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Look at

The Freedom of Information Bill 2000

NOW!

Commonwealth Human Rights Initiative

Originally

Conceived & Written by	:	Abha Singhal Joshi
Layout & Printing	:	Matrix
Reprint	:	2001

The Freedom of Information Bill, 2000 was introduced in the Parliament in July 2000. It was referred to the Parliamentary Standing Committee on Home Affairs for consideration. The Standing Committee submitted its report to the Parliament in 2001.

We know from the struggles of various grassroots groups and movements that the right to information, if guaranteed and implemented in the right spirit can empower communities to take charge of their lives by participating in the decision making and by challenging corrupt and arbitrary actions at all levels.

The Bill in its present form is severely lacking in many important respects and will, if made into a law, fail to give effect to a ***people's right to information***. It will only facilitate and legitimize information flow for those who already have access from various sources. Even the changes suggested by the Standing Committee do not constitute any substantial improvement to the weak standards of the Bill.

There is an urgent need to step up the campaign for getting a strong law on the right to information and press upon the legislators to pay heed to the basic and undeniable features of the law, without which the law itself would be a dead letter.

Please read the Bill carefully, discuss and send you comments and recommendations to your MPs, so as to raise a debate in the Parliament and influence the making of the law.

Some points of the Bill which need attention

- **Correct nomenclature and accurate formulation of the objects and reasons:**
  The nomenclature must be changed from 'Freedom of Information' to 'Right to Information' as this is a fundamental right inherent in persons and not a privilege being conferred by the state.

  The objects and reasons of the Bill must state that it is intended to give effect to the people's *fundamental right to information*, which emanates from the right to life, (Article 21 of the Constitution), right to freedom of speech and expression (Article 19 of the Constitution) and the right to equality (Article 14 of the Constitution).
  (Introduction and Section 3)

- **The exemption clauses must be clear, specific and minimal:**
  The Bill contains standard, wide ranging class exemptions which could allow whole categories of information to be withheld from the public domain. The clearest statement of this right should be, that ***all the information which cannot be denied to the members of the legislatures cannot be denied to the public.***

  The Bill also contains omnibus clauses under which information that is published can be refused to the public.
  (Sections 8 and 9)

- **Systems for provision of information must be mandatorily upgraded:**
  The Bill does not provide for a strict mandate to upgrade record keeping and systems that facilitate information giving. The law must specify that within a certain time limit all departments must have certain kinds of information on notice boards, in booklets, duly simplified and computerized etc. This should be made in departments in order of priority, such as, food, education, health, environment, etc.
  (Section 4)

- **Time limits for supply of information should be reasonable and specific:**
  The Bill does not distinguish between ordinary information and that which should be given on an urgent basis, such as information relating to the life and liberty of a person, or that

information which would be rendered useless and infructuous if provided according to the standard time limit which has been laid down as 30 days in all cases. The time for refusing requests is also 30 days and the period for sending notice to a third party or asking for additional fee is not included in this time limit. *(Section 7)*

The Bill also does not mention the time limit or date for suo motu supply of certain types of information by agencies.

- **Provisions for accountability and penalties must be provided for in this law:**
  The Bill does not have any provisions for enforcement of the right to information. A law for giving information without fixing the specific accountability on a particular person or without holding persons liable in some way for delay or wrongful refusal will be of no use.

- **Stronger provisions for proactive disclosure must be made in the law:**
  The Bill does not contain strong enough provisions for proactive disclosure of information, which is really the crux for a population which is primarily illiterate and poor and does not have the time, resources or self-confidence to approach the government for information. Proactive disclosure must not stop at disclosing the structure of departments and detailing works at the initial stages, but must extend to casting a duty to give information on certain matters like health and environment on a regular basis.
  (Section 4)

  Where a citizen suffers some damage because of the neglect or delay in proactive disclosure, the authority should be made liable for the damage suffered.

- **Provision for independent appeal mechanism:**
  The Bill does not provide for an independent forum of appeal for refusal of requests but only provides for two appeals, both within government. An institution like a Commissioner for Right to Information or an Ombudsman must be established which works outside the influence of government for deciding disputed cases of refusal.
  (Section 12)

- **The Bill specifically excludes the jurisdiction of the courts:**
  This is in contravention of all norms, as jurisdiction of the Courts is excluded only where another mechanism equivalent to a judicial

one, is made available, such as Tribunals for Labour disputes, motor accidents, service cases, etc.
(Section 15)

- **Simplification of language with emphasis on effective communication methods, language, etc.:**
  Since most of our population does not have access to reading skills or even electronic media, the law must provide for effective communication of information, such as by traditional methods.

- **Inclusion of private bodies:**
  The law must be made applicable to disclosure of information by certain private companies, international agencies and non-governmental organisations who undertake activities that affect the public in any way.

- **Inclusion of local bodies:**
  The Bill makes no mention of local bodies as Competent Authorities for the implementation of the right to information. Considering that most of the people's concerns relate to interactions with local bodies, this is a serious lacuna. The law must contain detailed provisions for public audit of local bodies by the local electorate.

- **Publicity and training:**
  The Bill makes no provision for publicity of its contents as well as training for its implementation. Being an important measure for reform of governance, it is necessary to provide for its sufficient publicity and for training and orientation of government personnel in the culture of information sharing.

The Bill must be put to wide public debate at different levels in order to bring into it the requirements of different people who would be using it.

THE FREEDOM OF INFORMATION BILL, 2000

A

Bill

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 Fiftieth Year of the Republic of India as follows:

CHAPTER I

PRELIMINARY

Short title, extent and commencement

1. (1) This Act may be called the Freedom of Information Act, 2000

(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.

Definitions

2. 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;

(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 a High Court

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

(*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 sub public authority;

(*iii*) diskettes, floppies or in any other electronic mode or through print-outs where such information is stored in a computer or in any other device.

(*d*) "Information" means any material relating to the administration, operations or decisions of a public authority.

(*e*) "prescribed" means prescribed by rules 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

Freedom of Information

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

Obligations on public authorities

4. Every public authority shall

(*a*) maintain all its records, in such a manner and form as is consistent with its operational requirements duly cataloged 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 polices;

(*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 maintenance of democratic principles.

Appointment of Public Information Officers

5. (*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.

Requests for obtaining information

6. 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.

Disposal of requests

7. (*1*) On receipt of a request under section 6, the Public Information Officer shall, as expeditiously as possible, and in any case within thirty working days of the receipt of the request, either provide the information requested on payment of such fees as may be prescribed or reject the request for any of the reasons specified in section 8 and 9:

Provided that where it is decided to provide the information on payment of any further fee representing the cost of providing the information, he shall send an intimation to the person making the request, giving 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 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 the request, -

(*i*) the reasons for such rejection;

(*ii*) the period within which the appeal against such rejection 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 a public authority or would be detrimental to the safety or preservation of the record in question.

Exemption from disclosure of information

8. *(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 the deliberations of the Council of Ministers, Secretaries and other officers.

(e) minutes or records of advice including legal advice, opinions or recommendations made by an 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.

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

(2) 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.

Grounds for refusal of access in certain cases

9. 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 disproportionate diversion of the resources of a pubic 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; or

(*c*) relates to information that is contained in published material available to public

(*d*) relates to information which would cause unwarranted invasion of the privacy of any person.

Severability

10. 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 contain any information that is exempted from disclosure under this Act and which can reasonably be severed from any part that contains exempted information.

Third party information

11. Where a public authority intends to disclose information on a request made by a party 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 by notice to such third party invite representation against the proposed disclosure if any within fifty days from the date of receipt of such notice:

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 interest of such third party.

Appeals

12. *(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 with in 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 or 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-section *(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

Protection of action taken in good faith

13. 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.

Act to have an overriding effect

14. The Official Secrets Act, 1923 and every other Act in force shall cease to be operative to the extent to which they are inconsistent with the provisions of this Act.

Bar of jurisdiction of Courts

15. 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.

Act not to apply to certain organisations

16. (*1*) Nothing contained in this Act,-

(*a*) shall apply to the intelligence and security organisations, specified in the Schedule being organisations established by the Central or a State Government or any information furnished by such organisations to the respective Governments;

(*b*) shall until Part B of the Schedule is amended under sub-section (2) apply to the intelligence and security organisations by whatever name called discharging their functions as such under the State governments.

(*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 the Central or a State Government or omitting therefrom any organisation already specified therein and on the publication of such notification, such organisations 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.

Power to make rules by Central Government

17. (*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 the matters referred to in the 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 other 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 maybe prescribed.

Power to make rules by State Government

18. (*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 other 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 maybe, prescribed;

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

Rule making power by competent authority

19. (*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 powers, 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 other authority before whom the appeal maybe preferred under subsection (1) of section 12;

(c) any other matter which is required to be, or maybe, prescribed.

Laying of rules

20. (*1*) Every rule under this Act by the Central Government 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 session or the successive sessions aforesaid, both Houses agree in making any modifications 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 maybe; 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 maybe after it is notified, before the State Legislature.

Power to remove difficulties

21. (*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 appears 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 maybe after it is made, be laid before the Houses of the Parliament.

THE SCHEDULE

(*See* Section 16)

PART A

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

PART B

Intelligence and security organizations established by the State Government

Name of the Organization	Name of the State
1.	
2.	
3.	

Addresses and Contact Details of the Members of Standing Committee on Home Affairs

Pranab Mukherjee
(i) S-22
Greater Kailash Part-2,
New Delhi
(ii) 13, Talkatora Road,
New Delhi
Ph-3737623
(iii) 2-A, First Floor,
60/2/7, Kavi Bharti Sarani,
Lake Road Calcutta
Ph-7667878

Shri Hansraj Bhardwaj
14, Tughlak Road
New Delhi-110011
Ph-3015046,3011192
E-mail: hansrajb@sansad.nic.in

Shri Hiphei
C-1/2, Pandara Park,
New Delhi-110003
Ph-3782136
E-mail: hiphei@sansad.nic.in

Shri Sangh Priya Gautam
AB-5, Pandara Road
New Delhi
Ph-3360996, 3368003

Dr. L.M.Singhvi
(i) 18, Willington Crescent,
New Delhi
(ii) 4F, White House,
10, Bhagwan Das Road,
New Delhi-110001
Ph.3012121, 3792424
E-mail: lsinghvi@sansad.nic.in

Shri S. Ramachandran Pillai
198, North Avenue
New Delhi-110001
Ph-3714590
E-mail: pillair@sansad.nic.in

Shri K.M. Saifullah
18, Meena Bagh
New Delhi-110011
Ph-3794687
E-mail : srz#@sansad.nic.in

Shri C.M. Ibrahim
22, Akbar Road
New Delhi-110011
Ph-3018748, 3018751
E-mail: Ibrahim@sansad.nic.in

Shri Raj Mohinder Singh
C-502, Swarna Jayanti Sadan,
Dr. B.D.Marg
New Delhi-110001
Ph-3385431-35, 3782102

Shri C.P. Thirunavukkarasu
C-402, Swarna Jayanti Sadan,
Dr. B.D. Marg
New Delhi-110001
Ph-3354813

Shri Drupad Borgohain
141, South Avenue
New Delhi-110011
Ph-3792964
E-mail: drupad@sansad.nic.in

Shri Kuldip Nayyar
(i) D-7/2, Vasant Vihar
New Delhi
(ii) 33, Lodhi estate
New Delhi
Ph-6143949, 6142328,
46365350, 6143949 (Fax)
E-mail: kuldip@sansad.nic.in

Shri Manabendra Shah
5, Bhagwan Das Road
New Delhi-110001
Ph-3782818, 3782815 (Fax)

Shri Lal Bihari Tiwari
12-A, Windsor Place
New Delhi-110001
Ph-3782225, 3782145,
3782145 (Fax)

Shri Vinay Katiyar
78, Lodhi Estate
New Delhi-110001
Ph-3792491

Shri Prakash Mani Tripathi
15, Canning Road,
New Delhi-110001
Ph-3782773

Shri Anadicharan Sahu
142, South Avenue
New Delhi-110001
Ph-3793486

Maj. Gen B.C. Khanduri
1, Dr. B.D. Marg
New Delhi-110001
Ph-3352255

Shri Ram Nagina Mishra
6, Dr. Rajendra Prasad Road,
New Delhi-110001
Ph-3711564

Smt. Jayashree Banerjee
13E, Ferozshah Road
New Delhi-110001
Ph-3782812

Shri Rajen Gohain
185, South Avenue
New Delhi-110011
Ph-3794472

Shri N. Janardhana Reddy
2, Jantar Mantar Road
New Delhi-110001
Ph-3358666

Shri Raj Kumar Wangcha
A-7, M.S. Flats
B.K.S. Marg
New Delhi-110001
Ph-3714778

Shri Iqbal Ahmed Saradgi
92, South Avenue
New Delhi-110001
Ph-3793985

Smt. Nisha Chaudhary
20, South Avenue
New Delhi-110011
Ph-3792046

Shri Jitendra Prasada
11-A, Teen Murti Marg
New Delhi-110011
Ph-3792978, 3793536

Shri Dayabhai V. Patel
44, Meena Bagh
New Delhi-110011
Ph-3793729

Shri M.O.H. Farook
10, Pt. Pant Marg
New Delhi-110001
Ph-3357009, Mobile-9868041990

Shri Samar Choudhury
168-170, North Avenue
New Delhi-110001
Ph-3794902, 3794982

Shri Subodh Roy
20, Dr. Rajendra Prasad Road
New Delhi-110001
Ph-3782564

Dr. S. Venugopalachari
11, Race Course Road
New Delhi-110011
Ph-3792837

Shri Beni Prasad Verma
34, Prithviraj Road
New Delhi-110003
Ph-3792660

Shri Raghuraj Singh Shakya
160, North Avenue
New Delhi-110001
Ph-3793830

Shri Arun Kumar
171-172, South Avenue
New Delhi-110011
Ph-3793439

Shri Suresh Ramrao Jadhav
34, Meena Bagh
New Delhi-110011
Ph-3793501

Shri P.H. Pandian
307, Tamil Nadu House
New Delhi-110021
Ph-3014652, 3794217

Shri Shriniwas Patil
86, South Avenue
New Delhi-110011
Ph-3018333

Dr. Raghuvansh Prasad Singh
8, Ashoka Road
New Delhi-110001
Ph-3386093

Shri Jayanta Rongpi
20, Windsor Place
Janpath Road
New Delhi-110001
Ph-3710899

Shri S.K. Bwiswmuthiary
7, Ferozshah Road
New Delhi-110001
Ph-3782979

The Commonwealth Human Rights Initiative (CHRI) is an international, independent nonprofit organisation headquartered in India. Its objectives are to promote the practical realisation of human rights in the Commonwealth. It educates on human rights issues and advocates for greater adherence to human rights standards.

CHRI has been working on the Right to Information as part of its commitment to the values of democracy and good governance. Our work includes:

- collecting and disseminating information and material on the issue;
- educating people about the issue;
- networking with different groups consisting of NGOs, lawyers, youth groups, bureaucrats, media persons, rural and urban elected representatives like *panchs* and officials from public bodies;
- promoting debates and discussions on the issue; and
- carrying this feedback to policy makers.

We are grateful to Friedrich Naumann Stiftung (FNSt) and the Canadian International Development Agency (CIDA) for supporting our programme.

COMMONWEALTH HUMAN RIGHTS INITIATIVE
N-8, Second Floor, Green Park Main,
New Delhi-110 016, INDIA
Tel.: 91-11-686 4678, 685 0523 Fax: 91-11-686 4688
Email: chriall@nda.vsnl.net.in
Website: www.humanrightsinitiative.org

Submissions to Legislators on a Right to Information Law

(Freedom of Information Bill 2000)

Commonwealth Human Rights Initiative

2001

Written & Designed by
ABHA SINGHAL JOSHI

About Us

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About the Issue

The Right to Information is an issue which has gained considerable importance in recent years. More and more people are beginning to feel the need for more access to information which has till now been in the exclusive possession of the government even though it relates to the well-being of the individual or the public at large.

Growth of democratic values have led to the feeling that government must be made more transparent and accountable in order **to make democracy meaningful.**

To break away from the feudal system in which even now government is viewed as the lord and master of the common man, people's participation is most important **for good governance.**

The Right to Information is also being viewed as a possibly potent instrument **for minimising corruption and inefficiency in government.**

> *". . . . .a consensus has evolved among the **political parties** on the need to legislate the right to freedom of information. . . . The **courts** too have, in a series of judgements, declared that the right to know is a facet of the fundamental right to freedom of speech and expression . . . In the **bureaucracy** also there has been an increasing awareness of the importance of openness and transparency. A consensus emerged in the Conference of Chief Secretaries, held in November 1996, on the need for an early enactment of a law on a Right to Information."*
>
> – Report of the Working Group on Right to Information and Promotion of Open and Transparent Government, Government of India, 1997.

The Issue in Context

By and large, our elected representatives in Parliament have been supportive of the issue and have made statements from time to time to the effect that a Right to Information Law is the need of the hour. Since a law on this subject is imminent, we take this opportunity to put before the members of Parliament some core issues which need to be examined before and during the passage of the law. We hope for an informed debate to ensure passage of a truly sound legislation on the issue.

Our interactions with various groups all over the country have brought us invaluable feedback on the issue, which we would like to share with our representatives :

- The Right to Information is no longer an elite or middle-class concern related to the right of the few to know, or the right of the media to have information. This right is directly related to survival of the most disadvantaged sections from urban slum dwellers to tribals in far flung and remote areas. Inspite of huge governmental efforts towards alleviating poverty, people are not able to avail of basic needs like food, water and health for sheer lack of information about the implementation.
- People all over the country are keenly interested in having a specific law on the Right to Information. Whether in urban or rural areas, literate or illiterate, there is a strong feeling that a break must be made from the past culture and government must be made more open and accountable.
- Panchayati institutions have helped people in realising the potential of people's power and the Right to Information can be used for mobilising this power in a constructive way such as through public audit using the medium of *Gram Sabhas*.
- Although the issue has reached the stage of a central legislation being in the offing, people feel the need for it to be widely discussed at all levels in order to have a law which caters to their needs at different levels and addresses their problems effectively.

Commitment of Commonwealth Law Ministers

The Communiqué issued by the **Meeting of Commonwealth Law Ministers** at the Port of Spain, Trinidad and Tobago in May 1999, formulated and adopted the following principles on Freedom of Information:

- Member countries should be encouraged to regard freedom of information as a legal and enforceable right.
- There should be a presumption in favour of disclosure and Governments should promote a culture of openness.
- The right of access to information may be subject to limited exceptions but these should be narrowly drawn.
- Governments should maintain and preserve records.
- In principle, decisions to refuse access to records and information should be subject to independent review.

What is Right to Information

A Right to Information in the context of India means two things:

- A right to have access to information held by the government relating to a legal right of any person. This information could be in the form of records, files, registers, maps, data, drawings, etc.
- A right to be told something which could affect a person's rights. This means that the government has a positive duty to give certain types of information without waiting to be asked for it. This would include information on issues concerning projects which directly affect the people or the environment, information on health, agriculture, weather conditions etc.

> *"In a government of responsibility like ours where the agents of the public must be responsible for their conduct there can be but few secrets. The people of this country have a right to know every public act, everything that is done in a public way by their public functionaries. They are entitled to know the particulars of every public transaction in all its bearings. The right to know which is derived from the concept of freedom of speech, though not absolute, is a factor which should make one wary when secrecy is claimed for transactions which can at any rate have no repercussion on public security"*
>
> - State of U.P. vs. Raj Narain (AIR 1975 SCC 865)

Why it is important to have a Right to Information

Principle of accountability

Ours is a democratic system of governance in which the government is run for the benefit of the public at large and not for the benefit of one person or a few persons. Governance from the village to the central level therefore has to be accountable to the people. People have a right to know what the government is doing. Just as the elected representatives like the MPs and the MLAs have a right to get information regarding governance on behalf of their electorate, the people themselves have the right to ask about things and get information. A Right to Information will ensure that people can hold public bodies accountable on a regular basis, without having to lay the entire burden on their elected representatives who are themselves often unable to get the information sought inspite of all the resources at their command.

Principle of participation

Since most governmental works are carried out for the people, they must be involved in the planning process and must know exactly how things are being done. To participate in planning processes and judgement of whether certain plans and schemes are useful for them or not, people must have sufficient information about the nature of the projects and programmes. This will enable them to give their opinion well in time for required changes or modifications. This will reduce project costs, and will increase project outputs, manifold.

Principle of transparency

There is a presumption that everything that is done by the government is done for the public good–which means, it is done to further the objective of public well-being, is done honestly with optimum benefits from the funds used. However, as we all know, in recent times, this presumption has been eroded to a great extent by misuse, misappropriation and also careless use of public funds. To counter this, it is essential that there should be complete transparency in all public dealings. This is bound to bring about a more careful utilisation and application of funds. Transparency in government functioning will also help to hold people accountable for their mishandling of public time and money.

Most people also feel that the misdeeds of a few are reflected in the image of the entire system. Transparency would go a long way in helping to expose the corrupt and allow the honest to do their jobs without fear or favour.

The Legal Basis for this Right

The Constitution of India

A Right to Information is a Fundamental Right under the Constitution of India. This right is an inherent part of :

The Right to Equality

Article 14 : "The state shall not deny to any person equality before the law or the equal protection of the laws within the territory of India."

The Right to Equality includes lack of arbitrariness. The right to information is essential for transparency and lack of arbitrariness in government action.

The Right to Freedom of Speech and Expression

Article 19(1)(a): "All citizens shall have the right to freedom of speech and expression"

Although Article 19 does not specifically mention the Right to Information, the Supreme Court has held on several occasions that the Right to Know is a part of the Right to Speech and Expression, because

- To speak and express freely, we must have information on any subject
- In a democracy, we must know what the government is doing in order to express opinions on it. Expressing opinions includes the right to dissent, i.e., expressing an opinion different from the popular one or that given by the government.
- The Supreme Court has held in several cases that Freedom of Information not only means freedom of the media but also access to government-held information.

The Right to Life and Personal Liberty

Article21: "No person shall be deprived of his life or personal liberty except according to procedure established by law"

The right to life and personal liberty has received wide definition in several Supreme Court rulings. The Right to Life covers the right to basic needs such as food, education, health, and personal liberty covers freedom from illegal and unnecessary restraint. Denial of information relating to these aspects is often a denial of the right itself.

The Universal Declaration of Human Rights

Article 19: "Everyone has a right to freedom of opinion and expression; This right includes freedom to hold opinions without interference and **to seek, receive and impart information and ideas** through any media and regardless of frontiers"

Why we need a Central Law on the Right to Information

A law is needed on the subject for :

Uniformity

Some states like Tamil Nadu, Goa, Rajasthan, Maharashtra, Karnataka, Madhya Pradesh* and Delhi (National Capital Territory) have passed their own laws on access to information. Some have passed piecemeal executive orders for giving access to information such as Madhya Pradesh, Rajasthan, Uttar Pradesh, Orissa, Kerala and Karnataka. This puts citizens at a disadvantage, as they do not have the same rights in different parts of the country. One Central law will remove this anomaly.

Clarity

Although a Right to Information is a Fundamental Right, most of us cannot access it, due to lack of clarity on the issue. As with everything else, this right also has to function within reasonable limits. Since those limits are not defined anywhere, there is a needless culture of secrecy arrising in part from confusion generally resulting in blanket refusals to give information for fear of violating the law. We need a law to clearly define what information can be refused.

Without a law on the subject, each time we want to enforce our right, we will have to move the Supreme Court or the High Courts to get it. This is not possible for most of the people who need access to information.

Easy access

There are no set procedures or systems for getting information. So we need a law which lays down procedures which enable both the government functionaries to discharge their duty to give information easily and smoothly, as well as enable the citizens to get information without running from pillar to post in every situation.

The Right to Information in India is severely restricted by two things:

- A colonial culture of secrecy under which public bodies are still run as though they are masters and people are subjects. Although our country became free of colonial rule more than five decades ago we continue to use their colonial and feudal structures of governance of which secrecy is a part and parcel. These structures must be replaced with truly democratic ones if we want to revive our polity in every way.
- Outdated laws like the Official Secrets Act and certain provisions in other enactments such as the Indian Evidence Act, The Central Civil Servants Code of Conduct Rules, etc.

*not notified

What a Right to Information Law Should Contain

On the basis of empirical experience of accessing information some universal norms for a right to information/freedom of information/access to information law emerge. These are :—

Minimal exceptions

The Right to Information is a Fundamental Right and can be subjected only to the restrictions allowed by the Constitution. In drafting the law, care must be taken to keep the exceptions within the limits prescribed by the Constitution.

The right of access to official/government-held information should be a wide right. The exceptions to the rule of giving information must be limited and specific. The law must not contain a long list of exceptions couched in terms general enough to ensure that all kinds of information can be refused taking the help of the law. This has happened in the case of the Tamil Nadu Right to Information Act as well as the Maharashtra Law which contain long list of exceptions and additional provisions for refusing information.

Accountability

A Right to Information law must lay down clearly the principle of accountability. That is, it must state specifically as to who is responsible for providing the information. Penalties should be imposed on officials, who delay, without any just cause, the giving of information or refuse on unwarranted grounds.

Duty to inform

The law must cast a positive duty on public bodies to inform the public in case of certain projects and activities which relate to the public. This envisages giving information without being asked for it. It must be made mandatory and regular to give out certain kinds of information on a mandatory basis. This kind of information would include rules, information on proposed projects and schemes, and other relevant information which needs to be given out and updated routinely.

Independent forum for appeals

The law should contain a simple and independent procedure for appeals from refusals to give information. The appellate forum should be an independent person or institution such as an Ombudsman.

Upgradation of systems

The law should contain provisions for setting up specific systems for storing and disseminating information and upgrading the existing systems for enabling easy access. There must be specific provisions for priority-wise computerisation etc. of government offices.

Reasonable fee structure

The law, if it provides for a levy of a fee for getting information must ensure that the fee is reasonable and does not act as a deterrent for asking information and does not end up debarring information from the disadvantaged groups who cannot afford the fees. The law must provide for waiver of fees in certain circumstances and for certain classes of people such as those living below the poverty line.

Methods of communication

The law must contain a specific directive for simplification of official language. Information-giving should be in a form which can be easily understood by people. There must be a focus on traditional means of giving information. As of now, most information is contained in official gazettes and publications which are usually unavailable and are of no use to the lay citizens, given the low literacy levels. The law should ensure proper use of the electronic and print media as well as use of conventional methods of communication as per the target group.

Time limit

The law must contain a provision for timely imparting of information. The concerned public officials should face a penalty in case the information is not given in time. The time limit should be reasonable and should not jeopardise a person's rights. Time limits should be set in order of urgency and accessibility. Information regarding a person's life and liberty should be made available forthwith or within the shortest possible time, say within 48 hours. Information which is available at hand should also be given in a shorter time. The Shourie Bill provided for a period of 30 days with a further period of 30 days for giving information. This period seems unreasonable for all kinds of information.

Application to private bodies

Although, strictly speaking, the Right to Information is for government-held information, the law must make it binding on private bodies to disclose certain kinds of information which could affect the public health, etc. This is especially in view of increasing globalisation and incidents like the Bhopal Gas Leak which claimed many lives and put to irreparable harm even future generations.

Protection of privacy

The law must take into account the protection of an individual's privacy. Personal information held by the government must be exempt from disclosure. However, if disclosure in the public interest greatly outweighs the preservation of individual privacy, then disclosure should be allowed.

Protection of whistleblowers

The law should give protection to public officials who give certain exempted information where it is necessary to do so in overwhelming public interest or to disclose some serious corrupt practice, etc.

Publicity and Training

The law must contain a mandatory procedure for publicising its contents. Often, laws are passed without the knowledge of the people and consequently do not percolate down with sufficient speed or impact and therefore fail to bring about the desired change in the systems.

The Right to Information law must also contain a strong aspect of training and orientation of public servants at all levels, in order to bring about an effective change in the culture.

Allocation of funds

The law must contain a specific allocation of funds for the purpose of operationalising the Right to Information. Without this, the law will be a dead letter and will have no effect.

Several groups consisting mainly of jurists, media persons, civil society members have been advocating the issue strongly over the last few years and there have been suggested drafts from different quarters.

- The Press Council of India, under the guidance of the Chairman Mr. P.B.Sawant drafted a law which was later updated and changed at a workshop and renamed 'The Press Council-NIRD Freedom of Information Act, 1997'.
- The Consumer Education and Research Council (CERC), Ahmedabad, under the guidance of Prof. Manubhai Shah drafted a law on the Right to Information.
- The Working Group appointed by the United Front Government, under the Chairmanship of Mr. H.D.Shourie drafted a law called the Freedom of Information Bill 1997.

The Freedom of Information Bill 2000

General Comments

- The Bill is too sketchy and sacrifices to brevity many important details which would be imperative at the point of implementation. While it can be argued that details can be left to Rules framed under the Act, certain important substantive matters cannot be delegated to the rule-making authority.
- The generality of the provisions leaves much room for confusion. Likewise it leaves too much room for administrative discretion, defying its very purpose.
- The Bill is not designed to address the specific needs of the Indian masses, as it completely ignores important aspects of voluntary and mandatory disclosures by public authorities. Moreover, it ignores the need for simplification of rules, procedures and official language and does not stress on effective communication of information to common people.
- Likewise, it ignores the growing trend of privatization and its impact on the common person. It is lacking in provisions for disclosure from private parties either on their own or through governmental channels.
- The Bill is completely lacking in the aspect of fixing accountability for giving information. Unless public personnel and bodies are held responsible for delaying or refusing information, it will not effect any change in the existing culture of routinely refusing information. While the Bill gives a time consuming and tiring process for requesting information and appealing its refusal, there is no system for holding anyone responsible for unreasonable delays or unwarranted refusals. This puts the entire burden on the person seeking information with no consequences on the person whose dereliction causes delay and possible resultant damage.
- The Bill does not mention allocation of costs for setting up systems for enforcing the Right to Information. Without this important aspect, giving a right in a vacuum will be meaningless.
- The Bill does not initiate systems for easy information retrieval or for simplification of procedures and official language, which are the main hurdles between information and the public.
- The Bill does not provide for correction of personal or private information in public records.
- The Bill by its nature of being loosely worded is likely to put the common man to unnecessary hardship in terms of running from pillar to post for accessing simple information.
- The Bill does not have a provision for a regulatory body, which will oversee the working of the Act and ensure its compliance. Experience shows that the objects of the law will be met only by enforcing a change in the culture of sharing information. This can be done only by constant monitoring of the application and implementation of the law, and effecting systems where necessary. Some of the states have a Council for right to information, which will over see the working of the Act.

Section wise Analysis of the Bill

THE FREEDOM OF INFORMATION BILL, 2000
A
Bill

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 Fiftieth Year of the Republic of India as follows:

COMMENT

The title of the Bill, in using the words 'to provide for freedom' suggests that this law is creating a right in favour of citizens. In fact, the right to information has already been recognised as a fundamental right by the Supreme Court of India in several decisions and has been seen to be the obverse side of the Freedom of Speech and Expression guaranteed under Article 19 (1) (a) of the Constitution of India. Moreover, it is also inherent in the guarantees of the Right to Life and Personal Liberty and the Right to Equal Protection of the Law contained in the Constitution of India. This law only seeks to establish systems for enforcing these fundamental rights. The right to information is a basic fundamental right and cannot be diluted and given the colour of a privilege or that of a mere administrative reform.

The Bill, moreover, casts the burden on the citizen to 'secure access to information', leaving out the most important element of the duty of the state to effect proactive disclosure of information.

The introductory statement also hedges in the right by the words 'consistent with public interest '. This term is too loose and gives unlimited discretion to public authorities and administration. What is the public interest that is sought to be protected? Who is to decide whether a certain request for information is consistent with public interest or not?

The statement further suggests that the `freedom' to access is being given in the interest of administrative reform – 'in order to promote openness, transparency and accountability in administration and in relation to matters connected therewith or incidental thereto'. Administrative reform is incidental to and a part of the right to information. The right to information is a fundamental and inherent right which enhances the quality of a person's life and enables each

person to access other basic rights. Administrative reform should primarily be the state's concern for creating favourable and enabling conditions for such empowerment of the people.

RECOMMENDATION

- The Bill must be titled *'The Right to Information Bill 2000'.*
- The introduction to the Bill must read as *"A BILL to enforce the fundamental right to information".*
- The Bill must contain a detailed statement of objects and reasons, with recitals as to the nature of the problem the law seeks to address, the importance of the of the right in terms of shifting the equation between the state and citizen through transparency, participation and accountability and a clear directive to the state and all its agencies to be proactive in all its actions in providing information to people.

Promotion Of Access to Information Act, South Africa

Section 9

The objects of this Act are—

(a) to give effect to the constitutional right of access to—
  (i) any information held by the State; and
  (ii) any information that is held by another person and that is required for the exercise or protection of any rights;

(b) to give effect to that right—
  (i) subjected to justifiable limitations, including, but not limited to, limitations aimed at the reasonable protection of privacy, commercial confidentiality and effective, efficient and good governance; and
  (ii) in a manner which balances that right with any other rights, including the rights in the Bill of Rights in Chapter 2 of the Constitution;

(c) to give effect to the constitutional obligations of the State of promoting a human rights culture and social justice, by including public bodies in the definition of "requester", allowing them, amongst others, to access information from private bodies upon compliance with the four requirements in this Act, including an additional obligation for certain public bodies in certain instances to act in the public interest;

(d) to establish voluntary and mandatory mechanisms or procedures to give effect to that right in a manner which enables persons to obtain access to records of public and private bodies as swiftly, inexpensively and effortlessly as reasonably possible; and

(e) generally, to promote transparency, accountability and effective governance of all public and private bodies by, including, but not limited to, empowering and educating everyone—

(i) to understand their rights in terms of this Act in order to exercise their rights in relation to public and private bodies;

(ii) to understand the functions and operation of public bodies; and

(iii) to effectively scrutinise, and participate in, decision-making by public bodies that affects their rights.

CHAPTER I

Preliminary

Short title, extent and commencement

1. (1) **This Act may be called the Freedom of Information Act, 2000**
   (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.**

COMMENT

As noted in the earlier section, the title of the Act should be changed to "Right to Information Act 2000".

Secondly, the legislature, having made up its mind to enforce the right to information, ought to make suitable provision for its time bound implementation. The date for coming into effect should not be entirely left to the discretion of the government. The legislation itself should contain at least a time bar within which the law must be notified. Laws in the past have remained dead letters for this very reason.

RECOMMENDATION

- The legislature should lay down the period after which the law will come into force. Section 1(3) may be reworded to read as under: ***'It shall come into force on such date as the Central Government may notify, which date shall not be later than six months from the date of the passage of the law. Provided that the Act shall automatically come into force at the expiry of the said six months.'***

Definitions

2. **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;**
   (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 a High Court**

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

(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 relating to the administration, operations or decisions of a public authority.

(e) "prescribed" means prescribed by rules 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.

COMMENT

Section 2 (a) and (b)

The scheme of the definitions, in particular that of the 'Appropriate Government' and 'Competent Authority' do not take into account any aspect of local bodies. All power to implement the right to information or freedom of information stop at the state level. This not only creates definite practical problems in implementation but also goes against the very spirit of openness and decentralisation of authority that the law must seek to create.This will result in the law failing to address the needs of large masses of people whose day to day concerns are with local and village level bodies.

RECOMMENDATION

Competent Authority and Appropriate Government must include municipal and local bodies like Corporations and Panchayats.

COMMENT

Section 2(c)

'Freedom of Information' is narrowly defined and restricts the right to the mere right of access to documents etc. This definition is missing the dynamism of the right which must include the right of the citizen to demand all information pertaining to any of the state's actions, and the right to participate in and question decisions etc. It does not include the right of the citizen to demand proactive, suo motu and mandatory disclosure from government and its agencies and others under its control and supervision.

RECOMMENDATION

The term 'freedom of information should be substituted with the 'right to information' and should be defined in all its nuances including the right to transparent proceedings, the right of access to decision making processes, the right to audit public accounts, the right to have access to processes, documents and all other things which would help a person to be aware of and participate in civic, economic, social and political processes effectively.

COMMENT

Section 2 (c), (d) and (f)

The definitions are restricted to public bodies in the strict sense of 'governmental bodies'. The definition of public bodies for the purpose of this law should include those semi governmental and private bodies which are carrying on activities that affect the public or large sections of it, such as factories and such industrial corporations, banks and other financial institutions, non-governmental institutions, etc. The law should make it mandatory for all such bodies to disclose such information as would affect the public. This is increasingly becoming a major area of concern for people who are bearing the brunt of economic liberalisation and industrialisation without having any information as to the harmful effects to their environment, economy, health, etc. This aspect has been pointed out not only in many forums in India but also in other countries in South Asia and in Africa which share the commonalties of poverty and illiteracy with India.

Incidents like the Bhopal Gas Leak have made people acutely conscious of the havoc that lack of information of their immediate surroundings can wreak on human lives. It is an appropriate moment for the state to create responsibilities on the corporate as well as other non-governmental sectors to keep the public in the know of their activities.

CHAPTER II

Freedom of Information and Obligations of Public Authorities

Freedom of Information

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

Obligations on public authorities

4. **Every public authority shall**

   (a) **maintain all its records, in such a manner and form as is consistent with its operational requirements duly cataloged 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 maintenance of democratic principles.**

COMMENT

Section 3

This section appears to be redundant inasmuch as the Freedom of Information or the Right to Know has been enunciated several times by the judiciary as part of the Fundamental Right to speech and expression under Article 19(1)(a) of the Constitution of India. In fact, it is also an integral part of the Right to Equality under Article 14 as well as the

Right to Life and Personal Liberty. This, therefore, is not a freedom which will come into force after the commencement of the Act.

This provision appears to lay the onus of 'seeking' information upon the public, as opposed to casting a positive duty upon government and others to proactively disclose and disseminate information.

RECOMMENDATION

Since the Act is primarily intended to lay down facilitative provisions for enforcing a Fundamental Right, it ought to read as under:

Section 3: Every public authority shall be under a duty to provide access to information to citizens in accordance with this Act.

COMMENT

Section 4

This section restricts itself to suo motu disclosure only of such information as is either structural or is to be given 'before initiating any project'.

RECOMMENDATION

The provision of suo motu disclosure should include regular disclosure of substantive information pertaining to working of the concerned authority as well as other notifications, orders, etc which either come to that body or are passed by it.

The word 'publish' needs to be defined clearly, as most government agencies feel that publication in the gazette or the annual reports of the department is sufficient publication. This would defeat the very purpose of the provision. The section should therefore be divided into sub clauses I and II. Sub clause II could read as under:

"II) For the purposes of this section, the term 'publish' shall mean appropriately making known to the public by means of notice boards, newspapers, public announcements, media broadcasts and other such means, the information to be communicated. Further, such methods shall at all times be employed which keep in mind the local language and methods of communication."

Appointment of Public Information Officers

5. (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.

COMMENT

Section 5 does not mention the level in the administrative ladder at which the information officer should be appointed. Should each department decide individually who should be its Public Information Officer? Will the Public Information Officer be someone at the clerical level or class two-level or class one level? Will the Public Information Officer take the decision to give or withhold information unilaterally or will there be some internal system for taking the decision?

There is also some doubt about the working of a system in which information is to be sought from one Information Officer only. It is likely to cause unnecessary hardship to people to be asked to go to the Information Officer for the smallest information which is available with the person concerned and could cause unnecessary hardship in cases where a public information officer is not appointed or is not available. Besides, there is no need for all requests for information to be routed through a cumbersome process. Much of the information required by people is often available at hand with the person dealing with a particular area of work. This would result in needlessly burdening both the public as well as the administration.

RECOMMENDATION

The law should specifically state that the provision of an Information Officer is in addition to the rule that every public officer is under a duty to give information held by him. The Public Information officer could process the requests received and screen them under the provisions of the Act. The Section also needs to be titled ***"Appointment and Functions of Public Information Officers".***

Requests for obtaining information

6. 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.

COMMENT

The provision for oral requests is an excellent one and is conducive to assisting illiterate persons to requesting information. The section, however, does not include any provision for recording or acknowledging the requests, whether written or oral.

RECOMMENDATION

The section should include a provision for giving a receipt with the date of receiving the request and the fee charged. The section could be reframed as under:

6. *A person desirous of obtaining information shall make an application to the concerned Public Information officer in writing in the prescribed form and upon payment of the prescribed fee, shall obtain a receipt for the same specifying the nature of the request and the date of receiving the same.*

Provided that where a person is unable to make a written request, the competent authority shall either assist the requester to reduce it in writing or shall receive an oral request and reduce it in writing and give a receipt for the same.

Disposal of requests

7. (1) **On receipt of a request under section 6, the Public Information Officer shall, as expeditiously as possible, and in any case within thirty working days of the receipt of the request, either provide the information requested on payment of such fees as may be prescribed or reject the request for any of the reasons specified in section 8 and 9:**

Provided that where it is decided to provide the information on payment of any further fee representing the cost of providing the information, he shall send an intimation to the person making the request, giving 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 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 the request, -**

(i) the reasons for such rejection;

(ii) the period within which the appeal against such rejection 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 a public authority or would be detrimental to the safety or preservation of the record in question.**

COMMENT

The time period of 30 days for all kinds of information is unreasonable. The refusal of information ought to be made within 15 days of receiving the request. Certain kinds of urgent information should be supplied forthwith. This section must contain a provision for urgent supply of information in cases relating to the life and liberty of persons.

There is no provision for cases where the requester does not receive a reply at all to the request.

The fee to be charged should be of a nominal nature as is prevalent in accessing land records. It should not be of a prohibitive nature, as would deter a person from making a request for information. There should also be a provision for waiver of fees where the information is requested by a person who is unable to pay the fee, or the information is requested in the public interest.

RECOMMENDATION

The section could be reframed as under:

(1) On receipt of an application requesting for information the Public Information Officer shall consider it and pass orders for supply thereon as soon as practicable, and in any case within 30 working days of receiving the request.

- ***(a) where the request is of such nature that it relates to the life or personal liberty of a person, information shall be made available forthwith, and in any case not later than 48 hours from the time of making the request.***
- ***(b) where the request cannot be complied with for reasons falling under Sections 8 and 9 of this Act, the Public Information Officer shall, within 15 days of receiving the request, reject the request and communicate to the party concerned,***
  - ***(i) the reasons for such rejection;***
  - ***(ii) the period within which the appeal against such rejection may be preferred; and***
  - ***(iii) the particulars of the appellate authority.***
- ***(c) where the requester does not receive any of the above communications within 30 days, it shall be deemed to be a refusal and the requester may pursue the remedy of appeal.***

(2) The fee to be charged shall in no case exceed the actual cost of copying the information, such as making photocopies or taking printouts.

Provided that the fee may be waived where the information is sought by a person unable to pay the fees or where the information is sought in the public interest and such waiver may be recorded on the form

Exemption from disclosure of information

8. (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 the deliberations of the Council of Ministers, Secretaries and other officers.

(e) minutes or records of advice including legal advice, opinions or recommendations made by an 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.

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

(2) 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.

Grounds for refusal of access in certain cases

9. 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 disproportionate diversion of the resources of a pubic 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; or

(c) relates to information that is contained in published material available to public

(d) relates to information which would cause unwarranted invasion of the privacy of any person.

COMMENT

Sections 8and 9 cumulatively leave out a large area on which information can be denied to people. While some of these are acceptable and necessary, wide ranging class exemptions can defeat the whole purpose of the Act.

The Memorandum to the Bill acknowledges that the source of the Freedom of Information Bill is Article 19(1) (a) of the Constitution. This means that it is a Fundamental Right and can be curtailed only in terms of the restrictions contained in Article 19(2) of the Constitution, which says that the Right to Freedom of Speech and Expression can be restricted by "imposing reasonable restrictions in the interests of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality, or in relation to contempt of court, defamation or incitement of an offence." The exemptions on access to information go far beyond the limits prescribed by the Constitution and take in factors which are extraneous to the reasonable restrictions envisaged by the Constitution.

The scheme of sections 8 and 9 make the operation of the Act completely dependent on executive discretion. It is difficult to understand the rationale, for instance, of clause 8 (c) which allows refusing information exchanged between the Centre and the States. These governments do nothing but take decisions on matters affecting the public. Under this clause, for instance, the government could refuse

to divulge information on interstate trade, or the sharing of waters, etc., which are vital matters relating to the public. There is no reason why such things should be withheld from the public. The wide import of the words 'prejudicially affect' would always be construed to mean 'being uncomfortable for the government'.

The latter part of the section which makes all information received 'in confidence' exempt from disclosure is entirely unreasonable. Likewise section 8 (d) is too wide and includes all the deliberations of 'secretaries and other officers'.

Section 8 (e) is also unreasonable as it takes away from the public gaze the entire decision making process. The deliberations, opinions etc. should be available to the public after the decision is made. While we are certainly not in favour of 'governance in the market place' we feel that this is an unnecessary protection to the working of public authorities and goes against the principle of openness.

Likewise, Section 9 could give rise to several problems. Under Section 9 (b) and (c) a wide range of information could be refused by saying that the information sought is contained in the annual reports of the department, or in the gazette. However, it is not practical to expect persons with minimal or no literacy to search for information in these gazettes and reports which are often unavailable and also unintelligible to the common person. Clause (c) is particularly fraught with many dangers. There could easily emerge a class of mercenaries who would privately publish and sell information obtained from various sources. Such instances are even now not uncommon.

Various forms required by departments are routinely sold for a high price by touts. Moreover, who would be accountable for the veracity of information contained in privately published material?

Apart from this, it is not always physically and financially possible for people to buy publications.

RECOMMENDATION

The exemptions in section 8 (c) (d) and (e) should be made subject to the test of Section 8 (a), (b) and (f).

Under Section 9, if some kinds of information can be routinely put in a publication, the law should clearly put the onus on the public authorities to publish and make available the same in sufficient quantities within a specified period of time and, if necessary, to price them reasonably so that they may be within reach of the common person.

Severability

10. 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 contain any information that is exempted from disclosure under this Act and which can reasonably be severed from any part that contains exempted information.

COMMENT

The provision for severability is an excellent one and is universally followed. However, the decision to severe must also be subject to appeal and the document should be made available after blacking out the severable portions.

RECOMMENDATION

Section 10 can be reworded as under:

'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 contain any information that is exempted from disclosure under this Act and which can reasonably be severed from any part that contains exempted information.

Provided that the information shall be made available in original, after deleting or blacking out the severed portions.'

Third party information

11. Where a public authority intends to disclose information on a request made by a party 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 by notice to such third party invite representation against the proposed disclosure if any within fifty days from the date of receipt of such notice:

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 interest of such third party.

COMMENT

This is a standard provision which is universally accepted. However the law should specify within how much time the notice must be issued. The period of 50 days for inviting representation from third party is too long and will be detrimental to the interest of the requester.

RECOMMENDATION

The section should include a maximum period of fifteen days for issuing notice to third party and fifteen days for reply.

Appeals

12. (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 with in 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 or 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-section (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.

COMMENT

Section 12 contains the provision for internal appeal and is the weakest part of the Act. Unless it is strengthened, the law will be a non-starter. The law does not provide for an independent forum of appeal, which is the hallmark of FOI legislation the world over and ensures its effectiveness. Unless a forum for appeal is created outside the administrative ladder, the appeal mechanism under the control of the government cannot by its very nature, ensure fairness in decisions.

RECOMMENDATION

An independent forum for appealing the decisions of the government under the Act must be created. It could either be in the form of a Commissioner for Freedom of Information or an independent Tribunal having the powers of a civil court.

CHAPTER III

Miscellaneous

Protection of action taken in good faith

13. 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

COMMENT

This provision reflects an over protective attitude towards public servants and is redundant in the absence of provisions for accountability and penalties. The protection would be meaningful only if extended to disclosures by officials in the public interest, even if the information was barred by the Act.

RECOMMENDATION

This section can be substituted by a provision for protection of whistle blowers and could read as under :

No suit, prosecution or other legal proceeding shall be against any person for disclosure in good faith of information contemplated in Section 8 & 9 if the disclosure would reveal evidence of a substantial contravention or failure to comply with the law or an imminent and serious public safety or environmental risk and the public interest in the disclosure of the second clearly outweighs the harm contemplated in the provision in question.

Act to have an overriding effect

14. The Official Secrets Act, 1923 and every other Act in force shall cease to be operative to the extent to which they are inconsistent with the provisions of this Act.

COMMENT

The import of this provision is not clear and needs to be debated throughly before being made applicable. While in some cases this would expand the area of information made available, in others it may restrict a pre-existing right.

Bar of Jurisdiction of Courts

15. 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.

COMMENT

In the absence of an alternative judicial, independent forum, this provision is totally untenable and ultra vires the Constitution.

RECOMMENDATION

This section should be deleted.

Act not to apply to certain organisations

16. (1) Nothing contained in this Act,-

(a) shall apply to the intelligence and security organisations, specified in the Schedule being organisations established by the Central or a State Government or any information furnished by such organisations to the respective Governments;

(b) shall until Part B of the Schedule is amended under sub-section (2) apply to the intelligence and security organisations by whatever name called discharging their functions as such under the State governments.

(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 the Central or a State Government or omitting therefrom any organisation already specified therein and on the publication of such notification, such organisations 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.

COMMENT

The blanket exemptions given to organisations under this section read with the schedules have no rationale. There is no reason to exempt the administrative wings of these organisations from disclosing information. Likewise, the power of the government to add more organisations to the list of exempted organisations is too wide. The parameters for exemption should be spelt out strictly and should be applied from case to case and not to whole classes of information or organisations. The power in Sec.16(2) to increase the list of exempted organizations is completely arbitrary, being without any guidelines whatsoever for its excercise.

RECOMMENDATION

The section should be reworded to apply specific tests for non-disclosure in the organisations mentioned.

Power to make rules by Central Government

17. (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 the matters referred to in the 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 other 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.

Power to make rules by State Government

18. (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 other authority before whom an appeal may be preferred under sub-section (1) of Section 12;

(c) any other matters which is required to be, or maybe, prescribed;

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

Rule making power by competent authority

19. (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 powers, 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 other authority before whom the appeal maybe preferred under subsection (1) of section 12;

(c) any other matters which is required to be, or maybe, prescribed.

Laying of rules

20. (1) Every rule under this Act by the Central Government 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 session or the successive sessions aforesaid, both Houses agree in making any modifications 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 maybe; 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 maybe after it is notified, before the State Legislature.

Power to remove difficulties

21. (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 appears 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 maybe after it is made, be laid before the Houses of the Parliament.

THE SCHEDULE

(See Section 16)

PART A

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**

PART B

Intelligence and security organizations established by the State Government

Name of the Organization	Name of the State
1.	
2.	
3.	

CHRI an independent international organization headquartered in India. Its objectives are to promote practical realization of human rights in the Commonwealth.

Our Right to Information progamme is part of our commitment to values of democracy and good governance.

We are grateful to Friedrich Naumann Stiftung for supporting our programme.

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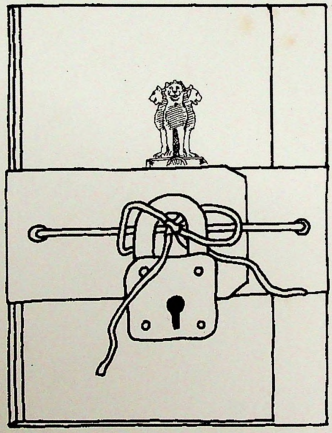
N-8, Second Floor, Green Park Main,
New Delhi-110 016, INDIA
Tel.: 91-11-686 4678, 685 0523 Fax: 91-11-686 4688
Email: chriall@nda.vsnl.net.in
Website: www.humanrightsinitiative.org

YOUR RIGHT TO INFORMATION



Commonwealth Human Rights Initiative

Conceived & Written by : Abha Singhal Joshi
&
Ananya DasGupta

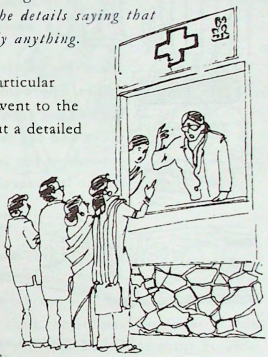
Illustrations by : Suresh Kumar

First Published : 1997

Reprinted : 1998, 1999, 2001

YOUR RIGHT TO INFORMATION

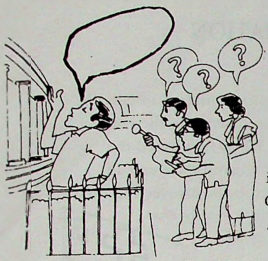
The Health Board had carried out a scheme for immunising children in Gauri's district. Gauri and others of her district heard about the scheme on the radio. However, no children were immunised in the district. When they asked the health officers for details about the scheme, such as how many children had been immunised, how much medicine had been brought to the district and how much was given to children, *they were refused the details saying that the health board was under no duty to tell anybody anything.*



A journalist saw a news item which said that in a particular village several children had died of diahorrea. She went to the village to investigate the matter in order to bring out a detailed report. When she visited the homes of the children who had died she came to know that the children had died of starvation. When she asked the health authorities to give the details of the deaths and the disease of which the children had died, *they refused to give her the details saying that this was a confidential matter.*

The people of a locality had been going to the local ration shop for two weeks to get their share of the sugar and rice. Every time they were told that the rice had not come and the sugar had been distributed. After several such responses, the people asked to see the register of the supply and distribution of the rations. The person at the shop got furious and starting abusing the people. He said *he was under no obligation to maintain or show them any register.*

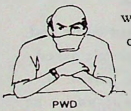
Shabbir and Sunil had give their names in the employment exchange five years ago. Every time they asked the officers about their position, they were not given any clear reply. Then they came to know that Shankar, who had the same qualifications but had registered after them had been given a job. They demanded that they should be shown the rolls. The employment exchange refused, saying *that this was official information and could not be shown to anybody.*



Many senior government officers and politicians had been staying in government houses long after their terms were over. Some were not even paying the rent. A Parliamentary Committee was formed to look into the matter. When some journalists asked for the list of names of persons in illegal occupation of the houses, the Committee replied *"this is confidential information, no-one is supposed to know this."*

Ramlibai inherited some property from her father. She wanted to transfer it to her name in the land records. Someone disputed her claim and the tehsildar asked her to get the old records of the land. She applied to the office of the land records but the records were in such a bad condition that she could not get them. *The officials said that they could do nothing about it.*

These responses are not new to any of us no matter where we are. It happens in the village, in towns, in cities and even in the capital of the country. Whenever we ask for any information from any public body, we are generally refused saying that it is a part of secret records, or that it is confidential or that it just cannot be given. Most people continue to believe this and accept this as correct.

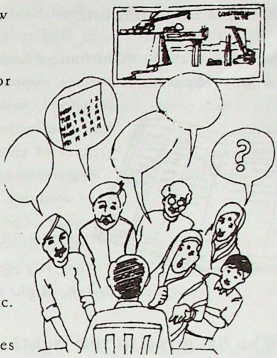


However, what most people do not know is, that we have a right to know most of the things about the functioning of government and other public bodies. We have a right to know what work is being undertaken by these bodies and how, how much money is being spent and on what. *This is called the Right to Information.*

The villagers of Rampur had heard that a new bridge was being built across the river passing through their village. Three years passed by but no bridge could be seen. One day, some of the villagers decided to ask the panchayat about the bridge. The panchayat refused to give them any information on the subject.

The people of Ramput have a right to know the following things:

- *How much money* has been allocated for making the bridge
- *In how much time* the bridge is to be completed
- *How many people are being employed* for the construction of the bridge, how much they are being paid.
- What is the *exact location of the bridge,* etc.
- If after construction the bridge collapses *whose responsibility* it is and what action is taken against that person.



Why is it important for people to know all these things?

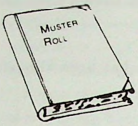
In a democracy, the government is formed by us for us, through our elected representatives. All governmental and pubic work is carried out for us, with our money. For the work to be done in accordance with our needs we must be able to take part in the decision making. For this we need to know details of the work. For instance, the people of Rampur have a right to know how the decision to make the bridge was taken and how much money has been allocated for it. ***This is called participation.***

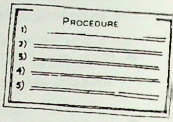
Government takes many decisions which affect our lives in many ways. We have the right to know about the things which affect us. If the details and the expenditure of any project or work are openly known to everybody, the chances of corruption are minimized. ***This is called transparency of government.***

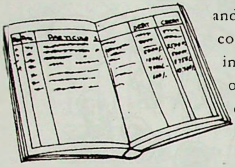
Government is for the people and is not above the law. If things are not done properly, then the Government can be held responsible. If the bridge made in Rampur collapses, people have a right to know who was responsible for it and what action is taken against that person. ***This is called accountability.***

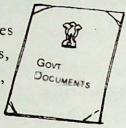
To know decisions, be informed on issues, ask for accounts, know details of various things and hold people responsible for their acts, we need *information*.

What is information?









Information can be in the form of records of proceedings and meetings, copies of decisions, orders and notifications, copies of entries in government registers, copies of accounts, copies of notices, copies of procedures and rules, maps, drawings of work sites, etc..*The right to have these things is called the Right to Information.*

Who has given us this right?

This right is given to us by the basic law of our country which is called the Constitution. The Constitution says that the people have some basic rights and the government is bound to protect those rights.***These rights are called Fundamental Rights.*** Of these rights there are two important rights which give us the right to information.

The right to freedom of speech and expression. This means the right to talk about things freely, the right to express oneself freely whether by writing, speaking, drawing, painting, broadcasting, singing, etc.. This right also includes the right to express an opinion on anything. The right to free speech and expression includes the right to know, because unless we know about something we cannot express anything about it or protest against it.

A canal was going to be dug in a certain village in Orissa. On discussion amongst themselves, the people found that it would not be useful to have the canal at that location. In order to make a representation to the government, they asked the irrigation authorities for details of the proposed canal. The authorities said that the details of the project could not be given as it was official information.

People have a right to the information about the canal so that they can express their views about it.

The right to life and liberty. This means that one has a right to all those things by which one's life is protected and one can live a life of dignity. This also includes the right to know about things which affect our lives closely.

A scientific institute run by the government published a report saying that some packaged foods like turmeric powder and infant milk food contained pesticides which could cause cancer. An organisation working on health issues asked for a copy of the report so that they could inform people about the hazards of using those foods. The Institute refused to give a copy of the report saying that it was 'not available'.

People have a right to know what the report contains so that they can protect their lives and health.

If the government is under a duty to give information, why is information always refused?

Information is most often refused because

- *The government machinery has become too complicated, powerful and corrupt. So it wants to protect itself under the cloak of secrecy.*
- *The information asked for is difficult to find because the system of filing and keeping records is outdated.*
- *People do not know that they are entitled to get the information. So if they are refused, they do not insist on their right. Under the present set-up, in order to enforce their right they have to go to the courts which is a lengthy and tedious process.*
- *There are some laws under which certain types of information can be withheld.*

Some of the laws which restrict giving information are :

The Official Secrets Act, 1923

The Evidence Act, 1872

The Conduct of Civil Servants Rules

Some of these are laws in force from the time of the British. At that time they were used for suppressing information and for curbing the freedoms of Indians. These laws go against the democratic system of government established by our Constitution and must be changed or removed altogether.

Then how can we get our right?

We can get the right by:

- the government giving orders to various departments to give the information to the people

or

- by making changes in various laws so that information can be given through them (so that they do not restrict free flow of information)

or

- by having one law which enables us to get the information systematically

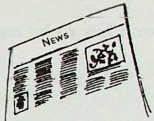
Government Orders have been passed in some states such as Madhya Pradesh. In Bilaspur division, the Commissioner passed orders saying that people must be given information in certain areas. Orders have also been passed for the whole state for several departments. The heads of each department have asked their departments to provide information to the people. For example, the departments of mining, public transport, social welfare, tribal welfare and panchayat and rural development are now supposed to give information to people when they ask for it. In Uttar Pradesh too orders have been passed for the Panchayats to give information. Orders like these are operative only in the department and in the state where they are passed. So we have no uniformity in getting information. If we want information in a state where the departmental orders have not been passed, we cannot get it. If the government changes its policy or if there is a new government these orders can be taken back. **If there is a law, this right cannot be taken away so easily.**

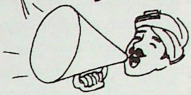
Changes in certain laws have been made in order to given information. The Rajasthan government has brought out changes in the Panchayat Act rules to say that people may inspect or have copies of certain documents. This still leaves a large area where information cannot be reached. Changing all laws to say that information must be given is a long and complicated process.

Laws on the right to Information have been passed by a few states such as Goa, Tamil Nadu, Maharashtra, Rajasthan and Karnataka. However these laws are not satisfactory as they keep a large area of information away from the purview of the public. They also apply only to the states in which they are made.

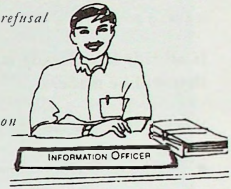
That is why there is a demand that the Central Government must make a law which applies uniformly to the whole country and sets out a clear procedure for getting information.

We need a law





- which enables people to get *information which is important to them.*
- which lays down clearly that the government and public bodies are under a *duty to give information* to anyone who asks for it.
- which says clearly that giving *information is the rule and refusal is an exception.*
- which says clearly *what the exceptions are*
- which provides for an easy *system of storing information* such as computers etc.

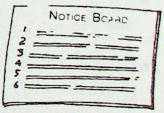


- which provides for an easy *system of getting information* such as providing offices with computers and photocopiers

- which provides for *information to be given in a simple form* which can be easily understood by people.

- which lays down a system saying *who* will give the information and in *how much time.*

- which lay down *how the information will be given* to people—whether written, orally or by display on boards, the *place* where the information will be given, etc.



- which puts a positive duty on various government departments to *inform people without being asked* in certain key areas affecting the rights of life and liberty of the people, such as rights on arrest and custody, vital information regarding health, information regarding projects which are likely to affect their livelihood and environment, etc.

- which lays down methods in which information can reach people easily such as *making information of certain types available at accessible outlets* like post offices, panchayats, collectorates, ration shops, etc.

- which lays down *simple avenue for redress* in case of refusal of information

How can we ask for a law to be made?

There is already a demand for a law by many groups and individuals who have been struggling for this right. The Government has drafted a law and it has been introduced as a Bill called the Freedom of Information Bill, 2000. Currently, the Parliamentary Standing Committee on Home Affairs is reviewing the Bill. Once the Bill is passed by the Parliament and receives the President's assent it will become a LAW. It is very important that before the law is made, we must see to it that a good law is made which gives us an effective right.

If all this has already happened, how can we influence the kind of law that will be made?

You can influence the kind of law being made by doing any of the following things:

- *Keep track of the issue* through newspapers, radio and television.
- Keep watch on the *proceedings of the parliament* to know when the Bill is re-introduced
- *Find out the text of the Bill* It is generally brought out and publicised in the newspapers.
- *Make representation* about this to your MP and MLA.

- *Study and discuss the bill* to see whether it meets with the your expectations.
- *Be in touch with the people* who are working on this issue.
- *Discuss the issue* in various groups such as students' gathering, mahila mandals, club meetings, panchayats, formal and informal discussion groups.
- *Write about the issue* in your local newspapers, magazines or other local publications.

- *Insist on your right to know* in every situation where you need information.
- ***Express your ideas in every way you can. Every idea is valuable.***

Lifting the veil the Rajasthan way

The right to information is not something which concerns the literate or the urban. The story of Rajasthan's Mazdoor Kisaan Shakti Sangathan says so too.

The MKSS is an organisation working with villagers for more than a decade. The villagers of Rajsamand district had been working on various issues such as minimum wages, establishment of co-operative stores, and corruption. In the course of their work, they heard that various development schemes were being implemented in the villages. One look at the villages, however, revealed that no development work had taken place there. The question suggested itself: **where had the money gone?** It took little further thinking for the horrific revelation that the total of development funds siphoned off by government officials from the top down would put some of the major scams to shame. Moreover, this was money meant for the poorest of the poor. The villagers realised that corruption was not a distant issue–*it was an issue which was to do with them and theirs.* This started the campaign for the right to information: the people of Rajasthan wanted to know: If people were given employment, could they see the muster rolls, please? If roads were said to have been built they wanted to be shown the exact location. How much money was received for the work executed, how much was spent ? An important revelation was that as in matters relating to land, if people had copies of the information sought, they could use the information to confront government with the obvious fact of corruption.

The struggle of the MKSS picked up and the government was forced to concede the right to the people to have information on various development schemes. The government brought out a notification under the Panchayat Act saying that people could have photocopies of documents relating to development work.

The people of Rajasthan spoke up. Government **had** *to listen.*

You can share your experiences and views with

COMMONWEALTH HUMAN RIGHTS INITIATIVE
N-8, IInd Floor, Green Park Main
New Delhi-110016 INDIA
Tel: +91-11-686 4678, 685 0523
Fax: +91-11-686 4688
E-mail: chriall@nda.vsnl.net.in
http://www.humanrightsinitiative.org

The Commonwealth Human Rights Initiative (CHRI) is an independent international NGO mandated to ensure the practical realisation of human rights in the countries of the Commonwealth.

CHRI's present work in the area of police, prisons & human rights; Freedom of Expression & the Right to Information seeks to strengthen democracy & good governance through ensuring greater accountability, citizen participation & the incorporation of human rights standards into government functioning.

Our Right to Information programme entails publications, dissemination of information on the issue, networking with other groups interested in the issue, workshops at rural, state, national & international levels and feeding back our experiences to policy makers.

We are grateful to the Friedrich Naumann Stiftung (FNSt) and the Canadian International Development Agency (CIDA) for supporting our work on Right to Information.

COMMONWEALTH HUMAN RIGHTS INITIATIVE
N-8, IInd Floor, Green Park Main
New Delhi-110016 INDIA
Tel: +91-11-686 4678, 685 0523
Fax: +91-11-686 4688
E-mail: chriall@nda.vsnl.net.in
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Legislating Freedom of Information:

India in Comparative Perspective

Dr. Vikram Khub Chand

Commonwealth Human Rights Initiative

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Commonwealth Human Rights Initiative
1999
Reprinted 2000 and 2001

WHY FREEDOM OF INFORMATION?

The last twenty five years or so have seen the passage of freedom of information legislation in several countries beginning with the United States in 1966, Denmark and Norway in 1970, Australia, and New Zealand in 1982, Canada in 1983, Greece in 1986, and Ireland in 1998. South Africa, the United Kingdom, and India are now seriously considering access legislation of their own. There are several major reasons why the development of freedom of information (FOI) legislation is a welcome trend. First, FOI legislation breaks with the often entrenched tradition of secrecy in several countries and, in doing so, helps empower the citizen vis-à-vis the state, thus deepening democracy and enhancing citizen control of political processes. Second, more information helps citizens make better and more reasoned choices about important public policy and electoral issues, and participate in the political process more fully. Third, the capacity to demand information from governments is a powerful deterrent against governmental corruption and graft or plain inefficiency. In this sense, FOI legislation can be a powerful aid to the process of economic development, not just democracy.

This paper seeks to accomplish three objectives: First, it briefly reviews the growth of a freedom of information movement in India in recent years and examines the current draft FOI legislation proposed by a government-sponsored working group in 1997 and two other bills sponsored by the Consumer Education Research Council (CERC) and the Press Council respectively. Second, it examines proposed or existing FOIA legislation in several other countries, particularly the US, UK, Ireland, South Africa, Canada, and Australia to draw lessons for the development of FOI legislation in India. Finally, it concludes with a section on recommendations for the drafting of an FOI bill for India.

THE MOVEMENT FOR FREEDOM OF INFORMATION IN INDIA

The movement for freedom of information in India has strong legal and constitutional underpinnings. India is a signatory of the Universal Declaration of Human Rights, which, in its celebrated Article 19, defines freedom of expression and opinion as including the right to "seek, receive, and impart information" and the International Covenant on Civil and Political Rights, which also protects the right to information. The Indian constitution's Article 19 (1) (a) guarantees that "all citizens shall have the right to freedom of speech and expression". The Supreme Court of India has, in several landmark decisions, interpreted this broad guarantee of free speech to include the right to information as well. In *Bennet Coleman & Co vs. Union of India*, a leading newspaper publisher challenged the government's policy of restricting the availability of newsprint. In its decision, favouring the petitioner, the Supreme Court declared that "freedom of speech includes within its compass the right of all citizens to read and be informed". A dissenting opinion in the same case noted that "the fundamental principle involved here is the people's right to know".[1] *In State of UP vs. Raj Narain*, a case in which the respondent had demanded information relating to the security expenses of the then Prime Minister, Indira Gandhi, the Court emphasised the importance of the public's right to know as a deterrent to oppression and corruption.[2] The legal basis of the right to information was strengthened further during the 1980's by a series of new cases. In *S.P. Gupta vs. Union of India*, the Court declared that "disclosures of information in regard to the functioning of Government must be the rule, and secrecy an exception justified only where the strictest requirement of public interests so demands."[3] In 1989 in a writ petition involving Manubhai Shah, a noted consumer activist, and the Life Insurance Corporation of India, the court ruled that no official medium of information could transmit one set of views without also providing for the expression of alternative views, thus widening the range of opinions presented to the public. These and other similar cases effectively widened the scope of judicial protection for the right to information in India, and contributed to a greater interest in FOI legislation in India. Meanwhile, the Bofors scandal of the late 1980's, which involved the alleged bribing of senior government officials by international arms dealers, led to a greater interest in information rights by opposition politicians. In 1989, the V.P. Singh government, which had made the Bofors scandal a central plank of its campaign strategy, came to power promising a more open government based on the right to information.[4]

Yet, there was also an important popular impetus to establish a formal right to information. In several states in the 1990's, movements developed to monitor government development projects in order to root out corruption and promote transparency. In Rajasthan, for example, the Mazdoor Kisan Shakti Sangathan (MKSS) emerged as a powerful force

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1 AIR 1973 SC 783 quoted in "The Movement for Right to Information in India: People's Power for the Control of Corruption", Harsh Mander and Abha Singhal Joshi, Unpublished Paper, n/d, p. 31.

2 AIR 1975 SC 865 in Ibid, p.33.

3 Quoted in Robert Martin and Estelle Feldman, Access to Information in Developing Countries, (Transparency International, 1998), p. 75.

4 On this, see Report of the Workshop on Freedom of Information and Official Secrecy, Vol 1, (New Delhi: Centre for Policy Research, 1990), foreword.

in checking bureaucratic corruption in the critical area of development projects.[5] Demanding access to muster rolls, vouchers, and records of bill payments, the MKSS succeeded in exposing official corruption in government projects by panchayat or village authorities in several districts and placing pressure on officials to take corrective action through highly innovative tactics, particularly public hearings in which evidence of wrong-doing was presented to the community at large. The MKSS has also pressured the government to disclose crucial information about the effects of massive development projects on the surrounding population, such as the Bisalpur dam. As a result of the efforts of the MKSS, the Rajasthan government agreed to make all documents relating to development works at the panchayat level public, allow citizens to make photocopies of them, and investigate and punish those responsible for corruption. The Government of Rajasthan is now considering introducing a Bill on right to information in the state assembly and has sought the involvement of the MKSS and the National Campaign on the People's Right to Information in the formulation of the provisions of the Bill. In Madhya Pradesh's Surguja district, an enterprising Indian Administrative Service (IAS) officer was able to check rampant corruption and theft in the Public Distribution System (PDS) by making copies of key documents, such as the stock, sale, and ration card registers in each PDS outlet publicly available for only a nominal fee.[6] Sadly, these changes were reversed after his superiors transferred the officer out of the district. The movement for the right to information has spread to several other states; in Bihar, for example, representatives of about forty NGO's assembled in April, 1999 for a workshop on the subject as a prelude to a full-fledged campaign for information rights in the state. In response, some states have passed their own freedom of information legislation, such as Goa and Tamil Nadu, but this legislation is often quite flawed: the Tamil Nadu Act, for example, contains 22 exemptions that render the right to information tenuous and lacks a clear provision for an independent appeals process.

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5 On the MKSS, see Mazdoor Kisan Shakti Sangathan, The Right to Know, the Right to Live (MKSS: July, 1996) and Mander and Joshi, "The Movement for Right to Information in India".

6 Pravin Krishna, "Right to Information in Public Distribution System: The Surguja Experience", n/d.

COUNTERING SOME STANDARD OBSTACLES

One obstacle to the development of an effective freedom of information regime in India is the entrenched culture of bureaucratic secrecy underpinned by a draconian Official Secrets Act (OSA) and the government's conduct rules. Initially promulgated by the British colonial administration in 1923, the OSA has survived virtually intact to the present. Article 5 of the OSA makes it a crime for an official to communicate any information, which, among other things, was "entrusted in confidence to him by any person holding office under government or which he has obtained or to which he had access owing to his position as a person who holds or has held office under government."[7] In addition, the conduct rules of the Government of India also contain a provision similar to Article 5 prohibiting government servants from "communicating directly or indirectly any official document or part thereof to any government servant or to any other person to whom he is not authorised to communicate such document or information." (Rule 11).[8] The conduct rules also prohibit government servants from criticising the government publicly insofar as such criticism applies to recent policy decisions, or embarrasses the government in its dealings with state governments or foreign governments (Rule 7). In addition, government classification procedures have tended to be overly strict resulting in the over-classification of materials by relatively junior officials that could well be released to the public after their initial sensitivity has died down. Rigid classification norms, combined with the OSA and Conduct Rules, have together had a highly negative effect on the release of information by government servants who have been conditioned to be overly cautious in divulging even innocuous information for fear of facing penalties later on.

Another significant obstacle to an effective FOI regime in India is the state of the country's records. Computerisation has been gradually introduced in some ministries, but the pace will have to be accelerated. Indexes of existing material in government files will have to be compiled and made available to the public. Deteriorating paper files will have be preserved and organised in an easily accessible fashion. These problems are probably more serious in India than in the more developed countries for financial reasons. The culture of secrecy has resulted in a low premium being place on ensuring access to information as a purely technical matter, and the lack of state-of-the-art record keeping technology. But again, the relatively outmoded procedures for storing, retrieving, and disseminating information do not constitute an argument against FOI legislation. In fact, FOI legislation could provide a powerful incentive for the government to improve its record-keeping techniques and train officials to provide information in an expeditious fashion. In addition, a new Indian FOI bill could contain a "grace-period" allowing for access to records only up to a certain point in the past, say five years prior to the enactment of the law, as was the case with the Australian FOI bill passed in 1982 that covered records only until 1977.[9] This in turn created an 'access gap' for documents that were too old to be covered by the new FOI legislation, but not old enough to be declared public under Australia's 30 year

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[7] Government of India, "The Official Secrets Act, 1923" in Centre for Policy Research, Report of the Workshop on Freedom of Information and Official Secrecy, Vol II, (New Delhi: Centre for Policy Research, 1990), pp. 8-21.

[8] Government of India, "The All India Services (Conduct) Rules, 1968 and Amendment in 1969" in Ibid, pp. 76-79.

[9] On the access gap issue in Australian FOI law, see Australian Law Reform Commission, Open Government: A Review of the Freedom of Information Act 1982 (Commonwealth of Australia, 1995), p. 50. The Australian Act is fully retrospective as far as personal information ("subject access") is concerned.

disclosure rule under which most records are sent to the government's Archives. Such limited retrospectivity would provide for greater access to records under a new FOI regime than before, but also allow for time to improve record-keeping and dissemination procedures. As the state of records improves, the Act could be amended to cover records further in the past or one could wait for the 'access gap' that would arise in this case to close with the passage of time (in our hypothetical Indian example, this would amount to 25 years, assuming a limited retrospectivity of five years and the statutory norm of transferring at least some material to the National Archives after 30 years for public consumption).

Opponents of freedom of information legislation in India cite the country's poverty and widespread illiteracy as obstacles.[10] There are no clear estimates on how much an effective freedom of information regime would cost in India, but the costs of financing such a regime would have to be measured against the unquantifiable — but probably substantial — monetary benefits that would accrue from its dampening effect on corruption and mismanagement at all levels of the system. Cost calculations are also likely to vary significantly according to the methodology employed. The Canadian Information Commissioner, for example, disputes his country's Treasury Department's estimate of $75 million to administer Canada's FOI law between 1983 and 1995 on the grounds of faulty methodology.[11] Estimates regarding the cost of administering the US FOI law range from $60 to 100 million. At least initially, one would not expect per-capita usage of any FOI law in India to approximate current request levels in Canada or the United States, which should translate into lower costs on a relative basis for India.

While illiteracy can undermine the effective exercise of democratic rights including the right to information, it is not clear that the illiterate would necessarily be better off without an effective FOI regime. In fact, the poor and illiterate stand to benefit from FOI legislation that enforces accountability and checks corruption, and improves the administration of government programs that affect them. The illiterate could also turn to NGO's, social and political activists, and even bureaucrats themselves for assistance in demanding information, as the example of the MKSS in Rajasthan demonstrates. Also, India is a vast and diverse country with figures on male literacy ranging all the way from 94% in Kerala to 75% in Himachal Pradesh to 56% in Uttar Pradesh.[12] The impact of illiteracy on the efficacy on any new FOI regime is thus likely to vary significantly across states; national literacy figures therefore do not constitute a convincing argument against the enactment of FOI legislation in India. It is clear, however, that any Indian legislation on FOI would have to contain provisions allowing for oral requests for information that could later be transformed into writing by the agency concerned if necessary.

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[10] See, for example, Vasudha Dhagamwar, "Right to Work and to Information" Indian Express, Thursday, March 20, 1990.

[11] John W. Grace, Information Commissioner of Canada, "Notes for an Address to the Canadian Access and Privacy Association" Ottawa, November 7, 1996, p. 6.

[12] Figures are taken from Jean Dreze and Amartya Sen, India: Economic Development and Social Opportunity (Delhi: Oxford University Press, p. 47.

PROPOSED LEGISLATION FOR AN FOI BILL IN INDIA

In 1997, the United Front Government released a proposed freedom of information bill drafted by a Working Group under the chairmanship of H.D. Shourie.[13] The BJP government, which came to office in March, 1998 has also prepared a freedom of information bill, which has not been released, but its provisions are understood to be very similar to the Shourie bill.[14]

The Shourie bill requires government agencies to maintain an index of records and to publish information regularly relating to their functions, procedures, and performance. In addition, agencies are expected to clearly circulate the name of their public information officers and the location where documents can be viewed by requesters. The Bill requires agencies to provide access to requested information within 30 days of application and an extension of another 30 days is permissible for reasons to be clearly spelled out to the requester. Requests can be made in writing or orally if necessary. The Bill contains 11 exemptions: Of these nine are subject to a test and two (cabinet documents and documents relating to internal deliberative processes of government) are considered exempt as a class, requiring no analysis of the contents of individual documents to determine their status. Information that would "prejudicially affect" the sovereignty and integrity of India, law enforcement, the government's ability to manage the economy, the conduct of centre-state relations, the management of government services and operations, the commercial value of a trade secret and/or the competitive position of third parties is also considered exempt. The Bill also exempts information "the disclosure of which would not serve any public interests" (Section 9, Part IX) and information that might cause the "unwarranted invasion" of individual privacy. There is a 'severability' provision allowing documents to be released in part with any exempt information deleted beforehand, thus making it impossible to deny access to a document that might contain a line or so of confidential information.

The Bill leaves open the question of how to set fees for information stating that fees may be based on an application fee and "such additional fees that may represent the cost of providing access". There is a provision to waive fees if the request is in the public interest. Third parties may appeal against the disclosure of information that they consider prejudicial to their interests within 14 days of receiving a notice of disclosure of information previously considered confidential. Requesters who have been refused information may file for an internal review of their case within 30 days of notification and the agency is required to complete its internal review also within 30 days. An internal review is a pre-requisite for an external review to be heard by India's consumer courts. The Bill also establishes state and national councils for information to review the operation of the Bill, review the management of information, advise the government on information policy, and promote freedom of information generally. The Bill leaves the composition of the councils unclear and prescribes only one annual meeting for them.

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13 For the full text of the Shourie bill and proposed amendments to the OSA and Conduct Rules, see Government of India, Ministry of Personnel, Public Grievances, and Pensions, Report of the Working Group on Right to Information and Promotion of Open and Transparent Government (New Delhi: Government of India, May 1997).

14 Commonwealth Human Rights Initiative, Submissions to Legislators on a Right to Information Law (New Delhi: CHRI, 1998).

The Working Group also proposed significant amendments to the Official Secrets Act and the Conduct Rules. Section 5 of the OSA was to remain, but the definition of an 'official secret' was to be spelled out in narrower terms to include "any information the disclosure of which is likely to prejudicially affect the sovereignty and integrity of India, the security of the state, friendly relations with foreign states, {and} economic, commercial, scientific, and technological matters relating to national security".[15] The option of repealing the OSA was not suggested by the Working Group, but that may ultimately be the right way to proceed, with structured FOI exemptions being employed to protect national security and other sensitive information rather than the OSA. The Group also proposed that Rule 11 of the Conduct Rules be amended to require officials to "provide full and accurate information to a member of the public or any organisation, while performing his duties in good faith, except classified information, information which is in the nature of commercial secrets, or information the disclosure of which will infringe on the individual's privacy".[16] After passage of FOI legislation, Rule 11 was to be further amended to read simply as follows: "Every Government servant shall, in performance of his duties in good faith, communicate information to a member of the public or any organisation in accordance with the Freedom of Information Act."[17] The Working Group also proposed useful changes to the procedures for classifying government information, suggesting that materials be classified only if they would qualify for an exemption under FOI legislation, recommending that classification decisions be made by higher level officials, and removing "embarrassment to the Government" as a reason for classifying documents as "Secret" or "Confidential".[18] The Working Group was, however, criticised for recommending, among other categories, that information relating to negotiations and contracts be subject to classification if necessary: Such an exemption would in effect exclude government tenders from public scrutiny and generate opportunities for corruption.[19]

The Shourie Bill has been attacked on several grounds. Critics of the Bill point out that of its 10 members, eight were government officials giving the Bill a distinctly official cast. Some of the key criticisms of the Bill are:

1. The Bill fails to provide for the speedy release of information in cases relating to life and liberty.

2. It contains too many exemptions, which are not narrowly defined. The catch-all provision in Section 9, Part IX, which allows the government to halt the disclosure of *any* information that would not serve the public interest, is a wide restriction on the free flow of information from the government to the citizenry that leaves too much control in the hands of the government.

3. It fails to specify what proportion of the cost of providing information would be passed on to the citizen. It leaves this critical issue to the discretion of the authorities.

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15 Government of India, Ministry of Personnel, Public Grievances, and Pensions, Report of the Working Group on Right to Information and Promotion of Open and Transparent Government, p. 24.

16 Ibid, p. 27.

17 Ibid, p. 28

18 Ibid, pp. 29-32.

19 Other areas where the Government may continue to classify information include information relating to military plans and weapons, military systems, projects, or vulnerabilities, intelligence activities, sources, and methods, foreign relations or foreign activities of India, scientific, technological, or economic matters with a bearing on national security, and nuclear programs as well as information that might prejudicially affect law enforcement economic management, and the legitimate economic interests of a public authority. Ibid, pp. 30-31.

4. It does not contain any penalties for information officers or government servants who wilfully obstruct the flow of information.

5. It fails to provide protection for whistle-blowers who reveal corruption or mismanagement in government .

6. It places no obligation on private actors including corporations to reveal information about their products or activities that might have a prejudicial effect on public safety or the environment, although it does allow for the release of confidential commercial information held by the government in the public interest.

7. It provides for an appeal to India over-burdened consumer courts rather than an independent Information Commission or Tribunal. It trivialises the issue of information access by not providing for a specialised court to deal with such cases.

8. The national and state councils, which are to oversee the operation of the bill, meet too infrequently to conduct their task. By leaving open the composition of the councils, the bill also leaves open the critical issue of their independence from government.

The Press Council of India Bill (1997) is an improvement on the Shourie bill in several respects.[20] Like the Shourie bill, it also requires agencies to publish information relating to the records held in their possession, their procedures, functioning, and performance, and the particulars of their Public Information Officers. Unlike the Shourie Bill, the Press Council bill contains a provision under which information relating to the life and liberty of an individual must be supplied within 48 hours of its request, and 30 days for all other information requests. An unusual provision appoints visitor committees for custodial establishments, such as jails, mental asylums, women's homes, consisting of independent citizens who are to have full access to inmates and their records. All agencies have the right to charge fees to process requests, but fees are not to exceed the cost of making or supplying documents. The costs involved in supplying a record, however, is not clearly defined; if charges are made for the time taken to locate a document (search time) and/or review its suitability for release (review time), then costs might escalate. The Bill also contains fewer exemptions relating to information that might prejudicially affect the sovereignty and integrity of India, national security, public order, friendly relations with foreign states, and the investigation of an offence; personal information that might be considered an "unwarranted invasion" of privacy; and trade and commercial secrets. The Bill contains no exemptions for such categories as cabinet documents, documents relating to the deliberative processes of government, or records relating to centre-state relations, all common features of FOI legislation in several countries around the world. Any information that would be provided to Parliament or state legislatures is also considered public by definition. There is no catch-all provision similar to Section 9, Part IX of the Shourie bill allowing for exemption of any material that might be deemed injurious to the public interest.

The Press Council Bill defines the term 'public authority' in such a way as to include companies and corporations, whether controlled by the government or not: It therefore brings private corporations under the full ambit of the legislation. Unlike the Shourie bill, it provides for fines to be imposed on officials who fail to furnish information on

[20] For the text of the Press Council bill, see Commonwealth Human Rights Initiative, Submissions to Legislators on a Right to Information Law (New Delhi: CHRI, 1998), Annexure 3.

time or supply false information. Company officials are also liable for offences committed under the Press Council bill. The Press Council Bill contains no whistle-blower protection. Appeals against the refusal of officials to provide information are to be lodged with the District Judge or Principal Civil Judge of the city civil court, who will issue a ruling within 30 days of receiving the appeal. Such appeals would be regarded as final. The Press Council Bill also provides for the setting up of a National Council for Freedom of Information and parallel State Councils, with broadly similar functions to those of the Shourie Bill, but the Councils are required to meet more frequently (at least one meeting every four months) and there is explicit provision for the participation of non-officials in their deliberations, although the balance of official and non-official participants is not specified. The Councils in the Press Council Bill are also expected to play a special role in training officials to promote "a culture of openness and transparency". Final responsibility to monitor the implementation of any FOI law is to rest with a Parliamentary Committee on the Right to Information, a provision not contained in the Shourie Bill, which leaves the Councils as the final custodians of FOI legislation.

By far the most detailed proposed FOI Bill for India is the one drafted by the Consumer Education Research Council (CERC). Unlike the Shourie and Press Council Bills, which limits the rights enjoyed under FOI legislation to "citizens", the CERC bill, following most international practice, extends those rights to any person, except "alien enemies" on the valid assumption that there is nothing to prevent citizens from sharing information with non-citizens.[21] The Bill requires public agencies at the central and state levels to maintain their records in good order, provide a directory of all records under its control, promote the computerisation of records in inter-connected networks, and publish all laws, regulations, guidelines, and circulars related to or issued by government departments, and any other information concerning welfare schemes. Unlike the Shourie and Press Council bills, the CERC Bill does not make provision for oral requests for access to records. The CERC Bill requires government authorities to respond to any request for information within 10 days, similar to US FOI Act until 1996 when the time to respond to requests was lengthened to 20 days, and 15 days if notice has to be given to third parties about the potential disclosure of information relevant to them. Unlike the Press Council bill, the CERC Bill has no provision for 48-hour access to records in cases involving life and liberty. Requestors are liable only for the cost of supplying copies of records, with fees being waived for journalists, newspaper organisations, and public interest groups. The CERC contains a class exemption for cabinet documents, but other documents relating to security, defence, international relations, and economic and commercial affairs are subject to a "grave and significant damage" test. There are other exemptions for personal information in the interests of privacy, and the research activities of voluntary organisations if disclosure would undermine the functioning or cause of the organisation or result in "grave and significant damage" to another person. Records relating to internal deliberative processes of government, the cabinet excepted, and centre-state relations are not considered exempt under the CERC bill. The Bill also provides for the outright repeal of the OSA, unlike the other drafts, but contains no whistle-blower protection.

In terms virtually identical to South Africa's Open Democracy Bill of 1997 (ODB), the CERC bill contains clauses that prevent public bodies and third parties from claiming an exemption under the category of privileged economic and commercial information if "it [the record] relates to the quality, suitability, or safety of the goods and services supplied the public body [or third

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21 The US, Australian, and Irish FOI Acts extend the right to information to all persons as do the proposed Open Democracy Bill of South Africa (1997) and the UK' s Draft Freedom of Information Bill (1999). Only the Canadian Access to Information Act (1982) limits the right to Canadian citizens or permanent residents.

parties] and the damage referred to in Subsection (1) (c) would be likely to result from the exercise of [a] more informed choice by persons seeking to acquire those goods and services".[22] Alternatively, the government has the right to release the results of any investigations or information relating to public safety hazards posed by public bodies and third parties. In addition, the CERC Bill contains a novel section requiring companies to inform the government of any toxic substances being produced, stored, transported, used, or released by them, inform the surrounding communities of the potential negative effects of any chemicals released by design, develop an emergency plan for any accidents, inform the government and community of any accident that might adversely affect the environment, and take "antidote" measures in the wake of such an accident. The CERC thus provides an example by which FOI legislation can regulate companies to safeguard basic community interests.

Another virtue of the CERC Bill is that it provides for an independent appeal against negative decisions to release information to a network of information commissioners at the national, state, and district levels, and later to an Information Tribunal. The system of information commissioners is to be presided over by a Chief Information Commissioner (CIC), who acts very much as the custodian of freedom of information in India, with supervisory powers over record-maintenance, as well as state information commissioners; and the capacity to review important decisions concerning the possible release of documents. In addition, the CIC is expected to submit annual reports on the functioning of FOI legislation to Parliament and recommend any changes that he or she deems necessary. The CIC and information commissioners must have significant prior judicial or administrative experience, are appointed for a term of five years, and cannot be removed without a 2/3rds vote of the legislature on the recommendation of the executive authority and only for reasons of "proven misbehaviour or incapacity". Public bodies are required to respond to complaints filed before information commissioners within a maximum of 15 days, and commissioners can, in addition to authorising the release of documents, award compensation or punitive damages against a public body if it finds officials guilty of "unconscionable conduct, lack of good faith, and unfair dealing". The burden of proof at the appeals stage lies with the public body to show why a particular document should not be released. A final appeal is possible to an Information Tribunal consisting of five members at both the national and state levels. Members of the Information Tribunal are appointed on the same terms as Information Commissioners and cannot easily be removed from office. The CERC bill thus creates a two-tiered appeals process insulated from political pressure that focuses exclusively on information issues. The only criticism that one could make is that the appeals structure is overly complex and the functions of one authority over another are not always clear in the drafting of the bill.

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[22] The damage in Sub-section (1) (C) refers to the release of information about a public body or third party to a competitor.

INTERNATIONAL NORMS AND LEGISLATING FREEDOM OF INFORMATION

A comparison of freedom of information legislation, enacted or proposed, in the US, UK, South Africa, Ireland, Australia, and Canada reveals several common issues tackled in somewhat different ways across countries.

1) Proactive disclosure

All Bills/Acts impose a requirement on public agencies to publish certain kinds of information including a description or index of the classes of records held under their care; information on agency operations, procedures, and programs; administrative and other staff manuals used for running the agency; and the names and addresses of officers in charge of releasing records to the public, and location of facilities to see them. The advantages of publishing such information are three-fold: First, it automatically increases the flow of information from the government to the citizenry, and improves the quality of citizen-agency contact; Second, the availability of an index gives the public a clear understanding of what records are held by the agency and prevents the holding of secret files or documents; and Third, it reduces the number of requests made under the FOI statutes by augmenting the supply of published information. All the Bill/Acts under study have strong requirements to publish certain categories of information and promote the use of FOI legislation, but the draft South African Open Democracy Bill of 1997 (ODB) is particularly impressive in this regard. The ODB requires the South African Human Rights Commission to prepare a guide to using the ODB that includes information on how to contact the information officer of every government body, the manner and form of making a request for a particular record, and the procedures for making appeals. The guide is to be supplied to every governmental body, post-office, and public library for use by ordinary citizens; in addition, the names, addresses, telephone and fax numbers, and email addresses of each agency's information officer is to be published in the telephone directory along with a reference to the guide and how it can be obtained.[23] The South African Bill also allows any information obtained under the Bill to be broadcast on television or radio for wider dissemination. Any Indian Bill on FOI should incorporate a similar provision requiring the government to broadcast information about government programs and schemes, and FOI legislation itself, in order to reach India's rural masses where illiteracy runs high in several states. This is a provision missing from all the three Indian Bills discussed in the preceding section, making it harder to use FOI legislation as an instrument to enforce development rights, and bureaucratic accountability to the poor.

2) Access to Records

a) Retrospectivity

The issue of retrospectivity is intimately tied to the question of the state of records. If a country's record-keeping practices are well developed and records in generally good condition, then FOI legislation can be fully retrospective, that is records can be requested

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[23] Republic of South Africa, Open Democracy Bill (1997), Sections 5 and 6, pp. 10-12

for as long as they are held by government departments prior to being transferred to public archival holdings. Not all legislation is fully or even partially retrospective, however. The Irish Freedom of Information Act is not retrospective at all, with the exception of personal information; records can only be requested that pertain to the period after the enactment of the Act in 1998. The Australian Freedom of Information Act enacted in 1982 was initially retrospective only to 1977, with an exception again for personal information. The US Freedom of Information Act (1966), Canadian Access to Information Act (1983), and the UK Draft Freedom of Information Bill (1999), on the other hand, are fully retrospective. Given the relatively backward state of Indian records and record-keeping practices, any Indian legislation on FOI would do well to be only partially retrospective to give the government enough room to prepare to meet requests for information; otherwise, there could be serious difficulties in implementation that could jeopardise the credibility of FOI laws. On the other hand, some retrospectivity is a good idea to furnish an incentive to improve the state of existing records, not just records to be created in the future after the enactment of FOI legislation.

b) Gateway Provisions

Several Bills/Acts contain 'gateway' provisions in order to discourage requests that might be vexations, interfere unreasonably with the operations of an agency, or are too broad to be dealt with effectively. The UK and South African Bills allow officials to reject requests that they deem to be "manifestly vexatious" in the words of the ODB. The Irish law permit requests to be turned down not only if they viewed as vexatious but also if they seriously interfere or disrupt the operations of an agency, while the Australian Act allows agencies to turn down requests that would "substantially or unreasonably divert the resources of the agency from its other operations" or "substantially interfere with the performance of the Minister's functions".[24] The UK Draft Bill goes further allowing a ceiling to imposed on the costs for the government of meeting an FOI request to be set by the agency involved; any request that goes above it can legitimately be denied. The UK Government has already said that it is inclined to cap the ceiling at £500.[25] The Canadian and US FOI laws contain no gateway provisions, although the US law obliges agencies to respond only a request that "reasonably describes" the records to which access is being sought[26], while the Canadian Act permits the government to extend the normal 30 day limit to respond to request for a "reasonable time" if the requests being sought are large in number, consultations with other departments are required to respond to the request, or meeting the request within the original time limit would "unreasonably interfere with the operations of the government institution."[27] The Canadian law requires any extension of more than 30 days to be reported to the Information Commissioner. Gateway provisions were designed to prevent frivolous and/or malicious requests, or large volume requests, sometimes for commercial purposes, that could immobilise the capacity of agencies to respond to the far more numerous requests of ordinary citizens. Following this line of reasoning, the outgoing Canadian Information Commissioner called for an amendment to the Access to Information Act to permit agencies to refuse requests they consider "abusive", but to make such a refusal

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24 Commonwealth of Australia, Freedom of Information Act 1982 (Reprinted as at 19 January 1995), Section 24 (1), p. 25.

25 UK Home Office, Freedom of Information: Consultation on Draft Legislation, May 1999, p. 14, paragraph 59.

26 US Freedom of Information Act (As amended in 1996), section 3 (A).

27 Canadian Access to Information Act (1983), Section 9 (1).

subject to a binding review by the Information Commissioner.[28] The Australian Law Reform Commission, on the other hand, comes down hard on 'gateway' provisions, arguing that they provide too easy an excuse to government departments to evade releasing information, especially if their records are poorly organised or managed in the first place.[29] The Shourie bill allows agencies to turn down requests that would "disproportionately divert the resources of a public authority" or "be detrimental to the safety and preservation of the document". The Press Council bill has no gateway provisions, while the CERC draft law allows Information Commissioners to turn away "malicious or vexations" complaints or appeals, but not original requests for information. Given the culture of secrecy that pervades India's bureaucracy and the relatively poor state of records, there is a risk that 'gateway' provisions might be misused to limit the flow of information from the government to the citizenry. If 'gateway' provisions have to be incorporated into any Indian FOI legislation, their application should be subject to a careful review by an independent authority.

c) Time Limits

The issue of time limits is complex: On the one hand, one wants to achieve speedy processing of requests, but, on the other hand, this may not always be practical in very compressed time-frames. The experience of the US FOI Act in instructive: Initially, the Act required agencies to respond to requests for information within 10 business days. Many agencies were not able to comply with requests within that deadline and Courts were reluctant to impose sanctions solely for a violation of the legal deadline.[30] The 1996 amendments, bowing to this reality, extended the deadline to 20 business days. The Canadian and Australian FOI laws provide for a period of 30 days to respond to requests, and the Irish law 28 days; the South Africa draft bill allows for 21 days to respond to personal requests and 30 days for all other requests; and the UK draft bill requires authorities to respond promptly but no more than 40 days. None of the Bills/Acts under study have a provision for faster requests, say in cases involving life and liberty, except South Africa which allows for "urgent requests", which must be responded to immediately, if practical, and, in any event, within five days at most. Requesters are required to explain why a request should be considered urgent. All Bills/Acts require agencies to explain why a particular request has been refused and to inform requesters of appeal procedures. Similarly, most FOI legislation contains a provision to allow the authorities to extend the time required to search for a particular record or set of records on various grounds including the need to consult with other agencies, or if the records needed are so numerous that complying within the time limit would interfere with the operations of the agency, or other grounds. Extensions can be granted for 21 to 30 days in the case of South Africa depending on the nature of the request, 28 days in the case of Ireland, and 10 days in the case of the US. The Canadian Act allows extensions for a "reasonable time" with a requirement that any extension of more than 30 days be reported to the Information Commissioner. The UK bill, which allows for the longest period of time to respond to initial requests, does not provide for extensions. In the case of India, a 30 day period to respond to routine requests, as provided

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[28] John W. Grace, Information Commissioner of Canada, "Notes for an Address to the Canadian Access and Privacy Association", p. 8.

[29] Australian Law Reform Commission, Open Government: A Review of the Freedom of Information Act 1982, P. 88.

[30] US Congress, A Citizens Guide on Using the Freedom of Information Act and the Privacy Act of 1974 to Request Government Records (Washington DC: Union Calendar 53, House of Representatives Report 103-104, 1993), p. 11.

for by the Shourie and Press Council bills, and a special provision for urgent requests to be met within 48 hours, would probably be most appropriate. Anything less than 30 days, such as the 10-day period stipulated in the CERC bill, would be impractical. Extensions for another 30 days should also be permitted under clearly specified conditions to prevent their misuse.

d) Fees

All Bills have provisions for fees to be charged for requests under FOI legislation. Fees are seen as an important element in deterring frivolous requests and passing on at least a small proportion of the cost of an FOI regime to users. On the other hand, a system that passes on the full cost of providing information would most certainly discourage the use of the law by everybody except commercial users. Each country has devised rather different ways of dealing with the problem of fees. Australia is probably the country that charges the most for information, requiring requesters to pay a small application fee, the costs of making copies of documents, and charges for both search and decision-making time. Even so, Australia is far from a 'user-pays' system: In 1994-95, the estimated cost of providing information was placed at $10, 383, 956 of which only 3.7% was recovered by way of fees and charges.[31] The US FOI Act implements a differential fee structure with commercial users being required to pay for the cost of copies, search time, and review time, this last category being defined as the amount of time taken to decide whether a record is exempt or not. Universities and scientific research organisations, on the other hand, are to be charged for the cost of copies only, while all other requestors (mostly individuals) are charged for copies and search time, but not for review costs. High-end commercial users who pay more thus make it easier to charge low-end users (universities and individuals) less per unit of information. South Africa also has a three-tiered fee system with personal requesters paying a fee for copying only; a non-commercial requester, such as a university, a fee for reproduction and the time, beyond an initial 24 hours, needed to search for a document and prepare it for disclosure; and a commercial requester paying the full cost of reproduction as well as search and preparation time. The Irish and Canadian Acts, and UK Bill, however, do not distinguish among different classes of users: The Irish law allows for fees to be charged for copies and search and retrieval costs, while the Canadian law allows for a small application fee, copying costs, and search and preparation time in excess of five hours. The proposed UK Bill simply states that users are to pay 10% of the marginal cost of locating or disclosing information plus "reasonable" disbursement costs; since the UK Bill proposes a ceiling of £500 per request, this effectively means that no requester can be charged more than £50 per request.[32] Some FOI laws also provide for fee waivers if it is clearly in the public interest. The Irish Act, for example, allows fee waivers if the record concerned is of "particular importance to the understanding of an issue of national importance".[33] The US Act allows for fee waivers if disclosure significantly enhances "public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester".[34] The Canadian Act allows agencies to waive a fee without specifying any reasons for doing so, while the Australian Act allows for waivers in cases involving financial hardship or if disclosure would be in the general public interest or a substantial section thereof. A review of these laws

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31 Australian Law Reform Commission, Open Government: A Review of the Freedom of Information Act 1982, p. 181.

32 The bill says nothing about the procedure to be used for calculating the marginal cost of procuring information or each additional unit of information.

33 Republic of Ireland, Freedom of Information Act, 1997, Section 47 (5)

34 US Freedom of Information Act (As amended in 1996), section 4 (A) (iii).

provides a strong case in the Indian context for a differential fee structure privileging ordinary users over commercial ones, with one possible caveat: Such a system might be hard to administer. Given the persistence of significant poverty in India, fees should also be kept as low as possible involving charges for copying only if the request is non-commercial in nature. Waivers should be permitted if disclosure is clearly in the public interest or if charging a fee would cause undue financial hardship to an individual or group. There should be no discretion in determining fee structures.

3) Exemptions

The issue of exemptions from FOI requirements involves a complex balancing act between what may be disclosed and what may not be disclosed for fear of serious negative consequences. There are two ways in which to exempt information: One is to exempt particular organisations from the scope of FOI legislation and the other is to exempt records relating to particular functions of government from disclosure. The UK Bill and Australian Act, for example, exempt security and intelligence agencies from compliance with FOI norms in addition to information relating to certain functions of government. Functional exemptions are of two types: class-based exemptions that automatically cover all documents falling within a category of information and contents-based exemptions where a particular record falling within a category is examined for its contents to determine its suitability for release. Content-based exemptions are subject to a harm test to determine whether to release them or not. All international FOI legislation contains provisions for 'severability' whereby portions of a record can be released with exempt information deleted; the question of 'severability' does not arise in the case of class-based exemptions.

The most common functions where exemptions from FOI requirements are often granted include documents relating to national security, foreign policy, and defence; cabinet proceedings; deliberative processes of government; centre-state relations; sensitive economic and commercial information, sometimes concerning third parties; law enforcement and public safety; and information supplied in confidence. Sometimes, documents in a sensitive category are exempt as a class; other times they are subject to a harm test. The UK Bill requires agencies to show that "prejudice" would result to a particular function, where contents-based exemptions apply, if a document were to be released; the Australian Act "substantial adverse effect"; and the Irish Act merely "adverse effect". The Canadian Act requires that exemptions be granted only if disclosure might "reasonably be expected to be injurious" to the function where harm tests apply, while the South Africa Bill uses different harm tests for different functional areas.

Examples of class-based exemptions common to all countries include documents relating to information already published, information to be published by a specified date, judicial functions, and governmental decision-making and policy formulation. One argument advanced for exempting records relating to governmental decision-making and policy formulation, including Cabinet proceedings, is to ensure free and frank discussion, and preserve the principle of collective ministerial responsibility. Of the six countries studied here, only Australia exempts documents relating to national security as a class, while the US and Canada exempt records relating to certain aspects of law enforcement as a class. Information supplied in confidence including information, sometimes from foreign governments, international organisations, and provinces, other times from informants and third parties, is often exempted as a class. Australia, Ireland, Canada, and the United States, but not South Africa, for example, allow a class exemption for confidential information. One problem is that this exemption can be used to shield international organisations, such as the World Bank or IMF, which often exercise significant power in many

developing countries from public scrutiny and accountability. Australia, the UK, and Canada also provide for exemptions for information concerning centre-state relations, but subject them to a harm test[35]; a similar provision in an Indian FOI bill would therefore not be inconsistent with international practice. None of the Bills/Acts contain a catch-all provision, such as the one in the Shourie bill, exempting information that might not serve the public interest, although the UK bill does authorise the Secretary of State, with the approval of both houses of Parliament, to create new exemptions if the public interest in doing so outweighs the public interest in disclosure. The UK bill, however, also contains a clause allowing agencies to make 'discretionary' disclosures of information normally considered exempt, except in cases where certificates are in force, if the agency considers it in the public interest to do so.

In addition, some Bills/Acts, particularly Australia, the UK, and Ireland, allow Ministers to issue certificates protecting information in certain categories; such certificates cannot be easily overturned by normal appeals procedures. The Australian FOI law is by far the most liberal in its use of such 'conclusive certificates' applying them not just to documents relating to national security and cabinet proceedings, but to other areas, such as executive council proceedings, internal deliberative processes of government, centre-state relations, and law enforcement and public safety. Once a 'conclusive certificate' is issued, it cannot be revoked by the Administrative Appeals Tribunal (AAT), the main body for hearing appeals under Australia's FOI law. The extensive provision for the use of 'conclusive certificates' in the Australian case makes it one of the most restrictive FOI Bills in the world; Parliament, members of the opposition, and the Australian Law Review Commission have all objected to use of conclusive certificates especially outside the 'core' areas of national security and cabinet proceedings. The UK draft Bill also allow for Ministers to issue certificates exempting documents relating to national security and information concerning security and intelligence agencies; these certificates cannot be revoked by the Information Commissioner (the first rung of the appeals process), but can be set aside by the Information Tribunal (the second rung). The Irish law allows Ministers to issue certificates in the cases of documents relating to national security and law enforcement matters; such certificates must specify an expiry date, are subject to an annual review by the Prime Minister and Council of Ministers, and can be appealed to the High Court, but not the Information Commissioner. An FOI Bill that sought to maximise freedom of information, consistent with the need to restrict access in some cases, would have fewer functional and organisational exemptions, subject most functional exemptions to contents-based tests rather than blanket exclusions, and eschew the use of certificates as a means to cordon off information.

4) Appeals

Most Bills/Acts provide for an internal review, usually by the head of an agency, if an initial request for information is rejected. Usually such internal reviews are expected to be conducted in an expeditious fashion — South Africa specifies 30 days to consider an internal appeal, Ireland 21 days, the United States 20 days, while Australia allows a requester to appeal directly to the Administrative Appeals Tribunal (AAT) if no decision is taken on an internal appeal after 30 days. South Africa is also the only country to allow an 'urgent' internal appeal, which must be completed within five working days. The Canadian Act and UK Bill do not specify processes for internal review and requesters can proceed directly with an external appeal if they wish to do so. Australia charges a small fee for an internal review as does South Africa,

[35] It should be noted that in Canada information obtained in confidence from the provinces is granted a class exemption, and not subject to a harm test.

the latter in the case of commercial requesters only.

It makes good sense to require an internal appeal prior to an external appeal to give agencies an opportunity to alter decisions without litigation, and reduce the burden on the external appeals process; on the other hand, where there is provision for external mediation, rather than litigation, by an Ombudsman or Information Commissioner, such mediation should be permitted at any stage after the rejection of the initial request by the agency. Canada and Australia, for example, provide ample opportunity for outside mediation. In Australia, requesters have the option of going to the Ombudsman for mediation instead of filing an appeal with the AAT; if the Ombudsman fails to resolve the matter, the requester can then proceed with a formal appeal to the AAT. The Ombudsman has the right to refuse to mediate until an internal review has occurred. In Canada, the Information Commissioner's primary function is to mediate disputes between requesters and agencies; the Commissioner can make recommendations, but cannot order agencies to release information. On the other hand, s/he has the authority to ask the Courts to address probable transgressions of FOI law by government agencies, but this has been resorted to only sparingly in the history of the Canadian Act.[36] One reason why Canadian Information Commissioners have been reluctant to appeal to the Courts is because it is not clear whether the latter will rule in favour of expanding the scope of FOI laws; some Court rulings may have the opposite effect, although in practice the Canadian Information Commissioner has had reasonable success in persuading the Courts to overturn certain agency decisions. In the US, for example, Courts have usually sided with the government in protecting classified information relating to national security and defence. Mediation thus not only offers a chance to resolve a dispute at a relatively low cost in a reasonable span of time, but also avoids the risks of testing FOI laws in Court.

All countries provide for external appeals to an independent authority: In the case of the US, this independent authority is the district court in the area where the petitioner resides. Sometimes the threat of going the Court in the US case — and presumably in other countries as well — is enough to encourage an agency to settle the case by releasing at least a portion of the information requested. The possibility of filing an appeal thus gives requesters a potential stick to wield against agencies in their battle for information, but its credibility depends entirely on a swift and fair appeals system. In South Africa, also, requesters can proceed directly to the High Court after an internal review and may receive legal assistance from the South African Human Rights Commission (SAHRC). Canada allows for an appeal to federal court after the Information Commissioner has had an opportunity to resolve the matter. The UK bill proposes a two-tiered external appeals process with appeals being made first to an Information Commissioner and then to an Information Tribunal; appeals to the Information Tribunal can be filed against decisions of the Information Commissioner by requesters or agencies, or by the Information Commissioner against agencies that ignore her or his rulings. A further appeal, on points of law, to the High Court is allowed. Ireland also provides for an appeal to an Information Commissioner whose decisions are binding except in cases, where certificates are in effect, followed by an appeal to the High Court on points of law. In Australia, appeals are allowed to the AAT, followed by an appeal to the Courts on points of law; Australia is the only country to charge a fairly substantial fee for filing an appeal with the AAT.

One advantage of the UK and Irish appeals process is that it provides for external appeals to be first made to a specialised body exclusively concerned with information issues;

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[36] Information Commissioner of Canada, The Access to Information Act: 10 Years On (Ottawa: Minister of Public Works and Government Services, 1994), pp. 10-12.

such bodies are likely to be less burdened than the regular court system, and be more sensitive to the issues involved. South Africa, Ireland, and Canada allow judges to hold public agencies responsible for paying the costs of an appeal, even if the applicant was unsuccessful, if an important principle of law is involved; the South African Act goes further by allowing such costs to be shouldered by public agencies if the appeal "promoted the interests of open, accountable, and participatory administration by one or more organs of the state".[37] South Africa, Canada, and the United States all place the burden of proof in any judicial proceedings on the agency concerned to show why a given record cannot be released. The US assigns priority to information cases in the docket, but does not specify a time limit within which such cases must be heard, and most other countries also refrain from deadlines for completing external appeals.

The independence of the external appeals process is supported by two factors: (1) the separation of powers that exists in long-established democracies, which guarantees the existence of an independent judicial branch of government in the first place, and (2) statutory provisions that establish the independence of Information Commissioners. The Irish Act, for example, appoints the Information Commissioner for a fixed term of six years and prevents her or him from being removed from office except for "stated misbehaviour, incapacity, or bankruptcy" after resolutions passed by both houses of Parliament. In Canada, the Information Commissioner holds her or his office for seven years during "good behaviour" and can only be removed by a vote of both the Senate and House of Commons. The UK draft bill, however, fails to indicate how the Information Commissioner or members of the Information Tribunal will be appointed or removed.

This brief reviews suggests that any FOI law for India would have to contain three elements to ensure a fair appeals process: a speedy internal review, ample opportunities for mediation, and formal appeals to a specialised and independent Information Commission or Tribunal followed by recourse to the High Court on points of law. No fees should be charged at any stage of the appeals process, timely deadlines established for hearing appeals by specialised information bodies or the High Court, and, in the case of appeals to the High Court, the government should shoulder the costs of applicants if important principles of law are involved or the appeal serves the public interest. The burden of proof throughout should be on the government to justify withholding a record.

5) An Advocate for FOI Laws

Most international FOI legislation provides for the creation of an institutional advocate for freedom of information laws. The advocate is required to publicise the law, monitor its functioning and implementation by government agencies, suggest possible changes to make it more effective, train information officers, promote a culture that facilitates information access, consult with government agencies and private groups about problems being encountered in the administration of FOI laws, receive funds and make donations to promote freedom of information, mediate disputes over access, provide legal assistance to those seeking information from government in a court of law, and publish reports on the operation of FOI laws for Parliament and the public. In South Africa, the task of advocacy is vested with the South African Human Rights Commission (SAHRC): One novel feature of the South African advocacy legislation is that is requires the SAHRC to promote an understanding of the Bill among backward communities in particular. In Ireland, Canada, and the UK, this advocacy function lies clearly with the Information Commissioner; in the case of the UK and Ireland, the advocate is also a judge, leading to a

[37] Republic of South Africa, Open Democracy Bill (1997), Section 111 (3) (b).

potential conflict between the two roles. The US and Australia rely on the legislature to play the role of advocate for freedom of information; in the US, the Attorney General prepares a report for submission to Congress on the operation of the FOI law on the basis of individual agency reports required by law to be submitted to her or him, while in Australia agencies are required to submit annual reports to Parliament detailing the numbers of requests for information received, accepted or rejected fully or in part; the numbers of appeals filed, accepted, or rejected by the AAT; a description of any fees and charges imposed; and the numbers of 'conclusive certificates' issued by the Minister, among other things.

FOI laws, especially in their infancy, require a strong and independent advocate to monitor and promote their use; preferably, the functions of advocacy and administering judicial appeals should be institutionally separate, as in the case of Canada and South Africa, for the sake of credibility, impartiality, and effectiveness. A court that is supposed to hear information cases cannot be considered impartial if, at the same time, it is expected to serve as an advocate for freedom of information. Nor can an institution armed with the power of judicial sanction be expected to be much of an advocate for the cause of FOI. Separating the two would also free up each institution to concentrate on a single task, advocacy in one case and deciding appeals in the other, thereby promoting efficiency through specialisation. The idea of national and state councils to serve as advocates for FOI laws in India, as proposed by the Shourie and Press Council bills, is thus a good one provided they can be structured to enhance their effectiveness through frequent activity, a prestigious and independent membership, and a generous budget set by Parliament.

6) Whistle-blower Protection

The only FOI Bill/Act that contains explicit protection for those who reveal corruption and mismanagement is the South African one. Under section 88 of the South African Open Democracy Bill (ODB), no one can be held criminally or civilly liable, be subject to any disciplinary proceeding, or be removed from office, denied promotion, or transferred if the person believed "in good faith" that he or she was disclosing an impropriety involving corruption, abuse of power, and serious maladministration, including a substantial "waste of public resources" or "danger to the health and safety of an individual or the public".[38] The burden of proof is on the whistle-blower to show that his or her disclosures were necessary to avert a "serious and imminent threat to the safety or health of an individual or the public, to ensure that the impropriety concerned was properly and timeously investigated, or to protect himself or herself against serious or irreparable harm from reprisals" or to show that the public interest in disclosure outweighed the public interest in non-disclosure in light of the importance of an "open, accountable, and participatory administration".[39] Such protection would apply only in the context of disclosures made to a Parliamentary committee, the committee of a state legislature, the Attorney General, the South African Human Rights Commission, the Auditor-General, and the Public Protector or to the media. While the US FOI Act does not itself provide for whistle-blower protection, separate legislation in the form of the Civil Service Reform Act (1978) exists, which does so. The UK is also considering approving a separate bill, the Public Interest Disclosure bill, to provide protection for whistle-blowers, which allows employees to make unauthorised disclosures if they can show that such disclosures were in the public interest by, say, publicising the risk of a significant health hazard or attempts to defraud the public. In India, it is absolutely essential

[38] Republic of South Africa, Open Democracy Bill (1997), Section 88 (1) and 88 (2).

[39] Republic of South Africa, Open Democracy Bill (1997), Section 88 (3) (b).

to provide whistle-blower protection to deter and expose corruption and mismanagement by government officials either through an FOI law or through separate legislation. For the moment, none of the blueprints for an Indian FOI law provide protection for whistle-blowers, a major blunder that needs to be addressed.

7) The Private Sector and FOI

One critical issue is the extent to which private actors are subject to the requirements of FOI legislation. FOI legislation can intersect with private interests in different ways. Companies can seek information about other companies possessed by government agencies, often as a way of learning about their competition. One of heaviest users of US FOI laws, for example, are businesses; one well know case is that of Suzuki, which obtained test data from the Environmental Protection Agency (EPA) relating to the environmental performance of Toyota vehicles in the United States. Most laws will allow third parties the right to appeal against disclosures of information that they consider prejudicial to their interests; the US FOI Act curiously does not require agencies to inform third parties of imminent disclosures, but many agencies do so anyway. Such notices often result in appeals to block disclosures, or "reverse FOI" cases seeking to use FOI legislation to prevent the release of information.

Most FOI laws contain an exemption for commercial information involving trade secrets or information that might undermine the competitive position of a company, which provides a measure of protection for corporations. However, one critical issue is whether companies should be required to release information, regardless of whether this involves disclosing trade secrets, information supplied in confidence, damaging its competitive position, or undermining its negotiating position, if there is a clear public interest in doing so. The South African bill is very clear in this regard: It empowers the government to disclose any information in its possession concerning (1) the safety of goods and services supplied by a third party that might result in consumers being able to exercise better informed choices, and (2) the results of any test conducted by, or supplied to, the government regarding "public safety or environmental risk". The Canadian FOI law also allows the government to override the protection given to third party information if this concerns the results of product or environmental tests conducted by the government or if the disclosure is in the public interest insofar as it relates to "public health, public safety, or protection of the environment and if the public interest in disclosure clearly outweighs in importance any financial loss or gain to, prejudice to the competitive position of, or interference with contractual or other negotiations of a third party".[40] Ireland also allows the government to release sensitive commercial information about a third party that would normally be exempt "in order to avoid a serious and imminent danger to the life or health of an individual or to the environment" or if the head of an agency believes that the public would be better served, "on balance", by releasing such information than withholding it.[41] The US and Australian laws, and UK Bill, contain no provision for releasing third party information in order to protect public safety, the environment, or public health, but this simply reflects the fact that these countries already have other laws and regulatory mechanisms in place to monitor companies in these critical areas. None of the Bills/Acts contain a provision for the release of third party information concerning tender bids for government contracts or the possibility of obtaining information of importance to the public not in the possession of the government directly from companies.

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40 Canadian Access to Information Act (1983), Section 20 (4) and (6).

41 Republic of Ireland, Freedom of Information Act, 1997, Section 27 (2) (e) and Section 27 (3).

India should permit the release of privileged commercial information on the same terms as the South African Bill and Irish Act, with additional clauses that make all tender bids public by law, and require companies to disclose any information affecting the safety of their products and their health and environmental consequences. The Shourie Bill, like the Irish law, allows for the release of third party commercial information if the public interest in disclosure outweighs the harm that would result to the company, but does not require companies to disclose information about the health, safety, or environmental implications of their products. The CERC Bill applies a somewhat narrower test for the release of third party information, on the lines of the South African bill, but also imposes stringent environmental disclosure requirements on companies. The Press Council Bill is overly broad and invasive of private interests, subjecting companies to the same FOI requirements as public agencies, obliterating the distinction between them, but would offer the possibility of obtaining information not in the possession of the government from companies directly. Of the three Indian Bills, the CERC Bill does the best job of balancing the need to subject companies to FOI requirements insofar as their activities affect the public domain, while respecting their freedom as intrinsically private actors.

8) Penalties

All laws must have effective penalties to enforce compliance with their provisions. One critical question is the stage at which penalties should be imposed. The Press Council Bill, for example, automatically imposes a fine of Rs. 50 a day on officials who fail to furnish information on time. This provision, however well intentioned, is not consistent with international practice. None of the Bills/Acts studied here allow for automatic penalties in such cases for two reasons: First, automatic penalties constitute a violation of the due process rights of the officials involved and second, officials may be unable to furnish information on time for reasons beyond their control, such as the poor state of records or a request that is too broadly phrased and/or involves a search for too many documents. A better alternative might be to deny agencies the right to collect fees in the case of delayed requests. All Bills, however, provide for the imposition of some penalties for the non-furnishing or misuse of information on various grounds after an appeal to an external authority. The US FOI Act, for example, allows district Courts to recommend to the Special Counsel that disciplinary action be taken against officials who arbitrarily and capriciously withhold information and assess costs and attorney fees against the government when information has been improperly withheld. The South African draft Bill allows relief or compensation for harm from the courts for the government's use or disclosure of inaccurate personal information, which may stem from a refusal to correct personal information or other factors. The UK draft Bill imposes a hefty fine of £5000 on any person found guilty of altering, concealing, or destroying records with the intent of preventing their disclosure,[42] and Canada is considering reforming its FOI law to impose similar penalties on those, who wilfully alter or destroy records to undermine the right of access.[43] Another concern is ensuring that external agencies, such as Information Commissioners, Tribunals, or Courts can investigate alleged offences against FOI laws. The UK bill, and Irish, and Canadian Acts, all contain a provision making it an offence, punishable by a fine and/or imprisonment, to obstruct investigations by Information Commissioners into alleged violations of FOI rules. The UK Bill also empowers the Information Commissioner to seek a warrant from a judge to enter, search for, and seize documents from, the premises of a public agency suspected

[42] UK Home Office, Freedom of Information Bill 1999 (Draft Version), Section 66

[43] John W. Grace, Information Commissioner of Canada, "Notes for an Address to the Canadian Access and Privacy Association", pp. 9-10.

of not co-operating with an ongoing investigation, and use reasonable force to do so, if necessary.[44] Any Indian Bill on FOI legislation should contain penalties involving a fine and/or prison term for altering or destroying records to thwart their disclosure and also for any action taken to obstruct overseeing bodies empowered to investigate alleged violations of FOI laws or enforce compliance with them. The CERC Bill contains both these elements, unlike the Shourie Bill, which overlooks the use of penalties as an instrument of enforcement.

[44] UK Home Office, Freedom of Information Bill 1999 (Draft Version), Schedule 3.

TOWARDS AN INDIAN FOI BILL

Before making any specific recommendations about the design of an Indian Bill, it is worth raising two key issues. First, one clear goal of any FOI law in India is that it should serve an instrument to promote development rights in India. To ensure that this happens, an FOI law should contain elements that facilitate its use by ordinary people, particularly in rural areas. These elements should include a provision requiring the state to broadcast information about government programs and entitlements — and the FOI Bill itself — to promote citizen awareness of their rights, training for Information Officers to help them process oral requests and deal with the poor in a sensitive and helpful manner, and a speedy and effective appeals process understood by, and accessible to, ordinary citizens. These legal provisions should be supplemented by sustained pressure from NGO's, political and social activists, the press, and the legal profession to ensure that India's FOI Bill is used to promote the interests of the needy, particularly rural Indians. Second, while this paper has focused on analysing six major international FOI laws or proposed laws and drawing lessons for India, this does not imply that India should blindly imitate these laws without adapting them to Indian conditions. The purpose of this comparative study is really to draw out the common elements that make up the basic building blocks of an effective FOI regime that might help in the fashioning of an FOI Bill designed to deal with Indian problems and situations. Another goal of this comparative exploration is to pinpoint practices in the FOI legislation of other countries that India would do best to avoid: The Australian practice of issuing 'conclusive certificates' not subject to external review being one such example. Other countries have clearly followed a similar path to their own FOI legislation, drawing lessons from the experience of other countries, while shaping them to fit their own circumstances. The Canadian Act, for example, differs in significant ways from the US FOI Act, while being similar in some respects as well.

***Specific Recommendations for an Indian FOI Bill*:**

- **Strong Pro-disclosure Requirements**: This should include provisions requiring agencies to publicise details of their programs by electronic means, maintain and organise records to render them accessible to the public, create an index of all records for public use, and publish all materials relating to agency rules, guidelines, operations, procedures, and performance.
- **Publicising the FOI Act** by making a guide for its use available in every government office, including post-offices, and transmitting information about how to use the Act by radio and television in order to reach remote areas.
- **Making the Act Partially Retrospective:** The extent of retrospectivity depends on the capacity of the government to organise its records to meet public demands for information before-hand, but a period of three to five years seems appropriate.
- **No Gateway Provisions:** The Act should not contain any 'gateway' provisions that can be used as excuses to deny requests for information except for the case of overly broad ones in which case the Information Officer should be required to help narrow the request to make it more manageable.
- **Reasonable Response Times:** The Act should provide for reasonable response times for most requests. A 30-day period in which to respond to requests seems appropriate given most international practice and the search and retrieval constraints imposed by

the state of Indian records. Extensions should be permitted for an additional 30-days for carefully defined grounds.

- **Urgent Requests:** The Act should contain a provision to allow for urgent requests in cases involving life and liberty that should be responded to immediately and, in any event, within no more than 48 hours.

- **A Two-Tiered Fee Structure:** Fees for copying, search time, and review time should be charged from commercial requesters only; other applicants should be required to pay only copying costs. Fees should be completely waived for non-commercial requesters if the request is in the public interest or on grounds of financial hardship.

- **Exemptions should be narrowly defined**. Class exemptions should be permitted only for cabinet documents, information already published and readily available at a reasonable price and information that is due to be published within a period of 90 days. All other exemptions should be subject to a relatively stringent test that would require the government to show that **'substantial harm'** would from result from disclosure, not merely ordinary harm. There should be no provision for the creation of new exemptions, except by amendment, and no clauses, such as the one in the Shourie bill that allows the government to exempt any record that it feels would not serve public interests. **The use of certificates to shield particular records from being disclosed should be completely eschewed.**

- **Appeals should be heard by an independent and specialised body competent to hear cases relating to information.** The first rung of external appeals should be heard by an Information Commissioner followed by recourse to an Information Tribunal and/or the High Court on points of law. **The Information Commissioner should also act as a mediator in disputes involving agencies and requesters.** External mediation by the Information Commissioner should be allowed to proceed alongside an internal appeal to the head of an agency, but an internal appeal should be a pre-requisite for any formal external appeal in order to discourage litigation and give agencies an opportunity to reconsider. Internal appeals should be decided within 30-days of being filed after which the requester should automatically have the right to appeal to the Information Commissioner. Plaintiffs should have the right to hire professional legal or other assistance for internal and external appeals; and the costs of any appeal should be awarded against the government, even if the government wins the case, if the appeal involves an important principle of law, is deemed to be in the public interest, or contributes to transparency and accountability in government.

- **Creating an Institutional Advocate for FOI:** Any FOI law in India will need an institutional advocate to monitor compliance with the law, report to Parliament, receive feedback from agencies and requesters, make suggestions for further reforms, and foster support for freedom of information. This advocacy function should not be combined with a judicial one, such as the power to hear and decide appeals, although it could be merged with a mediating function. The idea of creating National and State Councils for Information that could fulfil this role is a good one; if this involves too much expense or administrative complexity, the Information Commissioner's role could be limited to mediation and advocacy, as in the case of Canada, with formal external appeals being heard by an Information Tribunal and then by the High Court.

- **Whistle-blower Protection** is an absolute must for India given the high levels of corruption and mismanagement that plague administration and governance. This should be introduced either as part of an FOI bill or as a separate legislative initiative.

- **Private companies should be subject to the FOI bill insofar as their activities affect the public domain.** The government should be able to release commercial information normally considered exempt in cases where there is a threat to the life and safety of an individual or the public, a public health hazard, or a significant environmental risk. In addition, the government should be allowed to release such information on the basis of a simple public interest test. Finally, companies should be required to provide information about their products and processes that might have implications for public safety, health, or the environment. There should be no burden on companies to release information that has no direct bearing on the public.

- **Penalties are necessary to enforce FOI laws.** Agencies that delay providing information beyond the stipulated period, including extensions if appropriate, should forfeit the right to collect fees for such information. Prison terms and/or fines should be imposed on those who wilfully destroy or alter records to prevent their disclosure, are found to have acted capriciously and arbitrarily in refusing to divulge records, and who obstruct investigations carried out by authorities vested with hearing appeals and ensuring compliance with FOI legislation.

- **Repeal of the Official Secrets Act and Reform of the Conduct Rules of the Government of India:** The exemptions provided by FOI legislation should be sufficient to meet the need for secrecy in government at certain times in certain areas, while also preserving the foundations of a well-informed democratic society. The passage of FOI legislation thus makes the OSA irrelevant. To retain both statutes would be to create serious confusion that would inevitably have to addressed by the Courts. The Conduct Rules should also be reformed to make it an obligation for government servants to release information consistent with any FOI law in effect.

The Commonwealth Human Rights Initiative (CHRI) is an international independent nonprofit organisation headquartered in India. Its objectives are to promote the practical realisation of human rights in the Commonwealth. It educates on human rights issues and advocates for greater adherence to human rights standards.

CHRI has been working on the Right to Information as part of its commitments to the values of freedom of speech and expression and good governance. Our work includes:

- *collecting and disseminating information and material on the issue;*
- *educating people about the issue;*
- *Networking with different groups consisting of NGOs, lawyers, bureaucrats, media persons, rural and urban elected representatives and officials from public bodies, students and youth groups.*
- *promoting debates and discussions on the issue; and*
- *carrying this feedback to policy makers.*

We are grateful to the Friedrich Naumann Stiftung (FNSt) and the Canadian International Development Agency (CIDA) for supporting our work on Right to Information.

CHRI
N-8, IInd Floor, Green Park Main
New Delhi-110016 INDIA
Tel: +91-11-686 4678, 685 0523
Fax: +91-11-686 4688
E-mail: chriall@nda.vsnl.net.in
http://www.humanrightsinitiative.org

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GOVERNMENT OF KARNATAKA

DEPARTMENT OF PARLIAMENTARY AFFAIRS AND LEGISLATION

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1134

GENERAL CONTENTS

2000 ದ ಕರ್ನಾಟಕ ಅಧಿನಿಯಮ ಸಂಖ್ಯೆ 28

ಕರ್ನಾಟಕ ಮಾಹಿತಿ ಪಡೆಯಲು ಹಕ್ಕು ಅಧಿನಿಯಮ, 2000

ಪ್ರಕರಣಗಳ ಕ್ರಮ ಪಟ್ಟಿ

ಪ್ರಕರಣಗಳು :

ಉದ್ದೇಶಗಳು ಮತ್ತು ಕಾರಣಗಳ ಹೇಳಿಕೆ

ರಾಜ್ಯದ ನಾಗರಿಕರಿಗೆ ಮಾಹಿತಿಯನ್ನು ಪಡೆಯುವ ಅವಕಾಶದ ಹಕ್ಕಿಗಾಗಿ ಉಪಬಂಧ ಕಲ್ಪಿಸಲು ಒಂದು ಶಾಸನ ರಚಿಸುವುದು ಅವಶ್ಯವೆಂದು ಪರಿಗಣಿಸಲಾಗಿದೆ. ಇದು ಆಡಳಿತದಲ್ಲಿ ಮುಕ್ತತೆ, ಪಾರದರ್ಶಕತೆ ಮತ್ತು ಹೊಣೆಗಾರಿಕೆಯನ್ನು ಹೆಚ್ಚಿಸುತ್ತದೆ ಮತ್ತು ಜನರು ಆಡಳಿತದಲ್ಲಿ ಪರಿಣಾಮಕಾರಿಯಾಗಿ ಭಾಗವಹಿಸುವುದನ್ನು ಖಚಿತಪಡಿಸಿಕೊಳ್ಳುತ್ತದೆ.

ಕರ್ನಾಟಕ ಮಾಹಿತಿ ಪಡೆಯಲು ಹಕ್ಕು ವಿಧೇಯಕ, 2000, ಇದು ಇತರ ವಿಷಯಗಳೊಂದಿಗೆ ಈ ಮುಂದಿನವುಗಳಿಗಾಗಿ ಉಪಬಂಧಿಸುತ್ತದೆ, ಎಂದರೆ:-

(i) 3ನೇ ಖಂಡದಲ್ಲಿ ಉಲ್ಲೇಖಿಸಲಾದ ನಿರ್ದಿಷ್ಟ ಮಾಹಿತಿಯನ್ನು ಬಹಿರಂಗಪಡಿಸುವಂತೆ ಸಾರ್ವಜನಿಕ ಪ್ರಾಧಿಕಾರಗಳನ್ನು ಅಗತ್ಯಪಡಿಸುವುದು.

(ii) 4ನೇ ಖಂಡದಲ್ಲಿ ಹೇಳಿದಂತೆ ಮಾಹಿತಿ ನೀಡಬೇಕಾಗಿಲ್ಲದ ನಿರ್ದಿಷ್ಟ ಸಂದರ್ಭಗಳನ್ನು ಪಟ್ಟಿ ಮಾಡುವುದು;

(iii) ಮಾಹಿತಿ ಒದಗಿಸುವುದಕ್ಕಾಗಿ ಕಾರ್ಯವಿಧಾನವನ್ನು ನಿರ್ದಿಷ್ಟಪಡಿಸುವುದು;

(iv) ನಿರ್ದಿಷ್ಟ ಪ್ರಕರಣಗಳಲ್ಲಿ ಮಾಹಿತಿ ಒದಗಿಸಲು ನಿರಾಕರಿಸುವುದಕ್ಕೆ ಸಂಬಂಧಿಸಿದಂತೆ ಆಧಾರಗಳನ್ನು ನಿರ್ದಿಷ್ಟಪಡಿಸುವುದು;

(v) ಯಾವುದೇ ಸೂಕ್ತ ಕಾರಣವಿಲ್ಲದೇ ಮಾಹಿತಿ ನೀಡಲು ತಪ್ಪುವುದಕ್ಕಾಗಿ ಸಕ್ಷಮ ಪ್ರಾಧಿಕಾರಿಯ ಮೇಲೆ ಎರಡು ಸಾವಿರ ರೂಪಾಯಿಗಳವರೆಗೆ ದಂಡನೆಯನ್ನು ವಿಧಿಸುವುದು;

(vi) ಸಕ್ಷಮ ಪ್ರಾಧಿಕಾರಿಯ ಆದೇಶದ ವಿರುದ್ಧ ಅಪೀಲು ಸಲ್ಲಿಸುವುದಕ್ಕೆ ಮತ್ತು ಕರ್ನಾಟಕ ಅಪೀಲು ನ್ಯಾಯಾಧಿಕರಣಕ್ಕೆ ಎರಡನೇ ಅಪೀಲನ್ನು ಸಲ್ಲಿಸುವುದಕ್ಕೆ ಅವಕಾಶ ಕಲ್ಪಿಸುವುದು.

ಕೆಲವು ಆನುಷಂಗಿಕವಾದ ಉಪಬಂಧಗಳನ್ನು ಸಹ ಮಾಡಲಾಗಿದೆ.

ವಿಷಯವು ತುರ್ತು ಸ್ವರೂಪದ್ದಾದ್ದರಿಂದ ಮತ್ತು ಕರ್ನಾಟಕ ವಿಧಾನ ಪರಿಷತ್ತು ಅಧಿವೇಶನದಲ್ಲಿಲ್ಲದಿದ್ದುದರಿಂದ, ಮೇಲ್ಕಂಡ ಉದ್ದೇಶವನ್ನು ಸಾಧಿಸುವುದಕ್ಕಾಗಿ ಕರ್ನಾಟಕ ಮಾಹಿತಿ ಪಡೆಯಲು ಹಕ್ಕು ಅಧ್ಯಾದೇಶ 2000ವನ್ನು (2000ದ ಕರ್ನಾಟಕ ಅಧ್ಯಾದೇಶ ಸಂಖ್ಯೆ 9) ಪ್ರಖ್ಯಾಪಿಸಲಾಯಿತು.

ಆದ್ದರಿಂದ ಈ ವಿಧೇಯಕ.

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2000 ದ ಕರ್ನಾಟಕ ಅಧಿನಿಯಮ ಸಂಖ್ಯೆ 28

(2000 ದ ಡಿಸೆಂಬರ್ ಹದಿಮೂರನೇ ದಿನಾಂಕದಂದು ಕರ್ನಾಟಕ ರಾಜ್ಯಪತ್ರದ ವಿಶೇಷ ಸಂಚಿಕೆಯಲ್ಲಿ ಮೊದಲು ಪ್ರಕಟವಾಗಿದೆ)

ಕರ್ನಾಟಕ ಮಾಹಿತಿ ಪಡೆಯಲು ಹಕ್ಕು ಅಧಿನಿಯಮ, 2000

(2000 ದ ಡಿಸೆಂಬರ್ ಹತ್ತನೇ ದಿನಾಂಕದಂದು ರಾಜ್ಯಪಾಲರ ಅನುಮತಿಯನ್ನು ಪಡೆಯಲಾಗಿದೆ)

ರಾಜ್ಯದ ನಾಗರಿಕರು ಮಾಹಿತಿಯನ್ನು ಪಡೆಯುವ ಅವಕಾಶದ ಹಕ್ಕಿಗಾಗಿ ಮತ್ತು ಅದಕ್ಕೆ ಸಂಬಂಧಪಟ್ಟ ಅಥವಾ ಅದಕ್ಕೆ ಆನುಷಂಗಿಕವಾದ ವಿಷಯಗಳಿಗಾಗಿ ಉಪಬಂಧ ಕಲ್ಪಿಸಲು ಒಂದು ಅಧಿನಿಯಮ.

ಸರ್ಕಾರವು ಹೊಂದಿರುವ ಮಾಹಿತಿಯ ಹಕ್ಕನ್ನು, ಸಂವಿಧಾನದಲ್ಲಿ ನಾಗರಿಕರಿಗೆ ಖಾತರಿ ಪಡಿಸಿದ ವಾಕ್ ಮತ್ತು ಅಭಿವ್ಯಕ್ತಿಯ ಹಕ್ಕಿನ ಒಂದು ಭಾಗವೆಂದು ಸರ್ವೋಚ್ಚ ನ್ಯಾಯಾಲಯವು ಒಪ್ಪಿಕೊಂಡಿರುವುದರಿಂದ;

ಮತ್ತು ರಾಜ್ಯದ ನಾಗರಿಕರಿಗೆ ಮಾಹಿತಿಯನ್ನು ಪಡೆಯುವ ಅವಕಾಶದ ಹಕ್ಕಿಗಾಗಿ ಉಪಬಂಧ ಕಲ್ಪಿಸುವುದರಿಂದಾಗಿ ಆಡಳಿತದಲ್ಲಿ ಮುಕ್ತತೆ, ಪಾರದರ್ಶಕತೆ ಮತ್ತು ಹೊಣೆಗಾರಿಕೆಯನ್ನು ಹೆಚ್ಚಿಸುವುದರಿಂದ ಮತ್ತು ಜನರು ಆಡಳಿತದಲ್ಲಿ ಪರಿಣಾಮಕಾರಿಯಾಗಿ ಭಾಗವಹಿಸುವುದನ್ನು ಖಚಿತಪಡಿಸಿಕೊಳ್ಳುವುದರಿಂದ ಮತ್ತು ಆ ಮೂಲಕ ಪ್ರಜಾಪ್ರಭುತ್ವ ವ್ಯವಸ್ಥೆಯನ್ನು ಅರ್ಥಪೂರ್ಣವಾಗಿ ಮಾಡುವುದರಿಂದ;

ಮತ್ತು ರಾಜ್ಯದ ನಾಗರಿಕರು ಮಾಹಿತಿ ಪಡೆಯುವ ಅವಕಾಶದ ಹಕ್ಕಿಗಾಗಿ ಮತ್ತು ಅದಕ್ಕೆ ಸಂಬಂಧಪಟ್ಟ ಅಥವಾ ಅದಕ್ಕೆ ಆನುಷಂಗಿಕವಾದ ವಿಷಯಗಳಿಗಾಗಿ ಮತ್ತು ಇದರಲ್ಲಿ ಇನ್ನು ಮುಂದೆ ಕಂಡುಬರುವ ಉದ್ದೇಶಗಳಿಗಾಗಿ ಉಪಬಂಧ ಕಲ್ಪಿಸುವುದು ಯುಕ್ತವಾಗಿರುವುದರಿಂದ;

ಇದು ಭಾರತ ಗಣರಾಜ್ಯದ ಐವತ್ತೊಂದನೇ ವರ್ಷದಲ್ಲಿ ಕರ್ನಾಟಕ ರಾಜ್ಯ ವಿಧಾನ ಮಂಡಲದಿಂದ ಈ ಮುಂದಿನಂತೆ ಅಧಿನಿಯಮಿತವಾಗಲಿ, ಎಂದರೆ:-

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ಕರ್ನಾಟಕ ರಾಜ್ಯ ಪತ್ರದ ಭಾಗ - IV-ಎ ವಿಶೇಷ ಪತ್ರಿಕೆ ಸಂಖ್ಯೆ. 1788 ದಿನಾಂಕ. 13-12-2000 ದಲ್ಲಿ ಪ್ರಕಟಿತ. (ಕಡತ ಸಂಖ್ಯೆ ಸಂವ್ಯಶಾಇ 47 ಶಾಸನ 2000)

1. ಸಂಕ್ಷಿಪ್ತ ಹೆಸರು ಮತ್ತು ಪ್ರಾರಂಭ.- (1) ಈ ಅಧಿನಿಯಮವನ್ನು ಕರ್ನಾಟಕ ಮಾಹಿತಿ ಪಡೆಯಲು ಹಕ್ಕು ಅಧಿನಿಯಮ, 2000 ಎಂದು ಕರೆಯತಕ್ಕದ್ದು.

(2) ಇದು, ರಾಜ್ಯ ಸರ್ಕಾರವು ಅಧಿಸೂಚನೆಯ ಮೂಲಕ ಗೊತ್ತುಪಡಿಸಬಹುದಾದಂತೆ ಅಂಥ [1][ದಿನಾಂಕದಿಂದ][1] ಜಾರಿಗೆ ಬರತಕ್ಕದ್ದು ಮತ್ತು ಈ ಅಧಿನಿಯಮದ ಬೇರೆ ಬೇರೆ ಉಪಬಂಧಗಳಿಗೆ ಬೇರೆ ಬೇರೆ ದಿನಾಂಕಗಳನ್ನು ಗೊತ್ತುಪಡಿಸಬಹುದು.

2. ಪರಿಭಾಷೆಗಳು.- ಈ ಅಧಿನಿಯಮದಲ್ಲಿ ಸಂದರ್ಭವು ಅನ್ಯಥಾ ಅಗತ್ಯಪಡಿಸಿದ ಹೊರತು,

(ಎ) " ಸಕ್ಷಮ ಪ್ರಾಧಿಕಾರ" ಎಂದರೆ, ಕಚೇರಿಯ ಮುಖ್ಯಸ್ಥರು ಅಥವಾ ಈ ಅಧಿನಿಯಮದ ಉದ್ದೇಶಗಳಿಗಾಗಿ ರಾಜ್ಯ ಸರ್ಕಾರವು ಸೂಚಿಸಬಹುದಾದಂತೆ, ಯಾವೊಬ್ಬ ಅಧಿಕಾರಿ ಅಥವಾ ವ್ಯಕ್ತಿ:

ಪರಂತು, 5ನೇ ಪ್ರಕರಣದ (2)ನೇ ಉಪ ಪ್ರಕರಣದ ಪರಂತುಕದ ಅಡಿಯಲ್ಲಿ ಸಕ್ಷಮ ಪ್ರಾಧಿಕಾರವು ಅರ್ಜಿಯನ್ನು ಯಾವೊಬ್ಬ ಅಧಿಕಾರಿ ಅಥವಾ ವ್ಯಕ್ತಿಗೆ ವರ್ಗಾಯಿಸಿದಾಗ, ಅಂಥ ಅಧಿಕಾರಿ ಅಥವಾ ವ್ಯಕ್ತಿಯನ್ನು ಸಕ್ಷಮ ಪ್ರಾಧಿಕಾರವೆಂದು ಭಾವಿಸತಕ್ಕದ್ದು.

(ಬಿ) "ಮಾಹಿತಿ" ಎಂದರೆ, ಆಡಳಿತ ವ್ಯವಹಾರಗಳಿಗೆ ಅಥವಾ ಒಂದು ಸಾರ್ವಜನಿಕ ಪ್ರಾಧಿಕಾರದ ತೀರ್ಮಾನಗಳಿಗೆ ಸಂಬಂಧಪಟ್ಟ ಯಾವುದೇ ವಿಷಯಕ್ಕೆ ಸಂಬಂಧಿಸಿದ ಮಾಹಿತಿ;

(ಸಿ) "ಸಾರ್ವಜನಿಕ ಪ್ರಾಧಿಕಾರ" ಎಂದರೆ,-

(i) ಕರ್ನಾಟಕ ಲೋಕ ಸೇವಾ ಆಯೋಗವನ್ನು ಒಳಗೊಂಡಂತೆ ರಾಜ್ಯ ಸರ್ಕಾರದ ಎಲ್ಲ ಕಚೇರಿಗಳು;

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1. ಅಧಿನಿಯಮದ 1 ಮತ್ತು 12ನೇ ಪ್ರಕರಣದ ಉಪಬಂಧಗಳು 2001ನೇ ಅಕ್ಟೋಬರ್ 12ನೇ ದಿನದಿಂದ ಜಾರಿಗೆ ಬಂದಿವೆ. ಅಧಿಸೂಚನೆ ಸಂಖ್ಯೆ ವಾವ್ರಯು 244 ವಾಪ್ರಸಿ 2000 ಬೆಂಗಳೂರು-1 ದಿನಾಂಕ: 12.10.2001 ರಲ್ಲಿ ಪುಟ 40 ರಲ್ಲಿ ನೋಡಬಹುದು. ಅಧಿನಿಯಮದ ಪ್ರಕರಣ 3 ರ ಖಂಡ (ಸಿ) ಮತ್ತು (ಡಿ) ಯ ಉಪಬಂಧಗಳನ್ನು ಹೊರತುಪಡಿಸಿ ಪ್ರಕರಣ 2 ರಿಂದ 11 ಮತ್ತು 13ನೇ ಪ್ರಕರಣದ ಉಪಬಂಧಗಳು ದಿನಾಂಕ: 18.7.2002 ರಿಂದ ಜಾರಿಗೆ ಬಂದಿವೆ. ಅಧಿಸೂಚನೆ ಸಂಖ್ಯೆ ಸಿಆಸುಇ 56 ಯೋಮಸ 2002 (1) ದಿನಾಂಕ: 18.7.2002 ರಲ್ಲಿ ಪುಟ 40 ರಲ್ಲಿ ನೋಡಬಹುದು.

(ii) ತತ್ಕಾಲದಲ್ಲಿ ಜಾರಿಯಲ್ಲಿರುವ ರಾಜ್ಯ ವಿಧಾನ ಮಂಡಲದ ಯಾವುದೇ ಅಧಿನಿಯಮದ ಮೂಲಕ ಅಥವಾ ಅಡಿಯಲ್ಲಿ ರಚಿತವಾದ ಎಲ್ಲ ಸ್ಥಳೀಯ ಪ್ರಾಧಿಕಾರಗಳು, ಎಲ್ಲ ಪ್ರಾಧಿಕಾರಗಳು ಮತ್ತು ರಾಜ್ಯ ಸರ್ಕಾರವು ಹಣ ಒದಗಿಸಿರುವ, ಅದರ ಸ್ವಾಮ್ಯದಲ್ಲಿರುವ, ಅಥವಾ ನಿಯಂತ್ರಣದಲ್ಲಿರುವ ಒಂದು ಕಂಪನಿ, ನಿಗಮ, ನ್ಯಾಸ, ಸಂಘ, ಯಾವುದೇ ಶಾಸನಬದ್ಧ ಅಥವಾ ಇತರ ಪ್ರಾಧಿಕಾರ, ಸಹಕಾರ ಸಂಘ ಅಥವಾ ಯಾವುದೇ ಸಂಸ್ಥೆ ಅಥವಾ ನಿಕಾಯ;

ಆದರೆ,

(i) ಕೇಂದ್ರ ಸರ್ಕಾರದ ಕಚೇರಿಗಳು;

(ii) ಸಶಸ್ತ್ರ ದಳಗಳ ಅಥವಾ ಕೇಂದ್ರ ಅರೆ ಸೈನಿಕದಳಗಳ ಯಾವುದೇ ಕಾರ್ಯಸಂಸ್ಥೆ;

(iii) ಕೇಂದ್ರ ಸರ್ಕಾರದ ಸ್ವಾಮ್ಯದಲ್ಲಿರುವ ಅಥವಾ ನಿಯಂತ್ರಣದಲ್ಲಿರುವ ನಿಕಾಯ ಅಥವಾ ನಿಗಮ;

- ಇವುಗಳನ್ನು ಒಳಗೊಳ್ಳುವುದಿಲ್ಲ.

(ಡಿ) " ಮಾಹಿತಿ ಪಡೆಯಲು ಹಕ್ಕು " ಎಂದರೆ,

(i) ಯಾವುದೇ ದಾಖಲೆಗಳ ಪ್ರಮಾಣಿತ ಪ್ರತಿಗಳನ್ನು ಪಡೆದುಕೊಳ್ಳುವ ಮೂಲಕ,

(ii) ಕಂಪ್ಯೂಟರಿನಲ್ಲಿ ಅಥವಾ ಇತರ ಯಾವುದೇ ಸಾಧನದಲ್ಲಿ ಯಾವುದೇ ಮಾಹಿತಿಯನ್ನು ಸಂಗ್ರಹಿಸಿರುವಲ್ಲಿ ಅದನ್ನು ಡಿಸ್ಕೆಟ್‌ಗಳ, ಫ್ಲಾಪಿಗಳ ಅಥವಾ ಯಾವುದೇ ಇಲೆಕ್ಟ್ರಾನಿಕ್ ವಿಧಾನದ ಮೂಲಕ ಅಥವಾ ಪ್ರಿಂಟ್‌ಔಟ್‌ಗಳ ಮೂಲಕ,

(iii) ನಿಯಮಿಸಬಹುದಾದಂತೆ ಅಂಥ ಇತರ ವಿಧಾನದ ಮೂಲಕ,

- ಯಾವುದೇ ಸಾರ್ವಜನಿಕ ಪ್ರಾಧಿಕಾರದಿಂದ ಅಂಥ ಮಾಹಿತಿಯನ್ನು ಪಡೆದುಕೊಳ್ಳುವ ಅವಕಾಶದ ಹಕ್ಕು;

(ಇ) "ದಾಖಲೆ"ಯು,

(i) ಯಾವುದೇ ದಸ್ತಾವೇಜು, ಹಸ್ತಪ್ರತಿ ಮತ್ತು ಕಡತವನ್ನು,

(ii) ಯಾವುದೇ ದಸ್ತಾವೇಜಿನ ಮೈಕ್ರೋಫಿಲಂ, ಮೈಕ್ರೋ ಫಿಷ್, ಮತ್ತು ಪಡಿಯಚ್ಚು ಪ್ರತಿಯನ್ನು ;

(iii) ಅಂಥ ಮೈಕ್ರೋಫೈಲಿನಲ್ಲಿ (ಗಾತ್ರವನ್ನು ವಿಸ್ತರಿಸಿರಲಿ ಅಥವಾ ವಿಸ್ತರಿಸದಿರಲಿ) ಸೇರಿಕೊಂಡಿರುವ ಪ್ರತಿರೂಪ (ಇಮೇಜ್) ಅಥವಾ ಪ್ರತಿರೂಪಗಳ ಪ್ರತಿ ತೆಗೆಯುವುದನ್ನು, ಮತ್ತು

(iv) ಕಂಪ್ಯೂಟರಿನ ಅಥವಾ ಯಾವುದೇ ಇತರ ಸಾಧನದ ಮೂಲಕ ಸಿದ್ಧಪಡಿಸಲಾದ ಯಾವುದೇ ಇತರ ವಿಷಯವನ್ನು

- ಒಳಗೊಳ್ಳುತ್ತದೆ.

(ಎಫ್) ' ವೃತ್ತಿ ರಹಸ್ಯ' ಎಂದರೆ, ಸಾಮಾನ್ಯವಾಗಿ ತಿಳಿದಿಲ್ಲದ ಮತ್ತು ಆರ್ಥಿಕ ಮೌಲ್ಯವಿರಬಹುದಾದ ಒಂದು ಸೂತ್ರ, ಪದ್ಧತಿ, ಸಂಕಲನ, ಕಾರ್ಯಕ್ರಮ, ಸಾಧನ, ಉತ್ಪನ್ನ, ವಿಧಾನ, ತಂತ್ರ, ಅಥವಾ ಪ್ರಕ್ರಿಯೆಯಲ್ಲಿ ಒಳಗೊಂಡ ಮಾಹಿತಿ.

3. ಸಾರ್ವಜನಿಕ ಪ್ರಾಧಿಕಾರಗಳ ಹೊಣೆಗಾರಿಕೆ.- ಪ್ರತಿಯೊಂದು ಸಾರ್ವಜನಿಕ ಪ್ರಾಧಿಕಾರವು,-

(ಎ) ಎಲ್ಲ ದಾಖಲೆಗಳನ್ನು, ಅದರ ನಿರ್ವಹಣೆಯ ಅಗತ್ಯತೆಗಳಿಗೆ ಸುಸಂಗತವಾದ ಅಂಥ ರೀತಿಯಲ್ಲಿ ಮತ್ತು ಸಮೂನೆಯಲ್ಲಿ, ಕ್ರಮಬದ್ಧ ಸೂಚಿ ಪಟ್ಟಿ ಮತ್ತು ಸೂಚಿಗಳೊಂದಿಗೆ ನಿರ್ವಹಿಸತಕ್ಕದ್ದು;

(ಬಿ) ನಿಯಮಿಸಬಹುದಾದ ಅಂಥ ಅವಧಿಯ ಅಂತರದಲ್ಲಿ ಈ ಮುಂದಿನವುಗಳನ್ನು ಪ್ರಕಟಿಸತಕ್ಕದ್ದು,

(i) ಅದರ ಸಂಘಟನೆ, ಪ್ರಕಾರ್ಯಗಳು ಮತ್ತು ಕರ್ತವ್ಯಗಳ ವಿವರಗಳು;

(ii) ಅಧಿಕಾರಿಗಳು ಮತ್ತು ನೌಕರರ ಅಧಿಕಾರಗಳು ಮತ್ತು ಕರ್ತವ್ಯಗಳು ಮತ್ತು ತೀರ್ಮಾನ ಕೈಗೊಳ್ಳುವಲ್ಲಿ ಅವರು ಅನುಸರಿಸುವ ಕಾರ್ಯವಿಧಾನ;

(iii) ತನ್ನ ಪ್ರಕಾರ್ಯಗಳನ್ನು ನಿರ್ವಹಿಸುವಲ್ಲಿ ಸಾರ್ವಜನಿಕ ಪ್ರಾಧಿಕಾರವು ರೂಪಿಸಿರುವ ಗುಣಮಟ್ಟಗಳು;

(iv) ಮಾಹಿತಿಯನ್ನು ಪಡೆಯುವುದಕ್ಕಾಗಿ ನಾಗರಿಕರಿಗೆ ದೊರೆಯಬಹುದಾದ ಅನುಕೂಲತೆಗಳ ವಿವರಗಳು;

(ಸಿ) ಯಾವ ಮುಖ್ಯ ತೀರ್ಮಾನಗಳು ಮತ್ತು ಕಾರ್ಯನೀತಿಗಳನ್ನು ಪ್ರಕಟಿಸುವಾಗ ಅವುಗಳಿಂದ ಸಾರ್ವಜನಿಕರಿಗೆ ಬಾಧೆಯುಂಟಾಗುವುದೋ ಅಂಥ ಪ್ರಮುಖ ತೀರ್ಮಾನಗಳು ಮತ್ತು ಕಾರ್ಯನೀತಿಗಳಿಗೆ ಸಂಬಂಧಿಸಿದ ಎಲ್ಲ ಸುಸಂಬದ್ಧ ಸಂಗತಿಗಳನ್ನು ನಿಯಮಿಸಬಹುದಾದಂತೆ ಪ್ರಕಟಿಸತಕ್ಕದ್ದು.

(ಡಿ) ರಾಜ್ಯ ಸರ್ಕಾರವು ನಿರ್ದಿಷ್ಟಪಡಿಸಬಹುದಾದಂತೆ, ಯಾವುದೇ ಪ್ರಾಜೆಕ್ಟ್, ಸ್ಕೀಂ ಅಥವಾ ಕಾರ್ಯಚಟುವಟಿಕೆಯನ್ನು ಮಂಜೂರು ಮಾಡುವುದಕ್ಕೆ ಅಥವಾ ಉಪಕ್ರಮಿಸುವುದಕ್ಕೆ ಮೊದಲು ಅಥವಾ ಮಂಜೂರು ಮಾಡುವಂತೆ ಅಥವಾ ಉಪಕ್ರಮಿಸುವಂತೆ ಮಾಡುವ ಮೊದಲು ಸಾಮಾನ್ಯವಾಗಿ ಸಾರ್ವಜನಿಕರಿಗೆ ಅಥವಾ ವಿಶೇಷವಾಗಿ ಅಂಥ ಪ್ರಾಜೆಕ್ಟ್, ಸ್ಕೀಂ ಅಥವಾ ಕಾರ್ಯಚಟುವಟಿಕೆಗಳಿಂದ, ಬಾಧಿತರಾದ ಅಥವಾ ಬಾಧಿತರಾಗಬಹುದಾದ ವ್ಯಕ್ತಿಗಳಿಗೆ ಅದಕ್ಕೆ ಲಭ್ಯವಿರುವ ಅಥವಾ ಯುಕ್ತ ಅವಕಾಶವಿರಬಹುದಾದ, ಅದರ ಅಭಿಪ್ರಾಯದಲ್ಲಿ ಪ್ರಜಾಪ್ರಭುತ್ವ ತತ್ವಗಳ ನಿರ್ವಹಣೆಯ ಉತ್ತಮ ಹಿತಾಸಕ್ತಿಯಲ್ಲಿ ಅವರಿಗೆ ತಿಳಿದಿರಬೇಕಾದ ವಿಷಯಗಳನ್ನು ನಿಯಮಿಸಬಹುದಾದ ಅಂಥ ರೀತಿಯಲ್ಲಿ ಪ್ರಕಟಿಸತಕ್ಕದ್ದು ಅಥವಾ ತಿಳಿಸತಕ್ಕದ್ದು.

(ಇ) ನಿಯಮಿಸಬಹುದಾದಂತೆ ಅಂಥ ಇತರ ಮಾಹಿತಿಯನ್ನು ಪ್ರಕಟಿಸತಕ್ಕದ್ದು

4. ಮಾಹಿತಿಗಾಗಿ ಹಕ್ಕು.- (1) ಈ ಅಧಿನಿಯಮದ ಉಪಬಂಧಗಳಿಗೆ ಒಳಪಟ್ಟು, ಪ್ರತಿಯೊಬ್ಬ ನಾಗರಿಕನು, ಮಾಹಿತಿಯನ್ನು ಪಡೆಯಲು ಹಕ್ಕು ಹೊಂದಿರತಕ್ಕದ್ದು.

(2) (1)ನೇ ಉಪಪ್ರಕರಣದಲ್ಲಿ ಏನೇ ಒಳಗೊಂಡಿದ್ದರೂ, ಯಾವೊಬ್ಬ ವ್ಯಕ್ತಿಗೆ,-

(ಎ) ಯಾವ ಮಾಹಿತಿಯನ್ನು ಬಹಿರಂಗಪಡಿಸುವುದರಿಂದ, ಭಾರತದ ಸಾರ್ವಭೌಮತ್ವ ಮತ್ತು ಏಕತೆಗೆ, ರಾಜ್ಯದ ಭದ್ರತೆಗೆ, ಭಾರತದ ಕಾರ್ಯತಾಂತ್ರಿಕ, ವೈಜ್ಞಾನಿಕ ಅಥವಾ ಆರ್ಥಿಕ ಹಿತಾಸಕ್ತಿಗೆ ಅಥವಾ ಅಂತರ ರಾಷ್ಟ್ರೀಯ ಸಂಬಂಧಗಳ ನಿರ್ವಹಣೆಗೆ ಪ್ರತಿಕೂಲ ಪರಿಣಾಮ ಉಂಟಾಗುವುದೋ ಆ ಮಾಹಿತಿಯನ್ನು;

(ಬಿ) ಯಾವ ಮಾಹಿತಿಯನ್ನು ಬಹಿರಂಗಪಡಿಸುವುದರಿಂದ ಸಾರ್ವಜನಿಕ ಸುರಕ್ಷೆ ಮತ್ತು ಸುವ್ಯವಸ್ಥೆ ಅಥವಾ ಅಪರಾಧ ಘಟಿಸುವುದಕ್ಕೆ ಪ್ರಚೋದನೆ ನೀಡುವುದೋ ಅಥವಾ ಇತ್ಯರ್ಥದಲ್ಲಿರುವ ಒಂದು ಪ್ರಕರಣದ ನ್ಯಾಯೋಚಿತ ಅಧಿವಿಚಾರಣೆಗೆ

ಅಥವಾ ನ್ಯಾಯ ನಿರ್ಣಯಕ್ಕೆ ಪ್ರತಿಕೂಲ ಪರಿಣಾಮ ಉಂಟಾಗುವುದೋ ಆ ಮಾಹಿತಿಯನ್ನು;

(ಸಿ) ಮಂತ್ರಿ ಮಂಡಲದ, ಕಾರ್ಯದರ್ಶಿಗಳ ಮತ್ತು ಇತರ ಅಧಿಕಾರಿಗಳ ಚರ್ಚಾ ವಿಷಯಗಳ ದಾಖಲೆಗಳೂ ಒಳಗೊಂಡಂತೆ ಸಚಿವ ಸಂಪುಟದ ಕಾಗದ ಪತ್ರಗಳಿಗೆ ಸಂಬಂಧಪಟ್ಟ ಮಾಹಿತಿಯನ್ನು:

ಪರಂತು, ಸಚಿವ ಸಂಪುಟದ ಅಂಥ ತೀರ್ಮಾನಗಳಿಗೆ ಸಂಬಂಧಿಸಿದ ಮಾಹಿತಿಯನ್ನು ತೀರ್ಮಾನಗಳಿಗೆ ಪೂರಕವಾದ ಕಾರಣಗಳೊಡನೆ ಲಭ್ಯವಾಗುವಂತೆ ಮಾಡತಕ್ಕದ್ದು ಮತ್ತು ಸಚಿವ ಸಂಪುಟದ ತೀರ್ಮಾನದ ಆಧಾರದ ಮೇಲೆ ಹೊರಡಿಸಲಾದ ಪ್ರತಿಯೊಂದು ಸರ್ಕಾರಿ ಆದೇಶದೊಂದಿಗೆ ಯಾವ ಕಾರಣಗಳ ಆಧಾರದ ಮೇಲೆ ಮತ್ತು ಯಾವ ಸನ್ನಿವೇಶಗಳಲ್ಲಿ ತೀರ್ಮಾನವನ್ನು ಕೈಗೊಳ್ಳಲಾಯಿತೋ ಅವುಗಳನ್ನು ವಿವರಿಸುವ ಒಂದು ಹೇಳಿಕೆಯು ಇರತಕ್ಕದ್ದು.

(ಡಿ) ಯಾವ ಮಾಹಿತಿಯನ್ನು ಬಹಿರಂಗಪಡಿಸುವುದರಿಂದ ಇಲಾಖೆಗಳ ನಡುವಿನ ಬಿಚ್ಚು ಮನಸ್ಸಿನ ಮತ್ತು ನಿಷ್ಕಪಟ ಆಂತರಿಕ ಚರ್ಚೆಗಳಿಗೆ ಹಾಗೂ ಆಂತರಿಕ ನೀತಿಯ ವಿಶ್ಲೇಷಣೆಗೆ ಸಂಬಂಧಪಟ್ಟಂಥ ಸಲಹೆ ಅಥವಾ ಅಭಿಪ್ರಾಯಗಳನ್ನು ಮತ್ತು ಯೋಜನೆಗಳು ಮತ್ತು ಊಹೆಗಳನ್ನು ಒಳಗೊಂಡಂತೆ ಇಲಾಖೆಗಳ ನಡುವಿನ ಅಥವಾ ಅವುಗಳೊಳಗಿನ ಟಿಪ್ಪಣಿಗಳು, ಪತ್ರ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಕಾಗದ ಪತ್ರಗಳಿಗೆ ಬಾಧೆಯುಂಟಾಗುವುದೋ ಆ ಮಾಹಿತಿಯನ್ನು:

ಪರಂತು, ಕಾರ್ಯಕಾರಿ ತೀರ್ಮಾನಗಳನ್ನು ಕೈಗೊಳ್ಳುವ ಅಥವಾ ಕಾರ್ಯನೀತಿಗಳನ್ನು ರೂಪಿಸುವ ಸಂಬಂಧದಲ್ಲಿ ಮಾಡಿದ ಅಥವಾ ನೀಡಿದ ಕಾನೂನು ಸಲಹೆ, ಅಭಿಪ್ರಾಯ ಅಥವಾ ಶಿಫಾರಸುಗಳು ಒಳಗೊಂಡಂತೆ ಅಂಥ ಟಿಪ್ಪಣಿಗಳ ಅಥವಾ ದಾಖಲೆಗಳ, ಸಲಹೆಗಳ ಮಾಹಿತಿಯನ್ನು ಕಾರ್ಯಕಾರಿ ತೀರ್ಮಾನವನ್ನು ಕೈಗೊಂಡ ತರುವಾಯ ಅಥವಾ ಕಾರ್ಯನೀತಿಯನ್ನು ರೂಪಿಸಿದ ತರುವಾಯ, ಲಭ್ಯವಾಗುವಂತೆ ಮಾಡತಕ್ಕದ್ದು.

(ಇ) ಯಾವ ಮಾಹಿತಿಯನ್ನು ಬಹಿರಂಗಪಡಿಸುವುದರಿಂದ, ಯಾವುದೇ ತೆರಿಗೆ, ಉಪಕರ, ಸುಂಕ ಅಥವಾ ಶುಲ್ಕದ ನಿರ್ಧರಣೆ ಅಥವಾ ಸಂಗ್ರಹಣೆಗೆ ಪ್ರತಿಕೂಲವಾಗಿ ಉಂಟಾಗುವುದೋ ಅಥವಾ ತೆರಿಗೆಯಿಂದ, ಉಪಕರದಿಂದ, ಸುಂಕದಿಂದ ಅಥವಾ ಶುಲ್ಕದಿಂದ ತಪ್ಪಿಸಿಕೊಳ್ಳಲು ಅಥವಾ ನುಣುಚಿಕೊಳ್ಳಲು ನೆರವಾಗುವುದೋ ಆ ಮಾಹಿತಿಯನ್ನು;

(ಎಫ್) ಯಾವ ಮಾಹಿತಿಯನ್ನು ಬಹಿರಂಗಪಡಿಸುವುದರಿಂದ ಸಂಸತ್ತಿನ ಅಥವಾ ರಾಜ್ಯ ವಿಧಾನ ಮಂಡಲದ ವಿಶೇಷಾಧಿಕಾರಗಳ ಉಲ್ಲಂಘನೆ ಮಾಡಿದಂತಾಗುವುದೋ, ಆ ಮಾಹಿತಿಯನ್ನು:

ಪರಂತು, ಸಕ್ಷಮ ಪ್ರಾಧಿಕಾರವು ಈ ಖಂಡದ ಅಡಿಯಲ್ಲಿ ಮಾಹಿತಿಯನ್ನು ತಡೆಹಿಡಿಯುವ ಮೊದಲು ವಿಷಯವನ್ನು ಸಂದರ್ಭಾನುಸಾರವಾಗಿ ಕರ್ನಾಟಕ ವಿಧಾನಸಭಾ ಸಚಿವಾಲಯ ಅಥವಾ ಕರ್ನಾಟಕ ವಿಧಾನ ಪರಿಷತ್ತಿನ ಸಚಿವಾಲಯಕ್ಕೆ, ವಿವಾದಾಂಶಗಳ ತೀರ್ಮಾನಕ್ಕಾಗಿ ಕಳುಹಿಸತಕ್ಕದ್ದು ಮತ್ತು ಸಚಿವಾಲಯವು ನೀಡಿದ ಸಲಹೆಯ ಮೇರೆಗೆ ಪ್ರವರ್ತಿಸತಕ್ಕದ್ದು.

ಮತ್ತು ಪರಂತು, ಈ ಖಂಡದ ಉದ್ದೇಶಕ್ಕಾಗಿ 5ನೇ ಪ್ರಕರಣದ (2)ನೇ ಉಪ ಪ್ರಕರಣದ ಅಡಿಯಲ್ಲಿ ಹದಿನೈದು ಕೆಲಸದ ದಿನಗಳ ಅವಧಿಯನ್ನು ಲೆಕ್ಕ ಹಾಕುವಾಗ, ಒಂದನೇ ಪರಂತುಕದ ಅಡಿಯಲ್ಲಿ ವಿವಾದಾಂಶಗಳ ತೀರ್ಮಾನಕ್ಕೆ ಅಗತ್ಯವಿರುವ ಸಮಯವನ್ನು ಹೊರತುಪಡಿಸತಕ್ಕದ್ದು.

(ಜಿ) ಕಾನೂನಿನ ಮೂಲಕ ಸಂರಕ್ಷಿತವಾದ ವ್ಯಾಪಾರ ಅಥವಾ ವಾಣಿಜ್ಯ ರಹಸ್ಯದ ಯಾವ ಮಾಹಿತಿಯನ್ನು ಬಹಿರಂಗ ಪಡಿಸುವುದರಿಂದ, ಸಾರ್ವಜನಿಕ ಪ್ರಾಧಿಕಾರದ ಕಾನೂನುಬದ್ಧ ಆರ್ಥಿಕ ಮತ್ತು ವಾಣಿಜ್ಯ ಹಿತಾಸಕ್ತಿಗೆ ಅಥವಾ ಅದರ ಸ್ಪರ್ಧಾತ್ಮಕ ಸ್ಥಾನಮಾನಕ್ಕೆ ಪ್ರತಿಕೂಲ ಪರಿಣಾಮ ಉಂಟಾಗುವುದೋ ಅಥವಾ ಯಾವೊಬ್ಬ ವ್ಯಕ್ತಿಗೆ ಅನುಚಿತ ಲಾಭ ಅಥವಾ ನಷ್ಟವನ್ನುಂಟು ಮಾಡುವುದೋ, ಆ ಮಾಹಿತಿಯನ್ನು;

(ಹೆಚ್) (i) ಕಾನೂನು ಅಭಿರಕ್ಷೆಯಿಂದ ತಪ್ಪಿಸಿಕೊಳ್ಳಲು ನೆರವಾಗುವ ಅಥವಾ ಅವಕಾಶ ಮಾಡಿಕೊಡುವ ಅಥವಾ ಕಾರಾಗೃಹದ ಭದ್ರತೆಗೆ ಬಾಧಕವಾಗಬಹುದಾದ;

(ii) ಅಪರಾಧಿಗಳ ತನಿಖೆ ಮಾಡುವ ಅಥವಾ ಬಂಧಿಸುವ ಅಥವಾ ಕಾನೂನು ವ್ಯವಹರಣೆಗೆ ಗುರಿಪಡಿಸುವ ಪ್ರಕ್ರಿಯೆಗೆ ಅಡ್ಡಿಯುಂಟುಮಾಡಬಹುದಾದ

- ಯಾವುದೇ ವಿಷಯಕ್ಕೆ ಸಂಬಂಧಿಸಿದ ಮಾಹಿತಿಯನ್ನು;

- ಕೊಡತಕ್ಕದ್ದಲ್ಲ.

5. ಮಾಹಿತಿ ಒದಗಿಸುವುದಕ್ಕಾಗಿ ಕಾರ್ಯವಿಧಾನ.- (1) ಮಾಹಿತಿಯನ್ನು ಪಡೆಯಲು ಇಚ್ಛಿಸುವ ಒಬ್ಬ ವ್ಯಕ್ತಿಯು, ನಿಯಮಿಸಲಾದ ವಿಧಾನದಲ್ಲಿ,

ನಿಯಮಿಸಬಹುದಾದ ಅಂಥ ಶುಲ್ಕದೊಂದಿಗೆ, ಅಂಥ ನಮೂನೆಯಲ್ಲಿ ಮತ್ತು ಅಂಥ ವಿವರಗಳೊಂದಿಗೆ ಸಕ್ಷಮ ಪ್ರಾಧಿಕಾರಕ್ಕೆ ಒಂದು ಅರ್ಜಿಯನ್ನು ಸಲ್ಲಿಸತಕ್ಕದ್ದು:

ಪರಂತು, ಸಂದಾಯವಾಗಬೇಕಾದ ಶುಲ್ಕವು ಮಾಹಿತಿಯನ್ನು ಒದಗಿಸುವುದರ ವಾಸ್ತವಿಕ ವೆಚ್ಚವನ್ನು ಮೀರತಕ್ಕದ್ದಲ್ಲ.

(2) ಮಾಹಿತಿಗಾಗಿ ಕೋರಿ ಸಲ್ಲಿಸಲಾದ ಅರ್ಜಿಯನ್ನು ಸ್ವೀಕರಿಸಿದ ಮೇಲೆ, ಸಕ್ಷಮ ಪ್ರಾಧಿಕಾರವು ಅದನ್ನು ಪರಿಗಣಿಸತಕ್ಕದ್ದು ಮತ್ತು ಸಮರ್ಥನೀಯವಾದ ಕಾರಣಗಳ ಹೊರತಾಗಿ ಅದನ್ನು ಮಂಜೂರು ಮಾಡಿ ಅಥವಾ ನಿರಾಕರಿಸಿ ಅದರ ಮೇಲೆ ಕಾರ್ಯಸಾಧ್ಯವಾದಷ್ಟು ಬೇಗನೇ ಮತ್ತು ಯಾವುದೇ ಸಂದರ್ಭದಲ್ಲಿ ಅರ್ಜಿಯನ್ನು ಸ್ವೀಕರಿಸಿದ ದಿನಾಂಕದಿಂದ ಹದಿನೈದು ಕೆಲಸದ ದಿನಗಳೊಳಗೆ, ಆದೇಶಗಳನ್ನು ಹೊರಡಿಸತಕ್ಕದ್ದು:

ಪರಂತು, ಸಕ್ಷಮ ಪ್ರಾಧಿಕಾರವು ಮಾಹಿತಿಯನ್ನು ಹೊಂದಿಲ್ಲದಿದ್ದರೆ, ಅರ್ಜಿಯನ್ನು ಸ್ವೀಕರಿಸಿದ ದಿನಾಂಕದಿಂದ ಹದಿನೈದು ದಿನಗಳೊಳಗೆ, ಯಾವ ಅಧಿಕಾರಿ ಅಥವಾ ವ್ಯಕ್ತಿಯಲ್ಲಿ ಅಂಥ ಮಾಹಿತಿಯು ಲಭ್ಯವಿದೆಯೋ ಅವನಿಗೆ ಅರ್ಜಿಯನ್ನು ವರ್ಗಾಯಿಸಬಹುದು ತದನುಸಾರವಾಗಿ ಅರ್ಜಿದಾರನಿಗೆ ತಿಳಿಸತಕ್ಕದ್ದು ಮತ್ತು ಆ ತರುವಾಯ, ಯಾವ ವ್ಯಕ್ತಿ ಅಥವಾ ಅಧಿಕಾರಿಗೆ ಅಂಥ ಅರ್ಜಿಯನ್ನು ವರ್ಗಾಯಿಸಲಾಗಿದೆಯೋ ಅವನು ಸಕ್ಷಮ ಪ್ರಾಧಿಕಾರದಿಂದ ಅರ್ಜಿಯನ್ನು ಸ್ವೀಕರಿಸಿದ ದಿನಾಂಕದಿಂದ ಹದಿನೈದು ಕೆಲಸದ ದಿನಗಳೊಳಗೆ ಮಾಹಿತಿಯನ್ನು ಒದಗಿಸತಕ್ಕದ್ದು.

(3) (2)ನೇ ಉಪಪ್ರಕರಣದ ಅಡಿಯಲ್ಲಿ ಕೋರಿಕೆಯನ್ನು ತಿರಸ್ಕರಿಸಿರುವ ಸಂದರ್ಭದಲ್ಲಿ ಸಕ್ಷಮ ಪ್ರಾಧಿಕಾರವು, ಕೋರಿಕೆಯನ್ನು ಸಲ್ಲಿಸಿದ ವ್ಯಕ್ತಿಗೆ ಈ ಮುಂದಿನವುಗಳನ್ನು ತಿಳಿಸತಕ್ಕದ್ದು:-

(i) ಹಾಗೆ ನಿರಾಕರಿಸಲು ಕಾರಣಗಳು;

(ii) ಹಾಗೆ ನಿರಾಕರಿಸಿದ್ದರ ವಿರುದ್ಧವಾಗಿ ಯಾವ ಅವಧಿಯೊಳಗೆ ಅಪೀಲನ್ನು ಸಲ್ಲಿಸಬಹುದೋ ಆ ಅವಧಿ;

(iii) ಅಪೀಲು ಪ್ರಾಧಿಕಾರದ ವಿವರಗಳು.

6. ಕೆಲವು ಪ್ರಕರಣಗಳಲ್ಲಿ ಮಾಹಿತಿಯನ್ನು ಒದಗಿಸಲು ನಿರಾಕರಿಸುವುದಕ್ಕೆ ಆಧಾರಗಳು.- 4ನೇ ಪ್ರಕರಣದ ಉಪಬಂಧಗಳಿಗೆ ಪ್ರತಿಕೂಲವಾಗದಂತೆ ಸಕ್ಷಮ ಪ್ರಾಧಿಕಾರವು, ಮಾಹಿತಿಗಾಗಿನ ಒಂದು ಕೋರಿಕೆಯನ್ನು, ಅಂಥ ಕೋರಿಕೆಯು,-

(ಎ) ತೀರಾ ಸಾಮಾನ್ಯ ಸ್ವರೂಪದ್ದಾಗಿದ್ದರೆ ಅಥವಾ ಕೋರಲಾದ ಮಾಹಿತಿಯು ಸಾರ್ವಜನಿಕ ಪ್ರಾಧಿಕಾರವು ಸಾಮಾನ್ಯವಾಗಿ ಸಂಗ್ರಹಿಸುವ ಅವಶ್ಯಕತೆಯಿಲ್ಲದ ಸ್ವರೂಪದ್ದಾಗಿದ್ದರೆ:

ಪರಂತು, ಅಂಥ ಕೋರಿಕೆಯನ್ನು ಮೇಲೆ ಹೇಳಿದ ಕಾರಣಕ್ಕಾಗಿ ತಿರಸ್ಕರಿಸಲಾಗಿದ್ದರೆ, ಮಾಹಿತಿಯನ್ನು ಒದಗಿಸುವುದನ್ನು ಸುಲಭಗೊಳಿಸಬಹುದಾದಂತೆ ಅಂಥ ರೀತಿಯಲ್ಲಿ ಆ ಕೋರಿಕೆಯನ್ನು ಪುನ: ರೂಪಿಸುವಂತೆ ಮಾಡಲು ಆ ವ್ಯಕ್ತಿಗೆ ಸಾಧ್ಯವಾದಷ್ಟು ನೆರವನ್ನು ಒದಗಿಸುವುದು ಸಕ್ಷಮ ಪ್ರಾಧಿಕಾರದ ಕರ್ತವ್ಯವಾಗಿರತಕ್ಕದ್ದು.

(ಬಿ) ಕಾನೂನಿನ, ನಿಯಮಗಳ, ವಿನಿಯಮಗಳ ಅಥವಾ ಆದೇಶಗಳ ಮೂಲಕ ಒಂದು ನಿರ್ದಿಷ್ಟ ಕಾಲದಲ್ಲಿ ಪ್ರಕಟಿಸಬೇಕಾಗಿ ಅಗತ್ಯಪಡಿಸಲಾದ ಮಾಹಿತಿಗೆ ಸಂಬಂಧಪಟ್ಟಿದ್ದರೆ ಅಥವಾ;

(ಸಿ) ಸಾರ್ವಜನಿಕರಿಗೆ ಲಭ್ಯವಿರುವ ಪ್ರಕಟಿತ ವಿಷಯದಲ್ಲಿ ಒಳಗೊಂಡ ಮಾಹಿತಿಗೆ ಸಂಬಂಧಪಟ್ಟಿದ್ದರೆ;

(ಡಿ) ಯಾವ ವೈಯಕ್ತಿಕ ಮಾಹಿತಿಯನ್ನು ಬಹಿರಂಗಪಡಿಸುವುದು ಯಾವುದೇ ಸಾರ್ವಜನಿಕ ಚಟುವಟಿಕೆಗಳಿಗೆ ಸಂಬಂಧಪಡುವುದಿಲ್ಲವೋ ಅಥವಾ ಬಹಿರಂಗಪಡಿಸುವುದು ಸಾರ್ವಜನಿಕ ಹಿತಾಸಕ್ತಿಗೆ ಅಧಿಕ ಪ್ರಮಾಣದಲ್ಲಿ ನೆರವಾಗುವ ಸಂದರ್ಭದ ಹೊರತಾಗಿ, ಅದು ಸಮರ್ಥಿಸಲಾಗದ ರೀತಿಯಲ್ಲಿ ಯಾವೊಬ್ಬ ವ್ಯಕ್ತಿಯ ಗೌಪ್ಯತೆಯನ್ನು ಅತಿಕ್ರಮಿಸುವಂತಿದ್ದರೆ

- ಅದನ್ನು ನಿರಾಕರಿಸಬಹುದು.

ಪರಂತು, ಮಾಹಿತಿಯು, ಯಾವೊಬ್ಬ ಸರ್ಕಾರಿ ನೌಕರನು ಸಲ್ಲಿಸಿದ ಆಸ್ತಿ ಮತ್ತು ಹೊಣೆಗಾರಿಕೆಯ ತ:ಖ್ತೆಗೆ ಸಂಬಂಧಪಟ್ಟಿದ್ದರೆ, ಸಾರ್ವಜನಿಕರಿಗೆ ಲಭ್ಯವಾಗುವಂತೆ ಮಾಡತಕ್ಕದ್ದು.

7. ಅಪೀಲುಗಳು.- (1) ನಿಯಮಿಸಬಹುದಾದ ಅಂಥ ನಿಯಮಗಳಿಗೆ ಒಳಪಟ್ಟು, ಯಾವೊಬ್ಬ ವ್ಯಕ್ತಿಯು,-

(i) ಸಕ್ಷಮ ಪ್ರಾಧಿಕಾರದ ಆದೇಶದಿಂದ ಬಾಧಿತನಾಗಿದ್ದರೆ, ಅಂಥ ಆದೇಶವನ್ನು ಪಡೆದ ದಿನಾಂಕದಿಂದ ಮೂವತ್ತು ದಿನಗಳ ಒಳಗೆ; ಅಥವಾ

(ii) 5ನೇ ಪ್ರಕರಣದ ಅಡಿಯಲ್ಲಿ ಅರ್ಜಿಯನ್ನು ಹಾಕಿಕೊಂಡ ದಿನಾಂಕದಿಂದ ಹದಿನೈದು ಕೆಲಸದ ದಿನಗಳ ಒಳಗೆ ಯಾವುದೇ ಸೂಚನೆಯನ್ನು ಪಡೆಯದಿದ್ದರೆ, ಅಂಥ ಅವಧಿಯ ತರುವಾಯದ ಮೂವತ್ತು ದಿನಗಳೊಳಗೆ,

- ನಿಯಮಿಸಬಹುದಾದ ಅಂಥ ಪ್ರಾಧಿಕಾರಕ್ಕೆ ಅಪೀಲನ್ನು ಸಲ್ಲಿಸಬಹುದು.

ಪರಂತು, 4ನೇ ಪ್ರಕರಣದ (2)ನೇ ಉಪ ಪ್ರಕರಣದ (ಎಫ್) ಖಂಡದ ಅಡಿಯಲ್ಲಿ ಮಾಹಿತಿಯನ್ನು ತಡೆದಿಡುವ ಆದೇಶದ ವಿರುದ್ಧ ಯಾವುದೇ ಅಪೀಲನ್ನು ಹೂಡತಕ್ಕದ್ದಲ್ಲ.

(2) ಅಪೀಲು ಪ್ರಾಧಿಕಾರವು, ಬಾಧಿತ ವ್ಯಕ್ತಿಗೆ ತನ್ನ ಅಹವಾಲನ್ನು ಹೇಳಿಕೊಳ್ಳಲು ಯುಕ್ತ ಅವಕಾಶವನ್ನು ಕೊಟ್ಟ ತರುವಾಯ ತಾನು ಯುಕ್ತವೆಂದು ಭಾವಿಸುವ ಅಂಥ ಆದೇಶವನ್ನು ಹೊರಡಿಸಬಹುದು.

(3) (2)ನೇ ಉಪ ಪ್ರಕರಣದ ಅಡಿಯಲ್ಲಿ ಅಪೀಲು ಪ್ರಾಧಿಕಾರದ ಆದೇಶದಿಂದ ಬಾಧಿತನಾದ ಯಾವೊಬ್ಬ ವ್ಯಕ್ತಿಯು ಕರ್ನಾಟಕ ಅಪೀಲು ನ್ಯಾಯಾಧಿಕರಣಕ್ಕೆ ಒಂದು ಅಪೀಲನ್ನು ಸಲ್ಲಿಸಬಹುದು.

(4) (1) ಮತ್ತು (3)ನೇ ಉಪ ಪ್ರಕರಣಗಳಲ್ಲಿ ಉಲ್ಲೇಖಿಸಲಾದ ಅಪೀಲುಗಳನ್ನು, ಅಂಥ ಅಪೀಲುಗಳನ್ನು ಸ್ವೀಕರಿಸಿದ ದಿನಾಂಕದಿಂದ ಮೂವತ್ತು ದಿನಗಳೊಳಗೆ ವಿಲೆ ಮಾಡತಕ್ಕದ್ದು.

8. ತೊಂದರೆಗಳನ್ನು ನಿವಾರಿಸಲು ಅಧಿಕಾರ.- ಈ ಅಧಿನಿಯಮದ ಉಪಬಂಧಗಳನ್ನು ಕಾರ್ಯಗತಗೊಳಿಸುವಲ್ಲಿ ಯಾವುದೇ ತೊಂದರೆಯು ಉದ್ಭವಿಸಿದರೆ, ರಾಜ್ಯಸರ್ಕಾರವು ಈ ಅಧಿನಿಯಮದ ಉಪಬಂಧಗಳಿಗೆ ಅಸಂಗತವಲ್ಲದ ಮತ್ತು ಆ ತೊಂದರೆಗಳನ್ನು ನಿವಾರಿಸುವುದಕ್ಕಾಗಿ ಅವಶ್ಯವೆಂದು ಅಥವಾ ವಿಹಿತವೆಂದು ತನಗೆ ಕಂಡುಬಂದ ಉಪಬಂಧಗಳನ್ನು ಆದೇಶದ ಮೂಲಕ ಮಾಡಬಹುದು:

ಪರಂತು, ಈ ಅಧಿನಿಯಮವು ಪ್ರಾರಂಭವಾದ ದಿನಾಂಕದಿಂದ ಎರಡು ವರ್ಷಗಳು ಮುಕ್ತಾಯವಾದ ತರುವಾಯ ಅಂಥ ಆದೇಶವನ್ನು ಹೊರಡಿಸತಕ್ಕದ್ದಲ್ಲ.

9. ದಂಡನೆಗಳು.- ಯಾವುದೇ ಸಕ್ಷಮ ಪ್ರಾಧಿಕಾರವು, 5ನೇ ಪ್ರಕರಣದ ಅಡಿಯಲ್ಲಿ ಗೊತ್ತುಪಡಿಸಿದ ಅವಧಿಯ ಒಳಗೆ, ಯಾವುದೇ ಯುಕ್ತ ಕಾರಣವಿಲ್ಲದೇ, ಕೋರಲಾದ ಮಾಹಿತಿಯನ್ನು ಒದಗಿಸಲು ವಿಫಲವಾದಲ್ಲಿ, ಅಥವಾ ಮುಖ್ಯ ವಿವರಗಳಿಗೆ

ಸಂಬಂಧಿಸಿದಂತೆ ಸತ್ಯವಲ್ಲದ ಹಾಗೂ ಸತ್ಯವಲ್ಲವೆಂದು ಅದು ತಿಳಿದಿರುವ ಅಥವಾ ಸತ್ಯವಲ್ಲವೆಂದು ನಂಬಲು ಯುಕ್ತ ಕಾರಣವಿರುವ ಮಾಹಿತಿಯನ್ನು ಒದಗಿಸಿದಲ್ಲಿ,

(i) ಸಕ್ಷಮ ಪ್ರಾಧಿಕಾರಕ್ಕೂ ಮೇಲಿನ ವರಿಷ್ಠ ಪ್ರಾಧಿಕಾರವು, ಅದಕ್ಕೆ ತನ್ನ ಅಹವಾಲನ್ನು ಹೇಳಿಕೊಳ್ಳಲು ಯುಕ್ತ ಅವಕಾಶವನ್ನು ಕೊಟ್ಟ ತರುವಾಯ ತಾನು ಸೂಕ್ತವೆಂದು ಭಾವಿಸಬಹುದಾದಂತೆ ಅಂಥ ಸಕ್ಷಮ ಪ್ರಾಧಿಕಾರಕ್ಕೆ ಎರಡು ಸಾವಿರ ರೂಪಾಯಿಗಳನ್ನು ಮೀರದ ದಂಡವನ್ನು ವಿಧಿಸಬಹುದು ಮತ್ತು ಅಂಥ ದಂಡವನ್ನು ಅವನ ವೇತನದಿಂದ ಅಥವಾ ಅವನು ಯಾವುದೇ ವೇತನ ಪಡೆಯದಿರುವಲ್ಲಿ, ಭೂಕಂದಾಯದ ಬಾಕಿ ಎಂಬಂತೆ ವಸೂಲಿ ಮಾಡತಕ್ಕದ್ದು; ಮತ್ತು

(ii) ಆತನು, ತನಗೆ ಅನ್ವಯಿಸುವ ಸೇವಾ ನಿಯಮಗಳ ಅಡಿಯಲ್ಲಿ ಶಿಸ್ತು ಕ್ರಮಕ್ಕೆ ಸಹ ಬದ್ಧನಾಗಿರತಕ್ಕದ್ದು.

10. ನ್ಯಾಯಾಲಯಗಳ ಅಧಿಕಾರ ವ್ಯಾಪ್ತಿಯ ಪ್ರತಿಬಂಧ.- ಈ ಅಧಿನಿಯಮದ ಅಡಿಯಲ್ಲಿ ಮಾಡಿದ ಯಾವುದೇ ಆದೇಶದ ಸಂಬಂಧದಲ್ಲಿ, ಯಾವುದೇ ನ್ಯಾಯಾಲಯವು ಯಾವುದೇ ದಾವೆ, ಅರ್ಜಿ ಅಥವಾ ಇತರ ವ್ಯವಹರಣೆಯನ್ನು ಅಂಗೀಕರಿಸತಕ್ಕದ್ದಲ್ಲ, ಮತ್ತು ಅಂಥ ಯಾವುದೇ ಆದೇಶವನ್ನು, ಈ ಅಧಿನಿಯಮದ ಅಡಿಯಲ್ಲಿ ಅಪೀಲಿನ ಮೂಲಕವಾಗಿಯಲ್ಲದೆ ಪ್ರಶ್ನಿಸತಕ್ಕದ್ದಲ್ಲ.

11. ಅಧಿನಿಯಮವು ಅಧ್ಯಾರೋಹಿ ಪ್ರಭಾವವನ್ನು ಹೊಂದಿರತಕ್ಕದ್ದು.- ಈ ಅಧಿನಿಯಮದ ಉಪಬಂಧಗಳು, ಜಾರಿಯಲ್ಲಿರುವ ಯಾವುದೇ ಕಾನೂನಿನ, ಯಾವುದೇ ಅಧಿನಿಯಮದ ಅಥವಾ ಉಭಯವರ್ತಿ ಪಟ್ಟಿಯ ಅಡಿಯಲ್ಲಿ ಬರುವ ಯಾವುದೇ ವಿಷಯದ ಸಂಬಂಧದಲ್ಲಿ ಸಂಸತ್ತು ರಚಿಸಿದ ಕಾನೂನಿನ ಉಪಬಂಧಗಳ ಹೊರತಾಗಿ, ರಾಜ್ಯ ಪಟ್ಟಿಯ ಅಥವಾ ಉಭಯವರ್ತಿ ಪಟ್ಟಿಯ ಅಡಿಯಲ್ಲಿ ಬರುವ ಯಾವುದೇ ವಿಷಯಕ್ಕೆ ಸಂಬಂಧಿಸಿದಂತೆ ರಾಜ್ಯ ವಿಧಾನ ಮಂಡಲವು ರಚಿಸಿದ ಯಾವುದೇ ಇತರ ಕಾನೂನಿನಲ್ಲಿ ಅದಕ್ಕೆ ಅಸಂಗತವಾದುದು ಏನೇ ಒಳಗೊಂಡಿದ್ದರೂ, ಪರಿಣಾಮವುಳ್ಳದ್ದಾಗಿರತಕ್ಕದ್ದು.

12. ನಿಯಮಗಳ ರಚನಾಧಿಕಾರ.- (1) ರಾಜ್ಯ ಸರ್ಕಾರವು, ಅಧಿಸೂಚನೆಯ ಮೂಲಕ ಪೂರ್ವ ಪ್ರಕಟಣೆ ಮಾಡಿದ ತರುವಾಯ ಈ ಅಧಿನಿಯಮದ ಉಪಬಂಧಗಳನ್ನು ಕಾರ್ಯಗತಗೊಳಿಸುವುದಕ್ಕಾಗಿ ನಿಯಮಗಳನ್ನು ರಚಿಸಬಹುದು.

(2) ವಿಶೇಷವಾಗಿ ಮತ್ತು ಹಿಂದೆ ಹೇಳಿದ ಅಧಿಕಾರದ ಸಾಮಾನ್ಯತೆಯಕ್ಕೆ ಬಾಧಕವಾಗದಂತೆ ಅಂಥ ನಿಯಮಗಳು, ಈ ಮುಂದಿನ ಎಲ್ಲಾ ಅಥವಾ ಯಾವುದೇ ವಿಷಯಗಳಿಗಾಗಿ ಉಪಬಂಧ ಕಲ್ಪಿಸಬಹುದು, ಎಂದರೆ:-

(ಎ) 5ನೇ ಪ್ರಕರಣದ ಅಡಿಯಲ್ಲಿ ಸಂದಾಯವಾಗತಕ್ಕ ಶುಲ್ಕ.

(ಬಿ) ಗೊತ್ತುಪಡಿಸಲು ಅಗತ್ಯವಿರುವ ಅಥವಾ ಗೊತ್ತುಪಡಿಸಬಹುದಾದ ಯಾವುದೇ ಇತರ ವಿಷಯ.

(3) ಈ ಅಧಿನಿಯಮದ ಮೇರೆಗೆ ರಚಿತವಾದ ಪ್ರತಿಯೊಂದು ನಿಯಮವನ್ನು ಅದು ರಚಿತವಾದ ನಂತರ ಆದಷ್ಟು ಬೇಗನೆ ರಾಜ್ಯ ವಿಧಾನ ಮಂಡಲದ ಪ್ರತಿಯೊಂದು ಸದನದ ಮುಂದೆ, ಅದು ಅಧಿವೇಶನದಲ್ಲಿರುವಾಗ ಒಂದು ಅಧಿವೇಶನದಲ್ಲಿ ಅಥವಾ ಒಂದಾದ ಮೇಲೊಂದು ಬರುವ ಎರಡು ಅಥವಾ ಹೆಚ್ಚು ನಿರಂತರ ಅಧಿವೇಶನಗಳಲ್ಲಿ ಅಡಕವಾಗಬಹುದಾದ ಒಟ್ಟು ಮೂವತ್ತು ದಿನಗಳ ಅವಧಿಯಪರೆಗೆ ಮಂಡಿಸತಕ್ಕದ್ದು ಮತ್ತು ಅದನ್ನು ಮಂಡಿಸಲಾದ ಅಧಿವೇಶನವು ಅಥವಾ ಅದರ ನಿಕಟ ತರುವಾಯದ ಅಧಿವೇಶನವು ಮುಗಿಯುವ ಮುಂಚೆ, ಆ ನಿಯಮದಲ್ಲಿ ಯಾವುದೇ ಮಾರ್ಪಾಟನ್ನು ಮಾಡಲು ಎರಡೂ ಸದನಗಳು ಒಪ್ಪಿದರೆ, ಅಥವಾ ಆ ನಿಯಮವನ್ನು ಮಾಡಕೂಡದೆಂದು ಎರಡೂ ಸದನಗಳು ಒಪ್ಪಿದರೆ, ಸಂದರ್ಭಾನುಸಾರ, ಹಾಗೆ ಮಾರ್ಪಾಟಾದ ರೂಪದಲ್ಲಿ ಮಾತ್ರ ಪರಿಣಾಮಕಾರಿಯಾಗತಕ್ಕದ್ದು ಅಥವಾ ಪರಿಣಾಮಕಾರಿಯಾಗತಕ್ಕದ್ದಲ್ಲ, ಆದರೆ ಅಂಥ ಯಾವುದೇ ಮಾರ್ಪಾಟು ಅಥವಾ ಶೂನ್ಯತೆಯು ಆ ನಿಯಮದ ಮೇರೆಗೆ ಹಿಂದೆ ಮಾಡಿದ ಯಾವುದೇ ಕಾರ್ಯದ ಸಿಂಧುತ್ವಕ್ಕೆ ಬಾಧಕವಾಗದಂತೆ ಇರತಕ್ಕದ್ದು.

13. ನಿರಸನ ಮತ್ತು ಉಳಿಸುವಿಕೆಗಳು.- (1) ಕರ್ನಾಟಕ ಮಾಹಿತಿ ಪಡೆಯಲು ಹಕ್ಕು ಅಧ್ಯಾದೇಶ, 2000 ವನ್ನು (2000ದ ಕರ್ನಾಟಕ ಅಧ್ಯಾದೇಶ ಸಂಖ್ಯೆ 9) ಈ ಮೂಲಕ ನಿರಸನಗೊಳಿಸಲಾಗಿದೆ.

(2) ಹಾಗೆ ನಿರಸಿತವಾಗಿದ್ದಾಗ್ಯೂ, ಸದರಿ ಅಧ್ಯಾದೇಶದಡಿ ಮಾಡಲಾದ ಯಾವುದೇ ಕಾರ್ಯ ಅಥವಾ ಕೈಗೊಳ್ಳಲಾದ ಯಾವುದೇ ಕ್ರಮವನ್ನು ಈ ಅಧಿನಿಯಮದ ಅಡಿಯಲ್ಲಿ ಮಾಡಲಾಗಿದೆ ಅಥವಾ ಕೈಗೊಳ್ಳಲಾಗಿದೆ ಎಂದು ಭಾವಿಸತಕ್ಕದ್ದು.

ಕರ್ನಾಟಕ ಮಾಹಿತಿ ಪಡೆಯಲು ಹಕ್ಕು ನಿಯಮಗಳು, 2002

ಪ್ರಕರಣಗಳ ಕ್ರಮ ಪಟ್ಟಿ

ಪ್ರಕರಣಗಳು :

ಸಿಬ್ಬಂದಿ ಮತ್ತು ಆಡಳಿತ ಸುಧಾರಣೆ ಸಚಿವಾಲಯ

ಅಧಿಸೂಚನೆ

ಸಂಖ್ಯೆ: ಸಿಆಸುಇ:56:ಯೋಮಸ:2002 (2), ಬೆಂಗಳೂರು, ದಿನಾಂಕ: 18ನೇ ಜುಲೈ 2002

ಕರ್ನಾಟಕ ಮಾಹಿತಿ ಪಡೆಯಲು ಹಕ್ಕು ಅಧಿನಿಯಮ 2000ದ (2000ದ ಕರ್ನಾಟಕ ಅಧಿನಿಯಮ 28) 12ನೇ ಪ್ರಕರಣದ (1)ನೇ ಉಪ ಪ್ರಕರಣದ ಮೂಲಕ ಅಗತ್ಯಪಡಿಸಲಾದಂತೆ, ಕರ್ನಾಟಕ ಮಾಹಿತಿ ಪಡೆಯಲು ಹಕ್ಕು ನಿಯಮಗಳು, 2001ರ ಕರಡನ್ನು, ಸರ್ಕಾರಿ ರಾಜ್ಯಪತ್ರದಲ್ಲಿ ಆದರ ಪ್ರಕಟಣೆಯ ದಿನಾಂಕದಿಂದ ಮೂವತ್ತು ದಿನಗಳೊಳಗೆ, ಇದರಿಂದ ಬಾಧಿತರಾಗಬಹುದಾದ ವ್ಯಕ್ತಿಗಳಿಂದ ಆಕ್ಷೇಪಣೆಗಳು ಮತ್ತು ಸಲಹೆಗಳನ್ನು ಆಹ್ವಾನಿಸಿ ದಿನಾಂಕ 12-10-2001ರ ಕರ್ನಾಟಕ ರಾಜ್ಯಪತ್ರದ ವಿಶೇಷ ಪತ್ರಿಕೆಯ IV-ಎ ಭಾಗದಲ್ಲಿ ಅಧಿಸೂಚನೆ ಸಂಖ್ಯೆ: ವಾಪ್ರಯು 244 ವಾಪ್ರಸಿ 2000 ರಲ್ಲಿ ಪ್ರಕಟಿಸಿರುವುದರಿಂದ;

ಸದರಿ ಸರ್ಕಾರಿ ರಾಜ್ಯಪತ್ರವು 12-10-2001 ರಂದು ಸಾರ್ವಜನಿಕರಿಗೆ ದೊರೆಯುವಂತೆ ಮಾಡಿರುವುದರಿಂದ;

ಮತ್ತು ಸ್ವೀಕರಿಸಲಾದ ಆಕ್ಷೇಪಣೆಗಳು ಮತ್ತು ಸಲಹೆಗಳನ್ನು ರಾಜ್ಯ ಸರ್ಕಾರವು ಪರಿಗಣಿಸಿರುವುದರಿಂದ;

ಈಗ ಕರ್ನಾಟಕ ಮಾಹಿತಿ ಪಡೆಯಲು ಹಕ್ಕು ಅಧಿನಿಯಮ, 2000ರ (2000ದ ಕರ್ನಾಟಕ ಅಧಿನಿಯಮ 28) 12ನೇ ಪ್ರಕರಣದ (1)ನೇ ಉಪ ಪ್ರಕರಣದಿಂದ ಪ್ರದತ್ತವಾದ ಅಧಿಕಾರಗಳನ್ನು ಚಲಾಯಿಸಿ, ಕರ್ನಾಟಕ ಸರ್ಕಾರವು ಈ ಮೂಲಕ ಈ ಮುಂದಿನ ನಿಯಮಗಳನ್ನು ರಚಿಸುತ್ತದೆ, ಎಂದರೆ.-

ನಿಯಮಗಳು

1. ಹೆಸರು ಮತ್ತು ಪ್ರಾರಂಭ.- (1) ಈ ನಿಯಮಗಳನ್ನು ಕರ್ನಾಟಕ ಮಾಹಿತಿ ಪಡೆಯಲು ಹಕ್ಕು ನಿಯಮಗಳು, 2002 ಎಂದು ಕರೆಯತಕ್ಕದ್ದು.

2) ಅವುಗಳು, ಸರ್ಕಾರಿ ರಾಜ್ಯಪತ್ರದಲ್ಲಿ ಅವುಗಳ ಪ್ರಕಟಣೆಯ ದಿನಾಂಕದಿಂದ ಜಾರಿಗೆ ಬರತಕ್ಕದ್ದು.

ಕರ್ನಾಟಕ ರಾಜ್ಯ ಪತ್ರದ ಭಾಗ - IV-A ವಿಶೇಷ ಪತ್ರಿಕೆ ಸಂಖ್ಯೆ. 1057 ದಿನಾಂಕ. 18-7-2002ರಲ್ಲಿ ಪ್ರಕಟಿತ.

2. ಪರಿಭಾಷೆಗಳು.- ಈ ನಿಯಮಗಳಲ್ಲಿ ಸಂದರ್ಭವು ಅನ್ಯಥಾ ಅಗತ್ಯಪಡಿಸಿದ ಹೊರತು.-

(ಎ) "ಅಧಿನಿಯಮ" ಎಂದರೆ, ಕರ್ನಾಟಕ ಮಾಹಿತಿ ಪಡೆಯಲು ಹಕ್ಕು ಅಧಿನಿಯಮ, 2000ರ (2000ದ ಕರ್ನಾಟಕ ಅಧಿನಿಯಮ 28)

(ಬಿ) "ಪ್ರಕರಣ" ಎಂದರೆ, ಅಧಿನಿಯಮದ ಒಂದು ಪ್ರಕರಣ

(ಸಿ) "ನಮೂನೆ" ಎಂದರೆ, ಈ ನಿಯಮಗಳಿಗೆ ಲಗತ್ತಿಸಲಾದ ನಮೂನೆ.

3. 3ನೇ ಪ್ರಕರಣದ ಅಡಿಯಲ್ಲಿ ಕೆಲವು ವಿವರಗಳು ಮುಂತಾದವುಗಳ ಪ್ರಕಟಣೆಯ ರೀತಿ ಮತ್ತು ಅವಧಿಯ ಅಂತರ.- ಪ್ರತಿಯೊಂದು ಸಾರ್ವಜನಿಕ ಪ್ರಾಧಿಕಾರವು, 3ನೇ ಪ್ರಕರಣದ (ಬಿ) ಖಂಡದಲ್ಲಿ ನಿರ್ದಿಷ್ಟಪಡಿಸಲಾದ ವಿಷಯಗಳನ್ನು ಕನಿಷ್ಟಪಕ್ಷ ವರ್ಷಕ್ಕೊಮ್ಮೆಯಾದರೂ ಸೂಚನಾ ಫಲಕದ ಮೇಲೆ ಪ್ರಕಟಿಸತಕ್ಕದ್ದು.

ಪರಂತು, ಸಾರ್ವಜನಿಕ ಪ್ರಾಧಿಕಾರವು ಹೊರತಂದಿರಬಹುದಾದ ಯಾವುದೇ ಇತರ ಪ್ರಕಟಣೆ, ವರದಿ, ಕಿರುಹೊತ್ತಿಗೆ ಅಥವಾ ಕರಪತ್ರದಲ್ಲಿ ಆ ಮಾಹಿತಿಯು ಒಳಗೊಂಡಿದ್ದರೆ ಅಥವಾ ಹಿಂದಿನ ವರ್ಷದ ಅವಧಿಯಲ್ಲಿ ಈಗಾಗಲೇ ಪ್ರಕಟಿಸಿರುವ ಮಾಹಿತಿಯಲ್ಲಿ ಯಾವುದೇ ಬದಲಾವಣೆ ಇಲ್ಲದಿದ್ದರೆ ಹಾಗೆ ಪ್ರಕಟಿಸುವ ಅವಶ್ಯಕತೆ ಇಲ್ಲ.

4. ಮಾಹಿತಿ ಒದಗಿಸುವುದಕ್ಕಾಗಿ ಕಾರ್ಯ ವಿಧಾನ.- (1) ಈ ಅಧಿನಿಯಮದ ಅಡಿಯಲ್ಲಿ ಮಾಹಿತಿಯನ್ನು ಪಡೆಯಲು ಇಚ್ಛಿಸುವ ಒಬ್ಬ ವ್ಯಕ್ತಿಯು, ನಮೂನೆ-ಎ ಯಲ್ಲಿ ಸಕ್ಷಮ ಪ್ರಾಧಿಕಾರಕ್ಕೆ ಒಂದು ಅರ್ಜಿಯನ್ನು ಸಲ್ಲಿಸತಕ್ಕದ್ದು.

(2) ಸಕ್ಷಮ ಪ್ರಾಧಿಕಾರವು ಅರ್ಜಿಯನ್ನು ಸ್ವೀಕರಿಸಿದ್ದಕ್ಕೆ ಲಿಖಿತದಲ್ಲಿ ಸ್ವೀಕೃತಿ ಪತ್ರವನ್ನು ನೀಡತಕ್ಕದ್ದು. ಹಾಗೆ ಸ್ವೀಕರಿಸಲಾದ ಅರ್ಜಿಗಳಿಗೆ ಪ್ರತಿಯೊಂದು ಸಕ್ಷಮ ಪ್ರಾಧಿಕಾರವೂ ಒಂದು ರಿಜಿಸ್ಟರನ್ನು ಸಹ ನಿರ್ವಹಿಸತಕ್ಕದ್ದು.

(3) ದಸ್ತಾವೇಜಿನ ಪ್ರತಿಗಳನ್ನು ಒದಗಿಸುವುದಕ್ಕಾಗಿನ ಶುಲ್ಕವು ಈ ಮುಂದಿನ ಕೋಷ್ಟಕದಲ್ಲಿ ನಿರ್ದಿಷ್ಟಪಡಿಸಿದಂತೆ ಇರತಕ್ಕದ್ದು.-

ಕೋಷ್ಟಕ

1.	ಎ4 ಅಳತೆಯ ಕಾಗದದ ಹಾಳೆಯಲ್ಲಿ ಪಡೆಯುವ ವಿಷಯಗಳ ಸಂದರ್ಭದಲ್ಲಿ	ಪ್ರತಿಯೊಂದು ಫೋಲಿಯೋಗೆ ಐದು ರೂಪಾಯಿಗಳು

2.	ಮಾಹಿತಿಯನ್ನು 1.44 ಎಂ.ಬಿ. ಫ್ಲಾಪಿಯಲ್ಲಿ ಪಡೆಯುವ ಸಂದರ್ಭದಲ್ಲಿ	ಪ್ರತಿಯೊಂದು ಫ್ಲಾಪಿಗೆ ನೂರು ರೂಪಾಯಿಗಳು

(4) ಭೂಪಟಗಳು ಮತ್ತು ನಕ್ಷೆಗಳು ಮುಂತಾದವುಗಳಿಗೆ ಸಂಬಂಧಪಟ್ಟಂತೆ, ತಗಲುವ ಕಾರ್ಯವೆಚ್ಚ ಮತ್ತು ಬಳಸಬೇಕಾದ ಸಾಮಗ್ರಿಗಳ ವೆಚ್ಚ ಇವುಗಳಿಗನುಸಾರವಾಗಿ ಪ್ರತಿಯೊಂದು ಸಂದರ್ಭದಲ್ಲಿ ಸಕ್ಷಮ ಪ್ರಾಧಿಕಾರವು ಸೂಕ್ತ ಶುಲ್ಕವನ್ನು ನಿಗದಿಪಡಿಸತಕ್ಕದ್ದು.

(5) ಸಕ್ಷಮ ಪ್ರಾಧಿಕಾರವು, (1)ನೇ ಉಪ ನಿಯಮದ ಅಡಿಯಲ್ಲಿ ಅರ್ಜಿಯನ್ನು ಸ್ವೀಕರಿಸಿದ ದಿನಾಂಕದಿಂದ ಏಳು ದಿನಗಳ ಒಳಗೆ ಪ್ರತಿ ಮಾಡುವ ಶುಲ್ಕವನ್ನು ಅರ್ಜಿಯ ಮೇಲೆ ಸೂಚಿಸತಕ್ಕದ್ದು ಮತ್ತು ಅರ್ಜಿದಾರನು ಆ ಶುಲ್ಕವನ್ನು ಪೋಸ್ಟಲ್ ಆರ್ಡರ್ ಅಥವಾ ಕೋರ್ಟ್ ಫೀ ಸ್ಟಾಂಪು ಮೂಲಕ ಸಕ್ಷಮ ಪ್ರಾಧಿಕಾರಕ್ಕೆ ಪಾವತಿ ಮಾಡತಕ್ಕದ್ದು, ಅಂಥ ಶುಲ್ಕವನ್ನು ಸಂದಾಯ ಮಾಡಿದ ತರುವಾಯ, ಕೋರಿದ ಪ್ರತಿಯು ಯಾವ ದಿನಾಂಕದಂದು ಸಿದ್ಧವಾಗುವುದು ಎಂಬುದನ್ನು ಸಕ್ಷಮ ಪ್ರಾಧಿಕಾರವು, ಅರ್ಜಿದಾರನಿಗೆ ತಿಳಿಸತಕ್ಕದ್ದು.

(6) 5ನೇ ಪ್ರಕರಣದ (2)ನೇ ಉಪ ಪ್ರಕರಣದಲ್ಲಿ ನಮೂದಿಸಲಾದಂತೆ ಅರ್ಜಿಯನ್ನು ಸ್ವೀಕರಿಸಿದ ದಿನಾಂಕವು, (5)ನೇ ಉಪ ನಿಯಮದ ಅಡಿಯಲ್ಲಿ ಸಕ್ಷಮ ಪ್ರಾಧಿಕಾರವು ಶುಲ್ಕವನ್ನು ಸ್ವೀಕರಿಸಿದ ದಿನಾಂಕವಾಗಿರುತ್ತದೆ.

ಪರಂತು, ಹಾಗೆ ಸ್ವೀಕರಿಸಲಾದ ಅರ್ಜಿಯನ್ನು.-

(i) ಅರ್ಜಿಯಲ್ಲಿ ಉದ್ದೇಶವನ್ನು ಸ್ಪಷ್ಟವಾಗಿ ಸೂಚಿಸಿಲ್ಲದಿದ್ದರೆ;

(ii) ಅರ್ಜಿಯು ಅಪೂರ್ಣವಾಗಿದ್ದರೆ ಅಥವಾ ಅನ್ಯಥಾ ದೋಷಪೂರಿತವಾಗಿದ್ದರೆ;

(iii) ಯಾವ ದಾಖಲೆಯಿಂದ ಮಾಹಿತಿಯನ್ನು ಒದಗಿಸಬೇಕಾಗಿದೆಯೋ ಆ ದಾಖಲೆಯು ಸಾರ್ವಜನಿಕ ಪ್ರಾಧಿಕಾರದ ಬಳಿ ಆಗ ಲಭ್ಯವಿಲ್ಲದಿದ್ದರೆ ಮತ್ತು ಅರ್ಜಿಯನ್ನು ಸ್ವೀಕರಿಸಿದ ಸಮಯದಲ್ಲಿ ಅದು ನ್ಯಾಯಾಲಯ, ಲೋಕಾಯುಕ್ತ, ಪೋಲೀಸು ಅಥವಾ ಇತರ ಯಾವುದೇ ಪ್ರಾಧಿಕಾರದಲ್ಲಿ ಇತ್ಯರ್ಥದಲ್ಲಿದ್ದರೆ,

- ಅರ್ಜಿದಾರನಿಗೆ ಹಿಂದಿರುಗಿಸಬಹುದು;

ಮತ್ತೂ ಪರಂತು, (i) ಮತ್ತು (ii)ನೇ ಖಂಡಗಳ ಸಂದರ್ಭದಲ್ಲಿ, ಈ ಹಿಂದಿನ ಅರ್ಜಿಗೆ ಸಂಬಂಧಿಸಿದಂತೆ ಮಾಡಲಾಗಿರುವ ಅಭಿಪ್ರಾಯೋಕ್ತಿಗಳನ್ನು ಪಾಲಿಸಿದ ತರುವಾಯ ಒಂದು ಹೊಸ ಅರ್ಜಿಯನ್ನು ದಾಖಲ್ಮಾಡಬಹುದು.

5. ಅಪೀಲುಗಳು.- (1) 7ನೇ ಪ್ರಕರಣದ (1)ನೇ ಉಪ ಪ್ರಕರಣದ ಅಡಿಯಲ್ಲಿ ಒಂದು ಅಪೀಲನ್ನು ಸಕ್ಷಮ ಪ್ರಾಧಿಕಾರದ ನಿಕಟ ಹಿರಿಯ ಪ್ರಾಧಿಕಾರಕ್ಕೆ ಸಲ್ಲಿಸತಕ್ಕದ್ದು.

2) ಅಂಥ ಪ್ರತಿಯೊಂದು ಅಪೀಲು, ಯಾವ ಆದೇಶದ ವಿರುದ್ಧ ಅಪೀಲು ಸಲ್ಲಿಸಲಾಗಿದೆಯೋ ಆ ಆದೇಶದ ಒಂದು ಪ್ರತಿಯನ್ನು ಹೊಂದಿರತಕ್ಕದ್ದು ಮತ್ತು ಅದರಲ್ಲಿ.-

(ಎ) ಅರ್ಜಿದಾರನ ಹೆಸರು ಮತ್ತು ವಿಳಾಸ ಮತ್ತು ಸಕ್ಷಮ ಪ್ರಾಧಿಕಾರಕ್ಕೆ ಸಂಬಂಧಪಟ್ಟ ವಿವರಗಳನ್ನು;

(ಬಿ) ಸಕ್ಷಮ ಪ್ರಾಧಿಕಾರದ ಯಾವ ಆದೇಶದ ವಿರುದ್ಧ ಅಪೀಲು ಹೂಡಲಾಗಿದೆಯೋ ಅಂಥ ಆದೇಶ ಯಾವುದಾದರೂ ಇದ್ದಲ್ಲಿ ಅದರ ಸ್ವೀಕೃತಿ ದಿನಾಂಕವನ್ನು;

(ಸಿ) ಅಪೀಲಿಗೆ ಆಧಾರಗಳನ್ನು;

(ಡಿ) ಅಪೀಲುದಾರನು ಕ್ಲೇಮು ಮಾಡುವ ಪರಿಹಾರವನ್ನು;

- ನಮೂದಿಸತಕ್ಕದ್ದು.

ನಮೂನೆ - ಎ

(4 (1)ನೇ ನಿಯಮ ನೋಡಿ)

1. ಅರ್ಜಿದಾರನ ಪೂರ್ಣ ಹೆಸರು :
2. ವಿಳಾಸ :
3. ಕೋರಿರುವ ದಸ್ತಾವೇಜಿನ ವಿವರಗಳು :
4. ದಸ್ತಾವೇಜು ಸಂಬಂಧಪಟ್ಟಿರುವ ವರ್ಷ :
5. ಯಾವ ಉದ್ದೇಶಗಳಿಗಾಗಿ ಮಾಹಿತಿಯ ಅವಶ್ಯಕತೆ ಇದೆ ಮತ್ತು ಮಾಹಿತಿಯನ್ನು ಪಡೆಯುವಲ್ಲಿ ಅರ್ಜಿದಾರನ ಆಸಕ್ತಿ ಏನು? :

ರಸೀದಿ ಸಂಖ್ಯೆ:

ಸ್ಥಳ: ದಿನಾಂಕ:

ದಿನಾಂಕ: ಅರ್ಜಿದಾರನ ಸಹಿ

ಟಿಪ್ಪಣಿ.- ದೋಷಪೂರಿತವಾಗಿರುವ / ಅಪೂರ್ಣವಾಗಿರುವ ಅರ್ಜಿಗಳನ್ನು ಹಿಂದಿರುಗಿಸಲಾಗುವುದು).

ಕರ್ನಾಟಕ ರಾಜ್ಯಪಾಲರ ಆದೇಶಾನುಸಾರ
ಮತ್ತು ಅವರ ಹೆಸರಿನಲ್ಲಿ

ಎಂ.ಸಿ. ಪೂಣಚ್ಚ
ಸರ್ಕಾರದ ಅಧೀನ ಕಾರ್ಯದರ್ಶಿ,
ಸಿಬ್ಬಂದಿ ಮತ್ತು ಆಡಳಿತ ಸುಧಾರಣಾ ಇಲಾಖೆ,
(ಸಾರ್ವಜನಿಕ ಕುಂದುಕೊರತೆಗಳ ನಿವಾರಣಾ ಸಂಸ್ಥೆ).

KARNATAKA ACT NO. 28 OF 2000

THE KARNATAKA RIGHT TO INFORMATION ACT, 2000

Arrangement of Sections

Sections :

STATEMENT OF OBJECTS AND REASONS

It is considered necessary to have a legislation to provide right of access to information to the citizens of the State which would promote openess, transparency and accountability in administration and ensure effective participation of people in the administration.

The Karnataka Right to Information Bill, 2000 among other things provides for the following:-

(i) Requiring public authorities to make voluntary disclosure of certain information referred to in clause 3.

(ii) Listing exemption from giving information under certain circumstances as mentioned in clause 4.

(iii) Specifying the procedure for supply of information;

(iv) Specifying the grounds for refusal to supply information in certain cases.

(v) Imposing a penalty on the competent authority upto two thousand rupees for failure to give information without any reasonable cause.

(vi) An appeal is provided against the order of the competent authority and a second appeal lies to the Karnataka Appellate Tribunal;

Certain incidental provisions are also made.

Since the matter was urgent and the Karnataka Legislature Council was not in session the Karnataka Right to Information Ordinance 2000. (Karnataka Ordinance No.9 of 2000) was promulgated to achieve the object.

Hence the Bill.

(L.A. Bill No. 2 of 2000)

KARNATAKA ACT NO. 28 OF 2000

(First Published in the Karnataka Gazette Extraordinary on the thirteenth day of December, 2000)

THE KARNATAKA RIGHT TO INFORMATION ACT, 2000

(Received the assent of the Governor on the tenth day of December, 2000)

An Act to provide for right of access to information to the citizens of the State and in relation to the matters connected therewith or incidental thereto.

Whereas, right to Government held information is accepted by the Supreme Court as a part of right to speech and expression guaranteed to citizens in the Constitution.

And whereas providing right of access to information to the citizens of the State promotes openess, transparency and accountability in administration and ensures effective participation of people in the administration and thus makes democracy meaningful.

And whereas it is expedient to provide for right of access to information to the citizens of the State and in relation to the matters connected therewith or incidental thereto and for the purposes hereinafter appearing;

Be it enacted by the Karnataka State Legislature in the fiftyfirst year of the Republic of India as follows:-

1. Short title and commencement.- (1) This Act may be called the Karnataka Right to Information Act, 2000.

Published in the Karnataka Gazette Part IV - A Extraordinary No. 303 dated . 7.2.2001 (File No. ಸಂವ್ಯಶಾಇ 47 ಶಾಸನ 2000)

(2) It shall come into force from such date, as the State Government may, by [1][notification][1], appoint and different dates may be appointed for different provisions of this Act.

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

(a) "Competent authority" means head of the office or any officer or person as may be notified by the State Government for the purpose of this Act:

Provided that where the Competent Authority transfers application to any officer or person under the proviso to sub-section (2) of section5, such officer or person shall be deemed to be the Competent Authority".

(b)'Information' means information relating to any matter in respect of the affairs of the administration or decisions of a public authority;

(c) 'Public authority' means,-

(i) all offices of the State Government including the Karnataka Public service Commission;

(ii) all local authorities, all authorities constituted by or under any Act of the State Legislature for the time being in force, a company, Corporation, trust, society, any statutory or other authority, Co-operative society or any organisation or body funded, owned or controlled by the State Government.

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1. Section 1 and 12 have come into force w.e.f. 12-10-2001 vide Notification No. VAPRAU 244 VAPRASI 2000 Bangalore-1 dated 12-10-2001. Please see page 40, Section 3 excluding clause (c) and (d) Section 2 to 11 and section 13 have come into force w.e.f. 18-7-2002 vide Notification No. DPAR 56 YOMASA 2002(1) dated 18-7-2002. Please see the Notification at page 40.

but does not include,-

(i) offices of the Central Government;

(ii) any establishment of the armed forces or Central Para Military forces;

(iii) any body or corporation owned or controlled by the Central Government;

(d) 'Right to Information' means right of access to information from any public authority,-

(i) by obtaining certified copies of any records;

(ii) by obtaining diskettes, floppies or any other electronic mode or through print-outs where such information is stored in a computer or in any other device;

(iii) in such other mannner as may be prescribed.

(e) '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 microfile (whether enlarged or not); and

(iv) any other material produced by a computer or by any other device.

(f) 'Trade secret' means information contained in a formula, pattern, compilation, programme , device, product, method, technique or process which is not generally known and which may have economic value.

3. Obligation of public authorities.- Every public authority shall,-

(a) maintain all 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,-

(i) the particulars of its organisation, functions and duties;

(ii) the powers and duties of officers and employees and the procedure followed by them in the decision making process;

(iii) the norms setup by the public authority for the discharge of its functions;

(iv) the details of facilities available to citizens for obtaining information;

(c) publish all relevant facts concerning such of the important decisions and policies that affect the public as may be prescribed while announcing such decisions and policies;

(d) before sanctioning or initiating or causing to sanction or initiate any project scheme or activity as may be specified by the State Government, publish or communicate to the public generally or to the persons affected or likely to be affected by the project, scheme or activity in particular in such manner as may be prescribed, 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 maintenance of democratic principles;

(e) publish such other information as may be prescribed.

4. Right to information.- (1) Subject to the provisions of this Act every citizen shall have the right to information.

(2) Notwithstanding anything contained in sub-section (1), no person shall be given,-

(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 or which may lead to an incitement to commit an offence or prejudically affect fair trial or adjudication of a pending case;

(c) information relating to Cabinet papers including records of the deliberations of the Council of ministers, Secretaries and other Officers:

Provided that information regarding the decisions of the Cabinet alongwith the reasons leading to the decision shall be made available and every Government Order issued on the basis of the Cabinet decision shall be accompanied by a statement explaining the reasons for and the circumstandances under which the decision is taken.

(d) information the disclosure of which would harm, frankness and candour of internal discussions including inter departmental or intra departmental notes, correspondence and papers containing advice or opinion as also of projections and assumptions relating to internal policy analysis:

Provided that information regarding minutes or records, advice including legal advice, opinion or recommendation made or given in respect of the executive decisions or policy formulations shall be made available after an executive decision is taken or policy formulation is done.

(e) information the disclosure of which would prejudice the assessment or collection of any tax, cess, duty or fee or assist in avoidance or evasion of the tax, cess, duty or fee.

(f) infromation the disclosure of which would constitute a breach of privilege of the Parliament or the State Legislature:

Provided that the Competent Authority shall before withholding information under this clause refer the matter to the Karnataka Legislative Assembly Secretariat or the Karnataka Legislative Council Secretariat, as the case may be for determination of the issues and act according to the advice tendered by the Secretariat:

Provided further that in computing the period of fifteen working days under sub-section (2) of section 5 for the purpose of this clause, the time required for determination of issues under the first proviso shall be excluded.

(g) information regarding trade or commercial secrets protected by law or information, the disclosure of which would prejudicially affect the legitimate economic and commercial interest or the competitive position of a public authority; or would cause unfair gain or loss to any person;

(h) information regarding any matter which is likely to,-

(i) help or facilitate escape from legal custody or affect prison security; or

(ii) impede the process of investigation or apprehension or prosecution of offenders.

5. Procedure for supply of information.- (1) A person desirous to obtain information shall make an application to the competent authority in the prescribed manner, along with such fee, in such form and with such particulars, as may be prescribed:

Provided that the fee payable shall not exceed the actual cost of supplying information.

(2) On the receipt of an application requesting for information, the competent authority shall consider it and except for justifiable reasons, pass orders thereon either granting or refusing it, as soon as practicable and in any case within fifteen working days from the date of receipt of the application:

Provided that where the competent authority doesnot have the information, he shall within fifteen days from the date of receipt of application transfer the application to the officer or person with whom such information is available and inform the applicant accordingly and thereafter such officer or person to whom such application is transferred shall furnish information within fifteen working days from the date of receipt of the application from the competent authority.

(3) Where a request is rejected under sub-section (2), the competent authority shall communicate in writing to the person making the request,-

(i) the reasons for such rejection;

(ii) the period within which the appeal against such rejection may be preferred;

(iii) the particulars of the appellate authority.

6. Grounds for refusal to supply information in certain cases.- Without prejudice to the provisions of section 4, the competent authority may also reject a request for supply of information where such request,-

(a) is too general in nature and the information sought is of such nature that, it is not required to be ordinarily collected by the public authority:

Provided that where such request is rejected on the aforesaid ground, it shall be the duty of the Competent Authority to render help as far as possible to the person seeking information to reframe the request in such a manner as may facilitate the supply of information;

(b) relates to information that is required by law, rules, regulations or orders to be published at a particular time; or

(c) relates to information that is contained in published material available to public;

(d) relates to personal information the disclosure of which has no relationship to any public activity or which would cause unwarranted invasion of the privacy of an individual except where larger public interest is served by disclosure:

Provided that the information relating to returns of assets and liabilities filed by any Government servant shall be made available to the public.

7. Appeals.- (1) Subject to such rules as may be prescribed, any person,-

(i) aggrieved by an order of the competent authority may, within thirty days from the date of receipt of such order; or

(ii) who has not received any communication within a period of fifteen working days from the date of making application under section 5, may within thirty days next after such period;

appeal to such authority as may be prescribed:

Provided that no appeal shall lie against an order of witholding of information under clause (f) of sub-section (2) of section 4.

(2) The appellate authority may, after giving the person affected a reasonable opportunity of being heard, pass such order as it deems fit.

(3) Any person aggrieved by the order of the appellate authority under sub-section (2) may prefer an appeal to the Karnataka Appellate Tribunal.

(4) Appeals referred to in sub-sections (1) and (3) shall be disposed of within thirty days from the date of receipt of such appeals.

8. Power to remove difficulties.- If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by an order make such provisions not inconsistent with the provisions of this Act and appear to them to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made after the expiry of two years from the date of commencement of this Act.

9. Penalties.- Where any competent authority, without any reasonable cause fails to supply information sought for within the period specified under section 5 or furnishes information which is false with regard to any material particulars and which it knows or has reasonable cause to believe it to be false,-

(i) the authority immediate superior to the competent authority may impose a penalty not exceeding two thousand rupees on such competent authority as it thinks appropriate after giving him a reasonable opportunity of being heard and such a penalty shall be recoverable from his salary or if no salary is drawn as arrears of land revenue; and

(ii) he shall also be liable to disciplinary action under the service rules applicable to him.

10. 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.

11. Act to have overriding effect.- The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law made by the State Legislature in respect of any matter falling under State list or concurrent list except the provisions of any existing law or a law made by Parliament in respect of any matter falling under concurrent list.

12. Power to make rules.- (1) The State Government may, after previous publication by notification 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 section 5;

(b) any other matter which is required to be, or may be, prescribed.

(3) Every rule made under this Act shall be laid as soon as may be after it is made, before each House of the State Legislature 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 in which it is so laid or the session immediately following, both the Houses agree in making modification in the rule or both the Houses agree that rule should not be made the rule thereafter, shall 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.

13. Repeal and savings.- (1) The Karnataka Right to Information Ordinance, 2000 (Karnataka Ordinance No. 9 of 2000) is hereby repealed.

(2) Notwithstanding such repeal anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under this Act.

The above translation of the ಕರ್ನಾಟಕ ಮಾಹಿತಿ ಪಡೆಯಲು ಹಕ್ಕು ಅಧಿನಿಯಮ 2000 (2000ದ ಕರ್ನಾಟಕ ಅಧಿನಿಯಮ ಸಂಖ್ಯೆ. 28) be published in the Official Gazette under clause (3) of Article 348 of the Constitution of India.

THE KARNATAKA RIGHT TO INFORMATION RULES, 2002

Arrangement of Sections

Sections :

Personnel and Administrative Reforms Secretariat

Notification

No. DPAR/56/YOMASA/2002(2), Bangalore,
Dated: 18th July 2002

Whereas the draft of the Karnataka Right to information Rules, 2001 was published as required by sub-section (1) of Section 12 of the Karnataka Right to information Act, 2000 (Karnataka Act 28 of 2000) in Notification No. ವಾಪ್ರಯು 244 ವಾಪ್ರಸಿ 2000 in Part IV-A of the Karnataka Gazette Extraordinary dated 12-10-2001, inviting objections and suggestions from persons likely to be affected thereby, within thirty days from the date of its publication in the Official Gazette.

Whereas, the said Gazette was made available to the public on 12-10-2001.

And whereas, the objections and suggestions received have been considered by the State Government.

Now, therefore in exercise of the powers conferred by sub-section (1) of section 12 of the Karnataka Right to information Act, 2000 (Karnataka Act 28 of 2000), the Government of Karnataka hereby makes the following rules, namely:-

Rules

1. Title and Commencement.- (1) These rules may be called the Karnataka Right to information Rules, 2002.

2) They shall come into force on the date of their publication in the Official Gazette.

Published in the Karnataka Gazette Part IV-A Extraordinary No. 1057 dated 18-7-2002.

2. Definitions.- In these rules unless the context otherwise requires:-

(a) "Act" means the Karnataka Right to information Act, 2000 (Karnataka Act 28 of 2000).

(b) "Section" means a section of the Act;

(c) "Form" means a form appended to these rules.

3. Manner and Interval of publication of certain particulars etc, under Section 3.- Every public authority shall publish, on the notice board, once in a year the matter specified in clause (b) of Section 3.

Provided that such publication will not be necessary if the information is included in any other publication, report, booklet or pamphlet, that may have been brought out by the Public Authority or there is no change in the information already published during the previous year.

4. Procedure for supply of information.- (1) Any person desirous to obtain information under the Act shall make an application to the competent authority in Form-A.

(2) The Competent Authority shall acknowledge the receipt of the application in writing. A register of applications so received shall also be maintained by each Competent Authority.

(3) The fees for supplying the copies of the document shall be as specified in the table below:-

Table

1.	In respect of matters in A4 size paper	For each Folio Rupees Five

2.	In case where information is supplied in the floppy of 1.44MB	Rupees one hundred per floppy

(4) In the case of maps and plans, etc., a reasonable fee shall be fixed by the Competent Authority in each case depending upon the cost of labour and material required to be employed.

(5) The Competent Authority shall, within seven days from the date of receipt of the application under sub-rule (1) indicate the copying fees on the application and the applicant shall remit the fees to the Competent Authority through postal order or court fee stamps. On payment of such fee, the competent authority shall inform the applicant the date on which the copy requested for would be ready.

(6) The date of receipt of the application as mentioned in sub-section (2) of Section 5 would be the date of receipt of fee by the competent authority under sub-rule (5).

Provided that the application so received may be returned to the applicant where:-

(i) the purpose is not clearly indicated in the application.

(ii) the application is incomplete or otherwise defective.

(iii) the record, from which the information is to be furnished is not readily available with the public Authority and is

pending with the Courts, Lokayuktha, Police or any other authority at the time of the receipt of the application.

Provided further that in case of clauses (i) and (ii) a fresh application may be filed after complying with observations made with reference to the earlier application.

5. Appeals.- (1) An appeal under sub-section (1) and Section 7 shall lie to an authority immediately superior to the competent authority.

2) Every such appeal shall be accompanied by a copy of the order, if any, appealed against and it shall specify:-

(a) the name and address of the applicant and the particulars regarding the competent authority.

(b) the date of receipt of order, if any, of the Competent Authority appealed against.

(c) the grounds of appeal; and

(d) the relief which the applicant claims.

Form - A

[See Rule 4(1)]

1. Full Name of the Applicant :
2. Address :
3. Details of the document required :
4. Year to which the document pertains :
5. Purposes for which the information is required and how the applicant is interested in obtaining the information :

Receipt No. Date:

Place:

Date: Signature of the applicant.

(Note:- Defective/incomplete applications are liable to be returned)

By Order and in the name of the
Governor of Karnataka

M.C. POONACHA
Under Secretary to Government,
Department of Personnel & Administrative Reforms,
Public Grievances & Redressal Organisation.

ವಾರ್ತಾ, ಪ್ರವಾಸೋದ್ಯಮ ಹಾಗೂ ಯುವಜನ ಸೇವಾ ಸಚಿವಾಲಯ

ಅಧಿಸೂಚನೆ

ಸಂಖ್ಯೆ: ವಾಪ್ರಯು 244 ವಾಪ್ರಸಿ 2000, ಬೆಂಗಳೂರು-1,
ದಿನಾಂಕ: 12ನೇ ಅಕ್ಟೋಬರ್ 2001

ಕರ್ನಾಟಕ ಮಾಹಿತಿ ಪಡೆಯಲು ಹಕ್ಕು ಅಧಿನಿಯಮ 2000ದ (2000ದ ಕರ್ನಾಟಕ ಅಧಿನಿಯಮ 28)ರ 1ನೇ ಪ್ರಕರಣದ (2)ನೇ ಉಪ ಪ್ರಕರಣದ ಮೂಲಕ ಪ್ರದತ್ತವಾದ ಅಧಿಕಾರಗಳನ್ನು ಚಲಾಯಿಸಿ, ಕರ್ನಾಟಕ ಸರ್ಕಾರವು 2001ನೇ ಅಕ್ಟೋಬರ್ ಹನ್ನೆರಡನೇ ದಿನವನ್ನು ಸದರಿ ಅಧಿನಿಯಮದ 1 ಮತ್ತು 12ನೇ ಪ್ರಕರಣದ ಉಪಬಂಧಗಳು ಜಾರಿಗೆ ಬರತಕ್ಕ ದಿನಾಂಕವೆಂಬುದಾಗಿ ಈ ಮೂಲಕ ಗೊತ್ತುಪಡಿಸುತ್ತದೆ.

ಕರ್ನಾಟಕ ರಾಜ್ಯಪಾಲರ ಆಜ್ಞಾನುಸಾರ ಮತ್ತು ಅವರ ಹೆಸರಿನಲ್ಲಿ,
ಕೆ.ವಿ. ಪ್ರಸಾದ್
ಸರ್ಕಾರದ ಅಧೀನ ಕಾರ್ಯದರ್ಶಿ-1,
ವಾರ್ತಾ, ಪ್ರವಾಸೋದ್ಯಮ ಹಾಗೂ ಯುವಜನಸೇವಾ ಇಲಾಖೆ

[1][ಸಿಬ್ಬಂದಿ ಮತ್ತು ಆಡಳಿತ ಸುಧಾರಣೆ ಸಚಿವಾಲಯ

ಅಧಿಸೂಚನೆ

ಸಂಖ್ಯೆ: ಸಿಆಸುಇ:56:ಯೋಮಸ:2002 (1), ಬೆಂಗಳೂರು,
ದಿನಾಂಕ: 18ನೇ ಜುಲೈ 2002

ಕರ್ನಾಟಕ ಮಾಹಿತಿ ಪಡೆಯಲು ಹಕ್ಕು ಅಧಿನಿಯಮ 2000ದ (2000ದ ಕರ್ನಾಟಕ ಅಧಿನಿಯಮ 28)ರ 1ನೇ ಪ್ರಕರಣದ (2)ನೇ ಉಪ ಪ್ರಕರಣದ ಮೂಲಕ ಪ್ರದತ್ತವಾದ ಅಧಿಕಾರಗಳನ್ನು ಚಲಾಯಿಸಿ, ಕರ್ನಾಟಕ ಸರ್ಕಾರವು ಸದರಿ ಅಧಿನಿಯಮದ ಪ್ರಕರಣ 3ರ ಖಂಡ (ಸಿ) ಮತ್ತು (ಡಿ)ಯ ಉಪಬಂಧಗಳನ್ನು ಹೊರತುಪಡಿಸಿ ಪ್ರಕರಣ 2 ರಿಂದ 11 ಮತ್ತು 13ನೇ ಪ್ರಕರಣದ ಉಪಬಂಧಗಳು ಸದರಿ ಅಧಿಸೂಚನೆಯನ್ನು ರಾಜ್ಯಪತ್ರದಲ್ಲಿ ಪ್ರಕಟಿಸಿದ ದಿನಾಂಕದಿಂದ ಜಾರಿಗೆ ಬರತಕ್ಕದ್ದೆಂದು ಈ ಮೂಲಕ ಗೊತ್ತುಪಡಿಸುತ್ತದೆ.

ಕರ್ನಾಟಕ ರಾಜ್ಯಪಾಲರ ಆಜ್ಞಾನುಸಾರ ಮತ್ತು ಅವರ ಹೆಸರಿನಲ್ಲಿ,
ಎಂ.ಸಿ. ಪೂಣಚ್ಚ
ಸರ್ಕಾರದ ಅಧೀನ ಕಾರ್ಯದರ್ಶಿ,
ಸಿಬ್ಬಂದಿ ಮತ್ತು ಆಡಳಿತ ಸುಧಾರಣಾ ಇಲಾಖೆ
(ಸಾರ್ವಜನಿಕ ಕುಂದುಕೊರತೆಗಳ ನಿವಾರಣಾ ಸಂಸ್ಥೆ)][1]

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1 ಕರ್ನಾಟಕ ರಾಜ್ಯ ಪತ್ರದ ಭಾಗ - IV-A ವಿಶೇಷ ಪತ್ರಿಕೆ ಸಂಖ್ಯೆ. 1056 ದಿನಾಂಕ. 18-7-2002ರಲ್ಲಿ ಪ್ರಕಟಿತ.

ಸರ್ಕಾರಿ ಮುದ್ರಣಾಲಯ, ಪೀಣ್ಯ, ಬೆಂಗಳೂರು. ಕಾ.ಸೂ.ಸಂ. 5549/DPAL/C-8