

Jammu And Kashmir Right To Information Rules, 2010

[29 April 2010]

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Jammu And Kashmir Right To Information Rules, 2010

[29 April 2010]

SRO 199.- In exercise of the powers conferred by sub section (1) of section 24 of the Jammu and Kashmir Right to Information Act,

2009 (Act No. VIII of 2009), the Government thereby makes the following rules, namely:-

CHAPTER 1

General

1. Short Title And Commencement :-

(1) These rules may be called the Jammu and Kashmir Right to Information Rules, 2010.

(2) These rules shall come into force from the date of their publication in the Government Gazette.

2. Definitions :-

(1) In these rules, unless the context otherwise requires -

(a) "Act" means the Jammu and Kashmir Right to Information Act, 2009;

(b) "advocate" means a person whose name is entered on the roll of advocates prepared and maintained by the State Bar Council under the Advocates Act, 1961 (Central Act No. 25 of 1961);

(c) "appellant" includes a complainant;

(d) "Chief Information Commissioner" and "Information Commissioner" mean the Chief Information Commissioner and the Information Commissioner appointed under sub-section (3) of section 12;

(e) "Commission" means the Jammu and Kashmir State Information Commission;

(f) "decision" includes an order, direction or determination of an issue;

(g) "first appellate authority" means an officer so appointed or notified by the public authority under the Act and includes a head of the department or the chief executive officer of the public authority if no first appellate authority is appointed or notified;

(h) "Form" means a form appended to these rules;

(i) "person" means a person who is residing in the State of Jammu and Kashmir;

(j) "Public Information Officer" means an officer designated by a public authority under sub-section (1) of section 5 and includes an Assistant Public Information Officer so designated or notified under sub-section (2) of section 5 and the head of the public authority in case no Public Information Officer is appointed or notified;

(k) "records" mean the aggregate of papers relating to an appeal or complaint including pleadings, rejoinders, comments, proceedings,

documentary or oral evidence, decisions, orders and all other documents filed with or annexed to an appeal or complaint or submitted subsequently in connection with such appeal or complaint;

(l) "Registrar" means an officer of the Commission so appointed by the Secretary to be in charge of the registry of the Commission;

(m) "Registry" means the registry of the Commission comprising the Registrar General, Registrar, Additional Registrar, Joint Registrar, Deputy Registrar or Assistant Registrar;

(n) "regulations" means the regulations framed by the Commission under these rules;

(o) "representative" means a person duly authorized by or on behalf of any of the parties to the proceedings or interveners and may include a person who may not be an advocate;

(p) "respondent" includes an intervener or a third party or a party impleaded by the Commission;

(q) "rules" mean the rules framed by the Government under section 24;

(r) "Secretary" means Secretary to the Commission and, unless the context otherwise requires, shall include Additional Secretary, Joint Secretary, Deputy Secretary and Under Secretary of the Commission;

(s) "section" means the section of the Act.

(2) All other words and expressions used in these rules and not defined but defined in the Act shall have the meanings respectively assigned to them in the Act.

CHAPTER 2

Designated Public Information Officers

3. Designation Of Chief Public Information Officer :-

Without prejudice to the generality of the provisions of section 5, a public authority shall designate an officer, not below the rank of Under Secretary to the Government, as Chief Public Information Officer: _ Provided that in the interest of speedier and appropriate response to persons requesting for the information under the Act, a public authority may, in case where the head of an administrative unit or office is an officer below the rank of Under Secretary to the Government, designate him as Chief Public Information Officer.

CHAPTER 3

Matters Relating to Fee and Cost

4. Request For Information And Mode Of Payment Of Fee :-

(1) A request under sub-section

(1) of section 6 for obtaining information shall be made in Form-1 and accompanied by an application fee of rupees fifty by way of cash against proper receipt or by Indian Postal Order or demand draft or bankers cheque payable to the accounts officer of the public authority.

(2) A request for obtaining information under sub-section (1) of section 6 shall be deemed to be made duly accompanied by prescribed application fee if it is written on a non-judicial stamp paper of rupees fifty.

(3) Notwithstanding anything contained in sub-rule (1) or sub-rule (2), a public authority may provide such other alternate mode for payment of fee and cost, as it may deem less cumbersome and technically feasible, keeping in view the e-environment of its office: Provided that such alternate mode shall be widely publicized and be put on the website of the public authority so that it is in public domain and as many persons take advantage of this additional option for payment as may wish to avail.

(4) The Public Information Officer shall acknowledge the receipt of request for information/ application in Form-2.

5. Fee For Providing Copied Information, Samples, Models And Inspection Of Records :-

For providing information under sub-section (1) of section 7, the fee shall be charged at the following rates:

(a) rupees ten for each page in A-4 or A-3 size paper and rupees fifteen for each page in Legal size paper created or copied;

(b) actual charge or cost price of a copy in larger size paper;

(c) actual cost or price for samples or models; and

(d) for inspection of records, no fee for the first hour and a fee of rupees fifteen for each subsequent hour or a fraction thereof.

6. Fee For Providing Information In Printed Or Electronic Format :-

For providing information under sub-section (5) of section 7, the fee shall be charged at the following rates:-

(a) for information provided in diskette or floppy, rupees seventy five per diskette or floppy and rupees one hundred per compact disc;

(b) for information provided in printed form, at the price fixed for such publication or rupees two per page or photocopy for extracts from the publication: Provided that no fee shall be charged under

this rule from persons living below poverty line, as may be determined by the Government.

7. Additional / Further Fee :-

Notwithstanding anything contained in rule 5 or rule 6, further fee representing cost of providing information under sub-section (3) of section 7 shall be determined by the Chief Public Information Officer, wherever considered necessary or appropriate on the basis of estimated cost, which shall be realistically drawn up and intimated to the applicant together with the estimate of fee for providing information under sub-section (1) and sub-section (5) of section 7: Provided that no such further fee shall be charged from persons living below poverty line, as may be determined by the Government.

8. Supply Of Information Or Rejection Thereof :-

On receipt of the request for information under section 6, complete in all respects and accompanied by the prescribed fee, the Public Information Officer shall either provide the required information in Form-3 or reject in Form-4 the request for reasons to be specified therein.

CHAPTER 4

Secretary of the Commission, his duties and responsibilities

9. Appointment Of Secretary :-

(1) The Government, in consultation with the Chief Information Commissioner, shall appoint an officer, not below the rank of Special Secretary to Government, as Secretary to the Commission on such terms and conditions as it deems fit.

(2) The Secretary shall be the chief executive officer of the Commission.

(3) The Secretary shall be, and shall function as, the Registrar General of the Commission.

10. Duties And Responsibilities Of Secretary :-

The secretary shall perform such duties and carry out such responsibilities as are assigned to him by regulations made in this regard by the Commission.

CHAPTER 5

The Commission and its officers

11. Secretariat Of The Commission :-

The Secretariat of the Commission shall comprise of the-

- (a) Registry;
- (b) Legal Cell;_
- (c) Monitoring and Reporting (MoRe) wing;
- (d) Right to Information & Transparency Institute (RITI);
- (e) Administration and Human Resource Development wing; and
- (f) Public Relations wing.

12. The Registry :-

(1) The Registry of the Commission shall be the repository of all records relating to the proceedings of the Commission, applications, complaints, petitions and appeals filed before the Commissions and the orders, directions and decisions of the Commission.

(2) The Registry shall be responsible for-

- (a) registration of applications, complaints, petitions and appeals which are filed before the Commission;
- (b) receiving plaints, written statements, applications and affidavits in all proceedings before the Commission;
- (c) communicating the orders, directions and decisions of the Commission;
- (d) authenticating the orders, directions and decisions of the Commission;
- (e) asking for and collecting the information required by the Commission;
- (f) preliminary examination of the applications, complaints, petitions and appeals and scrutiny of documents, fee etc accompanying such applications, complaints, petitions or appeals;
- (g) service of notices and summons on behalf of the Commission.
- (h) fixing dates of hearing and attendance of witnesses in the proceedings before the Commission;
- (i) requiring any memorandum of appeal, petition, application or other proceeding presented to the Commission to be amended in accordance with the procedure or practice of the Commission; and
- (j) such other work specifically assigned to it by Chief Information Commissioner

13. Legal Cell :-

(1) The Legal Cell of the Commission shall be responsible for-

- (a) all acts necessary for, and incidental to, the litigation in which the Commission has been impleaded as a party and/or the Commission has decided to contest/litigate;
- (b) providing legal advice/ legal input to the Commission;

(c) providing legal advice/input to the Chief Information Commissioner and Information Commissioners;

(d) proactively engaging in publication of the decisions, orders, directions and rulings of the Commission; and

(e) any other work specifically assigned to it by Chief Information Commissioner.

(2) The Legal Cell shall be headed by an officer not below the rank of Additional Secretary to Government to be drawn from Jammu and Kashmir Legal (Gazetted) Service. The other staff of the Legal Cell may be designated by the Chief Information Commissioner from amongst the officers/officials of the Commission.

14. Monitoring And Reporting Wing :-

(1) The Monitoring and Reporting (MoRe) Wing of the Commission shall be responsible for-

(a) all acts necessary for, and incidental to, the implementation of the provisions of the Act by the Commission as per the provisions of section 22;

(b) all acts necessary for, and incidental to, organizing the annual convention of the Commission;

(c) proactively engaging with the stakeholders for all acts necessary for, and incidental to, the promotion of data management and computerization so as to facilitate compliance required of the Commission as per the provisions of section 22;

(d) computerization and data management inclusive of archival/record management of the Commission; and

(e) any other work specifically assigned to it by the Secretary.

(2) Keeping in view the availability of the officers in the Commission, the Secretary may designate, from amongst the officers of the Commission, an officer, preferably of the rank of Director in the Government, as in charge of the Monitoring and Reporting Wing.

(3) Subject to the provisions of the Act, the Monitoring and Reporting Wing shall work under the immediate supervision of the Secretary of the Commission.

15. Right To Information & Transparency Institute :-

(1) The Right to Information & Transparency Institute (RITI) shall be an academic resource centre within the Commission and shall work autonomously. (2) The Institute shall have a Board of Governors.

(3) The Chief Information Commissioner along with one of the Information Commissioners so nominated by the Chief Information Commissioner shall be the members of Board of Governors of the Institute.

(4) Secretaries in charge of the following departments of the Government shall be ex officio members of Board of Governors of the Institute

(a) Planning & Development Department;

(b) General Administration Department;

(c) Administrative Reforms & Inspections Department; and

(d) Department of Information Technology.

(5) Secretary, State Human Rights Commission shall be ex officio member of Board of Governors of the Institute.

(6) Secretary of the Commission shall be ex officio member-secretary of Board of Governors of the Institute.

(7) The Chief Information Commissioner shall chair the meetings of Board of Governors of the Institute

(8) The Institute shall be financed from its earnings either accrued to it in the form of interest on its corpus or from the institutional charges levied on the services provided by it.

(9) The Commission shall make regulations to provide for the professional management of the Institute.

16. Administration And Human Resource Development Wing

:-

(1) The Administration and Human Resource Development wing of the Commission shall be responsible for-

(a) all acts necessary for, and incidental to, professional housekeeping including security and hygiene for the smooth functioning of the Commission;

(b) all acts necessary for, and incidental to, providing on a sustainable basis sufficient and adequate personnel for the smooth functioning of the Commission;

(c) proactively engaging with the stakeholders to identify training needs of the personnel, training providers of repute and such other activities to keep the moral of such personnel high and their skills upgraded;

(d) ensuring due diligence in regard to expenditure authorization, budgeting, planning, audit and compliance of recruitment rules; and

(e) any other work specifically assigned to it by the Chief

Information Commissioner.

(2) Keeping in view the availability of the officers in the Commission, the Chief Information Commissioner may designate, from amongst the officers of the Commission, an officer, preferably of the rank of Director in the Government as in charge of the Administration and Human Resource Development wing.

(3) Without prejudice to what has been provided in the Act, the Administration and Human Resource Development wing shall work under the immediate supervision of the Secretary of the Commission.

17. Public Relations Wing :-

(1) The Public Relations wing of the Commission shall be responsible for-

(a) all acts necessary for, and incidental to, ensuring that the issues relating to salaries and allowances payable to, and other terms and conditions of service of, the Chief Information Commissioner and Information Commissioners are addressed with promptness on a sustainable basis as per the provisions of the Act;

(b) proactively engaging with all the stakeholders including incharge of the administration and be responsible for all acts necessary for, and incidental to, providing on a sustainable basis sufficient and adequate personnel for the smooth functioning of the Chief Information Commissioner and Information Commissioners;

(c) all acts necessary for, and incidental to, ensuring that the website of the Commission remains updated on sustainable basis and at such frequency as decided by the Commission;

(d) ensuring due diligence in regard to supply of timely and correct information to various stakeholders who approach the Commission for advice/information as Public Information Officer or otherwise; and

(e) any other work specifically assigned to the wing by the Chief Information Commissioner.

(2) Keeping in view the availability of the officers in the Commission, the Chief Information Commissioner may designate, from amongst the officers of the Commission, an officer, preferably of the rank of Deputy Secretary to Government as incharge of the Public Relations wing.

(3) Without prejudice to what has been provided in the Act, the Public Relations wing shall work under the immediate supervision of the Secretary of the Commission.

18. Officers And Employees Of The Commission :-

(1) Without prejudice to anything contained in these rules and the Act, the Commission shall have following categories of personnel-

(a) Government employees whose services are placed at the disposal of the Commission by the Government for appointment against various sanctioned posts; and

(b) employees appointed by the Commission, in accordance with the recruitment rules, against the posts sanctioned by the Government for the Commission.

(2) Notwithstanding anything contained in these rules, the Commission may outsource certain services. The personnel deployed by the service provider for supplying the outsourced services shall not be eligible to be treated as officers and employees of the Commission.

(3) In order to discharge its obligations under sub-section (6) of section 13 of the Act, from the date these rules are notified, the Government shall, annually for the first five years and subsequently once in every plan period, undertake a review of the requirement of officers and employees as may be necessary for the efficient performance of the functions of the Commission under the Act. (4) The rules regulating the general conditions of service of Government employees, and in particular the provisions of the Jammu and Kashmir Civil Services Regulations, the Jammu and Kashmir Government Employees (Conduct) Rules, 1971 and the Jammu and Kashmir Civil Services (Classification, Control & Appeal) Rules, 1956, shall be applicable to the employees of the Commission.

19. Working Hours, Sittings And Vacations Etc :-

Subject to an order of the Chief Information Commissioner to the contrary, the Secretariat of the Commission shall observe such vacations, holidays, working hours as are observed by the Government Departments.

CHAPTER 6

Appeal procedure

20. Disposal Of First Appeal :-

(1) The first appeal under sub-section (1) of section 16 shall be filed in Form-5.

(2) Without prejudice to the provisions of sub-section (6) and subsection (7) of section 16, if the appellate authority prima facie

does not find merit in the appeal, before taking a final view in the matter the appellant shall be provided an opportunity of being heard.

(3) The appellate authority shall dispose of the appeals filed before him by passing a reasoned order.

(4) If, in case of a public authority, the Chief Information Commissioner, on the basis of number and nature of second appeals pending /decided in the Commission, comes to the conclusion that the first appeals are being rejected cursorily, the Commission may with relevant data write to the _ Minister concerned for taking corrective measures to sensitize the officers of the department about their obligations under the Act.

21. Contents Of Second Appeal :-

A second appeal to the Commission under sub-section (4) of section 16 shall contain the following information, namely:- (a) name and address of the appellant;

(b) date of filing second appeal. If condonation of delay is requested-

(i) number of days delayed, and

(ii) brief reasons for such delay;

(c) name and address of the Public Information Officer;

(d) date of order of Public Information Officer;

(e) particulars of the first appellate authority-

(i) order against which the appeal is preferred,

(ii) date of order in first appeal,

(iii) number of the order (if any), and

(iv) name and designation of the first appellate authority ;

(f) brief facts leading to the appeal (main grounds of appeal to be enclosed as attachment); (g) prayer or relief sought;

(h) grounds for such prayer or relief; and

(i) verification by the appellant.

22. Documents To Accompany Second Appeal :-

Every second appeal made to the Commission shall be accompanied by the following documents, namely:-

(a) self-attested copies of the application/ request for information submitted before the Public Information Officer along with the details of payment of fee under the Act;

(b) the order, or decision or response, if any, from the Public Information Officer to whom the application was made;

(c) self-attested copies of the first appeal submitted before the first appellate authority with documentary proof of filing the appeal;

- (d) the order or decision or response, if any, from the first appellate authority against which the second appeal is being preferred;
- (e) copies of documents relied upon by the appellant and referred to in the appeal;
- (f) a certificate stating that in respect of the information sought which is the subject matter of the appeal-
- (i) no other request for information/ application has been previously filed or is pending with any public authority and if so, particulars thereof;
- (ii) no appeal, complaint or petition is pending with any court or tribunal or with any other authority including the first appellate authority or a public authority; and
- (iii) is not covered by any other appeal, complaint or petition filed before the Commission and if so, the result thereof;
- (g) an index of the documents referred to in the appeal.

23. Scrutiny Of Documents And Notice By The Registrar :-

On receipt of an appeal in the registry, the Registrar shall-

- (a) scrutinize the documents accompanying the appeal;
- (b) give the concerned department a chance (time bound) to comply the provisions of the Act and the rules; (c) help the appellant in making the appeal documentation complete by advising him to supply/enclose the documents required as per rules;
- (d) serve the notice on behalf of the Commission to the Public Information Officer; and
- (e) identify the decision points for the Commission.

24. Filing Of Counter Statement By The Public Information Officer Or The First Appellate Authority :-

After receipt of a copy of appeal or complaint, the Public Information Officer or the first appellate authority or the public authority, as the case may be, shall file counter statement along with documents, if any, pertaining to the case. A copy of the counter statement so filed shall be served upon the appellant or complainant by the Public Information Officer, the first appellate authority or the public authority, as the case may be.

25. Posting Of Appeal Or Complaint Before The Information Commissioner :-

- (1) An appeal or a complaint or a class of appeals or complaints shall be heard either by a single Information Commissioner or by

the Division Bench of two Information Commissioners, as directed by the Chief Information Commissioner by a special or general order issued for this purpose from time to time.

(2) If during the course of hearing of an appeal or a complaint or other proceeding before a single Information Commissioner, the Commissioner feels that the matter should be dealt with by the Division Bench, he shall refer the matter to the Chief Information Commissioner who may direct that such appeal shall be heard and disposed of by the Division Bench.

26. Amendment Or Withdrawal Of An Appeal Or Complaint

:-

The Commission may, in its discretion, allow a prayer for any amendment or withdrawal of an appeal or a complaint during the course of its hearing if such a prayer is made by the appellant or the complainant on an application made in writing. However, no such prayer shall be entertained by the Commission after_ the matter has been finally heard or a decision or order has been pronounced by the Commission.

27. Procedure In Deciding Second Appeal :-

In deciding the second appeal, the Commission may-

- (a) take oral or written evidence on oath or on affidavit from interested person;
- (b) peruse or inspect documents, public records or copies thereof;
- (c) inquire through authorized officer for further details or to ascertain facts;
- (d) summon files, records, documents, samples, material etc. or inspect, or cause to be inspected, any premises, sites, places etc.
- (e) hear Public Information Officer, Assistant Public Information Officer or such senior officer who decided the first appeal, or such person against whom the complaint is made, as the case may be;
- (f) hear a third party; and
- (g) receive evidence on affidavit from Public Information Officer, Assistant Public Information Officer or such senior officer who decided the first appeal or such person against whom the complaint lies or the third party.

28. Mode Of Service Of Notice By Commission :-

Notice to be issued by the Commission may be served in any of the following modes, namely:-

- (a) service by the party itself;
- (b) by hand delivery (dasti) through process server;

- (c) by registered post with acknowledgement due; or
- (d) through head of the office or the department.

29. Issue Of Summons :-

Summons to the parties or to the witnesses for appearance or for production of documents or records or things shall be issued by the Registrar under the authority of the Commission, and it shall be in such form as may be specified by the Commission.

30. Personal Presence Of The Appellant Or Complainant :-

(1) The appellant or the complainant, as the case may be, shall in every case be informed of the date of hearing at least seven clear days before that date.

(2) The appellant or the complainant, as the case may be, may, at his discretion at the time of hearing of the appeal or complaint by the Commission, be present in person or through his duly authorized representative or participate via an audio/video conference or may opt not to be present.

(3) Where the Commission is satisfied that the circumstances exist due to which the appellant or the complainant, as the case may be, is being prevented from attending the hearing of the Commission, the Commission___ may afford the appellant or the complainant, as the case may be, another opportunity of being heard before a final decision is taken or take any other appropriate action as it may deem fit.

(4) The appellant or the complainant, as the case may be, may seek the assistance of any person in the process of the appeal while presenting his case and the person representing him may not be an advocate.

(5) If an appellant or a complainant decides at his discretion not to be present either personally or through his duly authorized representative during the hearing of appeal or complaint before the Commission or remains absent at a hearing, the Commission shall pronounce its decision or pass its order in the matter on the basis of records available.

31. Conduct Of An Inquiry :-

(1) The Commission may entrust an inquiry in connection with any appeal or complaint pending before it to an officer of the Commission or to any officer so identified for the purpose.

(2) The officer so entrusted to inquire under sub-rule (1), while

conducting the inquiry, shall have all the necessary powers including the power to-

- (a) summon and enforce the attendance of persons;
- (b) compel production of documents or things;
- (c) administer oath and to take oral evidence or to receive affidavits or written evidence on solemn affirmation;
- (d) inspect documents and require discovery of documents; and
- (e) requisition any public record or documents from any public authority.

(3) The Commission shall be deemed to be a civil court and when any offence as described in section 175, section 178, section 179, section 180 or section 228 of the Jammu and Kashmir State Ranbir Penal Code is committed in the view or presence of the Commission, the Commission may direct the Registrar, after recording the facts constituting the offence and the statement of the accused as provided for in the Code of Criminal Procedure, Samvat 1989, to forward a complaint to the Magistrate having jurisdiction to try the same and the Magistrate to whom any such complaint is forwarded shall proceed to hear the complaint against the accused as if the complaint has been forwarded under section 482 of the Code of Criminal Procedure, Samvat 1989.

(4) Every proceeding before the Commission shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purposes of section 196, of the Jammu and Kashmir State Ranbir Penal Code, and the Commission shall be deemed to be a civil court for the purposes of section 195 of the Jammu and Kashmir State Ranbir Penal Code and Chapter XXVI of the Code of Criminal Procedure, Samvat 1989.

32. Investigation :-

(1) The Commission may, for the purpose of conducting any investigation pertaining to an inquiry, utilize the services of any officer or investigation agency of the Government.

(2) For the purpose of investigating into any matter pertaining to an inquiry, any officer or agency whose services are utilized as aforesaid may, subject to the direction and control of the Commission,-

- (a) summon and enforce the attendance of any person and examine him;
- (b) require the discovery and production of any document; and
- (c) requisition any public record or copy thereof from any office.

(3) The provisions of Rule 33 shall apply in relation to any statement made by a person before any officer or agency whose services are utilized under sub-rule

(1) herein as they apply in relation to any statement made by a person in the course of giving evidence before the Commission.

33. Statement Made By Persons To The Commission :-

No statement made by a person in the course of giving evidence before the Commission shall subject him to, or be used against him in, any civil or criminal proceeding except a prosecution for giving false evidence by such statement; provided that the statement is-

(a) made in reply to the question which he is required by the Commission to answer; or

(b) relevant to the subject matter of the inquiry.

34. Order Of The Commission :-

(1) Every decision or order of the Commission shall be signed and dated by the Commissioner or Commissioners, as the case may be, who has/have heard the appeal or the complaint and decided the matter.

(2) Every decision or order of the Commission shall be communicated to the parties under authentication by the Registrar or any other officer authorized by the Commission in this regard. The Commission may place on its website the decisions so pronounced or orders so made.

(3) Every decision or order pronounced by a single Information Commissioner or by a Division Bench shall be deemed to be the decision or order by the Commission under the Act.

35. Abatement Of An Appeal/Complaint :-

The proceedings pending before the Commission shall abate on the death of the appellant or the complainant.

36. Compliance Of Orders Of The Commission :-

(1) The public authority and/or an officer entrusted with any task by or under an order of the Commission shall be responsible for compliance of the order of the Commission-

(a) in regard to providing the information to the appellant as per the order of the Commission;

(b) towards recovery of penalty as per the orders;

(c) towards payment of compensation;

(d) for initiating and taking to logical conclusion the disciplinary

proceedings ordered by the Commission with regard to the officers of a public authority;

(e) intimating the Commission of any decision or order, if any, received from a competent court of law;

(f) for bringing about such systemic improvements as may be directed by the Commission for compliance with section 19;

(g) in case compensation is awarded by the Commission to any complainant under clause (b) of sub-section (9) of section 16, a requisition order duly signed by the Registrar shall be served on the public authority and the head of such public authority shall be responsible for ensuring compliance thereof.

(2) In case penalty is imposed by the Commission, a requisition order duly signed by the Registrar shall be served on the public authority with dispatch but not later than seven working days from the date of the order or after the lapse of such time as may be allowed by the Commission in its order.

(3) The pay and accounts office of the public authority shall deduct the amount of penalty in such instalments as may be allowed by the Commission in its order and as intimated by the Registrar in the requisition order from the monthly salary, in case of a serving officer, and from the monthly pension, in case the officer is a pensioner, without awaiting any act or consent from the payee.

(4) Notwithstanding anything contained in this rule, the affected Public Information Officer may file a review before the Commission for revision/waiver of the penalty on the basis of facts that could not be brought to the notice of the Commission at the time of hearing of the appeal.

(5) If the Commission, following a review of the penalty order, cancels the order and directs restoration/ refund of the penalty amount which might have been deducted from the salary of the officer or the pension of a pensioner, the controller of accounts or any such other officers of the public authority shall restore/ refund the deducted amount to the credit of the officer or the pensioner, as the case may be.

(6) In case of non-compliance of the orders of Commission by a public authority or any of its officers regarding deducting and crediting of the amount of penalty or compensation, disciplinary action shall be initiated forthwith(including suspension) against the defaulting officer and the amount of penalty or compensation not deducted by the officer so instructed by the Commission shall be deducted from the salary of such officer. In addition, the Commission may also direct institution of a criminal case against

such officer.

(7) It shall be the duty of the Registrar to submit a quarterly report before the Commission regarding compliance of its orders by various public authorities.

(8) The Chief Information Commissioner may write to the Minister incharge of the public authority who is found to be in habit of non-compliance.

(9) Notwithstanding anything contained herein, the annual report of the Commission shall invariably have a chapter on the compliance of the orders of the Commission by various departments/ public authorities.

CHAPTER 7

Voluntary disclosure of information and rating of public authorities

37. Standardization Of Data And Record Management :-

Without prejudice to the obligations of every public authority under section 4, the Commission shall proactively engage with the stakeholders to -

(a) develop and lay down standards for record management practices and for computerization of data and to capture, store and retrieve such data;

(b) promote maximum routinization of processes to ensure maximum transparency.

38. Rating Of Public Authorities :-

(1) The Commission shall proactively engage with the stakeholders to develop and lay down standards for rating of public authorities on the basis of a transparency index based on standardization of data, record management practices and computerization, voluntary disclosure of information, the efficacy of the mechanism created for keeping it updated, user friendliness of the voluntarily disclosed information, the instrumentality to take stock on regular basis the nature of applications seeking information and the response of public authorities to broad base the extent of voluntary disclosure so as to make it less and less necessary for the public at large to resort to the provisions of the Act and accessibility of Public Information Officers and first appellate authority and such others so as to enhance and deepen the compliance of the Act in letter and spirit.

(2) The Commission shall proactively engage with the stakeholders to facilitate emergence of independent rating instrumentality and lay down periodicity and acts necessary for, and incidental to, the

promotion and wider acceptance of the rating regime.

CHAPTER 8

Monitoring and Reporting

39. Annual Report On Implementation Of The Act :-

Without prejudice to the obligations of the Commission under section 22, each department or public authority which prepares its annual report shall include in such report one chapter on implementation of the provisions of the Act which inter alia shall indicate the efforts made during the year with regard to improvement in the data and record management practices, computerization thereof, voluntary disclosure and its update, quantitative measure of its interface with the public with regard to right to information and such other details as may be prescribed or required to be incorporated by the Commission and could reasonably be accommodated in the annual report without making it inordinately bulkier.

40. Performance Budget Document :-

Each department or public authority while preparing its performance budget shall include in an appropriate manner provisions on implementation of the Act which inter alia shall indicate the efforts to be made during the year with regard to improvement in the data and record management practices, computerization thereof, voluntary disclosure and its update, measure for qualitative improvement of its interface with the public with regard to right to information and such other details as may be prescribed or required to be incorporated by the Commission and could reasonably be accommodated in the performance budget document without inordinately diluting the focus on the centrality of its core activities.

41. Performance Audit Document :-

Each department or public authority while presenting records for its performance audit before the auditors shall disclose in detail the steps taken for the implementation of the Act which inter alia shall include the efforts made during the period with regard to improvement in the data and record management practices, computerization thereof, voluntary disclosure and its update, measures taken for qualitative improvement of its interface with the public with regard to right to information, impact of implementation of the Act on the working of the organization, preferably in quantitative terms like declining trend in litigation

and/or in the number of complaints and may even include intangibles like improvement in the goodwill of the organization and self esteem of the personnel of the organization with such other details as may be desired by the auditors.

42. Projects, Research Studies, Training Programmes And Conferences Etc :-

In order to discharge its obligation under the Act, the Commission may sanction projects, research studies, training programmes and assistance to other organizations, conventions and conferences etc.

43. Creation Of An Endowment Fund :-

In order to fund its activities as provided under these rules and to discharge its obligation under the Act, the _ Commission may create an endowment fund from the grants received from the Government, contributions from multilateral agencies, corporate entities pursuing the vision of corporate social responsibility identical to the objectives of the Act and such other stakeholders in the civil society as per law.

44. Annual Roster For Appearance Of Public Authorities :-

(1) In order to discharge its obligation under sub-section (5) of section 22, the Commission shall make an annual roster for appearance of public authorities.

(2) The public authority shall be represented before the Commission in this regard by such senior level functionary of the public authority as may be desired by the Commission.

(3) The public authority shall be responsible for adducing evidence that the practice of the public authority in relation to the exercise of its functions under the Act in general and section 4 in particular conforms to the provisions and spirit of the Act.

(4) If it appears to the Commission on the basis of above proceedings or otherwise that the practice of a public authority in relation to the exercise of its functions under the Act does not conform with the provisions and spirit of the Act, it may give to the authority a recommendation specifying the steps which ought in its opinion to be taken for enhancing conformity.

(5) The Commission, before specifying steps which ought in its opinion to be taken for enhancing conformity, may launch a professional study by a consultant of systemic impediments in the public authority and possible solutions and may, in this regard, advise the public authority to take professional help.

(6) It shall be the duty of the department /organization to include in its annual report the recommendation of the Commission under these rules and compliance thereof.

(7) It shall be open to the department/ organization/ public authority that in lieu of the recommendation of the Commission specifying the steps which ought in the opinion of the Commission to be taken for enhancing conformity with the provisions of the Act, it may come up with an alternative model for achieving the same with sufficient dispatch but not later than four months of receipt of the Commissions recommendation and only if agreed to by the Commission, the same shall be considered as the sufficient steps to be taken for the purposes of this rule.

(8) The public authority during its performance audit shall disclose any recommendation made under these rules and compliance thereof to the auditors.

(9) The Commission in its annual report shall include these recommendations made to a department/ organization/ public authority and compliance thereof.

45. Non-Compliance Of The Orders/ Directions Of The Commission :-

(1) In case an order passed, or a direction given, by the Commission in connection with a proceeding under section 15 or section 16 is not complied with, the Commission may, either on its own motion or on a complaint received in this regard, enquire into the matter and if it is of the opinion that the public authority or any officer has wilfully disobeyed the orders or directions of the Commission or has intentionally omitted to provide assistance required of it or him, as the case may be, and thereby obstructed providing of information to an applicant in any manner, the Commission may-

(a) authorize the Registrar to file a complaint before a competent Magistrate under appropriate provisions of the Jammu and Kashmir State Ranbir Penal Code; and/or

(b) impose a penalty as prescribed under sub-section (1) of section 17 on the head of the public authority or any other officer responsible for causing such obstruction; and/or (c) recommend disciplinary action under sub-section (2) of section 17 against the head of the public authority or any other officer responsible for causing such obstruction.

(2) In case an order imposing penalty under sub-section (1) of

section 17 or an order awarding compensation under clause (b) of sub-section (9) of section 16 or any direction issued in connection with recovery of payment of such penalty or award is disobeyed or not complied with, the Commission may authorize the Registrar to:

(a) file a complaint before a competent Magistrate under appropriate provisions of the Jammu and Kashmir State Ranbir Penal Code against such officers as might be found responsible after conducting an enquiry as may be required for the purpose; and/or,

(b) proceed to recover the amount of penalty treating it as if it were a decree passed by a civil court.

(3) In case an order passed or a direction given under sub-section (9) of section 16 is disobeyed or not complied with by any public authority or an officer, who has been so directed, the Commission may, either on its own motion or on a complaint received in this regard, enquire into the matter under sub-section (2) of section 15 and in case it is of the opinion that the public authority or any officer has wilfully disobeyed the orders or directions of the Commission or has intentionally omitted to provide assistance required of it or him, as the case may be, and thereby obstructed providing of information to an applicant in any manner, the Commission may -

(a) authorize the Registrar to file a complaint before a competent Magistrate under appropriate provisions of the Jammu and Kashmir State Ranbir Penal Code; and/or

(b) impose a penalty as prescribed sub-section (1) of section 17 on head of the public authority or any other officer responsible for causing such obstruction; and/or

(c) recommend disciplinary action under sub-section (2) of section 17 against the head of the public authority or any other officer responsible for causing such obstruction.

CHAPTER 9

FINANCE, ACCOUNTS AND AUDIT

46. Grants By The Government :-

(1) The Government shall, after due appropriation made by the State Legislature by law in this behalf, pay to the Commission by way of grants such sums of money as the Government may think fit, for being utilized by it for the purposes of carrying its functions under the Act.

(2) The Commission may spend such sums as it thinks fit for

performing the functions under the Act, and such sums shall be treated as expenditure payable out of the grants referred to in sub-rule (1).

47. Accounts And Audit :-

(1) The Commission shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Government.

(2) The accounts of the Commission shall be audited by the Directorate of Accounts and Treasuries or the Directorate of Audit and Inspections at such intervals as may be specified by the said Directorate and any expenditure incurred in connection with such audit shall be payable by the Commission to the said Directorate.

(3) The Directorate of Accounts and Treasuries or the Directorate of Audit and Inspections or any person appointed by it in connection with the audit of the accounts of the Commission under these rules, shall have the same rights and privileges and the authority in connection with such audit as the Finance Department generally has in connection with the audit of Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Commission.

(4) The accounts of the Commission as certified by the Directorate of Accounts and Treasuries or the Directorate of Audit & Inspections or any other person appointed by it in this behalf, together with the audit report thereon shall be forwarded to the Government by the Commission and the Government shall cause the audit report to be laid, as soon as may be after it is received, before each House of the State Legislature.

CHAPTER 10

Miscellaneous

48. Power To Make Manuals, Procedures, Etc :-

(1) Without prejudice to any specific provision in these rules, the Chief Information Commissioner may cause manuals, procedures and administrative orders issued in exercise of his powers under sub-section (4) of section 12.

(2) Notwithstanding anything contained elsewhere in these rules, all such orders shall be issued under the signatures of the Secretary of the Commission or such other officer so authorized by the Secretary in this regard in writing.

(3) The officer who affixes his signatures on behalf of the Secretary shall be responsible for obtaining the specific authorization of the Secretary in each case in writing.

49. Power To Make Regulations :-

(1) Save as provided in sub-rule (2), sub-rule (3) and sub-rule (4), the Commission shall make such regulations as may be required for exercising its powers and discharging its functions under Chapter IV of the Act.

(2) Before making the regulations under sub-rule (1), the Commission shall-

(a) host the regulations proposed to be made under these rules on the website of the Commission asking for suggestions from general public;

(b) release the proposed regulations to the press by way of public notice asking for suggestions;

(c) send a copy of the proposed regulations to the Government asking for suggestions, if any;

(d) prominently display a copy of the proposed regulations on the notice board of the Commission asking for suggestions; and

(e) provide enough time, not less than two months, to stakeholders to send their suggestions in respect of the proposed regulations and if it deems necessary, extend the time for receipt of suggestions.

(3) The suggestions, if any, received in regard to the proposed regulations shall be considered by the Commission before finalizing such regulations.

(4) The regulations thus finalized shall again be hosted on the website of the Commission. An authenticated copy of the final regulations shall be forwarded to the Government and also posted by registered mail to every person/ organization who/ which sent his/its suggestions, if the Commission were in possession of their mailing address.

(5) The regulations so finalized shall not be questioned in any court of law with regard to any procedural lapse in the finalization of these regulations.

50. Interpretation :-

If any question of interpretation of these rules arise, the decision of the Government in General Administration Department, in consultation with Law Department, shall be final.

51. Repeal And Saving :-

(1) The Jammu and Kashmir Right to Information Rules, 2009 are hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken or any order made or any direction issued before such repeal shall be deemed to have been done, taken, made or issued, as the case may be, under the corresponding provisions of these rules. By order of the Government of Jammu and Kashmir. Sd/-

(Basharat Ahmad Dhar)IAS Commissioner/ Secretary to Government, General Administration Department.