

**SUMMARY OF THE RTI CIRCULARS/OFFICE MEMORANDUM/
NOTIFICATIONS ISSUED BY DEPARTMENT OF PERSONNEL &
TRAINING, GOVT. OF INDIA
& ORDER/DECISIONS OF THE CENTRAL INFORMATION COMMISSION
AND OTHER COURTS.**

FEE RULES (GSR-336)

DATED:- 16/09/2005 (F.NO.34012(8)/2005-ESTT.(B)/DOPT)

The Right to Information (Regulation of Fee and Cost), Rules, 2005

Section-3 :- A request for obtaining information under sub-section (1) of Section 6 shall be accompanied by an application fee of ten by way of cash against proper receipt or by demand draft or bankers cheque payable to the Accounts Officer of the public authority.

Section-4 :- For providing the information under sub-section (1) of Section 7, the fee shall be charged by way of cash against proper receipt or by demand draft or bankers cheque payable to the Accounts Officer of the public authority at the following rates :-

- (a) rupees two for each page (in A-4 or A-3 size paper) created or copied;
- (b) actual charge or cost price of a copy in larger size paper;
- (c) actual cost or price for samples or models; and
- (d) for inspection of records, no fee for the first hour, and a fee of rupees five for each fifteen minutes (or fraction thereof) thereafter.

Section -5 :- For providing the information under sub-section (5) of Section 7, the fee shall be charged by way of cash against proper receipt or by demand draft or bankers cheque payable to the Accounts Officer of the public authority at the following rates:-

- (a) for information provided in diskette or floppy fifty per diskette or floppy, and
- (b) for information provided in printed form at the price fixed for such publication or rupees two per page of photocopy for extracts from the publication.

AMENDMENT IN FEE RULES {GSR - 649(E)}

DATED:-27/10/2005 (F.NO.34012/18(S)/2005-ESTT.(B)/DOPT

(2) In the RTI (Regulation of fee and cost) Rules, 2005, in rule 4, for clause (d), the following clause shall be substituted, namely :-

(d) "for inspection of records, no fee for the first hour, and a fee of rupees five for each subsequent hour (or fraction thereof)".

AMENDMENT IN FEE RULES {GSR-294(E)}

DATED:- 17/5/2006 (F.NO.34012/8/(S)/2005-ESTT.(B)/DOPT)

(2) In the RTI (Regulation of fee and cost) Rules, 2005 :-

(a) In rule 3, after the words "bankers cheque", the words of "Indian Postal Order" shall be inserted.

(b) In rule 4, after the words "bankers cheque", the words of "Indian Postal Order" shall be inserted.

(c) In rule 5, after the words "bankers cheque", the words of "Indian Postal Order" shall be inserted.

NON IMPLEMENTATION OF VARIOUS PROVISION OF RTI ACT

DATED:- 23/03/2007 (F.NO.1/2/2007-IR/DOPT)

5. All the public authority may ensure that :-

(i) Central Public Information Officer/Central Assistant Public Information Officers are designated immediately, if it has not been done so far. Details of these officers may also be posted on the website.

(ii) Fee paid by any of the modes prescribed in the Rules including by way of Indian Postal Order is accepted.

(iii) Demand draft/Banker's cheque/IPOs made payable to the Accounts Officer of the public authorities are accepted; and

(iv) Application submitted by the applicants are not refused on the ground that it has not been submitted in prescribed format.

DISPOSAL OF FIRST APPEALS UNDER THE RTI ACT, 2005

DATED:- 09/7/2007 (F.NO.10/23/2007-IR/DOPT)

2. Each first appellate authority should ensure that an appeal received by him is disposed off within 30 days of the receipt of the appeal. If, in some exceptional cases, it is not possible to dispose off

the appeal within 30 days, its disposal should not take more than 45 days. In such cases, the appellate authority should record, in writing, the reasons for not deciding the appeal within 30 days. Deciding appeals under the RTI Act is a quasi judicial function.

3. It is necessary that the appellate authority should see to it that the justice is not only done but it should also appear to have been done. In order to do so, the order passed by the appellate authority should be a speaking order giving justification for the decision arrived at.

4. If an appellate authority comes to a conclusion that the appellant should be supplied information in addition to what has been supplied to him by the CPIO, he may either (i) pass an order directing the CPIO to give such information to the appellant; or (ii) he himself may give information to the appellant while disposing off the appeal.

5. The CIC has also pointed out that some of the Ministries/Departments have appointed very junior officers as appellate authorities who are not in a position to enforce their orders. The Act provides that the first appellate authority would be an officer senior rank to the CPIO. Thus the appellate authority, as per provision of the Act, would be an officer in commanding position vis-à-vis the CPIO. Nevertheless, if, in any case, the CPIO does not implement the order passed by the appellate authority and the appellate authority feels that intervention of higher authority is required to get his order implemented, he should bring the matter to the notice of the officer in the public authority competent to take against the CPIO. Such competent officer shall take necessary action so as to ensure implementation of the provision of the RTI Act.

DISCLOSURE OF ANNUAL CONFIDENTIAL REPORTS (ACR)

DATED:- 21/9/2007 (F.NO.10/20/2006-IR/DOPT)

The public authority has a discretion to disclose the Annual Confidential Reports of an employee to the employee himself or to any other person, if the public authority is satisfied that the public interest in disclosure outweighs the harm to the protected interests. If it is felt that public interest in disclosure of ACR of any employee outweighs the protected interests, decision to disclose the ACRs should be taken with the approval of the competent authority. Competent Authority in the matter may be decided by the concerned public authority.

DISCLOSURE OF INFORMATION RELATING TO OCCURRENCE/EVENT/ MATTER WHICH TOOK PLACE 20 YEARS BACK

DATED: - 31/10/2007 (F.NO.1/14/2007-IR/DOPT)

The information which, in normal course, is exempt from disclosure under sub-section(1) of Section 8 of the Act, would cease to be exempted if 20 years have lapsed after occurrence of the incident to which the information relates. However, the following types of information would continue to be exempt and there would be no obligation, even after lapse of 20 years, to give any citizen:-

(I) Information disclosure of which would prejudicially affect the sovereignty and integrity of India, the security, strategic, scientific or economic interest of the state, relation with foreign state or lead to incitement of an offence.

(II) Information the disclosure of which would cause a breach of privilege of Parliament or State Legislature; or

(III) Cabinet papers including records of deliberations of the Council of Ministers, Secretaries and other Officers subject to the condition given in provision to clause (i) of sub section (I) of Section 8 of the Act.

UPDATING OF RECORDS- RECOMMENDATIONS OF THE SECOND ADMINISTRATIVE REFORMS COMMISSION

DATED:- 14/11/2007 (F.NO. 1/33/2007-IR/DOPT)

The maintenance and updating of records is a continuing process which every public authority is obligated to do. Improving the infrastructure and bringing out the necessary manuals are also continuing processes, and the responsibility of the concerned public authorities. All the public authorities should update their records, improve their infrastructure, bring out necessary manuals from within their resources. They may make specific budgetary provision for the purpose as per their requirement.

SUO-MOTO DISCLOSURE UNDER SECTION-4 OF RTI
DATED:- 22/06/2008 (F.NO. 4/9/2008-IR/DOPT)

3. The CIC has also expressed concern over the fact that many public authorities have not published relevant information under Section-4 of the Act. All the public authorities should ensure that they make suo-moto disclosure as provided in the Act without any further delay. It is a statutory requirement, which should not be compromised with.

MAINTENANCE OF RECORDS IN CONSONANCE WITH SECTION-4 OF THE RTI ACT

DATED:- 20/01/2010 (F.NO. 12/192/2009-IR/DOPT)

The CIC in a case has highlighted that the systematic failure in maintenance of records is resulting in supply of incomplete and misleading information and that such failure is due to the fact that the public authorities do not adhere to the mandate of Section 4(1)(a) of the RTI Act, which requires every public authority to maintain all its records duly catalogued and indexed in a manner and form which would facilitate the RTI. The commission also pointed out that such a default could qualify for payment of commission to require the concerned public authority to compensate the complainant for any loss or other detriment suffered.

CIC/STATE COMMISSIONS HAS NO POWER, JURISDICTION AND AUTHORITY TO REFUND OF FEES

DATED:- 29/04/2008 (F.NO.13/10/2007-IR/DOPT)

(verdict of High Court of Gujraat in the Ahmedabad Education Society and another v/s UOI & others (Special civil Application No.23305 of 2007)

"As per Section 18, the complaint can be preferred before the State Information Commission and Chief Information Commissioner can initiate an inquiry and can impose penalty as per Section 20 of the Act, 2005. While holding inquiry, as per Section 18(3) of the Act, 2005, State Chief Information Commissioner has been clothed with powers of the Civil Court under the Code of Civil Procedure, 1908, in respect of summoning and enforcing the attendance of persons and compel them to give oral and written evidence on oath, requiring the discovery and inspection of documents; receiving evidence on affidavit; requisitioning any public record or copies thereof from any court or office. But so far as refund of fees is concerned, it is a matter to be decided by the Civil Court of competent jurisdiction under Code of Civil Procedure, 1907 State Chief Information Commissioner has

no power, jurisdiction and authority under the Act, 2005, to pass an order of refund of the fees."

RTI APPLICATIONS RECEIVED BY A PUBLIC AUTHORITY REGARDING INFORMATION CONCERNING OTHER PUBLIC AUTHORITY/ AUTHORITIES UNDER SECTION-6(3) OF RTI ACT DATED:- 12/06/2008 (F.NO.10/2/2008-IR/DOPT)

Given hereinunder are some situations which may arise in the *matter* and action required to be taken by the public authorities in such cases:

(i) A person makes an application to a public authority for some information which concerns some another public authority. In such a case, the PIO receiving the application should transfer the application to the concerned public authority under intimation to the applicant. However, if the PIO of the public authority is not able to find out as to which public authority is concerned with the information even after making reasonable efforts to find out the concerned public authority, he should inform the applicant that the information is not available with that public authority and that he is not aware of the particulars of the concerned public authority to which the application could be transferred. It would, however, be the responsibility of the PIO, if an appeal is made against his decision, to establish that he made reasonable efforts to find out the particulars of the concerned public authority.

(ii) A person makes an application to a public authority for information, only a part of which is available with that public authority and a part of the information concerns some 'another public authority.' In such a case, the PIO should supply the information available with him and a copy of the application should be sent to that another public authority under intimation to the applicant.

(iii) 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 PIO of the public authority receiving the application 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 PIO 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. It may be noted that the Act requires the supply such information only which already exists and is held by the public authority or held under the control of the public authority. It is beyond the scope of the Act for a public authority to create information. Collection of information, parts of which are available with different public authorities, would amount to creation of information which a public authority under the Act is not required to do. At the same time, since the information is not related to anyone particular public authority, it is not the case where application should be transferred under sub-section (3) of Section 6 of the Act. It is pertinent to note that sub-section (3) refers to 'another public authority' and not 'other public authorities'. Use of singular form in the Act in this regard is important to note. *(also see clarification of CIC)*

CLARIFICATION OF CIC ON COLLECTION OF INFORMATION

DATED:- 01/06/2009 (F.NO.10/2/2008-IR/DOPT)

"The Central Information Commission while deciding an appeal has observed that collection of information cannot amount to creation of information and desired that the above referred Clause(iii) of the office memorandum dated:-12/06/2008 No.F.10/2/2008-IR/DOPT should be modified so as to avoid any confusion among public authorities".

(iv) If a person makes an application to a public authority for some information which is the concern of a public authority under any State Government or the Union Territory Administration, the Central Public Information Officer (CPIO) of the public authority receiving the application should inform the applicant that the information may be had from the concerned State Government/UT Administration. Application, in such a case, need not be transferred to the State Government/UT Administration.

COURTEOUS BEHAVIOR WITH THE PERSONS SEEKING INFORMATION

DATED:- 24/06/2008 (F.NO.4/9/2008-IR/DOPT)

The responsibility of a public authority and its public information officers (PIO) is not confined to furnish information but also to provide necessary help to the information seeker, wherever necessary. While providing information or rendering help to a person, it is important to be courteous to the information seeker and to respect his dignity. While imparting such training, the officers should be sensitized about the need of courteous behaviour with the information seekers.

**CLARIFICATION REGARDING FORMAT IN WHICH THE
'INFORMATION' SHOULD BE SUPPLIED
DATED:- 10/7/2008 (F.NO.11/2/2008-IR/DOPT)**

In some cases, the applicants expect the PIO to give information in some particular proforma devised by them on the plea that sub-section(9) of Section-7 provides that an information shall ordinary be provided in the form in which it is sought.

1. It need be noted that the sub-section simply means that if the information is sought in the form of photocopy, it shall be provided in the form of photocopy and if it is sought in the form photocopy, it shall be provided in the form of photocopy and if it is sought in of the form of floppy, it shall be provided in that form subject to the conditions given in the Act etc. It does not mean that the PIO shall re-shape the information.

2. The Act, however, does not require the PIO to deduce some conclusion from the 'material' and supply the 'conclusion' so deduced to the applicant. The PIO is required to supply the 'material' in the form as held by the public authority and is not required to do research on behalf of the citizen to deduce anything from the material and then supply it to him.

**TERMS 'INFORMATION' AS DEFINED IN RTI ACT DOES NOT
INCLUDE ASNWER TO THE QUESTIONS LIKE 'WHY':-
DATED:- 1/6/2009 (01/07/2009-IR/DOPT)**

*VERDICT OF HIGH COURT OF BOMBAY IN THE WRIT PETITION
NO.409 OF 2007 "DR.CELSA PINTO VS. GOA STATE INFORMATION
COMMISSION"*

"The definition of information cannot include within its fold answers to the question "why" which would be same thing as asking the reason for a justification for a particular thing. The public information authorities cannot expect to communicate to the citizen the reason why a certain thing was done or not done in the sense of a justification because the citizen makes a requisition about information. Justifications are matter within the domain of adjudicating authorities and cannot properly be classified as information."

DISCLOSURE OF 'FILE NOTING' EXCEPT UNDER SECTION-8 OF RTI

DATED:- 23/06/2009 (1/20/2009-IR/DOPT)

The file noting can be disclosed except file noting containing information exempt from disclosure under section-8 of the Act.

THE RTI TO PRIVACY THAT RECOGNISED BY SECTION8(1)(J) OF THE RTI ACT OVERRIDES ANY RIGHT

CASE NO.WPC NO.2378/2010, HIGH COURT OF DELHI

VERDICT OF SUDHERSHAN V/S NDMC AND OTHERS

Whether the relationship is of a wife, father, or daughter "the individual retains the right to their privacy". If an individual objects to reveal certain information which would be an intrusion on her privacy. He/she can legitimately claim the exemption of Section-8(1)(j) of RTI Act-2005. The right to privacy that recognized by Section8(1)(j) of the RTI Act overrides any rights.

DISCLOSURE OF THIRD PARTY INFORMATION

DATED:- 27/04/2010 (8/2/2010-IR/DOPT)

In a process, a public authority may send some confidential paper to another public authority. A question has arisen whether the recipient public authority can disclose such confidential paper under the RTI Act-2005. If yes, what procedure is required to be followed for doing so:-

1. Section-11 of the Act provides the procedure of disclosure of 'third party' information. According to it, if a Public Information Officer intends to disclose an information supplied by a third party which the third party has treated as confidential, the PIO, before taking a decision to disclose the information shall invited the third party to make submission in the matter. The third party has a right to make an appeal to the Departmental Appellate Authority against the decision of the PIO and if not satisfied with the decision of the Departmental Appellate Authority, a second appeal to the concerned Information Commission. The PIO cannot disclose such information unless the procedure prescribed in section 11 is completed.

2. As defined in clause (n) of Section 2 of the Act, 'third party' includes a public authority. Reading of the definition of the term, 'third party' and Section 11 together makes it clear that if a public authority 'X' receives some information from another public authority

'Y' which that public authority has treated as confidential, the 'X' cannot disclose the information without consulting 'Y', the third party in respect of the information and without following the procedure prescribed in Section 11 of the Act. It is a statutory requirement, non-compliance of which may make the PIO liable to action.

3. The PIO and the First Appellate Authorities should keep these provisions of the Act in view while taking decision, about disclosure of third party information in general and disclosure of the third party information, when third party is a public authority, in particular.