

RIGHT TO INFORMATION ACT, 2005

RTI ACT – AIMS

- Democracy requires informed citizenry and Transparency of Information in functioning
- Contain Corruption and to hold Governments accountable to the governed
- **Harmonising the conflicting interests of revelation of information, and preservation of Confidentiality of sensitive information**
- Setting up of Practical Regime of RTI for Citizens
- Secure Access to Information under the Control of Public Authorities
- Promote Transparency and Accountability in the working of Public Authorities

The Right to Information Act, 2005 (No. 22 of 2005)

- **Passed by Lok Sabha:** **11th May 2005**
- **Assent by the President:** **15th June, 2005**
- **Appointment of Public Information Officers (PIOs) and Asst. PIOs :** **22nd September, 2005
(100 days from enactment of Act – June 15, 2005)**
- **Proactive Disclosure by Public Authorities to be completed :** **12th October, 2005
(120 days from enactment of Act- June 15, 2005)**

Right to Information Act, 2005

Applies to:

- Whole of India, both Central and State Governments (except J&K).
- All “Public Authorities” covered by the Act.

Does not apply to:

- 18 Intelligence and Security Organizations of the Central Government
- Intelligence and Security Organizations as may be notified in the State Government
- **This Act Contains Six Chapters and 31 Sections**

Chapter I: Preliminary

- **Sec 1:** Short Title & Commencement
 - The Provisions of sub-section (1) of section 4, sub-sections (1) and (2) of section 5, sections 12, 13, 15, 16, 24, 27 and 28 shall come into force at once
 - The remaining provisions shall come into force on the one hundred and twentieth day of its enactment.
- **Sec 2:** Definitions

Right to Information

Sec.2 (j)

- inspection of work, documents, records
- taking notes, extracts, or certified copies of documents or records
- taking certified samples of material
- obtaining information in the form of diskettes, floppies, tapes, video cassettes or in any other electronic mode or through printouts.....

Information

Sec.2(f)

- Any material in any form
- including records, documents, memos, e-mails
- opinions, advice, press releases, circulars, orders
- logbooks, contracts, reports, papers, samples, models
- data material held in any electronic form
- information relating to any private body which can be accessed by a public authority

Record

Sec. 2 (i)

- **Any document , manuscript and file**
- **Any microfilm, microfiche, and facsimile copy**
- **Any reproduction of images embodied in microfilm**
- **Any other material produced by a computer or any other device.**

Public Authority

section 2 (h)

- Any Authority or Body or Institution of Self-Government established or constituted:
 - (a) by or under the Constitution
 - (b) by any other law made by Parliament
 - (c) by any other law made by State Legislature
 - (d) by notification issued or order made by the appropriate Government
 - (e) body owned, controlled or substantially financed
 - (f) Non-government organizations substantially financed, directly or indirectly by Govt. funds.

Chapter II: RTI & Obligations of Public Authorities

- **Sec 3** : Right to Information
- **Sec 4** : Obligation of Public Authorities
- **Sec 5** : Appointment of PIOs/APIOs
- **Sec 6** : Request for Information
- **Sec 7** : Disposal
- **Sec 8** : Exemptions
-
- **Sec. 9** : Rejection
- **Sec 10** : Severability
- **Sec 11** : Third Party Information

- *Right to Information*
Section – 3

- **All Citizens shall have the right to information.** (Subject to the provisions of this Act)

Obligation of Public Authorities

Section 4

- **Sec 4 (1) (a)** Maintain records
- **Sec 4 (1) (a)** Computerize the records
- **Sec 4 (1) (b)** Proactive Disclosure of Information
- **Sec 4 (2)** Dissemination of Information
- **Sec 5 (1) & (2)** Designate PIOs / APIOs

Maintenance of Records

- **Classifying records**
- **Indexing records**
- **Preparing a catalogue of records**
- **Proper Maintenance of Record room**
- **Trained Record Keeper.**
- **Arranging the Records in order.**
- **Accessibility to Records**

Proactive Disclosure of Information – Sec 4 (1) (b)

Information to be disclosed proactively disclosed within 120 days from the enactment of this Act

- **Particulars of organisation, functions and duties**
- **Powers and duties of officers and employees**
- **Procedures in decision-making process**
- **channels of supervision and accountability**
- **Norms set by it for discharge of functions**
- **Information regarding the rules, regulations, instructions used for the discharge of its functions**
- **Statement of categories of documents held by it and under its control**

Proactive Disclosure of Information – Sec 4 (1) (b)

- **Information on policy formulation/ implementation**
- **Statement of the Boards, Councils, Committees etc.**
- **Monthly remuneration of officers/employees**
- **Budget allocated to each of its agencies**
- **particulars of all plans, proposed expenditures and reports on disbursements made**
- **Execution of subsidy programmes, the amounts allocated & the details of beneficiaries of such programmes**

Proactive Disclosure of Information – Sec 4 (1) (b)

- **Details of information available in an electronic form**
- **Particulars of facilities available to citizens for obtaining information**
- **Names, designations and other particulars of the Public Information Officers.**

Sec 4 (1) (c)

- **Relevant facts formulating important policies which affect the public to be published**

Sec 4 (1) (d)

- **Reasons for its administrative or quasi- judicial decisions to be provided.**

Dissemination of Information Sec- 4 (4)

All Materials shall be disseminated taking into consideration

- **Cost effectiveness**
- **Local language**
- **Most effective method of communication in that local area**
- **Easy accessibility**
- **Available with the PIO to the extent possible in electronic format**
- **Available free or at such cost prescribed.**

Public Information Officers

Section 5

- Receive applications for Information
- Render reasonable Assistance
- Furnish Information/ Reject on sufficient grounds.
- APIO receives application or Appeal and forward the same to PIO or Appellate Authority within 5 days

Responsibilities of Public Information Officer

- **Receive applications for Information**
- **Render reasonable Assistance to the persons seeking information**
- **Seek assistance of any other officer if necessary**
- **Send intimation about the fee required to be paid for furnishing the information**
- **The calculations made to arrive at the fee shall also be furnished**
- **If the information seeker is a disabled person appropriate assistance to be rendered**
- **Provide information in the as requested by the applicant with in stipulated time.**
- **Reject the application if it comes under exemptions**

Responsibilities of Asst.Public Information Officer

- **Receive application for information or appeal**
- **Forward the same to the concerned within five days**
- **Render reasonable assistance to reduce the application in writing**
- **Scrutiny whether the application is enclosed with required fee or BPL certificate**

Application for Information

Section 6

- In writing
- In English, Hindi or official language of the Area
- Specifying the particulars of information sought
- No reason need to be given
- Accompanied by fee or BPL Certificate

Disposal of request – Section 7

- **with in 30 days in general cases**
- **with in 48 hours, where the information sought for concerns the life or liberty of a person**
- **collection of required fee by intimating the applicant**
- **Calculations made to arrive at the fee shall also be furnished**
- **The period intervening between the despatch of the intimation and payment of fees shall be excluded.**
- **Applicant is having right to review the fees charged and to go for appeal on that.**

Disposal of request – Section 7

- **The particulars of appellate authority , time limit, process to be informed.**
- **If the PIO fails to furnish the information within stipulated time the same shall be provided free of charge.**
- **If the decision on the request is not given in time, the request to be deemed to have been refused by the PIO**
- **If PIO rejects the request for information, reasons must be stated , referring relevant sections.**
- **Time limit for appeal, details of AA also to be informed**

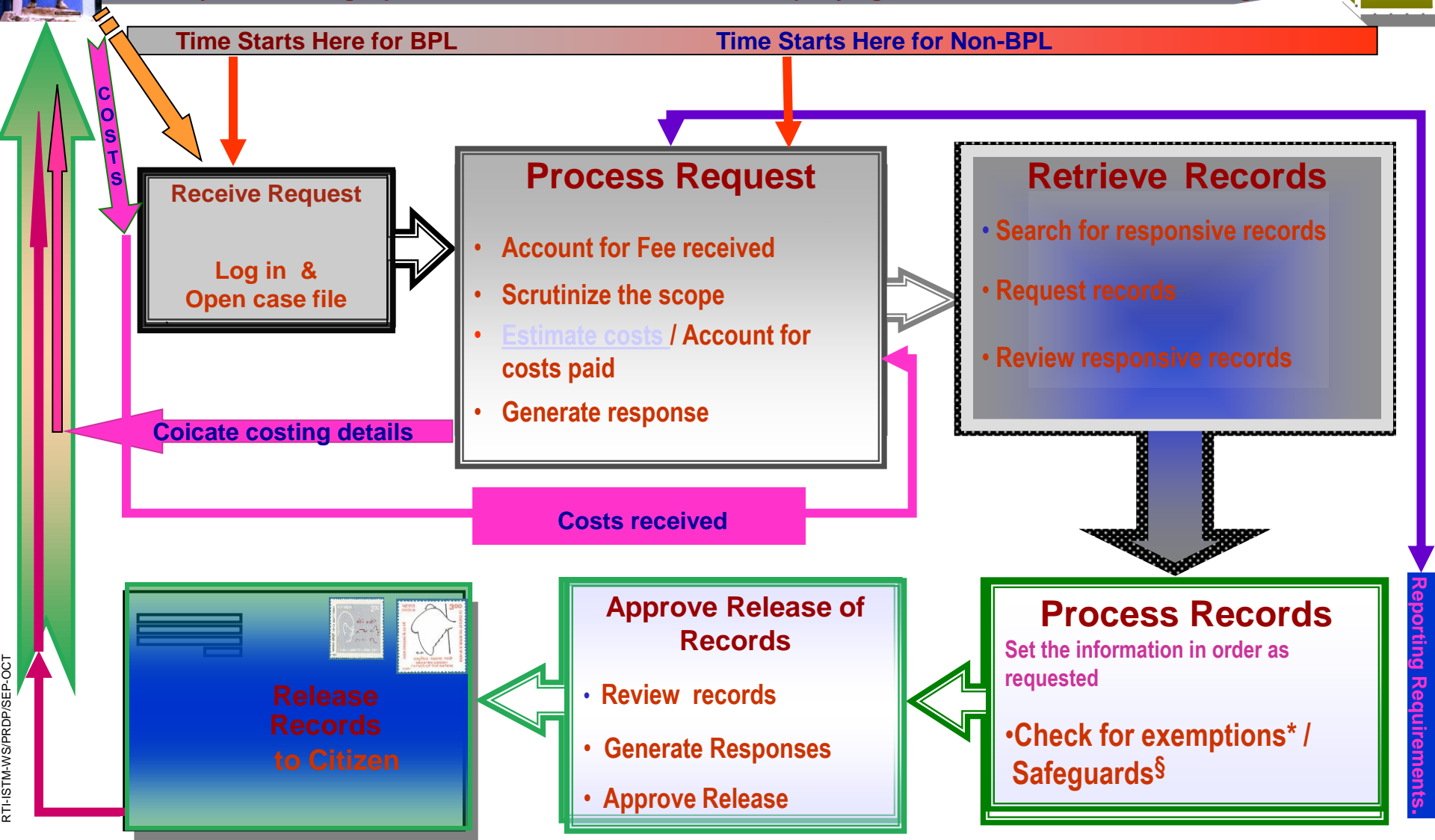
From Request to Response - Follow Guiding Principles



Analyze the 7 stage process & 17 tasks - Use the accompanying matrix as a tool for sub-tasking

Time Starts Here for BPL

Time Starts Here for Non-BPL



RT-I&TM-W&S/PRDP/SEP-OCT

*Proportionate to legitimate aims of protection \$ Against Conflict, Insecurity, Privacy & undermining government work

Exemptions from Disclosure of Information

There shall be no obligation to give any citizen the information which :

- **would affect the sovereignty and integrity of the country**
- **would affect the security , strategic, scientific or economic interests of the State**
- **would affect relations with foreign States**
- **has been expressly forbidden to be published by any court of law**
- **may constitute contempt of court**

Exemptions from Disclosure of Information

- **cause breach of privilege of parliament or Legislature**
- **Includes commercial confidence, trade secrets**
- **Includes Intellectual property rights**
- **available in fiduciary relationship**
- **received in confidence from foreign Government**

Exemptions from Disclosure of Information

- endangers the life or physical safety of any person
- Impede the process of investigation
- Includes records of deliberations of the cabinet, secretaries and other officers
- personal information
- Cause invasion of the privacy of the individual

Exemptions from Disclosure of Information

Information under exemptions can also be furnished

- **if Public interest outweighs in disclosure**
- **Notwithstanding anything in OSA, 1923**
- **Notwithstanding any thing in Sub. Sec. (1), any information, subject to clauses (a), (c) and (i), before 20 years from the date of request shall be provided.**

Protection of copyright Section - 9:

- **Information which involve an infringement of copyright subsisting in a person other than the State may be rejected.**

Severability

Section - 10

- **Providing part of the information which does not come under exemptions.**
- **Reasons for providing part of Information are to be informed to the applicant.**

Third Party Information Section - 11

“ Third Party means a person other than the citizen making a request for information and includes a public authority” Sec. 2 (n)

If the information requested pertains to third party;

- PIO shall give a written notice to the third party with in 5 days from the receipt of request/**
- The third party shall respond within tendays.**
- Except in the case of trade or commercial secrets, disclosure by the PIO allowed, if larger public interest involves and though the third party refused for disclosure**

Chapter III: Central Information Commission

Section 12: Constitution of Central Information Commission

Section 13: Term of Office and Conditions of Service

Section 14: Removal of Chief & Other Information Commissioners (Central)

Section 12- Constitution of CIC

- Constituted by the Central Government
- By notification in the official Gazette
- Chief Information Commissioner and Information Commissioners appointed by the President of India
- On the recommendation of a committee.
- They shall be persons of eminence in public life
- Shall not hold any other office of profit

Section 13 – Term of Office

- **Term of office five years or till attains the age of 65 yrs**
- **Shall not be eligible for reappointment.**
- **Chief Information Commissioner = Chief Election Commissioner**
- **Information Commissioner = Election Commissioner.**

Section 14 – Removal

- **If adjudged an insolvent**
- **Convicted of an offence involves moral turpitude**
- **Engages in any paid employment**
- **Infirmity of mind or body**
- **Acquired financial or other interest as is likely to affect prejudicially his functions.**

Chapter IV: State Information Commission

Section 15: Constitution of State Information Commission

Section 16: Term of Office and Conditions of Service

Section 17: Removal of Chief & Other Information Commissioners

Section 15- Constitution of SIC

- Constituted by the State Government
- By notification in the official Gazette
- Chief Information Commissioner and Information Commissioners appointed by the Governor
- On the recommendation of a committee.
- They shall be persons of eminence in public life
- Shall not hold any other office of profit

Section 16 – Term of Office

- **Term of office five years or till attains the age of 65 yrs**
- **Shall not be eligible for reappointment.**
- **Chief Information Commissioner = Election Commissioner**
- **Information Commissioner = Chief Secretary to the Govt.**

Section 17 – Removal

- **If adjudged an insolvent**
- **Convicted of an offence involves moral turpitude**
- **Engages in any paid employment**
- **Infirmity of mind or body**
- **Acquired financial or other interest as is likely to affect prejudicially his functions.**

Chapter V:

Powers & Functions of the Information Commissions & Appeal and Penalties

Section 18: Powers & Functions of the Information Commissions

- Information Commission has a duty to receive & dispose appeals from the persons;

Information Commission - Powers

CIC/SIC shall have the same powers as are vested in a Civil Court such as-

- **summoning and enforcing attendance of persons,**
- **compelling to give oral or written evidence on oath**
- **to produce documents or things**
- **requiring the discovery and inspection of documents**
- **receiving evidence on affidavit**
- **requisitioning public records or copies from any court or office**
- **issuing summons for examination of witnesses or documents**

Information Commission - Powers

Power to secure compliance of its decisions from the Public Authority includes:

- **appointing a PIO where none exists.**
- **publishing certain information or categories of information**
- **making necessary changes to the records management, maintenance and destruction procedures of the Public Authority.**
- **enhancing training provision for officials on RTI.**

Information Commission - Powers

- Seeking an annual report from the Public Authority on compliance with this law.
- Require the P.A. to compensate for any loss or other detriment suffered by the requestor.
- Impose penalties under this law.
- Reject the appeal.

Appellate Authority

Section - 19:

1st Appellate Authority – Officer Senior in rank to the PIO

- **1st appeal with in 30 days**
- **Appeal shall be disposed with in 30 days**
- **AA can direct the PIO to furnish the information.**
- **Waiver of time limits for appeal.**

Appellate Authority

Section - 19:

2nd Appellate Authority – Information Commission

- against the decision of appellate authority
- with in 90 days
- Waiver of time limits for appeal.
- have the powers as of a Civil Court
- can direct the PIO/ PA to furnish Information
- Can impose penalty
- Can recommend disciplinary action

Penalties

Section - 20:

Every PIO will be liable for penalty for;

- **not accepting an application**
- **Delaying information release without reasonable cause**
- **Malafidely denying information**
- **Knowingly giving incomplete, incorrect and misleading information**
- **Destroying information**
- **Obstructing furnishing of information in any manner**
- **Penalty amount is Rs. 250/- per day to a maximum of Rs.25,000/-**
- **PIO shall be given a reasonable opportunity**

Chapter VI: Miscellaneous

Section - 21 : Protection of action taken in good faith

Section - 22: Act having overriding effect

Section – 23: Bar of Jurisdiction of Courts

Section - 24: Act not applies to 18 Intelligence and Security organizations

Section 25: Monitoring and Reporting

- **Information Commission will send an annual report to the Government at the end of the year.**
- **Details of number of requests received by each Public Authority, number of rejections and appeals, particulars of any disciplinary action taken, amount of fees and charges collected etc.**
- **Each Department has a duty to collect and provide statistics of its Public Authorities and send them to the IC.**
- **Government will table the IC report before House at the end of the year.**

Section 26: Appropriate Government to prepare programmes for Capacity Building

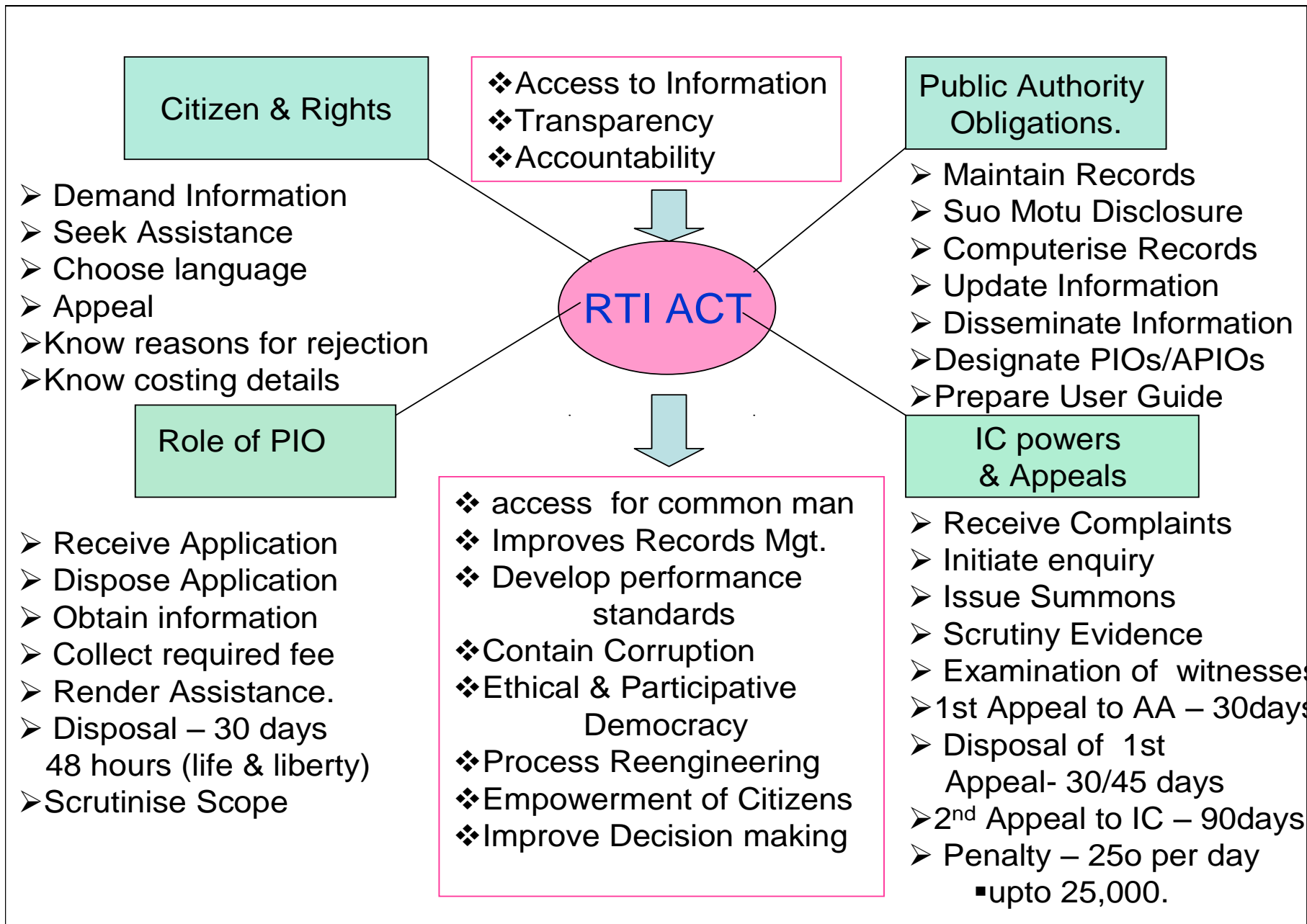
Section 27: Powers to make Rules by Government

Section 28: Powers to make Rules by Competent Authority

Section 29: Laying of Rules

Section 30: Power to remove difficulties

Section 31: Repeal of Freedom of Information Act



Discernible Shifts

- **Request** ➤ **Command**
- **Access to Privilege few** ➤ **Open to Entire population**
- **Opaque and unaccountable system** ➤ **Transparency, open and accountable system**
- **Part of Right to Freedom of Speech & expression** ➤ **Part of constitutional guarantees under Fundamental Rules including Life and Liberty**

Shifts

- **Legal entitlement**
 - **Tool to fight corruption & Arbitrary use of power**
- **Arbitrariness**
 - **Ethical & participative democracy**
- **From Information**
 - **To accountability & beyond**
- **Flow of communication Inward (Superiors**
 - **Outward (Citizens)**

Critical Linkages

- **Improve Records Management**
- **Computerization**
- **Put more information *suo motu* in the Public Domain**
- **Demystification of Information**
- **Contextualize so that its significance is self evident**
- **Facilitating easy access for public**

THANK YOU