পঞ্জীভুক্ত নম্বৰ -৭৬৮/৯৭ Registered No. - 768/97

অসম ৰাজপত্ৰ

THE ASSAM GAZETTE

অসাধাৰণ

EXTRAORDINARY

প্ৰাপ্ত কৰ্ত্তৃত্বৰ দ্বাৰা প্ৰকাশিত

PUBLISHED BY AUTHORITY

নং 357 দিশপুৰ, মঙ্গলবাৰ, 7 মে', 2002, 17 বহাগ 1924 (শক)
No. 357 Dispur, Tuesday, 7th May, 2002, 17th Vaisakha, 1924 (S.E.)

GOVERNMENT OF ASSAM

ORDERS BY THE GOVERNOR

LEGISLATIVE DEPARTMENT : : LEGISLATIVE BRANCH

NOTIFICATION

The 7th May, 2002

No. LGL.8/2001/113.--The following Act of the Assam Legislative Assembly which received the assent of the Governor is hereby published for general information.

ASSAM ACT No. IX OF 2002

(Received the assent of the Governor on 1st May, 2002)

THE ASSAM RIGHT TO INFORMATION ACT, 2001

AN

ACT

to provide for right to information to the citizens and in relation to the matters connected therewith or incidental thereto.

Preamble. Whereas it is expedient to provide for right to information to the citizens so as to promote openness, transparency and accountability in administration ;

It is hereby enacted in the Fifty-second Year of the Republic of India as follows :-

Short title, extent and commencement.

1.(1) This Act may be called the Assam Right to Information Act., 2001.

(2) It shall come into force on such date, as the State Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,-

(a) 'Controlling Officer' means the immediate superior officer above the Incharge of the Office, who supervises and controls the works of the Incharge of the Office or such officer as may, from time to time, be specified as such by the State Government for the purposes of this Act ;

(b) 'Incharge of the Office' means an officer or a functionary of the State Government or a Public Authority who is in the charge and actual control of the office of the State Government or the Public Authority, as the case may be, or such officer or functionary as may from time to time be specified as such by an order by the State Government or the Public Authority, as the case may be, for the purposes of this Act ;

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(c) 'information' means and includes information relating to any matter in respect of the affairs of the administration or decisions of the State Government or a Public Authority but does not include any such information the publication of which has been prohibited by any law for the time being in force or by any notification issued by the State Government from time to time under this Act ;

(d) 'prescribed' means prescribed by the rules made under this Act ;

(e) 'Public Authority' means and includes the officer of,-

(i) all local bodies and other authorities constituted by the State Government under any law for the time being in force ; or

(ii) a Government Company or corporation incorporated under the Companies Act, 1956 in which not less than fifty one per cent of the paid up share capital is held by the State Government, or other State Government undertakings, organisations or institutions financed either wholly or partly and owned or controlled by the State Government or any other company, corporation, undertaking or institution in which the State Government stands guarantor in respect of any loan or financial advance availed of by such company, corporation, institution, organisation or undertaking, as the case may be ; or

Central Act No. 1 of 1956.

(iii) a co-operative society or any other society, a trust or any other organisation or institution established under any law for the time being in force by the State Government and directly controlled or funded by it ; or

(iv) any body, authority, institution, organisation, agency or instrumentally including the District Rural Development Agencies, funded either wholly or partly by the State Government ; and

(v) any other body, authority institution or organisation receiving substatial financial assistance from the State Government as may be notified by the State Government from time to time for the purposes of this Act :

Provided that the 'Public Authority' as defined above shall not include -

(i) the offices of the Central Government,

(ii) any establishment of the armed forces or central para-military forces,

(iii) any body or corporation owned or controlled by the Central Government,

(iv) the High Court of Assam and other courts of Law including the Tribunals and other organisatios which has the status of a Court whose proceedings are deemed to be the judicial proceedings,

(v) the Secretariat of the Governor of Assam,

(vi) the Secretariat of the Assam Legislative Assembly and

(vii) any office, body or authority as may be notified by the State Government ;

(f) 'right to information' means and includes the right of access to information relating to the affairs of the State Government or any Public Authority by means of, -

(i) obtaining certified copy of any record, or

(ii) inspection of accessible records and taking notes and extracts, or

(iii) inspection of public works, or

(iv) taking of samples of materials from public works, or

(v) obtaining diskettes, floppies or any other electronic mode or through print-outs where such information is stored in a computer or in any other device, or

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(vi) in such other manner as may be prescribed, but does not include any such information the publication of which has been prohibited by any law for the time being in force or by any notification issued by the State Government from time to time under this Act.

(g) 'record' means and includes any document, manuscript, file ; diskette, floppy or other computerised record maintained by the State Government or any Public Authority, as the case may be, in transacting the day to day affairs of their business.

(h) 'State Government' means the Government of Assam ;

(i) '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.

Maintenance of record.

3. Every office of the State Government or Public Authority shall maintain the records in such manner and form as may be prescribed in this behalf by the State Government or the Public Authority, as the case may be, from time to time.

Right to information

4. (1) Subject to the provisions of this Act and the Official Secrets Act, 1923 every citizen shall have the right to obtain information from the Incharge of the Office and such Incharge shall be liable to provide the information in accordance with the provisions of this Act. Central Act No. XIX of 1923.

(2) Notwithstanding anything contained in sub-section (I), no person shall be given,-

(a) (i) information, the disclosure of which may prejudicially affect the sovereignty and integrity of India, security of the State, strategic, scientific or economic interest of India or conduct of international relations,

(ii) information, the disclosure of which would prejudicially affect the conduct of Centre-State relations, including information exchanged in confidence between the Central and State Government or any of their authorities or agencies,

(b) information, the disclosure of which may prejudicially affect public safety and order or which may lead to an incitement to commit an offence or prejudicially affect fair trial or adjudication of a pending case,

(c) information relating to Cabinet papers including records of the deliberations of the Council of Ministers, Secretaries and other officers,

(d) information, the disclosure of which may harm, frankness and candour of internal discussions including inter departmental notes, correspondence and papers containing advice or opinion as also of projections and assumptions relating to internal policy analysis,

(e) information, the disclosure of which may prejudice the assessment or collection of any tax, cess, duty or fee or assist in avoidance or evasion of the tax, cess, duty or fee,

(f) information, the disclosure of which may constitute a breach of privilege of the Parliament or the State Legislature or may amount to violation of an order of a competent court,

(g) information regarding trade or commercial secrets protected by law or information, the disclosure of which may prejudicially affect the legitimate economic and commercial interest or the competitive position of the State Government or a public authority ; or may cause unfair gain or loss to any person,

(h) information, the publication of which has been prohibited by the State Government by way of notification issued in exercise of any provision of this Act,

(i) information regarding any matter the disclosure of which may, -

(i) help or facilitate escape from legal custody or affect prison security ;

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(ii) impede the process of investigation or apprehension or prosecution of offenders ;

(iii) prejudicially affect the enforcement of any law including detection, prevention, investigation or suppression of crime or contravention of any law or the apprehending of offender and the operations of any intelligence organisation including any operation aganist extremism, terrorism and insurgency,

(iv) endangered 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 ;

(v) prejudicially affect the fair trial or adjudication of a pending case or the proceedings of any Tribunal or public inquiry ;

(vi) reveal the existence or identity of a confidential record or source of information ; or may prejudice future supply of information relating to violation or contravention of any law ;

(vii) prejudicially affect the ability of the State Government to management the economy or the legitimate economic or commercial interest of the State Government or a Public Authority ; or may cause unfair gain or loss to any individual or organisation ;

(viii) cause unwarranted invasion to the privacy of an individual and which has no relationship to any public activity ;

(j) information held in consequence of having been supplied in confidence by a person who -

(i) gave the information under a guarantee that its confidentiality would be protected ; or

(ii) was not under any legal obligation whether actual or implied to supply and has not consented to its disclosure ;

(k) the record and information referred to in section 123 and 124 of the Indian Evidence Act, 1872 and claimed privileged ; Central Act No. 1 of 1872.

(l) information on the following grounds also -

(i) that the request is too general or is of such a nature that having regard to the volume of the information required to be retrieved or processed for fulfilling it, it would involve disproportionate diversion of the resources of the State Government or the Public Authority, as the case may be, or would adversely interfere with the functioning of such Authority :

Provided that where access is being refused on the ground that the request is too general it would be the duty of the Incharge of the Office concerned to render help as far as possible to the person seeking information to re-frame his request in such a manner as may facilitate supply of information,

(ii) that the request relates to information that is required by law or convention to be published at a particular time ; or

(iii) that the request relates to information that is contained in published material for sale.

Procedure for supply of information.

5. (1) Any person desirous of obtaining information shall make an application to the Incharge of the Office in the prescribed manner, along with such fee, in such form and with such particulars, as may be prescribed.

(2) On reciept of an application under sub-section (1), the Incharge of the Office shall consider it and if the information is such which can be provided and do not fall within the category specified under sub-section (2) of section 4, the Incharge of the Office shall provide the information within thirty days of the receipt of the application.

(3) Where the information sought by the applicant falls under any of the restricted

categories specified under sub-section (2) of section 4, the Incharge of the Office shall refuse to provide the information and shall communicate his reasoned decision to the applicant within thirty days from the date of receipt of the application.

(4) The information sought may be provided in the form it is available in the office by copying or photocopying the same which shall be certified, and signed and sealed on each page thereof by the Incharge of the Office.

(5) When it appears to the Incharge of the Office that the information sought for by the applicant is not available in the office, he shall forward the application to the office where he reasonably believe the information to have orginated or be available and communicate the same to the applicant.

Appeals. 6. (1) Subject to such rules as may be prescribed, any person,

(i) aggrieved by an order of the Incharge of the Office may, within thirty days from the date of receipt of such order, or

(ii) who has not received any communication within a period of thirty working days from the date of the application under section 5, may within thirty days next after such period, -

prefer an appeal before the Controlling Officer.

(2) Every appeal shall be accompanied by such fee to be deposited or paid in such manner as may be prescribed.

(3) The Controlling Officer may, after giving the person affected a reasonable opportunity of being heard, pass such order as it deems fit :

Provided that every appeal so preferred shall be decided and disposed of by all means within thirty days from the date of presentaion thereof.

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(4) Any person aggrieved by the order of the controlling Officer under sub-section (1) may prefer a Second Appeal before the Assam Administrative Tribunal constituted under section 3 of the Assam Administrative Tribunal Act, 1977 within a period of thirty days from the date of receipt of such order. Assam Act VIII of 1977.

(5) The Assam Administrative Tribunal may, after giving the person affected a reasonabe opportunity of being heard, pass such order as it deems fit :

Provided that every Second Appeal so preferred shall be decided and disposed of by all means within sixty days from the date of presentation of the appeal.

power to remove difficulties.

7. If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by an order make such provisions not inconsistent with the provisions of this Act and appear to them to be necessary or expedient for removing the difficulty.

protection of action taken in good faith.

8. No suit, prosecution or other legal proceeding shall lie against the State Government or any Public Authority or any officer or functionary thereof or any person for anything which is done in good faith or intended to be done in pursuance of this Act or the rules made thereunder.

Penalties.

9. Where any Incharge of the Office, without any reasonable cause fails to supply the information sought for within the period specified under section 4 or furnishes information which is false with regard to any material and which he knows or has reasonable cause to believe to be false shall be liable to disciplinary action by Disciplinary Authority under the relevant service rules governing the services of the officer concerned.

Bar of Jurisdiction of Courts

10. 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.

Power to make Rules.

11. (1) The State Government may make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely :-

(a) the fee payable under section 5.

(b) any other matter which is required to be, or may be, prescribed.

(3) All rules made by the State Government under this Act shall, as soon as may be after they are made, be laid before the State Legislature, while it is in session, for a total period of not less than fourteen days which may be comprised in one session or two or more successive sessions, and shall, unless some later date is appoined, take effect from the date of their publication in the Official Gazette subject to such modifications or annulments as the Legislature may, during the said period agree to make, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done thereunder.

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S. K. SINHA,
GOVERNOR OF ASSAM

K. D. PHUKAN,
Secretary to the Govt. of Assam
Legislative Department.

GUWAHATI- Printed & Published by the Dy. Director (P&S), Directorate of Ptg. & Sty., Assam,Guwahati-21, (Ex-Gazette) No. 715-500-600-7-5-2002.