

National Advisory Council

Recommendations with respect to the Amendment to RTI Rules

Proposed by the Department of Personnel Training

1. Rule 3 : Appointment Of Secretary To The Commission

- **DoPT proposal:** *The Government shall appoint an officer not below the rank of Additional Secretary to the Government of India as Secretary to the Commission who shall be the Chief Executive Officer and Registrar General of the Commission.*
- **NAC recommendation:** The Secretary should be appointed in consultation with the Information Commission. The Secretary should not be called a Chief Executive Officer (CEO). In addition, there should be a separate cadre of staff for the Information Commission so that they can function independently and effectively.

2. Rule 4 : Proviso

- **DoPT proposal:** *The request for information shall relate to only one subject matter and shall be limited to 250 words, excluding the address of the Central Public Information Officer (CPIO) and the address of the applicant.*
- **NAC recommendation:** Provided that the request for information shall ordinarily not exceed 500 words, excluding Annexures, address of the Central Public Information Officer (CPIO) and the address of the applicant.
Provided further that no application shall be rejected on the above grounds.

3. Rule 5(G)

- **DoPT proposal:** *The actual amount spent by public authority on hiring a machine or any other equipment, if any, to supply information, shall be charged from the applicant.*
- **NAC recommendation:** Rule 5(g) should be deleted. The following may be added in its place: "The cost of salaries of Staff or any other expense not specified above cannot be charged to the applicant."

4. Rule 5(H):

- **DoPT proposal:** *Postal Charges in excess of rupees ten, if any, involved in supply of information, shall be charged from the application.*
- **NAC recommendation:** Rule 5(h) should be deleted. Following may be added in its place:
"Postal charges in excess of Rupees fifty, if any, involved in supply of information, can be charged from the applicant along with the cost of photocopying. Information must be sent by a mode such that dated proof of receipt is available with the Public Authority".
The DoPT may issue a circular clarifying that people have a right to collect information in person without being charged for postage.

5. **Rule 8: Documents to Accompany First Appeal to the First Appellate Authority**

- **DoPT proposal:** *Every appeal made to the first Appellate Authority shall be accompanied by the following documents, duly authenticated and verified:*
 - (i) *Copy of the application submitted to the Central Public Information Officer .*
 - (ii) *Copy of the reply, if any, of the Central Public Information Officer .*
- **NAC recommendation:** Rule 8 should be dropped.

6. **Rule 9: Appeal to the Commission**

- **DoPT proposal:** *A person aggrieved by any order passed by the First Appellate Authority or by non-disposal of his First Appeal by the First Appellate Authority, may file an appeal to the Commission in the format as given in the Appendix.*
- **NAC recommendation:** The format should only be advisory.

7. **Rule 10: Documents to accompany Appeal to Commission**

- **DoPT proposal:** *Every Appeal made to the Commission shall be accompanied by the following documents duly authenticated and verified...*
- **NAC recommendation:** Rule 10 should be replaced in the following manner:

Every appeal made to the Commission shall be accompanied by the following documents self authenticated and self verified: ...

Provided that an appeal shall not be rejected only on the ground that some documents are not enclosed. The onus to ensure that applications are self-attested, self-verified, and complete as required must rest with the Information Commission and that absence of these documents will not be cause for rejecting the appeal application.

Provided further that the Information Commission should help the appellant to ensure that there are no missing documents, and help the appellant to ensure that the documents are indexed as required.

8. **Rule 13: Amendment or Withdrawal of Appeal**

- **DoPT proposal:** *The Commission may allow a prayer for any Amendment or withdrawal of an appeal during the course of hearing, if such a prayer is made by the appellant on an application made in writing.*

Provided that such request shall not be entertained by Commission after the matter has been finally heard or a decision or order has been pronounced by the Commission.
- **NAC Recommendation:** Rule 13 should be dropped.

9. **Rule 14: Personal Presence of the Appellant before the Commission**

- **DoPT proposal:** *The Appellant shall be informed of the date of the hearing at least seven clear days before that date.*
 - (i) *The Appellant may, at his discretion, be present in person or through his duly authorized representative or, if permitted by the Commission, through video-conferencing, at the time of hearing of the appeal by the Commission.*
 - (ii) *Where the Commission is satisfied that the circumstances exist due to which the appellant is being prevented from attending the hearing of the Commission, then,*

the Commission may afford the appellant another opportunity of being heard before a final decision is taken or take any other appropriate action as it may deem fit.

- **NAC recommendation:** The DoPT should include an explicit proviso providing that the appellant can choose not to attend the hearing, and no adverse implications would be drawn from his absence. The DoPT should also delete the words “if permitted by the Commission” and replace by “if the facility is available”.

10. Rule 15: Presentation by the Public Authority

- **DoPT proposal:** *The public authority may authorize any representative or any of its officers-to present its case*
- **NAC recommendation:** The DoPT should ensure that there is a provision similar to the rules that exist relating to prosecution under contempt of Court where litigation costs shall not be borne by the Department if the imposition of penalties on an official is upheld in part or whole.

11. Rule 16: Abatement of an Appeal/ Complaint

- **DoPT proposal:** *The proceedings pending before the Commission shall abate on the death of the appellant.*
- **NAC recommendation:** Rule 16 should be deleted.

12. Rule 20: Recovery of Penalty and Payment of Compensation

- **DoPT proposal:**
 - (i) *If a penalty is imposed by the Commission on a Central Public Information officer as per the provisions of the Act and if the Commission requires a Public Authority to compensate a person for any loss or detriment suffered, an order duly authenticated by the Registrar shall be served on the Public Authority for the recovery of penalty and payment of compensation.*
 - (ii) *The Public Authority shall deduct the amount of penalty in such installment as may be allowed by the Commission in its order and authenticated by the Registrar from the monetary payments due to such person against whom penalty has been imposed by the Commission and compensation shall be paid as per order of the Commission.*
- **NAC Recommendation:** DoPT should ensure that penalties awarded under the RTI Act are entered into the ACR/service record of the concerned official.