



*All that you should know
about*

**“RIGHT TO
INFORMATION ACT,
2005”**

Do you want to ?

- See your ACR's
- See Answer scripts of departmental exams
- See DPC Minutes of Meeting
- Sort out issues like service records/pension/provident fund, etc ?

A large number of RTI Applicants are serving or retired public servants !



Right to Information – around the World

- All developed countries have RTI / FOIA
- 100+ countries have it
- Sweden was the first country to have RTI – in 1766 (Sweden also has a “Right to Inform”)
- India is the 48th country to have this Right
- Nigeria, Ghana, Mauritius, etc. in the process of legislating RTI
- Bangladesh & Nepal have just introduced it
- Evolving process – continuous changes (Canada, Australia, USA, etc.)

Available Information & Common Man

Proactive Disclosure



Before



After

Basic Premises

- Disclosure a rule and Secrecy an exception
- Transparency means public interest
- Public Interest overrides
- Part of Global Process.
- Governance will improve
- Informed Citizenry



Right to Information is a Fundamental Right

Right to Information has been judicially recognised as part of Article 19(1)(a) of Indian Constitution

“All Citizens shall have the right to freedom of Speech and Expression”

For proper enjoyment of freedom of Speech and Expression, it is imperative that correct information is available to the Citizens.

If this is a Fundamental Right then why do we need a special Act ?

- Harmonises conflicting interests
- Formalises a way to obtain information within a legal framework
- Provides machinery and framework for the operational parts of the RTI process
- Provides Enforcement mechanisms
- Provides for Penalties

What the R.T.I. Act States?



To whom does this Act apply?

How to get Information?

Our Role?

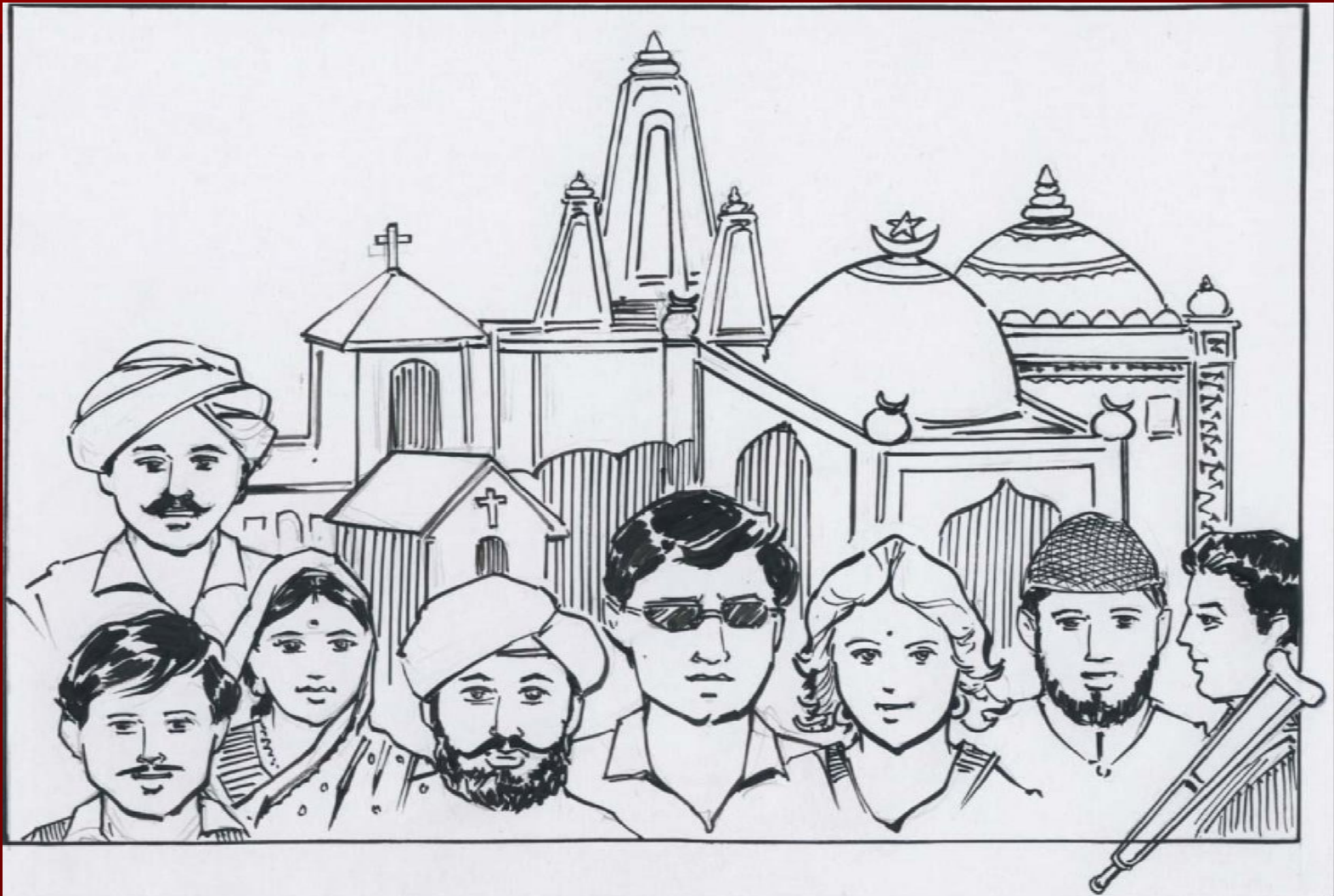
Which is to be given & Which is not to be given?

What should be done, if the Information is denied ?

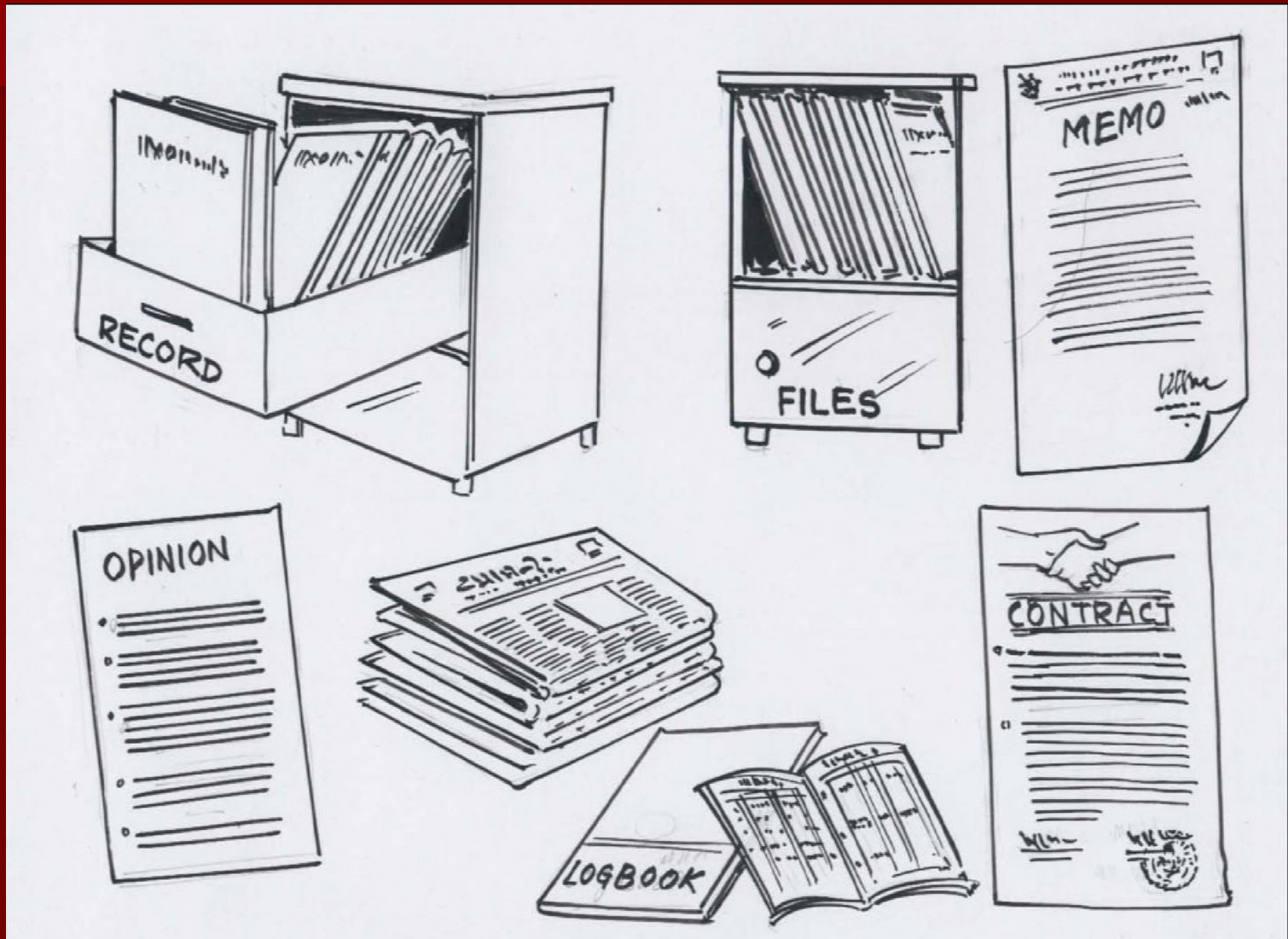
Important Provisions

Section 3

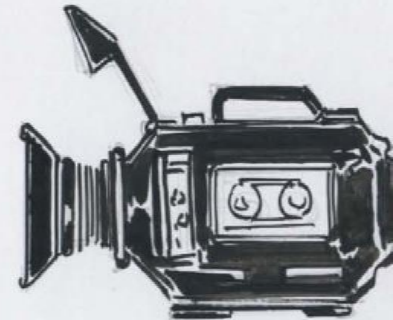
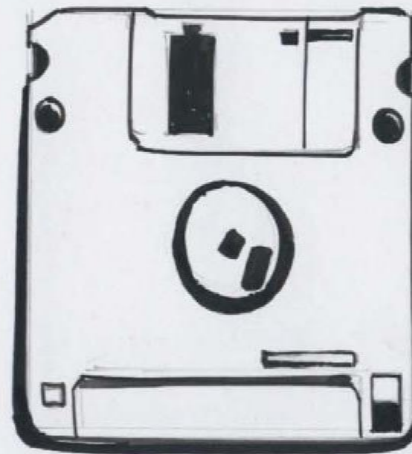
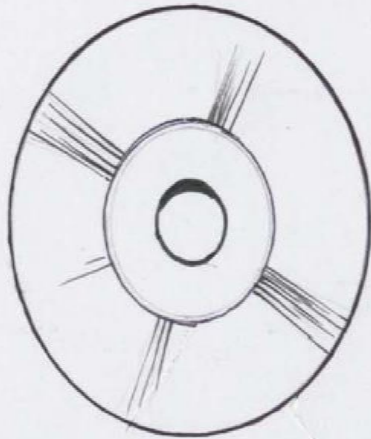
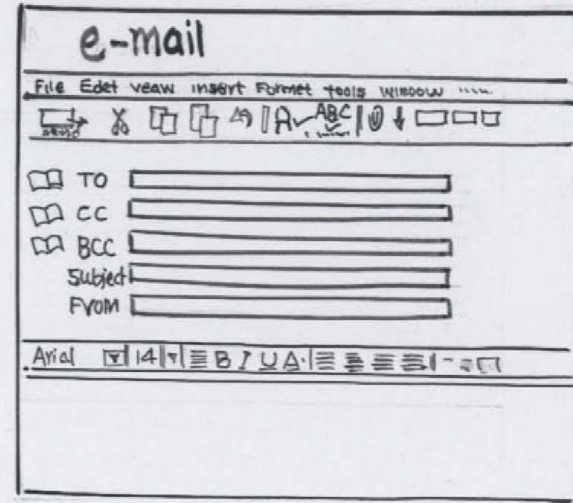
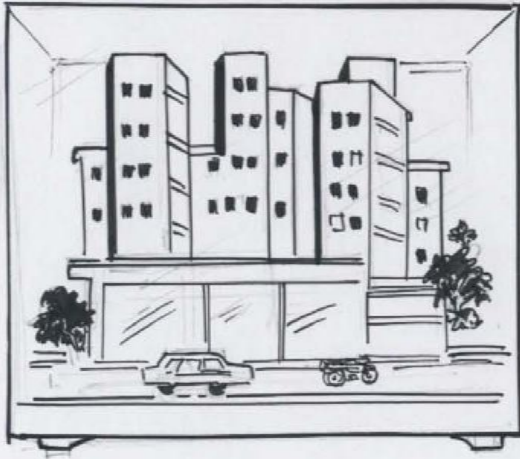
All Indian citizens have the right to information
Even OCI's and PIO's can exercise this right



What is information?



What is information?



What is Information?



- 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 -Section 2(f)

The RTI Act 2005 - Coverage

- Covers central, state and local governments, and
 - all bodies owned, controlled or substantially financed;
 - non-government organisation substantially financed, directly or indirectly by funds provided by the appropriate Government (Sec 2(h))
- Covers executive, judiciary and legislature (Sec 2(e))
- Covers central, state and local governments.
- Includes information relating to private bodies which can be accessed under any other law for the time being in force (Sec 2(f))

What does Right to Information mean?

- It includes the right to -
 - i. inspect works, documents, records.
 - ii. take notes, extracts or certified copies of documents or records.
 - iii. take certified samples of material.
 - iv. obtain information in form of printouts, diskettes, floppies, tapes, video cassettes or in any other electronic mode or through printouts. (Sec 2(j))

RTI Act 2005 - Access

- Universal Access – especially to the Poor
- Fee at a reasonable level. No fee for BPL.
- APIOs at sub-district levels.
- No need to specify reason for seeking information or other personal details
- Provision to reduce oral requests into writing
- Provision to provide all required assistance, including to sensorily disabled persons.
- Information to be provided in local languages
- Provision for damages

The RTI Act 2005 – Important points for PIO's

Sec 5

- PIO to be appointed in every Administrative unit
- If more than one PIO, the first PIO will collect information and supply
- PIO can seek assistance of any officer to get information....such officer is "deemed" PIO
- APIO's can be appointed in subsidiary administrative units
- APIO's can only accept application and pass to PIO or pass appeals to FAA/CIC/SIC

RTI Act 2005 – Sec 6(3)

Transfer of RTI Applications

If PIO feels that subject matter in the application is NOT pertaining to his Public Authority, he is OBLIGATED to transfer the application within **5 days** of receipt to the PIO of the correct/appropriate Public Authority, under written intimation to applicant.

The RTI Act 2005 - Processes

- Application to be submitted in writing or electronically, with prescribed fee, to Public Information Officer (PIO).
- Envisages PIO in each department/agency to receive requests and provide information. Assistant PIO at sub-district levels to receive applications/appeals/ complaints. Forward to appropriate PIO. These will be existing officers.
- Information to be provided within 30 days. 48 hours where life or liberty is involved. 35 days where request is given to Asst. PIO, 40 days where third party is involved and 45 days for human rights violation information from listed security/ intelligence agencies.
- Time taken for calculation and intimation of fees excluded from the time frame.
- No action on application for 30 days is a deemed refusal.
- No fee for delayed response

Application under RTI Act 2005

- Can be handwritten, typed or oral (PIO to help convert oral application into written application)
- Can be in Hindi, English or Local Language
- Should contain name of the applicant and contact details
- No need to give any reason for seeking information
- Must be accompanied by Application Fee of Rs. 10.00 by Cash, D/D, B/C, IPO, etc.
- Can be submitted in any designated Post Office in India (only for Central PA's)

After getting application :

What should PIO do:

- Check whether information required is in his Public Authority
- Written request to “other” officer for information
- Make sure reply is sent within 30 days
- Try to “stamp” all RTI applications and files:
“RTI – IMMEDIATE ATTENTION”
- If “other officer” is not cooperative follow up with reminder in writing
- Can use Sec 5 or Sec 6 (3) for transfer

What should a RTI Reply contain ?

- Must contain Name, designation, address, of the First Appellate Authority
- Date the reply clearly
- Reply to each item in applicants letter point by point and clearly
- PIO must sign the reply himself giving his normal designation as well as PIO
- Make sure reply is sent as soon as possible but within 30 days of receiving the application
- Follow up in Tapal section to avoid delays by despatch clerk

Options before PIO

- Reply to applicant and give information
- Deny information under Sec 8 or Sec 9
- If “third party” is involved, inform them about the application and ask them to file written objections if information not to be given (PIO’s judicious application of “mind” necessary)
- If additional charges to be collected from applicant inform him:
 - Details of charges
 - Details of Calculations of charges
 - Mode of payment for additional charges, payees name, where to pay ?

SUMMARY - PIO

■ Well reasoned order

- Burden of proof under sec 19(5) on PIO
- Provision under section 20(1)
opportunity of being heard before a penalty is imposed
- Reasons in detail for rejection of application
- Calculation of fees levied
- Appeal details
- Particulars of appellate authority

The RTI Act 2005 – Sec 8/9

Exempted information:

- a. Affecting sovereignty, integrity, security, other interests of India, relation with foreign state or leading to incitement of an offence;
- b. Expressly forbidden by courts;
- c. Affecting privilege of Parliament or Legislature;
- d. Commercial confidence, trade secrets or intellectual property, unless larger public interest so warrants;
- e. Information available in a fiduciary relationship
- f. received in confidence from foreign government;

The RTI Act 2005 – Sec 8/9 (contd.)

- g. endangers life or physical safety or identifies confidential source of information or assistance
- h. impedes the process of investigation or apprehension
- i. cabinet papers, till after the decision has been taken, and the matter is complete, or over:
- j. personal information which would cause invasion of the privacy unless larger public interest justifies it.

The RTI Act 2005 – Exemptions (contd.)

- Infringes copyright, except of the state.
- Intelligence and security agencies exempt – except for corruption and human rights violation charges (Sec 24)
- Notice to third party (Sec 11)
- Most exempt information released after 20 years.
- Notwithstanding anything a public authority may allow access to information, if public interests in disclosure outweighs the harm to the protected interests.

When you reject under Sec 8/9:

- Only quoting the section number is not enough
- Only quoting the section “ad-verbatim” is not enough
- Apply your mind and **clearly explain** to the applicant as to how that particular section is applicable in his case

Sec 11 - Third Party Information

- The information sought should have been provided by the Third Party in **"confidence"** or specifically mentioned as **"confidential"**. Sec 11 applies to only this category of information. Any other information (not termed as confidential or given in confidence) can be disclosed without referring to the Third party.
- The **PIO** should first decide whether he intends to disclose the information or deny it under **Sec 8** , **Sec 9** or severe part of the **information** under Sec 10

Sec 11 – Contd.

- If he decides to disclose the information (full or part), he must inform the third party within 5 days, of his intention to disclose and ask the third party for any objections
- Third party can file objections within 10 days of receiving this notice. If not reply received, it can be considered that there are no objections

Sec 11 – Contd.

- Third party must have valid objections and valid grounds for asking the PIO not to disclose. Just saying that "we do not allow you to disclose" is not reason enough.
- Once the third party reply is received, the PIO must apply his mind and decide whether to disclose or not.

Sec 11 – Contd.

- **Objections, if any, and the representation of the third party is a public document (a "**record**") and therefore a copy can be given to the applicant, if requested.**
- **PIO must inform the third party about his final decision**
- **Third party has a right to appeal under Sec 19(1) and 19(3).**

“Competent Authority” – 8(1)(d) and (e)

If exemption is sought under:

Sec 8(1)(d) – Commercial Confidence

Sec 8(1)(e) – Fiduciary relationship

**Ultimate decision to disclose the
information lies with the Competent
Authority – President or Governor**

The 20 Year Rule

No such “time bar” on 20 year old information.

In fact, in some cases, even exempted information has to be given after 20 years-8(1)(a), (c) and (i)

Records Retention

- **Record Retention Schedule**
- **Procedure for “Missing/Lost” Records**
- **Procedure for destruction of Records**

Refer to:

- **Public Records Act and Rules**
- **Manual of Office Procedure**

RTI Act 2005 - Appeals

■ Appeals

- **First appeal** with a senior officer in the department (First Appellate Authority)
- Second appeal with Central/State Information Commission
- First Appeal to be settled in 30-45 days
- Onus of proof on the PIO (19(5))

RTI Act 2005 - Penalties

- Imposable by Information Commission on PIO or officer asked to assist PIO (“deemed” PIO)
 - For delay – Rs. 250 per day up to Rs. 25,000
 - For illegitimate refusal to accept application, malafide denial, knowingly providing false information, destruction of information, etc. – up to Rs. 25,000
- Recommendation for departmental action for persistent or serious violations
- However, no criminal liability

Time Limits

For PIO to reply to application

30 days from date of receipt of application.
48 Hrs. for matters regarding "Life & Liberty"

For PIO to transfer to another PA under Sec 6(3)

5 days from date of receipt of application

For PIO to issue notice to 3rd Party

5 days from date of receipt of application

For 3rd Party to make a representation to PIO

10 days from receipt of notice from PIO

For PIO to reply to application if 3rd Party involved

40 days from date of receipt of application

For applicant to make First Appeal

30 days from date of receipt of PIO's reply or from date when reply was to be received

For First Appellate Authority to pass an order

30 days from receipt of First Appeal OR
Maximum 45 days, if reasons for delay are given in writing

For applicant to make Second Appeal before CIC/SIC	90 days from receipt of First Appeal orders or from the date when orders were to be received
For CIC/SIC to decide Second Appeal	No time limit specified

Notes:

3rd Party can be anyone other than the citizen applying for information

Please account for adequate time for postal delays

RTI Act 2005–Responsibilities of Public Authorities

- Appointing PIOs/Asst. PIOs within 100 days of enactment (5(1)).
- Maintaining, cataloguing, indexing, computerising and networking records (4(1)(a)).
- Publishing within 120 days of enactment 17 sets of information and updating it every year (4(1)(b)).
- Publishing all relevant facts while formulating important policies or announcing the decisions which affect public (4(1)(c)).
- Sec 4(1)(d) – Provision for giving reasons to “affected” persons for administrative and quasi-judicial decisions

RTI Act 2005–Responsibilities of Public Authorities Contd..

- Providing information *suo moto* at regular intervals (Sec 4(2)).
- Providing information to Information Commission (Sec 25(2)).
- Raising awareness, educating and training (Sec 26(1))
- Compiling in 18 months and updating regularly local language guide to information (Sec 26(2) & (3)).

Changing role of a public servant

- From administrator to facilitator
- Overprotection of Official Secrets Act removed
- Paradigm shift
- Giving information is a rule & secrecy an exception
- Transparency & people's participation
- Public interest supreme

RTI Act - **Impact**

- Computerisation of records
- Need for suo-motto publications/ proactive disclosures
- Understanding the nature of applications and information needs of people
- Record management issues involved
- Changing the work culture in the department
- Timely reporting of disposal of RTI cases

Changing role of PIO Administrator to Facilitator



Always Remember

- The RTI applicant is not your **ENEMY !**
- The matters raised in the application might help your office in better administration
- Application content might bring to light matters of your office which no one thought about
- Have an open mind

MOST IMPORTANT

Today you are a Public Servant.
Tomorrow you will be a ordinary
citizen.

Then, you will be in the same situation
as a ordinary citizen who approaches
you with his RTI Application today

For further help:

Call me anytime on:

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Thank you