



**THE  
JAMMU & KASHMIR GOVERNMENT GAZETTE**

Vol. 121] Jammu, Fri., the 20th March, 2009/29th Phal., 1930. [No. 51-5

Separate paging is given to this part in order that it may be filed as a separate compilation.

**PART III**

**Laws, Regulations and Rules passed thereunder.**

**GOVERNMENT OF JAMMU AND KASHMIR  
CIVIL SECRETARIAT—LAW DEPARTMENT**

Jammu, the 20th March, 2009.

The following Act as passed by the Jammu and Kashmir State Legislature received the assent of the Governor on 20th March, 2009 and is hereby published for general information :—

**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 to secure access to information under the

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 :—

## CHAPTER I

### Preliminary

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

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

(3) It shall come into force at once.

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" means any material in any form including records, documents, memos, e-mails, opinions, 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 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" means any authority 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 ;

- (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 any—
  - (A) body owned, controlled or substantially financed ;
  - (B) non-Government organization substantially financed, directly or indirectly by funds provided by the Government ;
- (g) "Public Information Officer" means the Public Information Officer designated under sub-section (1) and includes a Assistant Public Information Officer designated as such under sub-section (2) of section 5 ;
- (h) "record" 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" means the right to information accessible under the Act 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 documents or records ;

- (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" 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 residing in the State shall have the right to information.

4. *Obligations 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 ;

- (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 endeavour of every public authority to take steps in accordance with the requirements of clause (b) of sub-section (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. *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 sub-section (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 of any other officer as he or she considers it necessary for the proper discharge of his or her duties.

(5) Any officer, 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.

6. *Request for obtaining information.*—(1) A person, who desires to obtain any information 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, to—

- (a) the Public Information Officer of the concerned public authority ;
- (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 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 subsection shall be made as soon as practicable but in no case later than five days from the date of receipt of the application.

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 on payment of such fee as may be prescribed or reject the request for any of the reasons specified in sections 8 and 9 :

Provided that where the information sought for concerns the life or liberty 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 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 despatch 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

provided is sensorily disabled, the Public Information Officer shall provide assistance to enable access to the information, including providing such assistance 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 :

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 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.

8. *Exemption from disclosure of information.*—

(1) 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, 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 of Parliament or the State Legislature ;
- (d) information including commercial confidence, trade secrets or intellectual property, the disclosure 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 ;
- (e) information available to a person in his fiduciary relationship, 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 the process of investigation or apprehension or prosecution of offenders ;
- (h) cabinet papers including records of deliberations of the Council of Ministers, Secretaries and other officers :

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

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 the disclosure of which has no relationship to any public activity or interest, or which would cause unwarranted invasion of the privacy 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 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 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 subsisting in a person other than the State.

10. *Severability.*—(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 sub-section (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, or part thereof on a request made under the Act, which relates to or has been supplied by a third party and has been treated as confidential 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

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) 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.