

6. Request for obtaining information.—A person desirous of obtaining information shall make a request in writing or through electronic means, to the concerned Public Information Officer specifying the particulars of the information sought by him:

Provided that where such request cannot be made in writing, the Public Information Officer shall render all reasonable assistance to the person making the request orally to reduce it in writing.

7. Disposal of requests.—(1) On receipt of a request under Section 6, the Public Information Officer shall, as expeditiously as possible, and in any case within thirty days of the receipt of the request, either provide the information requested 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 and liberty of a person, the same should be provided within forty-eight hours of the receipt of the request:

Provided further that where it is decided to provide the information on payment of any further fees representing the cost of providing the information, he shall

send an intimation to the person making the request, giving the details of the fees determined by him, requesting him to deposit the 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 above.

(2) Before taking any decision under sub-section (1), the Public Information Officer shall take into consideration the representation made by a third party under Section 11.

(3) Where a request is rejected under sub-section (2), the Public Information Officer shall communicate to the person making request,—

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

(4) 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 hereinbefore contained, the following information not being information relating to any matter referred to in sub-section (2), shall be exempted from disclosure, namely:—

- (a) information, the disclosure of which would prejudicially affect the sovereignty and integrity of India, security of the State, strategic, scientific or economic interest of India or conduct of international relations;
- (b) information, the disclosure of which would prejudicially affect public safety and order, detection and investigation of an offence or which may lead to an incitement to commit an offence or prejudicially affect fair trial or adjudication of a pending case;
- (c) information, the disclosure of which would prejudicially affect the conduct of Centre-State relations, including information exchanged in confidence between the Central and State Governments or any of their authorities or agencies;
- (d) Cabinet papers including records of deliberations of the Council of Ministers, Secretaries and other officers;
- (e) minutes or records of advice including legal advice, opinions or recommendations made by any officer of a public authority during the decision-making process prior to the executive decision or policy formulation;
- (f) trade or commercial secrets protected by law or information, the disclosure of which would prejudicially affect the legitimate economic and commercial interests or the competitive position of a public authority; or would cause unfair gain or loss to any person; and

- (g) information, the disclosure of which may result in the breach of privileges of Parliament or the Legislature of a State, or contravention of a lawful order of a court.

(2) Subject to the provisions of clause (a) of sub-section (1), any information relating to any occurrence, event or matter which has taken place occurred or happened twenty-five 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-five years has to be computed, the decision of the Central Government shall be final.

9. Grounds for refusal to access in certain cases.—Without prejudice to the provisions of Section 8, a Public Information Officer may reject a request for information also where such request—

- (a) is too general in nature or is of such a nature that, having regard to the volume of information required to be retrieved or processed would involve unreasonable diversion of the resources of a public authority or would adversely interfere with the functioning of such authority:

Provided that where such request is rejected on the ground that the request is too general, it would be the duty of the Public Information Officer to render help as far as possible to the person making request to reframe his request in such a manner as may facilitate compliance with it;

- (b) relates to information that is required by law, rules, regulations or orders to be published at a particular time and such information is likely to be so published within thirty days of the receipt of such request;
- (c) relates to information that is contained in published material available to public; or
- (d) relates to information which would cause unwarranted invasion of the privacy of any person.

10. Severability.—(1) If a request for access to information is rejected on the ground that it is in relation to information which is exempted from disclosure, then notwithstanding anything contained in this Act, access may be given to that part of the record which does not obtain any information that is exempted from disclosure under this Act and which can reasonably be severed from any part that contains exempted information.

(2) Where access is granted to a part of the record in accordance with sub-section (1), the person making the request shall be informed,—

- (a) that only part of the record requested, after severance of the record containing information which is exempted from disclosure, is being furnished; and
- (b) of the provisions of the Act under which the severed part is exempted from disclosure.

11. Third party information.—(1) Where a public authority 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 Public Information Officer shall, within twenty-five days from the receipt of a request, give written notice to such third party of the request and of the fact that the public authority intends to disclose the information or record, or part thereof:

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 given by the Public Information Officer under sub-section (1) to a third party in respect of any information or record or part thereof, the third party shall, within twenty days from the date of issuance of notice, be given the opportunity to make representation against the proposed disclosure.

(3) Notwithstanding anything contained in Section 7, the Public Information Officer shall, within sixty 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 against the decision under Section 12.

12. Appeals.—(1) Any person aggrieved by a decision of the Public Information Officer may, within thirty days of receipt of such decision, prefer an appeal to such authority as may be prescribed:

Provided that such authority may entertain the appeal after the expiry of the said period of thirty days if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) A second appeal against the decision under sub-section (1) shall lie within thirty days of such decision, to the Central Government or the State Government or the competent authority, as the case may be:

Provided that the Central Government or the State Government or the competent authority, as the case may be, may entertain the appeal after the expiry of the said period of thirty days if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(3) The appeals referred to in sub-sections (1) and (2) shall be disposed of within thirty days of the receipt of such appeals or within such extended period, as the case may be, for reasons to be recorded in writing.

(4) If the decision of the Public Information Officer against which the appeal is preferred under sub-section (1) or (2) also relates to information of third party, the appellate authority shall give a reasonable opportunity of being heard to that third party.

CHAPTER III MISCELLANEOUS

13. 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 thereunder.

14. Act to have overriding effect.—The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in the Official Secrets Act, 1923 (19 of 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.

15. 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.

16. Act not to apply to certain organisations.—(1) Nothing contained in this Act shall apply to the intelligence and security organisations, specified in the Schedule being organisations established by the Central Government or any information furnished by such organisations to that Government.

(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 which may be specified, by a notification in the Official Gazette, by a State Government from time to time.

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

17. Power to make rules by Central Government.—(1) The Central 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) intervals at which matters referred to in sub-clauses (i) to (vi) of clause (b) of Section 4 shall be published;
- (b) the fee payable under sub-section (1) of Section 7;
- (c) the authority before whom an appeal may be preferred under sub-section (1) of Section 12;
- (d) any other matter which is required to be, or may be, prescribed.

18. Power to make rules by State Government.—(1) The State 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 fee payable under sub-section (1) of Section 7;
- (b) the authority before whom an appeal may be preferred under sub-section (1) of Section 12;
- (c) any other matter which is required to be, or may be, prescribed:

Provided that initially the rules shall be made by the Central Government by notification in the Official Gazette.

19. Rule making power by competent authority.—(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:—

- (a) the fee payable under sub-section (1) of Section 7;
- (b) the authority before whom an appeal may be preferred under sub-section (1) of Section 12;
- (c) any other matter which is required to be, or may be, prescribed.

20. 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.

21. 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 may be after it is made, be laid before each House of Parliament.

THE SCHEDULE*(See Section 16)***Intelligence and Security Organisations 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. Directorate of Vigilance including Anti-Corruption Branch, National Capital Territory of Delhi.
 19. Special Branch, Lakshadweep Police.
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