

Raju dada's

Right to Information

The Right to Information
The Right to Truth



...the indescribable lustre of Truth, a million times more intense than that of the sun we daily see with our eyes.

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[photo courtesy www.mahatma.org,
Mahatma Gandhi, *THE STORY OF MY EXPERIMENTS WITH TRUTH*, PART 5, CHAPTER XLIII]

We, The People Of India, resolved to secure ourselves . . . LIBERTY of thought, expression . . . through the Preamble to our Constitution, 56 years ago.

Article 19(1) guarantees us the right to freedom of speech and expression. While even the Supreme Court of the most advanced democracy (U.S.A.)¹ was hesitating to interpret the First Amendment of their Constitution, which guarantees the freedom of speech as implying a full right to information - the Supreme Court of India has recognized this right , 33 years ago.²

But Constitutional clauses are difficult to enforce directly without the help of legal statutes, because each and every time, we can not approach the Supreme Court or High Courts to enforce our fundamental rights. The Right to Information Act,2005 (“the Act”) had established the necessary practical regime of right to information which came fully into force on 12 October, 2005.

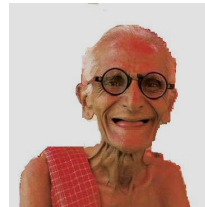
Shareef is a teacher. He saw **Raju dada** on the way to his school.

” Namaste, Raju dada ,you seem to be depressed, why ?”

“Masterji ! I am not getting my old age pension for the last three months. I had to visit the pension office in the town many times ,without any success. What can I do in this age ?”

“No ,Raju dada, you need not worry now. Let us use the Right to Information Act. Take it for granted that your problem is solved.”

Raju dada was surprised and asked:



Raju dada : *Masterji, yeh right to information kya hota hai ?* [What is the Right to Information?]

Shareef : Dadaji ! The Act gives you the right to access:
information held by a public authority , information under the control of a public authority.
This includes the right to:

- inspect work, documents, records;
- take notes, extracts or certified copies of documents or records;
- take certified samples of material;
- obtain 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.

R: How can the Act be useful for me?

S: You can seek information about your applications or complaints regarding ration cards, electricity connections, water connections and so on, pending with the public authorities and force them to redress your grievances quickly without any need of paying bribes. Now you can file an application under the Act and demand to show you the files and records pertaining to pension payments and know the persons obstructing your payments and demand action from the higher officials.

R: But I can not read or write. How can I file an application ?

S: You need not worry ! Every public authority has designated Public Information Officers (“P.I.O.”) to assist you. They will write an application for you, if you ask them. They will render all reasonable assistance to you. You are a person below poverty line, you need not pay any fees.

R: What are the other benefits of the Act?

S: There are long term benefits:

Information laws can have a positive impact on at least three different spheres of society: politics, economics, and public administration.

In the **political** sphere,

- they contribute to the ability of citizens to become **aware** of and involved in the activities of government.
- This enables them to transform themselves from passive citizens who occasionally go to the polls into **active** citizens who call the government to account and participate in the design of public policies.
- Overall, this raises the level of political debate and leads to a more productive process of **policymaking**.³

In the **economic** sphere,

- transparency increases efficiency by making the investment climate more **reliable** and
- allowing capital to better calculate where and when it can **best be invested**.
- the **health** of the market in the long term depends on a steady and reliable flow of trustworthy information.⁴

In the sphere of **public administration**,

- transparency improves the decision making of public servants by making them more **responsive and accountable** to the public and
- controls corruption by making it more **difficult to hide** illegal agreements and action.

- It also improves the **legitimacy and trust** in government in the eyes of the people, allowing for the more effective implementation of public policies.⁵

240 years ago, Sweden passed the first freedom of information law in the world, principally sponsored by a Finnish clergyman Anders Chydenius, who had been inspired by the humanist Confucian philosophy and the fact that the Chinese emperors were expected to “admit their own imperfection as a proof for their love of the truth and in fear of ignorance and darkness.”
The origins of openness are not in the West, but in the East.⁶

R: Very interesting, What are the salient features of the Act ?

S: You will be surprised to know the citizen-friendly features of the Act:

- Universal access to information held by the public authorities- all citizens have access to information, pertaining to any period, in any form, in official language
- Right to information includes inspection of records, works and taking certified samples of material
- 'Information' broadly defined-includes: records, e-mails, samples and models.
- Covers all public authorities, NGOs, private bodies subject to provisions.
- Public Information Officers (“P.I.O.”) to provide information.
- Only absolute exemption from disclosure of information.
- All other exemptions are subject to public interest test.
- Voluntary disclosure of maximum (17 categories of) information on Nation wide network
- No prescribed form.
- Reasonable fees.
- Allows partial disclosure.
- P.I.O has the duty to assist requesters.
- No need to give reasons for requesting information.
- Information concerns the life and liberty to be provided within 48 hours.
- Information to be provided expeditiously, within 30 days of receipt of request.
- Deemed to be refused if no response is given.
- Internal First Appeals against PIO's decisions on fees / form of access / rejection / partial disclosures.
- Independent Information Commissions at Central and State levels.
- Citizens can directly make complaints and appeals to Information Commissions.
- Presumption in favour of disclosure of information--Burden of proof on P.I.O.
- Overriding effect on other secrecy laws.
- Penalties on delinquent P.I.O.s.
- A Guide which includes the details of P.I.O.s of all public authorities.
- Educational programmes to disadvantaged communities.
- Annual reporting by the Information Commissions.

R: What is Information?

S: The Act defines information as any material in any form including:

- | | |
|---|---|
| <ul style="list-style-type: none">• Records• Documents• Memos• E-mails• Opinions• Advices• Press releases• Circulars• Orders• Logbooks• Contracts | <ul style="list-style-type: none">• 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. |
|---|---|

Remember: Information which cannot be denied to the Parliament or a State Legislature shall not be denied to you.

R: What is a Record?

S: The Act specifies “Records” to include:

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

R: Whom does the Act apply to?

S: It covers the Central Government, State Governments and Union Territory Administrations. Thus, the Act is applicable to all States and Union Territories in India except the State of Jammu and Kashmir.

- The Act gives you the right to access to information held by “public authorities” which includes authorities, bodies, institution of self government which are:
- established or constituted:
 - by the Constitution;
 - by a law of Parliament or a State Legislature;
 - by a notification or order of the State or Central Governments;
 - bodies owned, controlled or substantially financed by the State or Central Governments,
 - including non-government organisations which receive substantial government funds directly or indirectly.

The Act shall not apply to central intelligence and security agencies specified in the Second Schedule, and other agencies exempted by the State Governments through a Gazette Notification. However, you can seek information in respect of allegations of violations of human rights from the exempted organizations.

They may provide the information within 45 days with the approval of the Information Commission concerned.

R: Are private bodies covered ?

S: Private bodies are not directly covered. But all the information relating to private bodies which can be accessed by a public authority can be accessed by you.

R: Are non-Government organizations covered ?

S: Yes. You can access information from non-Government organizations substantially financed - directly or indirectly by Government funds.

R: What information is exempted from disclosure by public authorities?

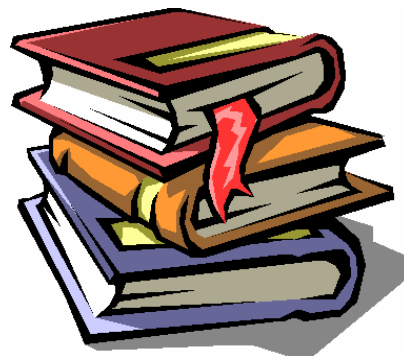
S: You may not be provided the following information *unless you convince the Public Information Officer that the **public interest** in disclosure outweighs any other interests served by non-disclosure*(partial access may be provided to the part of the record which does not contain information exempted from disclosure):

- (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 Public Information Officer is satisfied that the larger public interest justifies the disclosure of such information.

R: What information will be proactively disclosed by public authorities?

S: Every public authority must publish in the **local language** the following information:

- the particulars of its organisation, functions and duties;
- the powers and duties of its officers and employees;
- the procedure followed in the decision making process, including channels of supervision and accountability;
- the norms set by it for the discharge of its functions;
- the rules, regulations, instructions, manuals and records, held by it or under its control or used by its employees for discharging its functions;
- a statement of the categories of documents that are held by it or under its control;
- 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;
- 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 advice, 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;
- a directory of its officers and employees;
- the monthly remuneration received by each of its officers and employees, including the system of compensation as provided in its regulations;
- the budget allocated to each of its agency, indicating the particulars of all plans, proposed expenditures and reports on disbursements made;
- the manner of execution of subsidy programmes, including the amounts allocated and the details of beneficiaries of such programmes;
- particulars of recipients of concessions, permits or authorisations granted by it;
- details in respect of the information, available to or held by it, reduced in an electronic form;
- 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;
- the names, designations and other particulars of the Public Information Officers;
- such other information as may be prescribed; and thereafter update these publications every year;



Every public authority must also:

- Publish facts behind important policies
- Publish relevant facts before announcing decisions affecting you
- Provide reasons for administrative / quasi-judicial decisions to affected persons.



The publications will be available to you free or at a reasonable price. The information may be made available on the internet / website of the public authority.

R: How can I apply for Information from a Public Authority?



S:The request for information under the Right to Information Act has to be given to Public Information Officer or Assistant Public Information Officer designated by the Public Authority.

For making a request for information:

- Send your request in English/Hindi/official language of your area or e-mail.
- Specify the particulars of the information.
- You need not give reasons for your request or personal details, except those necessary for contacting you.
- Pay the prescribed fee for application. **If you are a person below poverty line, you need not pay any fee.**
- The Public Information Officer will assist those who need assistance in preparing the application.

- If you know which documents you want, describe them. You might want minutes of particular meetings, a specific report or a set of figures. Alternatively, you may want correspondence between the authority and someone else about a particular issue over a given period.
- Specify the form in which you would like to get the information. For example, photocopies, printouts, email, floppy, CD etc.
- The authority will intimate you in advance about the charges for getting the information in the form you require. The intervening period between the intimation to pay the charges and the date of payment is not counted towards the prescribed time limits.

A sample request letter for guidance is given in the Appendix.

R: What fees do I have to pay for the information ?

S: The Government of India has prescribed the following fees in respect of information requested from Government of India departments.

To submit your request	Rs. 10-00
To receive information :	
For each page created / copied (in A-4 or A-3 size paper)	Rs. 2-00
If the paper is in larger size	Actual charge / cost price
Diskette / floppy	Rs. 50-00
Samples / Models	Actual charge / cost price
Printed matter	Price fixed / Rs. 2 for page of photocopy
For Inspection of records :	
First hour	Free
Each subsequent hour	Rs. 5-00

Fees may be paid in cash / demand draft / banker's cheque / Indian postal order payable to the Accounts Officer of the public authority. Fees may vary from one state to another. Please check the fees prescribed by your State Government.

October

1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

R: How much time does the authority have to reply?

S:

- Within 30 days from the date of receipt of application
- 5 days shall be added to the above response time, in case the application for information is given to Assistant Public Information Officer.
- 48 hours for information concerning the life and liberty of a person
- 40 days where the interests of a third party
- 45 days for information pertaining to allegations of

violation of human rights violations from security and intelligence organizations from the Second Schedule of the Act subject to approval of the Information Commission concerned.

Failure to provide information within the specified period is deemed as refusal.

R: What do I do if your request is rejected or if my do not get the information requested?



First Appeal

S: You can prefer an appeal to a senior officer in the public authority (Designated Appellate Officer) -

- If you are aggrieved by the decision of the Public Information Officer (within 30 days from the receipt of the decision)
- If you do not receive any response from the Public Information Officer (within 30 days from the expiry of the time limit)

Second Appeal

Independent **Central and State Information Commissions** have been constituted to enforce the Act.

Second Appeal to the Information Commission can be made against the decision of the first appellate officer within 90 days from the date of the receipt of the decision or expected date of the decision where no such decision was given.

If you delay in filing an appeal sufficient cause should be shown.

If you have suffered any loss or harm, you can claim compensation from the public authority.

Burden of Proof

The Public Information Officer has to prove that rejection of your request is justified.

The Information Commission first hears the P.I.O., so that unless it agrees with the P.I.O., you need not be bothered with personal presence before the Commission. However, if the Commission sees merit in the P.I.O.'s arguments, you will be given an opportunity to present your case in person / through any other person duly authorised by you. You may opt not to be present.

R: Can I complain to the Information Commission?

S: You can complain to the Central / State Information Commission:

- If no Public Information Officer is appointed.
- If the APIO or the PIO refuses your request.
- If unreasonable fees are demanded by the PIO.
- If incomplete, misleading or false information is given.

Information Commissions have the power to order a public authority -

- to provide information, records
- to appoint the public information officers
- to publish information
- to reject the request

Decision of the Information Commission is binding. However, the Act does not prescribe time limit for disposal of appeal by the Commission.

R: Can the Public Information Officer be penalized?

S: The Information Commission can impose penalty of Rs. 250/- per day, up to a maximum of Rs. 25,000/- on erring PIOs for:

Without any reasonable cause:

- refusing an application
- delaying information release without reasonable cause
- *malafidely* denying information
- knowingly giving incomplete, incorrect, misleading information
- destroying information that has been requested
- obstructing furnishing of information in any manner

The Commission also has powers to recommend disciplinary action against PIOs. It can also direct compensation to be paid to the appellant by the public authority.

Sample Letter of Request for Information

Your address

[Insert date]

The Central / State Public Information Officer
Name of the relevant public authority
Address

(You can submit this request to the Manager(Customer care centre) of a designated post-office-in respect of Central Government departments having no offices in your place of stay.)*

R.T.I.A.Request

Dear Public Information Officer :

Under the Right to Information Act 2005,section 6, please provide me the following information **(here, clearly describe the information you require and the period to which it relates.)**.

I prefer to receive the information in the form:(Xerox copy / printout / diskette / floppy / tape / video cassette / certified copies of documents or records/certified samples of material/ I would like to take notes or extracts) by post/ email/in person.

OR

I would like to inspect the following works/documents/records.**(clearly describe what you want to inspect)** . Please inform me a suitable date and time for my visit.

Initial request fee under s6(1): Rs._____paid in cash/cheque/banker's draft/Indian Postal Order/treasury challan **(give details)**.

OR

I am a person below poverty line. (attach a photocopy of the proof).I need not pay fees.

(optional) I am sensorily disabled. Kindly provide me appropriate assistance to enable access to the information (reading aloud/in Braille

(optional) I request you not to disclose my address and particulars of this request to others without my consent.

Thank you.

Yours faithfully,

[Your name]

The Act has not prescribed any application form. You can apply on a plain paper.This is a sample request letter for your guidance. **You need not necessarily use this form.** Under s.6 you can make a request in writing or by electronic means in English/Hindi/official language of your area.

*see office memo dt.06.10.2005 by Jt.Secretary to the Govt.of India:

(Since a number of public authorities do not have offices located at each sub-divisional level or sub-district level, the matter was taken up with the Department of Posts to provide the services of their Central Assistant Public Information Officers (CAPIOs) to function in that capacity for all public authorities under the Central Government.)

Central Information Commission Contact Details

Central Information Commission
Mr Wajahat Habibullah
Chief Information Commissioner
Block No 4, 5 Floor, Old JNU Campus,
New Delhi–110067
Off: 011 – 26717352/55
Fax: 011 – 26717354
Email: whabibullah@nic.in
Website: <http://www.cic.gov.in>

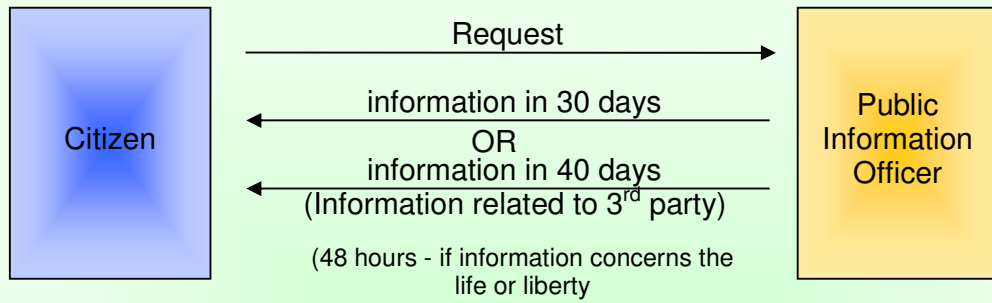
'Right to Information' Resources on the web

<http://rti.gov.in>
<http://www.indiarti.blogspot.com>
<http://www.parivartan.com>
www.humanrightsinitiative.org
www.nyayabhoomi.org
www.freedominfo.org
www.sakshitrust.org
www.righttoinformation.info
www.righttoinformation.org
www.righttoinformation.gov.in
www.parivartan.com
www.r2inet.org.in

end notes:

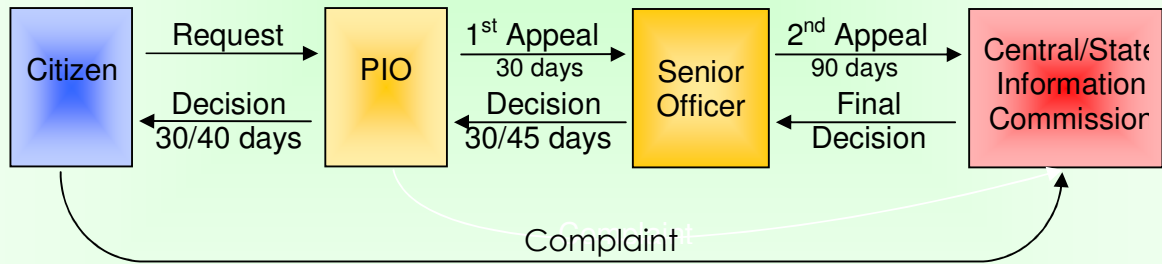
1. In *Houchins v. KQED, Inc.*, 438 U.S. 1, 16 (1978) the U.S. Supreme Court held :
Neither the first amendment nor the fourteenth Amendment mandates a right of access to government information ..., SOURCE: 58 Administrative Law Review .85 (2006) 4
2. In *Bennette Coleman v. Union of India*, AIR 1973 SC 60, our Supreme Court ruled that the right to freedom of speech and expression guaranteed by Art. 19(1) (a). included the right to information.
3. See Mark Bovens, *Information Rights: Citizenship in Information Society*, 10 J.POL.PHIL.(2002) , SOURCE: 58 Administrative Law Review .85 (2006) 4
4. See Deniel Kaufmann & Tara Vishwanath, *Toward Transparency : New Approaches and Their Application to Financial Markets*, 16 WORLD BANK RES. OBSERVER 41, 41-57 (2001)
5. See SUSAN ROSE-ACKERMAN, CORRUPTION AND GOVERNMENT: CAUSES, CONSEQUENCES, AND REFORM 162-74 (1999)
6. ANDERS CHYDENIUS , A Report on the Freedom of the Press in China (1766), reprinted in Stefan Lambel *Freedom of information, A Finnish Clergyman's Gift to Democracy*, 97 FREEDOM OF INFO.REV. 2,3 (2002) – 58 Administrative Law Review .85 (2006)

Flow chart of the Request for Information



(Add 5 days if the request is submitted to Assistant Public Information Officer)

Flow chart of the Request for Information (if rejected)





Right to Information