



**Government of Jammu and Kashmir**  
**General Administration Department**  
(Administration Section)  
Civil Secretariat,  
Srinagar/Jammu.

**NOTIFICATION**  
**Srinagar, the 20<sup>th</sup> July, 2009.**

SRO 196 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 hereby makes the following rules, namely:-

**CHAPTER I**

**General**

- 1 (i) These rules may be called The Jammu and Kashmir Right to Information Rules, 2009.
- (ii) These shall come into force from the date of their publication in the official Gazette.
- 2 Definitions- 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 (25 of 1961);
  - (c) “Appellant” includes a complainant;
  - (d) “Commission” means the Jammu and Kashmir State Information Commission.
  - (e) “Chief Information Commissioner” and “Information Commissioner” mean the Chief Information Commissioner and Information Commissioner appointed under sub-section (3) of section 12 of the Act.

- (f) “Public Information Officer” means an officer designated by a Public Authority under section 5(1) of the Act and includes an Assistant Public Information Officer so designated or notified under Section 5(2) of the Act and it also includes the Head of the Public Authority in case no Public Information Officer is appointed or notified;
- (g) “Decision” includes an order, direction or determination of an issue
- (h) “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.
- (i) “Form” means a form appended to these rules.
- (j) “Person” means a person who is residing in the State of Jammu and Kashmir.
- (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) “Registry” means the Registry of the Commission comprising the Registrar General, Registrar, Additional Registrar(s), Joint Registrar(s); Deputy Registrar(s) or Assistant Registrar(s);
- (m) “Registrar” means an officer of the Commission so appointed by the Secretary to be in charge of the Registry of the Commission;
- (n) “Regulation” means 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 State Government under section 24 of the Act;
  - (r) “Section” means the Section of the Act.
  - (s) “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. The Secretary will be and function as ex-officio Registrar General.
- The words and expressions used herein and not defined but defined in the Act, shall have the meaning respectively assigned to them in the Act.
- (t)

## **CHAPTER II**

### **Designated State Public Information Officers**

- 3. i) Without prejudice to the generality of the provisions of Section 5, a Public Authority shall not designate an officer below the rank of Under Secretary to the Government of Jammu and Kashmir as Chief Public Information Officer.
- (ii) In cases where an officer of the rank below that of Under Secretary to the Government is the head of the administrative unit or office he also may be designated as Chief Public Information Officer, if it is deemed to be desirable by the Public Authority in the interest of speedier and appropriate response to persons requesting for the information under this Act.

## **CHAPTER I11**

### **Matters Relating to Fee and Cost**

- 4. (i) A request for obtaining information under Sub-section (1) of Section 6 shall be 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.
- (ii) 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.

- (iii) Notwithstanding anything contained in this rule elsewhere, a Public Authority, to facilitate, may provide additionally such alternative 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. The same, however, shall be widely publicized and be put on the web site of the Public Authority so that it is in public domain and as many take advantage of this additional option for payment as may care to avail. Wide publicity will be given to the additional mode of payment especially through website.
5. For providing the information under sub-Section (1) of Section 7, the fee shall be charged 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 at the following rates:
- (a) Rupees ten for each page (in A-4 or A-3 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. For providing the information under Sub-section (5) of Section 7, subject to the provisions relating to the persons below poverty line in the Section, the fee shall be charged 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 at the following rates:
- (a) For information provided in diskette or floppy Rupees seventy five per diskette or floppy; and Rupees hundred per CD.
  - (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.
7. Notwithstanding anything contained in these rules elsewhere the fee/cost /charges for providing information shall be reasonable. Further fee representing cost of providing information under section 7(3) shall be determined by the Chief Public Information Officer- where considered necessary- on the basis of estimate of cost which shall be realistically drawn up and intimate to the applicant together with estimate of fee under section 7(1) and section 7(5) of the Act.

## CHAPTER IV

### Secretary of the Commission and his Duties and Responsibilities

8. **Appointment of Secretary:**

- (i) Notwithstanding the provisions of Section 13(6) of the Act, the State Government in consultation with the Chief Information Commissioner shall appoint an officer, preferably, of the rank of the Secretary to the Government but not below the rank of Special Secretary as Secretary to the Commission on such terms and conditions as it deems fit.
- (ii) The Secretary shall be the Chief Executive Officer of the Commission;
- (iii) The Secretary shall be Registrar General of the Commission;

9. **Duties and Responsibilities of the Secretary:**

The secretary shall perform such duties and carry out such responsibilities as are assigned to him by regulation made in this regard by the Chief Information Commissioner.

## CHAPTER V

### Office of the Commission and its Officers

10. **Office of the Commission:** The Office of the Commission shall comprise of-

- (i) Registry;
- (ii) Legal Cell;
- (iii) Monitoring and Reporting (MoRe) Wing;
- (iv) 'Right to Information' & Transparency Institute (RTI);
- (v) Administration and Human Resource Development; and
- (vi) Protocol & Public Relations.

11. (i) Legal Cell of the Commission shall:

- (a) be responsible for all acts necessary and incidental to all the litigation in which the Commission has been impleaded as a party and/or the Commission has decided to contest/litigate;

- (b) be the resource for providing legal advice/ legal input to the Commission;
  - (c) be the resource for providing legal advice/input to the Chief Information Commissioner and Information Commissioners;
  - (d) be responsible for proactively engaging in publication of rulings by the Commission;
  - (e) any other work specifically assigned to the cell by the Chief Information Commissioner.
- (ii) 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.
12. (i) Monitoring and Reporting (MoRe) Wing of the Commission shall:
- (a) be primarily responsible for all acts necessary and incidental to compliance required of the Commission as per the provisions of Section 22 of the Act;
  - (b) be responsible for all acts necessary and incidental to organizing the Annual Convention of the Commission;
  - (c) proactively engage with the stakeholders for all acts necessary and incidental to promote data management and computerization so as to facilitate compliance required of the Commission as per the provisions of Section 22 of the Act;
  - (d) computerization and data management inclusive of archival/record management of the Commission;
  - (e) any other work specifically assigned to the wing by the Secretary.
- (ii) 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;
- (iii) Without prejudice to what has been provided in the Act and the Rules elsewhere, the Monitoring and Reporting Wing shall work under the immediate supervision of the Secretary of the Commission.

13. (i) Right to Information & Transparency Institute shall be an Academic Resource Centre within the Commission and shall work autonomously.
  - (ii) The Institute shall have a Board of Governors.
  - (iii) Chief Information Commissioner along with not less than half of the Information Commissioners so nominated by the Chief Information Commissioner shall be members of the Board of Governors of the Institute,
  - (iv) Secretaries in charge of the following departments in the State Government shall be ex officio members of the Board of Governors of the Institute-
    - (a) Administrative Secretary, Planning & Dev. Department.
    - (b) General Administration Department.
    - (c) Administrative Reforms & Trainings Department,
    - (d) Department of Information Technology,
  - (v) Secretary State Human Rights Commission shall be ex officio member of the Board of Governors of the Institute.
  - (vi) Secretary of the Commission shall be ex officio member secretary of the Board of Governors of the Institute,
  - (vii) Chief Information Commissioner shall chair the meetings of the Board of Governors of the Institute
  - (viii) The Institute shall be financed from its earnings either accrued to it in the form of interest on its corpus or that from the institutional charges levied on the services provided.
  - (ix) The Commission shall make regulations to provide for the professional management of the Institute.
14. (i) Administration and Human Resource Development Wing of the Commission shall:
    - (a) be primarily responsible for all acts necessary and incidental to for professional house keeping including security and hygiene for the smooth functioning of the Commission;
    - (b) be responsible for all acts necessary and incidental to provide on a sustainable basis adequate and proper personnel for the smooth functioning of the Commission;
    - (c) proactively engage with the stakeholders to identify training needs of the personnel, training providers of repute and such other activities to keep the personnel's moral high and skills upgraded;

- (d) ensure due diligence in regard to expenditure authorization, budgeting, planning, audit and compliance of recruitment rules;
  - (e) any other work specifically assigned to the wing by the Chief Information Commissioner.
- (ii) 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;
  - (iii) Without prejudice to what has been provided in the Act and the Rules elsewhere, the Administration and Human Resource Development Wing shall work under the immediate supervision of the Secretary of the Commission.
15. (i) Protocol & Public Relations Wing of the Commission shall:
- (a) be primarily responsible for all acts necessary and incidental to ensure 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 to their entire satisfaction on a sustainable basis as per the provisions of the Act;
  - (b) proactively engage with all the stakeholders including the incharge of the Administration and be responsible for all acts necessary and incidental to provide on a sustainable basis adequate and proper personnel for the smooth functioning of the Chief Information Commissioner and Information Commissioners;
  - (c) be primarily responsible for all acts necessary and incidental to ensure that the website of the Commission remains updated on sustainable basis and at such frequency as decided by the commission;
  - (d) ensure 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.
  - (e) any other work specifically assigned to the wing by the Chief Information Commissioner.



- (ii) 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 incharge of the Protocol & Public Relations Wing;
- (iii) Without prejudice to what has been provided in the Act and the Rules elsewhere, the Protocol & Public Relations Wing shall work under the immediate supervision of the Secretary of the Commission.

16. Officers and employees of the Commission:

- (i) Without prejudice to anything contained in these rules and the Act, the commission shall have following category of personnel:
  - (a) those Government employees whose services will be placed at the disposal of the Commission for appointment against various sanctioned posts;
  - (b) those appointed by the Commission as per Recruitment Rules against the post sanctioned by the Government;
- (ii) 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 counted as Officers and employees of the Commission.
- (iii) To discharge its obligations as mandated in Section 13(6) of the Act, from the date these rules are notified, for the first five years annually and subsequently in every plan period once the State Government shall 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 this Act.
- (iv) The provisions of Jammu and Kashmir Civil Services Regulations, 1956 and The Jammu and Kashmir, Classification & Appeal Rules shall be applicable to the Employees of the Commission.

17. **Working Hours, sittings and vacations etc.**

Subject to an order of the Chief Information Commissioner to the contrary, the Office of the Commission shall observe vacations, holidays, working hours akin to those of an attached office of the State Government.

## CHAPTER VII

### Appeal Procedure

#### 18. Disposal of First Appeal:

- (i) Without prejudice to the provisions of the Sections 16(6) and 16(7), 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.
- (ii) The Appellate Authority shall dispose of the Appeals filed before him by passing a speaking order.
- (iii) 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 so as to make them RTI friendly.

#### 19. Contents of Second Appeal: An Appeal to the Commission shall contain the following information, namely:

- (i) Name and address of the Appellant;
- (ii) Date of filing second appeal. If condonation of delay requested-
  - (i) number of days delayed,
  - (ii) brief reasons (attach full grounds)
- (iii) Name and address of the Public Information Officer  
Date of order of Public Information Officer
- (iv) Particulars of the 1<sup>st</sup> Appellate Authority order against which the Appeal is preferred, i.e. date of order in 1<sup>st</sup> Appeal, no. of order (if any), name and designation of the 1<sup>st</sup> appellate Authority ;
- (v) Brief facts leading to the Appeal (main grounds of Appeal to be enclosed as attachment);
- (vi) Prayer or relief sought;
- (vii) Grounds for the prayer or relief; and
- (viii) Verification by the Appellant.

20. **Documents to accompany Second Appeal:** Every Appeal made to the Commission shall be accompanied by the following documents, namely:

- (i) Self-attested copies of the RTI application submitted before the Public Information Officer along with the details of payment of fee under the RTI Act;
- (ii) The order, or decision or response, if any, from the Public Information Officer to whom the application under the RTI Act was made;
- (iii) Self-attested copies of the First Appeal submitted before the First Appellate Authority with documentary proof of filing the First Appeal;
- (iv) The Order or decision or response, if any, from the First Appellate Authority against which the Appeal is being preferred;
- (v) Copies of documents relied upon by the Appellant and referred to in the Appeal;
- (vi) Self-attested copies of the RTI application submitted before the Public Information Officer along with the details of payment of fee under the RTI Act;
- (vii) The order or decision or response, if any, from the Public Information Officer to whom the application under the RTI Act was made;
- (viii) A Certificate stating that in respect of the information sought which is the subject matter of the appeal –
  - (a) no other RTI applications has been previously filed or is pending with any public authority and if yes, particulars thereof;
  - (b) pending with any court or tribunal or with any other authority including the First Appellate Authority or a Public Authority;
  - (c) is covered by any other appeal or complaint petition filed before the Commission and its result thereof.
- (ix) An index of the documents referred to in the Appeal.

21. On receipt of an Appeal in the Registry the Registrar shall:

- (i) Scrutinize
- (ii) Give department a chance (time bound)

- (iii) Help the Appellant in making the Appeal documentation complete by advising him to supply/enclose the documents required as per rules,
  - (iv) Service of notice on behalf of the Commission to the Public Information Officer,
  - (v) Identify decision points for the Commission,
22. **Filing of Counter Statement by the Public Information Officer or the First Appellate Authority:** After receipt of a copy of the Appeal or Complaint, the Public Information Officer or the First Appellate Authority or the Public Authority shall file counter statement along with documents, if any, pertaining to the case. A copy of the counter statement(s) 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.
23. **Posting of Appeal or Complaint before the Information Commissioner:**
- (i) An Appeal or a Complaint, or a class or categories of Appeals or Complaints, shall be heard either by a Single Information Commissioner or a Division Bench of two Information Commissioners, as decided by the Chief Information Commissioner by a special or general order issued for this purpose from time to time.
  - (ii) Where in the course of the hearing of an Appeal or Complaint or other proceeding before a Single Information Commissioner, the Commissioner considers that the matter should be dealt with by a Division Bench, he shall refer the matter to the Chief Information Commissioner who shall constitute such a Bench for the hearing and disposal of the matter.
24. **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 Complaint during the course of its hearing if such a prayer is made by the Appellant or Complainant on an application made in writing. However, no such prayer may be entertained by the Commission after the matter has been finally heard or a decision or order has been pronounced by the Commission.
25. **Procedure in deciding Second Appeal:** In deciding the Appeal the Commission may:
- (i) Take oral or written evidence on oath or on affidavit from interested person;

- (ii) Peruse or inspect documents, public records or copies thereof;
  - (iii) Inquire through authorized officer for further details or to ascertain facts;
  - (iv) Summon files, records, documents, samples, material etc. inspect or cause to be inspected any premises, sites, place etc.
  - (v) 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;
  - (vi) Hear third party; and
  - (vii) Receive evidence on affidavits from Public Information Officer, Assistant Public Information Officer, such Senior Officer who decided the first Appeal, such person against whom the Complaint lies or the third party.
26. **Service of notice by Commission:** Notice to be issued by the Commission may be served in any of the following modes, namely:
- (i) Service by the party itself;
  - (ii) By hand delivery (dasti) through Process Server;
  - (iii) By registered post with acknowledgement due; or
  - (iv) Through Head of Office or Department.
27. **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 prescribed by the Commission
28. **Personal presence of the Appellant or Complainant:**
- (i) 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.
  - (ii) 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.
  - (iii) 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, then, 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.

- (iv) 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 points and the person representing him may not be an Advocate.
- (v) If an Appellant or Complainant at his discretion decides not to be present either personally or through his duly authorized representative during the hearing of an Appeal or Complaint before the Commission, remains absent at a hearing the Commission shall pronounce its decision or pass its order in the matter on the basis of records available.

## 29. Conduct of an inquiry

- (i) 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.
- (ii) The officer so entrusted to inquire under Rule 36(i) while conducting the inquiry shall have all the necessary powers including the power to-
  - (a) Summon and enforce 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.
- (iii) The Commission shall be deemed to be a civil court and when any offence as is described in section 175, section 178, section 179, section 180 or section 228 of the 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 the case to a Magistrate having jurisdiction to try the same and the Magistrate to whom any such case is forwarded shall proceed to hear the complaint against the accused as if the case has been forwarded under section 482 of the **Code of Criminal Procedure, Samvat 1989.**

- (iv) 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 Ranbir Penal Code, and the Commission shall be deemed to be a civil court for all the purposes of section **195 of Ranbir Penal Code and Chapter XXVI of the Code of Criminal Procedure, Samvat 1989.**

**30. Investigation-**

- (i) 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 State Government.
- (ii) 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.
- (iii) The provisions of Rule 38 shall apply in relation to any statement made by a person before any officer or agency whose services are utilized under sub-rule 37(1) herein as they apply in relation to any statement made by a person in the course of giving evidence before the Commission.

**31. 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 —

- (a) is made in reply to the question which he is required by the Commission to answer; or
- (b) is relevant to the subject matter of the inquiry.

**32. Order of the Commission:**

- (i) Every decision or order of the Commission shall be signed and dated by the Commissioner or Commissioners who have heard the appeal or the complaint and have decided the matter.

- (ii) Every decision/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 web site the decisions so pronounced.
  - (iii) Every such decision or order, whenever 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.
33. **Abatement of an Appeal/Complaint** The proceedings pending before the Commission shall abate on the death of the appellant or complainant.
34. **Compliance of the Commission's Order:**
- (i) The Public Authority and/or an officer entrusted with any given task by the order of the Commission shall be responsible for compliance of Commission's order:
    - (a) in regard to providing the information to the Appellant as per Commission's order,
    - (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 the Public Authority,
    - (e) intimating the Commission of stay order, if any, received from a Competent Court,
    - (f) for bringing about such systemic improvements as may be directed by the Commission for compliance with Section 19 of the Act.
    - (g) in case the compensation awarded by the Commission to any complainant under Section 16(9)(b) of the Act, a requisition order duly signed by the Registrar in the form prescribed in schedule-I of these Rules shall be served on the Public Authority and the Head of such Public Authority shall be responsible for ensuring compliance thereof.
  - (ii) In case penalty is imposed by the Commission, a requisition order duly signed by the Registrar and in the form prescribed in Schedule 1 of these Rules shall be served on the Public Authority with dispatch but not later than 7 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,



(iii) The Pay and Accounts Office of the Public Authority shall deduct the amount of penalty in such installments as allowed by the Commission in its Order and as intimated by the Registrar in the Requisition Order in the prescribed form the monthly salary, in case of serving officer, of the officer and from the **monthly pension in case the officer is a pensioner**, without awaiting any act or consent from the payee.

(iv) 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.

Should the Commission, following a review of the penalty order, cancel the order and direct restoration 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 the deducted amount to the credit of the officer.

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. Commission also direct institution of Criminal case against such officers. Commission may also direct that the amounts of penalty or compensation not deducted by the officer so instructed to carry out the instructions by the commission be deducted from the salary of such officers.

(v) The Public Information Officer on succeeding in review may demand from the Pay and Account officer to remit the penalty deducted from his salary to the extent the remission is ordered by the Commission.

(vi) It shall be the duty of the Registrar to put up Quarterly compilation before the Commission of compliance of Commission's Orders by various Public Authorities.

(vii) The Chief Information Commissioner may write to the Minister incharge of the Public Authority in habit of non-compliance.

(viii) Notwithstanding anything contained herein the Annual report of the Commission shall invariably have a chapter on the compliance of Commission's Orders by various Departments/ Public Authorities.

## CHAPTER VIII

### **Voluntary Disclosure of Information and Matters Relating to Enhancement Thereof.**

35. **Standardization of data and record management:** Without prejudice to the obligation of every Public Authority as mandated in Section 4 of the Act:
- (i) The Commission shall proactively engage with the stakeholders to develop and lay down Standards for record management practices and—for computerization of data and to capture, store and retrieve such data.
  - (ii) The Commission shall proactively engage with the stakeholders to promote maximum routinization of processes to ensure maximum transparency.
36. **RTI Rating of Public Authorities:**
- (i) 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 RTI applications and Public Authority's response to broad base the extant of voluntary disclosure so as to make it less and less necessary for the public at large to resort to RTI provisions 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;
  - (ii) The Commission shall proactively engage with the stakeholders to facilitate emergence of independent Rating Instrumentality and lay down periodicity and acts incidental to and necessary as due diligence for the promotion and wider acceptance of the rating regime.

## CHAPTER IX

### **Monitoring and Reporting**

37. Without prejudice to the obligation of the Commission as mandated in Section 22 of the Act each Department or a Public Authority which prepares its annual report shall include one Chapter on implementation of the Act which *inter alia* shall include 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 RTI and such other details as may be prescribed or required to be incorporated by the Commission and can reasonably be accommodated in the Annual Report without making it inordinately bulkier.

38. 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 include 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 RTI and such other details as may be prescribed or required to be incorporated by the Commission and can reasonably be accommodated in the Performance Budget document without inordinately diluting the focus on the centrality of its core activities.
39. Each Department or Public Authority while presenting records for its performance Audit before the Auditors shall disclose in good measure 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 RTI, impact of implementation of RTI on the working of the organization, preferably in quantitative terms like declining trend in litigation and or that 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.
40. To discharge its obligation as laid down in Section 22(3) of the Act; the Commission may sanction projects, research studies, training programmes and assistance to other organizations, conventions and conferences.
41. To fund its Activities as provided in these rules to discharge its obligation as laid down in Section 22(3) (g) of the Act the Commission may create an endowment from the grants received from the Government, contributions from Multilateral Agencies, Indian Corporate entities pursuing the vision of corporate social responsibility akin to objectives of the Act and such other stakeholders in the Indian Civil Society as per law.
42. To discharge its obligation under Section 22 (5) of the Act the Commission shall make an Annual Roaster for Appearance of Public Authorities (ARAPA).

- (i) The Public Authority shall be presented before the Commission in this regard by such senior level functionary/functionaries of the Public Authority as may be desired by the Commission but in no case by an officer below the rank of the Secretary to the Government. Secretary who looks after the affairs of the Public Authority and/or Secretary incharge of RTI in the State shall accompany the team;
- (ii) 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 with the provisions and spirit of this Act;
- (iii) 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;
- (iv) 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. It may also advise the Public Authority to take professional help;
- (v) It shall be the duty of the Department /Organization that in its annual report the recommendation of the Commission under these rules and compliance thereof is prominently presented in the report;
- (vi) 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 Commission's opinion were 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 Commission's 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;
- (vii) The Public Authority during its Performance Audit will disclose any recommendation made under these rules and compliance thereof to the Auditors;
- (viii) The Commission in its annual report shall include these recommendation made to a Department /Organization/Public Authority and compliance thereof.

#### **42A. Non-compliance of Commission's orders/directions -**

(1) In case an order passed or a direction given by the Commission in connection with a proceeding u/s 15 or u/s 16 of the Act is not complied with, the Commission may either on its own motion or on a complaint received in this regard, may enquire into the matter u/s 16(2) of the Act and in case it is of the opinion that the Public Authority or any officer has willfully disobeyed the orders or directions of the Commission or has intentionally omitted to provide assistance required of him/them and thereby obstructed providing of information to an applicant in any manner, the Commission may -

- (i) authorize the Registrar to file a complaint case before a competent Magistrate under appropriate provisions of the Ranbir Penal Code; and/or;
- (ii) impose a penalty as prescribed u/s 17(1) of the Act on Head of the Public Authority or any other officer responsible for causing such obstruction; and/o
- (iii) recommend disciplinary action u/s 17(2) of the Act against the Head of the Public authority or any other officer responsible for causing such obstruction;

(2) In case an order passed imposing penalty u/s 17(1) of the Act or an order awarding compensation under section 16(9)(b) of the Act is passed and 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:

- (i) file a complaint case before the competent Magistrate under appropriate provisions of the Ranbir Penal Code against such officers as might be found responsible after conducting an enquiry as may be required for the purpose; and/or,
- (ii) 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 u/s 16(9) of the Act 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, may enquire into the matter u/s 15(2) of the Act and in case it is of the opinion that the Public Authority or any officer has willfully disobeyed the orders or directions of the Commission or has intentionally omitted to provide assistance required of him/them and thereby obstructed providing of information to an applicant in any manner, the Commission may -

- i) authorize the Registrar to file a complaint case before a competent Magistrate under appropriate provisions of the Ranbir Penal Code; and/or

(ii) impose a penalty as prescribed u/s 17(1) of the Act on Head of the Public Authority or any other officer responsible for causing such obstruction; and/or

(iii) recommend disciplinary action against u/s 17(2) of the Act against the Head of the Public Authority or any other officer responsible for causing such obstruction;

## **CHAPTER X**

### **FINANCE, ACCOUNTS AND AUDIT**

#### **43. Grants by the Government.**

- (i) The State Government shall after due appropriation made by 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 for the purposes of this Act.
- (ii) The Commission may spend such sums as it thinks fit for performing the functions under this Act, and such sums shall be treated as expenditure payable out of the grants referred to in sub-rule (1).

#### **44. Accounts and Audit**

- (i) 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 in consultation with the **Finance Department**.
- (ii) The Accounts of the Commission shall be audited by the Directorate of Accounts and Treasuries 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.
- (iii) The Directorate of Accounts and Treasuries or 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.

- (iv) The accounts of the Commission as certified by the Directorate of Accounts and Treasuries or Directorate of Audit & Inspections or any other person appointed by it in this behalf, together with the audit report thereon shall be forwarded only 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 XI**

### **Miscellaneous**

#### **45. Power to make manuals, procedures, etc.:**

- (i) With out 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 as laid down in Section 12(4) of the Act.
- (ii) Notwithstanding anything contained elsewhere 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.
- (iii) The officer who affixes his signatures on behalf of the Secretary shall be responsible for obtaining the Secretary's specific authorization in each case in writing.

#### **46. Power to Make Regulations:**


The Commission shall make such regulations as may be required to exercise its powers and discharge functions as laid down in the Chapter IV of the Act.

- (i) A regulation proposed under these rules shall be hosted on the website of the Commission asking for suggestions;
- (ii) A regulation proposed under these rules shall also be released to the press by way of 'Public notice' asking for suggestions;
- (iii) A copy of the regulation shall be sent to the Government asking for suggestions, if any;
- (iv) A copy of the regulation shall also be prominently displayed on the notice board of the Commission asking for suggestions;

- (v) The Commission may provide enough time, not lesser than two months, to stakeholders to send suggestion/ response to the proposed regulation;
- (vi) The Commission may extend the time for receipt of suggestions if it deems necessary;
- (vii) The Commission may decide to accept or otherwise any or all suggestions received in regard to a regulation;
- (viii) The regulation thus finalized shall be again hosted on the website of the Commission. An authenticated copy of the final regulation shall be sent to the Government and also posted by registered mail to all who sent suggestions, if the Commission were in possession of their mailing address.
- (ix) The regulation so finalized will not be questioned in any court of law with regard to procedural lapse/s in the finalization of the regulation.

47 **Interpretation-** If any question of interpretation of these rules arises, the decision of the Government in General Administration Department in consultation with Law Department shall be final.

By Order of the Government of Jammu and Kashmir.

  
Commissioner/Secretary to Government,  
General Administration Department.

NO:GAD(Adm)78/2009-V

dated: 26 - 07 - 2009

Copy to the:-

1. Principal Resident Commissioner, J&K, Government, 5-Prithvi Raj Road, New Delhi
2. All Financial Commissioners
3. Chairman, J&K Special Tribunal
4. Director General of Police, J&K, Srinagar
5. All Principal Secretaries to Government/Financial Commissioner, Revenue
6. Chief Executive Officer, Economic Reconstruction Agency
7. Commissioner of Vigilance, J&K, Srinagar
8. Director General, IMPA
9. Principal Secretary to H.E the Governor
10. All Commissioners / Secretaries to Government
11. Divisional Commissioner, Jammu / Kashmir
12. All Heads of the Departments
13. All Deputy Commissioners
14. Director, Archives, Archaeology and Museums, Srinagar
15. Secretary, J&K Public Service Commission



16. Secretary, J&K Legislative Assembly/Council
17. Director, Estates
18. Director, Information
19. Secretary, J&K Services Selection Board
20. General Manager Govt. Press, Srinagar/Jammu
21. Special Assistant to Advisor to HCM
22. Principal Private Secretary to Chief Secretary
23. Pvt. Secretary to Commissioner/Secretary to Government, GAD