

# BA.LL.B VIII SEM

RIGHT TO INFORMATION ACT 2005

# Introduction

- The right to information bill was introduced in Lok Sabha in Dec. 2004. It was passed by both houses of Parliament with major amendments in May 2005. The assent of the President was received on June 15 and the act was notified in the Gazette on June 21. The law will become operational by mid-October 2005.
- This law was passed by Parliament to enable citizens to exercise their fundamental rights to information held by public authorities all over the country.
- The RTI Act aims to bring about transparency in the functioning of public authorities, contain corruption and hold governments and their instrumentalities accountable to people. It creates a process for providing information to people. The RTI Act places a duty on officers to provide information to the people both proactively and upon request.

- It provides for a two tier appeals mechanism to deal with complaints of unreasonable denial of information by public authorities.
- This law covers offices of public authorities established, owned or substantially financed by the central government and the administration of the union territories. Any body owned, controlled or substantially financially by these governments is also included. This law will be applicable to all non government organisations substantially financed directly or indirectly by these governments.
- Information relating to a private body that can be accessed by a public authority under any law in force is also covered by the RTI act.

- Most provisions will come into force from the 120<sup>th</sup> day of enactment. Some provisions will come into force with immediate effect such as – the duty of proactive disclosure, appointment of public information officers and assistant public information officers and setting up information commissions at the central and state level. Freedom of information act, 2002 will be repealed.

## DEFINITIONS ; sec.2

- “Information” means records, documents, memos, emails, opinions, advices, press release, circulars, orders, logbooks, con
- “Record” any document, manuscript and file;
- Any microfilm, microfiche and fascimile copy of a ducument;

- Any reproduction of image or image embodies in such microfilm and
- Any other material produced by a computer or any other device.

“right to information” means

- Right to inspect works, documents, records
- Right to take notes, extracts or certified copies
- Right to take samples
- Right to obtain information in electronic form
- Right to information whose disclosure in the public interest
- Information which cannot be denied to parliament or state legislature shall not be denied to any person.

- “Competent authority” speaker of lok sabha at the centre and vidhan sabhas in the state and union territories.
- Chairman of the rajya sabha and the legislative councils in the states.
- Chief justice of india and chief justice of high courts in the states.
- President in the case of other authorities created under or by the constitution.
- The governor at the level of the states.
- Administrator of union territories.

These competent authorities has the power to make rules for implementing the act within their jurisdiction.

“public authority” any body constituted under the constitution or law made by parliament or state legislature.

- Any body constituted by a notification or order issued by the central and state governments.
- Any body owned or controlled by the central and state government.
- Any body constituted by notification issued by the appropriate government.
- Any body owned controlled or substantially financed by the appropriate government.
- Any non government organizations substantially financed directly or indirectly by funds provided by the appropriate government.

## What is not open? Sec.8

- Information that would prejudicially affect the sovereignty, integrity, security, scientific or economic interest and relation with a foreign state.
- Information which would lead to commission of an offence.
- Information whose release is forbidden by a court or tribunal or disclosure which might constitute contempt of court.
- Information whose release may lead to breach of privileges of parliament or state legislatures.
- Commercial and trade secrets, intellectual property etc. that would harm competitive position of third party.
- Information available to a person in his fiduciary relationship.
- Information received in confidence from a foreign government.



- If information disclosure endangers life and physical safety of any person
- If it is about a source of information or assistance given in confidence of law enforcement or security purposes.
- If it is likely to impede investigation and prosecution processes.
- Cabinet papers including deliberations of ministers, secretaries and other officers.
- All exemptions subject to public interest override. If public interest outweighs harm to the public authority information must be disclosed. The power to decide whether public interest is with the public information officer and appellate authorities.
- Ground for rejection: if giving information infringes the copyright of any person other than state (sec.9).....TO BE CONTINUED....