

Bill No. XVIII of 2018

THE RIGHT TO INFORMATION (AMENDMENT) BILL, 2018

A

BILL

to amend the Right to Information Act, 2005.

BE it enacted by Parliament in the Sixty-ninth Year of the Republic of India as follows:—

1. (1) This Act may be called the Right to Information (Amendment) Act, 2018.

Short title and commencement

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

22 of 2005.

2. In the Right to Information Act, 2005 (hereinafter referred to as the principal Act), in section 13,—

Amendment of section 13.

10 (a) in sub-section (1), for the words "for a term of five years from the date on which he enters upon his office", the words "for such term as may be prescribed by the Central Government" shall be substituted;

(b) in sub-section (2), for the words "for a term of five years from the date on which he enters upon his office", the words "for such term as may be prescribed by the Central Government" shall be substituted;

(c) for sub-section (5), the following sub-section shall be substituted, namely:—

“(5) The salaries and allowances payable to and other terms and conditions of service of the Chief Information Commissioner and the Information Commissioners shall be such as may be prescribed by the Central Government:

Provided that the salaries, allowances and other conditions of service of the Chief Information Commissioner or the Information Commissioners shall not be varied to their disadvantage after their appointment: 5

Provided further that the Chief Information Commissioner and the Information Commissioners appointed before the commencement of the Right to Information (Amendment) Act, 2018 shall continue to be governed by the provisions of this Act and the rules made thereunder as if the Right to Information (Amendment) Act, 2018 had not come into force.”. 10

Amendment of section 16.

3. In section 16 of the principal Act,—

(a) in sub-section (1), for the words “for a term of five years from the date on which he enters upon his office”, the words “for such term as may be prescribed by the Central Government” shall be substituted; 15

(b) in sub-section (2), for the words “for a term of five years from the date on which he enters upon his office”, the words “for such term as may be prescribed by the Central Government” shall be substituted;

(c) for sub-section (5), the following sub-section shall be substituted, namely:— 20

“(5) The salaries and allowances payable to and other terms and conditions of service of the State Chief Information Commissioner and the State Information Commissioners shall be such as may be prescribed by the Central Government:

Provided that the salaries, allowances and other conditions of service of the State Chief Information Commissioner and the State Information Commissioners shall not be varied to their disadvantage after their appointment: 25

Provided further that the State Chief Information Commissioner and the State Information Commissioners appointed before the commencement of the Right to Information (Amendment) Act, 2018 shall continue to be governed by the provisions of this Act and the rules made thereunder as if the Right to Information (Amendment) Act, 2018 had not come into force.”. 30

Amendment of section 27.

4. In section 27 of the principal Act, in sub-section (2), after clause (c), the following clauses shall be inserted, namely:—

“(ca) the term of office of the Chief Information Commissioner and Information Commissioner under sub-sections (1) and (2) of section 13 and the State Chief Information Commissioner and State Information Commissioner under sub-sections (1) and (2) of section 16; 35

(cb) the salary, allowances and other terms and conditions of service of the Chief Information Commissioner and the Information Commissioners under sub-section (5) of section 13 and the State Chief Information Commissioner and the State Information Commissioners under sub-section (5) of section 16;” 40

STATEMENT OF OBJECTS AND REASONS

The Right to Information Act, 2005 (the Act) was enacted to provide for setting out the practical regime of right to information for citizens to secure access to information under the control of public authorities, in order to promote transparency and accountability in the working of every public authority, the constitution of a Central Information Commission and State Information Commissions and for matters connected therewith or incidental thereto.

2. Sub-section (5) of section 13 of the Act provides that the salaries and allowances and other terms and conditions of service of the Chief Information Commissioner and Information Commissioners shall be the same as that of the Chief Election Commissioner and Election Commissioner, respectively. Similarly, sub-section (5) of section 16 of the Act provides that the salaries and allowances and other terms and conditions of service of the State Chief Information Commissioner and State Information Commissioners shall be the same as that of the Election Commissioner and the Chief Secretary to the State Government, respectively.

3. The salaries and allowances and other terms and conditions of service of the Chief Election Commissioner and Election Commissioner are equal to a Judge of the Supreme Court, therefore, the Chief Information Commissioner, Information Commissioner and State Chief Information Commissioner becomes equivalent to a Judge of the Supreme Court in terms of their salaries and allowances and other terms and conditions of service.

4. The functions being carried out by the Election Commission of India and the Central and State Information Commissions are totally different. The Election Commission is a constitutional body established by clause (1) of article 324 of the Constitution and is responsible for the superintendence, direction and control of the preparation of the electoral rolls for, and the conduct of, all elections to Parliament and to the Legislature of every State and of elections to the offices of President and Vice-President held under the Constitution. On the other hand, the Central Information Commission and State Information Commissions are statutory bodies established under the provisions of the Right to Information Act, 2005. Therefore, the mandate of Election Commission of India and Central and State Information Commissions are different. Hence, their status and service conditions need to be rationalised accordingly.

5. In view of the above, it is proposed to amend the Right to Information Act, 2005 so as to provide that—

(a) the salaries, allowances and other terms and conditions of service of the Chief Information Commissioner and the Information Commissioners and the State Chief Information Commissioner and the State Information Commissioners shall be such as may be prescribed by the Central Government;

(b) the Chief Information Commissioner, Information Commissioner, the State Chief Information Commissioner and the State Information Commissioner shall hold office for such term as may be prescribed by the Central Government instead of five years.

6. The Bill seeks to achieve the above objectives.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 4 of the Bill proposes to amend section 27 of the Act so as to enable the Central Government to prescribe by rules the term of office of, and the salaries and allowances and other terms and conditions of service of, the Chief Information Commissioner, Information Commissioners, the State Chief Information Commissioner and State Information Commissioner.

2. The matters in respect of which rules may be made under the proposed legislation are matters of procedure or administrative details and it is not practicable to provide for them in the Bill itself. The delegation of legislative power is, therefore, of a normal character.

ANNEXURE

EXTRACTS FROM THE RIGHT TO INFORMATION ACT, 2005

(22 OF 2005)

13. (1) The Chief Information Commissioner shall hold office for a term of five years from the date on which he enters upon his office and shall not be eligible for reappointment:

Term of office and conditions of service.

Provided that no Chief Information Commissioner shall hold office as such after he has attained the age of sixty-five years.

(2) Every Information Commissioner shall hold office for a term of five years from the date on which he enters upon his office or till he attains the age of sixty-five years, whichever is earlier, and shall not be eligible for reappointment as such Information Commissioner:

Provided that every Information Commissioner shall, on vacating his office under this sub-section be eligible for appointment as the Chief Information Commissioner in the manner specified in sub-section (3) of section 12:

Provided further that where the Information Commissioner is appointed as the Chief Information Commissioner, his term of office shall not be more than five years in aggregate as the Information Commissioner and the Chief Information Commissioner.

(5) The salaries and allowances payable to and other terms and conditions of service of—

(a) the Chief Information Commissioner shall be the same as that of the Chief Election Commissioner;

(b) an Information Commissioner shall be the same as that of an Election Commissioner:

Provided that if the Chief Information Commissioner or an Information Commissioner, at the time of his appointment is, in receipt of a pension, other than a disability or wound pension, in respect of any previous service under the Government of India or under the Government of a State, his salary in respect of the service as the Chief Information Commissioner or an Information Commissioner shall be reduced by the amount of that pension including any portion of pension which was commuted and pension equivalent of other forms of retirement benefits excluding pension equivalent of retirement gratuity:

Provided further that if the Chief Information Commissioner or an Information Commissioner is, at the time of his appointment is, in receipt of retirement benefits in respect of any previous service rendered in a Corporation established by or under any Central Act or State Act or a Government company owned or controlled by the Central Government or the State Government, his salary in respect of the service as the Chief Information Commissioner or an Information Commissioner shall be reduced by the amount of pension equivalent to the retirement benefits:

Provided also that the salaries, allowances and other conditions of service of the Chief Information Commissioner and the Information Commissioners shall not be varied to their disadvantage after their appointment.

Term of office
and conditions
of service.

16. (1) The State Chief Information Commissioner shall hold office for a term of five years from the date on which he enters upon his office and shall not be eligible for reappointment:

Provided that no State Chief Information Commissioner shall hold office as such after he has attained the age of sixty-five years.

(2) Every State Information Commissioner shall hold office for a term of five years from the date on which he enters upon his office or till he attains the age of sixty-five years, whichever is earlier, and shall not be eligible for reappointment as such State Information Commissioner:

Provided that every State Information Commissioner shall, on vacating his office under this sub-section, be eligible for appointment as the State Chief Information Commissioner in the manner specified in sub-section (3) of section 15:

Provided further that where the State Information Commissioner is appointed as the State Chief Information Commissioner, his term of office shall not be more than five years in aggregate as the State Information Commissioner and the State Chief Information Commissioner.

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(5) The salaries and allowances payable to and other terms and conditions of service of—

(a) the State Chief Information Commissioner shall be the same as that of an Election Commissioner;

(b) the State Information Commissioner shall be the same as that of the Chief Secretary to the State Government:

Provided that if the State Chief Information Commissioner or a State Information Commissioner, at the time of his appointment is, in receipt of a pension, other than a disability or wound pension, in respect of any previous service under the Government of India or under the Government of a State, his salary in respect of the service as the State Chief Information Commissioner or a State Information Commissioner shall be reduced by the amount of that pension including any portion of pension which was commuted and pension equivalent of other forms of retirement benefits excluding pension equivalent of retirement gratuity:

Provided further that where the State Chief Information Commissioner or a State Information Commissioner if, at the time of his appointment is, in receipt of retirement benefits in respect of any previous service rendered in a Corporation established by or under any Central Act or State Act or a Government company owned or controlled by the Central Government or the State Government, his salary in respect of the service as the State Chief Information Commissioner or the State Information Commissioner shall be reduced by the amount of pension equivalent to the retirement benefits:

Provided also that the salaries, allowances and other conditions of service of the State Chief Information Commissioner and the State Information Commissioners shall not be varied to their disadvantage after their appointment.

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