

MAHARASTRA RIGHT TO INFORMATION ACT, 2000
L.A. BILL NO. XXXIV OF 2000

A BILL

to make provision for securing the right to information in the State of Maharashtra and for matters connected therewith or incidental thereto

(As passed by the Legislative Assembly on the 18th July 2000)

WHEREAS it is expedient to make provision for securing the right to information in the State of Maharashtra and for matters connected therewith or incidental thereto; It is hereby enacted in the Fifty-five years of the Republic of India as follows:

Short title and commencement

1. (1) This Act may be called the Maharashtra Right to Information Act, 2000.
- (2) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

Definitions

2. In this Act, unless the context otherwise requires, -
 - (1) "Competent Authority" means any authority or officer not below the rank of Deputy Collector or an Officer of an equivalent grade or above, empowered by the government, by notification, to be the "Competent Authority" means any authority or officer not below the rank of Deputy Collector or an Officer of an equivalent grade or above, empowered by the government, by notification, to be the Competent Authority for the purposes of this Act.
 - (2) "Government" means the Government of Maharashtra;
 - (3) "Information" includes a copy of any document relating to the affairs of the State or any local or other authorities constituted under any Act for the time being in force or a statutory authority or a company, corporation or a co-operative society or any organization, owned or controlled by the Government.

Right to access to information

3. (1) Every person bonafide requiring information may have access to such information in accordance with the procedure specified under this Act.
- (2) Notwithstanding anything contained in sub-section (1), no person shall be given, -
 - a) Information relating to defence security;
 - b) Information, the disclosure of which will prejudice the security, integrity or sovereignty of the Nation or the security of the State;
 - c) Information, the disclosure of which would harm the conduct of international relations or affairs.
 - d) Information received in confidence from foreign governments, foreign courts or international organizations;

- e) Information the disclosure of which would harm the frankness and candour or internal discussion, including,-
 - i. Information relating to proceedings of Cabinet and Cabinet Committee;
 - ii. Information relating to internal opinion, advice, recommendations, consultations and deliberations;
 - iii. Information relating to projections and assumptions relating to internal policy analysis; analysis of alternative policy options and information relating to rejected policy options,
 - iv. Information relating to confidential communications between departments, public bodies and regulatory bodies;
- f) Information relating to confidential communications between Ministers and the Governor;
- g) Information, the disclosure of which would prejudice the administration of justice, including fair trial and the enforcement or proper administration of the law;
- h) Information, the disclosure of which would prejudice legal proceedings or the proceedings of any tribunal, public inquiry or other formal investigation (where actual, or likely) or the disclosure of which has been or is likely to be addressed in the context of such proceedings;
- i) Information covered by legal professional privilege;
- j) Information, the disclosure of which would prejudice the prevention, investigation or detection of crime, or the apprehension of offenders;
- k) Information, the disclosure of which would harm public safety or public order;
- l) 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;
- m) Information, the disclosure of which would increase the likelihood of damage to the environment; or rare or endangered species and their habitats;
- n) Information, the disclosure of which would harm the ability of the government to manage the economy, prejudice the conduct of official market operations, or could lead to improper gain or advantage to any person;
- o) Information, the disclosure of which would prejudice the assessment of collection of taxes, duties, or assist tax avoidance or evasion;
- p) Information including commercial confidences, trade secrets or intellectual property the unwarranted disclosure of which would harm the competitive position of a third party;
- q) Information, the disclosure of which could lead to improper gain or advantage or would prejudice,-
 - i. the competitive position of a department or other public body or authority;
 - ii. negotiations or the effective conduct of personnel management or commercial contractual activities;
- r) Information held in consequence of having been supplied in confidence by a person who,-
 - i. gave the information under a statutory guarantee that its confidentiality would be protected; or
 - ii. was not under any legal obligation, whether actual or implied to supply it, and has not consented to its disclosure;
- s) Information whose disclosure is prohibited under any enactment, regulation or international agreement;
- t) Information the disclosure of which would constitute a breach of privilege of Parliament, Legislative Assembly or Legislative Council;

- u) The documents referred in sections 123 and 124 of the Indian Evidence Act, 1872;
- v) Any matter which is likely to,-
 - i. help the commission of an offence;
 - ii. help or facilitate escape of an offender from legal custody or affect prison security; or
 - iii. impede the process of investigation or apprehension or prosecution of offenders.

Procedure of getting information

4. (1) Any person who wants to have an access to the information may, make an application in the prescribed manner to the concerned Competent Authority.
- (2) Where an application is made under sub-section (1) and the information is not available with the Competent Authority but is available with another department or authority, the Competent Authority may transfer the application to the department or authority with whom such information is available and inform the applicant accordingly. The department or authority to whom such application is transferred shall furnish to the applicant the information within working days from the date or receipt of the application from the Competent Authority.
- (3) Where an application is so transferred to a department or authority by the Competent Authority under sub-section (2), the head of that department or the concerned authority shall be deemed to be the concerned Competent Authority.
- (4) Upon the receipt of an application requesting for an information, the Competent Authority shall, consider and deal with it as follows, -
- i. if the Competent Authority is in possession of the information requested and the information does not fall in any one or more categories mentioned in sub-section (2) of section 3, the Competent Authority shall reject the request and communicate the reasons for the rejection to the applicant;
 - ii. if the Competent Authority is in possession of the information requested but, the information sought falls in any one or more categories mentioned in sub-section (2) of section 3, the Competent Authority shall reject the request and communicate the reasons for the rejection to the applicant;
 - iii. if the Competent Authority is dealing with the subject matter but the information cannot be compiled without considerable financial expenditure or without considerable extra work, the Competent Authority may after recording the reasons in writing, send a regret reply to the applicant. The Competent Authority shall, however supply any related information readily available.

Appeal

5. (1) Any person, -
- a) who has not received any response to his application made under sub-section (1) of section-4 to the Competent Authority within a period of thirty working days from the date of his making the application, may, complain in writing to;
 - b) aggrieved by the reject order or regret reply from the Competent Authority under sub-section (4) of section 4, may appeal to, -

the Government or to such other authority as may be notified in this behalf by the Government;

- (2) The decision of the Government or such other authority notified under sub-section (1) shall be final.

Charging of fees

6. The Competent Authority shall charge fees for the supply of information as may be prescribed but the same shall not exceed the cost of processing and making available such information;

Protection for action taken in good faith

7. No suit, prosecution or other legal proceeding shall lie against any authority or person for anything done in good faith or purported to have been done in pursuance of this Act or the rules made thereunder,

Power to remove difficulties

8. If any difficulty arises in giving effect to the provisions of this Act, the government may, as occasion arises, by an order published in the Official Gazette, do anything not inconsistent with the provisions of this Act, which appears to it to be necessary or expedient for removing the difficulty;

Power to make rules

9. (1) The Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act;
- (2) 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 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 Houses agree in making any modification in rule or both Houses agree that the rule should not be made, and notify their decision to that effect in the Official Gazette, 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 or omitted to be done under that rule.

STATEMENT OF OBJECTS AND REASONS

In order to bring transparency in Government affairs and to provide the public the right to access of information about the administration of Government and to enable them to get details about the schemes of the Government, implemented by the various departments, and to fulfill the demand of people, the Government of Maharashtra has decided to bring a suitable legislation.

2. This Bill is intended to achieve the above objective.

Mumbai
Dated the 8th June 2000

VILASRAO DESHMUKH
CHIEF MINISTER

MEMORANDUM REGARDING DELEGATED LEGISLATION

The Bill involves the following proposals for delegation of legislative power, namely:-

Clause 1(2) – Under this clause power is taken to the State Government to bring this Act into force by notification in the Official Gazette, on such date as the State Government may appoint.

Clause 2(1) – This clause empowers the State Government, to notify any authority or officer not below the rank of Deputy Collector or an officer of the equivalent grade or above as the Competent Authority, for the purpose of this Act.

Clause 5(1) – This clause empowers the state Government, to notify the appellate authority or the authority to whom complaint may be filed against the Order of Competent Authority or inaction on the part of the Competent Authority.

Clause 8 – This clause empowers the State Government, to issue an order for the removal of difficulty in giving effect to the provisions of the Act.

Clause 9 – This clause empowers the State Government to make rules, by notification in the Official Gazette, for carrying out the purposes of the Act.

2. The above mentioned delegation of legislative power is of a normal character.