

## **Orissa Right To Information Act, 2002**

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## **Orissa Right To Information Act, 2002**

An Act to make provision for securing Right to Information in the State of Orissa and for matters relating thereto. WHEREAS it is necessary that every Governmental action should be transparent to the public; AND WHEREAS to achieve this object, every member of the public should be able to get information from the Government; BE it enacted by the Legislative Assembly of Orissa in the Fifty-Second Year of the Republic of India as follows:-

### **1. Short Title And Commencement :-**

The Act may be called the Orissa Right to Information Act 2002.

### **2. Definitions :-**

(a) "Public authority"-It includes all offices of the State Government, and local self- government bodies, statutory authorities or other authorities constituted under any enactment of the State Government, administrative offices of Courts, Tribunals and quasi-judicial bodies funded out of State exchequer, any Political Party, Company, Trust, Society or Organisation owned, funded or controlled by the State Government or any individual or organization executing any public work or service on behalf of or as

authorised by them.

(b) "Government" means Government of Orissa.

(c) "Information" means any material or information relating to the affairs (decision, action or plan) of the public authorities, which may include on-the-spot verification of an office, interview with the concerned personnel, complete or partial copy of a file, complete or partial copy of a register or muster roll, samples and photo of construction materials, copy of and notes on the relevant correspondence and telephonic conversation, complete or partial copy of a video cassette, computer floppy, CD ROM or any other electronic medium in which information is stored.

(d) "Right to Information" means the Right of a person to access information available with public authorities.

(e) "Competent Authority" An Information Officer to be declared by every public authority for the purpose of this Act, who shall receive, dispose of, and remain accountable for all applications seeking information about the concerned office, and where such Information Officer could not be identified for valid reasons, the lowest-ranking Gezzetted Officer working in that office of the Public Authority shall be deemed to be an Information Officer for the purpose of this Act.

### **3. Right To Information :-**

Subject to the provisions of this Act, every member of the public shall have right to obtain information from a Competent Authority by way of:

- (i) Inspecting the records and files, taking hand written notes on them, or complete or partial photocopying of the same,
- (ii) Obtaining complete or partial print-out, copy of a computer floppy, CD ROM, Cassette, or any electronic device storing the information,
- (iii) Obtaining a Photo, a map or any special kind of document,
- (iv) Visit to the concerned site and taking samples of construction or other related materials used, and interview with the concerned personnel related to the information sought, or
- (v) In such other manner as may be felt necessary by the Applicant for Information.

### **4. Procedure For Supply Of Information :-**

- (i) A person desirous of obtaining information shall make an application to the Competent Authority in writing in the prescribed

form along with payment of the prescribed fee, and shall obtain a receipt from the Competent Authority who shall specify the nature of the information sought and the date of disposing of the same.

Provided that where a person can not, for valid reasons, make a request in writing, the Competent Authority may either accept an oral request which may subsequently be reduced in writing in the presence of the applicant, or render reasonable assistance to such person in making a written application.

Provided further, that the fee to be charged shall in no case exceed the cost of photocopying of the requested information or the cost of the diskette, cassette or any other device, as the case may be.

(ii) Upon receipt of an application for information, the Competent Authority shall consider it and furnish the information required by the applicant or pass orders thereon refusing the request along with giving reasons of such refusal, as soon as practicable, and in any case, within fifteen working days from the date of receipt of the application;

Provided that where such information relates to the life or liberty of a n individual, the Competent Authority shall either furnish information or pass order refusing the request along with reasons of refusal within 24 hours of the receipt of the application.

(iii) All information shall be supplied in writing in the Official Language of the State (Oriya), failing which it may be supplied either in English (Official Language of the nation) or in Hindi (National Language).

## **5. Limitations On The Disclosure Of Information :-**

The Competent Authority may, for reasons recorded in writing, withhold-

(a) Information, the disclosure of the contents of which will prejudicially affect the sovereignty and integrity of India, International relations, ongoing investigation of an offence or ongoing adjudication of a case in the court of law.

(b) Information relating to an individual, the disclosure of which has no relationship to any! public interest and would on the other hand constitute a clear and unwarranted invasion of personal privacy;

(c) Information whose release would constitute a breach of privilege of the Parliament or Legislative Assembly;

Provided that the Competent Authority shall, before withholding information under this Section, refer the matter to the concerned

Secretariat of the Legislature for determination of the nature of the information and act according to the advice tendered by that Secretariat;

(d) Information whose disclosure would endanger the life or physical safety of any person or identify the source of information or assistance given in confidence for enforcement of a law or rule; Provided that information which can not be denied to the State Legislature shall not be denied to any person.

## **6. Procedure Of Disposal Of Request For Information By The Competent Authority :-**

Where the Competent Authority does not have the information, he shall, within 3 days from the date of the receipt of the Application, transfer it to the authority superior to him with whom such information is likely available and inform the Applicant accordingly. Such superior authority shall, thereupon, furnish the said information within 12 working days from the receipt of the request from the Competent Authority.

Provided that where the Application for information cannot be complied with for reasons falling under Sections 5 of this Act, the Competent Authority, or the superior authority as the case may be, shall, within 15 working days of receiving the Application, reject the Application and communicate to the party concerned,

- (i) the reasons for such rejection;
- (ii) the period within which the appeal against such rejection may be preferred; and (iii) the particulars of the appellate authority.

## **7. Appeal :-**

(i) Any person aggrieved by an order of the Competent Authority or his superior authority, or any person who has not received any order from the Competent Authority within fifteen working days from the date of his Application, may appeal to the State Administrative Tribunal, Orissa constituted under the Government against the order so passed or non-passing of any order.

(ii) The decision of the State Administrative Tribunal shall be final.

(iii) No order adversely affecting any person shall be passed by the Appellate Authority except after giving that person a reasonable opportunity of being heard.

(iv) Every appeal shall be disposed of as expeditiously as possible and in no case exceeding 15 working days from the date of appeal.

## **8. Obligations On Competent Authority :-**

(i) Every Competent Authority shall be under a duty suomoto to maintain all their official records, duly catalogued and indexed so as to cater to the day-to-day information needs of the public, and grant access to information, subject to the provisions of this Act, to any person applying in the prescribed manner for such access.

(ii) Every Competent Authority shall be under a duty suomoto to proactively publish and announce the information in all possible mass media for forewarning in sufficient advance of the possible occurrence of a natural or man-made disaster, and the state of disaster preparedness at State, District, Block and Municipal/NAC level, and shall inform the public in similar manner on the the damage caused by such disaster at different levels including the village level, and the day-to day progress made in the Governmental and non-Governmental efforts for rescue, relief and rehabilitation of the people affected by the disaster.

(iii) Every Competent Authority, before sanctioning or initiating any project, scheme or programme suomoto shall publish or communicate to the public generally, and in particular to the persons affected, or likely to be affected by the said project, scheme or activity about all facts including the possible benefit or loss likely to emanate from the proposed project, scheme or programme of the Government.

(iv) Every Competent Authority suomoto shall publish information relating to the life, liberty and human rights, in particular of persons in custodial institutions, on day-to-day basis at such intervals and frequency as may be prescribed.

## **9. Penalties :-**

(i) Any Competent Authority responsible for providing any information under this Act shall be personally liable for furnishing or withholding the information within the period specified.

(ii) Where a Competent Authority responsible to supply information fails to furnish the information asked for under this Act within the time specified, or willfully furnishes any information which is false in material particulars, he shall be liable, after such inquiry as may be necessary to be conducted by the State Vigilance Commission, for imposition of such penalties as may be determined by the disciplinary authority under the relevant Public Service Conduct Rules applicable to him. In addition, the disciplinary authority may

order him to pay a fine of Rs.200/- for every days delay following the deadline within which the information was required to be supplied.

#### **10. Compensation :-**

(i) Where a Competent Authority fails to respond to an Application for Information within the stipulated deadline, the Applicant concerned is eligible for receiving a compensation to the tune of Rs.100 against every days delay from the Department or Office of the Public Authority concerned.

(ii) Where a Competent Authority willfully refuses the disclosure of information or serves wrongful information in response to the application for information, the concerned Applicant is eligible for receiving from the concerned Competent authority or his higher authority as the case may be, an amount of compensation to be determined by the appellate authority on adjudication.

#### **11. State Council For Right To Information :-**

(i) The Government shall, by Notification in the Official Gazette, establish with effect from such day as specified in the Notification, a Council to be known as State Council for Right to Information. The Council shall remain free from administrative control by any Department of the Government except the finance necessary for setting up and maintaining the said Council to be borne by the Government of Orissa in the Department of General Administration. The Council shall directly report once half-yearly to the Governor of Orissa and Orissa Legislative Assembly and remain accountable to them about its activities.

(ii) The State Council for Right to Information may consist of the following members-

(a) A Retired Judge of Orissa High Court shall be its Chairman;

(b) The Secretary to Government in the Department of General Administration shall be its ex-officio Secretary

(c) Official Members not exceeding four (3 RDCs and Secretary to Government in the Information and Public Relations Department;

(d) Two MLAs to be nominated by the Speaker;

(e) Non-Official Members not exceeding four representing Press, Electronic Media, Industry and Non-Government Organisations.

(iii) The time, place and agenda of the meeting of the Council shall be fixed by the Chairman who shall conduct the business of such meetings as may be laid down by the Constitution of the Council

which is required to be framed in its 1 st Meeting following its formation.

(iv) The principal object of the State Council is to promote right to information in the State and shall deal with all matters related to right to information from this perspective

(v) The Council shall advise the Government for abolishing or amending, as the case may be the very pre-existing Acts or Rules the provisions of which are inconsistent with the Orissa Right to Information Act

(vi) The Council shall frame the Rules for the State as a whole and amend them as and when necessary for proper enforcement of the Orissa Right to Information Act.

(vii) The Council shall ensure the compliance by the various Departments and agencies of the Government in the matter of framing their respective Rules for enforcement of the Act.

(viii) The Council shall review the over all administrative infrastructure and procedures operating for the purpose of the Act and advise the Government for effecting necessary reforms therein from the viewpoint of gradual expanding of the scope of public access to official information.

(ix) The Council on periodical review of the functioning of the Act may suggest to the Cabinet of Ministers and Orissa Legislative Assembly suitable amendment to the Act as and when necessary.

(x) The Council shall promote sustained research and studies on the application of latest information technology for expanding, verifying, indexing, classifying, cataloguing, and storing the information pool so as to secure to the citizens the fullest and quickest possible access to official information.

(xi) The Council shall advise the Government for undertaking suitable phase-wise programmes for training, skill development and orientation of the Competent Authorities and Other employees of the Government in respect of management and dissemination of official information, which is essential for ushering in a culture of openness and transparency in public life

## **12. An Act To Have Over-Riding Effect :-**

The provisions of this Act shall have effect notwithstanding anything inconsistent therewith, contained in any other enactment of the Legislative Assembly of Orissa, for the time being in force.