

(Unofficial translation of the guidelines for implementing the RTI Act issued by the Government of Madhya Pradesh on February 06, 2006)

## **Government of Madhya Pradesh**

### **General Administration Department**

**Mantralaya**

**Ballabh Bhavan, Bhopal – 462 004**

**No. F 11-37/2005/1/9**

**Bhopal, Dated: 06 February, 2006**

To,

All Government Departments  
The President, Revenue Board, Madhya Pradesh Gwalior  
All Heads of Departments  
All Divisional Commissioners  
All Collectors  
All Chief Executive Officers, Zilla Panchayats Madhya Pradesh.

**Subject:** Guidelines for the implementation of ***The Right to Information Act, 2005***.

**Ref:** Circular **No. 11-37/2005/1/9**, dated October 14, 2005, **Notification No. 542 (Extraordinary)** dated November 10, 2005 and **Notification No. 543 (Extraordinary)** dated November 10, 2005 issued under ***The Right to Information Act, 2005***.

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***The Right to Information Act, 2005*** has become operational from October 12, 2005. In this matter directions have been issued vide notifications mentioned above. The following anomalies in the implementation of the Act have become apparent:-

1. While rejecting an application for information, the Public Information Officer (PIO) is required to mention in his order/communication, the reasons for rejection; the time limit within which the applicant may file an appeal and the name and contact details of the Appellate Authority. PIOs/Appellate Authorities are not complying with this provision.
2. According to s 6(3) of ***The Right to Information Act***, if the information requested relates to another public authority or if the subject matter of the application is more closely related to the activities of another public authority, the application shall be transferred to that other public authority within 5 days. But at the level of the Mantralaya (it has been observed) designated PIOs of a department transfer an application to the relevant section within the department and inform the applicant to contact that section for collecting information. This is not correct (procedure). The PIO of the concerned department is required to collect information from the relevant section and make the same available to the applicant.
3. Departmental Appellate Authorities shall hear (first) appeals. They shall issue Speaking Orders clearly stating the relevant provisions of the Act along with reasons (for rejection). Certain cases have come to light where PIOs have sought the approval of the Appellate Authority on notesheets in relation to disclosure of information or rejection of the request. Later Appellate Authorities have rejected appeals in the same case. These kinds of processes are opposed to the principles of natural justice.

4. In certain departments PIOs refuse to accept cash payments. Instead applicants are being compelled to use non-judicial stamps for paying fees. In this context attention is drawn to Rules 3, 4, 5, 7 and 8 of ***The Right to Information (Fees and Appeals) Rules, 2005*** where it has been clearly mentioned that fees or the cost of the information may be paid in cash also (against issue of MPTC receipt) in the concerned offices apart from non-judicial stamps. Therefore it is necessary to ensure that action is taken as per this provision.
5. In some departments PIOs have rejected information requests stating that the application was not made in the stipulated format. It is being clarified that the format of application annexed to ***The Right to Information (Fees and Appeals) Rules, 2005*** is only a model provided for the sake of convenience. According to s 6(2) of ***The Right to Information Act, 2005*** a requester may file an application on plain paper also, giving contact details (of the applicant) and details of the information being requested. These applications must also be accepted.
6. Many Departments are seeking guidelines in relation to the implementation of ***The Right to Information Act, 2005***. The Guidelines and their topics in the context of the Act and the Rules are provided in the Schedule attached herewith for necessary action.

**Attachment: Schedule 1.**

Sd/-

**(Akhilesh Argal)**

**Additional Secretary**

**Govt. of Madhya Pradesh**

**General Administration Department**

**CC:**

1. The Registrar General, High Court of Madhya Pradesh, Jabalpur
2. The Secretary, Lokayukta, Madhya Pradesh, Bhopal
3. The Secretary, MP Public Service Commission, Indore
4. The Director General, Prashasan Academy, Bhopal
5. The Secretary to The Governor, Madhya Pradesh Raj Bhavan, Bhopal
6. The Principal Secretary, MP Vidhan Sabha Secretariat, Bhopal
7. The Principal Secretary/ Secretary, Chief Minister, Chief Minister's Office, MP, Bhopal
8. The Chief Electoral Officer, Madhya Pradesh, Bhopal
9. The Secretary, Madhya Pradesh Election Commission, Bhopal
10. The Secretary, Madhya Pradesh Information Commission, Bhopal
11. The Chairman, Professional Examinations Board, Madhya Pradesh, Bhopal
12. The Advocate General/ Deputy Advocate General, MP High Court, Jabalpur/ Division Bench, Gwalior/Indore
13. The Principal Secretary/ Secretary/ Additional Secretary/ Deputy Secretary/ General Administration Department
14. The Commisisoner, Directorate of Public Relations, Madhya Pradesh, Bhopal
15. The Additional Secretary to the Chief Secretary, Mantralaya, Bhopal
16. The Director, National Informatics Centre, Vindhyachal Bhavan, Madhya Pradesh, Bhopal

**Despatched for information and necessary action.**

Sd/- **(Akhilesh Argal)**

Additional Secretary, Govt. of Madhya Pradesh, General Administration Department

**Guidelines relating to the implementation of *The Right to Information Act, 2005* and the actual situation according to the Act and the Rules.**

| No. | Topic of the guideline  | The Actual Situation  |
|-----|---|---|
| 1.  | Should copies of ACRs be given or not?  | <p>“Information” has been defined in s2(f) and “record” in s2(i) of <b><i>The Right to Information Act, 2005</i></b>. Copies of Annual Confidential Reports (ACRs) are covered by these definitions.</p> <p>It is necessary to take a look at s8(j) of <b><i>The Right to Information Act, 2005</i></b> which states that there is no obligation to give information which relates to personal information the disclosure of which has no relationship to any public activity or interest, or which would cause unwarranted invasion of the privacy of the individual. Copies of ACRs belong to this category. Therefore unless the PIO or the Appellate Authority is satisfied that disclosure is justified in the larger public interest, there is no obligation to provide (copies of the ACRs) or allow inspection.</p>   |
| 2.  | Should details of DPC proceedings be given or not?  | <p>“Information” has been defined in s2(f) and “record” in s2(i) of <b><i>The Right to Information Act, 2005</i></b>. Copies of the proceedings of the Departmental Promotions Committee (DPC) are covered by these definitions.</p> <p>These records do not fall outside the purview of s8 and s9 of <b><i>The Right to Information Act, 2005</i></b>. Therefore, after the proceedings of the DPC are completed and after the promotion orders have been issued wholly or partially there is no problem in giving copies or allowing inspection of the details of the proceedings. If the PIO or the Appellate Authority is satisfied that the disclosure of the evaluation sheet is in the larger public interest then copies may be provided or inspection of the records may be allowed. Therefore ordinarily the evaluation table need not be given along with the copies of the DPC proceedings.</p> |
| 3.  | Should note sheets be given or not?   | <p>“Information” has been defined in s2(f) and “record” in s2(i) of <b><i>The Right to Information Act, 2005</i></b>. Copies of note sheets are covered by these definitions.</p> <p>Therefore if note sheets pertain to such information not covered by s8 &amp; s9 of the Act there is no problem in giving copies or allowing inspection (of the note sheets)</p>  |
| 4.  | Is an individual belonging to the BPL list in one district eligible for fee waiver in another district? | <p>According to the definition of Below the Poverty Line” given in Rule 2 of <b><i>The Right to Information (Fees and Appeals) Rules, 2005</i></b> a BPL person is eligible for fee waiver all over Madhya Pradesh.</p>   |
| 5.  | What process should be adopted to verify proof of BPL identity of the individual?                       | <p>A certified copy of the BPL card issued to the individual is adequate proof of BPL status.</p>   |

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| 6. | As the phrase "who is not below the poverty line" is missing after the sentence – "by such applicant" in Rule (5)(1) pursuant to Amendment (2) of <b>The Right to Information (Fees and Appeals) Rules (First Amendment), 2005</b> should the cost of information be collected from a BPL person? | Even after the aforementioned amendment, the waiver of the cost of information for BPL people remains intact because s7(5) of <b>The Right to Information Act, 2005</b> exempts the payment of both application fees and cost of information for BPL persons. Therefore with the exception of the cost of samples, no fees need be paid by BPL persons either before or after the aforementioned amendment.  |
| 7. | Are cooperative societies not financed directly or indirectly by the State/ Central Governments covered within the category of public authorities under this Act or not?  | "Public Authorities" have been defined in s2(h) of <b>The Right to Information Act, 2005</b> . If cooperative societies not financed directly or indirectly by the State or Central Governments have been established or constituted according to s2(h)(a to d) of the Act they will be covered within the category of public authorities.   |
| 8. | Can photocopies of answer-books relating to the Patwari selection test and other examinations be given to the candidate or any other applicant?   | "Information" has been defined in s2(f) and "record" in s2(i) of <b>The Right to Information Act, 2005</b> . Copies of answer scripts relating to examinations are covered by these definitions.<br><br>It is necessary to take a look at s8(j) of <b>The Right to Information Act, 2005</b> which states that there is no obligation to give information which relates to personal information the disclosure of which has no relationship to any public activity or interest, or which would cause unwarranted invasion of the privacy of the individual. Answer scripts of a candidate in any examination belong to this category. Therefore unless the PIO or the Appellate Authority is satisfied that disclosure is justified in the larger public interest, there is no obligation to provide (copies of the answer scripts) or allow inspection. |

Sd/-

**(Akhilesh Argal)****Additional Secretary****Govt. of Madhya Pradesh****General Administration Department**

**Disclaimer:** This is an unofficial translation of the circular issued by GAD prepared for information only. While care has been taken to remain faithful to the original as far as possible it is not being claimed that this is an authentic translation of the Hindi original. Words and phrases have been added in parenthesis for greater clarity. In case of doubt readers are requested to approach the Secretary GAD, Ballabh Bhavan, Bhopal, Madhya Pradesh for clarification.