

# OUR RIGHT TO INFORMATION

A GUIDE FOR CITIZENS ON THE RIGHT TO INFORMATION ACT, 2005



Action for good Governance  
and Networking in India

This guide, the second of the series of AGNI publications on the Right to Information, attempts to simplify the usage of the Right to Information Act, 2005.

The first guide, published in March 2004, explained the Maharashtra Right to Information Act 2002 (MRTI), the Act which was in force till 12<sup>th</sup> October 2005. More than 11,000 copies of the same were printed in two languages (English and Marathi) and distributed to the citizens of Mumbai.

With the enforcement of the Right to Information Act 2005, the Maharashtra Right to Information Act stands repealed. However, applications / appeals made under the MRTI Act before 12<sup>th</sup> October 2005 will be dealt with under the provisions of the repealed Act.

We are grateful to:

Ms. Kiran Madan for compiling and writing this guide,

Mr. Sailesh Gandhi for his valuable suggestions and

M/s Good Earth Studioline Ltd. for covering the costs of printing.

November, 2005

AGNI (Action for good Governance & Networking in India)

## FOREWORD

I am glad to know that AGNI is publishing a Citizens' Guide on the Right to Information. I am aware of similar efforts made by AGNI for successful implementation of the Maharashtra Right to Information Act.

The Right to Information Act 2005 is the recognition of the people's right to information which is proclaimed as a fundamental right in our Constitution.

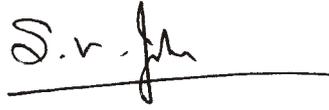
The Act aims at bringing transparency in governance and promoting accountability in the functioning of public authorities.

No doubt the citizens have got a powerful weapon in their hands, but its responsible use is called for. It should not be used in a frivolous manner.

Therefore, it is very necessary to impart rigorous training to the Public Information Officers and to make people in general and particularly those living in rural areas and those belonging to socially disadvantaged sections of the society, aware of various provisions in the Act and how to use it to increase their participation in the functioning of our democratic institutions.

The real democracy would be when, thus enlightened landless agricultural worker or marginal or small farmer sit across the table of the Finance Minister to discuss the topics like quantum and types of subsidy, rural employment, which would be reflected in the budget presented by the Finance Minister.

I appreciate the efforts of AGNI and wish them every success in their endeavor.

A handwritten signature in black ink, appearing to read 'S.V. Joshi', with a horizontal line drawn underneath it.

(Suresh V. Joshi)  
Chief Information Commissioner  
Maharashtra State

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## THE RIGHT TO INFORMATION ACT, 2005

### MEANING OF RIGHT TO INFORMATION

Under the Constitution of India people have been given some Fundamental Rights. The Right to Information, though not a Fundamental Right itself, has been recognized by the Supreme Court as a part of the Right to Freedom of Speech under Article 19 (1) (a) of the Indian Constitution.

People have a right to ask for information from government and public bodies about things that affect their lives.

Under the Act, the word "information" has been given a very wide meaning. Any material in any form, including records, documents, memos, emails, opinions, advices, press releases, circulars, orders, log books, 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 (PA) under any law, shall be treated as information for this purpose. Thus, information about a Company (its annual accounts, Memorandum, Articles of Association, Board of Directors etc) can be obtained from the Registrar of Companies. Similarly, information about a Trust or a Non Government

Organisation can also be obtained from the Charity Commissioner.

People can seek information in the following ways. They can:

- inspect works, documents, records;
- take notes, extracts or copies of record;
- take certified samples of material; or
- obtain information in any of the electronic forms.

### HOW INFORMATION HELPS

Information brings about transparency and accountability, both of which help to reduce corruption and increase efficiency in governance. It also encourages participation of people in a democracy.

It is only through information made available to citizens that they get to know exactly how the government is functioning, whether various government schemes are benefitting the intended target groups and if any irregularities are committed during implementation of the same.

### TO WHOM THE ACT IS APPLICABLE

The Act is applicable to all Public Authorities. A Public authority means any government office, department or institution

constituted:

- a. by the Constitution; or
- b. by any law made by the Parliament or State Legislature; or
- c. by notification issued or order made by the appropriate Government. It also includes any body owned, controlled or substantially financed; or a non-government organization substantially financed, directly or indirectly by funds provided by the appropriate Government.

Thus, apart from offices directly under the Central, State or Local Government, information can be sought from Universities, Public Sector Companies (eg. ONGC, BPCL etc), Statutory Authorities (eg. MMRDA, MHADA etc) etc.

### HOW TO ASK FOR INFORMATION

Every Public Authority has appointed one or more special officers called Public Information Officers (PIOs) to deal with requests for information. Assistant PIOs (APIO) are also appointed by such authorities at sub-division / taluka level.

The Central and State government have slightly different rules regarding submitting an application for information and payment of fees for the same.

*A. Applying for information from the Government of Maharashtra*

Citizens seeking information have to submit written applications to the PIOs / APIOs on plain paper in the format given (see page 15) along with a fee of Rs. 10/- to be paid in cash, demand draft or banker's cheque payable to the Public Authority, or by affixing a court fee stamp of rupees ten.

*B. Applying for information from the Central Government*

Citizens seeking information can submit written applications to the PIOs / APIOs on plain paper or through electronic means. Although no format has been prescribed in the Central Government Rules, it may be useful to follow the State Government format. A fee of Rs. 10/- has to be paid either in cash, demand draft or banker's cheque payable to the Accounts Officer of the Public Authority.

**WHEN TO EXPECT A RESPONSE**

Under the Act, the PIO will either supply the information or reject the request, on certain specified grounds, within a period of 30 days. If the request has been made to an APIO, the period of response will be increased to 35 days. However, in cases where information involves the life and liberty of a person, information

must be given within 48 hours of receiving an application.

If the information demanded pertains to a Public Authority other than the one to which the application has been made, the latter shall transfer it or the relevant part of it to the appropriate authority within 5 days and inform the applicant accordingly.

If the information requires the payment of additional fees to cover the cost of copying documents etc. the PIO has to communicate the details about the fees, the way it is calculated, the date by which the payment has to be made and the details of the Appellate Authority etc. The period between the PIO asking for the payment of fees and the actual payment of fees is excluded from the period allowed to the PIO to give the information.

The applicant seeking information from an office of the Central Government can pay the required fee by way of cash against proper receipt or by demand draft, banker's cheque payable to the Accounts Officer of the Public Authority.

For information from an office of the Government of Maharashtra the fee can be paid by cash, demand draft, banker's cheque or even through money order payable to the Public Authority.

No fee is charged to persons from Below Poverty Line. The fee shall not be charged to any applicant if the information is supplied after the prescribed time limit of 30/35 days.

#### WHEN THE INFORMATION DEMANDED RELATES TO THIRD PARTY

When the information asked for relates to or has been supplied by a third party and is treated as confidential, the PIO will within 5 days give a written notice to such third party intending to disclose the information. The third party has to respond within 10 days of the receipt of the notice. Taking into consideration the submission of the Third Party, the PIO will, within 40 days of receipt of application, decide about the disclosure of the information. The third party has the right to file an appeal against the decision of the PIO.

#### GROUND FOR REJECTION OF REQUEST FOR INFORMATION

The following type of information is exempt from disclosure and therefore request for such information can be rejected:

- a. Information which would prejudicially affect the sovereignty and integrity of India, the security, strategic, scientific and economic interests of the State, relation with a foreign State or lead to incitement of an offence.

- 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.
- c. Information, the disclosure of which would cause a breach of privilege of Parliament or the State Legislature.
- d. Information including commercial confidence, trade secrets or intellectual property, the disclosure of which would harm the competitive position of a third party.
- e. Information available to a person in his fiduciary (i.e. held in trust) relationship.
- f. Information received in confidence from a foreign government.
- g. Information, the disclosure of which would endanger the life or physical safety of any person or identify the source of information or assistance given in confidence for law enforcement or security purposes.
- h. Information, which would impede the process of investigation

or apprehension or prosecution of offenders.

- i. Cabinet papers including records of deliberations of the Council of Ministers, Secretaries and other officers.
- 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.
- k. Information involving infringement of copyright held by a person other than the State.

While rejecting a request the PIO has to communicate to the applicant within 30 days

- The reasons for rejection
- Time within which an appeal can be made.
- The particulars of the first Appellate Authority.

#### **SITUATIONS IN WHICH EXEMPTED INFORMATION CAN BE DISCLOSED**

- If information is required from a document that is exempt from disclosure, but it is possible to provide access to that part of record / document which is not exempted, then the request for

this part of the information can not be rejected.

- Information exempted from disclosure under clause (d), (e) and (j) of 'Grounds for Rejection of Request for Information' can be made available if the PIO or AA (Appellate Authority) is satisfied that it is in the larger public interest.
- Decisions of the Cabinet, the reasons thereof, and the material on the basis of which decisions were made shall be made public after the decision has been taken, unless they relate to any subject which is otherwise exempt from disclosure under the exemption clauses.
- Regardless of provisions of exemption by the Act (except exemptions under clauses a, c & i of pages 6-8) information pertaining to an event or a matter that has taken place twenty years before a request is made, has to be provided.

## APPEALS

Any person who does not receive a decision from the PIO within the specified time or is aggrieved by the order of the PIO may appeal within 30 days to the Appellate Authority (AA) designated

for this purpose or to an officer who is senior in rank to the PIO if no AA is designated.

The order then passed by the AA has to be communicated to the Appellant and the PIO.

Any person who does not receive a decision or is aggrieved by an order of the first AA may within 90 days appeal to the State or Central Information Commission, as the case may be, who serve as the second AA.

The 30 days or 90 days limitation can be waived by the AA/Information Commission (IC) if the appellant can satisfy the AA/IC that there was sufficient cause for delay.

Under the Rules of Government of Maharashtra appeals against the orders of the PIO or the first Appellate Authority have to be made on a plain paper in the format given (see pages 16 & 17). A fee of Rs. 20 has to be paid by affixing a court fee stamp or by cash (against receipt), demand draft or banker's cheque payable to the Public Authority, with a copy of the order appealed against (if order is passed).

The Rules of the Central Government do not provide for any

format or fees for filing appeals.

All appeals are, as far as possible, to be disposed off within 30 days or an extended period of further 15 days after stating reasons for extension of the period.

Decisions of the Information Commission are final. No court can admit a case against any order made under this Act.

#### RESPONSE TO APPEALS

After giving the PIO an opportunity of being heard, the Information Commission can either accept the appeal by giving some direction to the Public Authority concerned or reject it.

If the PIO, without any reasonable cause has

- a. refused to receive the application, or
- b. not furnished information within the prescribed period, or
- c. malafidely denied the request, or
- d. knowingly given incomplete, incorrect or misleading information or
- e. obstructed in any manner in furnishing the information,

then a penalty of Rs.250/- per day subject to a maximum of Rs. 25,000/- shall be imposed by the Commission till the

information is furnished. Disciplinary action, according to the relevant service rules, can also be recommended by the Commission against the officer concerned if he, without any reasonable cause and persistently, commits the above stated acts.

### MONITORING OF THE ACT

The Information Commission will monitor the implementation of the Act on the basis of the information supplied by each department of the government. The Commission will also prepare an Annual Report containing the number of applications received, decisions given, appeals made, disciplinary action taken etc. This report will be placed before each house of Parliament / Legislature.

### DUTY OF PUBLIC AUTHORITIES TO PUBLISH INFORMATION

Every Public Authority is duty bound to maintain and publish the following type of information on its own for the convenience of the public

- the particulars of the organization, its functions and duties
- the powers and duties of its officers and employees
- the procedure followed in decision making process
- the norms set by it for the discharge of its functions
- the rules, regulations, instructions, manuals and records held

by it

- directory of its employees and remuneration received by them
- budget allocated to each department
- names, designation and details of the PIOs, etc.

*(refer Section 4 of the The Right to Information Act, 2005 for further details)*

### FEE STRUCTURE FOR COPIES OF DOCUMENTS

#### Description of the Document & Fees in Rupees

1. When the concerned department has already fixed the price of some documents, publications, maps, etc

*The price so fixed + Postage charges (unless collected personally)*

2. When the information is readily available either by photocopying, or copying in any other way

*(i) Rupees 2/- per page (A4 or A3 size paper) + Postage charges (unless collected personally)*

*(ii) Actual charge or cost price of a copy in large size paper + Postage charges (unless collected personally)*

*(Under the Central Government Rules actual cost or price for samples or models.)*

3. For inspection of records

*No fee for the first hour, then rupees 5/- for every 15 minutes (or fraction) thereafter.*

4. For information provided in diskette or floppy

*Rupees 50/- per diskette + Postage charges (unless collected personally)*

## FORMAT OF APPLICATION FOR INFORMATION

To,  
The State Public Information Officer,  
(Name of the office with address)

1. Full name of the applicant:
2. Address:
3. Particulars of information required:
  - i. Subject matter of information\*:
  - ii. The period to which the information relates #:
  - iii. Description of the information required \$:
  - iv. Whether information is required by post or in person:  
(The actual postal charges shall be included in additional fees)
  - v. In case by post:  
(Ordinary, Registered or speed)
4. Whether the applicant is below poverty line:  
(If yes, attach the photo copy of the proof thereof).

Place:

Date:

Signature of the Applicant

\* Broad category of the subject to be indicated (such as grant of Government land / service matters / Licenses, etc.)

# Relevant period for which information is required to be indicated.

\$ Specific details of the information is required to be indicated.

## FORMAT FOR FIRST APPEAL

From: .....  
(Appellant's name and address)

To: .....  
(Name / designation / address of the appellate authority)

1. Full name of the Appellant:
2. Address:
3. Particulars of the State Public Information Officer:
4. Date of receipt of the order appealed against:  
(if order passed)
5. Last date for filing the appeal:
6. The grounds for appeal:
7. Particulars of information:
  - i. Nature and subject matter of the information required
  - ii. Name of the Officer or Department to which the information relates

Place:

Date:

Signature of Appellant

FORMAT FOR SECOND APPEAL

From: .....  
(Appellant's name and address)

To: .....

1. Full name of the Appellant:
2. Address:
3. Particulars of State Public Information Officer:
4. Particulars of the First Appellate Authority:
5. Date of receipt of the order appealed against:
6. Last date for filing the appeal:
7. The grounds for appeal:
8. Particulars of information
  - i. Nature and subject matter of the information required
  - i. Name of the Officer or Department to which the information relates

Place:

Date:

Signature of Appellant

For related information on the subject of Right to Information,  
log on to:

<http://www.persmin.nic.in>

<http://www.maharashtra.gov.in>

<http://www.mcgm.gov.in>

<http://www.humanrightsinitiative.org>

Published in the public interest by



Action for good Governance  
and Networking in India

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