

**The Andhra Pradesh  
Right To Information Bill, 2001**

**A Draft Legislation**

by  
**LOK SATTA**

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# **The Andhra Pradesh Right to Information Bill, 2001**

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*To provide for Right to Information to every citizen in order to promote openness, transparency and accountability in administration and ensure effective participation of the people in all matters related to governance*

*Whereas, Right to Information is accepted by the Supreme Court as an inherent part of Right to Freedom of Speech and Expression under Article 19(1)(a) and the Right to Life and Personal Liberty under Article 21 of the Constitution;*

*Whereas Right to Information is a facet of the Fundamental Right to Free Speech and Expression, the provisions made here under are for the enforcement of the said Right;*

*Whereas securing information has been hitherto largely dependent on administrative circulars, and no clear law exists for obtaining information, it has become necessary to set out procedures for acquiring such information, and as such the procedures in order to comply with Article 21 of the Constitution shall be fair and reasonable;*

*Be it enacted by the Andhra Pradesh State Legislature in the fifty second year of the Republic of India as follows:*

## **1. Short Title, Object and Commencement**

- (1) This Act may be called the Andhra Pradesh Right to Information Act, 2001.
- (2) This Act is in furtherance and for the enforcement of Right to Information, a facet of Freedom of Speech and Expression. The interpretation of the provisions of this Act shall be in furtherance and for effective access to the said Right.
- (3) It shall come into force on such date as the State Government may, by notification, appoint, which shall not be later than 60 days from the date of obtaining the assent of the Governor.

## **2. Definitions**

In this Act, unless the context otherwise requires:-

a. “**Competent Authority**” means the :

- Speaker in the case of the Legislative Assembly
- Chief Justice of the High Court in the case of the High Court and all the sub-ordinate courts
- Governor in the case of other authorities created by or under the Constitution
- Chairperson of the Zilla Parishad in the case of all subjects and departments under the Jurisdiction of the Panchayats in the district
- Chairperson of the Municipality, Municipal Corporation or Nagar Palika in the case of the respective urban local governments
- The District Magistrate in the case of all state government departments or organizations or bodies in the district

— Lok Ayukta in the case of all other public authorities.

- b. **“information”** means any material or information relating to the affairs, administration, decisions or conduct of public authority and includes any document or record relating to the affairs of the public authority;
- c. **“prescribed”** means prescribed by rules under this Act by the State Government;
- d. **“project”** means any public work or scheme or programme launched by the government or public authority;
- e. **“public authority”** means all offices of the State of Andhra Pradesh including the Andhra Pradesh Public Service Commission, the State Election Commission or any other constitutional body established by the State of Andhra Pradesh; all local authorities; all authorities constituted by or under any Act of the State Legislature for the time being in force, such as a company, corporation, trust, society, any statutory or other authority, or any organisation or body funded, owned and controlled by the State Government;
- f. **“public information officer”** means the Public Information Officer appointed under Sub-section (1) of Section 6;
- g. **“publish”** means communication of information through all generally accepted forms including media briefings, advertisements where necessary and feasible, displaying in a prominent place accessible to the general public, making copies available to the public at a reasonable cost, making copies available in electronic format including posting on an official web site, and publication in an official journal or periodical made widely available to the public on demand;
- h. **“record”** includes any document, manuscript or file; any microfilm, microfiche and facsimile copy of a document ; any reproduction of image or images embodied in such microfilm (whether enlarged or not); and any other material produced by a computer or by any other device;
- i. **“right to information”** means the right of access to information from any public authority by means of inspection, taking of extracts and notes; obtaining certified copies of any records of such public authority; diskettes, floppies, photocopies or in any other electronic mode or through print-outs where such information is stored in a computer or in any other device;
- j. **“trade secret”** means information contained in a formula, pattern, compilation, programme, device, product, method, technique or process which is not generally known and which may have economic value.

### **3. Right to Information**

Subject to the provisions of this Act, all citizens shall have freedom of information and Right to Information from a public authority;

### **4. Obligations of Public Authorities**

Every public authority shall

- (1) Maintain and keep updated all records duly catalogued and indexed.
- (2) Publish periodically, and in any case at least once in a calendar year:
  - a. particulars of its organization, structure, functions and responsibilities;

- b. the powers and duties of officers and employees and the procedure followed by them in the decision making process;
  - c. norms for discharge of its functions including prescribed periods for processing and completion of physical and financial targets and the actual achievements with reference to such norms;
  - d. classes of records under its control including the rules, regulations, instructions and list of manuals etc. used by its employees for carrying out the activities;
  - e. norms for classification of information and mode of storage and retrieval;
  - f. the details of facilities available to citizens for access to information;
  - g. the name, designation and other relevant particulars of the Public Information Officer, to whom requests for information may be addressed.
- (3) Before initiating or causing to sanction any project, publish or communicate to the public generally and to the persons affected or likely to be affected by the project in particular, the relevant facts available to it or to which it has reasonable access.
- (4) Publish and display in a tamper-proof notice board in a prominent place accessible to the general public all its decisions which have a bearing on public interest immediately after a decision is taken and in any case not later than two working days.
- (5) Give reasons for decisions, whether administrative or adjudicative, to those affected and disclose the relevant facts and analysis when major policies or decisions are announced.
- (6) Publish such other information as may be prescribed or necessary;

*Provided it shall be mandatory for each custodial establishment such as a police lock-up, jail, mental asylum, remand house, women's home, beggars home etc to appoint a Visitors' Committee comprising independent citizens which shall have full access to the establishment, their records and inmates at all hours of the day and night.*

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## **5. Reports to Competent Authority**

- (1) Before or on June 30<sup>th</sup> of every calendar year, the public authority shall submit to the Competent Authority a report covering the preceding financial year and the report shall include:
  - a. the number of determinations made by the public authority not to comply with requests for records made to such public authority under Section 8(1) and the reasons for each such determination;
  - b. the number of appeals made by persons under Section 12, the result of such appeals, and the reason for the action upon each appeal that results in a denial of information;
  - c. the names and titles or positions of each person responsible for the denial of records requested under Section 8, and the number of instances of participation for each;
  - d. the results of each proceeding conducted pursuant to Section 13 including a report of the disciplinary action taken against the officer or employee who was primarily responsible for improperly withholding records or an explanation of why disciplinary action was not taken;
  - e. a copy of every rule, regulation or guideline issued by such public authority for the purpose of implementation of this Act;
  - f. a copy of the fee schedule and the total amount of fees collected by the public authority for making records available under Section 7; and
  - g. such other information as indicates efforts to administer fully Section 7.
- (2) Each public authority shall make each such report available to the public including by computer telecommunications, or by other electronic means.
- (3) The Competent Authority shall make all such reports available at a single electronic access point.
- (4) The Competent Authority shall notify the Speaker of the Legislative Assembly and the Leader of the Opposition no later than August 31<sup>st</sup> of the year in which each such report is issued, that such reports are available by electronic and other means.
- (5) The Competent Authority shall develop reporting and performance guidelines in connection with reports required by this section within three months from the date on which this Act comes into effect.
- (6) Before or on August 31 of every year, the Competent Authority shall submit to the Speaker an annual report , which shall include for the prior fiscal year a listing of the number of cases of rejection of requests for information arising under Section 8, the exemption involved in each case, the disposition of such case, and the fee schedule fixed under Section 7.

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## **6. Designation of Public Information Officers**

- (1) Every public authority shall for the purposes of this Act, designate one or more officers as Public Information Officers.
- (2) Every Public Information Officer shall deal with requests for information and shall render reasonable assistance to any person seeking such information.
- (3) Any officer whose assistance has been sought by the Public Information Officer, shall render all such assistance.

## **7. Procedure for Supply of Information**

- (1) A person desiring information from a public authority shall make an application in writing, orally or through electronic means, to the Public Information Officer. For the said purpose the applicant may be allowed to inspect the concerned document(s);

*Provided that where such request cannot be made in writing, the Public Information Officer shall render all reasonable assistance to the person making the request to reduce it in writing.*

- (2) The information asked for under Sub-section (1) shall be supplied in writing, either in the official language of the State in that area or the language in which the said information is recorded.
- (3) Every public authority may have a right to charge a reasonable fee for the supply of any document subject to the condition that such fee shall not exceed the cost of making and supplying the document. The fee charged shall not be such that it may amount to denial of the right. The fee charged shall not be a source of revenue for the government, and shall not be subject to periodical enhancement. The fee may be waived when the disclosure of information is sought in larger public interest.
- (4) The information asked for under Sub-section (1) shall be furnished to the applicant by the public authority :
  - a. within twenty four hours where such information relates to forfeiture of the life or liberty of any individual;
  - b. within seven days if the information is readily available and is of routine nature; and
  - c. as expeditiously as possible, and in any case within fifteen working days from the date of receipt of the application for all other categories of information.

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## **8. Processing of Requests for Information**

- (1) On the receipt of an application requesting for information, the public authority shall consider it and pass orders thereon either granting or refusing it, as soon as practicable and in any case within the time limits prescribed in Sub-section (4) of Section 7 from the date of receipt of the application;

*Provided that where the public authority does not have the information, he shall within the period specified under Section 7(4) from the date of receipt of application transfer the application to the officer or person with whom such information is available and inform the applicant accordingly, and thereafter such officer or person to whom such application is transferred shall furnish information within the period specified under Section 7(4) from the date of receipt of the application by him.*

- (2) Where a request is rejected under Sub-section (1), such a rejection shall be with the prior approval of the higher officer to be designated by the respective public authority. In such a case, the Public Information Officer shall communicate to the person making the request as expeditiously as possible and in no case not later than 7 days:
  - a. the reasons for such rejection;
  - b. the period within which the appeal against such rejection may be preferred;
  - c. the particulars of the appellate authority.
- (3) Information shall ordinarily be provided in the form in which it is sought unless it would disproportionately divert the resources of a public authority or would be detrimental to the safety or preservation of the record in question.
- (4) In certain special circumstances as specified in this subparagraph, the time limits prescribed by this Act may be extended by written notice to the person making such request, setting forth the reasons for such extension and the date on which the information sought is expected to be dispatched. No such notice shall specify a date that would result in an extension of more than ten working days.

Explanation: 'certain special circumstances' means, only to the extent reasonably necessary to the proper processing of the particular request including:

- a. the need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request;
- b. the need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or
- c. the need for consultation, which shall be conducted with all practicable speed, with another public authority having a substantial interest in the matter or among two or more components of the public authority having substantial subject-matter interest therein.

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## 9. Exemption from Disclosure of Information

Notwithstanding anything herein before but subject to the provisions of Section 10 the following information shall be exempted from disclosure, namely:

- a. information, the disclosure of which would prejudicially affect the sovereignty and integrity of India, security of the State, strategic, scientific or economic interest of India or conduct of international relations;
- b. information, the disclosure of which would prejudicially affect public safety and order, detection and investigation of an offence or which may lead to incitement to commit an offence;
- c. record of deliberations of the Council of Ministers for a specified period; but does not include the documents relied upon by the Council of Ministers or its decisions except in respect of matters covered by items (a) and (b);

*Provided that the decisions arrived at in the Cabinet meetings, and the reasons therefor shall be made public immediately.*

- d. minutes or records of advice, opinions or recommendations made by an officer of a public authority during the decision making process prior to the executive decision or policy formulation;

*Provided all such records and information shall be made available to the public after an executive decision is taken or policy formulated.*

- e. information the disclosure of which would constitute a breach of privilege of the Parliament or the State Legislature;

*Provided that the Public Information Officer shall before withholding information under this clause refer the matter to the AP Legislative Assembly Secretariat for determination of the issue and act according to the advice tendered by the Secretariat.*

- f. trade and commercial secrets protected by law, or information the disclosure of which would prejudicially affect the legitimate economic and commercial interests or the competitive position of a public authority, or would cause unfair gain or loss to any person or institution;
- g. patentable information or information relating to specific results of sponsored ongoing research work in scientific establishments of government during the course of such research, until the results are published in a scientific journal or made public in an appropriate forum;

*Provided that nothing in the foregoing provisions of this section shall preclude the right of any person to obtain such information as would affect life or liberty of any person in whom he or she is interested.*

*Provided that information which cannot be denied to the Parliament or State Legislature or to a local government shall not be denied to any citizen.*

*Provided that all declassified information shall be made available to the public on request.*

*Provided that norms for declassification shall be reviewed periodically as determined by the appropriate public authority, and made public.*

## **10. Grounds for Refusal of Access in Certain Cases**

There shall be free access to all information excepting what is contained in Section (9). Subject to this provision, a Public Information Officer may reject a request for information where such request:

- a. is too general in nature or is of such a nature that, having regard to the volume of information required to be retrieved or processed would involve disproportionate diversion of the resources of a public authority or would adversely interfere with the functioning of such authority;

*Provided that where such request is rejected on the ground that the request is too general, it would be the duty of the Public Information Officer to render help as far as possible to the person making the request to reframe his request in such a manner as may facilitate the supply of information.*

*Provided that if the Public Authority finds it difficult to furnish copies of the required information, the applicant shall be allowed to inspect the record and make notes in the manner and within such time as may be prescribed.*

*Provided that difficulties encountered by the authorities under this Act shall not be a ground for denial of access to information.*

- b. relates to personal information, the disclosure of which has no relationship to any public activity, or which would cause unwarranted invasion of the privacy of an individual, except where larger public interest is served by disclosure;

*Provided that the information relating to returns of assets and liabilities filed by any public servant or public representative shall be made available to the public.*

## **11. Severability**

If a request for information is rejected on the ground that it is in relation to information which is exempted from disclosure, then notwithstanding anything contained in this Act, access shall be given to that part of the record which does not contain any information that is exempted from disclosure under this Act and which can reasonably be severed from any part that contains exempted information.

## **12. Appeals**

- (1) Where a request for information is registered under Section 8 (1), the public authority shall communicate the details of such a rejection to the prescribed appellate authority immediately. The appellate authority shall treat such information as *suo motu* appeal and shall pass appropriate orders within the periods prescribed under Section 7 (4).
- (2) Any person who has not received any communication within the period prescribed under Section 7 (4), or who is aggrieved by a decision of the public authority may within thirty days next after such period appeal to such authority as may be prescribed. Any such appeal shall be disposed of within the period prescribed in Section 7 (4);

*Provided that such authority may entertain the appeal after the expiry of the said period of thirty days if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.*

*Provided that no appeal shall lie against an order of withholding of information under clause (e) of Section 9.*

- (3) On rejection of a first appeal for access to information under the provisions of this Act, the applicant shall have the right for a second appeal to the Competent Authority within 30 days, who shall then dispose of the appeal within the period prescribed in Section 7

## **13. Penalties**

- (1) Any individual responsible for providing any information under this Act shall be personally liable for failure to furnish the information within the period specified therein.
- (2) Where the information asked for under this act is not furnished within the time specified, the person responsible for supplying the information shall be punishable with a fine of Rs.100 (Rupees One Hundred Only) per every day of delay beyond the day by which the information was supposed to be supplied in compliance with the provisions of this Act;

*Provided that departmental disciplinary action shall be initiated in all such cases, and appropriate punishment shall be awarded.*

- (3) In case of willful concealment of information or deliberate furnishing of false information, the person or persons responsible shall be punished with a fine and imprisonment for six months;

*Provided that in all such cases mandatory disciplinary action shall be taken by the appropriate authority simultaneously irrespective of the outcome of criminal prosecution.*

- (4) And to remove all doubts, such offences as outlined in Sub section (3) will entail punishment of reduction of rank or removal and dismissal from service , if found guilty after disciplinary proceedings by the respective public authority's administrative mechanism;

*Provided that the public authority shall report to the Competent Authority within 30 days all information relating to the cases covered in this section, including the disciplinary action taken, penalty imposed, and such other details as may be prescribed or pertinent.*

#### **14. Protection of Action Taken in Good Faith**

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

#### **15. Protection for Public Interest Disclosures**

A public servant who is in possession of information on serious wrongdoing by any individual or agency in government which might pose a serious and imminent threat to the safety or health of an individual or the public, or severely compromise public interest or cause serious loss to the public exchequer, shall not be penalized in any way for disclosing to the public such information backed by reasonable evidence.

#### **16. Bar on 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;

*Provided that when an offence is committed under this Act, the case will be tried by the appropriate criminal court.*

#### **17. Act to Have an Overriding Effect**

The provisions of this Act shall have effect notwithstanding anything inconsistent contained in any other law made by the State Legislature in respect of any matter falling under the State List or the Concurrent List, in the Seventh Schedule of the Constitution, except the provisions of any existing law made by Parliament in respect of any matter falling under the Concurrent List.

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### **18. Power to Make Rules**

- (1) The State Government by notification in the Official Gazette, shall make rules to carry out the provisions of this Act, within sixty days from the date of enactment of this Act.
- (2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all matters relevant to the application of this Act.
- (3) Every rule made under this Act by the State Government shall be laid before the State Legislature, within 30 days of such rule being made.

### **19. Power to Remove Difficulties**

- (1) If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as appears to it to be necessary or expedient for removal of the difficulty, provided no such order shall be made after two years after commencement of the Act.
- (2) Every order made under this Section shall, as soon as maybe after it is made, be laid before the Legislature.

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