

# **UNIT 10**

## **PROCESS OF DISPOSAL OF INFORMATION REQUESTS**

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## 10.1 INTRODUCTION

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In the previous units you have read that The Right to Information Act, 2005 was enacted by the Parliament of India to provide for setting out the practical regime of right to information for citizens to secure access to information under the control of the public authorities, before this another law, ‘ The Freedom of Information Act, 2002’ was in force. For the purpose of the Right to Information Act, 2005 Public Information Officers (PIOs) are designated by the public authorities in all administrative units or offices under it to provide information to the citizens on their request. Any officer whose assistance is sought by the PIO shall render his assistance to discharge his duties, in case of contraventions of the provisions of this Act; such officer shall be treated as PIO. Time limit to provide requested information in various conditions has been provided by the Act.

This Act directs public authorities to disclose all information held by them except those which are exempted under the Act. A citizen shall submit the application for obtaining the information to a Public Information Officer (PIO) or Assistant PIO of the Public Authority (Public Authority as explained in Block 2 unit-4). There is no prescribed format of the application seeking information. The application can be written in English or Hindi or the State’s official language. Grounds for rejection of RTI application and procedure to be adopted in case of the third party application are also provided therein the Act.

To use this act as a tool for getting any information and if you are seeking any information from any public authority you must be aware of some basic knowledge regarding procedure for requesting information, time limit to get the information and fee that is to be paid. Detail study of disposal of the information application is discussed in this chapter.

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## 10.2 OBJECTIVES

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After reading this unit you will be able to:

- Explain the process of information request.
- Know about the particulars that an application seeking information must contain either it is provided written application or in case of the information sought electronically.
- Understand about the time period that is provided in various cases for the disposal of an application.
- Learn about the process of disposal involved in various cases where the desired information is not held by the Public Information Officer or it is available in part only.
- Disclosure of third party information.
- Know about the requirements in supply of Information.

### 10.3.1 Preparation of the Information application

There is no such prescribed format to write an application for seeking information under Right to Information, But you should try to provide some of the basic information to the PIO so that they may provide you desired information within time. Applicant shall provide his particulars clearly in the information application so that the

concerned PIO may provide information accordingly. Applicant may provide as following-

- The applicant may address to PIO or APIO and if possible specify the department/name of the office, address from where he is seeking information.
- The name of the applicant.
- The address of the applicant.
- The particulars of the desired information.
- Whether the photocopy of the document is required or inspection will be conducted by the applicant.
- Particulars of the deposited fee or if belongs to BPL category provide proof for the same.
- Signatures of the applicant and date of the application.

### **10.3.2 Points to keep in mind before making request before the Public Authority**

Before preparing any information application you should keep some of the points in your mind which will help you in getting information easily and in time. Some of the points are as follows-

- a. Firstly you should know about the information that you can receive by Right to Information. Thus Information is any material in any form. It includes records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material held in any electronic form. It also includes information relating to any private body which can be accessed by the public authority under any law for the time being in force.
- b. The applicant should know that from which public authority the desired information may be obtained. Application given to wrong Public Authority may cause unnecessary delay in getting the information or sometimes the application may be returned.

### **10.3.3 Procedure after receiving any request for information under RTI**

The Public Information Officer of a public authority plays a pivotal role in making the right of citizens to information a reality. The Act casts specific duties on him and makes him liable for penalty in case of default. It is, therefore, important for a Public Information Officer to keep the following aspects in view in disposal of the applications under the Act.

#### **10.3.3.1 Applications Received Without Fee**

After receiving the application, the Public Information Officer should check whether the applicant has made the proper payment of application fee or whether the applicant is a person belonging to a Below Poverty Line (BPL) family. If application is not accompanied by the prescribed fee or the BPL Certificate, it cannot be treated as an application under the RTI Act. However, Public Information Officer should consider such application sympathetically and try to supply information sought by way of such an application.

### **10.3.3.2 Transfer of Application**

The time limits for providing the information will begin to take effect from the date of receipt of an application. It is provided in the Right to Information Act that the PIO may seek the assistance of any other officer as he/ she considers it necessary for the proper discharge of his or her duties. Any Officer, whose assistance has been sought, shall render all assistance to the PIO and for the purposes of any contravention of the provisions of the Act, such other officer shall be treated as PIO. (See Section 5(4) and 5(5) of the Act.)

Sometimes requests are made to a public authority or PIO for information which does not concern that public authority or only a part of which is available with the public authority, remaining or whole of the information concerns another public authority or many other public authorities. Section 6(3) provides that-

Where an application is made to a public authority requesting for information,

- (i) Which is held by another public authority; or
- (ii) The subject matter of which is more closely connected with the functions of another public authority,

The public authority, to which such application is made, shall transfer the application or such part of it as may be appropriate to that other public authority and inform the applicant immediately about such transfer:

Provided that the transfer of an application pursuant to this sub section shall be made as soon as practicable but in no case later than five days from the date of receipt of application.

where an application is made to a public authority requesting for any information which is held by another public authority or the subject matter of which is more closely connected with the functions of another public authority, the public authority to which such an application is made, shall transfer the application within 5 days to that other public authority and shall inform the applicant for the same.

A situation may arise when a person makes an application to a public authority for information, a part of which is available with that public authority and the rest of the information is scattered with more than one other public authorities. In such a case, the Public Information Officer of the public authority should give information relating to it and advise the applicant to make separate applications to the concerned public authorities for obtaining information from them. If no part of the information sought, is available with it but is scattered with more than one other public authorities, the Public Information Officer should inform the applicant that information is not available with the public authority and that the applicant should make separate applications to the concerned public authorities for obtaining information from them.

### **10.3.4 Disclosure of Third Party Information**

Information, the disclosure of which would harm the competitive position of a third party, is exempt from disclosure. Such information shall not be disclosed unless the competent authority is satisfied that larger public interest is there in the disclosure of such information.

If an applicant seeks any information which relates to or has been supplied by a third party and that third party has treated that information as confidential, the Public Information Officer shall consider whether the information should be disclosed or not. The Public Information Officer

would have before disclosing such information within five days from the receipt of the application, give a written notice to the third party that the information has been sought by the applicant under the RTI Act and that he intends to disclose the information. He shall request the third party to make a submission, regarding whether the information may be disclosed. The third party shall be given a time of ten days, from the date of receipt of the notice by him, to make representation against the proposed disclosure. The Public Information Officer shall decide regarding disclosure of the information on the basis of the submission of the third party. Such a decision should be taken within forty days from the receipt of the request for information. After making the decision, the Public Information Officer should give a notice of his decision to the third party in writing.

### **10.3.5 Providing Information**

The information to the applicant should ordinarily be provided in the form in which it is sought. But, if the supply of information sought in a particular form may cause harm to the safety or preservation of the records, supply of information in that form may be denied. However, the applicant may be invited to inspect the same stating the reasons.

In some cases, the applicants expect the Public Information Officer to give information in some particular proforma devised by them stating that they have a right to get information in the form in which it is sought. It need be noted that the provision in the Act simply means that if the information is sought in the form of photocopy, it shall be provided in the form of photocopy, or if it is sought in the form of a floppy/disc, it shall be provided in that form subject to the conditions given in the Act. It does not mean that the PIO shall re arrange or re-shape or create the information. The PIO is not expected to draw conclusions or interpret for providing the information.

### **10.3.6 Supply of Information**

The Public Information Officer should check whether the information sought or a part thereof is exempt from disclosure under Section 8 or Section 9 of the Act. Where a request for information is rejected, the Public Information Officer should 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.

The furnished information should be specific and clear and there must not be ambiguity in the information.

#### **10.3.6.1 Supply of Part Information**

Where a request is received for access to information which is exempt from disclosure but a part of which is not exempt, and such part can be severed in such a way that the severed part does not contain exempt information then, access to that part of the information/record may be provided to the applicant.

### **10.3.6.2 Prescribed Time Period for Supply of Information**

The Public Information Officer should supply the information within thirty days of the receipt of the request. Where the information sought for concerns the life or liberty of a person, the same should be provided within forty-eight hours of the receipt of the request. If request for information is received through the APIO, the information may be provided within 35 days of receipt of application by the APIO in normal course. In case of an application transferred from one public authority to another public authority, reply should be provided by the concerned public authority within 30 days of the receipt of the application by that public authority in normal course and within 48 hours in case the information sought concerns the life or liberty of a person.

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## **10.4 SUMMARY**

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In this unit we have discussed that the applicant before seeking any information from any public authority, may itself identify that to which public authority the application of request is to be made. There is no format of the application but the applicant shall furnish some particulars so that information can be easily obtained. After receiving the application of information the PIO shall check whether the proper fee has been paid by the applicant or the applicant belongs to BPL category. The PIO shall transfer the application to the other Public authority if the desired information is not concerned to him or part of that is available to him and other part is available to other public authority. The PIO may seek assistance from the other officer for the information and in case of refusal in assistance by that officer or contraventions thereof he or she shall be deemed as PIO. In case of third party information if the PIO satisfies himself that in the larger public interest it is to be provided he or she may supply the information but where the third party has supplied the information as confidential, the PIO within time limit shall ask for his statements regarding to the information required by the applicant. The PIO shall provide the information in the form it is available. It is not expected from the PIO to interpret or draw conclusions for providing information. PIO shall not create any information but provide in the form as it is available to the public authority. The provided information shall be clear and specific, it shall not be ambiguous. The PIO shall mention the name, designation and address of the departmental (first appellate) appellate authority in providing the information to the applicant.

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## **10.5 GLOSSARY**

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**1. Public Authority-** It is provided in section 2(h) of the Right to Information Act 2005. It means any authority or body or institution or self Government established or constituted by or under the Constitution ; by any other law made by Parliament; by any other law made by the State legislature; by notification issued or order made by the appropriate Government, and includes any-

- (i) body owned, controlled or substantially financed;
- (ii) non-Government organization substantially financed, directly or indirectly by funds provided by the appropriate Government.

**2. Public Information Officer-** Any Officer designated by the Public Authority to provide information to persons requesting for the information under the Right to Information Act 2005.

**3. Designated-** appoint someone to a specified office or post.

**4. Third Party-** It is provided in section 2(n) of the Right to Information Act, 2005. It means a person other than the citizen making a request for information and includes a public authority.

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## 10.7 SAQS

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### 1. Short Answer Questions-

a) What do you mean by information under The Right to Information Act, 2005.

b) In how many maximum days the application shall be transferred to the other Public Authority under section 6(3) of the Act.

### 2. Fill in the blanks-

a) The Public Information Officer should check whether the information sought or a part thereof is exempt from disclosure under Section ...or Section ...of the Act.

b) The PIO shall not ..... or ..... or ..... the information.

### 3. True and False type questions

a) There is specified format of requesting any information.

(i) True, (ii) False.

b) There is time limit fixed for providing the information.

(i) True, (ii) False.

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## 10.8 REFERENCES

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a) [https://en.wikipedia.org/wiki/Right to Information Act, 2005](https://en.wikipedia.org/wiki/Right_to_Information_Act,_2005).

b) The Right to Information Act, 2005.

c) [www.ingaf.in/INGAF/RTI-ACT/Guideonrti.pdf](http://www.ingaf.in/INGAF/RTI-ACT/Guideonrti.pdf)

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## 10.9 SUGGESTED READINGS

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Dr. Neelam Kant, 2014, published by Orient Publishing Company.

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## 10.10 TERMINAL QUESTIONS AND MODEL QUESTIONS

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a) In preparation of the information application what are the required essentials?

b) What is the procedure adopted by the Public Information Officer after receiving the application for information?

c) What is the procedure for disclosure of third party information?

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## 10.11 ANSWERS

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### SAQS

1. (a) Refer 10.3.2, (b) 5 days

2. (a) 8 or 9, (b) re arrange, re-shape, create.

3. (a) False, (b) True

Terminal Questions and Answers

(a) Refer 10.3.1, (b) 10.3.3 (c) 10.3.4