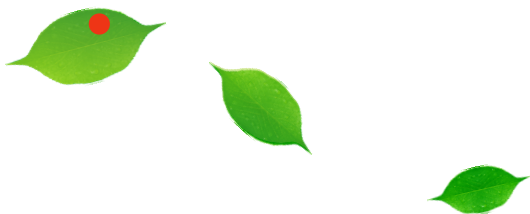


The Right to Information Act 2005 An Overview



- *Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media regardless of frontiers .*
- Article 19, Universal Declaration of Human Rights, 1948.



Itinerary of RTI

- **A Fundamental Human Right that facilitates the realization of all other rights.**
- **United Nations General Assembly, in its first session in 1946, adopted Resolution 59 (I), which states: “Freedom of information is a fundamental human right and...the touchstone of all the freedoms to which the UN is consecrated.”**
- **About 246 years ago, Sweden passed the first Freedom of Information law in the world**
- **Today, more than 80 countries have enacted freedom of information laws, 70 of which were enacted during the last two decades**



..... Itinerary of RTI

In order to end the colonial way of Governance, *i.e.* "Secrecy is Rule and disclosure is an exception", the Freedom of Information Act, 2002 was enacted by the Government of India to provide for freedom to every citizen to secure access to information under the control of public authorities, consistent with public interest, in order to promote openness, transparency and accountability in administration and in relation to matters connected therewith or incidental thereto.



..... Itinerary of RTI

However, the Act didn't meet the expectations of transparency and was repealed subsequently .

The Right to Information Act, 2005, came into force in India in totality with effect from 12th October, 2005 and is regarded as a milestone in the history of social legislation to impart information to citizens of India regarding working of the Government.

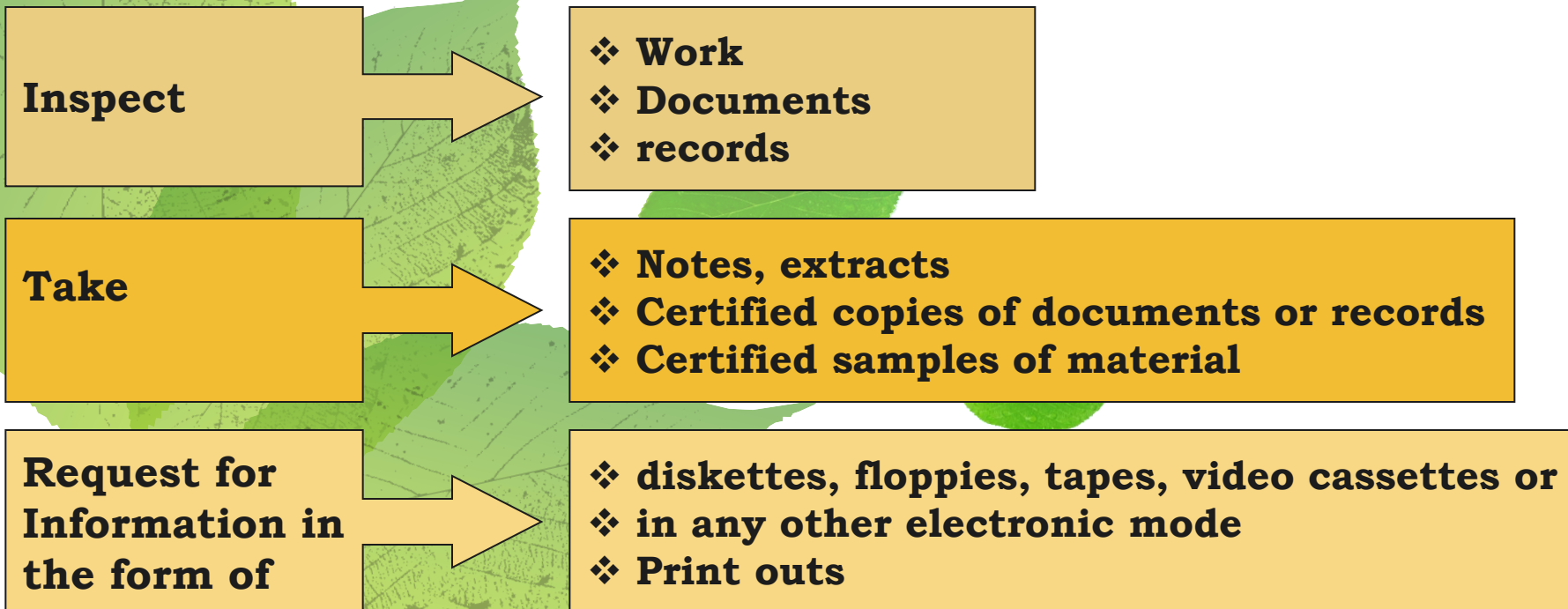
The Title of the Act, i.e. "*Right to Information* " itself empowers the citizen by conferring the "*Duty to provide Information* " on the Public Authority as per the provisions of the Act.



Right to Information

Information :

- **accessible under the Act**
- **which is held by or under the control of public authorities**
- **includes the right to**



The Constitution of India

Guaranteed to its citizens

“The right to freedom of speech and expression” (Article 19 (1) (a))

The right to freedom of speech and expression includes the Right to Information

– The Supreme Court of India

A Revolution was ushered

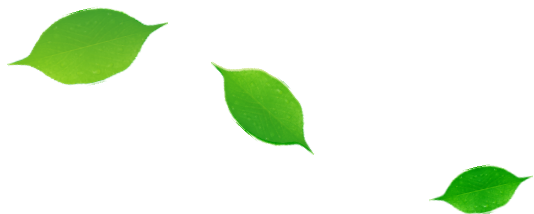
When a group of illiterate poor villagers in Bhim Tehsil of Rajasthan, in 1990s, waged a war against ghost entries in their muster rolls.....

They joined hands to fight corruption, lack of transparency and non-accountability by demanding for right to information organized as Mazdoor Kisan Shakti Sangathan (MKSS) led by Ms. Aruna Roy which culminated into a successful National Campaign for people’s Right to Information (NCPRI)





RIGHT TO INFORMATION



- The logo pertaining to the Right to Information is a very simple
- A sheet of paper with information on it! and the authority figure behind it providing the information.
- This represents the two key stakeholders in the process of sharing information under the RTI Act.
- The lines of information on the sheet of paper are rendered in a manner that makes it look transparent, showing through the form of 'i' from behind.
- The solid form of 'i' is a very simplistic portrayal of the human form and can also be related to the 'i' for information.
- The bright blue colour stands for transparency and purity of process.



Short Title : The Right to Information Act 2005

Official Citation : Act No. 22 of 2005

Presidential Assent : 15 June, 2005

Entered fully into force on : 12 October 2005

Long Title

An Act to provide for setting out the practical regime of Right to Information for citizens to secure access to information under the control of public authorities, in order to promote transparency and accountability in the working of every public authority, the constitution of a Central/State Information Commissions and for matters connected therewith or incidental thereto.



The Preamble Says

Informed citizenry and transparency of information are vital to the functioning of our democratic republic to contain corruption and to hold Government and their instrumentalities accountable to the governed.

All citizens shall have the right to information, subject to the provisions of this Act. s.3



Information means....

Any material in any form

Including

records

documents

memos

emails

advices

logbooks

Press releases

Circulars

models

Electronic data

orders

reports

opinions

papers

contracts

samples



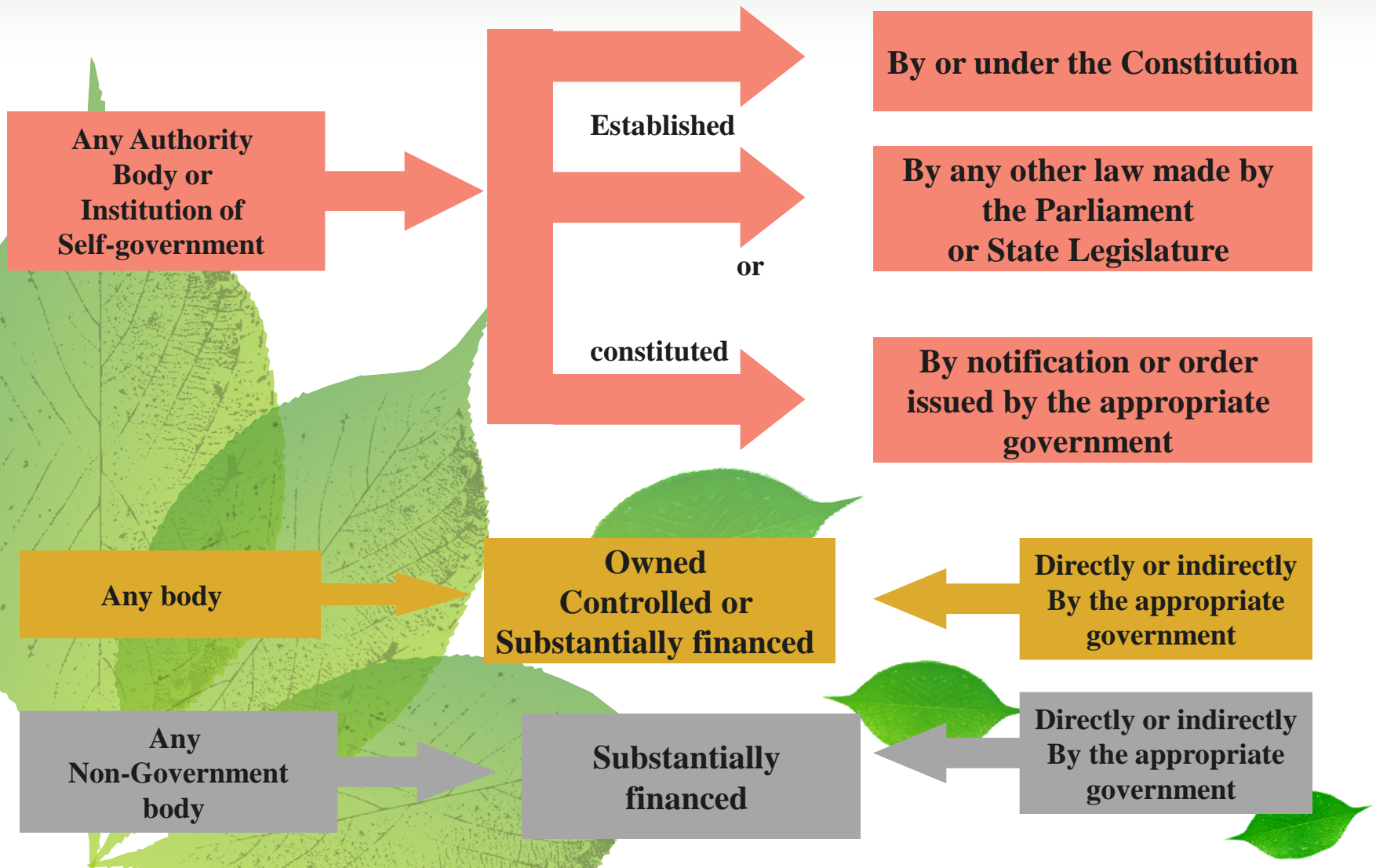
Record includes

- Any document, manuscript and file
- Any microfilm, microfiche or facsimile copy of a document
- Any reproduction of image or
- Images embodied in such microfilm
- Any other material produced by a computer or any other device

You receive a request for certified copies of some documents. You found that the requested documents were unsigned. How do you provide such documents? [Click here 6.E.](#)



Public Authority means



Which NGO is a public authority?



Obligations of Public Authorities

Every public authority shall maintain all its records duly catalogued and indexed in a manner and the form which facilitates the right to information under this Act and ensure that all records that are appropriate to be computerised are, within a reasonable time and subject to availability of resources, computerised and connected through a network all over the country on different systems so that access to such records is facilitated; s. 4 (1) (a)



Proactive Disclosure of Information

Every Public Authority should have published the following information before 12th October, 2005 and has been updating every year:

Particulars of its organization, its function and duties.

Powers and duties of its officers and employees.

Procedure followed in decision making including channels of supervision and accountability.

Norms set by it for discharge of its functions.

Rules, regulations, instructions, manuals and records under its control/used by employees while discharging functions.



.....Proactive Disclosure of Information

Categories of documents held by the authority or which are under its control.

Arrangement for consultation with or representation by the members of the public in relation to the formulation of policy or implementation thereof.

Boards, Councils, Committees and other bodies constituted as part of the public authority.

Directory of Officers and employees.

Monthly remuneration received by officers and employees including system of compensation.



.....Proactive Disclosure of Information

Budget allocated to each agency including all plans, proposed expenditure and reports on disbursements made etc.

Manner of execution of subsidy programs.

Particulars of recipients of concessions, permits or authorisations granted by the Public Authority.

Details of information available in electronic format.

Particulars of facilities available to citizens for obtaining information.

Names, designations and other particulars of Public Information Officers



Proactive Disclosure of Information

Publish all relevant facts while formulating important policies or announcing the decisions which affect public.

Provide reasons for its administrative or quasi-judicial decisions to affected persons.

Provide the above information at regular intervals through various means of communication including the internet so that public have minimum resort to making applications under the Act.



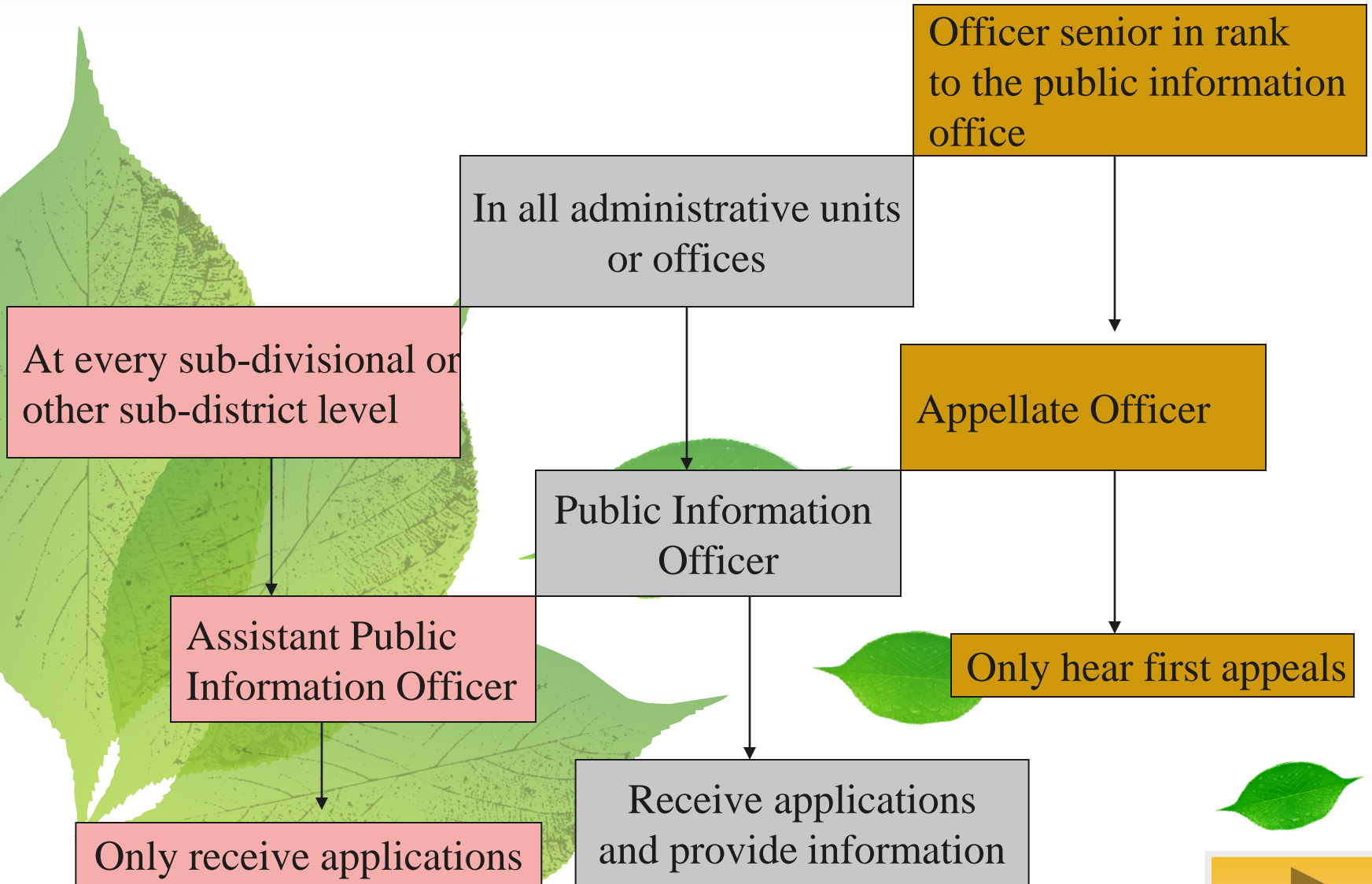
Wide Dissemination of Information

Every information shall be widely disseminated and in such form and manner which is easily accessible to the public like notice boards, newspapers, public announcements, media broadcasts, internet including inspection of offices of any public authority.

The information shall be available in the local language and free of cost or at reasonable cost to the public.



Receiving Applications



Obtaining Information

A person, who desires to obtain any information under this Act, shall make a request in **writing** or through **electronic** means in English or Hindi or in the official language of the area in which the application is being made, accompanying such **fee** as may be prescribed, to the PIO or the APIO.

s.6 (1)



Where such request cannot be made in writing, the PIO shall render all reasonable **assistance** to the person making the request orally to reduce the same in **writing**.

An applicant shall not be required to give any **reason** for requesting the information or any other personal details except those that may be necessary for **contacting** him. s.6 (2)



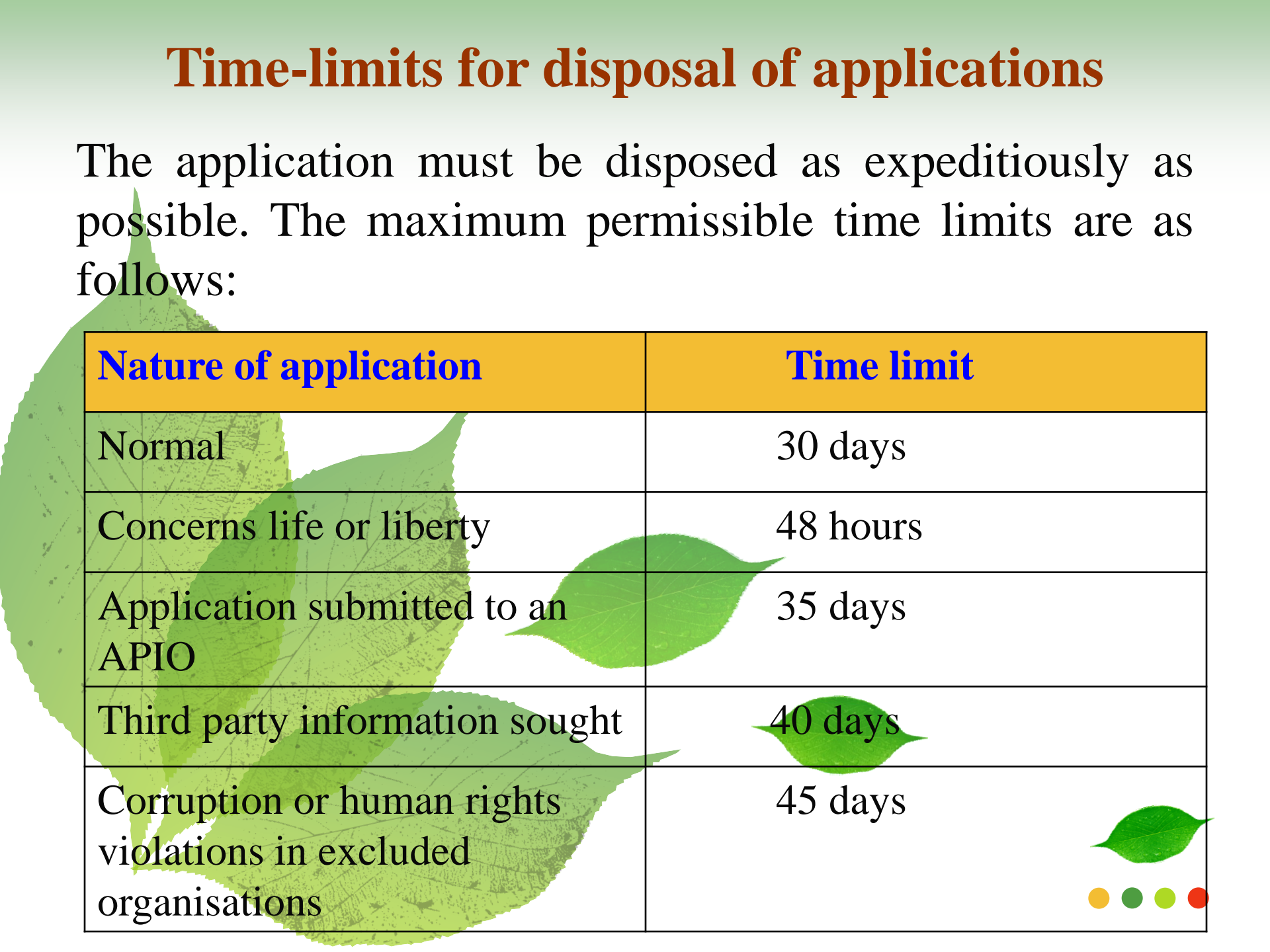
Where an application is made to a public authority requesting for an information, which is **held** by another public authority or (II) the subject matter of which is more **closely connected** with the functions of another public authority.... The public authority, to which such application is made, shall **transfer** the application or such part of it as may be appropriate to that other public authority and **inform** the applicant immediately about such transfer: the transfer shall be made as soon as practicable but in no case later than **five days** from the date of receipt of the application. s.6(3)



Time-limits for disposal of applications

The application must be disposed as expeditiously as possible. The maximum permissible time limits are as follows:

Nature of application	Time limit
Normal	30 days
Concerns life or liberty	48 hours
Application submitted to an APIO	35 days
Third party information sought	40 days
Corruption or human rights violations in excluded organisations	45 days



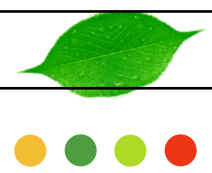
Intimation

Where a decision is taken to provide the Information on payment of any **further fee** representing the cost of providing the **information**, the PIO shall send an intimation to the requester, giving the details of further fees, the **calculations**, requesting him to deposit that fees and information concerning his or her right with respect to **review** the decision as to the **amount** of fees charged or the **form** of access provided, including the particulars of the **appellate authority**, time limit, process and any other forms.

The period **intervening** between the dispatch of the said intimation and payment of fees shall be **excluded** for the purpose of calculating the period of thirty days. s.7(3)



Fee in respect of Uttarakhand State Public Authorities (B.P.L. persons need not pay any fee)

Description	Fees	Mode of payment
Application	Rs. 10	Cash/DD/IPO/Non Judicial Stamp Paper/Treasury Chalan/Banker's Cheque Accountants Officer of Public Authority
Access fee		
Copies provided or created in A4/A3 size	Rs. 2	
For larger size	Actual cost	
Samples /models	Actual cost	
Inspection of records	1 st hour: No fee for each 15 min. thereafter. Rs. 5	
Diskette, floppy	Rs. 50	
Printed form	Price fixed for publication	
Photocopies of extracts from Publication	Rs. 2 per page	

Severability

Access may be provided to a part of the record which does not contain any information which is exempt from disclosure under this Act and which can **reasonably be severed** from any part that contains exempt information. s.10(1)

The PIO shall give a **notice** to the applicant informing reasons, fees, appellate authority details. s.10(2)



Third Party Information

Third Party means person other than the citizen making a request for information and includes a Public Authority. s.2(n)

Where the PIO intends to disclose any information, which **relates** to or has been **supplied** by a third party and has been treated as **confidential** by that third party, the PIO shall, within five days from the receipt of the request, give a **written notice** to such third party and invite the third party to make a **submission** in writing or orally, and such submission shall be kept in view while taking a decision.

s.11



Except in the case of **trade or commercial** secrets protected by law, disclosure may be allowed if the **public interest** in disclosure outweighs in importance any possible harm or injury to the interests of such third party.

The third party shall, within **ten** days from the date of receipt of such notice, be given the opportunity to make **representation** against the proposed disclosure.

The PIO shall, within **40 days** after receipt of the request, make a decision and give in writing the **notice of his decision** to the third party.

The third party to whom the notice is given is entitled to prefer an **appeal**.



Exemption from Disclosure of Information

There shall be no obligation to give any s.8(1)

(a) Information, disclosure of which would prejudicially affect the **sovereignty** and **integrity** of India, **security, strategic, scientific** or **economic** interests of the State, relation with **foreign State** or lead to **incitement** of on offence. s.8(1)(a)

[Click here](#)

(b) Information which has been expressly **forbidden to be published** by any court of law or tribunal or the disclosure of which may constitute **contempt of court.**



(c) Information, the disclosure of which would cause a **breach of privilege** of Parliament or the State Legislature.

(d) Information including **commercial confidence, trade secrets** or intellectual property, the disclosure of which would harm the competitive position of a third party, unless the competent authority is satisfied that **larger public interest** warrants the disclosure of such information:

Are contract documents disclosable?

(e) Information available to a person in his **fiduciary relationship**, unless the competent authority is satisfied that the larger public interest warrants the disclosure of such information.



(f) Information received in confidence from **Foreign Government.**

(g) Information, the disclosure of which would endanger the **life or physical safety** of any person or identify the **source of information** or assistance given in confidence for law enforcement or security purposes.

(h) Information which would impede the process of **investigation** or apprehension or **prosecution** of offenders



(i) **Cabinet papers** including records of deliberations of the Council of Ministers, Secretaries and other officers:

But the decisions of Council of Ministers, the reasons thereof, and the material on the basis of which the decisions were taken shall be made public **after the decision** has been taken, and the matter is complete or over.

(j) Information which relates to **personal information** the disclosure of which has no relationship to any public activity or interest, or which would cause unwarranted invasion of the **privacy** of the individual unless the PIO is satisfied that the larger public interest justifies the disclosure of such information:

What is personal information?

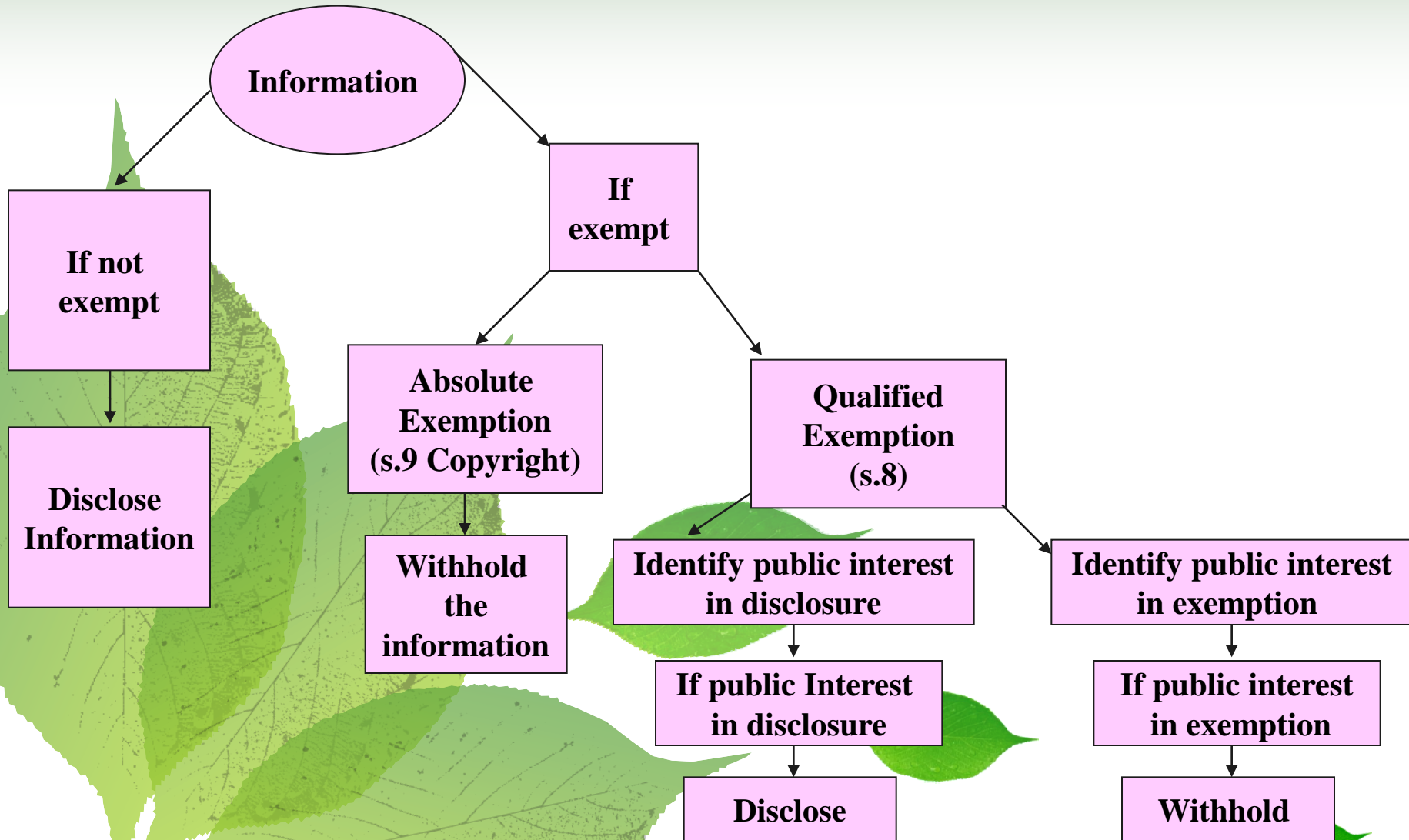


The information which cannot be denied to the parliament or a state legislature shall not be denied to any person.

Notwithstanding anything in the Official Secrets Act nor a any of the exemptions permissible in accordance with s.8(1), a public authority may allow access to information, if public interest in disclosure outweighs the harm to the protected interests. s.8 (2)



Applying the Public Interest Test



Subject to the provisions of clauses (a), (c) and (i) of s.8(1) any information relating to any occurrence, event or matter which has taken place, occurred or happened **twenty years** before the date on which any request is made shall be provided to the requester. s.8(3)

Grounds for rejection to access in certain cases

PIO may **reject** a request for information where such a request for providing access would involve an **infringement of copyright** subsisting in a person other than the State. s.9



First Appeal

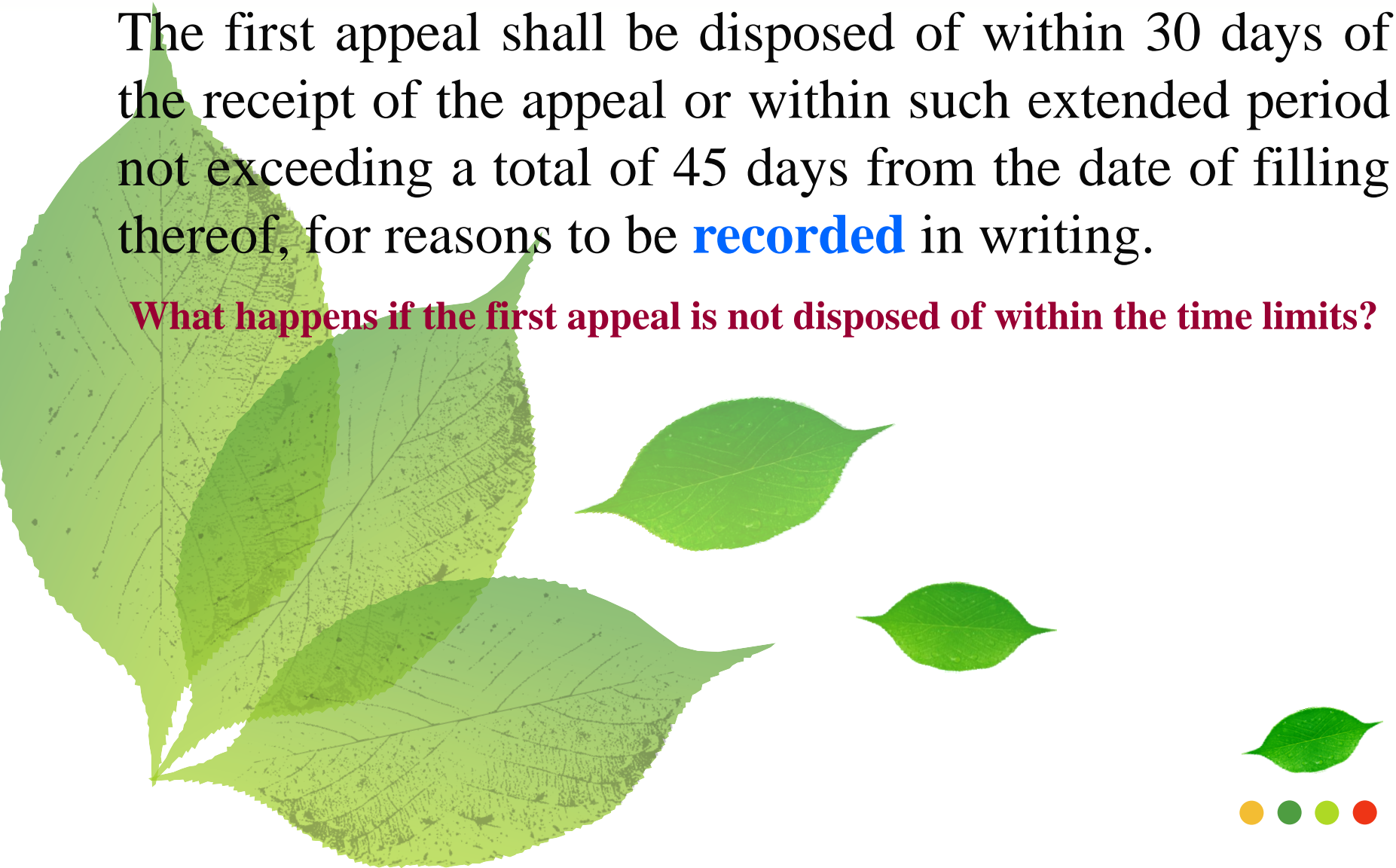
Any person who, does not receive a decision within the time specified or is aggrieved by a decision of the PIO may within 30 days from the expiry of such period or from the receipt of such a decision prefer and appeal to such officer who is **senior in rank to the PIO** in the public authority. s.19 (1)

Where an appeal is preferred against an order made by PIO under s.11 to disclose **third party** information, the appeal by the concerned third party shall be made within 30 days from the date of the order. s.19 (2)



The first appeal shall be disposed of within 30 days of the receipt of the appeal or within such extended period not exceeding a total of 45 days from the date of filing thereof, for reasons to be **recorded** in writing.

What happens if the first appeal is not disposed of within the time limits?



The Central Information Commission

Shall consist of-

- (a) The **Chief Information Commissioner**; and
- (b) Such number of **Central Information Commissioners**, not exceeding ten, as may be deemed necessary.

The State Information Commission

Shall consist of-

- (a) The **State Chief Information Commissioner**; and
- (b) Such number of **State Information Commissioners**, not exceeding ten, as may be deemed necessary.



A citizen may file a complaint to the information commission when.....

**PIO refused
to take RTI
application**

**No information
Officer appointed**

**Incomplete,
Misleading or
false information
given**

**Access to
Information
refused**

**Complaint
Under
Section 18**

**Any other matter
Relating to requesting
or obtaining
Access to information**

**No response
Within time-limit**

**Unreasonable
fees charged**



Where the Information Commission, is satisfied that there are **reasonable grounds** to inquire into the matter, it may **initiate an inquiry** in respect thereof. s.18 (2)

The Information Commission shall, while **inquiring** into any matter under this section, have the same powers as are vested in a **civil court** while trying a suit under the Code of Civil Procedure in respect of the matters under s.18(3)

The Information Commission may, during the inquiry of any complaint under this Act, **examine any record** which is under the control of the public authority, and no such record may be withheld from it on any grounds. s.18(4)



Second Appeal

Against the decision s.19(1) shall lie within 90 days from the date on which the decision should have been made or was actually received, with the Information Commission. s.19 (3)

The Information Commission shall give a reasonable opportunity of being heard to the **third party** if necessary. s.19(4)

In any appeal proceedings, the **onus to prove** that the denial of a request was **justified** shall be on the PIO who denied the request. s.19 (5)

The decision of the Information Commission shall be **binding**. s. 19(7)

It has the power to require the public authority to **compensate** the complainant for any loss or other detriment suffered. s.19(8)



Penalties

Where the Information Commission is of the opinion that the PIO has, without any **reasonable cause**:

- ❖ **refused** to receive an application for information
- ❖ has not furnished information **within the time** specified.
- ❖ malafidely **denied** the request for information.
- ❖ Knowingly given **incorrect**, incomplete or misleading information.
- ❖ **destroyed** information.
- ❖ **obstructed** in any manner in furnishing the information.



it shall impose a penalty of 250 rupees each day till application is received or information is furnished, so however, the total amount of such penalty shall not exceed 25000 rupees. s.20 (1)

Provided that the PIO shall be given a reasonable **opportunity of being heard** before any penalty is imposed on him:

Provided further that the **burden of proving** that he acted **reasonably** and **diligently** shall be on the PIO.

It shall recommend for **disciplinary action** against the PIO if she persistently violates the provisions of the Act.



The Information Commission has the powers to direct the PIO or public authority to...

**Provide Information
in the form requested**

**Appoint information
officers**

**Publish certain information
or categories of information**

**Make necessary changes
in record maintenance, management
and destruction practices**

**Enhance the provision
of training on the right to
information for officials**



**Provide annual report to it
in compliance of Section
4(1) (b)**

**Compensate the
complainant for any loss or
other detriment suffered**

Impose penalties

**Recommend disciplinary
action against the PIO
under applicable service
rules**



Protection of action taken in **good faith**

No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this act or any rule made there under. s.21.

Act to have **overriding effect**

The provisions of this Act Shall have effect notwithstanding anything inconsistent therewith contained in the Official Secrets Act, 1923 (19 of 1923), and any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act. s22.

Bar of jurisdiction of courts. No court shall entertain any suit, application or other proceeding in respect of any order made under this Act and no such order shall be called in question otherwise than by way of an appeal under this Act. S23. ●●●

Act not to apply in certain organizations.-

Nothing contained in this Act shall apply to the intelligence and security organizations specified in the **Second Schedule**. s.24

Provided that the information pertaining to the **allegations** of **corruption** and **human rights violations** shall not be excluded.

In the case of information sought for is in respect of **allegations of violation of human rights**, the information shall only be provided after the **approval** of the Central Information Commission, such information shall be provided within 45 days from the date of the receipt of request.



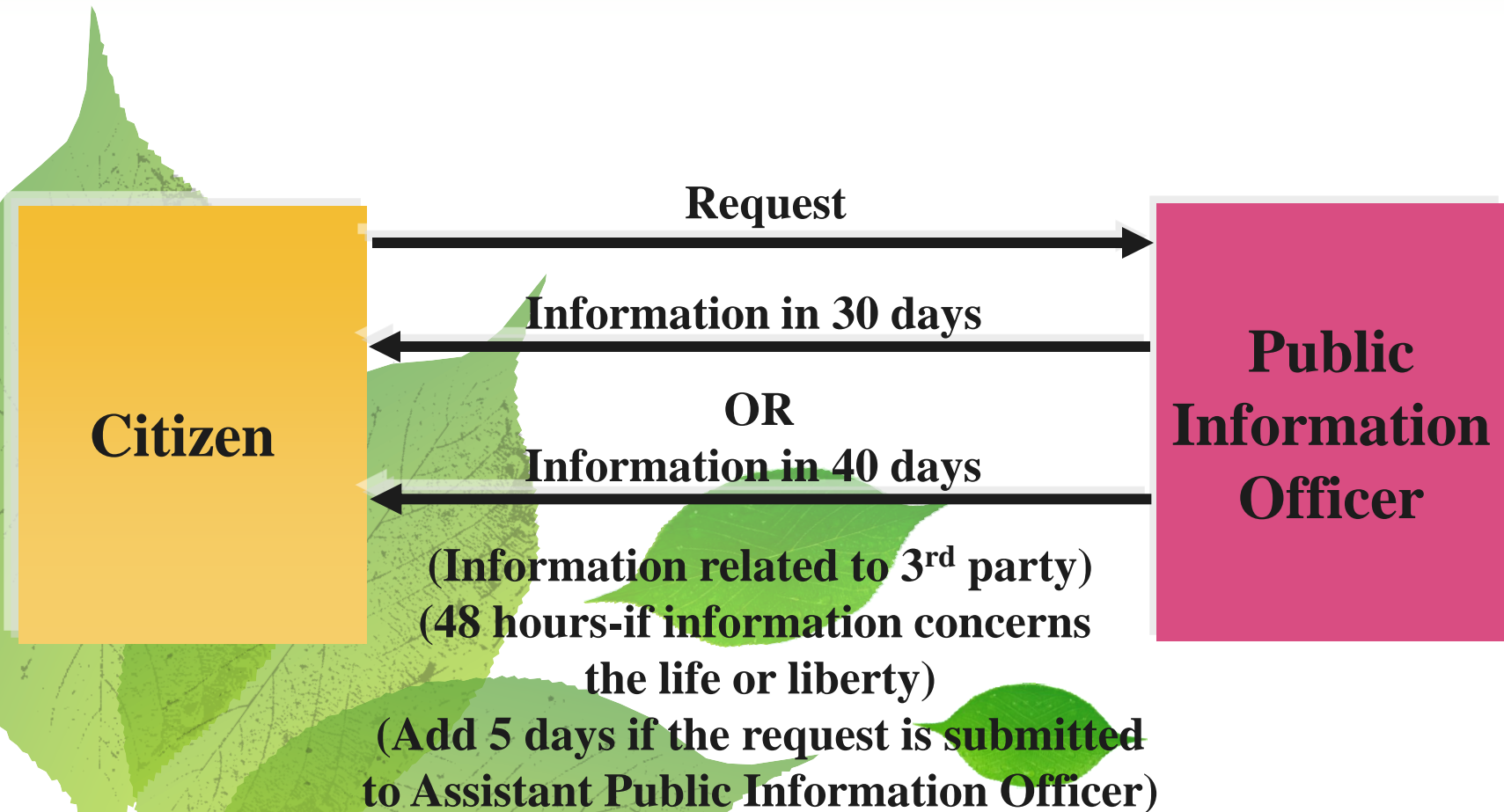
Monitoring and Reporting

The Information Commission shall, after the end of each year, prepare a **report** on the implementation of the provisions of this Act and forward a copy thereof to the appropriate Government, which cause a copy of the report to be laid before each House of Parliament or, as the case may be, before each House of the State Legislature.

s.25



Flow chart of the Request for Information



Flow chart of the Request for Information



Practical Regime



Practical Regime of Right to Information for Citizens to Secure Access to Information

- ❖ **Public Information Officers**
- ❖ **Assistant Public Information Officers**
- ❖ **Appellate Authorities**
- ❖ **Other officers**
- ❖ **The Central & State Information Commissions**



Role of a Public Information Officer



Who is a Public Information Officer?

- ❖ **An officer.**
- ❖ **Designated by the public authority.**
- ❖ **In any of its administrative unit.**
- ❖ **To provide information.**
- ❖ **To Persons requesting for information.**
- ❖ **Under the Right to Information Act, 2005**



Duty to assist

- ❖ **Render Reasonable assistance to the requesters.**
- ❖ **Render assistance to the requester making the request orally to reduce the same in writing, where the request cannot be made in writing.**
- ❖ **For sensorily disabled requesters, provide appropriate assistance to enable access to information and inspection, if necessary.**



Role of a Public Information Officer

- ❖ **Accept requests for obtaining information from citizens.**
- ❖ **Can seek assistance of any other officers.**
- ❖ **Transfer the applications, if necessary and inform the applicants about the transfer.**
- ❖ **Provide information or reject the request as expeditiously as possible, and subject to time limits under. s. 7(1)**
- ❖ **Take into consideration third party's representations, if any.**
- ❖ **Send an intimation requesting to deposit further fees, if you decide to provide the information.**
- ❖ **Send a communication describing reasons for rejection and other details, if you decide to reject the request.**



Role of a Public Information Officer

- ❖ Provide access to part of the record which can be reasonably severed from the part containing exempt information.
- ❖ Give a notice of the request to third party and invite submission.
- ❖ Give notice of your decision to third party within forty days after receipt of the request.
- ❖ The onus to prove that a denial of a request was justified is on the PIO. Who denied the request, in any appeal proceedings.
- ❖ Implement the decisions pronounced by the Appellate Officer and the Information Commission.



Reporting by the PIO

Under Section 25 of the RTI Act, Information Commissions have been entrusted with the responsibility of monitoring and reporting by preparing a report on the implementation of the provisions of this Act during that year and forward a copy thereof to the Central/ State Government as the case may be.

Each Ministry of Department in relation to public authorities within their jurisdiction are expected to collect and provide such information to the concerned Information Commission.

The report in respect of the year should provide statutorily following information:

- a. Number of requests received by each authority.**



.....Reporting by the PIO

- b. Number of decisions where applicants were not entitled to access the documents pursuant to the requests the provisions of the Act under which these decisions were made and the number of times such provisions were invoked.**
- c. The number of appeals referred to Central/ State Information Commission as the case may be for review, the nature of appeals and the outcome of appeals.**
- d. Details of disciplinary action taken against any officer in respect of administration of this Act.**
- e. Amount of charges collected by each public authority under this Act.**



.....Reporting by the PIO

- f. The details to indicate efforts made by the public authorities to administer and implement the spirit and**
- g. Suitable suggestions for reform etc.**

PIO should maintain records pertaining to the above clauses a-e and forward the same to the head of the department periodically.



.....Reporting by the PIO

To enable the PIOs to discharge their functions effectively, it will be useful for the PIOs to be ready with the following:

- a. Register for receipt, acknowledgements – separately for inward and outward and roznama.
- b. Checklist for monitoring the disposal, pendency and disposal of the applications for information.

PIO may transfer the request for information either in totality or partially to another public authority if the subject matter pertains to that other public Authority, Similarly a PIO could get a request transferred to him from another Public Authority. The PIO is also required to keep a record of transfer in his/her Outward Register for future reference and monitoring.



Role of an Assistance Public Information Officers



Who is an APIO

- ❖ **An officer.**
- ❖ **Designated at the sub-divisional level or other sub-district level.**
- ❖ **To receive applications for information for forwarding to the Public Information Officer.**
- ❖ **To receive appeals for forwarding to the Appellate Officer or the Information Commission, as the case may be.**



Role of an APIO

- ❖ Receive application for information or appeals of the sub-divisional or sub-district level.
- ❖ Forward them forthwith to the PIO or appellate officer, as the case may be.
- ❖ Render assistance to the citizens at the time of filling applications or appeals.
- ❖ Ensure proper filling of applications and appeals by citizens in accordance with the Act.
- ❖ Ensure that all information about the public authority required under the Act to be disclosed suo motu is available with him/her.

Can an APIO sign a response letter? [Click here](#)

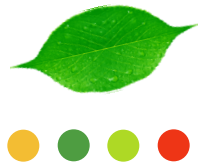


Reporting by the APIO

APIOs need to inform the PIO from time to time about the status of the applications received along with date of receipt, sent to PIOs, the fees paid, etc. Similarly the PIO needs to inform the concerned APIOs about the information provided, information denied, the grounds for denial, applications wherein the decision has extended beyond the prescribed time limit etc.



Role of an Appellate Officer



Who is the First Appellate Officer?

An officer senior in rank to the Public Information Officer in each public authority shall receive appeals against the decision of the Public Information Officer.

Preferred by the requesters, within 30 days from the receipt of the decision or within 30 days from the expiry of period specified in s 7(1) or s7(3)(a), if no such decision was communicated.

Preferred by third parties within 30 days from the date of the order.



First appeal may be preferred by the any of the following :

❖ The requester under sub-section (1) of section 19 of the Act.

❖ Third party under sub-section (2) of section 19 of the Act..

Time limit under sub-section (1) is 30 days; however the appellate authority has the discretion to admit the appeal after 30 days.

Time limit under sub-section (2) is 30 days. Here the appellate authority has **no discretion** to admit the appeal after 30 days.

Strictly speaking, the 30 day clock for the third party starts from the date the order itself and not from the date of the receipt of the order.



Role of the First Appellate Officer?

- ❖ Dispose of the appeals within 30 days of the receipt of the same. (additional period of 15 days may be availed if reasons are recorded.)
- ❖ Provide an opportunity of being heard to both parties including the Public Information Officer.
- ❖ Pass a speaking order giving Justification for the decision arrived at.
- ❖ Ensure timely disposal of appeals and adhere to principles of natural justice.
- ❖ At all times ensure that the citizens are provided information wherever such information is not absolutely exempt under the Act.



Role of Other Officers



Other Officer

Any other officer in a public authority whose assistance—necessary for proper discharge of duties of a PIO – has been sought:

- ❖ Is expected to ‘render all assistance’ to the PIO.
- ❖ Should provide the information under his/her control ‘as expeditiously as possible’. s7(1)
- ❖ Treated as PIO ‘for the purposes of any contravention of the provisions of the RTI Act’. s5(5)
- ❖ The onus to prove that a denial of a request was justified shall be on the PIO, who denied the request. s 19 (5)
- ❖ The burden of proving that he acted reasonably and diligently shall be on the PIO. s 20(1)



Thank You

