

अनधिक अवधि में वसूलगा। उक्त राशि वसूलने पर लोक प्राधिकारी प्रमुख आयोग को राशि वसूल होने का विवरण सूचित करेगा। आयोग द्वारा उक्त सूचना सम्बन्धित द्वितीय अपील की पत्रावली में रखी जायेगी।

- (च) लोक प्राधिकारी द्वारा शास्त्रित अथवा क्षतिपूर्ति को वसूल किये जाने, उसे राजकोष में जमा करने अथवा आवेदनकर्ता को भुगतान करने की कार्यवाही, यथास्थिति, ऐसी रीति, जिसे राज्य सरकार समय-समय पर आदेश जारी कर विहित करे, के अनुसार की जायेगी।

कठिनाईयों को दूर करने की शक्ति:

12. यदि इन नियमों के प्रभावी कियान्वयन में कोई कठिनाई उत्पन्न होती है तो राज्य सरकार आदेश जारी कर सकेगी, जो ऐसी कठिनाई को दूर करने के लिए आवश्यक और समीचीन हो।

निरसन और व्यावृत्तियां:-

- 13.(क) उत्तराखण्ड सूचना का अधिकार नियमावली, 2012 को एतद्वारा निरसित किया जाता है।
- (ख) खण्ड (क) के द्वारा उत्तराखण्ड सूचना का अधिकार नियमावली, 2012 निरसित किये जाने पर भी उक्त नियमावली के अन्तर्गत की गयी कोई भी कार्यवाही, जारी किया गया कोई आलेख्य, जहां तक वह इस नियमावली के उपबन्धों से असंगत नहीं है, इस नियमावली के अधीन की गई, जारी की गई समझी जायेगी।

आज्ञा से,

सुरेन्द्र सिंह रावत,
सचिव।

In pursuance of the provisions of Clause (3) of Article 348 of the Constitution of India, the Governor is pleased to order the publication of the following English translation of notification no. 2132/XXXI (13)G-65(सू0अ0)/2012, dated June 28, 2013 for general information :

No. 2132/XXXI (13)G-65(सू0अ0)/2012

Dated Dehradun, June 28, 2013

NOTIFICATION

Miscellaneous

In exercise of the powers conferred by sub-section (1) and sub section (2) of section 27 of the Right to Information Act, 2005 (Central Act no.22 of 2005), the Governor is pleased to make the following rules, namely:-

The Uttarakhand Right to Information Rules, 2013

Short title and Commencement

1. (i) These Rules may be called the Uttarakhand Right to Information Rules, 2013.
(ii) These Rules shall come into force from the date of their publication in the official gazette.

Definitions:

2. In these Rules, unless there is anything contrary to the subject or context:-

- a) "Act" means the Right to Information Act, 2005,
- b) "Section" means the section of Right to Information Act, 2005,
- c) "Commission" means the Uttarakhand State Information Commission,
- d) "State Government" means the State Government of Uttarakhand,
- e) "B.P.L." means the person living below poverty line having an annual income of less than Rs.12000/- (Rs. Twelve Thousand)
- f) "First Departmental Appeal Officer" means the officer designated under section 19(1) for disposal of first appeal filed under sub section (1) of section 19 of Right to Information Act,
- g) "Information" means the records held in electronic form, document, memorandum, e-mail, opinion, advice, press note, circular, order, log book, contract, papers, sample, model, material related to data, including any information in any form, any material related to any private body which can be reached by any Public Authority under any other law in force for the time being.

(h) A 'Record' includes the following:-

- (a) Any document, manuscript or file,
- (b) Any microfilm, microfiche or facsimile copy of a document,
- (c) Any reproduction of image or images embodied in such microfilm (Whether enlarged or not)
- (d) Any other material produced with the help of a computer or through any other device.

i) "Right to Information" means the right to information accessible under the Right to Information act, 2005 which is held by or is under the control of any Public Authority and includes the right to-

- (i) inspect any work, document, record;
- (ii) take notes, extracts or certified copies of documents or records;
- (iii) take certified samples of materials;
- (iv) obtain information in the form of diskettes, floppies, tapes, video cassettes or in any other electronic mode or through printouts where such information is stored in a computer or in any other device.

j) Words and expressions used in these rules but not defined here shall have the same meaning as defined in the Right to Information Act, 2005.

Prescribing information for self disclosure by the State Government

3. The State Government may, from time to time, prescribe the information to be disclosed suo moto by any public authority or public authorities and its updation by publishing it in official gazette of the State Government. The prescribed information shall be published by the Public Authority in electronic form within 60 days from the date of prescribing the information. The Public Authority shall interlink the prescribed information for suo moto disclosure in electronic form throughout the country through computer network or internet. The Public Authority shall update the prescribed information in the form as specified by the State Government.

Language of Application

4. Application for obtaining information shall be made in Hindi Devanagari script or in English.

Procedure for obtaining information

5. (a) For obtaining 'information' under sub section (1) of section (6) of the Act, an application along with prescribed application fee shall be submitted to the Public Information Officer or Assistant Public Information Officer of the Public Authority.

(b) Application for 'information' from citizens other than B.P.L. category, not accompanying the amount of prescribed fee after depositing the prescribed fees the information shall be provided. The PIO shall send a notice to the applicant that the RTI application will be processed only on payment of application fee and that the 30-day time limit will commence upon payment of application fee.

(c) On applicant's request for information in the application which is under custody or control of other Public Authorities, the Public Information Officer shall provide information, if any, relating to his Public Authority or under the custody or control of his Public Authority to the applicant and for information concerning the other Public Authority the application shall be transferred to the Public Information Officer of such other Public Authority.

Provided that in case the number of other Public Authorities is two or more, the application shall not be transferred, instead, after providing the information under the custody or control of his Public Authority the applicant shall be asked to apply separately to the concerned Public Information officer for remaining information.

(d) In case the applicant seeks information for which it is not clear under which Public Authority's custody or control the information is available and as such it is not possible to transfer the application to the concerned Public Authority, the Public Information Officer, after providing the information, if any, which is under the custody or control of his Public Authority shall return the application to the applicant for remaining information and inform him of the situation.

(e) Request for 'information' may be made for such 'information' which is defined as 'information' under clause (f) of section (2) of the Act and is under the custody and control of the Public Authority. On requests for information other than defined in the Act, the Public Information Officer shall inform the applicant that the 'information is not held'.

(f) In case the 'information' requested in application not being clearly identified within a week after receiving the application, the Public Information officer shall inform the applicant for clearly identifying the required information by letter or by inspecting the disclosable 'information' of the Public Authority. After the applicant has inspected and identified the information and on informing the Public Information Officer, the 'information' shall be provided to the applicant as per procedure within the prescribed period.

(g) In case of non acceptance of request for providing information the Public Information Officer shall inform the applicant the reason for non acceptance of his request mentioning the relevant provisions of the Act and the Rules. The Public Information Officer shall inform the applicant the time limit for filing appeal against non admittance of the request and also details of the designation and address of first appeal officer.

(h) The information required by the applicant shall be provided in the same form in which it has been asked unless the resources of Public Authority are disproportionately diverted in providing the information or is detrimental to the safety or preservation of records of the required information. After getting inspected the information by the applicant the information shall be provided to the applicant by the Public Information Officer in the form in which providing information the resources of the Public Authority are not disproportionately deviated.

Fees for information:

- 6 (a) For information under sub-section (1) of section 6 of the Act, payment of Rs.10.00 as application fee along with application may be made under receipt in cash or through demand draft, banker's cheque, Indian postal order, treasury challan, non judicial stamp paper in favour of Public Information Officer or Assistant Public Information Officer of Public Authority;

(b) For additional fee as cost of information under sub-section (3) of section 7 of the Act, the payment may be made under receipt in cash or through demand draft, banker's cheque, Indian Postal Order, Treasury challan, non judicial stamp paper in favour of Public Information officer of Public Authority at following rates; namely-

Provided that no fees shall be payable by the persons living below poverty line.

- (i) Rs.2.00 (Rs. Two only) for A-3 or A-4 size page (Photo copy or ready information) and actual cost for a size bigger than this.
- (ii) (ii) For first hour of inspection of records no charges shall be payable. Thereafter Rs. 5.00 (Rs. Five only) for an hour or part thereof shall be payable as fee.
- (iii) Fees for copies of models and samples is to be paid as per actual cost.

(c) For providing information in printed or electronic form under sub-section (5) of section 7 of the Act, fees shall be payable under receipt in cash or through demand draft, banker's cheque, Indian Postal Order, Treasury challan or non judicial stamp paper in favour of Public Information Officer of the Public Authority at the following rates, namely:-

- (i) Rs. 20.00 (Rs. Twenty only) per CD/DVD for information on CD/DVD, and
- (ii) In case of a printed publication, its prescribed price or Rs. 2.00 (Rs. Two only) per page for photocopy of extracts of such publication.

(d) For request of information from persons belonging to B.P.L. category the provision of fees shall be as under:-

- (i) In case the required information concerns persons of B.P.L. category or his own family the information shall be provided free of cost.
- (ii) In case the required information concerns a person other than B.P.L category person or member of his family and the information can be provided in 50 photocopy pages (A-4 size) or not costing more than Rs. 100/- (Rs. One hundred only), the

information so required shall be provided free of cost. In case the requested information exceeds this limit, the BPL category person may be permitted to inspect the records and take notes or obtain photocopies at his own expense.

Provided that persons living below poverty line shall have to enclose, along with the application, a copy of B.P.L card attested by the applicant himself.

Obligations of State Public Information Officer:

7. (a) The applicant, as far as possible, shall be informed about the additional fees mentioned in clause (b) and (c) of rules (5) within a week from the date of receipt of application.
- (b) Third party information shall be provided to the applicant as per the procedure prescribed in section 11 of the Act.
- (c) The information mentioned under section 8(1) of the Act, which is exempted from disclosure, shall not be provided on request of the applicant by the Public Information Officer.

Provided that in the larger public interest the Public Authority may allow access to the information exempted from disclosure under section 8(2) of the Act.

(d) Personal information under section 8(1) (j) of the Act not related to public activities or public interest or the disclosure of which amounts to undesirable invasion of privacy of any person, shall not be disclosed, except when the Public Information Officer or the Appeal Officer is satisfied that in the larger public interest the disclosure of such information is justified.

First appeal before the Departmental Appeal Officer

8. (a) While preferring an appeal against Public Information Officer's disposal order under section 19 of the Act, the applicant shall have to enclose a copy of request letter and the letter of disposal of request letter by Public Information Officer. The grounds of appeal shall be clearly mentioned in the Appeal.
- (b) In case of disclosure of third party information, order of Public Information Officer, information required from the third party and the

statement made by the third party shall be enclosed with the appeal preferred against the order of the Public Information Officer. The grounds of Appeal shall be clearly mentioned in the Appeal.

(c) The views of the Public Information Officer, if required, shall be taken by the First Appeal Officer on the Appeal filed by the applicant. The appellant may be directed to present himself, if so required, for the proper disposal of Appeal.

(d) The First Appeal Officer shall dispose off the first Appeal, as far as possible, within the period mentioned in the Act. Where the Appeal is not disposed off within the prescribed period of thirty days, the First Appeal Officer may dispose off the First Appeal within a period not more than 45 days. The reasons for extending the time limit shall be recorded. A copy of the order of disposal of Appeal shall be provided to the appellant and to the Public Information Officer free of charge.

(e) The First Appeal Officer, while hearing the Appeal, shall inquire whether the Public Information Officer has refused the disclosure of personal information as per provisions of section 8(1)(j) of the Act. The Public Information Officer has not refused disclosure such personal information which is related to public activities and interest or which does not unnecessarily violate the privacy of the person or the disclosure of which is justified in the larger public interest.

(f) While considering the appeal the First Appeal Officer shall satisfy himself whether 'information' sought by the applicant can be disclosed or not, the disclosable information has been provided to the applicant within prescribed time or not, the information, the disclosure of which has been refused by the Public Information Officer is exempted under section 8 of the Act or not, whether the disclosure of the information requested for is found proper in the larger public interest, by the Public Authority under Section 8(2) of the Act. The 'information' the disclosure of which is not exempted under Section 8 and satisfaction has been made that under the provisions of Section 8(1)(j) and Section 8(2) of the Act that in larger public interest the disclosure of requested information is necessary and the 'Information' has not been released to the appellant, the Public Information Officer on the direction of the Appeal Officer shall make available the said information to the applicant within a week after taking the prescribed fees.

(g) On disclosure of the fact that the information sought by the applicant was not provided to the applicant for not being clearly identified the first Appeal Officer shall direct the applicant to clearly identify the required information in writing or after inspecting the concerned records of the Public Authority after paying the prescribed fee. The First Public Authority shall order to provide the information identified by the applicant after receiving the prescribed fees from the applicant.

(h) The first Appeal Officer shall record his comments on the points indicated in the above mentioned sub-rules in the decision on the Appeal and shall direct the Public Information Officer to disclose the information which is not exempted from the disclosure.

Second Appeal in Information Commission

9. (a) While preferring second appeal under section 19 of the Act before State Information Commission the appellant shall enclose copies of applicant's request letter, letter of disposal of request letter of Public Information Officer, order of disposal by First Appeal Officer along with applicant's second appeal. It is necessary to mention clearly the grounds of second appeal.

(b) On filing second appeal by the appellant the Commission shall adopt the following procedure:

(i) In the second appeal, the concerned Public Information Officer and Departmental Appeal Officer as, required, shall be made respondents. Any other officer/authority shall not be made respondent in the second appeal.

(ii) On the grounds mentioned by the appellant in his second appeal the Public Information Officer and first Appeal Officer shall be given opportunity to submit their replies in writing.

(iii) In Second Appeal the Commission shall inquire whether the 'information' requested by the applicant has been provided to him as per provisions of the Act or not. The Commission in the Second Appeal shall also inquire whether the First Appeal Officer, as per provisions of the Act, directed the Public Information Officer to release information to the applicant or not, the Public Information Officer released the 'information'

within the prescribed time limit or not, whether any harm was caused to the applicant due to non disclosure of disclosable information, if so, what is the evaluation of the harm caused to the appellant. After making necessary inquiry on the above mentioned points, the Commission will pass orders on the Second Appeal.

(iv) The State Information Commission, while deciding an appeal may: --

- (A) receive oral or written evidence on oath or on affidavit from concerned or interested persons;
- (B) peruse or inspect documents, public records or copies thereof;
- (C) inquire through authorized officer further details or facts; and
- (D) receive evidence on affidavits from the Public Information Officer, Assistant Public Information Officer, First Appellate Authority and any such other person against whom the appeal lies or the third party.

(v) In the Second Appeal only the matter of disclosure of requested information within the prescribed time shall be considered. In the Second Appeal, as per clause (iii) above the State Information Commission shall inquire into the subject, in question, of the Second Appeal. No other Authority shall be directed to inquire into any other issue during the disposal of the Second Appeal, in question.

(vi) In the Second Appeal the Public Information Officer shall be given an opportunity to submit his case on the Second Appeal. No interim order shall be passed by the Commission thereafter for taking action on any subject other than included in the Second Appeal. The Second Appeal shall be disposed off, as far as possible, within 90 days and latest within 120 days.

(vii) In the order of Second Appeal the Information Commission may, if required, direct with regard to disclosure of information or access to information as provided in section 19 (8) of the Act.

(viii) While disposing off the Second Appeal the Public Information Officer and First Departmental Appeal Officer or any other Officer shall not be directed to be present during the

hearing. In cases wherein the Commission feels necessary it shall direct the Public Information Officer to be present during the Second Appeal, the reasons of which shall be recorded in writing.

(ix) In the cases of Second Appeal in which the Commission considers it proper to know through video conference, the case of Public Information Officer or other Officer and their presence is required, it may do so. The facility of video conferencing of the State Government shall be provided to the Commission by the State Government for hearing Second Appeal or complaint.

(x) On being satisfied during Second Appeal that it is necessary to impose penalty upon Public Information Officer under section 20 of the Act, the Public Information Officer after serving a show cause notice to him shall be given an opportunity to explain the reasons. After the Public Information Officer has submitted his case or on the expiry of prescribed limit, the Commission shall impose penalty against the Public Information Officer as per section 20 of the Act. The action of imposing penalty against the Public Information Officer shall be initiated along with the disposal order of the Second Appeal. The disposal of Second Appeal shall not be kept pending for initiating the process of imposing penalty.

(xi) While inquiring into an appeal the Commission may recommend disciplinary action against a Public Information Officer who persistently violates the provisions of the Act. Prior to issuing such recommendation, the Commission shall issue show cause notice to the Public Information Officer. Thereafter properly hearing the Public Information Officer against the show cause notice, the Commission shall issue appropriate recommendations to the public authority that appointed such Public Information Officer.

- (c) (i) While preferring appeal in the Commission against the order of Public Information Officer in the matter of disclosure of information regarding third party, the order of Public Information Officer, information sought from the third party and

statement submitted by the third party shall be enclosed along with the appeal. The grounds of appeal shall clearly be stated in the appeal.

(ii) The Commission shall give opportunity to the third party to present its case in the appeal proffered as per above sub-clause (one).

(iii) For disposal of appeal the Public Information Officer and the third party shall be given opportunity to present their case in writing.

(d) The Commission shall send first notice to the concerned person by registered post/speed post thereafter subsequent notice to concerned person shall be served in the following way:-

(i) through the party itself;

(ii) through the server by hand;

(iii) by ordinary post, or

(iv) through Head of Office or Head of the Department.

(v) by E-mail through internet or by SMS.

(vi) by registered post with acknowledgement due or speed post.

Provided further that the delivery may be made by fifth mode only in case it is not possible by other five means as per clause (vi).

(e) Following procedure shall be adopted by the Commission for hearing the appellant or the parties:-

(i) The appellant or the respondent, as the case may be, may take assistance of any person for the purpose of presenting his case in the process of Appeal.

(ii) The orders of the Commission shall be delivered in open and shall be authenticated in writing by the officer or secretary authorized in this behalf.

(iii) After the order of the Commission is passed it will be uploaded by the Commission on its website as early as possible.

Procedure for action by the Commission under Section (18) of the Act

10. (a) The Commission shall enquire into the complaint filed for reasons mentioned in clause (a) to (f) of section 18 (1) of the Act.
- (b) The complainant shall clearly indicate in his complaint the ground or grounds under which clause (a) to (f) of sub section (1) of section (18), the complaint has been lodged.
- (c) The copy of complaint shall be sent to the Public Information Officer or Principal Public Authority, as the case may be, and they will be given an opportunity to present their case in writing, on the complaint.
- (d) The Commission may, as may be required, take evidence of all such persons whom he considers necessary for the inquiry of the complaint and call and inspect such records which are necessary for enquiring into the complaint.
- (e) The Commission may, inquire into the complaint and impose penalty to punish the Public Information Officer who contravenes the provisions of the Act, as per Section 20 of the Act. Prior to imposing penalty, the Commission shall issue show cause notice to the Public Information Officer. Thereafter after properly hearing the Public Information Officer against the show cause notice the Commission shall pass appropriate orders.
- (f) While inquiring into a complaint the Commission may recommend disciplinary action against a Public Information Officer who persistently violates the provisions of the Act. Prior to issuing such recommendation, the Commission shall issue show cause notice to the Public Information Officer. Thereafter properly hearing the Public Information Officer against the show cause notice, the Commission shall issue appropriate recommendations to the public authority that appointed such Public Information Officer.

Recovery of Compensation and Penalty imposed by the Commission:

11. (a) The penalty imposed on Public Information Officer or compensation imposed on Public Authority may be recovered on

expiry of three months period from the date of order passed in second appeal or complaint, as the case may be.

(b) The Commission may pass orders to recover the imposed penalty in not more than three instalments on imposition of a penalty on Public Information Officer by the Commission, a copy of such order shall be provided to Public Authority of Public Information Officer for the purpose of recovery of the penalty who will on receipt of the order will send acknowledgement of the same to the Commission with the intention that the penalty has been noted for the purpose of recovery.

(c) Upon Passing an order against a Public Authority for award of compensation to an appellant or complainant by the Commission, a copy of such order shall be provided by the Commission itself to the Public Authority for the purpose of recovery who will send acknowledgement of the same to the Commission indicating that the compensation amount has been noted for payment to the appellant or complainant and for recovery of the same amount from such concerned officers as the Public Authority may deem fit.

(d) After receiving the order from the Commission under clause (b) and (c) and forwarding the acknowledgement of the same to the Commission by the Public Authority, the responsibility of recovering the penalty or compensation shall be of the Public Authority under clause (a).

(e) For the purpose of recovery of penalty or compensation it shall be sufficient to provide the concerned Public Authority a copy of penalty order or compensation order. The Head of Public Authority shall recover the amount of penalty or compensation after three months but within a period not more than six months. On recovery of the said amount the Head of Public Authority shall inform the Commission about the details of recovery of the amount. The said information shall be kept in the file concerning the Second Appeal by the Commission.

(f) Recovery of penalty or compensation by the Public Authority, depositing it with exchequer or payment to the applicant, as the case may be, shall be done in a manner as prescribed from time to time by the State Government.

Power to remove difficulties:

12. If any difficulty arises in effective implementation of these rules the State Government may pass such orders as may be necessary and expedient to remove such difficulties.

Repeal and Savings

13. (a) The Uttarakhand Right to Information Rules, 2012 are hereby repealed.

(b) Notwithstanding the Uttarakhand Right to Information Rules, 2012 being repealed, any act done or document issued under the said rules, unless not inconsistent with these rules, shall be deemed to be done on issued under these rules.

By Order,

SURENDRA SINGH RAWAT,
Secretary.