

**“INTERACTIVE PROGRAMME
ON
RIGHT TO INFORMATION ACT
FOR
FAA/CPIOs/Nodal PIOs”**



Section 2 (f)

“information” means any material in any form, including records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material held in any electronic form and information relating to any private body which can be accessed by a public authority under any other law for the time being in force.



Section 2 (f)

- **CONCLUSION:**
 - **“information sought ” must be available in material form in the official records.**
 - **CPIO is not under an obligation to create, interpret and answer hypothetical queries.**
 - **Deductions and inferences to be drawn by the PIO is unwarranted as it would cast immense pressure on the PIOs.**
 - **information which is related to any private body, institution(s) and can be accessed by a public authority under any other law, regulation must be provided to the RTI Applicant.**



Section 2 (f)

INFORMATION RELATED TO PRIVATE BODIES/INSTITUTION(s)

Examples:

- ❑ **Private Schools and institutions affiliated/recognized by the Government.**
- ❑ **Information related to private telecom companies which can be obtained by TRAI.**
- ❑ **As per the MoU signed between the Government and private institution.**



Section 2 (f)

Landmark Judgements

CIC v B. Bharti (WP 26781/2013 dated 19.09.2014)

○Copy of his/her own complaint(s), application(s), appeal(s) does not fall under the ambit of “information” as defined under Section 2(f) of the RTI Act.

Dr. Celsa Pinto v Goa State Information Commission (WP 419/2007 dated 03.04.2008)

○The definition of information cannot include within its fold answers to the question "why" “what” “how” which would be the same thing as asking the reason or a justification for a particular thing.



CBSE vs. Aditya Bandopadhyay & Ors. [Civil Appeal No.6454 of 2011]



Section 4: OBLIGATION OF PUBLIC AUTHORITY

- ❖ **Section 4(1): Every public authority shall—**
 - (a) maintain all its records duly catalogued, indexed and computerized**
- ❖ **Section 4(1)(b)(i) to Section 4(1)(b)(xvii)**
- ❖ **Section 4(1)(c) publish all relevant facts while formulating important policies or announcing the decisions which affect public.**
- ❖ **Section 4(1)(d) provide reasons for its administrative or quasi-judicial decisions to affected persons.**
- ❖ **Section 4(2) It shall be a constant endeavour of every public authority to take steps in accordance with the requirements of clause (b) of sub-section (1) to provide as much information suo motu to the public at regular intervals through various means of communications, including internet, so that the public have minimum resort to the use of this Act to obtain information.**
- ❖ **LANDMARK JUDGEMENT: REGISTRAR of COMPANIES V DHARMENDRA GARG**



RTI ACT
SECTION 4

Section 6(1) and Section 6(3)

Section 6(1) : A person, who desires to obtain any information under this Act, shall make a request in writing or through electronic means in English or Hindi or in the official language of the area in which the application is being made, accompanying such fee as may be prescribed to the Central Public Information Officer or State Public Information Officer, as the case may be, of the concerned public authority.

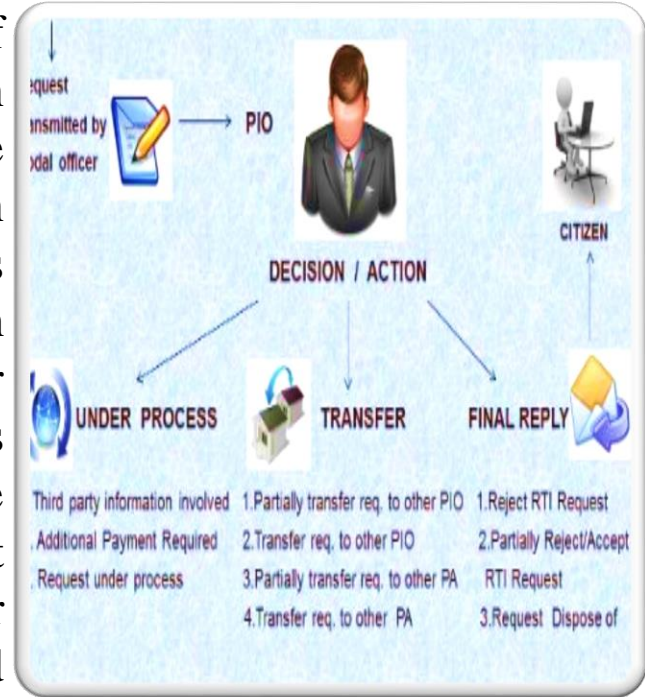
Section 6(3): Where an application is made to a public authority requesting for an information,— (i) which is held by another public authority; or (ii) the subject matter of which is more closely connected with the functions of another public authority, the public authority, to which such application is made, shall transfer the application or such part of it as may be appropriate to that other public authority.

IMPORTANT TO NOTE: DOPT(OM)10/02/2008-IR Dated 12.06.2008.

Section 7(1)

Disposal of request.—

(1) Subject to the proviso to sub-section (2) of section 5 or the proviso to sub-section (3) of section 6, the Central Public Information Officer or State Public Information Officer, as the case may be, on receipt of a request under section 6 shall, as expeditiously as possible, and in any case within thirty days of the receipt of the request, either provide the information on payment of such fee as may be prescribed or reject the request for any of the reasons specified in sections 8 and 9: Provided that where the information sought for concerns the life or liberty of a person, the same shall be provided within forty-eight hours of the receipt of the request.



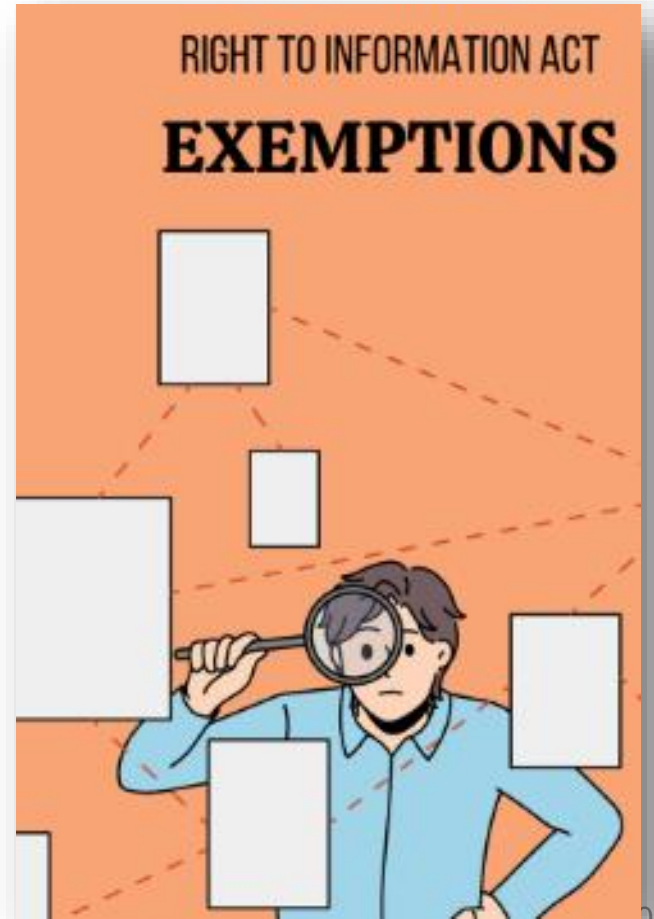
Section 7(9)

An information shall ordinarily be provided in the form in which it is sought unless it would disproportionately divert the resources of the public authority or would be detrimental to the safety or preservation of the record in question.



Section 8: EXEMPTION FROM DISCLOSURE OF INFORMATION

- **S-8(1)(a):** Notwithstanding anything contained in this Act, there shall be no obligation to give any citizen,-
information, disclosure of which would prejudicially affect the sovereignty and integrity of India, the security, strategic, scientific or economic interests of the State, relations with foreign State or lead to incitement of an offence.



Section 8(1)(b),(c) & (d)

- **S-8(1)(b): information which has been expressly forbidden to be published by any court of law or tribunal or the disclosure of which may constitute contempt of court;**
- **S-8(1)(c): information, the disclosure of which would cause a breach of privilege of Parliament or the State Legislature;**
- **S-8(1)(d): information including commercial confidence, trade secrets or intellectual property, the disclosure of which would harm the competitive position of a third party, unless the competent authority is satisfied that larger public interest warrants the disclosure of such information;**
 - **Landmark Judgments of Supreme Court.**

The ICAI V. Shaunak H Satya & Ors.

**Ferani Hotels Pvt. Ltd. V. State Information Commissioner Greater Mumbai, Civil
Appeal no. 9064-9065 of 2018**

SECTION 8(1)(e),(f) & (g)

- **S-8(1)(e): information available to a person in his fiduciary relationship, unless the competent authority is satisfied that the larger public interest warrants the disclosure of such information;**
- **S-8(1)(f): information received in confidence from foreign Government;**
- **S-8(1)(g): information, the disclosure of which would endanger the life or physical safety of any person or physical safety of any person or identification the source of information or assistance given in confidence for law enforcement or security purposes;**
 - **Landmark Judgments of Supreme Court.**
 - **C.B.S.E & Anr. V. Aditya Bandopadhyay & Ors.**
 - **The ICAI V. Shaunak H Satya & Ors**
 - **UPSC V. Gourhari Kamila.**

SECTION 8(1) (h) & (i)

- **S-8(1)(h): information which would impede the process of investigation or apprehension or prosecution of offenders;**
- **S-8(1)(i): cabinet papers including records of deliberations of the Council of Ministers, Secretaries and other officers;**

Provided that the decisions of Council of Ministers, the reasons thereof, and the material on the basis of which the decisions were taken shall be made public after the decision has been taken, and the matter is complete, or over:

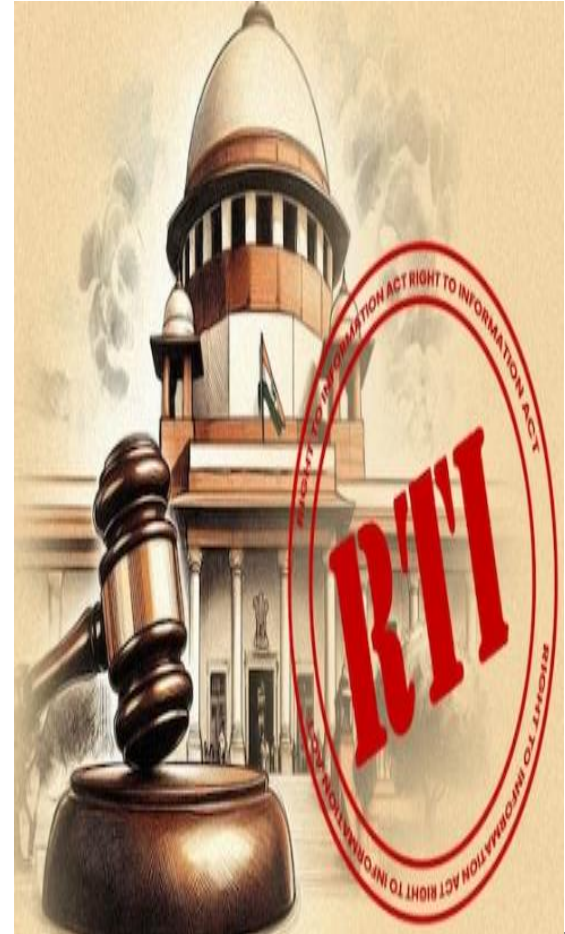
Provided further that those matters which come under the exemptions specified in this section shall not be disclosed.

SECTION 8 (1)(j)

- **S-8(1)(j): information which relates to personal information the disclosure of which has no relationship to any public activity or interest, or which would cause unwarranted invasion of the privacy of the individual unless the CPIO or the State PIO or the appellate authority, as the case may be, is satisfied that larger public interest justifies the disclosure of such information;**
- **Provided that the information which cannot be denied to the Parliament or a State Legislature shall not be denied to any person;**

Landmark Judgments of Supreme Court and High Courts.

- **CPIO, Supreme Court v Subhash Chandra Agarwal (Civil Appeal No. 10044 of 2010) dated 13 November 2019 – "personal information" has been explained in a highly structured manner**
- **Girish Ramchandra Deshpande v Central Information Commr. (SLP 27734 of 2012 dated 03.10.2012- information related to professional records of an individual, memos, showcause notices, censure/punishment.**
- **Union Public Service Commission vs. Gourhari Kamila, C.A. No. 6362 of 2013, -disclosure of information relating to qualification/experience of other candidates is exempted**
- **Canara Bank Rep by its Deputy Gen Manager V. C.S. Shyam & Anr. Civil Appeal no. 22 of 2009, dated 31.08.2017 – Date of joining, designation, details of promotion earned.**



SECTION 8 (3) and Section 9

Section 8(3): Subject to the provisions of clauses (a), (c) and (i) of sub-section (1), any information relating to any occurrence, event or matter which has taken place, occurred or happened twenty 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 years has to be computed, the decision of the Central Government shall be final, subject to the usual appeals provided for in this Act.

Section 9: Grounds for rejection to access in certain cases.—Without prejudice to the provisions of section 8, a Central Public Information Officer or a State Public Information Officer, as the case may be, may reject a request for information where such a request for providing access would involve an infringement of copyright subsisting in a person other than the State.

SECTION 10 (1)

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

SECTION 11(1)

—(1) Where a Central Public Information Officer or a State Public Information Officer, as the case may be, intends to disclose any information or record, or part thereof on a request made under this Act, which relates to or has been supplied by a third party and has been treated as confidential by that third party, the Central Public Information Officer or State Public Information Officer, as the case may be, shall, within five days from the receipt of the request, give a written notice to such third party of the request and of the fact that the Central Public Information Officer or State Public Information Officer, as the case may be, intends to disclose the information or record, or part thereof, and invite the third party to make a submission in writing or orally, regarding whether the information should be disclosed, and such submission of the third party shall be kept in view while taking a decision about disclosure of information: Provided that except in the case of trade or commercial secrets protected by law, disclosure may be allowed if the public interest in disclosure outweighs in importance any possible harm or injury to the interests of such third party.

SECTION 18

18. Powers and functions of Information Commissions.—(1) Subject to the provisions of this Act, it shall be the duty of the Central Information Commission or State Information Commission, as the case may be, to receive and inquire into a complaint from any person,-

- (a) who has been unable to submit a request to a Central Public Information Officer or State Public Information Officer, as the case may be, either by reason that no such officer has been appointed under this Act, or because the Central Assistant Public Information Officer or State Assistant Public Information Officer, as the case may be, has refused to accept his or her application for information or appeal under this Act for forwarding the same to the Central Public Information Officer or State Public Information Officer or senior officer specified in sub-section (1) of section 19 or the Central Information Commission or the State Information Commission, as the case may be;
- (b) who has been refused access to any information requested under this Act;
- (c) who has not been given a response to a request for information or access to information within the time limit specified under this Act;
- (d) who has been required to pay an amount of fee which he or she considers unreasonable;
- (e) who believes that he or she has been given incomplete, misleading or false information under this Act; and
- (f) in respect of any other matter relating to requesting or obtaining access to records under this Act.

SECTION 20 : PENALTIES

(1) Where the Central Information Commission or the State Information Commission, as the case may be, at the time of deciding any complaint or appeal is of the opinion that the Central Public Information Officer or the State Public Information Officer, as the case may be, has, without any reasonable cause, refused to receive an application for information or has not furnished information within the time specified under sub-section (1) of section 7 or malafidely denied the request for information or knowingly given incorrect, incomplete or misleading information or destroyed information which was the subject of the request or obstructed in any manner in furnishing the information, it shall impose a penalty of two hundred and fifty rupees each day till application is received or information is furnished, so however, the total amount of such penalty shall not exceed twenty-five thousand rupees:

Provided that the Central Public Information Officer or the State Public Information Officer, as the case may be, shall be given a reasonable opportunity of being heard before any penalty is imposed on him:

Provided further that the burden of proving that he acted reasonably and diligently shall be on the Central Public Information Officer or the State Public Information Officer, as the case may be.

SECTION 20 : PENALTIES

(2) Where the Central Information Commission or the State Information Commission, as the case may be, at the time of deciding any complaint or appeal is of the opinion that the Central Public Information Officer or the State Public Information Officer, as the case may be, has, without any reasonable cause and persistently, failed to receive an application for information or has not furnished information within the time specified under sub-section (1) of section 7 or malafidely denied the request for information or knowingly given incorrect, incomplete or misleading information or destroyed information which was the subject of the request or obstructed in any manner in furnishing the information, it shall recommend for disciplinary action against the Central Public Information Officer or the State Public Information Officer, as the case may be, under the service rules applicable to him.

SECTION 24 : EXEMPTED ORGANISATION(S)

Section 24(1) Nothing contained in this Act shall apply to the intelligence and security organisations specified in the Second Schedule, being organisations established by the Central Government or any information furnished by such organisations to that Government: Provided that the information pertaining to the allegations of corruption and human rights violations shall not be excluded under this sub-section.

Landmark Judgement:

- **Gulab Singh Rana vs CPIO, Indian Overseas Bank Ltd and Ors, WP (C) 37231/ 2016** decided on 08.12.2021 is a case where the RTI Applicant was seeking information from his employer (Indian Overseas Bank) about request for prosecution sought against him by CBI.



CONCLUSION

- ❖ Disclosure of information is rule denial is exception.
- ❖ Right to information flows from Article 19(1)(a) of Constitution of India and may not be restricted in routine and casual manner.
- ❖ Balance needs to be established between right to information and right to privacy to keep the conflicts at bay..

Thank You

