

Right to Information Act Good Governance

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Lecture-29

Public Information Officer, Appeal and Internal Office

Management for effective RTI Management System-I

Hi friends. Today, we will be taking a module on the functions of the public information officer. In short, we would continue to use this PIO status from the public information officer and we will be dealing with appeal from the public information officer to establish the authority. In addition to all this, we will also be dealing with the internal office management within a public order that should ensure an effective RTI management system. So, if you go to the previous module, which discusses the salient features of the Right Information Act, we had covered till around section 4.

And in this morning, we continue to discuss the salient features of the Right Information Act by discussing Section 5, Section 6, Section 7 and also the appeal part, which is important in terms of Section 19 and finally Section 20. Now, the role of the public information officer is very crucial in the RTI Act 2005. The identification of such a role in the Act is important because the government or a public authority does not have a face. It does not have a front person to talk to the citizen, to liaison to the citizen or to deal with the citizen or to communicate with the citizen.

So, the state or the government, or the public authority, is a juristic personality and every juristic personality requires a natural person to make a representation on its behalf. And the government has a face and the face is through various offices in the government, including what is there as the executive organ of the government headed by the president of India, as the case in the central government, governor of the state, Or such other offices that you would be calling as chief ministers, ministers, executive officers, secretaries, joint secretaries, additional secretaries, so on and so forth, and hence all the RTI and it has been designed that every public authority would go about designating individuals or a group of individuals as the public information officer.

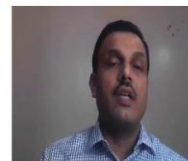
This is important so that the administrative units have a person who will address them, who will

probably provide the information and who will also probably be held accountable or the denial of the right to information. And hence I think the role of the public information officer is critical, though he is not the only person to fulfil this role. I think his role is something that has to be emphasized under the Right to Information Act and hence we will try and see. The role of the PIO, the role of other officers, the role of a public authority should manage its own internal administration so that RTI is effectuated to the citizens.

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Who are Public Information Officers (PIOs)?

- *Section 5 of the Right to Information Act mandates that:*
- *(1) Every public authority shall, within one hundred days of the enactment of this Act, designate as many officers as the Central Public Information Officers or State Public Information Officers, as the case may be, in all administrative units or offices under it as may be necessary to provide information to persons requesting for the information under this Act.*



Now, if one goes by the provisions of Section 5 of the Right to Information Act, Section 5 once sees every public authority within 100 days. Now, this was something that was stated in 2005. So, the Act came into force only in October 2005. So, from there on, it was expected that within 100 days of the enactment of the Act, every public authority must designate as many offices as it requires as central public information officers and state public information officers. As you know, central public information officers apply to central government institutions and state public information officers apply to state government institutions.

Now, under the state, do not forget that state public information officers are to be appointed vis-a-vis the 73rd and the 74th Amendment to the Constitution in terms of the municipalities, the panchayats so on and so forth. And what will the role of these PIOs be? It would be in terms of providing the requested information under the Right to Information Act. And hence I think the public information officers are not specially employed. They are not specially recruited. They are existing officers in a government organization who would act as the public information officers.

In addition to their basic role they would be designated as public information officers to facilitate the right to information under this legislation. Now, one would assume that this section deals with some of the key functions that are required and necessary to be played by the PIOs. You would notice that when we are talking about the role of the public information officers, they are very, very important.

And hence, I think the public information officer should be a persons who can command the respect of the organization, who can command the respect of other officers who are probably in a managerial and a senior position so that they can call for records, they can provide for them. They can probably seek photocopying, printout, they can summon, you know, information from other divisions. And hence it cannot be a person who is probably doing a basic clerical role, but somebody who is in a managerial position and that makes the functioning of the PIO very, very important.

And you will also notice that the reason why I am talking about the seniority of the public information officer is for the simple reason is that. If a public authority fails in providing information, it is the PIO who will be punished, will be penalized and hence this position or this designation comes with huge responsibility, coupled with the huge liability. What is also core and important is that the responsibility of providing information is not a mere responsibility of providing that information at any given point of time. There is a timeframe within which the same information has to be provided for.

So, if the PIO designated does not have the resources at his summons or does not have the capacity to you know get things done within an organization due to the position that he normally

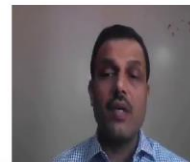
holds, then he will be crippled in his functioning and he probably will fail in providing the requisite right to information. Interestingly, the time bound manner of appointment within 100 days applies to those kinds of public authorities, which are to you know already government organisations.

However, there are many public authorities which were declared by the Central Information Commission or by the courts as public authorities and hence from those decision dates, within 100 days, they would be mandated to appoint a public information officer. So, these are probably some of the preliminary points that I would want to start off with in trying to introduce you to the role and probably who the public information officer normally would be.

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PIO

- No qualification. No limit to number of officers who can be designated as PIO
- Liaison officer between Citizen and Government.
- All PAs must designate PIOs within 100 days
- APIO.



Now, first and foremost, you should know that there has been a lot of grievances among government officers about who should be the public information officer. The reason obviously is because the law prescribes a liability and that liability is pretty huge. It is about 250 rupees per day to a maximum of 25000 rupees for denial on the right to information. And this is the personal penalty to be paid by the PIOs. And this is in every case where they commit a default is in terms of the Right to information. And hence people in the initial days were not very acceptable to be designated as the public information officer. And they protested this designation.

And hence the simple question to be answered here right now is under the Right to Information Act, is that a qualification prescribed about who should be the PIO. That we know the some kind of qualification prescribed for who should be appointed as information commissions commissioners. So, however there is no qualification prescription for either the first appellate authority or the public information officer there's no qualification.

So, the existing government officers can be designated. They do not have to be from group A, they do not have to be group B. I would never say who should be the PIO. So, I think it is up to the organization about who they wish to designate as a PIO. So, there is no qualification, there is no experience required in this circumstance. For example, in the income tax department, every

income tax officer has been designated as a public information officer. That is how that organization wants to designate PIOs. So, every organization has designation to go about meaning these designations and probably they would do that considering the pyramidal structure about where the organization is to hold that organization who should be held responsible to provide that information within that organization.

So, I think PIOs could be at the divisional level, they could be at the sub divisional level, they could be people, you know, at even a regional level. If you can ask me where, probably there is a requirement for a person to liaison with the citizens in terms of receiving those applications and providing the information. So, I think organizations must decide where they should designate the officer as a public information officer, who should be designated as a public information officer.

And what are the functions that they should discharge under the Right to Information Act. Second, you know, an organization does not have a limit to the officers who can be designated as public information officers. So, I think to be honest and fair enough to the way in which the RTI regime has to be administered, I think every officer in a public authority is a public information officer because every officer has certain information, every officer is the custodian of certain information.

And in that sense, for that information which is in the custody of an individual officer, I think he is a public information officer. And I think if a citizen wishes to file an RTI application, he can probably request any public information officer, any government officer to accept the same. So, it is just about whether you are officially designated or not.

But I think as a public servant, every public servant is a public information officer, is what I want to state here. However the law does not prescribe as to how many PIOs should be designated in a public authority and hence the public authority is free to decide the number of PIOs they can probably designate PIOs as per subject matter.

For example, for finance they can have a PIO, for audit they can have one more PIO, for employee related matters or service related matters they can have another PIO, for procurement

they can have another PIO. They can have PIO as per you know divisional or regional basis. So, I think it depends on organizations about how they wish to designate public information officers. Probably, you know, this list is something that they should rework based on the kind of requests that are coming in, the kind of, you know, office procedure that would involve providing the said information.

Second, I think the basic purpose of the public information officer is to lie in between citizen of the government. So, he is the communication channel. So, his attitude becomes very important in terms of the Right to Information Act. So, I think somebody who is proactive, somebody who believes in sharing information, believes in openness, will serve the public authority pretty well. I think PIOs must not only be designated, but they should also be trained. I believe that they should be trained not only in the nuances of the Right to Information Act.

But also in terms of the attitudinal shift and change that is required after the enactment of this legislation, which clearly depicts that the public information officers must rethink from their attitude of being a government servant to that of a public servant, which means they must serve the people and their attitude should be such to facilitate the right to information, they must rather do their best to disclose and only in exceptional circumstances withhold the information as the case may be.

And hence, I think being the liaison officer, picking the right people with the right attitude to be the PIOs will be probably the first important step for public authorities to ensure the success of the RTI in their organizations. What is important and relevant in this context is that the Act also has a provision for appointment of an APIO, that is assistant public information officer.

So, PIOs could be people with managerial, senior positions. However, you could have other staff in your organization being designated as assistant public information officers. Now, what happens is that APIOs are very, very relevant and important because they could be at the panchayat level. At the municipal level, they can be people who can actually spread the operation of the RTI wide and far. And I think this is important because when you talk about district level public information officers, their reach is very minimal.

And I think the task also gets quite cumbersome in that sense, especially to those public authorities that have a lot of citizen interface, or which have consumer interface or probably that deal with you know citizens on a Day-To-Day basis by providing numerous services. For example, I can think of organizations like the municipal corporation that provides numerous services to citizens in a municipal area. I think they are flooded with a lot of RTI applications because, one there is a lot of literacy in municipal areas.

People are aware of their rights and people want to be, you know, exercising and holding the government accountable for those services. In those places it makes a lot of sense to have a number of officers designated as APIOs. I think I can give the example of the electricity department. You know you want a lot of APIO to be appointed, even at the billing sections, so that wherever there is a dispute regarding the bills and information is sought randomly to clarify or to seek you know the services of the electricity department, I think the person who is at the desk, the person who is at the reception, the person who is at the lobby and the person who actually facilitates the citizen to come in and go out should be designated as an assistant public information officer. I think the responsibility of the assistant public information officer is critical because he then, you know, facilitates the role of the PIO. He is that to access the PIO, is that access the public authority. And please note, he is also there to assist the citizen as the case may be.

So, I think the role of the APIO is very, very important. And I think the Right to Information Act recognizes that role as well. So, we will further look at the timeframe under the Right to Information Act. Now, you will notice that if the application is put to the public information officer that is one time within which the information should be provide. But if the application is put to the APIO, there is one time frame.

So, that is how the law has taken care of the role of the APIO. So, the APIO gets the statutory recognition and there is an additional time frame work that has been established so that his duties are performed effectively and he can actually coordinate with the PIO for providing the said information.

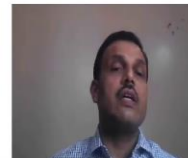
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(3) Every Central Public Information Officer or State Public Information Officer, as the case may be, shall deal with requests from persons seeking information and render reasonable assistance to the persons seeking such information.



• **Responsibility of PIO:**

- 1. Receive application and give acknowledgement.
- 2. Process the application by accepting the application fee
- 3. Deposit the application fee
- 4. If necessary, assist the citizen in drafting the application or putting the oral request into writing.
- 5. Decide whether the information sought can be provided or not.
- 6. access the officer, department, office, desk, where the information is available.
- 7. Seek assistance of any Officer
- 8. Provide the information within the specified time under Sec. 7.
- 9. If information sought belongs to another PA, transfer the application



Now, you know, what is very interesting for us to look at is Section 5(3). Section five three says that every central public information officer as the state public information officer as the case may be shall deal with requests from persons seeking information and render reasonable assistance to the persons seeking such information.

Now, I think Section 5(3) very clearly depicts the kind of attitudinal shift that is required in a public authority through the PIO. The PIO is supposed to render reasonable assistance to the person seeking such information, so is there to assist facilitate who operate the right on behalf of this organization? So, the functions of the PIO have been very clearly stated and he shall deal with the requests that are coming from citizens on seeking information.

So, he is the contact person. So, he deals with it. And while dealing with it, please note he has the following responsibilities as we may want to put it across. The first and the foremost responsibility of the PIO is to receive RTI applications. Now, please note receiving RTI application PIO is probably the most important person, and he should accept these applications and give an acknowledgement.

Now, very often than not, we find that the public information officer may not be physically

present on the desk to receive such an application, and hence the application may be received by APIO. So, this is the coordination that is to be organized in a public authority. Now, receiving applications and giving acknowledgement is a primary function. That means there is evidence that the application is received.

The same has to be given to the citizen. Now, the PIO almost organizes office in such a manner that the citizen is not put to any discomfort and no time is lost in giving the acknowledgement and receiving the application. The reason why I have been insisting upon this is that, look, you are dealing with a right, you are dealing with a fundamental right, as the Supreme Court wanted to say it from time to time and today you are dealing with a statutory right.

And hence when there is a right any delay in accepting an application may amount to has it may amount to denial, it may amount to you know delaying exercise of the right to information. And hence if a public authority is concerned about ensuring and protecting the right which is their duty under law both constitutions as well as statutory they will have the process where the citizens can automatically come give the application without waiting and an acknowledgement is done. And hence what PIOs can do, is that they can have at the reception itself in any building of a public authority, a place it could be the tapal section, it could be the reception or the lobby section where citizens can file RTI applications and they need not probably go in search of the public information officers individually or in particular matters. So, I think an application can be received by the PIO or by the APIO or any other person designated to receive that application on behalf of the PIO.

So, this process has to be ensured, though it is the responsibility of the PIO to receive. I do not think an organization can make the PIO the sole person responsible for implementation of RTI. I think the implementation of the RTI is a collective responsibility. It is every individual's responsibility. PIO may be the designated person. However, I do not think he can fulfil the responsibilities under the RTI without the cooperation of every individual, including the boss, including the head of that kind of an organization.

So, that collective spirit and collective responsibility, if it has to be ensured, then in that instance,

the PIO must provide for a system where applications can be received, either in his absence if he wishes to do that personally, and individually. But despite his absence, I think that must be a system procedure for receiving that application as well. The second responsibility the PIO is to process the application by accepting the application fee. Now, we all know that under the Right to Information Act unfortunately the right is not a free right, it is something for which a nominal fee is charged.

And we know that the Right to Information Act is a substantive law. And the fees are prescribed in the rules and the Right to Information Act rules does provide for an application fee of rupees 10. This is as applicable to central government organizations. Now, the application fee has to be deposited, and this is where the processing does take place. Sometimes you know the application fee is not in the right procedure. That is acceptable by law. For example, we have seen application fees being paid by check. Now, that is not acceptable under the rules.

So, in those circumstances, the PIO may want to return the check back or may want to encash it and facilitate you know it is left to completely the discretion of the PIO. And from there all, he will have to process the application as well. So, the application with an application fee, processing the fee and giving the acknowledgement is something that the PIO is primarily responsible to do. Third, I think he deposits the application fee, in the concerned account, as the case may be, either in the account to the public authority into the RTI fund as the case or as he has been directed to do the same.

So, that is an important function that the PIO is responsible for. Now, the fourth point is something I want to emphasise. I think this is very, very important. See, you will notice that the public information officer has a very critical role. The critical role is that they have to assist citizens in drafting the RTI application, which means the citizen may be illiterate, so he may draft the application and come and deposited the.

What, if illiterate wants to file an RTI? And what he comes out if he comes to a public authority and makes an oral request? Please note under the Right to Information Act. There is a very clear mandate. And the mandate is it is the duty of the PIO and APIO to put that oral request to

writing, accept the application fee and process it. This is probably one of the most important sentences, I would say, or the important sections or the mandate under the RTI, which clearly depicts the changing circumstances in the legal system.

So, the PIO is there to facilitate, to assist and protect the right to information of the citizen. So, it is the duty of the PIO to assist the citizen in making that application. So if the application is not in the proper form. And probably then he has to request the citizen to put it in the proper format and it is his duty to actually.

So, this is what so the PIO is not only representing his organization is also there to access the citizen and the exercise of his right to information. So, people who can write, file or make the application themselves, people who cannot, can simply walk up to PIO and make a request in oral that is also something that can be done under the Right to Information Act vis-a-vis the PIO.