

THE KARNATAKA RIGHT TO INFORMATION BILL, 2000
(L.C Bill No 2 of 2000)

(As passed by the Legislative Council with Amendments)

A Bill is to provide for right to 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 to access to information to the citizens of the State promotes openness, 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 purpose hereinafter appearing;

Be it enacted by the Karnataka State Legislature in the fifty-first 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.
(2) It shall come into force from such date, as the State Government may, by notification, appoint and different dates may be appointed for different provisions of this Act.

PRELIMINARY

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

(a) 'Competent Authority' means any authority, officer or person as may be notified by the State Government for the purpose of this Act;

(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;

(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.

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;

(iv) religious organisation;

(v) the High Court of Karnataka and other Courts of Law including Tribunals, and other organisations which have the status of Courts and whose proceedings are deemed to be judicial proceedings;

(vi) the Secretariat of the Governor of Karnataka.

(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 any other device;

(iii) in such other manner 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 other 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.

(f) 'Trade secret' means information contained in a formulae, 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 set up 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 important decisions and policies that affect the public, while announcing such decisions and policies;

(d) Before sanctioning or initiating 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 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 subsection (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 prejudicially 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 related, or connected with, such decision or policy formulation;

Provided that information regarding the decisions of Cabinet along with 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 circumstances 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 recommendations 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 tax, cess, duty or fee or assist in avoidance or evasion of the tax, cess, duty or fee.

(f) information the disclosure of which will lead to breach of Parliament or 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 rendered by the Secretariat:

Provided further that in computing the period of thirty 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 an 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 thirty working days from the date of receipt of the application;

Provided that where the Competent Authority does not have the information, he shall within fifteen days from the date of receipt of application transfer the application to the authority superior to the Competent Authority with whom such information is available and inform the applicant accordingly and thereafter such superior authority to whom such application is transferred shall furnish information within thirty 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 such request is rejected on the aforesaid ground, it would be the duty of the Competent Authority to reframe the request in such a manner that shall 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 relation to any public activity or which would cause unwarranted invasion of the privacy of any 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 thirty 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 withholding 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.

MISCELLANEOUS

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 no such order shall be made at 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 a period of thirty working days from the date of receipt of the application under section 5 or furnishes information which is false with regard to any material particulars and which he knows or has reasonable cause to believe it to be false,
- (i) The authority 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 on any other order shall be called in question otherwise than by way of an appeal under this Act.
11. **Act to have an 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 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.

STATEMENT OF OBJECTS AND REASONS

(As appended at the time of introduction)

It is considered necessary to have a legislation to provide right of access to information to the citizens of the State which would promote openness, 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 up to 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.