

F.No.I-34011/20/2006-IWSU
Government of India
Ministry of Environment & Forests

Paryavaran Bhawan,
CGO Complex, Lodhi Road,

New Delhi, the 21st November 2006,

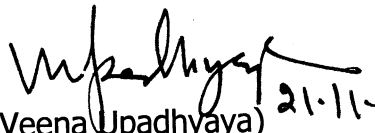
All officers of upto SO level
All Heads of Organizations/Subordinate offices/Regional Offices/
Autonomous Institutions

Subject: - Clarifications for facilitating - Implementation of RTI Act, 2005 - Reg-Reference discussions in the meeting held on 27.09.06 under the Chairmanship of Secretary (E&F)

A meeting to discuss these problems was held on 27th September 2006, under the Chairmanship of Secretary (E&F). Clarifications and responses provided to doubts/queries raised have been recorded in a tabular statement. The detailed Minutes of the Meeting are available on the Ministry' website (i.e. <http://envfor.nic.in>), under the Head "RTI Act, 2005".

2. All the Organizations/ Divisions of this Ministry are advised to carefully refer to these Minutes while disposing of the cases under RTI Act, 2005.

3. Please circulate copies of these minutes and advise officials of up to LDC levels to read minutes on website.


(Veena Upadhyaya) 21.11.06

Joint Secretary(Cons.-I ,NAEB & GC)

Minutes of Meeting to discuss the Problems encountered in Implementation of RTI Act, 2005 held on 27th September, 2006 at 11.30 hrs. under the Chairmanship Secretary(E&F)

1. The list of participants is at Annexure -I
2. The points raised and the substance of decision taken against each of them are recorded in the following tabular statement:

Sl. No.	Issues	Responses
1.	Whether 'as on today', copies of file notings can be given, if asked for.	<p>The DOPT web-site says that copies of notings are not covered by the Act. However, the CIC has held that copies of notings may be given unless otherwise privileged or exempted under Section 8 or 9 of the Act or if relates to cases under process as clarified by CIC during a meeting between the CIC and Secretary (E&F) and JS (Cons. I & GC).</p> <p>It was decided that action be taken as per the advice tendered by CIC.</p>
2.	In one application what quantum of information can be supplied?	<p>An application seeking information on inter-related aspects may be treated as one. However, if an application seeks information on unrelated aspects, the applicant be advised to submit separate applications.</p> <p>On the question of dealing with applications seeking voluminous records, the PIOs were advised to act under the provisions of Sector 7 (9) which provides that an information shall ordinarily be provided 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.</p>
3.	The Ministry of Environment & Forests has a number of subordinate offices/ autonomous bodies under it. If the applicant asks information, say about ICFRE, which is available only with ICFRE, whether the Ministry of Environment & Forests is duty bound to get from ICFRE	<p>Such a case will be governed by Section 6 (3) which provides for transfer of application to the concerned public authority and immediate information to the applicant about such transfer.</p> <p>Such a transfer is to be made within 5 days from the date of receipt. The</p>

	<p>and supply it to the applicant? If so, whether this also has to be supplied within the prescribed period of 30 days? Sometimes ICFRE might need to ask this information from its institutions at Bangalore, Coimbatore, and Jorhat etc.</p>	<p>30 days period will get extended to that extent.</p>
4.	<p>The application received in the Ministry of Environment & Forests are marked to the designated Chief Information Officers in each Division which further goes down to the level of Dir./US/SO/Asstt/UDC or LDC who is the ultimate custodian of the file containing the document/information. All the level must ensure that the information is provided to the applicant within the period prescribed. In case it is not made available in time and fine is to be imposed, what would be the criteria for fixing responsibility for imposing fine at each of these levels?</p>	<p>The designated CPIO can obtain assistance under Section 5 (4) from any of the officers or officials under him/her. Section 5 (5) provides that for the purpose of any contravention of the provisions of this Act, the officer/official whose assistance is sought shall be treated as CPIO or SPIO as the case may be.</p> <p>The main reply should be signed by the CPIO. However, in the event of any exigency, the reply may be signed by another officer whose assistance was sought after duly recording the approval of designated CPIO.</p> <p>The interim communications in a case on issues like payable fee or ascertaining convenient date for perusal of the file, etc., can be sent under the signatures of any of the officers/officials under the designated CPIO.</p>
5.	<p>Whether there is any institute/organization which can impart training to the officers on various provisions of RTI?</p>	<p>As per DoPT, the ISTM and NIPA (a private agency) are recommended to impart training to the officers on various provisions of the RTI Act.</p> <p>It be ascertained from National Productivity Council if they can conduct the RTI training programme at Delhi.</p> <p>JS (PA-II) suggested institutes, namely, CHRI and YASHDA, an institute of the State Govt. of Maharashtra.</p>
6.	<p>Photocopying an information or part of information available in a document is OK, but what about asking several pieces of information (though related) from several documents/ files, separately</p>	<p>In case of an applicant asking for several pieces of related information dealt with by different CPIOs, the CPIO concerned with the first part of the request will deal with the reference. He/she will act as the</p>

	preparing it for the applicant-	coordinator and obtain inputs from other CPIOs and sent the reply to the applicant from his level.
7.	Can application be accepted or rejected as incomplete, where (i) application addressed wrongly (to CCF or CF instead of PIO) (ii) draft made in favour of wrong person instead of DDO	An application which is addressed wrongly or is accompanied by inadequate fee/unapproved mode of fee or is in favour of unauthorized person will be rejected. And applicant informed about the grounds of rejection.
8.	An application received by e-mail, can it be treated (i) as incomplete & liable to rejection as DD can't be sent by e-mail. (ii) If it is to be accepted, from which date the receipt be given, i.e. after the actual DD is received or before?	Applications received by e-mail must be accepted provided details of fees paid are given, checked and found to be correct.
9.	What is the prescribed fee to be collected fro applicants for? (i) photocopy a sheet (ii) information on CD (iii) information by e-mail per page	The rate for collection of various information are given in the Rules on the DoPT web sites, the rate of photocopying a A4 size sheet may be Rs. 2/- and information on CD may charged at Rs.50/-
10	Can the information, under processing and not yet disposed, be given, about (i) complaint received from elsewhere (ii) Diversion proposal (iii) Violation case etc.	Any information which is under process and where decision is yet to be taken, cannot be given to the applicant. It was also directed that no complaint can be entertained to RTI, as RTI is not a grievance- redressal mechanism.
11.	Maximum period can be asked:- (a) is it 3 years for each application or total 3 years from today? (b) Up to how far back, can it be asked?	As far as the maximum period for which information can be provided, the Act provides information of upto 20 years oldness as per Section 8 (3). It was decided to make a reference to DoPT on amending it to make it compatible with prescribed period of retention of records.
12	If information sent to applicant by e-mail or fax, how receipt from the	A copy of mail sent can be kept, as record. Besides, the Receipt Tool

	party can be obtained?	provided in the e-mail may be invoked.
13	In cases where not able to meet the deadline, CPIO has to refund the amount collected for providing information. However, this Ministry is not able to refund the money, as there is no head created under RTI Act.	Controller of Accounts (E&F), has informed that a separate 'receipts head' under RTI Act has been created.
14	How to incur expenditure for outsourced services in terms of photocopying and electronic copies etc.?	As far as the expenditure for outsourced services in terms of photocopying and electronic copies is concerned, the GA Division should get the budgetary allocation suitably augmented. DoPT may be requested to urge Dept. of Expenditure to provide suitable enhancement in office expenses on this account. As for arrangements for photocopying, particularly, in case of bulk papers, the arrangement entered into by Parliament Section with an agency may be explored for appropriate assistance.
15	Course of action to be taken if application received directly by CPIO.	In case of application received by CPIO directly, it has to go to GC Section which will mark it to the concerned CPIO, in order to have centralized data.
16	Evidence of being a member of BPL category for exemption of fee.	A photocopy of Below Poverty Line (BPL) Card/ details of the card may be noted by IFC for the evidence of being a member of BPL category for exemption of fee.
17	Modality of updating CIC's website.	As far as modality of updating CIC's website is concerned, it will be done centrally by GC Division, and not by the single PIO, as desired by CIC office.
18	Change of e-mail address with change/ transfer of CPIO.	E-mail of CPIOs/ Appellate Authority may be maintained as per their designation and not as per their name. In this regard ENVIS Cell/ NIC of the Ministry may be consulted/ approached.
19	Precise implications/ interpretation of action done in 'good faith' and 'persistent failure'.	CIC may be requested to prepare a manual of all cases handled so that the same can be supplied to CPIOs.

		<p>This will help in interpretation/implication of words like 'In good faith' (Section 21).</p> <p>The term 'persistent failure' may be interpreted as 3 consecutive contraventions [Section 20(2)].</p>
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3. In addition, the following clarifications also emerged:

(a) In case of appeal, it is for the appellate authority to decide whether to call the appellant for personal hearing. In such a case, the appellant will be bearing the cost of travel.

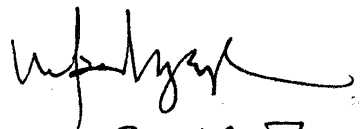
(b) Endorsement of a copy of appeal by appellant to CIC does not require any action on part of appellate authority, viz a viz. CIC.

(c) The payment of fee, if paid through one of the prescribed modes, regardless of which Government Ministry/Dept/Organisation it is paid to, will be treated as valid.

(d) A case will be treated as finally decided for the purpose of being eligible for copies of documents to be given to an applicant under the Act only after it has had final clearance based on multiple clearances by Divisions like IF, Law or the concerned technical division.

(e) The Section 11 (2) provides for representation by the third party against the proposed disclosure. However, the details of the appellate authority and the concomitant procedure are not provided in the Act. A reference will be made to DoPT on this issue.

4. The meeting ended with a vote of thanks to the Chair.


30-10-06

Annexure I

List of officers present in the meeting taken by Secretary(E&F) on 27.09.06 on RTI

S. No. Name with Designation

1. Shri.B.S Parsheera, Addl. Secretary(Cons).
2. Ms. Veena Upadhyaya, Joint Secretary (Cons-I).
3. Sh. R.K. Vaish, Jt. Secretary(PA-I)
4. Shri.Sudhir Mital, Joint Secretary (CCI-I).
5. Shri R. Chandra Mohan, Joint Secretary(CCI-II)
6. Shri J.M. Mauskar, Joint Secretary (PA-II)
7. Sh. R.B. Lal, IGF(WL)
8. Sh. A.N. Prasad, IGF cum Dir(PE)
9. Sh. B.R. Sharma, Member Secretary (CZA)
10. Sh. R.S. Ahlawat, Eco Adviser
11. Shri A.K. Trivedi, Chief Engineer (CCU)
12. Shri R. Mehta, Adviser (EE)
13. Sh. S. Jagannathan, Director(IFD)
14. Shri J.L. Chugh, Director.(FE)
15. Shri Sanjiv Swarup, Director (NRCD)
16. Sh. A. K. Johari, Director.(Admn & GA)
17. Sh. D.K Garg, EE, CCU
18. Sh. M.A. Haque, Director
19. Smt. Somya Dave, Director,(AW)
20. Shri Hussain Ahmed, Director.
21. Shri Rashid Hasan, Addl. Director.
22. Shri D. Bandopadhyay, Director(EI)
23. Ms. R. Warriar, Addl. Director.
24. Shri A.K.Joshi, AIGF
25. Shri Sandeep Saxena, Controller of Accounts
26. Ms. Dias E Maria., Dy. Secretary (GC)
27. Shri M.L. Parashar, US (NRCD)
28. Shri.R.K. Arora, US(CP)