

PUBLIC INFORMATION OFFICER

Public Information Officer (PIO) under the R.T.I. Act is the front end of Public interface as all applications are to be filed with him/her whose functioning determines the extent of success or failure of the Act. Not only does he/she take applications from citizens, but it is also a PIO's duty to collect the information asked for within the organization and supply it to the applicant within a stipulated time. As such it is most urgent that the PIO system is strengthened.

Duties and Responsibilities

(1) Public Information Officers are designated in all administrative units and offices of public authority to provide information to persons requesting for the information under the Act.

(2) Assistant Public Information Officers are designated to receive applications and appeals for passing them on to the concerned PIOs and Appellate Authority respectively. This ensures that the public can apply for information in their own local areas.

(3) The PIOs are expected to deal with the requests for information and also provide reasonable assistance to those needing the same.

(4) The PIO may seek the assistances of another officer for the discharge of his/her duties.

In such eventuality, the other officer would be treated as PIO, under Sec.5(5) of the Act.

(5) The Public Information Officer's duties include:

(a) Dealing with requests from persons seeking information and where the requests cannot be made in writing, to render reasonable assistance to convert the same in writing.

(b) If the information requested for is held by or is a subject matter closely connected with the functions of another authority, the PIO shall transfer that request, within five days, to the other public authority and inform the applicant immediately.

(c) PIO may seek the assistance of any other officer for the proper discharge of his/her duties.

(d) PIO, on receipt of the request, shall as expeditiously as possible, and in any case within 30 days of the receipt of the request, either provide the information on payment of such fee as may be prescribed along with the application or reject the request for any of the reasons specified in Sec.8 or 9.

(e) Where the information requested concerns the life or liberty of a person, the same shall be provided within 48 hours of the receipt of the request.

(f) Where a request has been rejected, the PIO shall communicate to the applicant, the reasons for such rejection, the period within which the appeal against such rejection may be preferred, and the particulars of the Appellate Authority.

(g) PIO shall provide information in the form in which it is sought unless it would be disproportionately divert the resources of the public authority or would be detrimental to the safety or preservation of the record in question.

(h) In allowing partial access, the PIO shall give a notice to the applicant, informing:

- a) That, only part of the record, after severance of the record containing information which is exempted from disclosure, is being provided.
- b) The reasons for the decisions, 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 information.
- d) The details of the fees calculated and the amount of fee which the applicant is required to deposit, etc.

(i) If information sought has been supplied by third party or is treated as confidential by third party, the PIO shall give a written notice to third party within five days from the receipt of the request and take its representation into consideration.

(j) Third party must be given a chance to make a representation before the PIO within 10 days from the date of receipt of such notice.

Onus on the PIO

(1) Total onus rests with the PIO in providing the information sought within the stipulated period

of 30 days. He is the interface between the citizen and the organization.

(2) The applicant could be aggrieved with:

- (i) The way the information is provided.
- (ii) The reasons for rejection of the application.
- (iii) Time involved in the supply of requisite information.
- (iv) The quantum of amount charged as fees for supplying the information.

And he can, thus, go in appeal to the Appellate Authority and later, if not satisfied, to the Information Commission in second appeal.

(3) Depending on the findings and the decisions taken, the penalty is levied on the PIO only.

(4) The burden is on the PIO to prove that he acted reasonably and diligently, before the Information Commission. He has to prove himself that he has acted in 'good faith'. He has to support the same with documentary evidence.

Understanding of the Information

(1) 'Information' means any material in any form including records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, log books, contracts, reports, samples, models, data material held in any electronic form, and information relating to any private body which can be accessed by a public authority under any other law for the time being in force.

(2) The word 'material' is an all inclusive term. The Act provides total and complete right to 'information' and not to 'records' or 'documents' only. It permits the public to inspect public works and also take samples of material.

(3) As far as private bodies are concerned, seeking of information from such bodies is limited to the statutory information which they are supposed to provide to any public authority under any law.

(4) Any information which cannot be denied to the Parliament or the State Legislature has to be provided by the PIO to the person seeking that information.

(5) Except in the case of trade or commercial secrets, protected by law, the PIO may allow disclosures to the public, if the interest in the disclosure outweighs in importance any possible harm or injury to the interest of the third party.

Taking off

(1) The Public Information Officer is the most important functionary in the scheme of things. The total responsibility of the success of the Right to Information Act rests on him.

The PIOs should be ready with the following:

- * Information available electronically.
- * Information proactively published by the public authority.
- * Full details of the organization.
- * The details of the Appellate Authorities.
- * Proforma of the receipt of the application.
- * The forms for receipt of fees and acknowledgement.
- * Proper seating arrangements for easy accessibility.
- * Register for receipt, acknowledgements- separately for inward and outward and watch register.
- * Checklist for monitoring the pendency, disposal of the applications.

- * Identify place for inspection of records/ taking samples
- * Fix a day in the week for the proceeding.
- * Ready with the contingency plan.
- * R.T.I. Bare Act, Operational RTI Rules & amendment their of, operational guideline issued from time to time should be in his possession.

Procedure and Steps Required

(1) Procedure to be followed by the information officer right from the stage of receipt of application for information till the disposal involves a number of steps. The time stipulated for completing these steps are :

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| 30 days | For providing information, or for rejection, or for providing partial information, organizing inspection of the material/sample, etc. |
| 35 days | From the time the application is received by the Asst. PIO and finally disposed off. |
| 40 days | If a third party is involved. |

(2) Procedural channel may briefly be indicated as :

- a. PIO receives application along with the application fee.
- b. PIO scrutinizes the application received and the fee.
- c. If required he renders reasonable assistance to the applicant by reducing the oral request in writing.
- d. Issues acknowledgement/receipt to the applicant.
- e. Transfers the application/part of it to another public authority.

- f. Informs the applicant about such transfers.
 - g. Makes necessary entries in the Special Register.
 - h. Considers the representations of the third party, if any.
 - i. In case of rejection, conveys reason for it, the period within which the appeal may be preferred and the details of the Appellate Authority.
 - j. Communicates to the applicant the fee amount to be paid along with its calculations.
 - k. Also intimates the right of the applicant for review of the fees charged.
 - l. Wherever required provides assistance for inspection of the material.
 - m. Waves application fees for citizens below poverty line/for information given beyond the estimated time period.
 - n. Retains record on each application, updates records, etc.
- (3) The PIO also constantly keeps in view:
- * The information which cannot be denied to the Parliament or the State Legislature, should not be denied to any citizen.
 - * Notwithstanding the exemptions permissible under the Act, access to information is allowed, if public interest in disclosure outweighs the harm to the protected interest.
 - * Right to Information Act, 2005 overrides the Official Secrets Act, 1923.
 - * Any material relating to occurrence, event, or matter, which has taken place, occurred, or happened up to 20 years before the date of the application, has to be provided to the applicant.

- * Access to information should not involve an infringement of copyright subsisting in a person other than the state.

Dealings with the APIOs and Other Departments

(1) The PIO has to keep in constant touch with the APIOs. The APIOs are there to avoid public seeking information from the district, sub-district traveling to the place of posting of the PIOs. Where an application or an appeal is received by the APIO, a period of five days is added in computing the period for response. The APIOs' job is that of a postman. He does not directly deal with any of the applications.

(2) The APIOs need to provide information from time to time on the status of the application: where will information be provided, where will information be denied, on the fees charged and the basis for the same, etc. along with the data on applications wherein the action taken has exceeded the prescribed time limit etc.

(3) The formats for the various forms, registers, etc. could be improved upon over a period of time with due deliberations with the APIOs.

(4) The PIO may transfer the requests for information either in total or partially to another organization/department as the subject matter pertains to the other department. Similarly an information officer could get a request transferred to him from another organization/department. In both the cases, a period of five days is added in computing the period of response.

(5) The responsibility of the PIO does not cease when a request is transferred to another public authority. While transferring, he has to inform the applicant about the same. He could also require to keep a record of transfer in his outward register for future references and monitoring.

(6) The Co-ordination between the two public authorities in such cases would also enable the concerned PIO to picture the correct position before the Appellate Authorities or Information Commission, as the cases may be, when the applicant prefers appeal.

Right of the Citizen

(1) With the Right to Information Act, 2005 in position, disclosure is a rule and secrecy is an exception. The Act also enables the principle of Human Right to be realized.

(2) The Act confers a right to information and not just records or documents. "Information" again stands for any material. It permits the inspection, including the taking of samples by a citizen.

(3) An individual's right to privacy is protected in the Act. The privacy exemption included in the Act reflects underlying public interest in protecting personal privacy.

(4) Keeping the importance attached to the citizen's right to information, the Act bars the courts from entertaining any suit application or other proceeding in respect of any order made under this Act and no such orders shall be called in question otherwise than by way of an appeal under this Act.

(5) Seeking information is the citizen's right, and an applicant making a request for information cannot be asked to give any reason for requesting the information or any other personal details except those that may be necessary for contacting that applicant.

(6) There can be situations where an applicant has multiple questions in a single request. It could also be possible some of the questions may pertain to the areas allocated to other PIOs. Can he request the applicant to make more than one application and given them to the concerned PIOs and await responses from each one of

them? The negotiating skill of the PIO, would play an important part in ensuring that he does not become a mere postman and send copies of the request to others, await their responses for consolidation, and then finally respond to the applicant.

Types of Help to be Extended to the Citizen

(1) Every PIO is expected to deal with the requests from persons seeking information and render reasonable assistance to the person seeking such information.

(2) The help from the PIO could be in any form as follows:

- * Where a citizen is unable to make a request in writing, the PIO will render assistance to the person making the request orally to reduce the same in writing.
- * Where the information sought concerns the life or liberty of the person, the PIO will take all steps to provide the required information within 48 hours of receipt of such request.
- * When the person to whom the access to record is to be provided is seriously disabled, the PIO should provide assistance to enable access to the information, including such assistance appropriate for the inspection.
- * The PIO will not charge fee for providing information to persons who are below the poverty line.
- * When the right includes inspection of records, the PIO will reserve place and time for such inspection. Necessary arrangements have to be made to ensure that the citizen can carry out the inspection without any disturbance or distraction.

* PIO would also make necessary arrangements for giving material samples, wherever required.

Time Frame

(1) "Justice delayed is justice denied". Similarly, there should not be any undue delay in providing information sought by the public. The Act, therefore, stipulates time limits for supply of information. If the requisite information is not provided to the applicant within the stipulated period, the applicant can prefer an appeal against it.

(2) In the event of above, the Information Commission would impose penalty of Rs.250 per day till application is received or information is furnished. However, the total amount of such penalty shall not exceed Rs.25,000. The Information Commission could also recommend disciplinary action against the PIO under the service rules applicable to him.

(3) Every public authority is required to designate an information officer within 100 days of enactment of the Act. The time limits prescribed in regard to the supply of information, etc. are:

- 30 days On receipt of a request for information, the PIO has either to provide information of such fees as prescribed or reject the request with reasons for the same.
- 48 hours If the information sought concerns the life or liberty of a person, the same has to be provided immediately, in any case, within 48 hours.
- 5 days Where the PIO intends to disclose any information which relates to or has been supplied by a third party and has been treated as confidential

by it, the PIO has to give a written notice to such third party and invite the third party to make a submission

- 10 days for third party to make a submission.
- 35 days An additional five days are added if the application for information is received by the APIO.
- 35 days Similarly an additional 5 days are added if the subject of the application pertains to another organization/ department.

Exemptions

- (1) There is no obligation to give any citizen the following:
 - (a) Information, the disclosure of which would prejudicially affect the sovereignty and integrity of India, the security, strategic, scientific, or economic interests of the State, relation with the foreign State or lead to incitement of an offence.
 - (b) Information, which is expressly forbidden by any court of law or tribunal to be published, or the disclosure of which may constitute the contempt of court.
 - (c) Information, the disclosure of which would cause a breach of privilege of Parliament or State Legislature.
 - (d) Information including commercial confidence, trade secrets, or intellectual property, the disclosure of which would harm the competitive position of a third party, unless the Competent Authority is satisfied that larger public interest warrants the disclosure of such information.
 - (e) Information available to a person in his fiduciary relationship, unless the Competent Authority is satisfied that larger public interest warrants the disclosure of such information.

(f) Information received in confidences from a foreign Government.

(g) Information, the disclosure of which would endanger the life or physical safety of any person or identity of the sources of information or assistance given in confidence for law enforcement or security purposes.

(h) Information which would impede the process of investigation or apprehension or prosecution of offenders.

(i) Cabinet papers, including records of deliberations of the Council of Ministers, Secretaries, and other officers.

(j) 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.

(2) Notwithstanding any of the exemptions listed above, a public authority may allow access to information if public interest in disclosure outweighs the harm to the protected interest.

(3) Finally, PIO can reject a request for information where such a request for providing access would involve an infringement of copyright subsisting in a person other than the State.

(4) The Act also does not apply to the Intelligence and Security Organizations specified in Second Schedule to the Act. However, pertaining to allegations of corruptions and human rights violation in these organizations is not excluded.

Third Party Information

(1) Third Party means a person other than the citizen making a request for information, and this includes a public authority.

(2) If the information sought by the citizen pertains to a record or part thereof relates to or

has been supplied by the third party and if it is not treated as confidential by that third party, the PIO is at liberty to provide the same to the applicant.

(3) If, however such above information is treated as 'confidential' by that third party, the following steps have to be taken:

- * The PIO gives a written notice to the third party, within five days of receipt of the application, and conveys his intention to disclose the information or record, etc. He also asks the third party to make a submission regarding whether the information should be disclosed or not.

- * The third party should, within 10 days from the date of receipt of notice from the PIO, make a representation against the proposed disclosure.

- * The PIO can, within 40 days after the receipt of application for information if the third party has been given an opportunity to make representation, make a decision on disclosure.

- * Third party is entitled to prefer an appeal against the decision of the PIO.

(4) Except in the case of trade or commercial secrets protected by law, disclosures in such cases may be allowed, if the public interests in disclosure outweighs the importance of any possible harm or injury to the interest of such third party

(5) If the third party is a private individual, the PIO has to be very cautious and properly weigh the consequences as right to privacy of private individual is equally important and protected.

Rejections and Steps Involved

(1) The PIO is required under the Act to either provide the information on payment of the

requisite fee or reject the request within 30 days of the receipt of the request.

(2) Grounds on which the PIO may reject the request for information are enumerated in Secs 8 and 9 of the Act

(3) Where a request has been rejected, the following steps are to be taken.

(a) Within 30 days of the receipt of the request the PIO will communicate the decision to the person making the request along with:

- (i) The reasons for rejection.
- (ii) The period within which an appeal against such rejection may be preferred (within 30 days of the date of the rejection)
- (iii) The particulars of the Appellate Authority.

(b) Within 90 days from the date on which the decision should have been made or was actually received a second appeal can be preferred with the concerned Information Commission.

(c) If a third party is involved the concerned Information Commission shall give a reasonable opportunity of being heard to the third party.

(d) The onus to prove that a denial (i.e. rejection) of a request was justified is totally and exclusively on the PIO.

(e) The decision of the Information Commission is binding.

Delay and Incomplete Information

(1) In case of delay in providing the requisite information to the person seeking it or the information provided is incomplete, such eventualities would attract basis for appeal.

(2) In view of the above, the PIO, has to be a good Manager of time and also a good

negotiator. He should be able to manage the time in such a way that in no case, he faults in time for providing information (by exceeding prescribed time limits). He should display his negotiation skills with the person seeking information, with his colleagues to obtain information for dissemination and also with third party, if required.

(3) The PIO, in addition to maintenance of special registers for receipt of requests for information and disposal, has also to develop checklists to keep a check on the pendency and/or completeness of the information provided.

Appellate Authority / Information Commission

(1) The PIOs should be well conversant with the powers and function of Appellate Authority and the Information Commission as vested under the Right to Information Act.

(2) While conveying information or rejecting request for information; while conveying the fee amount to be paid, etc., the PIO would indicate the right to appeal and the details of the Appellate Authorities to the applicant. This would pave the way for appeal to be preferred and getting themselves ready for meeting the requirements of the Appellate Authorities.

(3) If the Information Commission arrives at a decision to levy penalty, it would give a reasonable opportunity to hear the PIO before the penalty is imposed. The PIO has, therefore, to prepare himself/herself to justify the action taken by him and prove that he acted reasonably and diligently. This needs to be supported by documentary evidence.

(4) The PIO keeps public interest as paramount. When it comes to private interest vis-à-vis public interest, it may not always be possible for him to distinguish between the two and then take a view whether information sought is to be

provided or rejected. The line between the two interests is thin and could be a difficult situation for the PIO to face.

(5) The concerned Information Commission shall impose penalty, if it opines that the PIO has without any reasonable cause:

- (i) Refused to receive the application for information or
- (ii) Not furnished information within the specified time or
- (iii) Malafidely denied the request for information or
- (iv) Destroyed the information which was the subject matters of the request or
- (v) Obstructed in any manner in furnishing information.

The penalty would be Rs.250 per day till the application is received or information is furnished, with a ceiling that the total amount would not exceed Rs.25,000.

Consolidation and Monitoring

(1) The final responsibility of monitoring implementation of the Act rests with the Information Commission and the Government. This requires maintenance of proper data of all applications, appeals, and how they had been dealt with. It is, therefore, necessary that the PIO in particular, follows clear processes and systems.

(2) To start with, the PIO may maintain Special Registers for all Inward and Outward movements, checklists to keep a tab on the timely disposal of application, etc.

(3) Government has a duty to compile, from its public authority, data pertaining to requests received for information and send them to the concerned Information Commission. Only PIOs

can supply details of the number of requests received by each public authority, the number of rejections and appeals, particulars of disciplinary action taken, amount of fees charged and collected, etc. For incorporation/consolidation in such reports.

(4) The success of monitoring system depends upon the quality and quantity of data maintained and supplied at appropriate time by the PIOs

Special Skills of PIOs

(1) The Public Information Officer plays a pivotal role in the implementation of the Act. The various provisions of the Act expect minimum skill to be possessed by the PIO in various areas.

(2) The PIO should have complete knowledge and experience of office procedure. He should have adequate knowledge of records management prevailing with the public authority.

(3) The PIO needs to know the structure and delegation of powers within the organization. He should be well versed with organization chart, levels of disposal of cases, etc.

(4) The PIO should be good in negotiations with the public, colleagues, third party and others so that he could attend to his duties smoothly.

(5) Most importantly, he should be good at managing time. The work of PIO is additional to the work he performs as an officer of the public authority. He should be able to apportion time available with him on various activities entrusted to him. Availability of inadequate time cannot be the basis for delay in disposal of requests for information or for supply of incomplete information.

Courtesy - R.T.I Cell YASODA