

Circular issued by Mr U P S Madan*
Secretary to the Government of Maharashtra, General Administration
Department
(Translation in English from Marathi)

Maharashtra Right to Information Act, 2002
Explanation On Doubts Arising Under The Act

Government of Maharashtra
General Administration Department
Government Circular No Ma Maa A-2004/Pra Kra 66/04/05
Mantralaya, Mumbai 400 032

Dated 22.06.2004

Circular:-

The government has notified Maharashtra Right to Information Act, 2002, with a view to ensure transparency in governance and to make maximum information on the government affairs to the people. However, the government had received several complaints about ambiguities in some of the provisions of the Act. Hon Lokayukta/Upa-Lokayukta also had requested the government to clarify certain points.

As such the clarifications on certain ambiguities in the Act are being made as follows:

1. Is the decision taken by Hon Lokayukta in his capacity as the second appellate authority under the Act and by the Hon Upa-Lokayukta with the similar capacity, mandatory?

Explanation: decisions taken by the Hon Lokayukta as in his capacity as the second appellate authority under the Maharashtra Right to Information Act 2002 and by the Hon Upa-Lokayukta with the similar capacity are mandatory and final. Therefore it is essential to appropriately abide by the decisions.

2. Which public bodies are covered under the Maharashtra Right to Information Act, 2002?

Explanation: Section 2(6) of the Act lays down that those public bodies which receive government aid directly or indirect are covered under the Act and such it is mandatory for these bodies to designate Public information Officers and Appellate Authorities. Apart from such bodies, those bodies which are registered with the Charity Commissioner or Registrar do not have to designate PIOs and AAs. Information on these bodies can be obtained from the PIO/AAs In the offices of the charity commissioner/registrar.

3. Is the officer who is supposed to assist the Public Information officer liable for penalty for lapses?

Explanation: Section 2(7) of the Maharashtra Right to Information Act, 2002, gives the definition of the Public Information Officer. It lays down that any officer who is supposed to assist the PIO in the discharge of his duty also is treated as PIO. Going by this provision, any officer or employee who is supposed to assist the PIO also is liable for penalty.

4. Section 12 of the Act provides for penal action against a PIO who does not provide the information sought during the stipulated period, or knowingly gives, without valid reason, wrong, misleading or incomplete information. Is it mandatory for the competent authority to penalise the defaulting PIO or is the power discretionary?

Explanation: If the competent authority has reached the conclusion that the PIO has not provided the information requisitioned during the stipulated period, or has knowingly given, without valid reason, wrong, misleading or incomplete information, it is mandatory for the competent authority under Section 12 of the Act to penalise the defaulting PIO. The word 'may' in the English version of the Act in this respect has been used to mean 'shall'.

All concerned should take appropriate action in the light of the explanations above while implementing the Maharashtra Right to Information Act, 2002

By order of and in the name of the Hon Governor of Maharashtra

U P S Madan
Secretary to the Government
General Administration Department

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