



**JAMMU AND KASHMIR
RIGHT TO INFORMATION
ACT, 2009**

**Alongwith
Jammu and Kashmir Right to
Information Rules, 2012**

2015

Jammu and Kashmir State Information Commission

(Constituted under Right to Information Act 2009)

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J&K STATE INFORMATION COMMISSION

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Printed at Government Press , Srinagar

In spite of our best care and caution, few types of errors and omissions, in proof-reading may creep in ; for which our patrons will please bear with us and any discrepancy noticed may kindly be brought to our knowledge.

From CIC's Desk.



The J&K State Right To Information Act, 2009 is in operation in the State for last 6 years. Prior to this Act the J&K State had introduced the concept of transparency law in 2004 by passing relevant law. The present Act is modeled on central Right to Information Act, 2005 with important provisions which makes it more stronger than the central Act.

The J&K State Information Commission has been functioning since February, 2011. From 2011 the Commission has experienced that since the introduction of RTI Act 2009 in the State, the residents of State have vigorously used this Act for getting various types of information with numerous success stories. The primary stake holders are information seekers and information givers, both are to follow a judicial process. While implementing this Act it is bound that at times there may be conflict of interests between seekers and givers of information. The Commission is saddled with the task of ironing out these conflicting interests by reconciliation and resolution of these conflicting interests in accordance with the true spirit of the Act.

In a democratic polity the legislature is the maker and creator of Law and Judiciary is to interpret Law to set at rest certain ambiguities which may arise in implementing the Law. For clarifying the ambiguities and interpreting the law, the judiciary delivers decisions/judgments which is known as precedent. Precedent is one of the primary sources of law and law develops through the decisions/judgments of the courts.

During these four years Commission has experienced that inspite of the Commission's best endeavor to introduce concerned people to relevant law and General Administration Department's best efforts to impart training to the public authorities to understand this Law, most of implementers and users of RTI Law are still treating the implementation and use of Law merely as an Administrative act and not a judicial process, hence the Commission felt a need to print the Act supplementing the same with important case law.

In this pamphlet the readers will find a number of Supreme Court land mark decisions/Judgments elucidating the various provisions of transparency law. Similarly there are some High Court Judgments and Commission decisions on transparency law. It has been seen that in a number of cases e.g State of U.P V/S Raj Narayan (1975), S.P Gupta V/S UOI (1982) etc. the apex court has widened the scope of transparency law and equated the Right to Information with Fundamental Rights. If the relevant portions of these judgments are carefully gone through by the implementers and users of the Act, the implementation of the Act would become more easy and in accordance with the provisions of law.

It was very difficult to scan the case law delivered during last nine years, however Mr. Paramjeet Singh, Law Officer, JKSIC has done a commendable job in accomplishment of the task. He has thus been a great help to me in brining out this compendium. The Commission hopes that this reference book if used properly will go a long way in understanding the basics of transparency law.

A handwritten signature in blue ink, appearing to read 'G. R. Sufi'.

G. R. Sufi,
IRS (Retd.)

J&K State Chief Information Commissioner

"Where a society has chosen to accept democracy as its creedal faith, it is elementary that the citizens ought to know what their government is doing. The citizens have a right to decide by whom and by what rules they shall be governed and they are entitled to call on those who govern on their behalf to account for their conduct. No democratic government can survive without accountability and the basic postulate of accountability is that the people should have information about the functioning of the government. It is only if people know how government is functioning that they can fulfill the role which democracy assigns to them and make democracy a really effective participatory democracy."

(Supreme Court of India in S.P. Gupta v/s Union of India AIR 1982 SC 149)

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CONTENTS

RIGHT TO INFORMATION ACT, 2009		
S. No.	CHAPTER	Page No.
1.	PREAMBLE	1-2
2.	CHAPTER I preliminary	2-5
3.	CHAPTER II RIGHT TO INFORMATION AND OBLIGATIONS OF PUBLIC AUTHORITIES	5-16
4.	CHAPTER III THE STATE INFORMATION COMMISSION	16-21
5.	CHAPTER IV POWERS AND FUNCTIONS OF THE INFORMATION COMMISSION, APPEAL AND PENALTIES	21-26
6.	CHAPTER V MISCELLANEOUS	26-31
7.	TABLE OF CASES	32-38
8.	LIST OF ABBREVIATIONS	39-40
9.	LIST OF CIRCULARS AND SRO'S	41
10.	LIST OF STATUTES AND REFERENCE BOOKS	42
11.	JAMMU AND KASHMIR RIGHT TO INFORMATION RULES, 2012	43-45

**THE JAMMU AND KASHMIR RIGHT TO
INFORMATION ACT, 2009.**

(Act No. VIII of 2009)

[20th March, 2009.]

An Act to provide for setting out the regime of right to information
for the people of the State **(1)** to secure access to information under the

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1. This has emphasized the fact that right to information under J&K RTI Act, 2009 is conferred on the "people of the state", whereas Central Information Act, 2005 provides this right to "citizens" of the country.

control of public authorities, in order to promote transparency and accountability in the working of every public authority, the constitution of a state Information Commission and for matters connected therewith or incidental thereto.

Whereas, the constitution of India has established Democratic Republic; and

Whereas, democracy requires an informed citizenry and transparency of information which are vital to its functioning and also to contain corruption and to hold Government and its instrumentalities accountable to the governed ; and

Whereas, revelation of information in actual practice is likely to conflict with other public interests including efficient operations of the Government, optimum use of limited fiscal resources and the preservation of confidentiality of sensitive information; and

whereas, it is necessary to harmonize these conflicting interests while preserving the paramountcy of the democratic ideal ; and ,

whereas, it is expedient to provide for furnishing certain information to citizens who desire to have it.

Be it enacted by the Jammu and Kashmir State Legislature in the Sixtieth Year of the Republic of India as follows (1) :-

CHAPTER I

Preliminary

I. Short title, extent and commencement. – (1) This Act may be called the Jammu and Kashmir Right to Information Act, 2009

(2) It extends(2) to the whole of the State

(3) It shall come into force at once (3).

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1. In *Kesavananda Bharati and Ors. v. State of Kerala and Anr.* (1973) 4 SCC 225 Supreme Court has held that Preamble is part of the constitution as it lays down the object and purpose of the constitution. Court further said that the preamble has a significant role to play in the interpretation of the statute. Also refer to *Indra Sawhney V/S UOI* AIR 1993 Sc 477 and *S.R.Bommai V/S UOI* AIR 1994 SC 1918.
 2. See *Union of India & Anr. V/s Mrs. Veena Kohli*, (2010)ILR5 Delhi 723
 3. W.e.f. 20.03.2009.

2. Definitions-In this Act, unless the context otherwise requires,-

(a) "Act" means the Jammu and Kashmir Right to Information Act, 2009 ;

(b) "competent authority" means-

(i) the Speaker in the case of the Legislative Assembly of the State and the Chairman in the case of the Legislative Council of the State ;

(ii) the Chief Justice of the High Court in the case of the High Court ;

(iii) the Governor in the case of other authorities established or constituted by or under the Constitution of India or the Constitution of Jammu and Kashmir ;

(c) "Government" means the Government of Jammu and Kashmir;

(d) "information (1)" means any material in any form including records, documents, memos, e-mails, opinions (2), advices, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material held in any electronic form and information relating to any private body which can be accessed (3) by a public authority under any other law for the time being in force ;

(e) "Prescribed" means prescribed by rules made under the Act by the Government or the competent authority, as the case may be ;

(f) "Public authority" (4) means any authority(5) or body or institution of self-government established or constituted.

(i) by or under the Constitution of India or the Constitution of Jammu and Kashmir;

1. See Central Board of School Education V/S Aditya Bandopadya & Ors. Civil Appeal No. 6454 of 2011 (Paras 29 & 31). Also see Khanapuram Gandaih V/S Administrative Officer & Ors. AIR 2010SC615. Divakar S. Natrajan V/S State Information Commissioner AP State Information Commission & Ors WP No. 20182 of 2008 Dated 27.1.2009. UOI V/s Vishwas Bhamburkar, W.P.(C) No. 3660/2010. (2013 DLT 500(Del)). PSC UP V/s State Information Commission & another AIR 2014 ALL 38. Khanapuram Gandaiah Etc. V/s The Administrative Officer, Ranga Reddy District Courts & Ors., AIR 2009 AP 174. Also refer to John Numpeli (Junior) V/s Public Information Officer / Assistant Executive Engineer-1, Ernakulam snf Ors., W.P (C) No. 31947 of 2013 dated: 31-01-2014-(SB) (Kerala High Court).
2. See Central Board of School Education V/S Aditya Bandopadya & Ors. Civil Appeal No. 6454 of 2011 (Para 35).
3. See Poorna Prajana Public School V/S Central Information Commission WP (Civil) No. 7265 of 2009, (Delhi High Court) and Sh. Raj Sharma V/S Principal Banyan International School, Babliana, Jammu. (J&K SIC) Dated: 23.05.2013.
4. See National stock exchange of India Ltd.V/S Central Information Commission, W.P. (Civil) No. 4748 of 2007, dated: 15.04.2010. Also see Thalappalam Ser. Corp. Bank Ltd. & Ors. V/S State of Kerala & Ors. Civil Appeal No. 9017 of 2013 (Para 27). Khalid Mujib V/S Ajay Hasia 1981 1LLJ103SC, Pardeep Kumar Beswas V/S Indian Institute of Chemical Biology (2002) 3SCR100, Executive Committee of vaish Degree College Shamlic & Ors V/S Lakshmi Narian & Others 1976 2SCC58, Fr. Jose Thenpilli V/s Kurnkutty Grama Panchayat & Ors. AIR 2014 Kerala 181, Public Information Officer Office of Governor GOA V/S Shri Manohar Parrikar & Special Secretary to Govt. of GOA V/S SIC, GOA WP 476 of 2009 & WP237 of 2011, the CPIO, supreme Court of India Etc. v/s Subhash Chandra Agarwal and anr. W.P. © 288/2009 Dated: 02/09/2009. Also refer to CPIO, supreme Court of India Etc. v/s Subhash Chandra Agarwal civil appeal No. 1044 of 2010 Dated 26.11.2010 (CB has not been constituted yet), Sh. Vilkashana Singh & Ors. V/S Sh. Mushtaq Ahmad, Chairman, J&K Bank Ltd., (J&K SIC Decision No. 120-SIC-J/K/Comp/35/2010 Dated: 24.04.2012) and Shri Raj Dev Sharma V/S Principal Banyan International School, Babliana, Jammu (JK SIC Decision No. SIC-J-A/15/2013/135 Dated: 23.05.2013).
5. See Praga Tools Corp. V/s Shri C.A. Imanual & Ors. AIR 1969 SC 1306. Also refer to R.D. Shetty V/s The International Airport Authority of India & Ors (1979) 3 SCR 1014, Zee Telefilms Ltd. V/s Union of India. 2005 (4) Scc 649 and Binny Ltd and anr V/s Sadasivan AIR 2005 (6) SCC 657.

- (ii) by any other law made by Parliament ;
- (iii) by any other law made by the State Legislature ;
- (iv) by notification issued or order made by the Government, and includes(1) any-
 - (A) body owned, controlled(2) or substantially(3) financed(4) ;
 - (B) non-Government organization (5) substantially financed, directly or indirectly by funds provided by the Government ;
- (g) "Public Information Officer" means the Public Information Officer designated under sub-section (l) and includes a Assistant Public Information Officer designated as such under sub-section (2) of section 5 ;
- (h) "record(6) includes-
 - (i) any document, manuscript and file ;
 - (ii) any microfilm, microfiche and facsimile copy of a document ;
 - (iii) any reproduction of image or images embodied in such microfilm (whether enlarged or not) ; and
 - (iv) any other material produced by a computer or any other device ;
- (i) "right to information" (7) means the right to information accessible under the Act (8) which is held by or under the control of any public authority and includes the right to-
 - (i) inspection of work, documents, records ;
 - (ii) taking notes, extracts or certified copies of document or records ;

1. The word "include" in the statutory definition is generally used to enlarge the meaning of preceding words and it is by way of extension and not with restriction. The word "include" is very generally used in interpretation clauses in order to enlarge the meaning of words or phrases occurring in the body of the statute; and when it is so used, these words or phrases must be construed as comprehending, not only such things as they signify according to their natural import but also include. (Ref: Encyclopaedic Law Lexicon 2013-Second Edition by Justice C.K.Thakker-page-2291). See The Municipal Council Rampur V/s State of MP 1970 SC 1923, The Manufacturers Association V/s State of Gujrat 1977 SC 90, Dadaji V/s Sukh Deo Babu AIR 1980 1 Scc 621, Reserve Bank of India V/s Peerless General Finance and investment Company Ltd AIR 1987(1)Scc 424, Sate of Maharashtra V/s Labour Law Practitioners AIR 1998 (2) Scc 628. Also Refer to Godfray India Philips Ltd & Anr V/s State of UP & Ors 2005 SC 1103, Narmada Bachao Andolan V/s UOI 2005 SC 2994 and NDP Namboodrapad V/s UIO 2007 4SCC 502.

- 2. See Thalappalam Ser. Corp. Bank Ltd. And Others V/S State of Kerla & Others Civil Appeal No. 9017 of 2013 (Para 35).
- 3. Ibid (Para 36).
- 4. Lexicon Webster Dictionary Vol.1 page 365, Black's law Dictionary Page 630.
- 5. See Thalappalam Ser. Corp. Bank Ltd. And Others V/S State of Kerla & Others Civil Appeal No. 9017 of 2013(39)
- 6. See TSR Subramanim & Ors. V/s Union of India & Ors. AIR 2014 SC 263, Also see Union of India V/s Vishwas Bhamburkar, W.P.(C)No.3660/2012, (2013 DLT 500 (Del) and State Bank of India V/s CIC and ors AIR 2014 H.P. 21.
- 7. See Article 19 (1) (a) Constitution of India r/w Section 10 J&K Constitution, 1957.
- 8. See Section 2d (Supra), section 8 & 9 (Infra). Also see Shri Raj Dev Sharma V/S Principal Banyan International School, Babliana, Jammu. (J&K SIC) Dated 25.03.2013.

- (iii) taking certified samples of material ;
- (iv) obtaining information in the form of 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 ;
- J) "State information Commission" means the State Information Commission constituted under sub-section (1) of section 12;
- (k) "State Chief Information Commissioner" and "State Information Commissioner" means the State Chief Information Commissioner and the State Information Commissioner appointed under sub-section (3) of section 12 ;
- (l) "third party (1)" means a person other than the citizen making a request for information and includes a public authority.

CHAPTER II

Right to Information and Obligations of Public Authorities

3. **Right to information** -Subject to the provisions of, the Act, every person(2) residing in the State (3) shall have the right to information (4).
4. **Obligations(5) of public authorities**- (1) Every public authority shall-
 - (a) maintain all its records duly catalogued and indexed in a manner and the form which facilitates the right to information under the Act and ensure that all records that are appropriate to be computerized are, within a reasonable time and subject to availability of resources, computerized and connected through a network all over the State on different systems so that access to such records is facilitated ;
 - (b) publish within one hundred and twenty days from the commencement of the Act.-
 - (i) the particulars of its organization, functions and duties

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1. See Shri Bhavana Rishi Cooperative House buiding Society V/S A.P Information Commission & Anr. 2010(3) Alt 360.
 2. See Mr. Samir Kumar Haldar V/S PIO, Employees Provident Fund Organization(CIC) dated: 16.07.2010 and Ved Prakash & Ors Vs State of Haryana & Ors, C.W.P No. 10981 of 2012 dated: 30-10-2012-SB [(2012) 168 PLR 741]. Also see Sec 13 of General Clause Act, 1897.
 3. See Preamble Supra
 4. See Section 2(d) Supra, Section 8, 9 & 21 infra. Also see Article 19 (1) (a) Constitution of India r/w Section 10 J&K Constitution, 1957. Also refer to CBSE V/S Aditya Bandopadhyay & Ors. Civil Appeal No. 6454 of 2011(Para 12 & 37). Khanapuram Gandaih V/S The Administration officer Ranga Reddy Distt Courts AIR2009AP175, and Prabat Kumar V/s. Directorate of Health Services (CIC/SA/A/2014/000004 Dated:03.11.2014).
 5. See CBSE V/S Aditya Bandopadhyay & Ors. Civil Appeal No. 6454 of 2011(Para 31 & 37).

- (ii) the powers and duties of its officers and employees ;
- (iii) the procedure followed in the decision making process ,including channels of supervision and accountability ;
- (iv) the norms set by it for the discharge of its functions ;
- (v) the rules, regulations, instructions, manuals and records, held by it or under its control or used by its employees for discharging its functions ;
- (vi) a statement of the categories of documents that are held by it or under its control ;
- (vii) the particulars of any arrangement that exists for Consultation with, or representation by, the members of the public in relation to the formulation of its policy or Implementation thereof ;
- (viii) a statement of the boards, councils, committees and other bodies consisting of two or more persons constituted as its part or for the purpose of its advice, and as to whether meetings of those boards, councils, committees and other bodies are open to the public, or the minutes of such meetings are accessible for public ;
- (ix) a directory of its officers and employees ;
- (x) the monthly remuneration received by each of its officers and employees, including the system of compensation as provided in its regulations ;
- (xi) the budget allocated to each of its agency, indicating the particulars of all plans, proposed expenditures and reports on disbursements made ;

- (xii) the manner of execution of subsidy programmes, including the amounts allocated and the details of beneficiaries of such Programmes;
 - (xiii) particulars of recipients of concessions' permits or authorizations granted by it ;
 - (xiv) details in respect of the information, available to or held by it, reduced in an electronic form ;
 - (xv) the particulars of facilities available to citizens for obtaining information, including the working hours of a library or reading room' if maintained for public use ;
 - (xvi) the names, designations and other particulars of the Public Information Officers ;
 - (xvii) such other information as may be prescribed ; and thereafter update these publications every year ;
- (c) publish all relevant facts while formulating important policies or announcing the decisions which affect public ;
 - (d) provide reasons for its administrative or quasi-judicial decisions to affected Persons.

(2) It shall be a constant endeavor of every public authority to take steps in accordance with the requirements of clause (b) of subsection (1) to provide as much information suo motu to the public at regular intervals through various means of communications, including internet, so that the public have minimum resort to the use of the Act to obtain information.

(3) For the purposes of sub-section (1), every information shall be disseminated widely and in such form and manner which is easily accessible to the Public.

(4) All materials shall be disseminated taking into consideration the cost effectiveness, local language and the most effective method of communication in that local area and the information should be easily accessible, to the extent possible in electronic format with the Public Information Officer available free or at such cost of the medium or the print cost price as may be prescribed.

Explanation :- For the purposes of sub-sections (3) and (4), "disseminated" means making known or communicated the information to the public through notice boards, newspapers, public announcements, media broadcasts, the internet or any other means, including inspection of offices of any public authority.

5. (1) Designation of Public Information Officers.—

(1) Every public authority shall, within one hundred days of the commencement of the Act, designate as many officers as the Public Information Officers in all administrative units or offices under it as may be necessary to provide information to persons requesting for the information under the Act.

(2) Without prejudice to the provisions of sub-section (1), every public authority shall designate an officer within One hundred days of the commencement of the Act, at each sub-divisional level or other sub- district level as an Assistant Public Information Officer to receive the applications for information or appeals under the Act for forwarding the same forthwith to the Public Information Officer or senior officer specified under sub-section (1) of section 16 or the State Information Commission, as the case may be :

Provided that where an application for information or appeal is given to a Assistant Public Information Officer a period of five days shall be added in computing the period for response specified under subsection (1) of section 7.

(3) Every Public Information Officer shall deal with requests from persons seeking information and render reasonable assistance to the persons seeking such information.

(4) The Public Information Officer may seek the assistance (2) of any other officer as he or she considers it necessary for the proper discharge of his or her duties.

(5) Any officer (3), whose assistance has been sought under Sub-Section (4), shall render all assistance to the Public Information Officer seeking his or her assistance and for the purposes of any contravention of the provisions of the Act, such other officer shall be treated as a Public Information Officer.

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1. See CBSE & Anr., V/s Aditya Bandopadhyay & Ors.; Civil Appeal No. 6454 of 2011 dated : 09-08-2011 [2011SCC 497]. Also see Kerala Public Service Commission V/s State Information Commission, W.P.C. 33718 of 2010 dated : 09-03-2011 (D.B.). Also refer to circular No. 25-GAD of 2009 dated 05.06.2009.
 2. See J.P.Agarwal V/s UOI & Ors., W.P. (C) 7232/2009 dated : 04-08-2011-(SB) 2011-VII.A.D (Delhi)625. Also see the Secretary, Hailakandi Bar Association vs State Of Assam And Another AIR 1996 SC 1925.
 3. See Sh. Neeraj Kumar V/S Deptt of Food & Supplies, Govt. of NCT Delhi(CIC) Dated : 28.09.2006.

6. Request for obtaining information (1).-A person (1) who desires to obtain any information (2) under the Act, shall make a request in writing or through electronic means in English, Urdu or Hindi accompanying such fee as may be prescribed (3), to-

- (a) the Public Information Officer of the concerned public Authority (4) ;
- (b) the Assistant Public Information Officer, specifying the particulars of the information sought by him or her :

Provided that where such request cannot be made in writing, the Public information Officer shall render all reasonable assistance to the person making the request orally to reduce the same in writing.

(2) An applicant making request for information shall not be required to give any reason (5) for requesting the information or any other personal details except those that may be necessary for contacting him.

(3) Where an application is made to a public authority requesting for an information.-

- (a) which is held by another public authority ; or
- (b) 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 the application.

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1. See Section 3 Supra. Also refer to Vaid Prakash & Ors., Vs State of Haryana & Ors., C.W.P. 10981 of 2012 dated: 30-10-2012 (SB) [(2012) 168 PLR 741].
 2. See Section 2(d) Supra and Section 8,9 & 21 infra. Also see Khanapuram Gandaiah Etc Vs The Administrative Officer, Ranga Reddy District Courts & Ors., W.P.No. 28810 of 2008 dated: 24-04-2009-DB [AIR 2009 AP 174].
 3. See Rule 3 J&K RTI Rules, 2012.
 4. See Sec 2(f) Supra. Also refer to Thalappalam Ser. Coop. Bank V/S State of Kerala & Others SC (2013) and Sh. Vilakashana Singh & Ors. V/S Sh. Mushtaq Ahmad, Chairman, J&K Bank Ltd. (J&K SIC No.120-SiC-J/K/Comp/35/2010 Dated 24.4.2012).
 5. See Kashinath Shetty Vs PIO & Ors., W.P.No. 325 of 2009 dated: 14-12-2012 (S.B.) [2013(2)BOM CR 191].

7. Disposal of request- (1) Subject to the proviso to sub Section (2) of section 5 or the proviso to sub-section (3) of section 6, the Public Information Officer on receipt of a request under section 6 shall, as expeditiously as possible, and in any case within thirty days of the receipt of the request, either provide the information (1) on payment of such fee as may be prescribed (2) or reject the request for any of the reason specified in sections 8 and 9 :

Provided that where the information sought for concerns the life or liberty (3) of a person, the same shall be provided within forty-eight hours of the receipt of the request.

(2) If the Public Information officer fails to give decision on the request for information within the period specified under sub-section (1)' the Public Information Officer shall be deemed to have refused the request.

(3) Where a decision is taken to provide the information on payment of any further fee (4) representing the cost of providing the information, the Public Information Officer shall send an intimation to the person making the request, giving-

- (a) the details of further fees representing the cost of providing the information as determined by him, together with the calculations made to arrive at the amount in accordance with fee prescribed under sub-section (1), requesting him to deposit that fees, and the period intervening between the dispatch of the said intimation and payment of fees shall be excluded for the purpose of calculating the period of thirty days referred to in that sub-section ;
- (b) information concerning his or her right with respect to review the decision as to the amount of fees charged or the form of access provided, including the particulars of the appellate authority, time limit, process and any other forms'

(4) Where access to the record or a part thereof is required to be provided under the Act and the person to whom access is to be

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1. See Section 2(d) Supra and Section 8 & 9 infra. Also see S.P Gupta V/S Union of India AIR 1982 SC 149, State of Uttar Pradesh V/S Raj Narayan (1975) SC865, Dinesh Tervedi V/S Union of India (1997) 4SCC306, People's union for Civil Liberties and Anr V/S Union of India & Ors (2004)2 SCC476., and Central Board of School Education V/S Aditya Bondopadhyay & Ors Civil Appeal No. 6454 of 2011, Naga people's Movement of Human Rights V/S UOI 1998 2SCC 109 and Khurram Parvez v/s PIO Zonal Police Headquarter (JKSIC) Date of Decision 05.08.2015 . Also refer to circular No. GAD(Adm)110/2009-V(III) dated: 14.12.2011.
 2. See Rule 3 & 4 J&K RTI Rules, 2012.
 3. See Article 21, Constitution of India r/w section 10, J&K Constitution, 1957. Also See A.K Gopalan v/s State of Madras AIR 1950 SC 27, Meenaka Gandhi, V/S UOI AIR 1978 SC 597, Francis Coralie Mills v/s The Administrator Union Territory of Delhi and Ors. AIR 1981 SC 746 and Olga Tellis & Ors. V/S Bombay Municipal Corporation AIR 1986 SC 180. Also refer to Mr. Pratap Kumar Jena V/S Ministry of Health & Family affairs Jharkhand (CIC /SG/A/2011/003366/ 16986 Dated:20.1.2012).
 4. See Rule 4 J&K RTI Rules, 2012. Also Refer to Satpal Singh Vs State Information Commission, Haryana & Ors., WPC No. 5246 of 2009 dated: 27-05-2011 (SB) [(2011) 163 PLR 683].

provided is sensorily disabled, the Public Information Officer shall provide assistance to enable access to the information, including providing such assistance⁽¹⁾ as may be appropriate for the inspection.

(5) Where access to information is to be provided in the printed or in any electronic format, the applicant shall, subject to the provisions of sub-section (6), pay such fee as may be prescribed⁽²⁾ :

Provided that the fee prescribed under sub-section (1) of section 6 and sub-sections (1) and (5) of section 7 shall be reasonable and no such fee shall⁽³⁾ be charged from the persons who are of below poverty line as may be determined by the Government.

(6) Notwithstanding anything contained in sub-section (5), the person making request for the information shall be provided the information free of charge where a public authority fails to comply with the time limits specified in sub-section (1).

(7) Before taking any decision under sub-section (1), the Public Information Officer shall take into consideration the representation made by a third party under section 11.

(8) Where a request has been rejected under sub-section (1), the Public Information Officer shall communicate to the person making the request,-

- (a) the reasons for such rejection ;
- (b) the period within which an appeal against such rejection may be preferred ; and
- (c) the particulars of the appellate authority.

(9) An information shall ordinarily be provided in the form in which it is sought unless it would disproportionately divert the resources of the public authority or would be detrimental to the safety or preservation of the record in question

1. See Suresh Chand Gupta V/S Deputy Commissioner of Police AIR 2008 (NOC) 1139 (Del)
2. See Rule 5 J&K RTI Rules, 2012.
3. See Kunja Bihari Patra, Etc Vs PIO O/o Assistant Engineer, National Highway, Sub Division, Nayagarh, W.P.C No. 4797/2013 dated: 02-07-2013-(DB) 2013 (II)OLR 546.

8. Exemption (1) from disclosure of information:-

- (I) Notwithstanding anything contained in the Act, there shall be no Obligation to give any citizen,-
- (a) information, disclosure of which would prejudicially affect the sovereignty and integrity of India, the security⁽²⁾, strategic' scientific or economic interests of the State or lead to incitement of an offence ;
 - (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 ;
 - (c) information, the disclosure of which would cause a breach of privilege ⁽³⁾ of Parliament or the State Legislature ;
 - (d) information including commercial confidence ⁽⁴⁾, trade secrets ⁽⁵⁾ or intellectual property ⁽⁶⁾, the disclosure ⁽⁷⁾ 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 ;

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1. See CBSE V/S Aditya Bandopadhyay & Ors. Civil Appeal No. 6454 of 2011(Para 33) and Institute of Chartered Accounts of India V/S Shannuk H.Satya & Ors. 2011 8SCC871.
 2. See Giani Bakshish V/S Govt. of India 1973 2SCC688. Also see GOI V/S Tulsi Ram Patel (1985) 3SCC398; and Ram Manohar Lohia V/S State of Bihar 1966 SC740.
 3. See Article 105 and 194 of Constitution of India r/w Section 72 of J&K Constitution, 1957. Also see report of committee of speakers 1956, Article 361 A Consitution of India and Section 135 A Code of Civil Procedure SVT, 1977. Also refer to State of Bihar V/S Kameshwar Singh AIR 1952 SC 252, M.S.M Sharma V/S Shri Krishna Sinha, AIR1959 SC395 (Search Light Case), P.V. Narsima Rao V/S State (1998) 4 SCC 626 (JMM Bribery Case), Saradhakr V/S Orissa Legislative Assembly AIR 1952 Orissa 234, Siri Krishan V/S State of Hyderabad & Ors. AIR 1956 Hyderabad 186, Hemchandra Sen Gupta & Ors. V/S Speaker of Legislative Assembly of West Bengal. AIR 1956 Calcutta 378, Godavaris Mishra V/S Nand Kishore Dass. AIR 1953 Orissa 111, and Ram Dubey V/S Govt. of Madhaya Bharat AIR 1952 M.B 57.
 4. See Ram Jeth Malani & Ors., Vs UOI & Ors., (2011) 8 SCC 1.
 5. See State of Jharkhand & Anr. V/S Navin Kumar & Anr. AIR 2008 Jhar 19.
 6. See Institute of Chartered Accountants of India V/S Shannak H. Satya and Ors AIR (2011) 8SCC871.
 7. A document disclosed only to persons under a legal or moral obligation of confidence, so that they are not free to make use of the information acquired for their own purposes, is not published, for such persons are not members of the public. Humpherson eyer (1887, 4RPC 407,CA: Re Gallay's Application (1959) RPC 141. However, a document sufficiently/widely circulated may be published even though purporting to be confidential. Re Dalrymple's Application (1957) RPC 449. Similarly, a document disclosed to persons under public duty to publish the information acquired is published even though they agree to keep it confidential, Patterson V/S Gas light and Coke Co. 1887. 3 APP Case 239. H.L also See Halsbury's Laws of England 4the Edition Volume 35 P. 263.
Reference:- Encyclopedia law Lexicon 2013 second edition, by Justice C.K. Thakker Pages 1111-1112.

- (e) information available to a person in his fiduciary relationship (1), unless the competent authority is satisfied that the larger public interest warrants the disclosure of such information
- (f) information, the disclosure of which would endanger the life or physical safety of any person or identify the source of information or assistance given in confidence for law enforcement or security Purposes ;
- (g) information which would impede (2) the process of investigation(3) or apprehension or prosecution of offenders ;
- (h) cabinet papers (4) including records of deliberations of the Council of Ministers (5), Secretaries and other officers :

Provided that the decisions of Council of Ministers, the reasons thereof, and the material on the basis of which the

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1. The term "Fiduciary Relationship" means a situation or transaction where one person places complete reliance in another person in regard to his affairs, business or transactions etc. for another (beneficiary) transactions etc. Central Board of Secondary Education V/S Aditya Bandopadhyay (2011)8 SCC 497. It is given and taken in trust or in confidence requiring or expecting secrecy and confidentiality to be maintained in that behalf. Institute of chartered Accountants of India V/S Shaunak H. Satya, AIR 2011 SC 3336: (2011)8SCC781:2011(9)SCALE 639:2011(10)JT128:2011(6)SLT692.
Reference : Encyclopedia Law lexicon 2013 second edition by Justice C.K Thakker Pages 1864-65. Also see UPSC V/S Gourhari Kamili Civil Appeal No. 6362 of 2013, (Para 33) and UPSC Vs G.S. Sandhu, WPC No. 4079/2013 dated: 10-10-2013 [204 (2013) DLT 212].
 2. Impede is not synonymous with 'obstruct'. An obstacle which renders access to an enclosure inconvenient. Obstruct means to prevent, to close up. The word 'impediment' must mean an impediment in law and such impediments are well known, e.g. minority, unsoundness of mind, apostasy etc. Reference : Encyclopedia Law lexicon 2013 second edition by Justice C.K Thakker Page 2228.
 3. See Bhagat Singh Vs Chief Information Commissioner & Ors., WP © No. 3114/2007 dated: 03-12-2007 (SB) [146 (2008) DLT 385]. Also see Shri Hakeem Tanveer V/S State Vigilance Organization, Kashmir (J&K SIC Dated 17.07.2014). Also refer to Sec 173 (8) CRPC.
 4. See R.K Jain V/S UOI AIR 1993 SC 1769. Also see UOI v/s CIC & Anr WP © No. 13090 of 2006(Delhi).
 5. See Article 163, Constitution of India r/w Section 35 of J&K Constitution 1957.

decisions were taken shall be made public after the decision has been taken, and the matter is complete, or over :

Provided further that those matters which come under the exemptions specified in this section shall not be disclosed :

- (i) information which relates to personal information (1) the disclosure of which has no relationship to any public activity or interest, or which would cause unwarranted invasion of the privacy (2) of the individual unless the Public Information Officer or the appellate authority, as the case may be, is satisfied that the larger public interest justifies the disclosure of such information :

Provided that the information which cannot be denied (3) to the Parliament or the State Legislature shall not be denied to any person.

(2) Notwithstanding anything in the State Official Secrets Act, Samvat 1977 or any of the exemptions permissible in accordance with sub-section (1), a public authority may allow access to information, if public interest in disclosure outweighs the harm to the protected interests.

(3) Subject to the provisions of clauses (a), (c) and (h) of sub Section (1), any information relating to any occurrence, event or matter which has taken place, occurred or happened twenty years (4) before the date on which any request is made under section 6 shall be provided to any person making a request under that section:

Provided that where any question arises as to the date from which the said period of twenty years has to be computed, the decision of the Government shall be final, subject to the usual appeals provided for in the Act.

9. Grounds for rejection to access in certain cases.-Without prejudice to the provisions of section 8, a Public Information Officer may reject a request for information where such a request for providing access would involve an infringement of copyright (5) subsisting in a person other than the State.

1. See UOI v/s Anita Singh AIR 2014 Delhi 23, UOI V/s Hardev Singh AIR 2014(NOC) 110 Del, Union of India through Ministry of external affairs & etc. V/s Rajash Batia AIR 2014(NOC) 293 Del, and Grish R. Despanda V/S CIC & Ors SLP @AIR (2013) 1SCC212. Also refer to Mr. Saroop Singh Hrya Naik Vs State of Maharashtra, etc., WP No. 1750 of 2007 dated: 23-03-2007-(DB)-[AIR 2007 (Bombay) 121], Treesa Irish W/o Milton Lopez Vs The Central PIO & Ors., W.P. C. No. 6532 of 2008 © dated: 30-08-2010-(SB) [2012 VIIAD (Delhi) 342], Centre for Earth Science Studies Vs Dr. Mrs. Anson Sebastain Scientist, EI & Anr., WA No. 2781 of 2009 dated : 17-02-2010-(DB) [AIR 2010 Ker 151], UPSC Vs R.K.Jain, LPA No. 618/2012 dated: 06-11-2012-(DB)[196 (2013)-DLT 170] UOI Vs R.Jayachandran, W.P.C. No. 3406/2012 dated: 19-02-2014 and G.N Yatoo v/s PIO, Sher-e-Kashmir Institute of Medical Sciences, Soura. (JKSIC Date of Decision- 20.08.2015) .
2. See R.K Jain V/S UOI & Ors, Civil Appeal of 2013 arising out of SLP @ No. 22609 of 2012, Ramjethmalani & Ors V/S Union of India (2011)8SCC1 , R. Raja Gopal V/S State of Tamil Nadu AIR 1994 6 Sec 632, District Registrar and Collector VS Canara Bank (2005) 1 SCC 496. Also refer to Mr. 'X' V/S Hospital 'Z' AIR 1999 SC 495 , Vijay Parkash V/S UOI & Ors AIR 2010 Del 7 and Syed Hussain Abbas Rizvi V/S SIC through Registrar. AIR 2011 Pat. 103
3. See Centre of earth science studies V/S Anson sebastian AIR 2010 Ker 151
4. See CBSE Vs Aditya Bandopadhyay & Ors., (2011) 8 SCC 497, Institute of chartered Accountants of India V/S Shannak H. Satya & Ors. AIR 2011 SCC 781. Also refer to Vilakashan Singh V/S PIO Revenue Department, JKSIC dated: 13-02-2015 (WWW.JKSIC.NIC.IN).
5. See Institute of Chartered Accounts of India V/S Shannk H. Satya & Ors. AIR 2011 SCC781.

10. Severability (1).-

(1) where a request for access to information is rejected on the ground that it is in relation to information which is exempt from disclosure, then, notwithstanding anything contained in the Act, access may be provided to that part of the record which does not contain any information which is exempt from disclosure under the Act and which can reasonably be severed from any part that contains exempt information.

(2) Where access is granted to a part of the record under subsection, (1) the Public Information Officer shall give a notice to the applicant, informing-

- (a) that only part of the record requested, after severance of the record containing information which is exempt from disclosure, is being Provided
- (b) the reasons for the decision, 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 decision ;
- (d) the details of the fees calculated by him or her and the amount of fee which the applicant is required to deposit ; and
- (e) his or her rights with respect to review of the decision regarding non-disclosure of part of the information, the amount of fee charged or the form of access provided, including the particulars of the senior officer specified under sub-section (1) of section 16 or the State information Commission, as the case may be' time limit, process and any other form of access.

11. Third party information -(1) where a Public Information Officer intends to disclose any information or record (2), or part thereof on a request made under the Act, which relates to or has been supplied by a third party (3) and has been treated as confidential (4) by that third party, the Public Information Officer shall, within five days from the receipt of the request, give a written notice to such third party of the request.

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1. See State of Bihar V/S Kanshewar Singh AIR 1952 SC 252. Also see Jalan Trading Co V/S Mill Mazdoor Sabha AIR 1967 SC 691 and Kihola Hollohan V/S Zachillhu AIR 1993 SC 412.
 2. See Section 2(h) Supra.
 3. See Section 2 (l) Supra. Also refer to R.K Jain V/S Union of India & Anr. Civil Appeal of 2013 arising out of SLP © No. 22609 if 2012, Arvind Kejriwal V/S CPIO, AIR 2010 Delhi 216 (Para 22) and Sunflag Iron and Steel company Ltd. Nagpur V/S State Information Commission Nagpur & Others AIR 2015 Bom38.
 4. See Syed Hussain Abdul Rizivi V/S SIC through Registrar AIR 2011 Pat. 103 and Sri Mario Pires V/S Brunath Bangalore Mahanagra Palika & Ors. ILR 2009 KAR 1189

and of the fact that the Public Information Officer intends to disclose the information or record, or part thereof, and invite the third party to make a submission in writing or orally, regarding whether the information should be disclosed, and such submission of the third party shall be kept in view while taking a decision about disclosure of information :

Provided that except in the case of trade or commercial secrets protected by law, disclosure may be allowed if the public interest in disclosure outweighs in importance any possible harm or injury to the interests of such third party.

(2) Where a notice is served by the Public Information Officer under sub-section (1) to a third party in respect of any information or record or part thereof, the third party shall, within ten days from the date of receipt of such notice, be given the opportunity to make representation against the proposed disclosure.

(3) Notwithstanding anything contained in section 7, the Public Information Officer shall, within forty days after receipt of the request under section 6, if the third party has been given an opportunity to make representation under sub-section (2), make a decision as to whether or not to disclose the information or record or part thereof and give in writing the notice of his decision to the third party.

(4) A notice given under sub-section (3) shall include a statement that the third party to whom the notice is given is entitled to prefer an appeal under section 16 against the decision.

CHAPTER III

The State Information Commission

12. Constitution of State Information Commission(1) –

(1) The Government shall, by notification in the Government Gazette, constitute a body to be known as the Jammu and Kashmir State Information Commission to exercise the powers conferred on, and to perform the functions assigned to, it under the Act.

1. See SRO 325 of GAD, Dated: 19.10.2009.

(2) The State Information Commission shall consist of-

- (a) the State Chief Information Commissioner (1); and
- (b) two State Information Commissioners (2).

(3) The State Chief Information Commissioner and the State Information Commissioners shall be appointed by the Governor on the recommendation of a committee consisting of-

- (a) the Chief Minister, who shall be the Chairperson of the committee ;
- b) the Leader of Opposition in the Legislative Assembly ; and
- (c) a Cabinet Minister to be nominated by the Chief Minister.

Explanation:-

For the purposes of removal of doubts, it is hereby declared that where the Leader of Opposition in the Legislative Assembly has not been recognized as such, the Leader of the single largest group in opposition of the Government in the Legislative Assembly shall be deemed to be the Leader of Opposition.

(4) The general superintendence, direction and management (3) of the affairs of the State Information Commission shall vest in the State Chief Information Commissioner who shall be assisted by the State Information Commissioners and may exercise all such powers and do all such acts and things which may be exercised or done by the State Information Commission autonomously without being subjected to directions by any other authority under the Act.

(5) The State Chief Information Commissioner and the State Information Commissioners shall be persons of eminence (4) in public life with wide knowledge and experience in law, science and technology, social service, management, journalism, mass media or administration and governance.

(6) The State Chief Information Commissioner or a State Information Commissioner shall not be a Member of Parliament or Member of the Legislature of any State or Union territory,

1. See SRO 57 of GAD, Dated: 11.02.2011.
2. See SRO 314 of GAD, Dated: 13.10.2011.
3. See J&K SIC Order No. 28-SIC/10 OF 2011, dated: 28.10.2011 (SIC). Also see Shri Lokesh Chandra V/S State of Mahrastra & Ors AIR 2009 Bom147.
4. See Namita Sharma V/S Union of India WP (Civil) WO 210 of 2012 (Para 106). Also see Sampth Kumar v/s UOI 1987 1SCC124, R.K Jain V/S UOI (1993) 4 SCC 11 9, L.Chandra Kumar V/S UOI (1997) 3 SCC261, Parveena Swarup V/S UOI (2008) 14 SCC 107 and UOI V/S Madras Bar Association (2010) 11 SCC 1.

as the case may be, or hold any other office of profit or connected with any political party or carrying on any business or pursuing any profession.

(7) The headquarters of the State Information Commission shall be at such place in the State as the Government may, by notification in the Government Gazette, specify.

13. Term of office and conditions of service.- (1) The State Chief Information Commissioner shall hold office for a term of five years from the date on which he enters upon his office and shall not be eligible for reappointment :

Provided that the State Chief Information Commissioner shall not hold office as such after he has attained the age of sixty-five years.

(2) Every State Information Commissioner shall hold office for a term of five years from the date on which he enters upon his office or till he attains the age of sixty-five years, whichever is earlier, and shall not be eligible for reappointment as such State Information Commissioner :

Provided that every State Information Commissioner shall, on vacating his office under this sub-section, be eligible for appointment as the State Chief Information Commissioner in the manner specified in sub-section (3) of section 12 :

Provided further that where the State Information Commissioner is appointed as the State Chief Information Commissioner, his term of office shall not be more than five years in aggregate as the State Information Commissioner and the State Chief Information Commissioner.

(3) The State Chief Information Commissioner or a State Information Commissioner shall before he enters upon his office make and subscribe before the Governor or some other person appointed by him in that behalf, an oath or affirmation according to the form set out for the purpose in the Schedule.

(4) The State Chief Information Commissioner or a State Information Commissioner may, at any time, by writing under his hand addressed to the Governor, resign from his office

Provided that the State Chief Information Commissioner or a State Information Commissioner may be removed in the manner specified under section 14.

(5) The salaries and allowances payable to and other terms and conditions of service of-

(a) the State Chief Information Commissioner shall be the same as that of an Election Commissioner ; (1)

(b) the State Information Commissioner shall be the same as that of the Chief Secretary to the State Government :

Provided that if the State Chief Information Commissioner or a State Information Commissioner, at the time of his appointment is, in receipt of a pension, other than a disability or wound pension, in respect of any previous service under the Government of India or under the Government of the State, his salary in respect of the service as the State Chief Information Commissioner or a State Information Commissioner shall be reduced by the amount of that pension including any portion of pension which was commuted and pension equivalent of other forms of retirement benefits excluding pension equivalent of retirement gratuity :

Provided further that where the State Chief information Commissioner or a State Information Commissioner is, at the time of his appointment, in receipt of retirement benefits in respect of any previous service rendered in a Corporation established by or under any Central Act or State Act or a Government company owned or controlled by the Central Government or the State Government, his salary in respect of the service as the State Chief Information Commissioner or the State Information Commissioner shall be reduced by the amount of pension equivalent to the retirement benefits

1. See Election Commission (condition of service of Election Commissions and Transaction of Business) Act, 1991. Also refer to Article 324 Constitution of India.

Provided also that the salaries, allowances and other conditions of service of the State Chief Information Commissioner and the State Information Commissioners shall not be varied to their disadvantage after their appointment.

(6) The Government shall provide the State Chief Information Commissioner and the State information Commissioners with such officers and employees as may be necessary for the efficient Performance of their functions under the Act, and the salaries and Allowances payable to and the terms and conditions of service of the officers and other employees appointed for the purpose of the Act shall be such as may be Prescribed.

14. Removal of state chief information commissioner or state Information commissioner.-(1) Subject to the provisions of subsection (3), the state chief Information commissioner or a state Information commissioner shall be removed from his office only by Order of the Governor on the ground of proved misbehavior or incapacity after the High Court' on a reference made to it by the Governor , has on inquiry, reported that the State Chief Information Commissioner or a State Information Commissioner, as the case may be, ought on such ground be removed.

(2) The Governor may suspend from office, and if deem necessary prohibit also from attending the office during inquiry, the State Chief information Commissioner or a State Information Commissioner in respect of whom a reference has been made to the High Court under sub-section (1) until the Governor has passed orders on receipt of the report of the High Court on such reference.

(3)Notwithstanding anything contained in sub-section(1),the Governor may by order remove from office the State chief Information commissioner or a State Information commissioner if a state chief Information commissioner or a State Information commissioner, as the case may be,-

(a) is adjudged an insolvent; or

- (b) has been convicted of an offence which, in the opinion of the Governor, involves moral turpitude ; or
- (c) engages during his term of office in any paid employment outside the duties of his office ; or
- (d) is, in the opinion of the Governor, unfit to continue in office by reason of infirmity of mind or body ; or
- (e) has acquired such financial or other interest as is likely to affect prejudicially his functions as the State Chief Information Commissioner or a State Information Commissioner.

(4) If the State Chief Information Commissioner or a State Information Commissioner is in any way, concerned or interested in any contract or agreement made by or on behalf of the Government or participates in any way in the profit thereof or in any benefit or emoluments arising therefrom otherwise than as a member and in common with the other members of an incorporated company, he shall, for the purposes of sub-section (1), be deemed to be guilty of misbehaviour.

CHAPTER IV

Powers and Functions of the Information Commission, Appeal and Penalties

15. Powers and functions of Information Commission:—

- (1) Subject to the provisions of the Act, it shall be the duty of the State Information Commission to receive and inquire into a complaint⁽¹⁾ from any person,-
 - (a) who has been unable to submit a request to the Public Information Officer either by reason that no such officer has been designated under the Act, or because the Assistant Public Information Officer has refused to accept his or her application for information or appeal under the Act for forwarding the same to the Public Information Officer or senior officer specified in sub-section (1) of section 16 or the State Information Commission, as the case may be ;

1. See Chief Information Commissioner, Manipur & Anr. V/S State of Manipur (SC) (2011) (Para 36).

- (b) who has been refused access to any information requested under the Act ;
- (c) who has not been given a response to a request for information or access to information within the time limit specified under the Act ;
- d) who has been required to pay an amount of fee which he or she considers unreasonable ;
- (e) who believes that he or she has been given incomplete, misleading or false information under the Act ; and
- (f) in respect of any other matter relating to requesting or obtaining access to records under the Act.

(2) where the State Information commission is satisfied that there are reasonable grounds to inquire into the matter (1), it may initiate an inquiry in respect thereof.

(3) The State Information commission shall, while inquiring into any matter under this section, have the same powers (2) as are vested in a civil court while trying a suit under the Code of Civil Procedure, Samvat 1977, in respect of the following matters, namely :-

- (a) summoning and enforcing the attendance of persons and compel them to give oral or written evidence on oath and to produce the documents or things ;
- (b) requiring the discovery and inspection of documents ;
- (c) receiving evidence on affidavit ;
- (d) requisitioning any public record or copies thereof from any court or office ;
- (e) issuing summons for examination of witnesses or documents ; and
- (f) any other matter which may be prescribed.

1. See Chief Information Commissioner, Manipur & Anr. V/S State of Manipur SC (2011) (Para 36). Also refer to Hiranagar Sugar Mills Ltd. V/S Shyam Sundar Jhunjhunwala 1962 2SCR 339.

2. See Section 27 - 32 CPC Svt. 1977 . Also see Manohar Manikrao Anchule vs State of Maharashtra AIR 2013-SC 681, Associated Cement Companies Ltd. V/S P.N. Sharma and Another AIR 1965 SC 1595 and Poornaprajna House Building Cooperative Society Ltd., Vs Karnataka Information Commission-AIR 2007, Kar 136 (138).

(4) Notwithstanding anything inconsistent contained in any other Act of the State Legislature, the State Information Commission may, during the inquiry of any complaint under the Act, examine any record to which the Act applies which is under the control of the public authority, and no such record may be withheld from it on any grounds.

16. Appeal.-(1) Any person who, does not receive a decision within the time specified in sub-section (1) or clause (a) of sub-section (3) of section 7, or is aggrieved by a decision of the Public Information Officer, may within thirty days from the expiry of such period or from the receipt of such a decision prefer an appeal to such officer who is senior in rank to the Public Information officer, in each public authority:

Provided that such officer may admit the appeal after the expiry of the period of thirty days if he or she is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) Where an appeal is preferred against an order made by a Public information officer under section 11 to disclose third party (1) information; the appeal by the concerned third party shall be made within thirty days from the date of the order.

(3) Where any Officer, at the time of deciding an appeal under Sub-section (1) is of the opinion that the public Information Officer has, without any reasonable cause, refused to receive an application for information or has not furnished information within the time specified or mala fide denied the request for information or has knowingly given incorrect, incomplete or misleading information or destroyed information which was the subject of the request or obstructed in any manner in furnishing the information he or she shall make a reference (2) to that effect to the State Information Commission.

(4) A second appeal (3) against the decision under sub-section (1) shall lie within ninety days from the date on which the decision should have been made or was actually received, with the State Information Commission :

Provided that the State Information Commission may admit the appeal after the expiry of the period of ninety days if it is satisfied that

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1. See Section 2(i) Supra.
 2. There is no such provision in the Central Information Act, 2005 as such to this extend J&K State RTI Act is stronger as it gives an additional responsibility to the First Appellate Authority.
 3. See Rule 6 & 7 J&K RTI Rules, 2012. Also refer to Tata Motors Ltd & Anr. Vs State of West Bengal & Ors W.P.no. 1773 of 2008 dated: 12-01-2010-SB and Shiv Prakash Rai Etc vs The State of Bihar through the Chief Secretary, Etc, Civil Writ Jurisdiction Case No. 17616 of 2012 dated: 12-04-2013-DB.

the appellant was prevented by sufficient cause from filing the appeal in time.

(5) If the decision of the State public Information officer against which an appeal is preferred relates to information of a third party (1), the Information commission shall give a reasonable opportunity of being heard (2) to that third party.

(6) In any appeal proceedings (3), the onus to prove that a denial of a request was justified shall be on the Public Information officer who denied the request.

(7) An appeal under sub-section (1) or sub-section (2) shall be disposed of within thirty days of the receipt of the appeal or within such extended period not exceeding a total of forty-five days from the date of filing thereof, as the case may be, for reasons to be recorded in writing.

(8) The decision of the State Information Commission shall be binding.

(9) In its decision, the State Information Commission has the power (4) to –

(a) require the public authority to take any such steps as may be necessary to secure compliance with the provisions of the Act, including-

- (i) by providing access to information, if so requested, in a particular form ;
- (ii) by appointing a Public Information Officer ;
- (iii) by publishing certain information or categories of information ;
- (iv) by making necessary changes to its practices in relation to the maintenance, management and destruction of records

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1. See Sunflag Iron and Steel Company Ltd. Nagpur V/S SIC, Nagpur, AIR 2015 Bom 38.
 2. This is known by maxim " Audi Alterm Partem" meaning no one shall be condemned unheard. It is one of the basic principles of Natural Justice which has also been upheld by Supreme Court in a number of cases e.g. Meenaka Gandhi V/S Union of India AIR 1978 SC 597, Swedeshi Cotton Mills V/S Union of India AIR 1981 SC 818 , Kailash Nath & Others V/S State of U.P & Anr. AIR 1985 ALL. 291 etc.
 3. See Rule 8 J&K RTI Rules, 2012. Also refer to Chief Information Commissioner & Anr. V/S State of Manipur & Anr. 2011 (Para 35).
 4. See CBSE V/S Aditya Bandopadya & Ors. Civil Appeal No. 6454 of 2011 (Para 35).

- (v) by enhancing the provision of training on the right to information for its officials
- (vi) by providing it with an annual report in compliance with clause (b) of sub-section (l) of section 4 ;
- (b) require the public authority to compensate (1) the complainant for any loss or other detriment suffered ;
- (c) impose any of the penalties provided under the Act ;
- (d) reject the application.

(10) The State Information Commission shall give notice of its decision, including any right of appeal, to the complainant and the public authority.

(11) The State information Commission shall within sixty days from the receipt of appeal decide (2) the appeal in accordance with such procedure as may be prescribed :

Provided that the State Information Commission may decide an appeal within such extended period, not exceeding one hundred and twenty days from the date of filing thereof, as the case may be, for reasons to be recorded in writing.

17. Penalties.-(3) Where the State Information Commission at the time of deciding (4) any complaint, appeal or reference is of the opinion that the Public Information Officer has, without any reasonable cause, refused to receive an application for information or has not furnished information within the time specified under sub-section (l) of section 7 or malafidely denied the request for information or knowingly given incorrect, incomplete or misleading information or destroyed information which was the subject of the request or obstructed in any manner in furnishing the information, it shall impose a penalty (5) of two hundred and fifty rupees each day till application is received or information is furnished, so however, the total amount of such penalty shall not exceed twenty-five thousand rupees :

Provided that the Public Information Officer shall be given a reasonable opportunity of being heard (6) before any penalty is imposed on him.

1. See UOI Vs Central Information Commission & Ors-W.P.C-6661/2008 dated: 16-04-2009 (Del). Also see NTPC Ltd vs Mohammad Samad Khan -W.P.C. 5403/2008 dated: 09-03-2010-(SB)-ILR 6, Delhi-55, Raju Sharma & Anr Vs Haryana State Agriculture Marketing Board & Anr, C.P.No. 12375 of 2008 dated: 13-03-2012-(SB)-[(2012) 167 PLR 50], State of Bihar & Ors Vs The State Information Commission & Ors, C.W. No. 17727 of 2008 dated: 12-12-2012-(SB) and M.Anandraj vs Central Information Commission & Anr-W.A. No. 183 of 2015 dt: 23-02-2015 (Madras High Court).
2. There is no such time limitation in the Central Information Act, 2005 for time bound adjudication of appeal by the Commission.
3. See PIO & Anr V/S Orissa Information Commission & Anr, AIR 2010 Ori 74.
4. See Simens Engineering & manufacturing Co. of India Ltd. V/S UOI & Anr. (1976) 2SCC 981. Also refer to Kranti Associates Private Ltd. & Ors. V/S Masood Ahmad Khan & Ors. (2010) 9SCC496, Assistant Commissioner, Commercial Tax Departmental Works Contract & Leasing, Kota V/S Shukla & Brothers (2010) 4SCC785, Manohar V/S State of Maharashtra & Anr, Civil Appeal No. 9095 of 2012 and Marrio Pires V/s. The Karnataka State Information Commission and others AIR 2014(NOC)390(KAR).
5. See G. Baso Raju vs Smt. Anundhati & Anr, Contempt of Court Case No. 525 of 2008 dated: 27-01-2009-(DB) [2009(2)Kar LJ 465]. Also see Anand Bhushan vs. R.A. Haritash, LPA No. 777/2010 dated: 29-03-2012-DB[(2012) ILR 4 Delhi 57] and Damodar Valley Corporation & Ors vs Mohammad Rafique Ansari and Anr, LPAs 288 and 646 of 2011 dated: 17-04-2012-DB [190(2012) DLT 307].
6. This is known by maxim " Audi Alterm Partem" meaning no one shall be condemned unheard. It is one of the basic principles of Natural Justice which has also been upheld by Supreme Court in a number of cases e.g Meenaka Gandhi V/S Union of India AIR 1978 SC 597, Swedeshi Cotton Mills V/S Union of India AIR 1981 SC 818, Kailsh Nath & Others V/S State of U.P & Anr AIR 1985 ALL. 291 etc.

Provided further that, the burden of proving that he acted reasonably and diligently(1) shall be on the public Information Officer.

(2) Where the State Information Commission at the time of deciding any complaint, appeal or reference is of the opinion that the Public Information officer has, without any reasonable cause and persistently, failed to receive an application for information or has not furnished information within the time specified under sub-section (1) of section 7 or malafidely denied the request for information or knowingly given incorrect, incomplete or misleading information or destroyed information which was the subject of the request or obstructed in any manner in furnishing the information, it shall recommend for disciplinary action (2) against the Public Information Officer under the service rules applicable to him.

CHAPTER V

Miscellaneous

18. Protection of action taken in good faith - No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith (3) done or intended to be done under the Act or any rule made thereunder.

19. Act to have overriding effect- The provisions of the Act shall have effect notwithstanding anything inconsistent therewith contained in the State Official Secrets Act Samvat, 1977 (4) and any other law (5) for the time being in force or in any instrument having effect by virtue of any law other than the Act.

20. Bar of Jurisdiction of Courts- No court shall entertain any suit, application or other proceeding in respect of any order (6) made under the Act and no such order shall be called in question otherwise than by way of an appeal(7) under the Act.

21. Act not to apply to certain organizations (8) 1- Nothing contained in the Act shall apply to such intelligence and security organizations being organizations established by the Government, as the Government may, from time to time, by notification in the Government Gazette, specify :

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1. See Chief Officer V/S Chief Information Commissioner & ors 2003 SLA 7617 of 2010 (Gujarat).
 2. See Monohar Manikrao Anchule vs State of Maharashtra and Anr AIR-2013 SC-681.
 3. See Sec 52 IPC.
 4. See The Jammu & Kashmir State Official Secrets Act, 1977 (1920 AD) Act No. XLIII of 1977.
 5. See Raghubir V/S State of Haryana AIR 1981 SC 2037, R.S Ragunath V/S State of Karnataka, AIR 1992 SC 81 and Chandar Parkash Tiwari V/S Shakuntala Shukla AIR 2002 SC 2322. Also refer to Alka Matoria vs Maharaja Ganga Singh University & Ors, D.B., CWP No. 12471/2012 dated: 12-12-2012-DB (Rajasthan High Court) and Paras Jain vs Institute of Companies, Secretaries of India, LPA No. 275/2014, Oral order dated: 22-04-2014-DB.
 6. Order of Public Information Officer under section 7 (1) or First Appellate Authority under section 16(7) of J&K RTI Act. See PIO, Syndicate Bank, Etc vs Central Information Commission, W.P.No. 28785 of 2011 dated: 02-11-2011-SB [2012(2)ALT 34].
 7. First Appeal under section 16 (1) & 2nd Appeal under section 16 (4) of J&K RTI Act, 2009.
 8. Criminal Investigation Department (CID) has been declared as an organization under SRO 86 of 2012, dated: 12.03.2012 G A D. See Dr. Neelam Bhalla V/s UOI & Ors AIR2014 Del 102, Esab India Ltd V/S Special Director of Enforcement & Anr. (2011) 106 SCL 564 (Delhi) and S. Vijaya Laxmi V/S Union of India WP No. 14788 of 2011 (Madras High Court). Also see National Alliance of People's Movement & Anr vs State of U.P. & Ors, W.P.No. 6993 (M/B) of 2009, PIL No. 320 of 2010 dated: January, 2012-DB and S. Vijayalakshmi vs UOI & ANr. W.P. No. 14788 of 2011 dated: 09-09-2011-DB [AIR 2011 Mad 275]. Also refer to schedule II of Central Information Act, 2005.

Provided that the information pertaining to the allegations of corruption (1) and human right violations (2) shall not be excluded under this sub-section:

Provided further that in the case of information sought for is in respect of allegations of violation of human rights, the information shall only be provided after the approval of the State information Commission and, notwithstanding anything contained in Section 7, such information shall be provided within forty-five days from the date of the receipt of request.

(2) Every notification issued under sub-sections(1) shall be laid before each House of the State Legislature.

22. Monitoring and reporting—(1) The State Information Commission shall, as soon as practicable after the end of each year, prepare a report on the implementation of the provisions of the Act during that year and forward a copy thereof to the Government.

(2) Each Department shall, in relation to the Public authorities within their jurisdiction, collect and provide such information to the State Information Commission as is required to prepare the report under this section and comply with the requirements concerning the furnishing of that information and keeping of records for the purposes of this section.

(3) Each report shall state in respect of the year to which the report relates—

- (a) the number of requests made to each public authority;
- (b) the number of decisions where applicants were not entitled to access to the documents pursuant to the requests, the provisions of the Act under which these decisions were made and the number of times such provisions were invoked;

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1. See The Superintendent of Police vs Karthikeyan, W.A. No. 320 of 2010 dated: 06-04-2011-DB [AIR 2012 Mad 84]. Also see Superintendent of Police vs M. Kanapan, W.P. No. 805 of 2012 dated: 28-11-2012-SB [2013 MLJ 348].
 2. See Directorate General of Security & Anr vs Harender, W.P. C. 5959 of 2013 dated: 16-09-2013-SB [Del].

- c) the number of appeals referred to the State Information Commission for review, the nature of the appeals and the outcome of the appeals;
- d) Particulars of any disciplinary action (1) taken against any officer in respect of the administration of the Act;
- e) the amount of charges collected by each public authority under the Act;
- f) any facts which indicate an effort by the public authorities to administer and implement the spirit and intention of the Act;
- g) recommendations for reform, including recommendations in respect of the particular public authorities, for the development, improvement, modernization, reform or amendment to the Act or other legislation or common law or any other matter relevant for operationalising the right to access information.

(4) The Government may, as soon as practicable after the end of each year, cause a copy of the report of the State Information Commission, referred to in sub-section (1) to be laid before each House of the State Legislature.

(5) If it appears to the State information Commission that the practice of a public authority in relation to the exercise of its functions under the Act does not conform with the provisions or spirit of the Act, it may give to the authority a recommendation specifying the steps which ought in its opinion to be taken for promoting such conformity.

23. **Govt. to prepare programmes-** (1) The Government may, to the extent of availability of financial and other resources-

- (a) develop and organize educational programmes to advance the understanding of the public, in particular of disadvantaged communities as to how to exercise the rights contemplated under the Act.

1. See Section 17(2) Supra.

- (b) encourage public authorities to participate in the development and organization of programmes referred to in clause (a) and to undertake such programmes themselves;
- (c) promote timely and effective dissemination of accurate information by public authorities about their activities ; and
- (d) train Public Information Officers of public authorities and produce relevant training materials for use by the public authorities themselves.

(2) The Government shall, within eighteen months from the commencement of the Act, compile in the official language of the State a guide containing such information, in an easily comprehensible form and manner, as may reasonably be required by a person who wishes to exercise any right specified in the Act.

(3) The Government shall, if necessary, update and publish the guidelines referred to in sub-section (2) at regular intervals which shall, in particular and without prejudice to the generality of sub-section (2), include :-

- (a) the objects of the Act ;
- (b) the postal and street address, the phone and fax number and, if available, electronic mail address of the Public Information Officer of every public authority appointed under sub-section (1) of section 5;
- (c) the manner and the form in which request for access to an information shall be made to a Public Information Officer;
- (d) the assistance available from and the duties of the Public Information Officer of a Public authority under the Act;
- (e) the assistance available from the State Information Commission.

- (f) all remedies in law available regarding an act or failure to act in respect of a right or duty conferred or imposed by the Act including the manner of filing an appeal to the Commission;
- (g) the provisions providing for the voluntary disclosure of categories of records in accordance with Section 4;
- (h) the notices regarding fees to be paid in relation to requests for access to an information ; and
- (g) any additional regulations or circulars made or issued in relation to obtaining access to an information in accordance with the Act.

(4) The Government must, if necessary, update and publish the guidelines at regular intervals.

24. Power (1) to make rules by Government-

- (1) The Government may by notification in the Government Gazette, make rules (2) to carry out the provisions of the Act.
- (2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters namely:-
 - (a) the cost of the medium or print cost price of the materials to be disseminated under sub-section (4) of section 4;
 - (b) the fee payable under sub-section (1) of section 6;
 - (c) the fee payable under sub-sections (1) and (5) of section 7;
 - (d) the salaries and allowances payable to and the terms and conditions of service of the officers and other employees under sub-section (6) of section 13;
 - (e) the procedure to be adopted by the State Information Commission in deciding the appeals under sub-section(11) of section 16; and
 - (f) any other matter which is required to be, or may be, prescribed.

1. See Re Delhi Law Act Case (1951). Also see DS Grewal V/S State of Punjab 1959 SC 512, Gwalior Rayan Silk Manufacturing Company V/S Asstt. Commissioner of Sales Tax AIR 1974 4 SCC 98, Registrar of Cooperative societies V/S K Kanjanba AIR 1980 1 SCC 492. Also refer to Brij Sundar.V/S First Additional Distt. Judge AIR 1989 1 SCC 561 and Agriculture Market Committee V/S Shantinam Chemical Works AIR 1997 5 SCC 516.
2. See J&K RTI Rules, 2012 made Vide SRO 279 OF GAD Dated: 30.08.2012.

25. Power to make rules by competent authority (1)- (1) Subject to the provisions of Section 24, the competent authority may, by notification in the Government Gazette, make rules to carry out the provisions of the Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters namely:-

- (a) the cost of the medium or print cost price of the materials to be disseminated under sub-section (4) of section 4;
- (b) The fee payable under sub-section (1) of section 6;
- (c) The fee payable under sub-section (1) of section 7; and
- (d) Any other matter which is required to be , or may be, prescribed.

26. Laying of rules:- Every rule made by the Government under the Act shall be laid, as soon as may be after it is made before each House of the State Legislature, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

27. Power to remove difficulties- (1) If any difficulty arises in giving effect to the provisions of the Act, the Government may by order published in the Government Gazette, make such provisions not inconsistent with the provisions of the Act as appear to it to be necessary or expedient for removal of the difficulty;

Provided that no such order shall be made after the expiry of a period of two years from the date of the commencement of the Act.

(2) Every order made under this section shall as soon as may be after it is made be laid before each House of the State Legislature.

28. Repeal and Saving—(1) The Jammu and Kashmir to information Act, 2004 and the Jammu and Kashmir Right to Information (Amendment) Act, 2008 are hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken or any order made before such repeal shall be deemed to have been done, taken or made as the case may be, under the corresponding provisions of this Act.

1. See Section 2b supra.

Table of Cases

A

1. Agriculture Market Committee V/S Shantinam Chemical Works AIR 1997 5 SCC 516.
2. Ajay Hasia V/S Khalid Mujib 1981-SC 481.
3. A.K Gopalan v/s State of Madras AIR 1950 SC 27.
4. Alka Matoria vs Maharaja Ganga Singh University & Ors, D.B., CWP No. 12471/2012 dated: 12-12-2012-DB (Rajasthan High Court)
5. Anand Bhushan vs. R.A. Haritash, LPA No. 777/2010 dated: 29-03-2012-DB[(2012) ILR 4 Delhi 57]
6. Arvind Kejriwal V/S CPIO, AIR 2010 Delhi 216.
7. Assistant Commissioner, Commercial Tax Departmental Works Contract & Leasing, Kota V/S Shukla & Brothers (2010) 4SCC785.
8. Associated Cement Companies Ltd. V/S P.N. Sharma and Another AIR 1965 SC 1595.

B

1. Bhagat Singh Vs Chief Information Commissioner & Ors., WP © No. 3114/2007 dated: 03-12-2007 (SB) [146 (2008) DLT 385].
2. Binny Ltd and anr V/s Sadasivan AIR 2005 (6) SCC 657
3. Brij Sundar V/S First Additional Distt. Judge AIR 1989 1 SCC 561.

C

1. CBSE V/S Aditya Bandopadhyay & Ors. Civil Appeal No. 6454 of 2011
2. Centre for Earth Science Studies Vs Dr. Mrs. Anson Sebastain Scientist, EI & Anr., WA No. 2781 of 2009 dated: 17-02-2010-(DB) [AIR 2010 Ker 151]
3. Chandar Parkash Tiwari V/S Shakuntala Shukla AIR 2002 SC 2322.
4. Chief Information Commissioner, Manipur & Anr. V/S State of Manipur (SC) (2011)
5. Chief Officer V/S Chief Information Commissioner & ors 2003 SLA 7617 of 2010 (Gujarat).
6. CPIO, supreme Court of India Etc. v/s Subhash Chandra Agarwal and anr. W.P. © 288/ 2009 Dated: 02/09/2009.
7. CPIO, supreme Court of India Etc. v/s Subhash Chandra Agarwal civil appeal No. 1044 of 2010 Dated 26.11.2010

D

1. Dadaji V/s Sukh Deo Babu AIR 1980 1 Scc 621.
2. Damodar Valley Corporation & Ors vs Mohammad Rafique Ansari and Anr, LPAs 288 and 646 of 2011 dated: 17-04-2012-DB [190(2012) DLT 307]
3. Dinesh Tervedi V/S Union of India (1997) 4SCC306.
4. Directorate General of Security & Anr vs Harender, W.P. C. 5959 of 2013 dated: 16-09-2013-SB [Del]
5. District Registrar and Collector VS Canara Bank (2005) 1 SCC 496.
6. Divakar S. Natrajan V/S State Information Commissioner AP State Information Commission & Ors WP No. 20182 of 2008 Dated 27.1.2009.
7. Dr. Neelam Bhalla V/s UOI & Ors AIR2014 Del 102.
8. DS Grewal V/S State of Punjab 1959 SC 512.

E

1. Esab India Ltd V/S Special Director of Enforcement & Anr. (2011) 106 SCL 564 (Delhi).
2. Executive Committee of vaish Degree College Shamlic & Ors V/S Lakshmi Narian & Others 1976 2SCC58.

F

1. Francis Coralie Mills v/s The Administrator Union Territory of Delhi and Ors. AIR 1981 SC 746
2. Fr. Jose Thenpilli V/s Kurnkutty Grama Panchayat & Ors. AIR 2014 Kerla 181.

G

1. G. Baso Raju vs Smt. Anundhati & Anr, Contempt of Court Case No. 525 of 2008 dated: 27-01-2009-(DB) [2009(2)Kar LJ 465].
2. Giani Bakshish V/S Govt. of India 1973 2SCC688.
3. Godavaris Mishra V/S Nand Kishore Dass. AIR 1953 Orissa 111.
4. Godfray India Philips Ltd & Anr V/s State of UP & Ors 2005 SC 1103.
5. GOI V/S Tulsis Ram Patel (1985) 3SCC398.
6. G.N Yattoo v/s PIO, Sher-e-Kashmir Institute of Medical Sciences, Soura. (JKSIC Date of Decision- 20.08.2015) .
7. Grish R. Despanda V/S CIC & Ors SLP ©AIR (2013) 1SCC212.
8. Gwalior Rayan Silk Manufacturing Company V/S Asstt. Commissioner of Sales Tax AIR 1974 4 SCC 98.

H

1. Hakeem Tanveer V/S State Vigilance Organization, Kashmir (J&K SIC Dated 17.07.2014).
2. Hemchandra Sen Gupta & Ors. V/S Speaker of Legislative Assembly of West Bengal. AIR 1956 Calcutta 378.
3. Hiranagar Sugar Mills Ltd. V/S Shyam Sundar Jhunjhunwala 1962 2SCR 339.

I

1. Indra Sawhney V/S UOI AIR 1993 Sc 477
2. Institute of Chartered Accounts of India V/S Shannuk H.Satya & Ors. 2011 8SCC871.

J

1. Jalan Trading Co V/S Mill Mazdoor Sabha AIR 1967 SC 691.
2. John Numpeli (Junior) V/s Public Information Officer / Assistant Executive Engineer-1, Ernakulam snf Ors., W.P (C) No. 31947 of 2013 dated: 31-01-2014-(SB) (Kerala High Court).
3. J.P.Agarwal V/s UOI & Ors., W.P. (C) 7232/2009 dated: 04-08-2011-(SB) 2011-VII.A.D (Delhi)625.

K

1. Kailash Nath & Others V/S State of U.P & Anr. AIR 1985 ALL. 291.
2. Kashinath Shetty Vs PIO & Ors., W.P.No. 325 of 2009 dated: 14-12-2012 (S.B.) [2013(2)BOM CR 191].
3. Kerala Public Service Commission V/s State Information Commission, W.P.C. 33718 of 2010 dated: 09-03-2011 (D.B.).
4. Kesavananda Bharati and Ors. v. State of Kerala and Anr. (1973) 4 SCC 225)
5. Khanapuram Gandaih V/S Administrative Officer & Ors. AIR 2010SC615.
6. Khurram Parvez v/s PIO Zonal Police Headquarter (JKSIC) Date of Decision 05.08.2015
7. Kihola Hollohan V/S Zachillhu AIR 1993 SC 412.
8. Kranti Associates Private Ltd. & Ors. V/S Masood Ahmad Khan & Ors. (2010) 9SCC496
9. Kunja Bihari Patra, Etc Vs PIO O/o Assistant Engineer, National Highway, Sub Division, Nayagarh, W.P.C No. 4797/2013 dated: 02-07-2013-(DB) 2013 (II)OLR 546.

L

1. L.Chandra Kumar V/S UOI (1997) 3 SCC261.
2. Lokesh Chandra V/S State of Mahrastra & Ors AIR 2009 Bom147.

M

1. M.Anandraj vs Central Information Commission & Anr-W.A. No. 183 of 2015 dt: 23-02-2015 (Madras High Court).
2. Manohar V/S State of Maharashtra & Anr. Civil Appeal No. 9095 of 2012.
3. Manohar Manikrao Anchule vs State of Maharashtra AIR 2013-SC 681.
4. Marrio Pires V/s. The Karnatka State Information Commission and others AIR 2014(NOC)390(KAR).
5. Meenaka Gandhi V/S Union of India AIR 1978 SC 597.
6. Mr. 'X' V/S Hospital 'Z' AIR 1999 SC 495.
7. M.S.M Sharma V/S Shri Krishna Sinha. AIR1959 SC395 (Search Light Case).

N

1. Naga People's Movement of Human Rights V/S UOI 1998 2SCC 109.
2. Namita Sharma V/S Union of India WP (Civil) WO 210 of 2012.
3. Narmada Bachoa Andolan V/s UOI 2005 SC 2994.
4. National Alliance of People's Movement & Anr vs State of U.P. & Ors, W.P.No. 6993 (M/B) of 2009, PIL No. 320 of 2010 dated: January, 2012-DB.
5. National stock exchange of India Ltd. V/S Central Information Commission. W.P. (Civil) No. 4748 of 2007, dated: 15.04.2010.
6. NDP Namboodrapad V/s UIO 2007 4SCC 502.
7. Neeraj Kumar V/S Deptt of Food & Supplies, Govt. of NCT Delhi(CIC) Dated: 28.09.2006.
8. NTPC Ltd vs Mohammad Samad Khan –W.P.C. 5403/2008 dated: 09-03-2010-(SB)-ILR 6, Delhi-55.

O

1. Olga Tellis & Ors. V/S Bombay Municipal Cooperation AIR 1986 SC 180

P

1. Paras Jain vs Institute of Companies, Secretaries of India, LPA No. 275/2014, Oral order dated: 22-04-2014-DB.
2. Pardeep Kumar Beswas V/S Indian Institute of Chemical Biology (2002) 3SCR100.

3. Parveena Swarup V/S UOI (2008) 14 SCC 107.
4. Patterson V/S Gas light and Coke Co. 1887. 3 APP Case 239.
5. People's union for Civil Liberties and Anr V/S Union of India & Ors (2004)2 SCC476.,
6. PIO, Syndicate Bank, Etc vs Central Information Commission, W.P.No. 28785 of 2011 dated: 02-11-2011-SB [2012(2)ALT 34].
7. Poornaprajna House Building Cooperative Society Ltd., Vs Karnataka Information Commission-AIR 2007, Kar 136 (138).
8. Poorna Prajana Public School V/S Central Information Commission WP (Civil) No. 7265 of 2009, (Delhi High Court).
9. Prabat Kumar V/s. Directorate of Health Services (CIC/SA/A/2014/000004 Dated:03.11.2014).
10. Praga Tools Corp. V/s Shri C.A. Imanual & Ors. AIR 1969 SC 1306.
11. Pratap Kumar Jena V/S Ministry of Health & Family affairs Jharkhand (CIC /SG/A/2011/ 003366/16986 Dated:20.1.2012).
12. PSC UP V/s State Information Commission & another AIR 2014 ALL 38.
13. Public Information Officer Office of Governor GOA V/S Shri Manohar Parrikar & Special Secretary to Govt. of GOA V/S SIC, GOA WP 476 of 2009 & WP237 of 2011.
14. P.V. Narsima Rao V/S State (1998) 4 SCC 626 (JMM Bribery Case).

R

1. Raghubir V/S State of Haryana AIR 1981 SC 2037.
2. Raj Sharma V/S Principal Banyan International School, Bablana, Jammu. (J&K SIC) Dated: 23.05.2013.
3. Raju Sharma & Anr Vs Haryana State Agriculture Marketting Board & Anr, C.P.No. 12375 of 2008 dated: 13-03-2012-(SB)-[(2012) 167 PLR 50].
4. Ram Dubey V/S Govt. of Madhaya Bharat AIR 1952 M.B 57.
5. Ram Jeth Malani & Ors., Vs UOI & Ors., (2011) 8 SCC 1.
6. Ram Manohar Lohia V/S State of Bihar 1966 SC740.
7. R.D. Shetty V/s The International Airport Authority of India & Ors (1979) 3 SCR 1014.
8. Re Delhi Law Act Case (1951).
9. Registrar of Cooperative societies V/S K Kanjanba AIR 1980 1 SCC 492.
10. Reserve Bank of India V/s Peerless General Finance and investment Company Ltd AIR 1987(1)Scc 424.

11. R.K Jain V/S UOI AIR 1993 SC 1769.
12. R.K Jain V/S UOI & Ors, Civil Appeal of 2013 arising out of SLP © No. 22609 of 2012.
13. R. Raja Gopal V/S State of Tamil Nadu AIR 1994 6 Sec 632.
14. R.S Ragunath V/S State of Karnataka, AIR 1992 SC 81.

S

1. Samir Kumar Halder V/S PIO, Employees Provident Fund Organization(CIC) dated: 16.07.2010.
2. Saradhakr V/S Orissa Legislative Assembly AIR 1952 Orissa 234.
3. Saroop Singh Hrya Naik Vs State of Maharashtra, etc., WP No. 1750 of 2007 dated: 23-03-2007-(DB)-[AIR 2007 (Bombay) 121].
4. Satpal Singh Vs State Information Commission, Haryana & Ors., CPW No. 5246 of 2009 dated: 27-05-2011 (SB) [(2011) 163 PLR 683].
5. Shiv Prakash Rai Etc vs The State of Bihar through the Chief Secretary, Etc, Civil Writ Jurisdiction Case No. 17616 of 2012 dated: 12-04-2013-DB).
6. Shri Bhavana Rishi Cooperative House buiding Society V/S A.P Information Commission & Anr. 2010(3) Alt 360.
7. Simens Engineering & manufacturing Co. of India Ltd. V/S UOI & Anr. (1976) 2SCC981.
8. Siri Krishan V/S State of Hyderabad & Ors. AIR 1956 Hyderabad 186.
9. S.P Gupta V/S Union of India AIR 1982 SC 149.
10. S.R.Bomma V/S UOI AIR 1994 SC 1918.
11. Sri Mario Pires V/S Brunath Bangalore Mahanagra Palika & Ors. ILR 2009 KAR 1189.
12. State of Bihar V/S Kanshewar Singh AIR 1952 SC 252.
13. State of Bihar & Ors Vs The State Information Commission & Ors, C.W. No. 17727 of 2008 dated: 12-12-2012-(SB).
14. State of Jharkhand & Anr. V/S Navin Kumar & Anr. AIR 2008 Jhar 19.
15. State of Maharashtra V/s Labour Law Practitioners AIR 1998 (2) Scc 628.
16. State of Uttar Pardesh V/S Raj Narayan (1975) SC865.
17. Sunflag Iron and Steel company Ltd. Nagpur V/S State Information Commission Nagpur & Others AIR 2015 Bom38.
18. Superintendent of Police vs M. Kanapan, W.P. No. 805 of 2012 dated: 28-11-2012-SB [2013 MLJ 348].
19. Suresh Chand Gupta V/S Deputy Commissioner of Police AIR 2008 (NOC)1139 (Del)
20. S. Vijaya Laxmi V/S Union of India WP No. 14788 of 2011 (Madras High Court).
21. Swedeshi Cotton Mills V/S Union of India AIR 1981 SC 818.
22. Syed Hussain Abbas Rizvi V/S SIC through Registrar. AIR 2011 Pat. 103.

T

1. Tata Motors Ltd & Anr. Vs State of West Bengal & Ors W.P.no. 1773 of 2008 dated: 12-01-2010-SB.
2. Thalappalam Ser. Corp. Bank Ltd. & Ors. V/S State of Kerala & Ors. Civil Appeal No. 9017 of 2013.
3. The Manufacturers Association V/s State of Gujarat 1977 SC 90.

4. The Municipal Council Rampur V/s State of MP 1970 SC 1923.
5. The Secretary, Hailakandi Bar Association vs State Of Assam And Another AIR 1996 SC 1925 on 9 May, 1996.
6. The Superintendent of Police vs Karthikeyan, W.A. No. 320 of 2010 dated: 06-04-2011-DB [AIR 2012 Mad 84].
7. TSR Subramaniam & Ors. V/s Union of India & Ors. AIR 2014 SC 263.

U

1. UOI v/s Anita Singh AIR 2014 Delhi 23.
2. UOI Vs Central Information Commission & Ors-W.P.C-6661/2008 dated: 16-04-2009 (Del).
3. UOI V/s Hardev Singh AIR 2014(NOC) 110 Del.
4. UOI V/S Madras Bar Association (2010) 11 SCC 1.
5. UOI & Anr. V/s Mrs. Veena Kohli, (2010)ILR5 Delhi 723
6. UOI Vs R.Jayachandran, W.P.C. No. 3406/2012 dated: 19-02-2014.
7. UOI through Ministry of external affairs & etc. V/s Rajash Batia AIR 2014(NOC) 293 Del.
8. UOI V/s Vishwas Bhamburkar WPC No. 3660/2010 (2013) ELT 500 Del.
9. UPSC Vs G.S.Sandhu, WPC No. 4079/2013 dated: 10-10-2013 [204 (2013) DLT 212].
10. UPSC Vs R.K.Jain, LPA No. 618/2012 dated: 06-11-2012-(DB)[196 (2013)-DLT 170].

V

1. Vaid Prakash & Ors., Vs State of Haryana & Ors., C.W.P. 10981 of 2012 dated: 30-10-2012 (SB) [(2012) 168 PLR 741].
2. Vijay Parkash V/S UOI & Ors AIR 2010 Del 7.
3. Vilakashan Singh V/S PIO Revenue Department, JKSIC dated: 13-02-2015.
4. Vilakashana Singh & Ors. V/S Sh. Mushtaq Ahmad, Chairman, J&K Bank Ltd. (J&K SIC No.120-SiC-J/K/Comp/35/2010 Dated 24.4.2012).

Z

1. Zee Telefilms Ltd. V/s Union of India. 2005 (4) Scc 649.

List of abbreviations.

- | | | | |
|-----|-------|---|---|
| 1. | A.D | - | Appex Decisions |
| 2. | AIR | - | All India Reporter. |
| 3. | AP | - | Andra Pradesh |
| 4. | A.P.P | - | Appeal Cases (Law Reports) |
| 5. | ALL | - | Allahabad |
| 6. | ALT | - | Andra Law Times |
| 7. | Anr | - | Another |
| 8. | BOM | - | Bombay |
| 9. | CBSE | - | Central Board of Secondary Education |
| 10. | CIC | - | Chief Information Commissioner/Central Information Commission |
| 11. | CID | - | Criminal Investigation Department |
| 12. | Comp | - | Compliant |
| 13. | CPC | - | Civil Procedure Code |
| 14. | CPIO | - | Central Public Information Officer |
| 15. | CR | - | Civil reports |
| 16. | CRPC | - | Criminal Procedure Code |
| 17. | D.B | - | Division Bench |
| 18. | Del | - | Delhi |
| 19. | DLT | - | Delhi Law Times |
| 20. | etc. | - | et cetera |
| 21. | GAD | - | General Administration Department |
| 22. | HP | - | Himachal Pardesh |
| 23. | ILR | - | Indian Law Reporter |
| 24. | IPC | - | Indian Penal Code |
| 25. | JHAR | - | Jharkhand |
| 26. | J&K | - | Jammu and Kashmir |
| 27. | JKSIC | - | Jammu & Kashmir State Information Commission |
| 28. | KAR | - | Karnataka |
| 29. | Ker | - | Kerla |
| 30. | LJ | - | Law Journal |
| 31. | LPA | - | Letters Patent Appeal |

32.	Mad	-	Madras
33.	MLJ	-	Madras Law Journal
34.	NOC	-	Notes of cases
35.	OLR	-	Orissa Law Journal
36.	Ori	-	Orissa
37.	Ors.	-	Others
38.	Pat	-	Patna
39.	PIL	-	Public Interest Litigation
40.	PIO	-	Public Information Officer
41.	PLR	-	Punjab Law Reporter
42.	PSC	-	Public Service Commission
43.	RPC	-	Reports of Patent Cases
44.	RTI	-	Right to Information
45.	SA	-	Second Appeal
46.	SB	-	Single Bench
47.	SC	-	Supreme Court
48.	SCALE	-	Supreme Court Almanac
49.	SCC	-	Supreme Court Cases
50.	SCL	-	Sebi and Corporate Laws
51.	SCR	-	Supreme Court Reports
52.	SIC	-	State Information Commission
53.	SLA	-	Special Leave for Appeal
54.	SRO	-	Statutory Rules & Orders.
55.	SLP	-	Special Leave Petition
56.	SVT	-	Samvat
57.	UOI	-	Union of India
58.	U.P	-	Uttar Pradesh
59.	UPSC	-	Union Public Service Commission
60.	V/S	-	Versus
61.	WA	-	Writ Application
62.	W.e.f	-	With effect from
63.	WP	-	Writ Petition
64..	W.P.C	-	Writ Petition Civil

List of Circulars and SRO's issued by General Administration Department relating to RTI.

1. Circular No. 25-GAD of 2009, Dated: 05.06.2009.
2. Circular No. 16-GAD of 2011 dated: 8.04.2011.
3. Circular No. GAD(Adm)110/2009-V(III) dated: 14.12.2011
4. Circular No. 23-GAD of 2012 dated:- 9.08.2012.
5. Circular No. 20-GAD of 2013 dated:- 10.09.2013.
6. Circular No. 06- GAD of 2014 dated: 23.01.2014.
7. Circular No. 07 GAD of 2015 dated: 10.02.2015.
8. Circular No. 19 GAD of 2015 dated: 22.03.2015.
9. Circular No. 21 GAD of 2015 dated: 01.07.2015.
10. SRO 325 GAD, Dated: 19.10.2009.
11. SRO 57 GAD, Dated: 11.02.2011.
12. SRO 314 GAD, Dated: 13.10.2011.
13. SRO 86 GAD of 2012, dated: 12.03.2012.
14. SRO 279 GAD Dated: 30.08.2012.

List of Statutes

1. Constitution of India.
2. Constitution of J&K, 1957
3. Election Commission (condition of service of Election Commissions and Transaction of Business) Act, 1991
4. General Clauses Act, 1897.
5. Indian Evidence Act, 1872.
6. Indian Penal Code, 1860.
7. J&K State Official Secrets Act, 1977 (1920 AD)
8. Right to Information Act, 2005
9. The Code of Civil Procedure, 1908
10. The Code of Criminal Procedure, 1973

Reference Books:

1. Black's law Dictionary.
2. Encyclopedia Law Lexicon 2013-Second Edition by Justice C.K. Thakker.
3. Halsbury's Laws of England 4th Volume.
4. Lexicon Webster Dictionary Vol.1.

JAMMU AND KASHMIR RIGHT TO INFORMATION RULES, 2012

SRO 279.- In exercise of the powers conferred by sub-section (1) of section 24 of the Jammu and Kashmir Right to Information Act, 2009 (Act No. VIII of 2009), the Government hereby makes the following rules, namely:-

CHAPTER I General

1. Short title and commencement.-

- (1) These rules may be called the Jammu and Kashmir Right to Information Rules, 2012.
- (2) They shall come into force on the date of their publication in the Government Gazette.

2. Definitions.-

- (1). In these rules, unless the context otherwise requires -
 - (a) 'Act' means the Jammu and Kashmir Right to Information Act, 2009 ;
 - (b) 'Commission' means the Jammu and Kashmir State Information Commission;
 - (c) "section" means the section of the Act.
- (2) All other words and expressions used in these rules and not defined but defined in the Act shall have the meanings respectively assigned to them in the Act.

CHAPTER II Matters Relating to Fee and Cost

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

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 or Indian Postal Order payable to the Accounts Officer of the public authority at the following rates:-

- a. rupees two for each page (in A4 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.

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 or Indian Postal Order payable to the Accounts Officer of the public authority at the following rates :-

- a. for information provided in diskette or floppy rupees 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.

CHAPTER III Appeal procedure

6. Contents of appeal.- An appeal to the Commission shall contain the following information, namely :-

- (i) name and address of the appellant;
- (ii) name and address of the Public Information Officer against the decision of whom the appeal is preferred;
- (iii) particulars of the order including number, if any, against which the appeal is preferred;
- (iv) brief facts leading to the appeal;
- (v) if the appeal is preferred against deemed refusal, the particulars of the application, including number and date and name and address of the Public Information Officer to whom the application was made;
- (vi) prayer or relief sought;
- (vii) grounds for the prayer or relief;
- (viii) verification by the appellant; and
- (ix) any other information which the Commission may deem necessary for deciding the appeal.

7. Documents to accompany appeal.- Every appeal made to the Commission shall be accompanied by the following documents, namely :-

- (i) self-attested copies of the Orders or documents against which the appeal is being preferred;
- (ii) copies of documents relied upon by the appellant and referred to in the appeal; and
- (iii) an index of the documents referred to in the appeal.

8. Procedure in deciding appeal.- In deciding the appeal the Commission may.-

- (i) hear oral or written evidence on oath or on affidavit from concerned or interested person;
- (ii) peruse or inspect documents, public records or copies thereof;
- (iii) inquire through authorized officer further details or facts;
- (iv) hear Public Information Officer, Assistant Public Information Officer or such Senior Officer who decided the first appeal, or such person against whom the complaint is made, as the case may be;
- (v) hear third party; and
- (vi) receive evidence on affidavits from Public Information Officer, Assistant Public Information Officer, such Senior Officer who decided the first appeal, such person against whom the complaint lies or the third party.

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

- (i) service by the party itself;

- (ii) by hand delivery (dasti) through Process Server;
- (iii) by registered post with acknowledgement due; or
- (iv) through Head of office or Department.

10. 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 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 authorized representative or may opt not to be present.

(3) Where the Commission is satisfied that the circumstances exist due to which the appellant or the complainant, as the case may be, 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 appropriate 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 the appeal while presenting his points and the person representing him may not be a legal practitioner.

11. Order of the Commission.- Order of the Commission shall be pronounced in open proceedings and be in writing duly authenticated by the Registrar or any other officer authorized by the Commission for this purpose.

CHAPTER IV Miscellaneous

12. Interpretation.- If any question of interpretation of these rules arise, the decision of the Government in General Administration Department shall be final.

13. Repeal and saving.- (1) The Jammu and Kashmir Right to Information Rules, 2010 are hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken or any order made or any direction issued thereunder before such repeal shall be deemed to have been done, taken, made or issued, as the case may be, under the corresponding provisions of these rules.
