

RIGHT TO INFORMATION BILL, 1997

(As recommended in a Workshop organised jointly by the National Institute of Rural Development, Hyderabad and the Press Council of India, New Delhi)

A Bill to make provision for securing right to information which is a fundamental Right being part of Article 19(10)(a) of Constitution and for matters connected therewith or incidental thereto.

Be it enacted by Parliament in the forty eighth year of the Republic of India as follows :-

1. (1) The Act may be called the Right to Information Act, 1997
- (2) It extends to the whole of India.

It shall come into force on such date as Central Government may, by notification in the Official Gazette, appoint, which shall not be later than 6 months from the date of the passing of the Act.

2. Definitions:

In this Act, unless the context otherwise requires, -

- (a) "information" means any material or information relating to the affairs, administration or conduct of public authority and includes any document or record relating to the affairs of the public authority;
- (b) "prescribed" means prescribed by rules under the Act.
- (c) "public authority"
 - i. the Government and Parliament of India and the Government and Legislature of each of the States and of local or other authorities within the territory of India or under the control of the Government of India; and
 - ii. The Administrative Offices of the Courts
 - iii. a company, corporation, trust, firm society, a cooperative society, or associations whether owned or controlled by the Government or by private individuals and institutions;

The expressions company, corporation, trust, firm, society, cooperative society and association shall have the same meaning as assigned to them in the respective Acts under which they are registered.

- (d) "right to information" means the right of access to information and includes the inspection, taking notes and extracts and obtaining certified copies of documents or records of any public authority;
- (e) "State Government" includes the administrator of a Union Territory appointed by the President under Article 239 of the Constitution.

3. Right to information:

- (1) Every citizen shall have a right to information from a public authority;
- (2) Every public authority shall be under a duty to maintain all its records duly catalogued and indexed and subject to the provisions of section 4, to make available to any person requesting information from it, the information sought for, including such information as

it is under an obligation to obtain and furnish and shall not withhold any information or limit its availability;

4. Obligations on public authorities:

- 1) Each public authority shall publish periodically, and keep updated, information indicating:
 - i. particulars for its organization, functions and responsibilities;
 - ii. description of its decision making processes in terms of procedures and powers and responsibilities of its officers and employees;
 - iii. norms for performance of activities such as prescribed periods for their processing and completion of physical and financial targets etc, and the actual achievements with reference to such norms;
 - iv. classes of records under its control including the rules, regulations, instructions and list of manuals etc. used by its employees for carrying out activities;
 - v. the facilities provided for access to information; and
 - vi. the name, designation and other relevant particulars of the Public Information Officer, to whom requests for information may be addressed.
- 2) It shall also be the duty of the concerned officer's of a public authority to give reasons for decisions – whether administrative or adjudicative – to those affected and to disclose the relevant facts and analysis when major policies or decisions are announced.
- 3) Nothing in the foregoing provisions of this section shall preclude the right of any person to obtain such information as would affect life or liberty of any person in whom he is interested.
- 4) It shall be mandatory for each custodial establishment such as a police lock-up, jail, mental asylum, remand house, women's home, beggars home, etcetera to appoint a visitors committee comprising independent citizens which shall have full access to them at all hours of the day and night and to their records and inmates.

5. Restrictions on Right to Information:

The public authority may, for reasons to be recorded in writing, withhold –

- (a) information, the disclosure or contents of which will prejudicially affect the sovereignty and integrity of India, security of the State and friendly relations with foreign States, public order, investigation of an offence or which leads to incitement to an offence;
- (b) information relating to personal or other information, the disclosure of which has no relationship to any public activity or in which the public has no interest and would constitute a clear and unwarranted invasion of personal privacy;
- (c) trade and commercial secrets protected by law, provided that an appeal against the refusal of the information under clause (a) above, will lie to a Board headed by the Cabinet Secretary of the Government of India or the Chief Secretary of State Government as the case may be and the Board shall dispose of the appeal within a period of 30 days from the receipt thereof.

Provided that information which cannot be denied to Parliament or State legislature shall not be denied to any citizen.

6. Procedure for the supply of information:

- (1) A person desiring information from a public authority under this Act shall make an application to the person who shall be designated by the public authority for the purpose. For the said purpose the Official may be allowed to inspect the concerned document(s).
- (2) The information asked for sub-section (I) shall be furnished to the applicant by the public authority within thirty days of the application under sub-section (I), and where such information relates to the life or liberty of the individual, the information shall be supplied within forty-eight hours of the making of the application.
- (3) The information asked for under sub-section (I) shall be supplied in writing either in English or Hindi or in the language of the State in which the public authority is located.

Provided that where a requester cannot, for valid reasons, make a request in writing the Public Information Officer may either accept an oral request or render reasonable assistance to the requester in making a written request.

- (4) Every public authority shall have a right to charge fees for the supply of any document subject to the condition that such fees shall not exceed the cost of making and supplying the document.

7. Refusal to be given in writing:

If the information asked for under sub-section (1) of Section 4 is refused by any public authority, the reasons for such refusal shall be given by such authority in writing.

8. Severability:

If a request for access to information is refused on the ground that it is in relation to information which is withheld from disclosure, then notwithstanding anything contained in this Act, access may be given to that part of the document which does not contain any information that is withheld from disclosure under this Act and which can reasonably be severed from any part that contains withheld information. When only a part of the document is furnished, the reasons for withholding the rest of the document shall be given. If the information is refused, it shall be done so only with the approval of the higher Officer to be designated by the public authority.

9. Appeal:

An appeal against a refusal to furnish and document by a public authority under this Act shall lie to the District Judge or the Principal Civil Judge of the City Civil Court as the case may be of ordinary original civil jurisdiction of the area in which the office of the public authority is located and any appeal shall be preferred within fifteen days of the date of refusal of the supply of information by the public authority and any appeal shall be preferred within fifteen days of the date of refusal of the supply of information by the public authority and any appeal so preferred shall be disposed of by the Judge within thirty days of its filing, by a written order and giving reasons for its decision which shall be final.

10. Penalties:

- (1) Any individual responsible for providing any information under this Act shall be personally liable for furnishing the information within the period specified therein.
- (2) Where the information asked for under this Act is not furnished within the time specified, the person responsible for supplying the information shall be punishable or liable to pay personally a fine of rupees fifty for every day of delay after the day by which it is required to be supplied.
- (3) If any person responsible for providing any information under this Act, fails to furnish such information or furnishes any information which is false in any material particular and which he knows or has reasonable cause to believe to be false or does not believe it to be true, he shall be punishable or liable to pay personally a fine which shall not be less than rupees one thousand and which may extend to rupees five thousand.

Provided that the Court may, for reasons to be recorded in writing, levy a fine of less than one thousand rupees.

11. Offences by Companies & Societies etc.

- (1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to the company for the conduct of the business of the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this section shall render any such person liable to any punishment provided in this Act if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence;

- (2) Notwithstanding anything contained in sub-section (1) where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation : For the purposes of this section, -

- (a) "company" means any body corporate, and includes a firm or association of individuals;
and
- (b) "director" in relation to a firm means a partner of the firm.

12. Offences to be cognizable:

Notwithstanding anything contained in the Code of Criminal Procedure 1973, every offence under this Act shall be cognizable.

- 13.** Notwithstanding anything contained in this Act or in any other law for the time being in force, it shall be the duty of every public authority which proposes to initiate any project

or activity, subject to the provisions of section 4, to notify, as soon as possible, and in any case well before the commencement of the project or activity, for the information of the general public and the persons to be affected, such matters within its knowledge and control as affect the general public or are vital to life, health and livelihood.

14. Protection of action taken in good faith:

No suit, prosecution or other legal proceeding shall lie against the Central Government or a State Government or any individual, for anything which is in good faith done or intended to be done under the provisions of this Act or any rule made thereunder.

15. Act to have overriding effect:

The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

16. National Council for Freedom of Information:

- (1) The Central Government may, by notification in the Official Gazette, establish with effect from such day as may be specified in the notification, a Council to be known as the National Council for Freedom of Information.
- (2) The National Council may consist of the following members –
 - (a) the Minister in charge of Department of Administrative Reforms in the Central Government, who shall be its Chairman, and
 - (b) such other official and non-official members drawn from different disciplines such as Law, Education, Media, Science & Technology, Social Activists, Business.
- (3)
 - (a) the Council may meet as and when necessary, with at least one meeting being held every four months;
 - (b) the time and place of the meetings of the Council shall be as the Chairman thinks fit and it shall observe such procedure as may be prescribed to transact its business.

17. Objects of the National Council:

The object of the National Council shall be to promote freedom of information in the country and it shall deal with all matters related to freedom of information such as

- (a) review of the operation of the Act and rules made thereunder,
- (b) review of the administrative arrangements and procedures to secure for citizens the fullest possible access to information,
- (c) research and documentation as regards management of information with a view to improving the extent and accuracy of information being made available under the Act and
- (d) to advise the government on all matters related to freedom of information, including training, development and orientation of employees to bring in a culture of openness and transparency,
- (e) there shall be a statutory Parliamentary Committee on the Right to Information to review the implementation of the Act.

18. State Councils for Freedom of Information:

- (1) The State Government may, by notification in the Official Gazette, establish with effect from such day as may be specified in the notification, a Council to be known as the State Council for Freedom of Information.
- (2) The State Council may consist of the following members –
 - (a) the Minister in charge of Department of Administrative Reforms in the State Government, who shall be its Chairman, and
 - (b) such other official and non-official members drawn from different disciplines such as Law, Education, Science and Technology, Media, Social Activists and Business.
- (3)
 - (a) the Council may meet as and when necessary, with at least once meeting being held every four months.
 - (b) the time and place of the meeting of the Council shall be as the Chairman thinks fit and it shall observe such procedure as may be prescribed to transact its business.

19. Objects of the State Council:

The object of the State Council shall be to promote the freedom of information within the State and it shall deal with the matters specified in Section 18 in respect of the State. The State Council shall present its report annually to the State Legislature.

20. Power of the Central Government to make rules:

- (1) The Central Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Act.
- (2) Without prejudice to the generality of the foregoing power, such rules may provide for all matters in respect of which rules are required to be made by the Central Government under this Act.

21. Power of the State Government to make rules:

A State Government may, by notification in the Official Gazette make rules to provide for any matter in respect of which rules are required to be made by the State Government under this Act.

22. Laying of Rules:

- (1) Every rule made under this Act by the Central Government shall be laid, as soon as may be after it is made, before each House of Parliament, 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 immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule, or both Houses agree that the rule should not be made, the rule shall thereafter 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.
- (2) Every rule made under this Act by a State Government shall be laid, as soon as may be after it is made, before the State Legislature.