

SIKKIM

GOVERNMENT



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No. 204

HIGH COURT OF SIKKIM
GANGTOK.

NO.7/HCS

Dated: 21/05/2007

NOTIFICATION

In exercise of the powers conferred by Section 28 of the Right to Information Act, 2005 (22 of 2005) the High Court of Sikkim hereby makes the following Rules namely:-

1. Short title and commencement.

- (1) These Rules may be called the High Court of Sikkim Right to Information (Regulation of Fee, Cost and Miscellaneous) Rules, 2007.
- (2) They shall come into force on the date of their publication in the official gazette.

2. Definitions.

- (1) In these Rules, unless the context otherwise requires:
 - (a) "Act" means the Right to Information Act, 2005.
 - (b) "Section" means section of the Act.
 - (c) "Appellate Authority" means the officer appointed to hear first appeals under Section 19 (1) of the Act.
 - (d) "Form" means the Form appended to these rules.
 - (e) "Authorised person" means Public Information Officers and Assistant Public Information Officer designated as such by the Chief Justice of the High Court of Sikkim.
 - (f) "Applicant" means the person making request for any information or inspection under the Act.
 - (g) Words and expressions used in these Rules but not defined herein, shall have the same meaning as assigned to them, in the Act.

2. Applications.

Procedure for obtaining information:

- (1) An application for obtaining information under sub-section (1) of section 6 of the Act relating to the High Court shall be filed in between 10.00 a.m. to 4.00 p.m. in a Court working day to the concerned State Public Information Officer and to the Assistant State Public Information Officer, in case of information relating to the Subordinate Courts.

Such application shall be made preferably in Form "A" appended to these Rules and accompanied by a B.R. of Rs. 100/- deposited in the State Bank of Sikkim, as application fee, under the Major Head 0070-01-501 III Fee.

However, no fees shall be charged from persons who are Below Poverty Line, as determined by the State Government, on production of the attested copy of Below Poverty Line card, issued by the State Government.

The Competent Authority shall duly acknowledge the receipt of the application and issue official receipt for the same in Form 'B' appended to these rules.

An application for any information under the Act shall contain the following particulars:

- (a) Name of applicant,
- (b) Father's name,
- (c) Permanent address of the applicant,
- (d) Documentary proof of being a citizen Explanation: Certified copy of Sikkim Subject Certificate, certified copy of Certificate of Identification, Attested copy of Passport, certified copy of Electoral Roll will suffice for this purpose.)
- (e) An address to which notice and information can be sent,
- (f) The date of submission of application,
- (g) Subject matter of the information requested, including the period and/or geographical area to which the information relates;
- (h) Form of Access preferred (optional).

Where an electronic application is made, the applicant shall send a money order/ cheque/ demand draft of Rs.100/- to the State Information Officer or State Assistant Public Information Officer as the case may be, sent or drawn in the name of the State Public Information Officer or Assistant State Public Information Officer, as the case may be, within 7 days of his sending the request through electronic form, failing which his application shall be treated as dismissed.

- (2) Where information sought for relates to any of the Subordinate Courts of the State, the Assistant State Public Information Officer shall be competent to receive and dispose of the applications in the manner provided in these rules.
- (3) If the requested information does not fall within the jurisdiction of the authorized person, it shall order return of the application to the applicant in Form "C" as soon as practicable, preferably within 15 days and in any case not later than 30 days from the date of receipt of the application, advising the applicant wherever possible, about the authority concerned to whom the application should be made. The application fee deposited in such cases shall not be refunded.
- (4) Every application shall be made for one particular item of information only.
- (5) A person, who desires to obtain any information under this Act, may make a request to the State Public information Officer in English, Hindi or Nepali.
- (6) The State Public Information Officer may seek the assistance of any other officer as he or she considers necessary for the proper discharge of his or her duties.
- (7) An application for obtaining information under subsection (1) of section 7 of the Act which concerns the life and liberty of the applicant as referred to in the said section, shall be accompanied by

Bank Receipt of Rs.100/- deposited in the State Bank of Sikkim as application fee under the Major Head 0070-01-501 RTI Fee.

However no fee shall be charged from persons who are Below Poverty Line as determined by the State Government on production of the attested copy of the Below Poverty Line card, issued by the State Government.

The competent authority shall duly acknowledge the receipt of application and issue official receipt for the same in form 'B' appended to these rules.

8. Where access to Information is to be provided in the printed or in any electronic format, as envisaged under subsection (5) of Section 7, the fee shall be made by way of Bank Receipt deposited in the State Bank of Sikkim under the Major Head 0070-01-501 RTI Fee, at the following rates.

- (a) Where information provided is printed from, the actual cost of such publication.
- (b) Where extracts of the publication are photocopied, the actual costs of such photocopying.
- (c) Where information is provided in CD Rom or floppy the actual cost of the CD Rom or floppy.
- (d) Where information required is to be posted the actual postal charges, in addition to the Fee prescribed under (a), (b) and (c) above.

9. If any additional fee representing the cost of providing information will be required, the State Public Information Officer will send an intimation to the applicant regarding the details of additional fees, together with the calculations, with a request to deposit the additional fees. The period intervening between the dispatch of the said intimation and payment of fee, shall be excluded, for the purpose of calculating the period of thirty days.

10. If the requested information falls within the authorized person's jurisdiction, but not in one or more of the categories listed in Sections 8 and 9 of the Act, the authorized person, on being so satisfied, shall supply the information to the applicant in Form "D" appended to these Rules, falling within its jurisdiction. In case the information sought is outside the jurisdiction of the authorized person in the categories listed in Sections 8 and 9 of the Act, the authorized person shall supply only such information as is permissible under the Act and is within its own jurisdiction and reject the remaining part giving reasons thereof.

Provided that, no fees shall be charged from persons Below Poverty Line on production of attested copy of Below Poverty Line card, issued by the State Government.

11. If the information sought by an applicant is in the possession of another public authority or the subject matter of which is more closely connected with the functions of another public authority, such application or such part of it will be transferred to that public authority, and the applicant will be informed about the transfer of his application to that public authority.

Such transfer of application shall be made within five days from the date of receipt of the application.

12. If the information requested is rejected on the ground that it is exempted from disclosure under Section 8, access may be provided to that part of the record, which does not contain any information, so exempted from disclosure under Sec. 8 of the Act and is severable under Section 10 of the Act.

13. (i) The State Public Information Officer shall be responsible for receiving the applications for information or appeals under the Act and for providing information within the prescribed period of 30 days.
- (ii) The State Public Information Officer shall deal with the request from persons seeking information and render reasonable assistance to such persons.
14. The State Public Information Officer may reject a request for information if such a request involves infringement of copyright subsisting in a person, unless the copyright of the requested information subsists in the State.
15. If the information sought for by an applicant concerns life or liberty of a person, the State Public Information Officer will provide the required information within 48 hours of the receipt of the request.
16. If the State Public Information Officer fails to give a decision on the request of information within the prescribed period of thirty days, he shall be deemed to have refused the request.
17. The State Public Information Officer will provide assistance to any sensorily challenged person who is unable to access the record or a part thereof and such assistance will include any assistance, which may be appropriate for the inspection of the record.
18. The State Public Information Officer prior to taking any decision on any application made under sub section (1) to provide the desired information, shall take into consideration the representation made by the third party, if any.
19. Notwithstanding anything contained anywhere else in these Rules, the applicant will be furnished with the information requested for, if and only, the furnishing of such information is
 - (i) requested for with a positive assertion that the motive for obtaining such information is proper and legal;
 - (ii) in accordance with the provisions of the said Act;
 - (iii) not likely to be disproportionately divert the resource of the High Court or the Subordinate Court, as the case might be;
 - (iv) not likely to be detrimental to the safety or preservation of the record in question and
 - (v) not otherwise against any law or practice prevailing in the material regard; and
 - (vi) after the processing of the application, permission has been obtained in that behalf from Hon'ble the Chief Justice, or any of the other Hon'ble Judges of the High Court of Sikkim, who might in that regard be, or have been, nominated by Hon'ble the Chief Justice.
20. If access is granted to a part of the record only, the State Public Information Officer shall give a notice to the applicant, informing him:
 - (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 of the State Public Information Officer as the case may be, time limit, process and any other form of access.

21. If the State Public Information Officer intends to disclose any information or record, or part thereof which relates to or has been supplied by a third party and has been treated as confidential by that third party, he will give a written notice to such third party of the request within five days from the receipt of the request, that he intends to disclose that information or part thereof, and invite the third party within ten days to make a submission in writing or orally, whether such information should be disclosed.

The State Public Information Officer while taking a decision about disclosure of information shall take into consideration the submission of the third party.

22. If the third party has been given an opportunity to make a representation in respect of disclosure of any information, the State Public Information Officer shall take a decision as to whether or not to disclose the information from the record or part thereof, within forty days after the receipt of the request and give in writing the notice of his decision to the third party.

23. 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 an order of the State Public Information Officer may, within thirty days from the date of receipt of the order of the State Public Information Officer, prefer an appeal to the concerned appellate authority on Form "E" appended to these rules, which shall be accompanied by an appeal fee by way of bank receipt of Rs.100/- deposited in the State Bank of Sikkim under the Major Head 0070-01-501 RTI Fee.

(2) Any person aggrieved by an order of the appellate authority under sub-section (1) of section 19 may, within ninety days from the date of receipt of the order of the appellate authority, prefer a second appeal to the State Information Commission on plain paper in Form "F" appended to these Rules, which shall be accompanied by an appeal fee of Rs.100/- by way of bank receipt deposited in the State of Bank of Sikkim under the Major Head 0070-OAS (E) RTI Fee with a copy of such order appealed against.

24. The period of thirty days as envisaged Under Section 7(1) of the Act shall be computed from the date when the application along with the requisite fee is submitted or on the date of receipt of the application by post or E-mail as envisaged in Sec.3 along with fees, before the State Public Information Officer, or the Assistant State Public Information Officer, as the case may be.

The period of thirty days as envisaged Under Section 19 (2) of the Act, shall be computed from the date, when the appeal along with requisites is submitted before the concerned appellate authority.

25. The State Public Information Officer shall not be liable to provide any information, which can be obtained under the provisions of the High Court of Sikkim (Practice and Procedure) Rules, 1991. Such information may be obtained by adhering to the prescribed procedure and payment of fees prescribed in the High Court of Sikkim (Practice and Procedure) Rules, 1991.

26. The State Public Information Officer will not entertain any application from any citizen for providing any information relating to matters which are pending adjudication before the High Court, or Courts Subordinate thereto. The information relating to Judicial matters may be obtained as per the procedure prescribed in the High Court of Sikkim (Practice and Procedure) Rules, 1991, respectively.

27. The State Public Information Officer will not entertain any application from any citizen for inspection of any record which can be inspected under the High Court of Sikkim (Practice and Procedure) Rules, 1991.

FORM 'A'
FORMAT OF APPLICATION FOR SEEKING INFORMATION

See Rules 3(1)

I.D. No. _____ (For official use)

To,

The State public Information Officer,

(Name of the office with address)

1. Full name of the Applicant :
2. Address :
3. Particulars of information required :
 - (i) Subject matter of information (one particular item of information)
 - (ii) The period to which the information relates (relevant period for which information is required is to be indicated).
 - (iii) Details of information required (specific details be furnished).
 - (iv) Whether information is required by post or in person (actual postal charges shall be included as additional fees).
 - (v) In case by post (ordinary/registered or speed post).
4. Where the applicant is Below Poverty Line attested copies of the Below Poverty Line card issued by the Government be furnished.
5. A fee of Rs. 100/- has been deposited, in the State Bank of Sikkim vide B.R. No. _____ dated _____

Place:

Signature of the Applicant

Date:

Note: (i) Please ensure that Form A is complete in all respects and there is no ambiguity in providing the details of information required.

For use by office of the State Public Information Officer/Assistant State Public Information Officer.

Received the application form (a) Name.....
(b) Address.....
(c) Dated.....on.....

Place..... Full name of State Public Information
Officer/Assistant State Public Information Officer

Date..... Designation.....
Seal.

FORM 'B'
ACKNOWLEDGEMENT OF APPLICATION
See rule 3(1)

I.D. No. _____

Date: _____

1. Received an application in Form A from Shri/Ms _____
Resident of _____ under Section
5(1) of the Right to Information Act, 2005.
2. The applicant is advised to contact the undersigned on _____ between
10.00 P.M. to 4:30 P.M.
3. In case the applicant fails to turn up on the scheduled date(s), the Competent
Authority shall not be responsible for delay, if any.
4. The applicant shall have to deposit the balance fee, if any, with the authorized
person before collection of information.
5. The applicant may also consult Web-site of the High Court from time to time to
ascertain the status of his application.
6. The information is proposed to be given normally within 30 days from the date of
receipt of application along with requisite fee. In case it is found that the information asked for cannot
be supplied, a rejection letter shall be issued stating reasons thereof.

Dated _____

Signature and Stamp of the
State Public Information Officer/
Assistant State Public Information Officer.

Address: _____

FORM 'C'
REJECTION ORDER
Under Section 3(3) of the Act

From _____

NO. _____

Date _____

To,

Sir/Madam,

Please refer to your application, I.D. No. _____ dated _____
addressed to the undersigned regarding supply of information on _____

2. The information sought for cannot be supplied due to the following reasons:-

(i)

(ii)

Yours faithfully,

State Public Information Officer/
Assistant State Public Information Officer.
Tel. No. _____

FORM 'D'
See Rule 10

Form of Supply of Information to the applicant

To,
Sir/Madam,

Please refer to your application I.D. No.dated.....

addressed to the undersigned regarding supply of information on.....

The information asked for is enclosed in part as follows:

The remaining information about the other aspects cannot be supplied due to following reasons:-

The requested information does not fall within the jurisdiction of this authorized person.

As per Section 19 of the Right to Information Act, 2005, you may file an appeal to the Appellate Authority within thirty days of the issue of this orders.

Yours faithfully,

Authorised person
E-mail address
Web-site
Telephone No.

FORM 'E'
See Rule 23 (1)

Appeal under section 19(1) of the Right to information Act, 2005.

From:

(Appellant's name and address)

To

(Name/designation/address of the appellate authority)

1. Full name of the Appellant :
2. Address: :
3. Particulars of the State
Public Information Officer :
4. Particulars of the First Appellate Authority :
5. Date of receipt of the order appealed against :
6. Last date for filing the appeal :
7. The grounds for appeal :
8. Particulars of information :
 - (i) Nature and subject matter
of the information required :
 - (ii) Name of the Officer or Department to
which the Information relates. :

Place

Signature of Appellant

Date:

Enclosed Bank B.R. No. _____ dated _____ for Rs.100/-
deposited in the State Bank of Sikkim.

FORM 'F'
See Rule 23 (2)

Appeal under section 19(7) of the Right to Information Act, 2005.

From: _____
(Applicant's name and address).

To _____
(Name/designation/address of the appellate authority)

1. Full name of the Appellant.
2. Address:
3. Particulars of the State
Public Information Officer,
4. Date of receipt of the order
appealed against (if order passed).
5. Last date for filing the appeal:
6. The grounds for appeal:
7. Particulars of information:
 - (i) Nature and subject matter
of the information required.
 - (ii) Name of the Officer or Department
to which the information relates.

Place:

Signature of Appellant

Date:

Enclosed Bank B.R. No. _____ dated _____ for Rs. 100/-
deposited in the State Bank of Sikkim.