

# **APPEALS**

## **Right to Information Act 2005**

[Click here to access a flowchart showing the appeal process under the Central Act](#)

### **Chapter II**

#### **Section 7: Disposal of Request**

- (2) If the Central Public Information Officer or State Public Information Officer, as the case may be fails to give decision on the request for information within the period specified under sub-section (1), the Central Public Information Officer or State Public Information Officer, as the case may beshall be deemed to have refused the request.
  
- (8) Where a request has been rejected under subsection (1), the Central Public Information Officer or State Public Information Officer, as the case may be shall communicate to the person making the request,-
  - (i) the reasons for such rejection;
  - (ii) the period within which an appeal against such rejection may be preferred;
  - (iii) the particulars of the appellate authority.

#### **Section 10: Severability**

- (2) Where access is granted to a part of the record under sub-Section (1), the Central Public Information Officer or State Public Information Officer, as the case may be shall give a notice to the applicant, informing, -
  - (a) that only part of the record requested, after severance of the record containing information which is exempt from disclosure, is being provided;
  - (b) the reasons for the decision, including any findings on any material question of fact, referring to the material on which those findings were based;
  - (c) the name and designation of the person giving the decision;
  - (d) the details of the fees calculated by him or her and the amount of fee which the applicant is required to deposit; and
  - (e) his or her rights with respect to review of the decision regarding non-disclosure of part of the information, the amount of fee charged or the form of access provided, including the particulars of the senior officer specified under sub-section (1) of section 19 or the Central Information Commission or the State Information Commission, as the case may be, time limit, process and any other form of access.

### **Appeal Process**

#### **Chapter V**

## Section 18: Power and Functions of Information Commissions

- (1) Subject to the provisions of this Act, it shall be the duty of the Central Information Commission or State Information Commission as the case may be to receive and inquire into a complaint from any person,-
  - (a) who has been unable to submit a request to a Central Public Information Officer, or State Public Information Officer, as the case may be, either by reason that no such officer has been appointed under this Act, or because the Central Assistant Public Information Officer or State Assistant Public Information Officer, as the case may be, has refused to accept his or her application for information or appeal under this Act for forwarding the same to the Central Public Information Officer or State Public Information Officer or senior officer specified in sub section (1) of section 19 or the Central Information Commission or the State Information Commission, as the case may be;
  - (b) who has been refused access to any information requested under this Act;
  - (c) who has not been given a response to a request for information or access to information within the time limits specified under this Act;
  - (d) who has been required to pay an amount of fee which he or she considers unreasonable;
  - (e) who believes that he or she has been given incomplete, misleading or false information under this Act; and
  - (f) in respect of any other matter relating to requesting or obtaining access to records under this Act.
- (2) Where the Central Information Commission or State Information Commission, as the case may be, is satisfied that there are reasonable grounds to inquire into the matter, it may initiate an inquiry in respect thereof.
- (3) The Central Information Commission or State Information Commission, as the case may be shall, while inquiring into any matter under this section, have the same powers as are vested in a civil court while trying a suit under the Code of Civil Procedure, 1908, in respect of the following matters, namely:-
  - (a) summoning and enforcing the attendance of persons and compel them to give oral or written evidence on oath and to produce the documents or things;
  - (b) requiring the discovery and inspection of documents;
  - (c) receiving evidence on affidavit;
  - (d) requisitioning any public record or copies thereof from any court or office;
  - (e) issuing summons for examination of witnesses or documents; and
  - (f) any other matter which may be prescribed.
- (4) Notwithstanding anything inconsistent contained in any other Act of Parliament, or the State Legislature, as the case may be, the Central Information Commission or the State Information Commission may, during the inquiry of any complaint under this Act, examine any record to which this Act applies which is under the control of the public authority, and no such record may be withheld from it on any grounds.

## Section 19: Appeal

- (1) Any person who, does not receive a decision within the time specified in sub section (1) or clause (a) of sub-section (3) of section 7, or is aggrieved by a decision of the Central Public Information Officer or the State Public Information Officer, as the case may be, may within thirty days from the expiry of such period or from the receipt of such a decision prefer an appeal to such officer who is senior in rank to the Central Public Information Officer or the State Public Information Officer, as the case may be, in each public authority;  
Provided that such officer may admit the appeal after the expiry of the period of thirty days if he or she is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.
- (2) Where an appeal is preferred against an order made by a Central Public Information Officer or a State Public Information Officer, as the case may be, under section 11 to disclose third party information, the appeal by the concerned third party shall be made within thirty days from the date of the order.
- (3) A second appeal against the decision under sub-section (1) shall lie within ninety days from the date on which the decision should have been made or was actually received, with the Central Information Commission or the State Information Commission:  
Provided that the Central Information Commission or the State Information Commission, as the case may be, may admit the appeal after the expiry of the period of ninety days if it is satisfied that the applicant was prevented by sufficient cause from filing the appeal in time.
- (4) If the decision of the Central Public Information Officer or State Public Information Officer, as the case may be, against which an appeal is preferred relates to information of a third party, the Central Information Commission or State Information Commission, as the case may be, shall give a reasonable opportunity of being heard to that third party.
- (5) In any appeal proceedings, the onus to prove that a denial of a request was justified shall be on the Central Public Information Officer or State Public Information Officer, as the case may be, who denied the request.
- (6) An appeal under sub-section (1) or sub-section (2) shall be disposed of within thirty days of the receipt of the appeal or within such extended period not exceeding a total of forty-five days from the date of filing thereof, as the case may be, for reasons to be recorded in writing.
- (7) The decision of the Central Information Commission or State Information Commission, as the case may be, shall be binding.
- (8) In its decision, the Central Information Commission or State Information Commission, as the case may be, has the power to,-
  - (a) require the public authority to take any such steps as may be necessary to

secure compliance with the provisions of this Act, including

- (i) by providing access to information, if so requested, in a particular form;
  - (ii) by appointing a Central Public Information Officer or State Public Information Officer, as the case may be;
  - (iii) by publishing certain information or categories of information;
  - (iv) by making necessary changes to its practices in relation to the maintenance, management and destruction of records;
  - (v) by enhancing the provision of training on the right to information for its officials;
  - (vi) by providing it with an annual report in compliance with clause (b) of subsection (1) of section 4;
- (b) require the public authority to compensate the complainant for any loss or other detriment suffered;
  - (c) impose any of the penalties provided under this Act;
  - (d) reject the application.

(9) The Central Information Commission or State Information Commission, as the case may be, shall give notice of its decision, including any right of appeal, to the complainant and the public authority.

(10) The Central Information Commission or State Information Commission, as the case may be, shall decide the appeal in accordance with such procedure as may be prescribed.