

ANNEXURE - I

SALIENT FEATURES OF THE RIGHT TO INFORMATION ACT, 2005

- ❖ The short title of the legislation has been changed from 'The Freedom of Information Act' to 'Right to Information Act'.
- ❖ Provides a very definite day for its commencement, i.e. 120 days from enactment.
- ❖ It defines 'appropriate Government' as meaning, in relation to a "Public Authority" established, constituted or owned or substantially financed by funds provided directly or indirectly or controlled –
 - (i) by the Central Government, the Central Government;
 - (ii) by the State Government, the State Government".
- ❖ It shall apply to "Public Authorities" which means any authority or body or Institution of self-government established or constituted by or under the Constitution; by any law made by the appropriate Government or, any other body owned, controlled or substantially financed directly or indirectly by the appropriate Government, and includes non-government organizations, substantially financed by the Government.
- ❖ The ambit covers the two Houses of Parliament, State Legislature, the Supreme Court/High Court/ Subordinate Courts including their administrative offices, Constitutional Authorities like Election Commission, Comptroller & Auditor General, Union Public Service Commission etc. **Only domestic and foreign private bodies working within the country have been excluded from the purview of the Act.**
- ❖ All citizens shall have the right to information, subject to the provisions of the Act.
- ❖ It casts an obligation on Public Authorities to grant access to information and to publish certain categories of information within 120 days of the enactment. The responsibility about suo-motu disclosure/publication by public authorities has been considerably enlarged.
- ❖ The Act lays down the machinery for the grant of access to information. The Public Authorities are required to designate Public Information Officers and Assistant Public Information Officers within 100 days of the enactment and whose responsibility it is to deal with requests for information and also to assist persons seeking information.
- ❖ Provision has been made for transfer of a request by a public authority to another public authority wherein the subject matter/information is held by the latter.
- ❖ A time limit of 30 days has been prescribed for compliance with requests for information under the Act, which, can be extended to 40 days where third-party interests are involved.
- ❖ Fee to be reasonable. Also, no fee to be charged from persons who are below poverty line. Further, information to be provided free of charge where the response time-limit is not adhered to.
- ❖ Certain categories of information have been exempted from disclosure under sections 8 and 9 of

the Act. The Categories, by way of illustration, include, information likely to affect security of the State, strategic, scientific or economic interests of the State, detection and investigation of offences, public order, conduct of international relations and Cabinet papers. Trade or commercial secrets, information the disclosure of which would cause breach of privilege of Parliament or State Legislature and personnel information which has no relationship with public activity and could cause unwarranted invasion of the privacy of any person, are also exempted from disclosure. However, exemptions provided are not absolute and withholding of information must be balanced against disclosure in the public interest. Information to be released even if harm is shown to the public authority if the public benefit in knowing the information outweighs the harm that may be caused by disclosure.

- ❖ Subject to 3 exceptions; the Act contains a provision for reveal of information, which is otherwise, exempted from disclosure under section 8 on completion of 20 years after the completion of the event.
- ❖ The Act also incorporates the principle of severability.
- ❖ Envisages creation of an independent non-judicial machinery, viz., Central Information Commission and State Information Commissions comprising a Chief Information Commissioner and Information Commissioners to decide 2nd stage appeals.
- ❖ Legal frame work of exercise of powers by the Commission defined in the Act.
- ❖ The Act also provides a two-tier Appellate Forum. First appeal to departmental officer senior to the Public Information Officer. The second appeal to be made to Commission.
- ❖ On a request for information being refused, the applicant can prefer an appeal to the prescribed authority within 30 days of the decision; the time for disposal of appeal being also 30 days extendable to 45 days.
- ❖ Intelligence and security agencies specified in Schedule-II to the Act have been exempted from being covered within the ambit of the Act. However, the exemption is not absolute; agencies shall have the obligation to provide information in matters relating to corruption and human rights violations.
- ❖ The jurisdiction of subordinate courts has been barred expressly by section 23 of the Act.
- ❖ The provisions of the proposed Act have been made overriding in character, so that the scheme is not subverted through the operation of other minor Acts.
- ❖ Monitoring and reporting-Act makes a provision to produce statistics to assess its implementation so that improvements could be effected.
- ❖ Central Information Commission and State Information Commissions to monitor the implementation of the Act and prepare an Annual Report to be laid before Parliament/State Legislature.
- ❖ Central Government to prepare programmes for development of 'information' regime.
- ❖ FOI Act, 2002 to be repealed.