Chairperson, Justice N.K. Jain
(Former Chief Justice High Court of Madras & Karnataka)

With best Compliments
RSHRC

RAJASTHAN STATE HUMAN RIGHTS COMMISSION
SECRETARIAT

Under the guidance of Hon'ble Mr. Justice N.K. Jain.
(Former Chief Justice of Madras and Karnataka High Court)
Chairperson, RSHRC

Prepared by-
Internship students of various law university and colleges.

RAJASTHAN STATE HUMAN RIGHTS COMMISSION
JAIPUR

Hon'ble Chairperson and Members Of Rajasthan State Human Rights Commission are :
From 06-07-2005

Justice N K Jain, Chairperson
Members
Justice Jagat Singh
Shri D.S.Meena
Shri Pukhraj Seervi

Hon'ble Chief Minister Shri Ashok Gehlot

Hon'ble Chairperson and Members Of Rajasthan State Human Rights Commission are :
From 06-07-2005

Justice N K Jain, Chairperson
Members
Justice Jagat Singh
Shri D.S.Meena
Shri Pukhraj Seervi

Hon'ble Chief Minister Shri Ashok Gehlot

Project on Right To Information

With kind inspiration from Hon'ble Mr. Justice Nagendra Kumar Jain,
(Former Chief Justice of Madras and Karnataka High Court)
Chairperson - R.S.H.R.C

Mamta Rohila, Bhawna Meena, krishna choudhary
B.A. L.L.B. (Hons.) 2nd year
FYII.C, Rajasthan university, Jaipur
Being a citizen of a democratic country, it is the citizen’s right to obtain information from any public authority relating to its administration, operations or decisions. It is a fundamental democratic right. The purpose of passing this right was to promote openness, transparency, and accountability in public administration, reduce corruption, prevent administrative arbitrariness, make citizens part of decision-making, make administration responsive, and strengthen the foundations of democracy. At the same time, it becomes the duty of every citizen to know about their right and exercise it freely.
What is RTI Act 2005?
- Central legislation
- Grants access to information held by a public authority
- Flows from two fundamental rights enshrined in the Constitution:
  - Article 19-Freedom of speech and expression
  - Article 21-Right to life and liberty
- Enacted: 15 June 2005 Enforced: 12 October 2005

Why RTI?
- Because it helps to:
  - promote openness, transparency and accountability in public administration.
  - reduce corruption (Sin-secrecy relationship)
  - prevent administrative arbitrariness
  - bridge the gap between provider & recipient
  - of public services
  - make citizens part of decision-making
  - make administration Responsive
  - strengthen the foundations of democracy

Background

A) Global
- Sweden –1776
- UN Assembly Resolution, 1948
  People’s right to have access to official information – Freedom of Information as Fundamental Human Right
- USA Act, 1966 -amended after ‘Watergate’
- 56 Countries have already enacted the Right to Information
  (North America, Most of Europe, Australia, Columbia, Peru, Japan)

B) National
- Supreme Court Ruling,1982
  Disclosure of Information as regards the functioning of Government must be the rule and secrecy an exception
- Sheela Barse v/s Govt of India Case,1985
  Information about juvenile delinquents in custody
- Mr. Kulwal v/s Jaipur Mun.Corp. Case,1986 Freedom of Speech and Expression
  (Art 19) implies right to information
• Section 1 (2)

– It extends to the whole of India except the State Jammu & Kashmir.

Subject to the provision of the act, all citizens shall have the right to information.

SECTION-3

Definition of ‘Information’ [S.2(f)]

Any material in any form:
records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material in any electronic form, information relating to any private body which can be accessed by a public authority.

File notings: are accessible unless they fall under the exempted category [Section 2 (f), (i) and (j)]

What is information?
What is information?

Definition of ‘Record’ [S. 2(o)]

"record" includes
a) any document, manuscript and file
b) any microfilm, microfiche and facsimile copy of a document
c) any reproduction of image or images embodied in such microfilm (whether enlarged or not)
da) any other material produced by a computer or any other device

Definition of ‘Right’ [S. 2(j)]

"right to information" includes the right to
i. inspection of work, documents, records
ii. taking notes, extracts or certified copies of documents or records
iii. certified samples of material
iv. diskettes, floppies, tapes, video cassettes or in any other electronic mode or through printouts where such information is stored in a computer or in any other device

Definition of public authority {s.2(h)}

- **Public Authority:**
  Any institution/authority/body of self-government established or constituted:
  - By or under the Constitution
  - By any law made by Parliament
  - By any law made by State Legislature

Body owned/controlled/substantially financed; NGO substantially financed by government [Section 2 (h)]
Twenty Years Ago…..

However, any information about events which happened 20 years ago is to be provided, unless the sovereignty of India or contempt of court is at stake.

Severability

1. If the record contains exempted information in parts, PIO can give that part of the record which can be reasonably severed.

2. Notice has to be given to applicant stating that information is only part, reasons for the decision, details of fees, details of right to review

How to request for information?

- Keep the questions short and specific
- Details of IOs now available on website u/s 4(1) (b)
- Duty of PA to ensure that the application reaches the correct PIO
- No need to give reasons for making the requisition
- No prescribed application format: some PAs have their own form but cannot enforce compliance

To Whom To Apply

- One or more existing officers in every government department have been designated as public information officers (PIO)
- One have to file the application to them or to APIOs or other appropriate officers in their absence.
- They are responsible for collecting information sought by applicant from various wings of that department and providing that information.
- The job of APIOs is only to accept applications from the public and forward it to the right PIO.
**Where to apply**

- In the case of all central government departments, 629 post offices have been designated as APIOs.
- You can go to any of these post offices and submit your fee and application at the RTI counter in these post offices.
- They will issue you a receipt and acknowledgement and it is the responsibility of that post office to deliver it to the right PIO.
- In case one is facing problem in finding concerning PIO then he can apply it to the HOD of the department who will forward it to the concerning PIO.

**Fee amount and how to deposit**

- For central government, dept, fee is of Rs. 10 has to be deposited along with the application form. However, different states have prescribed different fee.
- Fee can be deposited either in cash or through a DD or bankers cheque or postal order drawn in favor of that public authority.
- Rs 2 has to be paid for every page of information sought.
- Actual cost price for any samples or models.
- For inspection of records, no charge for the first hour, but a charge of Rs 5 for every 15 minutes thereafter.
- Actual cost price for paper larger than A3 size.
- Rs 50 for information provided on a diskette.
- For information in printed form, the price fixed for the publication.

**Disposal of requests: Time-frame**

- In 30 days if direct to PIO
- In 35 days if through APIO
- In 48 hours if life & liberty at stake
- If redirected, in 5 days
- If not given in time, deemed refused
- If further fees required, period between dispatch of request and deposit of fees will not count

**How to dispose**

- Give the information right away
- Give on payment of further fees
- Transfer to another Public Authority
- Refuse with reasons (as per exemptions in the Act)
First appeal and respective authority

- If one does not receive information or is dissatisfied with the information he has received, he can file an appeal with the first appellate authority under sec-19 (1) of the RTI Act.
- Every public authority must designate a first appellate authority.
- The officer designated is the officer senior in rank to the PIO.

Procedure of Appeal

- No form for filling a first appeal is required.
- Simply draft the appeal application on a blank sheet of paper addressed to the first appellate authority.
- Remember to attach a copy of your original application and a copy of the reply in whatever form (if received) from PIO.
- One is not required to pay any fee for first appeal. However, some states have prescribed a fee.

When appeal to and further remedy

- One can file appeal within 30 days of receipt of information or within 60 days of filing RTI application (if no information received).
- If he does not receive information even after the first appeal, then he can take the matter forward to the second appeal stage.

Second appeal

- A second appeal is the last option under RTI act to get the information requested.
- One can file second appeal with the information commission. For appeals against central government departments, one has the central information commission. For every state government, there is a state information commission.
- No additional form and fees required.
- One can file the second appeal within 90 days of disposal of first appeal or within 90 days of the date by when first appeal was to be decided.
Exemption clause

- National security
- Trade secrets/IPR/copyright
- Privacy
- Foreign relation
- Danger to life & physical safety
- Impede the investigation
- Cabinet papers
- Public interest v/s protected interests

Exemption

- Section 8 (1)(b) —
  Information which has been expressly forbidden to be published by any court of law or tribunal or the disclosure of which may constitute contempt of court.

Exemption

- Section 8(1)(d) —
  Trade secrets, Intellectual property – Copy rights Exemptions

Exempted organisations under Section 24 established by the Central Govt.
Exempted organisations under Section 24 established by the Central Govt.

**Penalties**

**IF PIO WITHOUT REASONABLE CAUSE**
- Refused to receive application
- Did not furnish info in time
- With mala fide intention denied request
- Knowingly gave incorrect info or destroyed subject information
- Obstructed furnishing of information

Then...

---

**Penalties(cont..)**

- Rs. 250 per day up to Rs. 25000 till application taken/ information furnished

- Also, can recommend disciplinary action against PIO
Section 4: the spirit of RTI 2005

“It shall be the endeavour of every public authority...to provide as much information suo moto to the public at regular intervals through various means of communication...so that the public have minimum resort to the use of this Act to obtain information”
[Section 4 (1)]

Proactive disclosure......

- Identification & listing of Public Authorities
- Proactive Disclosure is a continuous process.
- More & more information will flow from the mandatory disclosure under see 4 (1) (b)

Why proactive disclosure?

- Will create a culture of openness
- What is to hide?
- E -Governance
- It will streamline Record Management
- Number of applications under RTI will reduce
- A step towards less paper office
Obligations of public authorities

- Maintain records catalogued and indexed
- Publish certain particulars within 120 days
- Publish relevant facts while formulating policies/decisions affecting public
- Provide reasons for administrative/quasi-judicial decisions to affected persons
- Suo moto provide information minimize need for resorting to RTI
- Form of dissemination easily accessible
- In 100 days, designate PIOs and APIOs
- Info should be free or at cost of medium only

Well reasoned order

- Burden of proof under sec 19(5) on PIO
- Provision under section 20(1) opportunity of being heard before a penalty is imposed
- Reasons in detail for rejection of application
- Calculation of fees levied
- Appeal details
- Particulars of appellate authority

Dissemination

- Notice boards
- Newspapers
- Public announcements
- Media broadcasts
- Internet
- Inspection of offices
- Other means

IMPACT OF RTI ACT
If information to be disclosed was supplied in confidence by a third party, then:

1. In 5 days, invite submission from 3rd party
2. Submission to be in 10 days
3. Keep submission in mind
4. Allow disclosure if public interest outweighs harm to 3rd party
5. Give notice of decision to 3rd party, stating his entitlement to appeal
**Case laws**

- Justice V.R. Krishna Iyer in *Maneka Gandhi v. Union of India* [AIR 1978 SC 597] observed that ‘a government which functions in secrecy not only acts against democratic decency but also buries itself with its own burial’.

---

**State of U.P v. Raj Narain, [AIR 1975 SC 865]** – The court held that the failure to disclose the details of the ‘Blue Book’ was wrong and that every citizen of India was entitled to know the particulars of every public transaction in all its bearing. It was also observed that the right to know is derived from the concept of freedom of speech, though it is not absolute.

---
Conclusion

- Right to know is a fundamental human right which is need of a democratic government, if empowers common man to see the working of government. Every person should know about this right and should exercise this right freely being a citizen of democratic country, But the right is not absolute, secrecy can be legitimately claimed in respect of transactions with repercussions on public security and proper implementation of this will make possible from overcoming with the problems like unemployment, corruption etc. and will make proper administration in the country. Finally it is the duty of every citizen who know about this right to right to other people who do not know about this right and exercise of this right. Than only basic motive of this right can be achieved.

The Real 'Swaraj'will come not by the acquisition of authority by a few but by the acquisition of capacity by all to resist authority when abused.

-Mahatma Gandhi
These books are kept in the Libraries of different schools and colleges for awareness of students as well as the teaching and ministerial staff. Some books are even kept in the UN-Congress Library at New Delhi.

Teachers of various school are interacting with the students on these issues in zero hours.

About legal aid committees, NGO’s / Educational Institutions above 55, and some Newspapers have re-printed/Published these booklets as intimated and about 80,000 booklets titled on women, child rights, dalits, arrest, human rights and HIV have been published and distributed free of cost among the general public to create awareness.

For the awareness of the human rights in public at large, Justice Jain has wrote about 31 booklets of various legal issues. Out of these booklets 18 booklets have been published by the R.S.H.R.C. Many other organizations, District Legal Aid Authorities, Departments, Schools, Colleges etc. has also published some booklets like Women, Children, Dalits, Arrest, HIV/AIDS, Human Rights etc. by the permission of the Commission. They have distributed these booklets in 80000 in numbers.

Some of these booklets are available on Commission’s website www.rshrc.nic.in and justice nagendrakjain.com. English translation of Some booklets are also available on a German website here now4u.de.

These books are:
Reciting the Pledge — fundamental duties mentioned in Article 51-A, Constitution of India

"We are proud to be Indian"

It shall be the duty of every citizen of India:

(a) to abide by the Constitution and respect its ideals and institutions, the National Flag and the National Anthem;
(b) to cherish and follow the noble ideals, which inspired our national struggle for freedom;
(c) to uphold and protect the sovereignty, unity and integrity of India;
(d) to defend the country and render national service when called upon to do so;
(e) to promote harmony and the spirit of common brotherhood amongst all the people of India, transcending religious, linguistic, racial,regional or sectional diversities;
(f) to renounce practices derogatory to the dignity of women;
(g) to value and preserve the rich heritage of our composite culture;
(h) to protect and improve the natural environment including forests, lakes, rivers and wild life and to have compassion for living creatures;
(i) to develop the Scientific temper, Humanism and the spirit of inquiry and reform;
(j) to safeguard public property and to abjure violence;
(k) to work towards excellence in all spheres of individual and collective activity so that the nation constantly raises to higher levels of endeavor and achievement.

"BE AWARE OF YOUR RIGHTS AND DISCHARGE DUTY WITH DEVOTION."

Chairperson: Justice N.K. Jain, Former Chief Justice, Madras and Calcutta High Court

For Legal Awareness and in Public Interest published by:
Rajasthan State Co-operative Press Ltd., Jaipur

website: rshco.nic.in, heronow4u.de http://justiceangenendrakjain.com

Courtesy: Rajasthan State Co-operative Press Ltd., Jaipur

Phone: 0145-2731857, 2731325
In addition to that in legal literacy and awareness program, chairman motivated students and even general public to recite the pledge as mentioned in article 51(A) of Constitution of India. It is a good sign that so many schools have started taking prayer as per instructions of different concerned authorities as per the request of the commission. Some of them are as follows:

- Students reciting the oath of section 51(A) of Constitution of India under the guidelines of RSHRC.
It gives us great pleasure to express our deep sense of gratitude to all concerned for the encouragement we have completed this project. We are very much thankful to Rajasthan State Human Rights Commission in particular Chairperson, Hon’ble Justice N. K. Jain for giving us a chance to do the internship in this Rajasthan Human Rights Commission.

Mamta Rohila, Bhawna Meena, krishna choudhary
B.A. L.L.B. (Hons.) 2nd year
FYJ.C, Rajasthan university, Jaipur
Thank you ...