## WHAT IS RIGHT TO INFORMATION?

Do you know that contracts are given out every year to de-silt all the drains in Delhi once a year? MCD spends about Rs 31 crores on this. But, in practice, the drains are rarely cleaned. As a resident of Delhi you have the right to know where this money is going, you have the right to ask for the details of contracts given out for de-silting of drains in your own area for the current year and you may like to verify its actual implementation.

How often have you received inflated telephone and electricity bills? How many times have you complained and not received any reply from the concerned department? You have the right to know the status of your complaint; you have the right to know which officer in the concerned department is responsible for solving you problem. You have the right to know when the problem will be rectified.

**Right to Information** is the right of a citizen to know about the government and have information from the government – it is the citizens right to question the government and public bodies about their functioning. To ask what work is being undertaken by these bodies and how much money is being spent by the government and how this money is spent. It is essentially your right to know information that is relevant to your life.

## WHY IS RIGHT TO INFORMATION IMPORTANT?

India is a democracy and the government is formed by the people, for the people. All government work is carried out for the benefit of the people with money, which belongs to the people. The government is answerable to the people in how it spends this money. If the government has to function to fulfill needs of the people, people need to have a say in decision-making. In order to take part in decision-making and hold the government accountable, people need information

Decisions of government affect lives of citizens in many ways – people have the right to know of information that affects them.

#### IS RIGHT TO INFORMATION A FUNDAMENTAL RIGHT?

The Constitution of India states that the people of India have certain basic rights which has to be protected by the state, these rights are known as Fundamental Rights.

The Right to Information is recognized as a fundamental right and flows out of the provisions which guarantee the fundamental right to freedom of speech and expression and the fundamental right to life and liberty.

The Supreme Court of India has said that the Right to Information is a part and parcel of the right to freedom of speech and expression – unless one has the right to know one cannot express an opinion on any issue. The Supreme Court has also stated that the Right to Know is a part of right to life – people have the right to know information that affects their life, their liberty and dignity.

## IF RIGHT TO INFORAMTION IS A FUNDAMENTAL RIGHT WHY IS INFORMATION REFUSED ?

Information is refused for many reasons:

- Government machinery is large, complicated, powerful, corrupt and inefficient and its personnel want to protect their dealings under a cloak of secrecy
- People do not know that they are entitled to get information; hence they do not demand information. Even if they do demand and they are refused they do not insist on asserting their rights.
- Since the file maintenance and record keeping systems of the government are outdated retrieval of information is difficult.
- Colonial laws such as the Official Secrets Act, the Indian Evidence Act and the Conduct of civil servants rules help suppress information and levy a bar on providing information to the people.

### HOW CAN A CITIZEN GET THE RIGHT TO INFORMAITON?

Even though right to information is a fundamental right something more needs to be done in order to make the right easily enforceable so that an Indian citizen can access any information that is relevant to them from government and public bodies.

- a) Enact a law that enables people to get information in a systematic manner from various government departments and public bodies.
- b) Issue orders to various government departments to give information to people.
- c) To make changes in existing laws which restrict free flow of information.

# WHAT IS THE STATUS OF RIGHT TO INFORMATION LEGISLATION IN INDIA?

In India though there is no central legislation on right to information there are many state governments that have enacted Right to Information laws such as Tamilnadu, Maharashtra, Goa, Rajasthan, Karnataka and more recently Delhi. The Government of Madhya Pradesh has issued executive orders to more than 50 departments directing them to provide access to information to the people – these orders are also applicable in the state of Chattisgarh. At the central government level The Freedom of Information Bill, 2000 is pending in Parliament.

## DOES DELHI HAVE A LAW ON THE RIGHT TO INFORMATION?

The Government of Delhi enacted law on the Right to Information that came into effect on October 2, 2001. Now the residents of Delhi can use the law to access any information from the government that they require.

#### **DELHI RIGHT TO INFORMATION ACT, 2001**

#### What does right to information mean under the Delhi Law?

Right to Information under the Delhi law means the right of access to information and includes the inspection of works, documents, records, taking notes, extracts and obtaining certified copies of documents or records or taking samples

#### How can a person access information under the Delhi Law?

There two main aspects to accessing information under the Delhi Law - (a) There is a duty cast on public authorities to publish certain information at periodic intervals, and (b) Public authorities are under the duty to provide information that people ask for by application. Under the law applications for information should be submitted to the officer in each public authority who has been designated as Competent Authority under the Delhi Law<sup>1</sup>.

#### Duty to publish information

It is the duty of each public authority to publish the following information in the form of booklets, pamphlets, folders at periodic intervals. This information should also be made available to the public through information counters, Internet<sup>2</sup>, notice boards at conspicuous places in the office of the Competent Authority and the Public Grievances Commission.

Information to be published	Interval
Particulars of its organization, functions	Once in 5 years
and duties	
Details of powers and duties of the officers	One in 2 years
and employees of these public authorities	
and the procedure followed by them in	
decision making	
Norms followed by public authorities in	Once in 2 years
discharge of their functions	
Laws, byelaws, rules, instructions, manuals	Once in 5 years
and records under its control and use by its	
employees for discharging functions	
Details of facilities available to citizens for	Annually
obtaining information	
Name, designation and other details of the	Annually
competent authority	

Other duties of public authorities include:

- a) Publishing all relevant facts concerning important decisions and policies that affect the public while announcing decisions and policies
- b) Public authorities should give reasons for decisions to those people who are affected by these decisions
- c) Before initiating any project, publish or communicate to the public generally or to the persons likely to be affected by the project in particular about facts which in the

<sup>&</sup>lt;sup>1</sup> For list of Competent Authorities under the Delhi Law look at page no \_\_\_\_\_

<sup>&</sup>lt;sup>2</sup> Some information about the Delhi Government and its work are already available at its Website at <a href="http://delhigovt.nic.in">http://delhigovt.nic.in</a>

opinion of the public authority should be known in the best interest of democratic principles.

#### Procedure for accessing information

#### I. Application

A request should be made in writing or through electronic form and sent to the relevant competent authority (by e-mail) giving particulars of the information being sought. Oral requests may be accepted but should be subsequently reduced into writing.

Application should be made in 'Form A<sup>3</sup> and submitted to the Competent Authority along with the application fee. It is the duty of every Competent Authority to acknowledge every application received.

If a person makes a request through electronic form, the requisite application fee has to be filed within a period of 7 days from the date of such request, failing which the request for information will be considered to have been withdrawn.

#### II. Fees

The Delhi Law clearly says that fees charged for supply of information should not be more than the cost of processing and making available the information to the public.

- A) Application Fees
  - i) Information relating to tender documents/bids/quotation/business contracts Rs 500
     ii) Other Information -- Rs 50

B)	Other Fees i) Priced publication	as per fixed
	price ii) Other than priced publication	Rs 5
	per page	

#### III. Procedure for disposing application

#### Providing/ refusing Information

Competent Authority should either provide the information as per 'Form D' <sup>4</sup> or refuse the request as per 'Form C'<sup>5</sup> within a period of 15 days from the date of request and latest within a period of 30 days from the date of request. All rejections must be in writing with reasons for rejection and information about the appellate authority and timeframe within which appeal can be filed.

#### Collection of Information

Information can be collected only after the applicant deposits the full amount due to the authorized person (who is nominated by the Competent Authority).

<sup>&</sup>lt;sup>3</sup> See Form A in page \_\_\_\_\_

<sup>&</sup>lt;sup>4</sup> See Form D in page \_\_\_\_\_

<sup>&</sup>lt;sup>5</sup> See Form C in page \_\_\_\_\_

### Application to the wrong Competent Authority

If request for information is made to the wrong Competent Authority, the competent authority should return the application in 'Form B'<sup>6</sup> normally within 15days but no later than 30 days from the date of application. While returning the application the Competent Authority should advice the applicant about the appropriate authority to whom the application should be made. The application fee deposited will not be refunded.

#### <u>IV. Language</u>

Information should be provided in English or the official language

#### What kind of Information can be denied by public authorities?

It is not possible for citizens to access all kinds of information; under the Delhi law disclosure of the following information is restricted.

Sovereignty, integrity, security – Disclosure of Information that would affect the sovereignty and integrity of India or the security of the national capital territory of Delhi or International relations or lead to incitement of an offence

*Invasion of Privacy* – Disclosure of Information that would result in unwarranted invasion of privacy, has no relationship with any government activity or will not serve public interest

Advice, opinions and recommendations to Lt Governor – Papers containing advice, opinions, recommendations and minutes submitted to the Lt Governor for discharge of constitutional functions.

*Center-State relations* – Disclosure of Information that would prejudicially affect conduct of center-state relations and also information exchanged in confidence between the Center and Delhi Government or any of their authorities and agencies.

*Trade and Commercial secrets* – Disclosure of trade and commercial secrets and other information protected by law

*Breach of privilege* – Disclosure of Information that would result in breach of privilege of Parliament or Legislative Assembly of NCT Delhi.

The Legislative Assembly Secretariat should take the decision whether disclosure of certain information results in breach of legislative privilege. The decision of the Secretariat is final and cannot be appealed in the Public Grievances Commission.

*Physical Safety of person* – Disclosure of Information that would endanger the life or physical safety of a person or identify source of information or assistance given in confidence for law enforcement or security purposes or in public interest. But information of this nature if provided to the legislative assembly cannot be denied to any person.

<sup>&</sup>lt;sup>6</sup> See Form B in page \_\_\_\_\_

*Minutes, records and legal opinions* – Minutes, records, recommendation, opinions, advice (including legal) given by an officer during the decision making process before executive decisions are made or policy has been formulated.

*Cabinet papers* – Cabinet papers, records of deliberations of council of ministers, secretaries and other officers.

#### What can a person do if information is denied ?

Appeals: - Any person who

a) feels aggrieved by the order of the Competent Authority ; or

b) does not receive any response from the competent authority within 30 days from the date of filing of the request,

can appeal to the Public Grievance Commission by making an application under 'Form E<sup>77</sup>. The decision of the Public Grievance Commission in the matter will be final.

Appeal Fee:- A fee of Rs 50 is payable for every appeal.

*Time Limit for filing appeals*:- If a person does not receive any response from the Competent Authority within 30 days from the date of filing of the request, appeal should be filed within 60 days of submission of the request. If a person is aggrieved by a decision/response of the Competent Authority, the appeal should be filed within 30 days from the date of such response.

*Time Limit for disposal of appeals*: - The Public Grievance Commission has to make every effort to dispose of the appeal within 30 days from the date of filing. A copy of the decision should be sent to the Competent Authority

<u>Penalty</u>:- If a person who is responsible for providing information

- a) fails to furnish the information or fails to notify refusal within 30days from date of request under the Act, such personal will have to pay a fine of Rs 50 per day for delay subject to a maximum of Rs 500.
- b) provides false information either knowingly or believing it to be false shall be liable to pay a penalty of Rs 1000 per application.

Penalties shall be paid after an inquiry under service rules for disciplinary action is undertaken.

## What is the State Council for information?

The State Council for Information is a body established under the Delhi Act. It is Chaired by the Chief Minister and consisting of 3 elected members of the Legislative Assembly of NCT, 7 government officials, 2 media personnel, 4 representatives of non governmental organizations, 2 representatives of resident welfare associations, 2 representatives of industry.

The object of the State Council is to promote right to information in NCT Delhi. It is required to :

a) Review the operation of the Act and the rules;

<sup>7</sup> See FORM E in page \_\_\_\_\_

- b) Review the administrative arrangements and procedures to secure fullest possible access to information to the citizens of Delhi
- c) Research and document management of information so that the accuracy of information provided under the Act is improved
- d) Advise the government on all matters related to the right to information including training, development and orientation of employees to bring in culture of openness and transparency.

The State Council has to prepare an annual report, to be tabled in the State legislative assembly.

## HOW CAN THE DELHI RIGHT TO INFORMATION LAW HELP RESIDENTS OF DELHI?

The Delhi Right to Information Act can be used by residents to obtain information that is relevant to their lives. The Act can be instrumental in the following areas:

#### Individual Grievances

One can use the Delhi Right to Information Law very effectively to get individual grievances resolved from any government department like the Delhi Vidyut Board or Delhi Jal Board. The grievance could be on account of anything like new connection, faulty meter, load alteration, wrong billing etc. You may like to ask some questions, like

- I had submitted my grievance petition on \_\_\_\_\_ but the same remains unresolved. DVB is committed to resolve any grievance within 21 days as per office orders. Please indicate the progress made on my grievance petition till now and the reasons for the delay in attending to the same.
- By when will my grievance be resolved now?
- Please mention the names of the officials who were supposed to attend to my grievance and who have not done so, thus causing harassment to me.
- Does DVB/DJB plan to take any disciplinary action against these officials?

#### Community grievances

The Law can be used to get any community based grievance adressed for example one can ask the Delhi Vidyut Board information regarding frequent power breakdowns, faulty transformers, old conductors, low voltage in area, frequent load shedding, street lights not functioning or any other problem. In case of Delhi Jal Board the Law can be used to obtain information on low pressure of water, polluted water, sewerage problems of your area or any other problem.

#### Contracts and works being carried out

In addition the Law can be used to seek details and copies of contracts of the works being carried out by the government department in your own area to see and verify whether they are carrying out the work in conformity with the specifications mentioned in the contracts. It is of paramount importance that the citizens come out and do such verifications of all the works carried out in their areas. Unless, we do that on mass scale, there is little that can be achieved by way of reduction in corruption and ensuring quality of the works, which will benefit all in the community.

#### Policy matters

The Law can be used to seek details and to question government policies on various issues like privatization or status of various government development schemes, etc. For instance one could ask the Municipal Corporation of Delhi information regarding education such as; what are the norms prescribed for teacher-student ratio in MCD run primary schools? – copy of such norms. What is the working and sanctioned strength of teachers in Delhi in MCD run primary schools? What is the working and sanctioned strength of teachers in each of the MCD run primary schools in Delhi?

What is the capacity and actual strength of students in each of the schools?

The above mentioned are merely examples of questions that can be asked, a person can ask information relevant to their life from any department of government.

## WHAT ARE THE PROBLEMS FACED IN THE IMPLEMENTATION OF THE LAW?

The Delhi right to information Act has been in operation since October, 2001. The usage of the law has brought to light many problems in implementation.

- 1. The fees of Rs 50 required to be paid while making an application seeking information is too high. The Delhi Law is the only right to information legislation in the country, which prescribes an application fee. All other state legislations only impose minimum charges for providing copies of the information asked. The application fee should be done away with.
- 2. In many cases the concerned government officials have refused to accept requests for information from the public the law allows for appeal to the Public Grievances Commission only against an order of the Competent Authority. What does a person do when the Competent authority refuses to take the application for information? This has become a big source of harassment for the common person.
- 3. The various government departments do not know how to implement the law. They have to be trained to implement the law so as to provide information to the people and to ensure that the law is implemented in a people friendly manner.
- 4. The Government of Delhi should also publish the address and other contact details of the various Competent Authorities, members of the State Council of Information and the Public Grievances Commission.
- 5. The Government must take proper steps to publicise the law as far and wide as possible.
- 6. The Government should create a mechanism through which feed back on implementation of the law can be obtained.

In case you have encountered any problems in using the Delhi Right to Information Act, please write to us and tell us of your experiences at Commonwealth Human Rights Initiative, N-8 Green Park, New Delhi 110 016.

	List of Competent Authorities in Delh	
1	Ayurvedic and Unani Tibbia College and Allied Principal Unites	Principal
2	Board of Ayurvedic and Unani System of Medicine	Registrar
3	Central Accident and Trauma Service	Project Administrator
4	College of Pharmacy	Principal
5	Commission for Other Backward Classes	Member Secretary
6	Delhi State Civil Supplies Corporation Limited	Managing Director
7	Delhi Tourism and Transport Development Corporation	Managing Director
8	Delhi State Industrial Development Corporation Limited	Managing Director
9	Delhi Agricultural Marketing Board	Joint Secretary (Marketing)
10	Delhi Bhartiya Chikitsa Parishad	Registrar
11	Delhi Cantonment Board	Deputy Cantonment Executive Officer
12	Delhi Commission for Women	Member Secretary to Commission
13	Delhi Consumers Cooperative Wholesale Stores Limited	Administrator
14	Delhi Cooperative Housing Society Finance Company Limited	General manager
15	Delhi energy Development Agency	Project Director
16	Delhi electricity Regulation Commission	Administrative Officer
17	Delhi Financial Corporation	General Manager
		(Administration)
18	Tool Room & Training Centre	General Manager
19	Delhi Homeopathy Anusandhan Parishad	Assistant Director (Homeopathy)
20	Delhi Institute of Hotel Management and Catering	Assistant Administrative Officer
	Technology	
21	Delhi Jal Boad	Director (Administration)
22	Delhi Khadi and Village Industries Boad	Deputy Director
23	Delhi Legal Services Authority	Member Secretary
24	Delhi Minorities Commission	Member Secretary
25	Delhi Pharmacy Council	Registrar
26	Delhi Pollution Control Committee	Assistant Environmental
		Engineer (Planning)
27	Delhi Schedule Castes Financial and Development	Deputy Manager (Personnel)
	Corporation Limited	
28	Delhi State Aids Control Society	Joint Director
29	Delhi State Co-operative Bank Limited	Managing Director
30	Delhi State Haj Committee	Secretary
31	Delhi Subordinate Services Selection Board	Secretary
32	Delhi Transport Corporation	Manager, Public Relation
33	Delhi Vidyut Board	Additional General Manager
		(Administration)
34	Delhi Waqf Board	Chief Executive Officer
35	District and Session Judge Office	Additional District and Session
		Judge (Administration)
36	Guru Govind Singh Indraprastha University	Registrar (Administration)

## List of Competent Authorities in Delhi

37	Institute of Human Behaviour and Allied Sciences	Joint Director
38	Municipal Corporation of Delhi	Additional Commissioner
		(Administration)
39	Netaji Subhash Institute of Technology	Dean (Administration)
40	New Delhi Municipal Council	Director (Public Relation)
41	State Council of Educational Research and Training	Joint Director
42	Delhi State Election Commission	Deputy Election Commissioner
43	Rajya Sainik Board	Secretary
44	Slum and Juggi Jhopdi	Additional Commissioner

Forms

Form 'A' Form of application for seeking information
(See rule 3)
I.D No (For official use)
To
The Competent Authority,
1. Name of the Applicant
<ol> <li>Address</li> <li>Particulars of information-</li> </ol>
(a) Concerned department :
(i)Details of information required : (ii) Period for which information asked for :
(iii) Other details
4. I state that the information sought does not fall within the restrictions contained in Section
6 of the Act and to the best of my knowledge it pertains to your office.
<ol> <li>A fee of Rshas been deposited in the office of the Competent authority vide No.  dated</li> </ol>
Place:
Date:
Signature of Applicant E-mail address if any:
Tel. NO. Office
(Residence)
Note: (i) Reasonable assistance can be provided by the Competent authority in filling up the
Forum A. (ii) Please ensure that the Form A is complete in all respect and there is no ambiguity in providing
the details of information required.
Acknowledgement of Application in Form-A 1. D. No Dated:
1. Received an application in Form A from Shri/Ms resident of under
Section 5(1) of the Delhi Right to Information Act, 2001. 2. The information is proposed to be given normally within 15 days and in any case within 30
days from the date of receipt of application and in case it is found that the information
asked for can not be supplied, the rejection letter shall be issued stating reason thereof. 3. The applicant is advised to contact the undersigned on Between 11 A.M. To
1P.M
<ol> <li>In case the applicant fails to turn up on the scheduled date(s), the Competent authority shall not be responsible for delay, if any.</li> </ol>
5. The applicant shall have to deposit the balance fee, if any, with the authorized person
before collection of information.
<ol><li>The applicant may also consult Web-site of the department from time to time to ascertain the status of his application.</li></ol>
Signature and Stamp of the
Competent Authority E-mail address:
Web-site:
Tel. No

<b>Form 'B'</b> Outside the Jurisdiction of Competent Authority (See rule 4 (1)	
From No. F	Date:
То	
Sir/Madam, Please refer to your application, I.D Nodatedaddres undersigned regarding supply of information on	sed to the
<ol> <li>The requested information does not fall within the jurisdiction of t Authority and, therefore, your application is being returned herew</li> <li>*This is in suppression of the acknowledgement given to you on</li> <li>You are requested to apply to the concerned Competent authorit</li> </ol>	/ith.
	Yours faithfully,
Со	npetent Authority E-mail address Web-site: Tel. No
*Strike out wherever not applicable	i ci. 110

Form C Rejection Order (See rule 4(2)
From
No. F
То
· ·····
Sir/Madam,
Please refer to you application, I. D No Dated addressed to the undersigned regarding supply of information on
<ul> <li>2. The information asked for cannot be supplied due to following reasons:</li> <li>(i)</li> <li>(ii)</li> </ul>
3. As per Section 7 of Delhi Right to Information Act, 2001, you may file an appeal to the Public Grievances Commission, Government of Delhi, within 30days of the issue of this order.
Voure faithfully

<b>Form 'D'</b> Form of supply of information to the applicant (See rule (3)	
From No. F	
То	
Sir/Madam,	
Please refer to your application, I D No dated addressed to t undersigned regarding supply of information on	he
2. The information asked for is enclosed for reference;* or	
The following partly information is being enclosed.* i) ii) The remaining information about the other aspects cannot be supplied due to follor reasons* i) ii) iii)	owing
3. The requested information does not fall within the jurisdiction of this Competent Authority*	t
4. As per Section 7 of Delhi Right to Information Act, 2001, you may file ar to the Public Grievances Commission, Government of Delhi, within 30 days of the of this order*	
	faithfully,
	Authority I address Web-site Tel No.
*Strike out if not applicable	101110.

<u>Form 'E'</u> Appeal under Section 7(1) of the Delhi Right to Information Act, 2001 (See rule 5(1))
I.D No (For official use)
The Secretary Public Grievances Commission M Block, Vikas Bhawan New Delhi-110002
<ol> <li>Name of the appellant :</li></ol>
Place: Dated:
Signature of Appellant E-mail address, if any Tel: No. (Office) (Residence)
Acknowledgement
I.D No Dated
Received Appeal application from Shri resident ofunder Section 7(1) of the Delhi Right to Information Act, 2001.
Signature of the Receipt, Clerk, Public Grievances Commission Tel. No E-mail Address Web-site

### **RESIDENTS OF DELHI HAVE USED THE RIGHT TO INFORMATION ACT**

#### Faulty meter rectified as a result of RTI application

S S Vaid is a consumer of DVB staying in Mayur Vihar. He had a faulty meter for more than 5 years. After repeated visits and efforts, the meter was replaced. But the DVB raised a combined bill for all the five years together. According to the law, the bill cannot be raised for more than three years. Mrs and Mr Vaid made a number of personal visits but to no avail. They submitted their grievance to Parivartan. Parivartan volunteers made several visits to DVB office for this case. Ultimately, Parivartan brought this case to the notice of the Chairman of DVB on 9<sup>th</sup> Jan, 2002. Still nothing happened. Finally, on behalf of Mr Vaid, Parivartan filed an application under RTI seeking to know

- When will the bill be rectified
- Who are the officials responsible for causing harassment to public, not doing their duties and guilty of insubordination for violating the office orders in this respect.
- What action will be taken against these officials?
- By when will the action be taken?

Within a week of filing the application, the bills were rectified and delivered to the consumer.

### Using Right to Information to discover fraud...

One person had collected a good amount of money from the residents of Ambedkar Camp slum in East Delhi a couple of years back saying that he was a contractor of DVB authorized by DVB to distribute electricity in their area. He collected the money and promised to install meters soon. But neither any meters were installed nor any legal supply was provided to them. The slum dwellers, being illiterate and ignorant, did not know how to proceed in the matter. Recently, one social worker filed an application under RTI to know the status of this contractor. DVB has replied that there is no such contractor and no such contract was ever given out. This means that it is a case of fraud and the residents will need to tackle the case with police. The residents were under wrong belief till now that the contractor was not doing his job properly.

#### Using right to information to get clean drinking water...

The drinking water was getting mixed with sewerage in some areas in Patparganj. A number of residents fell ill. Complaints were made with the local DJB office and their central complaint center, but nothing happened. An application was filed under RTI. The residents wanted to know the status of their complaints and the names of the officials responsible for dereliction of duty. The necessary repairs were carried out within two days of filing the application. The Delhi Jal Board even carried out testing of the drinking water at different points in this area and submitted the test reports as a reply to the RTI application.

Note: the Contents page will contain the following items

- 1. What is the Right to Information
- 2. The Delhi Right to Information Act
- 3. How can the delhi right to information law help residents of delhi?
- 4. What are the problems faced in the implementation of the law?

- List of Competent Authorities in Delhi
   Forms under the Delhi Law