



कर्मचारी राज्य बीमा निगम
(श्रम एवं रोजगार मंत्रालय, भारत सरकार)
EMPLOYEES' STATE INSURANCE CORPORATION
(Ministry of Labour & Employment, Govt of India)



पंचदीप भवन, सी. आई. जी. मार्ग, नई दिल्ली
Panchdeep Bhawan, CIG Marg, New Delhi-02
Email : jd-rti@esic.nic.in
Website : www.esic.nic.in

F.No : Z-21/380/2024-RTI

Dated: 09-05-2024

To,

1. All Additional Commissioners & Regional Directors/ Dy Directors(I/c)Regional Offices/ Sub Regional Offices.
2. D(M)Delhi, D(M) Noida.
3. All Medical Superintendents, ESIC Hospitals.

Subject: Implementation of directions of the Hon'ble Supreme Court of India in W.P. (C) No. 990 of 2021-Kishan Chand Jain Vs. UOI &Ors.-reg.

Sir/Madam,

The undersigned has been directed to enclose herewith the Hon'ble Supreme Court's Order dated 17/08/2023 in WP(C) No.990 of 2021. In the said order, the Hon'ble Supreme Court in para 26 has inter-alia directed: -

"The Central Information Commission and the State Information Commissions shall continuously monitor the implementation of the mandate of Section 4 of the Act as also prescribed by the Department of Personnel and Training in its Guidelines and Memorandums issued from time to time. The directions will also include instructions under O.M. dated 07.11.2019 issued by the Department. For this purpose, the Commissioners will also be entitled to issue recommendations under Sub-Section (5) of Section 25 to public authorities for taking necessary steps for complying with the provisions of the Act."

Accordingly, for implementation of the mandate of Section 4 of the RTI Act, 2005, all ACs /RDs /Dy Directors(Ic) /ROs /SROs /DM(N) /DM(D) /MSs of the ESIC/ESICH are requested take necessary action to check the relevant material made available under suo motu disclosure on the ESIC website and periodically update the same on the website.

This issues with the approval of Competent Authority.

Encl : As above.

Yours faithfully,

Signed by Sanjay Kumar
Date: 13-05-2024 10:28:39

(Sanjay Kumar)
Dy Director & Nodal Officer (RTI)

Copy to:-

1. Central Information Commission, CIC Bhawan, Baba Gangnath Marg Munirka, New Delhi, 110067 in r/o their email dated 15.04.2024.
2. All Branches of ESIC Hqrs Office for information and necessary action.

3. WCM for uploading on Hqrs. Website.



2023INSC741

REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION

WRIT PETITION (CIVIL) No. 990 of 2021

KISHAN CHAND JAIN

....PETITIONER(S)

VERSUS

UNION OF INDIA & ORS.

...RESPONDENT(S)

J U D G M E N T

PAMIDIGHANTAM SRI NARASIMHA, J.

1. This Writ Petition under Article 32 of the Constitution of India filed by way of a public interest litigation seeking multiple reliefs, running into three pages, the gist of which is only for a direction to implement the mandate of Section 4 of the Right to Information Act, 2005.¹ As the prayer is only for implementing the various obligations enlisted under Section 4, it is necessary to reproduce the Section for ready reference:

“4. Obligations of public authorities-

(l) 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 this Act and ensure that all records that are appropriate to be computerised are, within a reasonable time and subject to availability of resources, computerised and connected through a

Signature Not Verified
Digitally signed by
Deepak Singh
Date: 2023.08.18
17:18:29 IST
Reason:

¹ Hereinafter referred to as ‘Act’

network all over the country on different systems so that access to such records is facilitated;

(b) publish within one hundred and twenty days from the enactment of this Act,—

(i) the particulars of its organisation, 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 authorisations 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 this 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 Central Public Information Officer or State Public Information Officer, as the case may be, 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."

2. The statutory obligations of public authorities under Section 4(1) relate to: (a) maintenance of all public records, duly catalogued and indexed for easy accessibility of the information; (b) publishing particulars of the organisational structure, functions and duties of officers, procedures that are followed for decision-making, salary structure, budget allocation, publication of facts relating to policies and announcements which includes providing reasons for quasi-judicial decisions. Sub-section (2) mandates the public authority to take steps for providing information under clause (b) of sub-section (1) *suo motu* and further to disseminate the said information for easy accessibility to the public. The scope

and ambit of Section 4 has already been considered by this Court in a number of decisions.²

3. We may note the observation of this Court in just one of the cases, namely *Institute of Chartered Accountants of India v. Shaunak H. Satya and others* (2011) 8 SCC 781:

“23. The information to which the RTI Act applies falls into two categories, namely, (i) information which promotes transparency and accountability in the working of every public authority, disclosure of which helps in containing or discouraging corruption, enumerated in clauses (b) and (c) of Section 4(1) of the RTI Act; and (ii) other information held by public authorities not falling under Sections 4(1)(b) and (c) of the RTI Act. In regard to information falling under the first category, the public authorities owe a duty to disseminate the information widely suo motu to the public so as to make it easily accessible to the public. In regard to information enumerated or required to be enumerated under Sections 4(1)(b) and (c) of the RTI Act, necessarily and naturally, the competent authorities under the RTI Act will have to act in a proactive manner so as to ensure accountability and ensure that the fight against corruption goes on relentlessly. But in regard to other information which do not fall under Sections 4(1)(b) and (c) of the Act, there is a need to proceed with circumspection as it is necessary to find out whether they are exempted from disclosure.

24. One of the objects of democracy is to bring about transparency of information to contain corruption and bring about accountability. But achieving this object does not mean that other equally important public interests including efficient functioning of the governments and public authorities, optimum use of limited fiscal resources, preservation of confidentiality of sensitive information, etc. are to be ignored or sacrificed. The object of the RTI Act is to harmonise the conflicting public interests, that is, ensuring transparency to bring in accountability and containing corruption on the one hand, and at the same time ensure that the revelation of information, in actual practice, does not harm or adversely affect other public interests which include efficient

² Central Board of Secondary Education and another v. Aditya Bandopadhyay and others (2011) 8 SCC 497, *Institute of Chartered Accountants of India v. Shaunak H. Satya and others* (2011) 8 SCC 781, *Verhoeven, Marie -Emmanuelle v. Union of India and others*. (2016) 6 SCC 456 and *Central Public Information Officer, Supreme Court of India v. Subhash Chandra Agarwal* (2020) 5 SCC 481

functioning of the governments, optimum use of limited fiscal resources and preservation of confidentiality of sensitive information, on the other hand. While Sections 3 and 4 seek to achieve the first objective, Sections 8, 9, 10 and 11 seek to achieve the second objective.”

4. Having noted the scope and ambit of the obligations imposed on public authorities under Section 4, as elucidated by this Court, we may now refer to the prayer made by the petitioner in the Writ Petition. The writ petitioner seeks a direction:

(a) to ensure that public authorities comply with the mandatory suo motu disclosures under Section 4 on a proactive basis;

(b) to ensure that website disclosures of public authorities are complete, easily accessible as required by Clause No. 2.2 of the O.M. dated 07.11.2019;

(c) to ensure compliance of proactive disclosure package audited by third party under Section 4 of the Act read with Clause 4.4 of O.M. dated 07.11.2019;

(d) to appoint senior officer as nodal officer for being accountable for compliances with respect to proactive disclosure guidelines as per Clause 5.1 of the O.M. dated 07.11.2019;

(e) direct Central Information Commission/State Information Commissions to examine third party audit reports as per Clause 4.5 of the O.M. dated 07.11.2019;

(f) to ensure that details of disclosure guidelines are reflected in the Annual Report as per Clause 6.1 of the O.M. dated 07.11.2019; and

(g) to send 'Action Taken Report' to the concerned Information Commission as per Clause 4.3 of O.M. dated 07.11.2019.

5. In other words, the prayers in the Writ Petition are for implementation of Section 4 of the Act, coupled with the instructions for its execution as provided in the O.M. dated 07.11.2019.

6. Union of India has filed a 'Note on Submissions' explaining the steps that have been taken for implementation of the statutory mandate of Section 4. We will refer to some of these before giving necessary directions.
7. In order to implement the provisions of the Act, the Department of Personnel and Training constituted a Task Force on 06.05.2011 to improve quality and quantity of disclosure contemplated under Section 4. Pursuant to the report submitted by the Task Force, the Department issued certain Guidelines through its O.M. dated 15.04.2013. These guidelines relate to various issues including *suo motu* proactive disclosures under Section 4 and also to put in place a mechanism for compliance and monitoring.
8. As per the Guidelines each Public Authority must undertake the following steps:

“(a) Comply with the guidelines and send an action taken report to the CIC; (b) Get the proactive disclosure package [Section 4(1)(b) of the RTI, Act] audited by a third party audit every year. This should be communicated to the CIC annually through publication on their own websites. This requirement to publish the needful information on the website of each public authority would fully take care of the grievances of the petitioner; (c) The CIC should examine the third-party audit reports for each Ministry/Public Authority and offer advice/ recommendations to the concerned Ministry/Public Authority; (d) The CIC should carry out sample audits for a few of the Ministries/Public Authorities each year with regard to adequacy of the items included as well as compliance of the Ministry/Public Authority with these guidelines; (e) An officer, not below the rank of a Joint Secretary, should be appointed as the Nodal officer in the Central Ministry/Public Authority to ensure compliance with the proactive disclosure guidelines, and (f) Every Ministry/Department to include a chapter on RTI Act in its Annual Report submitted to the Parliament, mandatorily containing the details about compliance with proactive disclosure guidelines.”

9. It is relevant to refer to Clause 4 of O.M. dated 15.04.2013 which deals with the compliance mechanism:

- “4.0 Compliance with Provisions of suo motu (proactive) disclosures under the RTI Act.
- 4.1 Each Ministry/Public Authority shall ensure that these guidelines are fully operationalized within a period of 6 months from the date of their issue.
- 4.2 Proactive disclosure as per these guidelines would require collating a large quantum of information and digitizing it. For this purpose, Ministries/Public Authorities may engage consultants or outsource such work to expeditiously comply with these guidelines. For this purpose, the plan/non-plan funds of that department may be utilized.
- 4.3 The Action Taken Report on the compliance of these guidelines should be sent, along with the URL link, to the DoPT and Central Information Commission soon after the expiry of the initial period of 6 months.
- 4.4 Each Ministry/Public Authority should get its proactive disclosure package audited by third party every year. The audit should cover compliance with the proactive disclosure guidelines as well as adequacy of the items included in the package. The audit should examine whether there are any other types of information which could be proactively disclosed. Such audit should be done annually and should be communicated to the Central Information Commission annually through publication on their own websites. All Public Authorities should proactively disclose the names of the third party auditors on their website. For carrying out third party audit through outside consultants also, Ministries/Public Authorities should utilize their plan/non-plan funds.
- 4.5 The Central Information Commission should examine the third-party audit reports for each Ministry/Public Authority and offer advice/recommendations to the concerned Ministries/Public Authorities.
- 4.6 Central Information Commission should carry out sample audit of few of the Ministries/Public Authorities each year with regard to adequacy of items included as well as compliance of the Ministry/Public Authority with these guidelines.
- 4.7 Compliance with the proactive disclosure guidelines, its audit by third party and its communication to the Central Information Commission should be included as RFD target.”

10. The 'Note on Submissions' discloses that the Department continued to follow the mandate of Section 4 and sought compliance of the Guidelines by issuing further O.M.'s such as O.M. issued on 10.12.2013, 22.09.2014 and 09.07.2015.
11. Proceeding further, in its endeavour to make information more accessible, the Department constituted two more Committees which made recommendations for effective implementation of Section 4. The first Committee headed by Shri A. N. Tiwari, CIC (Retd) made recommendations with respect to (a) making online access to information more user-friendly and (b) setting up of grievance redressal mechanism, amongst others. These recommendations were accepted by the Department vide O.M. dated 29.06.2015.
12. The second committee headed by Dr. Devesh Chaturvedi, former Joint Secretary also made certain recommendations and some of them were accepted through O.M. dated 30.06.2016. Some of the recommendations that were accepted relate to (a) setting up of Consultative Committees by public authority for systematic and regular interaction with its officials and to advise public authorities on information which can be uploaded *suo motu*, (b) setting up of Information and Facilitation Centres to educate citizens about information available, (c) providing searchable and retrievable database of information on the website of the public authorities; and importantly (d) to undertake transparency audits by training institutes under the Ministry/Department/Public Authority.
13. The Note also indicated that by O.M. dated 15.10.2019, the Department relaxed the audit criteria by allowing the public authorities to give the transparency audits

conducted by any Government Training Institutes, i.e., in cases where there is no institute existing in the Ministry/Department/Public Authority.

14. As many Central Authorities faced difficulties on account of, (a) substantial difference in the audit cost charged by different auditing training institutes, (b) shortage of manpower/adequately trained manpower, and (c) pre-engagement of the training institute with its scheduled training activities, a further relaxation through O.M. dated 20.09.2022 was given as per which the task of transparency audits was permitted to be given to any Government Training Institute by the Ministry/Department/Public Authority under the Central or State Governments.
15. It is clarified that if a Training Institute is in itself a public authority, then it may give its audits conducted by Government Training Institute (O.M. 07.09.2021). The Note also states that the department issued O.M. dated 14.09.2022 directing all Ministries/Departments/Public Authorities to (a) nominate Training Institute for third party audit; (b) furnish other requisite details to the CIC as per the Exhaustive Guidelines issued *vide* OM dated 07.11.2019; (c) adhere to the timelines set by the CIC for conducting transparency audits; and (d) observe the earlier guidelines issued *vide* OMs dated 13.04.2013 and 07.11.2019.
16. On 07.11.2019, the Department of Personnel and Training issued an O.M. reiterating the 15.04.2013 Guidelines. Clause 4.4 was revised in the following terms:

“4.4 Each Ministry/Public Authority should get its proactive disclosure package audited by third party every year. The audit should cover compliance with the proactive disclosure guidelines as well as adequacy of the items included in the package. The

audit should examine whether there are any other types of information which could be proactively disclosed. Such audit should be done annually and should be communicated to the Central Information Commission annually through publication on their own websites. Further the task of undertaking transparency audits may be given to the respective Training Institutes under each Ministry/Department/Public Authority and across the States and Union Territories. "However in cases where no training institute exists under the Ministries/Departments/Public Authorities the tasks of undertaking transparency audits may be given to any Government Training Institute." All Public Authorities should proactively disclose the names of the third party auditors on their website. For carrying out third party audit through outside consultants also. Ministries/Public Authorities should utilize their plan/non-plan funds."

17. It is important to extract the 'present status' of compliances as indicated in the Note filed on behalf of Union of India. Para 17 to 20 of the affidavit is as follows:

"17. Every public authority registered with the CIC is required to submit four quarterly returns for assessment of its performance in respect of the implementation of the RTI Act.

18. Out of total 2278 Public Authorities, 2173 of them i.e., 95% public authorities have submitted their all four quarterly returns to the Commission in the reporting year i.e., 2021-22 (Annual Report 2021-22 of the CIC).

19. The suo motu disclosure under Section 4 of the Act by the public authorities and undertaking the transparency audit of the disclosure are two different provisions. Whereas the former is a mandatory provisions stipulated in the RTI Act, the latter was introduced vide OM date 15.04.2013 and is directory.

20. Thus, it is respectfully submitted that those public authorities which have not obtained an audit of their proactive disclosure packages by a third party cannot be construed to be in violation of Section 4 of the RTI Act."

18. On the other hand, the written submission filed on behalf of the petitioner disclosed that only 33% of the public authorities have got transparency audits conducted in the last four years. It is stated that the poor implementation of third-party audit is adversely commented upon even by the Department in its O.M. dated 14.09.2022. It is further averred that apart from the poor implementation

of third-party audit, 33% of public authorities which had their transparency audits conducted performed badly, clearly evidences that quality and quantity of proactive disclosure were not in accordance with Section 4 of the Act.

19. From the information made available to us, one thing is evident. The system needs the concerned authority's complete attention, followed by strict and continuous monitoring. It is in this context that the functioning and duties of the Central and State Information Commissions assume utmost importance.
20. It is necessary to take note of the statutorily incorporated 'monitoring and reporting' mechanism in section 25 of the Act. This is an important feature of 'accountability' of statutory authorities.

"25. Monitoring and reporting.

(1) The Central Information Commission or State Information Commission, as the case may be, shall, as soon as practicable after the end of each year, prepare a report on the implementation of the provisions of this Act during that year and forward a copy thereof to the appropriate Government. (2) Each Ministry or Department shall, in relation to the public authorities within their jurisdiction, collect and provide such information to the Central Information Commission or State Information Commission, as the case may be. as is required to prepare the report under this section and comply with the requirements concerning the furnishing of that information and keeping of records for the purposes of this section. (3) Each report shall state in respect of the year to which the report relates,— (a) the number of requests made to each public authority; (b) the number of decisions where applicants were not entitled to access to the documents pursuant to the requests, the provisions of this Act under which these decisions were made and the number of times such provisions were invoked; (c) the number of appeals referred to the Central Information Commission or State Information Commission, as the case may be, for review, the nature of the appeals and the outcome of the appeals; (d) particulars of any disciplinary action taken against any officer in respect of the administration of this Act; (e) the amount of charges collected by each public authority under this Act; (J) any facts which indicate an effort by the public authorities to

administer and implement the spirit and intention of this Act; (g) recommendations for reform, including recommendations in respect of the particular public authorities, for the development, improvement, modernisation, reform or amendment to this Act or other legislation or common law or any other matter relevant for operationalising the right to access information. (4) The Central Government or the State Government, as the case may be, may, as soon as practicable after the end of each year, cause a copy of the report of the Central Information Commission or the State Information Commission, as the case may be, referred to in subsection (1) to be laid before each House of Parliament or, as the case may be, before each House of the State Legislature, where there are two Houses, and where there is one House of the State Legislature before that House. (5) If it appears to the Central Information Commission or State Information Commission, as the case may be, that the practice of a public authority in relation to the exercise of its functions under this Act does not conform with the provisions or spirit of this Act, it may give to the authority a recommendation specifying the steps which ought in its opinion to be taken for promoting such conformity."

21. Section 25 gloriously integrates 'the right to information' of a citizen with the *collective responsibility* of the Government to the Legislature under Article 75(3) or 164(2) of the Constitution. At the beginning of the chain is the citizen exercising her right to information. The Public Authority obligated to provide the information is *accountable* to the Department. The Department, shall, in relation to the public authorities within their jurisdiction, collect and provide such information to the CIC or SIC (see Section 25(2)). The CIC or SIC shall then prepare a 'Report' on the implementation of the provisions of the Act during the year and forward a copy to the appropriate Government (see Section 25(1)). The 'Report' prepared by the CIC or SIC is mandated to comprise all details specified in Clauses (a) to (g) of Section 25(3). The Central or the State Government shall cause a copy of the Report of the CIC/SIC be laid before Parliament/Legislative

Assembly (Section 25(4)). It is then for the House, representing the will of the people, to ensure that the confidence reposed by it in the Council of Ministers (Government) is affirmed. Thus, the circle of representative democracy connects supremacy of the Parliament with the right of the citizen by ensuring that the State performs its obligations. This is the primary principle of accountability.

22. Power and accountability go hand in hand. While declaring that all citizens shall have the 'right to information' under Section 3 of the Act, the co-relative 'duty' in the form of obligation of public authorities is recognized in Section 4. The core of the right created under Section 3 in reality rests on the duty to perform statutory obligations. Public accountability is a crucial feature that governs the relationship between 'duty bearers' and 'right holders'. Recognizing the importance of accountability as a measure of administrative law, this Court in *Vijay Rajmohan v. CBI*,³ held as follows:

“34. Accountability in itself is an essential principle of administrative law. Judicial review of administrative action will be effective and meaningful by ensuring accountability of the officer or authority in charge.

35. The principle of accountability is considered as a cornerstone of the human rights framework. It is a crucial feature that must govern the relationship between “duty bearers” in authority and “right holders” affected by their actions. Accountability of institutions is also one of the development goals adopted by the United Nations in 2015 and is also recognized as one of the six principles of the Citizens Charter Movement.

36. Accountability has three essential constituent dimensions : (i) responsibility, (ii) answerability, and (iii) enforceability. Responsibility requires the identification of duties and performance obligations of individuals in authority and with

³ (2023) 1 SCC 329

authorities. Answerability requires reasoned decision-making so that those affected by their decisions, including the public, are aware of the same. Enforceability requires appropriate corrective and remedial action against lack of responsibility and accountability to be taken. Accountability has a corrective function, making it possible to address individual or collective grievances. It enables action against officials or institutions for dereliction of duty. It also has a preventive function that helps to identify the procedure or policy which has become non-functional and to improve upon it.”

23. In *Government (NCT of Delhi) v. Union of India*⁴ referring to the direct relationship between principles of collective responsibility and Government accountability, this Court held:-

“325. There is a direct relationship between the principle of collective responsibility and Government accountability. This relationship is conceptualised in The Oxford Companion to Politics in India:

Accountability can be defined in terms of outcomes rather than processes of Government..... It also includes the criterion of responsiveness to changes in circumstances that alter citizen needs and abilities... In other words, accountability refers to the extent to which actual policies and their implementation coincide with a normative ideal in terms of what they ought to be... In this broad sense, accountability amounts to evaluating the nature of governance itself, in outcome-oriented terms.”

24. Apart from the obligation of monitoring and reporting, the Central and State Information Commissioners are also given the power to recommend steps which the public authority ought to take in implementing the Act. Sub-Section (5) of Section 25 is in the following terms:

“(5) If it appears to the Central Information Commission or State Information Commission, as the case may be, that the practice of a public authority in relation to the exercise of its functions under this Act does not conform with the provisions or spirit of this Act, it may give to the authority a recommendation specifying

⁴ (2018) 8 SCC 501

the steps which ought in its opinion to be taken for promoting such conformity.”

25. Having examined the *Right to Information* established by the statute under Section 3 in the context of the *obligations of public authorities* under Section 4, we are of the opinion that the purpose and object of the statute will be accomplished only if the *principle of accountability* governs the relationship between ‘right holders’ and ‘duty bearers’. The Central and State Information Commissions have a prominent place, having a statutory recognition under Chapters III and IV of the Act and their powers and functions all enumerated in detail in Section 18 of the Act. We have also noted the special power of ‘Monitoring and Reporting’ conferred on the Central and State Information Commissioners which must be exercised keeping in mind the purpose and object of the Act, i.e., ‘to promote transparency and accountability in working of every public authority’.
26. For the reasons stated above, we direct that the Central Information Commission and the State Information Commissions shall continuously monitor the implementation of the mandate of Section 4 of the Act as also prescribed by the Department of Personnel and Training in its Guidelines and Memorandums issued from time to time. The directions will also include instructions under O.M. dated 07.11.2019 issued by the Department. For this purpose, the Commissioners will also be entitled to issue recommendations under sub-Section (5) of Section 25 to public authorities for taking necessary steps for complying with the provisions of the Act.

27. The Writ Petition (C) No. 990 of 2021 is disposed of with the direction to the Central Information Commission and the State Information Commissions to ensure proper implementation of the mandate of Section 4 of the Act, by following the directions as indicated above.
28. There shall be no order on costs.

.....CJI.
[Dr Dhananjaya Y Chandrachud]

.....J.
[Pamidighantam Sri Narasimha]

.....J.
[J.B. Pardiwala]

**New Delhi;
August 17, 2023**

No.1/6/2011-IR
Government of India
Ministry of Personnel, Public Grievances & Pensions
Department of Personnel & Training

North Block, New Delhi
Dated the 5th November, 2019

OFFICE MEMORANDUM

Sub: Implementation of *suo motu* disclosure under Section 4 of Right to Information (RTI) Act, 2005 – Issue of guidelines regarding:

The *suo motu* disclosure of information to public is mandated under Section 4 (2) of the RTI Act, 2005, so that the public have to resort minimally to the use of this Act to obtain information. Section 4(1)(b) of the Right to Information Act, 2005 lays down the information which should be disclosed by Public Authorities on a *suo motu* or proactive basis. Section 4(3) prescribes for wide dissemination of every information, in such form and manner which is easily accessible to the public.

2. The undersigned is directed to refer to this Department's O.M. of even number dated 15th April, 2013 and to reiterate the guidelines therein (Copy enclosed), duly incorporating a slight revision to Para 4.4 of the above guidelines allowing for third party audit by any Government Training Institute, in cases where no Training Institute exists under the concerned Ministry/Department/Public Authority.

3. Central Government Ministries/Departments are advised to undertake *suo motu* disclosure based on these guidelines, in compliance to Sections 4(1)(b) read with Section 4(2), 4(3) and 4(4) of the RTI Act, 2005

4. The enclosed guidelines may be brought to the notice of all Public Authorities under the Ministry/ Department including those in their Attached Offices, Subordinate Offices, Constitutional Bodies, Statutory Bodies, Autonomous Organizations and Public Sector Undertakings.

V Sinha
(Varsha Sinha)
Director

1. All the Ministries/Departments of the Government of India
2. Union Public Service Commission, Lok Sabha Secretariat, Rajya Sabha Secretariat, Cabinet Secretariat, Central Vigilance Commission, President's Secretariat, Vice-President's Secretariat, Prime Minister's Office, NITI Aayog, Election Commission
3. Central Information Commission, CIC Bhawan, Baba Gangnath Marg, Munirka, New Dehi-110067
4. Staff Selection Commission, CGO Complex, New Delhi
5. O/o the Comptroller & Auditor General of India, 10, Bahadur Shah Zafar Marg, New Delhi.

Copy to: Chief Secretaries of all the States/UTs.

कार्मिक एवं प्रशिक्षण विभाग
Deptt. of Personnel & Trg
प्राप्ति और निगम अनुभाग
Receipt & Issue Section

08/11/19

जारी किया/ISSUED
हस्ताक्षर/Sig.

Guidelines on *suo motu* disclosure under Section 4 of the RTI Act

INDEX

S. No.	Chapter	Page No.
1	<i>Suo motu</i> disclosure of more items under Section 4	1
2	Guidelines for digital publication of proactive disclosure under Section 4	4
3	Guidelines for certain clauses of Section 4(1)(b) to make disclosure more effective	7
4	Compliance with provisions of <i>suo motu</i> disclosure	12

Guidelines on *suo motu* disclosure under Section 4 of the RTI Act

10 *Suo motu* disclosure of more items under Section 4

Sub-section 4(2) of the RTI Act, 2005 requires every public authority to take steps in accordance with the requirements of clause (b) of sub-section 4(1) to provide as much information *suo motu* to the public at regular intervals through various means of communication, including internet, so that the public have minimum resort to use the Act to obtain information. Accordingly, the Public Authorities may proactively disclose the following items also under the *suo motu* disclosure provisions of Section 4:

11 Information related to Procurement

11.1 Information relating to procurement made by Public Authorities including publication of notice/tender enquiries, corrigenda thereon, and details of bid awards detailing the name of the supplier of goods/services being procured or the works contracts entered or any such combination of these and the rate and total amount at which such procurement or works contract is to be done should be disclosed. All information disclosable as per Ministry of Finance, Department of Expenditure's O.M. No 10/1/2011-PPC dated 30th November, 2011 on Mandatory Publication of Tender Enquiries on the Central Public Procurement Portal and O.M. No. 10/3/2012- PPC dated 30th March, 2012 on Implementation of comprehensive end-to-end e-procurement should be disclosed under Section 4. At present the limit is fixed at Rs. 10.00 lakhs. In case of procurements made through DGS&D Rate Contracts or through Kendriya Bhandar/ NCCF, only award details need to be published. However information about procurement which fall within the purview of Section 8 of the RTI Act would be exempt.

12 Public Private Partnerships

12.1 If Public services are proposed to be provided through a Public Private Partnership (PPP), all information relating to the PPPs must be disclosed in the public domain by the Public Authority entering into the PPP contract/concession agreement. This may include details of the Special Purpose Vehicle (SPV), if any set up, detailed project reports, concession agreements, operation and maintenance manuals and other documents generated as part of the implementation of the PPP project. The documents under the ambit of the exemption from disclosure of information under section 8(1)(d) and 8(1)(j) of

the RTI Act would not be disclosed *suo motu*. Further, information about fees, tolls, or other kinds of revenue that may be collected under authorization from the Government, information in respect of outputs and outcomes, process of selection of the private sector party may also be proactively disclosed. All payments made under the PPP project may also be disclosed in a periodic manner along with the purpose of making such payment.

13 Transfer Policy and Transfer Orders

13.1 Transfer policy for different grades/cadres of employees serving in Public Authority should be proactively disclosed. All transfer orders should be publicized through the website or in any other manner listed in Section 4(4) of the Act. These guidelines would not be applicable in cases of transfers made keeping in view sovereignty, integrity, security, strategic, scientific or economic interests of the State and the exemptions covered under Section 8 of the Act. These instructions would not apply to security and intelligence organizations under the second schedule of the RTI Act.

14 RTI Applications

14.1 All Public Authorities shall proactively disclose RTI applications and appeals received and their responses, on the websites maintained by Public Authorities with search facility based on key words. RTI applications and appeals received and their responses relating to the personal information of an individual may not be disclosed, as they do not serve any public interest.

15 CAG & PAC paras

15.1 Public Authorities may proactively disclose the CAG & PAC paras and the Action Taken Reports (ATRs) only after these have been laid on the table of both the houses of the Parliament. However, CAG paras dealing with information about the issues of sovereignty, integrity, security, strategic, scientific or economic interests of the State and information covered under Section 8 of the RTI Act would be exempt.

16 Citizens Charter

16.1 Citizens Charter prepared by the Ministry/Department, as part of the Result Framework Document of the department/organization should be proactively disclosed and six monthly report on the performance against the benchmarks set in Citizens Charter should also be displayed on the website of public authorities.

17 Discretionary and Non-discretionary grants

17.1 All discretionary /non-discretionary grants/ allocations to state governments/ NGOs/Other institutions by Ministry/Department should be placed on the website of the Ministry/Department concerned. Annual Accounts of all legal entities who are provided grants by Public Authorities should be made available through publication, directly or indirectly on the Public Authority's website. Disclosures would be subject to provisions of Section 8 to 11 of the RTI Act.

18 Foreign Tours of PM/Ministers

18.1 A large number of RTI queries are being filed on official tours undertaken by Ministers or officials of various Government Ministries/Departments. Information regarding the nature, place and period of foreign and domestic tours of Prime Minister are already disclosed on the PMO's website.

18.2 As per DoPT's OM No. 1/8/2012-IR dated 11/9/2012, Public Authorities may proactively disclose the details of foreign and domestic official tours undertaken by the Minister(s) and officials of the rank of Joint Secretary to the Government of India and above and Heads of Departments, since 1st January, 2012. The disclosures may be updated once every quarter.

1.8.3. Information to be disclosed proactively may contain nature of the official tour, places visited, the period, number of people included in the official delegation and total cost of such travel undertaken. Exemptions under Section 8 of the RTI Act, 2005 may be kept in view while disclosing the information. These instructions would not apply to security and intelligence organisations under the second schedule of the RTI Act, 2005 and CVOs of public authorities.

20 Guidelines for digital publication of proactive disclosure under Section 4

21 Section 4 lays down that information should be provided through many mediums depending upon the level of the public authority and the recipient of information (for example, in case of Panchayat, wall painting may be more effective means of dissemination of information), and that more and more proactive disclosure would gradually be made through Internet. There is need for more clear guidelines for web-based publication of information for disclosure.

22 The Department of Information Technology has been working on setting of technical standards for government websites and the Department of Administrative Reforms & Public Grievances has published guidelines for websites of Government Departments. These guidelines prescribe the manner in which websites need to be designed and how information should be disclosed. While adhering to the standards of government guidelines as laid down by Department of Information Technology and Department of Administrative Reforms & Public Grievances, the following principles additionally should also be kept in view to ensure that websites' disclosures are complete, easily accessible, technology and platform neutral and in a form which conveys the desired information in an effective and user-friendly manner.

- a) It should be the endeavor of all public authorities that all entitlements to citizens and all transactions between the citizen and government are gradually made available through computer based interface. The 'Electronic Delivery of Services Bill, 2012' under formulation in Government of India would provide the necessary impetus.
- b) Websites should contain detailed information from the point of origin to the point of delivery of entitlements/services provided by the Public Authorities to citizens.
- c) Orders of the public authority should be uploaded on the website immediately after they have been issued.
- d) Website should contain all the relevant Acts, Rules, forms and other documents which are normally accessed by citizens.

- e) Websites should have detailed directory of key contacts, details of officials of the Public Authority.
- f) It is obligatory under Section 4(1)(b)(xiv) of the RTI Act for every Public Authority to proactively disclose 'details in respect of the information, available to or held by it, reduced in an electronic form'. The website should therefore indicate which digitally held information is made available publicly over the internet and which is not.
- g) As departments reorganize their systems and processes to enable themselves for electronic service delivery, it is recommended that the requirement of bringing due transparency as provided in the RTI Act is given adequate consideration at the design stage itself.
- h) To maintain reliability of information and its real time updation, information generation in a digital form should be automatically updated on the basis of key work outputs, like a muster roll and salary slip (NREGA in Andhra Pradesh) or formalization of a government order (Andhra Pradesh). Such an approach will lead to automation of proactive disclosure.
- i) Information must be presented from a user's perspective, which may require re-arranging it, simplifying it etc. However, original documents in original formats should continue to be made available because these are needed for community monitoring of government's functioning.
- j) The 'National Data Sharing and Accessibility Policy' by the Department of Science and Technology is based on the principle that all publicly funded information should be readily available. The policy has been notified in March, 2012 and the schedule should be strictly adhered to.
- k) Information and data should be presented in open data formats whereby it can be pulled by different Application Protocol Interfaces to be used in different fashions more appropriate to specific contexts and needs. Information/ data can, for instance, be presented in powerful visual ways using visualisation techniques. Such visual representation of information/ data can give insights that may remain largely

hidden in a textual or tabular presentation of data. In some contexts, pictures and audio/videos recordings etc may be more useful. There have been moves in some parts of the country to video record Gram Sabha meetings. A picture of a NREGA worksite, for instance, may tell much more than words can. All such different media and forms should be used for proactive disclosure.

- l) Every webpage displaying information or data proactively disclosed under the RTI Act should, on the top right corner, display the mandatory field 'Date last updated (DD/MM/YY)'.

3.0 Guidelines for certain clauses of Section 4(1)(b) to make disclosure more effective

3.1 The elements of information listed in the various sub-clauses of Section 4(1)(b) must be disclosed in an integrated manner. For example, the functions and responsibilities of a public authority cannot be understood in isolation from the powers and functions of its employees, the norms that inform its decision making processes and the rules, instructions and manuals that are used in the discharge of its functions. Description of one element presupposes the existence of another. So every public authority must endeavour to integrate the information mentioned in these sub-clauses while preparing voluntary disclosure materials.

3.2 Considering that disclosure in regard to certain sub-clauses have been relatively weak, detailed guidelines for four sub-clauses are given below:

3.3 Guidelines for section 4(1)(b)(iii) - “the procedure followed in the decision-making processes, including channels of supervision and accountability”.

3.3.1 All government departments have specific duties and responsibilities under the respective Allocation of Business Rules (AOB) issued by the appropriate Government. The constitutional provisions and statutes each department is required to implement are clearly laid down in the AOB. The manner of disposal of matters assigned to each Department/Ministry is described in the Transaction of Business Rules (TOB). Additionally, every department would have a specific set of schemes and development programmes which they are required to implement directly or through their subordinate offices or other designated agencies. These documents contain the specific operations that every Public Authority is required to undertake in the course of implementing the programme or scheme. Every operation mandated under the AOB read with the TOB would be linked to a specific decision-making chain. All government officers have to follow laid down office procedure manual or the other rules which gives details of how representations, petitions and applications from citizens must be dealt with. Templates, formats, and basic steps of decision-making are briefly explained in such manuals. These descriptions constitute the elements of decision-making processes in general.

332 Additionally, in the routine work of governance, government functionaries are required to make decisions in a discretionary manner but broad guiding principles are laid down in some rule or the other. For example, the General Financial Rules lay down procedures for a variety of operations relating to government finances. How sanction must be accorded for incurring expenditure; how losses to government must be reported; how responsibility for losses may be fixed on any government servant; how budgets, demand for grants are prepared and submitted; how public works must be sanctioned and executed; how commodities and services may be procured by a public authority; are all explained in these manuals which are updated from time to time. The challenge is to present a simplified version of the decision-making procedure that is of interest to a common citizen.

333 In view of the above, the guidelines for detailing the decision making processes are as follows:

- (a) Every public authority should specifically identify the major outputs/ tangible results/ services/ goods, as applicable, that it is responsible for providing to the public or to whosoever is the client of the public authority.
- (b) In respect of (a) above, the decision-making chain should be identified in the form of a flow chart explaining the rank/grade of the public functionaries involved in the decision-making process and the specific stages in the decision-making hierarchy.
- (c) The powers of each officer including powers of supervision over subordinates involved in the chain of decision-making must also be spelt out next to the flow chart or in a simple bullet-pointed format in a text-box. The exceptional circumstances when such standard decision-making processes may be overridden and by whom, should also be explained clearly. Where decentralization of decision-making has occurred in order to grant greater autonomy to public authorities, such procedures must also be clearly explained.
- (d) This design of presentation should then be extended to cover all statutory and discretionary operations that are part of the public authority's mandate under the AOB read with the TOB.

- (e) In the event of a public authority altering an existing decision-making process or adopting an entirely new process, such changes must be explained in simple language in order to enable people to easily understand the changes made.

3.4 Guidelines for Section 4(1)(b)(iv) - “the norms set by it for the discharge of its functions”.

3.4.1 Primarily, the intention of this clause is that every public authority should proactively disclose the standards by which its performance should be judged. Norms may be qualitative or quantitative in nature, or temporal or statutory norms. In order to ensure compliance with this clause, public authorities would need to disclose norms for major functions that are being performed.

3.4.2 Citizen Charters, which are mandatory, for each central Ministry/Department/Authority, are good examples of vehicles created for laying down norms of performance for major functions and for monitoring achievements against those standards.

3.4.3 Wherever norms have been specified for the discharge of its functions by any statute or government orders, they should be proactively disclosed, particularly linking them with the decision making processes as detailed earlier. All Public Authorities should proactively disclose the following:

- a) Defining the services and goods that the particular public authority/office provides directly (or indirectly through any other agency/contractor).
- b) Detailing and describing the processes by which the public can access and/or receive the goods and services that they are entitled to, from the public authority/office along with the forms, if any prescribed, for use by both the applicant and the service providing agency. Links to such forms (online), wherever available, should be given.
- c) Describing the conditions, criteria and priorities under which a person becomes eligible for the goods and services, and consequently the categories of people who are entitled to receive the goods and services.

- d) Defining the quantitative and tangible parameters, (weight, size, frequency etc.) and timelines, that are applicable to the goods and services that are accessible to the public.
- e) Defining the qualitative and quantitative outcomes that each public authority/office plans to achieve through the goods and services that it was obligated to provide.
- f) Laying down individual responsibility for providing the goods and services (who is responsible for delivery/implementation and who is responsible for supervision).

35 Guidelines for Section 4(1)(b)(xi)- “the budget allocated to each of its agency, indicating the particulars of all plans, proposed expenditures and reports on disbursements made”.

35.1 The public authorities while disclosing their budgets shall undertake the following:

- (a) Keeping in view of the technical nature of the government budgets, it is essential that Ministries/Departments prepare simplified versions of their budgets which can be understood easily by general public and place them in public domain. Budgets and their periodic monitoring reports may also be presented in a more user-friendly manner through graphs and tables, etc.
- (b) Outcome budget being prepared by Ministries/Departments of Government of India should be prominently displayed and be used as a basis to identify physical targets planned during the budgetary period and the actual achievement vis-à-vis those targets. A monthly programme implementation calendar method of reporting being followed in Karnataka is a useful model.
- (c) Funds released to various autonomous organizations/ statutory organizations/ attached offices/ Public Sector Enterprises/ Societies/ NGOs/ Corporations etc. should be put on the website on a quarterly basis and budgets of such authorities may be made accessible through links from the website of the Ministry/Department. If a subsidiary does not have a website then the budgets and expenditure reports of

such subsidiary authority may be uploaded on the website of the principal Public Authority.

- (d) Wherever required by law or executive instruction, sector specific allocations and achievements of every department or public authority (where feasible) must be highlighted. For example, budget allocation and target focusing on gender, children, Scheduled Castes and Scheduled Tribes and religious minorities should be specially highlighted. The sector-wise breakup of these targets and actual outcomes must be given in simplified form to enable the vulnerable segments of society to better understand the budgets of public authorities.

3.6 Guidelines for Section 4(1)(b)(xiv) – details in respect of information, available to or held by it, reduced in an electronic form.

3.6.1 On the one hand, this clause serves as a means of proactively disclosing the progress made in computerizing information under Section 4(1)(a) of the RTI Act in a periodic manner. On the other, it provides people with clarity about the kinds of electronic information that, although not held by the public authority, is available to them. For example the stocks of ration available with individual fair price shops may not be held by the District Civil Supplies office, but may be available at a subordinate formation.

3.6.2 Keeping in view the varied levels of computerization of records and documents in public authorities, data about records that have been digitized may be proactively disclosed on the respective websites, excluding those records /files /information that are exempted under Section 8. The data about digitized record may include the name of the record and any categorization or indexing used; the subject matter and any other information that is required to be compiled in relation to a file as prescribed by Manual of Office Procedure (and to be prescribed by MOP for electronic records that is under finalization by DARPG), the division/ section/ unit/ office where the record is normally held; the person, with designation, responsible for maintaining the record; and the life span of the record, as prescribed in the relevant record retention schedule.

4.0 Compliance with Provisions of *suo motu* (proactive) disclosure under the RTI Act

4.1 Each Ministry/Public Authority shall ensure that these guidelines are fully operationalized within a period of 6 months from the date of their issue.

4.2 Proactive disclosure as per these guidelines would require collating a large quantum of information and digitizing it. For this purpose, Ministries/Public Authorities may engage consultants or outsource such work to expeditiously comply with these guidelines. For this purpose, the plan/non-plan funds of that department may be utilized.

4.3 The Action Taken Report on the compliance of these guidelines should be sent, along with the URL link, to the Central Information Commission soon after the expiry of the initial period of 6 months.

4.4 Each Ministry/ Public Authority should get its proactive disclosure package audited by third party every year. The audit should cover compliance with the proactive disclosure guidelines as well as adequacy of the items included in the package. The audit should examine whether there are any other types of information which could be proactively disclosed. Such audit should be done annually and should be communicated to the Central Information Commission annually through publication on their own websites. Further, the task of undertaking transparency audits may be given to the respective Training Institutes under each Ministry/Department/Public Authority and across the States and Union Territories. *“However, in cases where no training institutue exists under the Ministries/Departments./Public Authorities the tasks of undertaking transparency audits may be given to any Government Training Insitutue.”* All Public Authorities should proactively disclose the names of the third party auditors on their website. For carrying out third party audit through outside consultants also, Ministries/Public Authorities should utilize their plan/non-plan funds.

4.5 The Central Information Commission should examine the third-party audit reports for each Ministry/Public Authority and offer advice/recommendations to the concerned Ministries/ Public Authorities.

4.6 Central Information Commission should carry out sample audit of few of the Ministries/ Public Authorities each year with regard to adequacy of items included as well as compliance of the Ministry/Public Authority with these guidelines.

4.7 Compliance with the proactive disclosure guidelines, its audit by third party and its communication to the Central Information Commission should be included as RFD target.

5.0 Nodal Officer

5.1 Each Central Ministry/ Public Authority should appoint a senior officer not below the rank of a Joint Secretary and not below rank of Additional HOD in case of attached offices for ensuring compliance with the proactive disclosure guidelines. The Nodal Officer would work under the supervision of the Secretary of the Ministry/Department or the HOD of the attached office, as the case may be. Nodal Officers of Ministry/Department and HOD separately should also ensure that the formations below the Ministry/Department/Attached Office also disclose the information as per the proactive disclosure guidelines.

6.0 Annual Reports to Parliament/Legislatures

6.1 Government has issued directions to all Ministries/Departments to include a chapter on RTI Act in their Annual Reports submitted to the Parliament. Details about compliance with proactive disclosure guidelines should mandatorily be included in the relevant chapter in Annual Report of Ministry/Department.
