

RTI Act, 2005 & Records Management

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Records Management & RTI

Requires the records managers to ensure that:

- **Records are building blocks for Right to Information.**
- **Maintenance of records to ensure availability of information and vice-versa**
- **To review/ revision of office procedures & processes in view of RTI requirement i.e.**
 - **to ensure effective information management system**
 - **and a well laid establishment**
- **Relevant provisions of following to be reviewed:**
 - **Central Secretariat Manual of Office Procedures**
 - **Policy guidelines for website development, hosting & maintenance**
 - **Records retention schedule**

Public Records Act (PRA), 1993 and RTI Act, 2005

Total RTI applications received in the Records Division for the years :

2014:	275
2015:	240
2016:	376
2018:	520
June 2019:	175

- Usually every week records division receives 8-10 applications.
- More than 90% RTI applications received in Records Division, NAI are without proper reference to the documents/files required under RTI Act

Sample RTI Application - 1

RTI Application of Sh. VASANTHA KUMAR J.V, Pondicherry, dated 10th December 2013

1. Copy of Records/files reg. Status of Subash Chandra Bose after 18th August 1945.
2. Copy of evidences / reports proves that Subash Chandra Bose is dead.
3. Copy of Records/Files that prove Subash Chandra Bose travelled in flight on 18th August 1945.n Provide the copy of flight ticket.

4. List of the committees appointed for investigation of his death.
5. Copy of committee recommendations and findings which was accepted by the Govt. of India reg. Subash Chandra Bose on 18th August 1945.
6. Copy of files/ orders passed on reg. withdrawal of the Bharat Ratna conferred to Subash Chandra Bose.
7. Reasons for withdrawal of the Bharat Ratna conferred to Subash Chandra Bose and copy of the file /records stating the reasons.

8. Kindly provide the following information about records related to Subash Chandra Bose, before it was found it was found to be missing /destroyed

(a). Name and Address of the place where the records kept. Name and designation of the officer/ authority who was in-charge.

(b). Please provide me the date, when it was found to be missing/ destroyed name and designation of the officer who reported that the records where missing / destroyed.

(c). List of Evidences found to prove that the records were missing/destroyed.

(d). Copy of all complaints filed/ received, action taken report, orders passed, order received after the records were found to be missing/destroyed.

With reference to the Query No. 6, kindly provide copy of all the files.

- * If the information is not available in the format sought in the application, kindly provide the format available with you
- I. I State that the information sought does not fall within the restrictions contained in section 8 and 9 of the Act and to the best of my knowledge it pertains to your office.
- II. If you do not directly deal with this application or a part thereof, kindly forward it to the right PIO U/s 6(3) of the RTI Act with intimation to me. You are required to do so within 5 days of receipt of this application, as per Sec 6(3) of the Act.

Sample RTI Application – 2

Sample RTI Applications of Sh. R.L. KAIN, RTI Activist dated 5th November 2013

The RTI applicant had put forward 11 questions such as:
who is the legal custodians of original records of the Constituent Assembly , original Constitution and its upkeep when and under whose authority to loss sheets viz. the **Brief history of the constitution** and **list of illustration** were inserted in the beginning of the calligraphed copies when the government of India was the publisher and copy right holder of English and Hindi constitution, how the Lok Sabha secretariat came into picture and selling the stock of printed calligraphed copies of Constitution at its counter and depositing the income under its founds?

What action had been taken by the Government of India to re-write the Brief History of Constitution bringing all historical facts from the composition of Constituent Assembly, details of Statutory Committees & Ad hoc Committees, departures made by Dr. B.R. Ambedkar and salient features of the Constitution?

Whether it is correct that Prem Behari Narain Raijada (Saxena) had been declared as the author of the Constitution of India in a mandatory declaration recorded at the end of the last page, under section 3 of the Press and Book Registration Act, 1867.

Is it true and correct that Preamble to the Constitution was adopted by CA on 17th October, 1949 after declaring Nehru's 'Objective Resolution' as repugnant and obsolete.

Whether it is a fact that Sir B. N. Rau and H.V.R. Iengar had signed the calligraphed and printed set of Constitution of India just below the signatures of Sachidananda Sinha at page 230 and 262 in English and Hindi respectively.

Keeping in view of the affixing of nick name PREM at each page by Prem Behari Narain Raijada, calligrapher, Whether the event of Constitution Day is greater or annual session of Congress Party at Ravi River at Lahore in 1929 is transcendent under present circumstances, please elucidate.

Sample RTI Application-3

Sample RTI Applications of Sh. Sandeep Naharsinh Vasava, RTI Activist dated 17th December 2015

The RTI applicant had put forward 06 questions such as:

1. Who has bestowed the title MAHATMA to Mohandas Karamchand Gandhi.
2. Who has bestowed the title BABA SAHEB to Bhimrao Ramji Ambedkar.
3. Who has bestowed the title SARDAR to Mr. Vallabhbhai Jhaverbhai Patel.
4. Who has bestowed the title MAHATMA to Mr. Jyotirao Govindrao Phule.
5. Who has bestowed the title PANDIT to Mr. Jawaharlal Motilal Nehru.
6. Is there any instructions circulated to take the their name with these titles.

Public Records Act (PRA), 1993 and RTI Act, 2005

Standard Reply by CPIO (Records) to Misc. RTI's

Sample of Standard Reply to RTI applications without proper reference to the document required under RTI Act 2005.

Under Section 7(9) of the RTI Act, 2005 and as per Office Memorandum No. 11/2/2008-IR, dated 10 July 2008, DOPT, the duty of the CPIO is to supply the 'material' in the form as held by the Public authority (Copy enclosed).

It is further requested that you may like to visit National Archives of India on any working day between 9.30 a.m. – 5.30 p.m. for an extensive search among the available records to cull out the desired information. **The Records in the custody of National Archives of India are open for public consultation and all facilities as laid down under the Public Records Act, 1993 and Rules 1997 shall be provided to you.** You are requested to carry your identity proof to avoid any inconvenience at the reception.

You may appeal to the Appellate authority if dissatisfied with the answer within 30 days of receipt of this letter at the under-mentioned address:

Public Records Act (PRA), 1993 and RTI Act, 2005

CIC Judgments: Regarding RTI application of Records of NAI

Case-1: CIC Judgment on RTI Application from Maj. Gen. Vinay Kumar Sing (Retd), Date of Decision :- 11th March 2014.

Advising the appellant to search their records to obtain the requisite information, in terms of the Public Records Act, 1993 and the Public Records Rules, 1997.

Case-2 CIC Judgment on RTI application of Shri Rajeev Kumar Khare, dated 11 December 2014:

It appears that the expression “held by “ or “under the control of any public authority”, in relation to “information” , means that information which is held by the public authority under its control to the exclusion of others. It cannot mean that information which the public authority has already “let go”, i.e. shared generally with the citizens, and also that information , in respect of which there is a statutory mechanism evolved , (independent of the RTI Act) which obliges the public authority to share the same with the citizen by following the prescribed procedure, and upon fulfillment of the prescribed conditions. This is so, because in respect of such information, which the public authority is statutorily obliged to disseminate, it cannot be said that the public authority “hold” or “controls” the same. There is no exclusivity in such holding or control. In fact, the control vests in the seeker of the information who has only to operate the statutorily prescribed mechanism to access the information. It is not this kind of information, which appears to fall within the meaning of the expression “right to information “ , as the information in relation to which the “right to information “ is specifically conferred by the RTI Act is that information which “is held by or under the control of any public authority”.

Public Records Act (PRA), 1993 and RTI Act, 2005

Case-3 CIC Judgment on RTI application of Shri Subhas Chandra Agarwal , Date of Decision :- 14th August 2014.

The requisite information, in terms of the Public Records Act, 1993 and the Public Records Rules, 1997. Our decision in the above case is equally applicable to the information sought from NAI by the Appellant in response to point's no. 3 and 4 of his RTI application dated 22.2.2013.

Public Records Act (PRA), 1993 and RTI Act, 2005

Points to ponder

- Most of the RTI application are exhaustive and without proper reference.
- RTI applications are full of hypothetical questions and would like to seek comments and observations of CPIO rather asking for particular information.
- Public documents which are in the custody of NAI are governed by a designated act, i.e. Public Records Act, 1993 and Public Records Rules, 1997.
- Necessary Initiatives required be taken up by NAI in consultation with DoP&T to amend necessary provisions of RTI Act, 2005 in order to exclude these public documents from the purview of RTI Act, 2005, since these are of open category and non-current records.

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Thanks