ORISSA INFORMATION COMMISSION (APPEAL PROCEDURE) RULES, 2006

INFORMATION & PUBLIC RELATIONS DEPARTMENT
NOTIFICATION

The 6th March 2006

S.R.O. No. 91/2006—In exercise of the powers conferred by clause (e) of sub-section (2) of Section 27 of the Right to Information Act, 2005 (22 of 2005), the State Government do hereby make the following rules, namely :-

1. Short title and commencement

(1) These rules may be called the Orissa Information Commission (Appeal Procedure) Rules, 2006.

(2) They shall come into force on the date of their publication in the Orissa Gazette.

2. Definitions

(1) In these rules, unless the context otherwise requires, -

(a) "Act" means the Right to Information Act, 2005 (22 of 2005);

(b) "Calendar year" means the year commencing on the 1st day of January;

(c) "Commission" means the Orissa Information Commission, Orissa;

(d) "Form" means the Form annexed to these rules;

(e) "Registrar" means Registrar of the Commission and any other officer duly authorised by the State Chief Information Commissioner; and

(f) "Section" means section of the Act.

(2) The words and expressions used herein and not defined but defined in the Act, shall have the meanings respectively assigned to them in the Act.

3. Procedure for presentation and scrutiny of appeal

(1) The memorandum of appeal shall be presented, in Form E of the Orissa Right to Information Rules, 2005, by the appellant in person or by his authorised representative to the Registrar to receive memorandum of appeal or sent by registered post, with acknowledgement due, addressed to the Registrar.

(2) On presentation of every memorandum of appeal, the same shall be registered in the register maintained for the purpose and shall be assigned consecutive serial number of the register during every calendar year.

(3) If the memorandum of appeal, on scrutiny, is found to be defective and the defect noticed is formal in nature, the Registrar may allow the party to rectify the same in his presence and if the said defect is not formal in nature, the Registrar may allow the applicant such time to rectify the defect as he may deem fit.

(4) If the appellant fails to rectify the defect within the time allowed under sub-rule (3), the Registrar shall, immediately place the matter before the Commission for orders.

4. Contents of appeal

An appeal to the Commission shall contain the following informations, namely : -

(i) name and address of the appellant;

(ii) particulars of the Public Information Officer;

(iii) date of receipt of the order appealed against;

(iv) last date for filing the appeal;

(v) particulars of information -

(a) nature and subject matter of the information required,

(b) name of the officer or department to which the information relates;

(vi) the grounds of appeal (details, if any, to be enclosed in separate sheet); and

(vii) verification by the appellant.

5. Documents to accompany appeal

Every memorandum of appeal made to the Commission shall be accompanied by the following documents, namely

(a) self-attested copies of the orders or documents against which the appeal is preferred;

(b) copies of documents relied upon by the appellant and referred to in the appeal;

(c) an index of the documents referred to in the appeal; and

(d) self-addressed duly stamped envelope for intimation of defects in case the memorandum of appeal is sent by registered post.

6. Procedure for presentation, and other matters relating to complaint

(1) Every complaint made under sub-section (1) of section 18 containing following particulars shall be presented by the complainant in person or by his authorized representative to the Registrar to receive the complaint or sent by registered post, with acknowledgement due, addressed to the Registrar :-

(a) the name and address of the complainant;

(b) the name and address of the officer or officers against whom complaint is made;

(c) the facts relating to complaint and when and where it arose;

(d) document, if any, as are necessary to prove the allegation made in the complaint petition; and

(e) the relief sought for.

(2) On presentation of every complaint the same shall be registered in the register separately maintained for the purpose and shall be assigned consecutive serial numbers of the register during every calendar year.

(3) After the complaint is being duly registered, the Registrar shall immediately place the matter before the Commission for orders.

(4) After the Commission is *prima facie* satisfied that there are reasonable grounds to enquire into the matters, it may admit the complaint and direct for initiation of an enquiry in respect of such complaint:

Provided that the Commission shall not reject the complaint unless a reasonable opportunity of being heard is given to the complainant.

7. Procedure in deciding appeal or complaint

(1) In deciding the appeal or complaint, as the case may be, the Commission may -

(a) take oral or written evidence on oath or affidavit from concerned or interested person;

(b) peruse or inspect documents, public records or copies thereof;

(c) inquire through authorised officer further details of facts;

(d) hear State Public Information Officer who decided the first appeal, or such person against whom the complaint is made, as the case may be;

(e) hear third party; and

(f) receive evidence on affidavits from State Public information Officer, State Assistant Public Information Officer, such Senior Officer who decided the first appeal, such person against whom the complaint lies or the third party.

(2) The officer appointed under clause (c) of sub-rule (1) (hereinafter referred to as authorised officer) shall be deemed to be a Commission within the meaning of Order XXVI of the Code of Civil Procedure, 1908 and subject to such directions and instructions as may be imposed by the Commission in the order of appointment shall have all such powers, as are exercisable by a Commission appointed under the said Code of Civil Procedure, for the purpose of inquiry.

(3) The order of appointment of authorised officer shall be issued in Form A and shall contain the nature and subject of inquiry as may be specified therein.

(4) The authorised officer shall complete the inquiry as expeditiously as possible and submit his report to the Commission within such period as specified in the order of the Commission appointing the authorised officer:

Provided that the Commission shall having regard to the provisions contained in subsection (6) of Section 19 specify the period for submission of such report by the authorised officer.

8. Service of notice by Commission

Notice to be issued by the Commission may be served in any of the following modes, namely:-

(a) service by the party itself;

(b) by hand delivery (dasti) through Process Server; or person or otherwise through concerned Tahasildar;

(c) by registered post with acknowledgement due;

(d) by Speed Post;

(e) by such courier services as are approved by the Commission; or

(f) through Head of Office or Department.

9. Personal presence of the appellant or complainant

(1) The appellant or the complainant, as the case may be, shall in every case be informed of the date of hearing in Form B at least seven clear days before that date.

(2) The appellant or the complainant, as the case may be, may at his discretion at the time of hearing of the appeal or complaint by the Commission be present in person or through his duly authorised representative or may opt not to be present.

(3) Where the Commission is satisfied that the circumstances exist due to which the appellant or complainant is being prevented from attending the hearing of the Commission, then the Commission may afford the appellant or the complainant as the case may be, another opportunity of being heard before a final decision is taken or take any other action as it may deem fit.

(4) The appellant or the complainant, as the case may be, may seek the assistance of any person in the process of appeal or complaint while presenting his points and the person representing him may not be a legal practitioner.

(5) The State Chief Information Commissioner may decide which appeal shall be heard and disposed of by him, or by the State Information Commissioner alone or by both jointly.

10. Decision of the Commission

The Commission shall pronounce its decision in open proceedings and the certified copy of such decision or any order shall be authenticated by Registrar.

11. Communication of the decision

Every decision or order of the Commission, as the case may be, on an appeal or complaint shall be communicated to the appellant or to the complainant and to the State Public Information Officer and such Senior Officer to whom the decision or order relates, either through person concerned or by registered post free of cost or through electronic mail.