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# What are the Penalty and Compensation

## Penalties

### Penalty provision

As per Section 20(1) of the RTI Act, the CIC or the SIC, has the powers to impose a penalty on the PIO, while deciding on a complaint or a second appeal.

The penalty can be imposed, if the PIO has:

1. Refused to receive an application
2. Not furnished the requested information within 30 days of receiving the application
3. Malafidely denied the request for information
4. Knowingly given incorrect, incomplete or misleading information
5. Destroyed information which was the subject of the request
6. Obstructed in any manner, in furnishing the information

The amount of penalty shall be Rs. 250.00 per day, till the information is furnished or the application is received, subject to a maximum of Rs. 25,000.00. The penalty has to be paid by the PIO from his salary and not by the Public Authority. The CIC or the SIC will give the PIO a reasonable opportunity to be heard before the penalty is imposed. However the burden of proving that he acted reasonably shall be on the PIO.

Under Section 20(2) of the RTI Act, the CIC or the SIC can also recommend disciplinary action as per the service rules applicable to the PIO.

The First Appellate Authority (FAA) or the Public Authority (PA) are not subjected to any penalty clause under the RTI Act.

Though the Act states that the burden of proving that PIO acted reasonably and diligently shall be on the Public Information Officer.<sup>1)</sup> " Therefore, it can be interpreted by the Information Commissioner that the PIO "knowingly" committed his actions of omission or commission, and it is for the PIO to produce evidence that he did so unknowingly. However, CIC has many a times interpreted in favor to PIO stating that "If there was no malafide in denial of information in servicing requests for information and that the refusal stems from a genuine conviction within the public authority that the information was exempted from disclosure, the CIC has not imposed the penalty.

Further, remember that Section 7(1) allows only for 30 days for responding to an application under the RTI Act from the date of receipt to the date of dispatch of the information. It does not allow for 30 working days.<sup>2)</sup>

In the following explanations, Reply, statements & Comments furnished by the Public Information Officers (PIO) / Deemed PIO's were not accepted by the CIC during hearing on the issue of delay in furnishing information under RTI Act.

1. There was a "System failure" and nobody could be identified and made accountable for the delay in replying to the RTI application.<sup>3)</sup>
2. PIO cannot take a recourse that the applicant is satisfied with the information and therefore no Penalty be levied upon him. Commission pointed out that the views of the applicant cannot be a

reasonable cause for dropping penalty proceedings against the PIO.<sup>4)</sup>

3. The Commission takes strong exception for terming an RTI applicant as an irritant.<sup>5)</sup>
4. Ignorance of the RTI Act is not a reasonable cause for delay in supply of information.<sup>6)</sup>
5. The Plea by the CPIO that delay was entirely due to the failure of junior officer is being taken rather routinely. CPIO's claim that he had sought assistance from 'X' under Section 5 (4) cannot be sustained as 'X' was a part of the CPIO's office and he could not be treated either as a holder of information or an independent functionary.<sup>7)</sup>

The following explanations, Reply, statements & Comments furnished by the Public Information Officers (PIO) / Deemed PIO's were accepted by the CIC during hearing as reasonable cause under RTI Act and drops the penalty proceedings.

1. The custodies of the information stated that he had denied the information with the approval of his administrative head. Since, the information was denied under the directions of the Administrative Head, the commission exonerates him from levy of penalty.<sup>8)</sup>
2. The PIO submitted that the delay was caused because he had to collect the information from several departments.<sup>9)</sup>
3. The Commission taken lenient view on the number of days the PIO was temporary duty at different places during the delayed period.<sup>10)</sup>

## Compensation provision

Under [Section 19\(8\)\(b\) of the RTI Act](#), the CIC or the SIC, can require the Public Authority to compensate the complainant/appellant for any loss or detriment suffered. The complainant/appellant should be able to justify the claim for compensation as well as the amount of compensation sought.

## Suggestion

It is recommended that the complainant/appellant specifically include a "prayer" or "relief sought" in his Complaint or Second Appeal, in case he wants the CIC or the SIC to impose a penalty under Section 20(1) or recommend disciplinary action under Section 20(2).

Similarly, if compensation is sought from the Public Authority, the complainant/appellant should make a specific mention in "prayer" or "relief sought" as well as give justification for seeking compensation and the amount of compensation sought.

## More Reading

1. [Lessons learned from Penalties](#)

## More Articles from Guide Section

- [Guidelines for RTI Applicant](#)
  - [RTI Forms](#)
    - [RTI Application Forms](#)
    - [How to Fill RTI Application Form](#)
    - [How to locate Public Information Officer under RTI](#)
    - [When to supply information free of Cost?](#)
    - [What are the Penalty and Compensation](#)
    - [Procedure for Inspection](#)
    - [Where You cannot get Information](#)
    - [Who can ask for information under Right to Information?](#)
  - [First Appeal](#)
    - [How to File First Appeal under RTI](#)
  - [Second Appeal](#)
    - [How to file Second Appeal under RTI](#)
    - [How to file a Complaint to CIC](#)
  - [What is Right to Information](#)
  - [Fundamental Facts about RTI](#)
  - [Time Limits under Right to Information Act 2005](#)
- [Guidelines for Public Authority](#)
  - [RTI Cell](#)
- [How to use your Right to Information](#)
  - [How to Locate Public Information Officer](#)
- [Guidelines for First Appellate Authority](#)
- [Guidelines for Public Information Officer](#)

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<sup>1)</sup>  
[CIC/OIC/A/2006/00637 Dated. 04.07.2008]

<sup>2)</sup>  
Decision on 07th May, 2008, Adjunct to appeal No. CIC/WB/A/2007/00274 dt 10 -03- 2007

<sup>3)</sup>  
[ C IC/OK/C/2006/00 147 dated, 01st March, 2007 ]

<sup>4)</sup>  
[ CIC/OK/A/2006/00400 dated, 18th May, 2007]

<sup>5)</sup>  
[ CIC/OK/C/2006/00134 dated, 13th September, 2007]

<sup>6)</sup>  
[CIC/OK/C/2006/00 208 dated, 13th September, 2007]

7)

[CIC/AT/C/2008/00121 dated, 01st October, 2008]

8)

[CIC/OK/C/2006/00139 dated, 6th November, 2007]

9)

[CIC/OK/A/2006/00839 dated, 29th September, 2008]

10)

[CIC/OK/C/2006/00 147 dated, 01st March, 2007]

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