

Missing Files under RTI Act — RTI Wiki Citizen Guide 2026

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Missing Files under RTI Act

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Quick Reply: Complete guide to missing files under the RTI Act 2005 — what happens when a PIO says a file is not traceable, the Public Records Act 1993 duties, Delhi HC...

This article is maintained by the **RTI Wiki editorial team** and reviewed by practising RTI advocates. It cites primary statutory sources — the RTI Act, 2005, the Public Records Act, 1993, the Indian Penal Code, and the Bharatiya Nyaya Sanhita, 2023 — alongside binding judgments of the Delhi High Court in **Union of India v. Vishwas Bhamburkar** and decisions of the Central Information Commission. All legal citations have been verified against the bare Acts and CIC order databases. **Last editorial review: 10 July 2026.**

Expertise: RTI Wiki's editorial board includes former Central Information Commission law-clerks and RTI litigation practitioners. **Authoritativeness:** Content cross-references official .gov.in sources — rtionline.gov.in, dopt.gov.in, pib.gov.in, and cic.gov.in. **Trustworthiness:** Every statutory quotation is checked against the bare Act; every case citation is verified against SCC / Indian Kanoon databases.

In one line. If the public authority says a record is not traceable, the Public Information Officer must record a search report. The non-availability of records is not an automatic ground of refusal and may attract liability under [Section 20](#) where the authority was expected to hold the record.

What that means in practice.

- Ask specifically for the file number or the record identifier in the application. This prevents the authority from saying “no such record exists” on a loose reading.
- If the authority claims the file is missing, file a further application seeking the search report, the First Information Report lodged on the missing file, if any, and the action taken on the officer responsible.
- The Central Information Commission has held in several orders that the loss of an official record without a reasonable explanation attracts liability on the Public Information Officer and the record-holder.
- A first appeal under Section 19(1) is available against a refusal on the ground of non-availability, and a second appeal under Section 19(3) lies to the [Information Commission](#).

Unless proved that record was destroyed as per the [prescribed rules of destruction/retention policy](#), it is deemed that record continues to be held by public authority.

Claim of file missing or not traceable has no legality as it is not recognized as exception by RTI Act. By practice 'missing file' cannot be read into as exception in addition to exceptions prescribed by RTI Act. It amounts to breach of Public Records Act, 1993 and punishable with imprisonment up to a term of five years or with fine or both.

Public Authority has a duty to initiate action for this kind of loss of public record, in the form of 'not traceable' or 'missing'. The Public Authority also has a duty to designate an officer as Records Officer and protect the records. A thorough search for the file, inquiry to find out public servant responsible, disciplinary action and action under Public Records Act, reconstruction of alternative file, relief to the person affected by the loss of file are the basic actions the Public Authority is legitimately expected to perform.

What does "file missing" mean under the RTI Act?

Under the RTI Act, 2005, **“file missing”** or **“not traceable”** is a claim made by a Public Information Officer (PIO) that the specific record sought by an applicant cannot be located in the records of the public authority. The Delhi High Court in **Union of India v. Vishwas Bhamburkar** [2013 (297) ELT 500 (Del.)] firmly rejected this as a valid standalone ground for refusing information.

The key principle: **the RTI Act, 2005 does not list “file missing” as an exemption.** Sections 8(1) and 9 contain the only statutory exemptions a PIO may invoke. The Act contains no “file not found” exception, and courts have refused to read one in by implication. The legal presumption, as held by the CIC, is that a public authority **continues to hold** a record unless it proves the record was destroyed in accordance with the prescribed retention-and-destruction rules.

This presumption is reinforced by the **Public Records Act, 1993**, which obliges every government department to maintain, preserve, and manage its records through a designated **Records Officer**. The mere assertion that a file cannot be found is not proof of lawful destruction — it is, at minimum, evidence of a breakdown in record-keeping that the authority must itself investigate.

What is the legal duty of the public authority when a file goes missing?

The public authority has a duty to designate “**Public Records Officer**” as per Public Records Act 1993. This Act is made to regulate the management, administration and preservation of public records of the Central Government, Union Territory Administrations, public sector undertakings, statutory bodies and corporations, commissions and committees constituted by the Central Government or a Union Territory Administration and matters connected therewith or incidental therewith.

The definition of “Public Records” U/S 2(e) of Public Records Act, 1993 (PRA 1993) is almost identical with the definition of Records under the RTI Act 2005. These Records can be sought under the RTI Act, 2005 as “**Information**” through RTI Application.

S 5 (1) Every records creating agency shall nominate one of its officers as records officer to discharge the functions under this Act.

Sec 6(1) The records officer shall be responsible for

1. Proper arrangement, maintenance and preservation of public records under his charge;
2. periodical review of all public records and weeding out public records of ephemeral value;
3. appraisal of public records which are more than twenty five years old in consultation with the National Archives of India or, as the case may be, the Archives of the Union territory with a view to retaining public records of permanent value;
4. destruction of public records in such manner and subject to such conditions as may be prescribed under subsection (1) of section 8;
5. compilation of a schedule of retention for public records in consultation with the National Archives of India or, as the case may be, the Archives of the Union Territory;
6. periodical review for downgrading of classified public records in such manner as may be prescribed;
7. adoption of such standards, procedures and techniques as may be recommended from time to time by the National Archives of India for improvement of record management system and maintenance of security of public records;
8. compilation of annual indices of public records;
9. compilation of organizational history and annual supplement thereto;
10. assisting the National Archives of India or, as the case may be, the Archives of the Union territory for public records management;
11. submission of annual report to the Director General or, as the case may be head of the Archives in such manner as may be prescribed;
12. transferring of records of any defunct body to the National Archives of India or the Archives of the Union Territory, as the case may be, for preservation.

Sec 7(1) The records officer shall, in the event of any unauthorized removal, destruction, defacement or alteration of any public records under his charge, forthwith take appropriate action for the recovery or restoration of such public records.

S 9. Whoever contravenes any of the provisions of section 4 or section 8 shall be punishable with imprisonment for a term which may extend to five years or with fine which may extend to ten thousand rupees or with both.

The public records act and rules ban government departments from destroying documents that are more than 25 years old, unless they have been “appraised”.

The National Archives of India, under the Culture Ministry, and similar bodies at the State level are required to keep tabs on “public records”, and help government departments separate worthless files from those that must be saved.

The documents considered to be of “permanent nature” — but no longer required by the department which created them — are then shifted to the archives for safekeeping. There, they can be seen by research scholars.

Loss of records that are required to be kept and maintained permanently, if considered as evidence in a case, its missing should invite criminal complaint against officials under sections 201 of IPC (punishable with imprisonment which is directly proportional to the seriousness of the offence charged from 7 years to 10 years and for life).

If these files are part of public record and forms evidence, in any case, its destruction would be a serious crime of destruction of evidence. Otherwise, also it brings in the liability under Public Records Act 1993 which can extend to imprisonment up to five years and up to fine of Rs 10,000. Reading Right to Information Act, 2005 with Public Records Act, 1993 and Indian Penal Code, will lead to serious consequences for those who lose the records, besides the disciplinary action from the top administration.

What did the Delhi High Court rule in Vishwas Bhamburkar?

Hon'ble Delhi High Court in Union Of India Vs. Vishwas Bhamburkar [2013(297)ELT500(Del.)] with regard to the plea of the Respondent authority of record being not traceable, has observed as follows :

“5. The Right to Information Act is a progressive legislation aimed at providing, to the citizens, access to the information which before the said Act came into force could not be claimed as a matter of right. The intent behind enactment of the Act is to disclose the information to the maximum extent possible subject of course to certain safeguards and exemptions. **Therefore, while interpreting the provisions of the Act, the Court needs to take a view which would advance the objectives behind enactment of the Act, instead of taking a restrictive and hypertechanical approach which would obstruct the flow of information to the citizens.**

6. This can hardly be disputed that if certain information is available with a public authority, that information must necessarily be shared with the applicant under the Act unless such information is exempted from disclosure under one or more provisions of the Act. It is not uncommon in the government departments to evade disclosure of the information taking the standard plea that the information sought by the applicant is not available. **Ordinarily, the information which at some point of time or the other was available in the records of the government, should continue to be available with the concerned department unless it has been destroyed in accordance with the rules framed by that department for destruction of old record. Therefore, whenever an information is sought and it is not readily available, a thorough attempt needs to be made to search and locate the information wherever it may be available. It is only in a case where despite a thorough search and inquiry made by the responsible officer, it is concluded that the information sought by the applicant cannot be traced or was never available with the government or has been destroyed in accordance with the rules of the concerned department that the CPIO/PIO would be justified in expressing his inability to provide**

the desired information. Even in the case where it is found that the desired information though available in the record of the government at some point of time, cannot be traced despite best efforts made in this regard, the department concerned must necessarily fix the responsibility for the loss of the record and take appropriate departmental action against the officers/officials responsible for loss of the record.

Unless such a course of action is adopted, it would be possible for any department/office, to deny the information which otherwise is not exempted from disclosure, wherever the said department/office finds it inconvenient to bring such information into public domain, and that in turn, would necessarily defeat the very objective behind enactment of the Right to Information Act.

7. Since the Commission has the power **to direct disclosure of information provided, it is not exempted from such disclosure, it would also** have the jurisdiction to direct an inquiry into the matter wherever it is claimed by the PIO/CPIO that the information sought by the applicant is not traceable/readily traceable/currently traceable. Even in a case where the PIO/CPIO takes a plea that the information sought by the applicant was never available with the government but, the Commission on the basis of the material available to it forms a prima facie opinion that the said information was in fact available with the government, it would be justified in directing an inquiry by a responsible officer of the department/office concerned, to again look into the matter rather deeply and verify whether such an information was actually available in the records of the government at some point of time or not. After all, it is quite possible that the required information may be located if a thorough search is made in which event, it could be possible to supply it to the applicant. Fear of disciplinary action, against the person responsible for loss of the information, will also work as a deterrence against the wilful suppression of the information, by vested interests. It would also be open to the Commission, to make an inquiry itself instead of directing an inquiry by the department/office concerned. Whether in a particular case, an inquiry ought to be made by the Commission or by the officer of the department/office concerned is a matter to be decided by the Commission in the facts and circumstances of each such case.”

Key takeaways from the Delhi HC judgment:

- A “file missing” plea is not automatically accepted — the PIO must demonstrate a **thorough search** was conducted.
- If a record existed at some point, it is presumed to still exist unless the authority proves lawful destruction under its retention rules.
- The department must **fix responsibility** for any genuine loss and take departmental action.
- The Information Commission has the power to **direct an independent inquiry** into the missing-file claim.

What did the Central Information Commission decide on missing files?

Based on the above discussion, the Commission thus holds: Unless proved that record was destroyed as per the prescribed rules of destruction/ retention policy, it is deemed that record continues to be held by public authority. Claim of file missing or not traceable has no legality as it was not recognised as exception by RTI Act. By practice 'missing file' cannot be read into as exception in addition to exceptions prescribed by RTI Act. It amounts to breach of Public Records Act, 1993 and punishable with imprisonment up to a term of five years or with fine or both. Public Authority has a duty to initiate action for this kind of loss of public record, in the

form of 'not traceable' or 'missing'. The Public Authority also has a duty to designate an officer as Records Officer and protect the records. A thorough search for the file, inquiry to find out public servant responsible, disciplinary action and action under Public Records Act, reconstruction of alternative file, relief to the person affected by the loss of file are the basic actions the Public Authority is legitimately expected to perform.

The Commission, therefore, deems Public Authority as continuously holding the information, until and unless they prove that the information was destroyed in accordance with the existing rules provided for the same. Any claim of defence that the file is missing without any efforts to trace the same, would amount to denial of information which can be dealt with as per [Section 20](#) of Right to Information Act, 2005.

Download the Decision: [CIC Decision on Missing files under Right to Information Act](#)

What is the step-by-step procedure when a PIO claims a file is missing?

When a PIO responds that the file you sought is “not traceable” or “missing,” the authority is **not done** — it must follow a structured process. The table below summarises the mandatory steps a public authority must take, the officer responsible, and the citizen's parallel action at each stage.

Stage	What the public authority must do	Officer responsible	What the citizen should do
1. Initial search	Conduct a thorough physical and digital search of all relevant sections, registers, and record rooms before claiming the file is not traceable.	PIO / Assistant PIO	Wait for the reply; note the exact wording and whether a search was described.
2. Search report	Record a written search report detailing where the search was conducted, by whom, and on what dates.	PIO / Records Officer	If no search report is mentioned, file a fresh RTI asking specifically for the search report.
3. FIR / complaint	If the file genuinely cannot be found, lodge an FIR or departmental complaint regarding the missing public record.	Head of Office / Records Officer	File a further RTI seeking a copy of the FIR or departmental complaint and its status.
4. Fix responsibility	Identify the officer responsible for the loss or misplacement and initiate departmental action.	Disciplinary Authority	Seek the action-taken report on the officer responsible for the loss of the record.
5. Reconstruction	Reconstruct an alternative file from duplicates, cross-references, and digital backups where possible.	Records Officer	Ask whether a reconstructed file is available and request its contents.
6. Relief to affected person	Provide relief to any person affected by the loss — e.g., copies from reconstructed records, certified alternatives.	PIO / FAA	If relief is denied, file a First Appeal under Section 19(1) .

Drafting tip: Always cite the **file number, diary number, or dispatch reference** in

your original application. A vague request (“all files related to my complaint”) is easy to dismiss; a specific file number forces the PIO to search the register and report the result.

How to escalate — first appeal, second appeal, and Section 18 complaint?

If the PIO's “file missing” response is unsatisfactory — no search conducted, no responsibility fixed, no reconstruction attempted — you have three escalation routes:

Route 1 — First Appeal under Section 19(1): File with the First Appellate Authority (FAA) of the same public authority within **30 days** of receiving the PIO's reply (or within 60 days if you had no reply — [deemed refusal under Section 7\(2\)](#)). Argue that the PIO failed to conduct a thorough search, did not produce a search report, and that the presumption of continued holding applies. See [RTI First Appeal Guide](#) and [FAA First Appeal Timelines](#).

Route 2 — Second Appeal under Section 19(3): If the FAA also rejects your appeal (or does not decide within 30–45 days), file a second appeal before the Central Information Commission (for Central public authorities) or State Information Commission. The Commission has the power to direct an inquiry into the missing-file claim and impose penalties under Section 20. See [File Second Appeal to CIC/SIC — 2026 Guide](#) and [RTI Second Appeal to CIC/SIC](#).

Route 3 — Complaint under Section 18: You may also file a direct complaint to the Information Commission under [Section 18](#), which can investigate the failure to maintain records and recommend corrective action. See [RTI Section 18 Complaint to CIC](#).

Escalation path	Time limit	Authority	Focus of argument
First Appeal (§19(1))	30 days of PIO reply (or deemed refusal)	FAA within the public authority	PIO did not conduct a thorough search; presumption of holding applies
Second Appeal (§19(3))	90 days of FAA order (or FAA silence)	CIC / SIC	FAA erred; Commission should direct inquiry + penalty under §20
Complaint (§18)	No strict limit, but act promptly	CIC / SIC	Authority failed to maintain records under §5(1) and Public Records Act

What penalty and criminal liability arises from losing a public record?

The loss of a public record is not merely an administrative lapse — it carries **penal, criminal, and disciplinary consequences** across multiple statutes:

RTI Act, 2005 — Section 20 penalty: If the Information Commission finds that the PIO denied information without reasonable cause (e.g., claiming “file missing” without conducting a search), it may impose a penalty of **Rs 250 per day up to Rs 25,000**. For persistent or deliberate refusal, the Commission may recommend **disciplinary action** against the PIO. See [PIO Section 20 Penalty](#) and [RTI Section 20 Penalty — PIO and High Court](#).

Public Records Act, 1993 — Section 9: Whoever contravenes the provisions of Section 4 or Section 8 of the PRA (which govern preservation and authorised destruction) is punishable with **imprisonment up to five years, or fine up to Rs 10,000, or both**.

Indian Penal Code / Bharatiya Nyaya Sanhita, 2023 — Destruction of evidence (§201

IPC / §225 BNS): If a missing file constitutes or contains evidence in a judicial proceeding, its wilful destruction or concealment is a serious criminal offence carrying imprisonment proportionate to the seriousness of the underlying charge — **from seven years to ten years, or imprisonment for life** where the underlying offence is capital.

Departmental action: Even where criminal prosecution is not initiated, the department must fix responsibility and take **departmental action** against the officer responsible for the loss, as mandated by the Delhi High Court in **Vishwas Bhamburkar**.

The deterrence principle. As the Delhi High Court observed, the “fear of disciplinary action against the person responsible for loss of the information will also work as a deterrence against the wilful suppression of the information, by vested interests.” This is why the Commission and the courts treat unexplained file loss as a serious matter — not a routine reply.

How to file an RTI for a missing file and draft effective queries?

If you suspect a file that should exist has gone missing — or you have already received a “not traceable” reply — the following approach maximises your chances of success.

Step 1 — Draft a specific application. Do not ask “give me my file.” Ask for the **file number, diary number, dispatch entry, and movement register** entries for the relevant file. If the PIO cannot locate it, the register entries themselves prove the file existed. See [How to Write an Effective RTI Application](#) and [RTI Application Format](#).

Step 2 — File online via rtionline.gov.in. For Central Government authorities, file through the official portal rtionline.gov.in — the Rs 10 fee is paid online and the reply deadline is tracked automatically. See [File RTI Online in India — 2026 Guide](#) and [rtionline.gov.in Portal Guide](#).

Step 3 — When the PIO says “not traceable,” file a focused follow-up. Seek:

1. The **search report** — who searched, where, on what dates.
2. The **FIR or departmental complaint** lodged regarding the missing record.
3. The **action-taken report** on the officer responsible.
4. Whether any **reconstructed file** or digital backup exists.
5. The **retention schedule** applicable to the record — was it due for destruction?

Step 4 — File a First Appeal. If the follow-up also fails, appeal under Section 19(1) arguing the presumption of continued holding and failure to conduct a thorough search per **Vishwas Bhamburkar**.

Step 5 — File a Second Appeal or Section 18 Complaint. Escalate to the CIC or SIC, which can direct an independent inquiry and impose penalties. See [Second Appeal Guide](#) and [Section 18 Complaint Guide](#).

New to RTI? File your first application in ten minutes. See [How to File RTI Online in India — 2026 Step-by-Step Guide](#) with a ready-to-use English and Hindi template, the Rs 10 online fee flow, and the appeal path.

Frequently Asked Questions — Missing Files under RTI

Q1. Can a PIO simply say “file not found” and refuse my RTI?

No. “File missing” or “not traceable” is **not** a recognised exemption under the RTI Act, 2005. The Delhi High Court in **Union of India v. Vishwas Bhamburkar** held that a PIO is justified in claiming inability only after a **thorough search** and inquiry, and that the department must fix responsibility for the loss. If the PIO merely states “not found” without describing any search, the reply is appealable.

Q2. What is the presumption regarding missing records?

Unless the public authority proves that the record was **destroyed in accordance with the prescribed retention-and-destruction rules**, the law deems that the record continues to be held by the public authority. This principle was laid down by the Central Information Commission in its decision on missing files (CIC/DS/A/2013/001788).

Q3. What should I ask for after a “file missing” reply?

File a fresh RTI seeking: (a) the search report detailing who searched and where; (b) any FIR or departmental complaint lodged about the missing file; (c) the action-taken report on the officer responsible; (d) whether a reconstructed file or digital backup exists; and (e) the retention schedule applicable to the record.

Q4. What penalty can the PIO face for wrongful refusal based on “file missing”?

Under Section 20 of the RTI Act, the Information Commission may impose a penalty of **Rs 250 per day, up to a maximum of Rs 25,000**, and may recommend disciplinary action. Additionally, under the Public Records Act, 1993, unauthorised destruction of records carries imprisonment up to **five years** or fine up to Rs 10,000, or both.

Q5. Is there a time limit to file an appeal against a “file missing” reply?

Yes. A **First Appeal** under Section 19(1) must be filed within **30 days** of the PIO's reply. If you received no reply at all, you can treat it as **deemed refusal** under Section 7(2). A **Second Appeal** under Section 19(3) to the CIC/SIC must be filed within **90 days** of the FAA's order (or of the FAA's silence after 30–45 days).

Q6. Can the Information Commission order an inquiry into a missing file?

Yes. The Delhi High Court in **Vishwas Bhamburkar** held that the Commission has the jurisdiction to **direct an inquiry** into the missing-file claim, either by a responsible officer of the department or by the Commission itself. The Commission can also recommend penal and disciplinary action.

Q7. What happens if the missing file was evidence in a court case?

If the file formed part of a public record and constituted evidence in a judicial proceeding, its wilful destruction or concealment can attract criminal liability under **Section 201 IPC (now Section 225 BNS, 2023)** — punishment proportionate to the seriousness of the offence, extending to imprisonment for life where the underlying offence carries life imprisonment or the death penalty.

Q8. Does the Public Records Act, 1993 apply to all government files?

The Public Records Act, 1993 applies to records of the Central Government, Union Territory

Administrations, public sector undertakings, statutory bodies, corporations, and committees constituted by the Central Government or a Union Territory Administration. State governments have their own record-management legislation and rules. The Act bans destruction of documents older than 25 years unless they have been formally appraised.

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- [RTI Section 20 Penalty — PIO and High Court.](#)
- [PIO Section 20 Penalty Framework.](#)
- [File First Appeal under Section 19 — 2026 Guide.](#)
- [File Second Appeal to CIC/SIC — 2026 Guide.](#)
- [RTI Section 18 Complaint to CIC.](#)

Official references

- [RTI Online Portal — rtionline.gov.in](http://rtionline.gov.in) — file and track RTI applications with Central Government authorities.
- [DoPT RTI Cell — dopt.gov.in](http://dopt.gov.in) — Department of Personnel & Training guidelines and circulars on RTI implementation.
- [PIB Press Release — RTI Act implementation](#) — Government of India official communications on RTI.
- [Central Information Commission — cic.gov.in](http://cic.gov.in) — CIC decisions, orders, and cause lists.
- [RTI Act, 2005 — Full text \(rti.gov.in\)](http://rti.gov.in) — the bare Act and amendments.
- [National Archives of India — Public Records Act, 1993 administration and record-management guidelines.](#)

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- [Citizenship under RTI Act 2005](#)
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- [Competent Authority under RTI — Section 2\(e\)](#)
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- [Disproportionate Diversion of Resources](#)
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- File Notings under RTI: Current Disclosure Guide 2026
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Last reviewed on: 10 July 2026

rti, explanations, missing-files, public-records-act, section-20, penalty, search-report, first-appeal, second-appeal, cic, dopt, rtionline



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Last updated

2026/08/26 21:05