

# **FREEDOM OF INFORMATION BILL, 1997**

(As suggested by a Committee, headed by H.D. Shourie)

A Bill to provide 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 forty-seventh year of the Republic of India as follows:-

## **1. Short title and Commencement**

- (1) The Act may be called the Freedom of Information Act, 1997.
- (2) It extends to the whole of India
- (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

## **2. Definitions**

In this Act, unless the context otherwise requires:-

- (a) "appropriate Government" means the Government of India or the Government of State / Union Territory, as the case may be
- (b) "document" means a document in any form and includes any printed or written material, information stored or recorded by means or any devices and visual images which are reproducible, whether with or without the aid of any device.
- (c) "freedom of information" means the freedom to seek information and includes inspection, taking notes and extracts and obtaining certified copies of documents or records of any public authority; and where the information is stored in computers or any other electromagnetic device, the facility of access to it through terminals or supply of printouts.
- (d) "information" means any material relating to the affairs, administration or decision of a public authority and includes any document or record relating to the affairs of the public authority;
- (e) "Public Information Officer" means the Public Information Officer appointed under the Act.
- (f) "prescribed" means prescribed by rules under this Act.
- (g) "public authority includes:
  - (i) The government of India, the Government of each of the States/Union Territories, local bodies and other bodies owned or substantially controlled or funded by the Government of India or Government of a State/Union Territory and the administrative offices of the Supreme Court, High Courts, subordinate Courts and of Parliament and State Legislatures;
  - (ii) A company, corporation, trust, firm society or a cooperative society substantially funded or controlled by the Government.

The expression company, corporation, trust, firm, society and cooperative society shall have the same meaning as assigned to them in the respective Acts under which they are registered.

- (h) “third party means a person or an organization other than the person making a request for access to information and a public authority.

### **3. Freedom of Information**

Subject to the provisions of this Act, every citizen shall have the freedom to seek information from a public authority.

### **4. Obligations on public authorities**

- (1) Every public authority shall be under a duty to maintain all its records, as per its operational requirements, duly catalogued and indexed and, subject to the provisions of sections 9 and 10, grant access to information to any citizen requesting for such access.
- (2) Each public authority shall publish periodically, and keep updated, information indicating:
  - i. particulars of its organization, functions and responsibilities;
  - ii. description of its decision making processes in terms of procedures and powers and responsibilities of its officers and employees;
  - iii. norms for performance of activities such as prescribed periods for their processing and completion of physical and financial targets etc., and the actual achievements with reference to such norms;
  - iv. classes of records under its control including the rules, regulations, instructions and list of manuals etc. used by its employees for carrying out activities;
  - v. the facilities provided for access to information; and
  - vi. the name, designation and other relevant particulars of the Public Information Officer, to whom requests for information may be addressed.
- (3) It shall also be the duty of the concerned officers of a public authority to give reasons for decisions – whether administrative or adjudicative – to those affected and to disclose the relevant facts and analysis when major policies or decisions are announced.

### **5. Appointment of Public Information Officers**

- (1) Every public authority shall appoint officers to be called Public Information Officers in its offices.
- (2) It will be the responsibility of Public Information Officers to deal with requests for access to information and to render reasonable assistance to requesters seeking access to information

### **6. Requests for Access to Information**

A request under this Act shall be made to the appropriate Public Information Officer in writing and shall specify, as clearly as possible, the particulars of the information, document or records to which access is being sought.

Provided that where a requester cannot, for valid reasons, make a request in writing, the Public Information Officer may either accept an oral request or render reasonable assistance to the requester in making a written request.

## **7. Disposal of Requests**

- (1) Upon a request being made to him, the Public Information Officer shall provide access to the information, where it is decided not to refuse such access, as expeditiously as possible and in any case within 30 days of the receipt of the request;

Provided that where it is not possible access within 30 days, the period may be extended up to a maximum of another 30 days, for reasons to be recorded, and communicated to the requester, in writing.

Provided further that where it is decided to grant access to information on payment of any additional fee, representing the cost of providing such access, the Public Information Officer shall send an intimation to the requester, accompanied by details of fees determined by him, requesting him to deposit the fees; and the period intervening between the dispatch of the said intimation and payment of fees shall be excluded for the purpose of calculating the period.

- (2) Where the Public Information Officer decides to refuse access, such decision shall also be taken within 30 days of the receipt of the request and it shall be communicated to the requester in writing, setting out the precise grounds and the relevant provisions of the Act, on which such refusal is based and mention the remedy open to the requester.
- (3) Access to 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 document in question or would be detrimental to the safety or preservation of the document in question.

## **8. Deemed Refusal of Request**

Where the decision on a request for access to information is not communicated to the requester within 30 days, or within the extended period, the request shall be deemed to have been refused and the requester shall have the right to make a review application in accordance with the provisions of the Act.

## **9. Exemption from disclosure of Information**

Information covered by any of the following categories shall be exempted from disclosure under the provisions of this Act:

- (i) information disclosure of which would prejudicially affect the sovereignty and integrity of India, security of the State, conduct of International relations, including information received in confidence from foreign Governments, their agencies or international organizations;
- (ii) information disclosure of which would prejudicially affect the conduct of Centre-State relations including information exchanged in conference between the Central and State Governments or any of their authorities / agencies;

- (iii) information in the nature of Cabinet papers, including papers prepared for submission to Cabinet or submitted to Cabinet, other than the documents whereby such decisions are published;
- (iv) information in the nature of internal working papers such as inter-departmental / intra-departmental notes and correspondence, papers containing advice, opinions, recommendations or minutes for the purposes of deliberative processes in a public authority;

Provided that this exemption shall not apply to reports of scientific or technical experts, including their opinion on scientific or technical matters or information that is factual.

- (v) information disclosure of which would prejudicially affect the enforcement of any law including detection, prevention investigation or suppression of crime or prejudicially affect the operations of any intelligence organisations to be specified by the appropriate Government; or would prejudicially affect public safety or the safety of an individual; or would prejudicially affect fair trial or adjudication of a pending case; or would reveal the existence or identity of a confidential record or source of information; or would prejudice future supply of information relating to violation or contravention of any law;
- (vi) information the disclosure of which would prejudicially affect the Government's ability to manage the economy or would prejudicially affect the legitimate economic and commercial interests of a public authority; or would cause unfair gain or loss to any individual or organization;

Without prejudice to the generality of this provision, such information may include premature disclosure of proposals relating to

- (a) taxes, including duties of Customs and Excise;
  - (b) currency, exchange or interest rates;
  - (c) regulation or supervision of financial institutions
- (vii) information the disclosure of which would prejudicially affect the management of services under, and operations of, public authorities;
  - (viii) information in the nature of trade or commercial secrets or any information having a commercial value which is likely to be prejudicially affected by such disclosure, or information the disclosure of which is likely to prejudicially affect the competitive position of a third party;
  - (ix) information the disclosure of which would not subserve any public interest;
  - (x) information which would cause unwarranted invasion of the privacy of any individual;
  - (xi) information the disclosure of which may result in the breach of Parliamentary privileges or would amount to violation of an order of a competent Court.

## **10. Grounds for Refusal of Access in certain cases**

Without prejudice to the provisions of Section 9, a Public Information Officer may refuse access to information where:

- (i) the request is too general or is of such a nature that, having regard to the volume of information required to be retrieved or processed for fulfilling it, it would involve disproportionate diversion of the resources of a public authority or would adversely interfere with the function of such authority.

Provided that, where access is being refused 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 requester to reframe his request in such a manner as may facilitate compliance with it;

- (ii) the request relates to information that is required by law or convention to be published at a particular time; or
- (iii) the request relates to information that is contained in published material available for sale.

## **11. Fee**

The appropriate Government may prescribe the fees to be charged for access to information, which may include an application fee and such additional fees as may represent the cost of providing access.

Provided that the fees may be waived where the disclosure of information can be said to be in the larger public interest.

## **12. Severability**

If a request for access to information is refused 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 document 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.

## **13. Third Party Intervention**

Where a public authority intends to disclose information which relates to, or has been supplied by a third party and has consistently been treated as confidential by such third party, a notice may be given to it of the intended disclosure inviting it to make a representation against the intended disclosure, within 14 days of such notice. The Public Information Officer shall take such representation, if any made, into consideration while taking a decision on the request for information in question.

Provided that, excepting in the cases 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.

## **14. Internal Review**

- (1) A requester, whose request for access to information has been refused by the Public Information Officer, may make an application, within 30 days of the refusal, for review of the decision to the Head of Department, or such other authority as may be prescribed, having jurisdiction over the office of the public authority to which the request had been addressed.
- (2) The reviewing authority shall dispose of the application within 30 days.

Provided that, where the application for review is rejected, the grounds for rejection shall be communicated to the applicant in writing setting out the appellate remedy available to the applicant.

- (3) In the case of third party information, the reviewing authority shall also follow the procedure set out in section 13 of the Act.
- (4) A review application may also be made as regards the fee proposed to be charged by the Public Information Officer for access to information.

## **15. Appeals**

- (1) An appeal against the decision of a reviewing authority may be made, within 30 days of such decision. The appeal shall be considered and disposed of as a complaint under the Consumer Protection Act, 1986.
- (2) It shall be disposed of by the District Forum, the State Commission or the National Commission, as the case may be, by a written order, within 30 days.
- (3) The concerned Forum or the Commission, as the case may be, on an application by the public authority, hold proceedings in camera.

Provided that no document or record shall be withheld from the perusal of the appellate authority.

## **16. Publication of Certain Matters by Public Authorities**

Notwithstanding anything contained in this Act or in any other law for the time being in force, but subject to the provisions of section 9, it shall be the duty of every public authority which proposes to initiate any project or activity, to appropriately publish, as soon as possible, and in any case well before the commencement of the project or activity, for the information of the general public and the persons to be affected, such matters within its knowledge and control as affect the general public.

## **17. Protection of action taken in good faith**

No suit, prosecution or other legal proceedings shall lie against any public authority or any individual, for anything which is in good faith done or intended to be done under the provisions of this Act or any rule made thereunder.

## **The Act to have overriding effect**

The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

## **18. National Council for Freedom of Information**

- (1) The Central Government may, by notification in the Official Gazette, establish with effect from such day as may be specified in the notification, a Council to be known as the National Council for Freedom of Information.
- (2) The National Council may consist of the following members –

- (a) the Minister in charge of the Department of Administrative Reforms in the Central Government, who shall be its Chairman, and
- (b) such other official and non-official members representing such interests as may be prescribed;
- (c) the Council may meet as and when necessary, with at least one meeting being held every year;
- (d) the time and place of the meetings of the Council shall be as the Chairman thinks fit and it shall observe such procedure as may be prescribed to transact its business.

## **19. Objects of the National Council**

The object of the National Council shall be to promote freedom of information in the country and it shall deal with all matters related to freedom of information such as

- (a) review of the operation of the Act and rules made thereunder.
- (b) Review of the administrative arrangements and procedures to secure for citizens the fullest possible access to information.
- (c) research and documentation as regards management of information with a view to improve the extent and accuracy of information being made available under the Act, and
- (d) to advise the Government on all matters related to freedom of information, including training, development and orientation or employees to bring in a culture of openness and transparency.

## **State Councils for Freedom of Information**

- (1) The State Government may, by notification in the Official Gazette, establish with effect from such day as may be specified in the notification, a Council to be known as the State Council for Freedom of Information.
- (2) The State Council may consist of the following members –
  - (a) the Minister in charge of the Department of Administrative Reforms in the State Government, who shall be its Chairman, and
  - (b) such other official and non-official members representing such interests as may be prescribed;
  - (c) the Council may meet as and when necessary, with at least one meeting being held every year;
  - (d) the time and place of the meeting of the Council shall be as the Chairman thinks fit and it shall observe such procedure as may be prescribed to transact its business.

## **20. Objects of the State Council**

The object of the State Council shall be to promote the freedom of information within the State and it shall deal with the matters specified in Section 20 in respect of the State.

## **21. Power to make rules**

- (1) The appropriate Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Act.

- (2) Without prejudice to the generality of the foregoing power, such rules may provide for all matters in respect of which rules are required to be made by the appropriate Government under this Act.

## **22. Laying of Rules**

- (1) Every rule made under this Act by the Central Government shall be laid, as soon as may be after it is made, before each of House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule, or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under the rule.

Every rule made under this Act by a State Government shall be laid, as soon as may be after it is made, before the State Legislature.