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# What is Privacy under RTI

Under Section 8 (1) (j) information which has been exempted is defined as: "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 Central Public Information Officer or the State Public Information Officer or the appellate authority, as the case may be, is satisfied that the larger public interest justifies the disclosure of such information:"

## Criterion

When a citizen is seeking information about his own case, there is no intrusion into the privacy of his case for denying the information.<sup>1)</sup> Personal information mean about a third party. [Section 8\(1\)\(j\)](#) can be applied only when some one is seeking information about a [third party](#) and there will be **an element of invasion of privacy**.

CIC Defined "Invasion of Privacy" as ***"One, who intentionally intrudes, physically or otherwise, upon the solitude or seclusion of another or his private affairs or concerns, is subject to liability to the other for invasion of his privacy, if the intrusion would be highly offensive to a reasonable person."***

A personal information must be saved from being made public by the public authority which happens to receive such information. It is to be remembered that a **personal information does not cease to be personal just because it is delivered into the care of the public authority by the individual such information**.

Commission also cannot be oblivious to the fact that personal information, when allowed to be accessed by third parties has the potentially to expose the owner of such information to mischief, harassment, intimidation, defamation and worse. The boundaries of personal/private domains must never be allowed to be breached and, if at all breached, must be for compelling reasons, cautiously, carefully and responsibly evaluated by a competent authority as the Act can't be so interpreted as to allow poaching by third parties into personal domains<sup>2)</sup>

To qualify for this exemption the information must satisfy the following criteria<sup>3)</sup>:

### **It must be personal information.**

Words in a law should normally be given the meanings given in common language. In common language we would ascribe the adjective 'personal' to an attribute which applies to an individual and not to an institution or a corporate. From this it flows that 'personal' cannot be related to institutions, organizations or corporates. (Hence we could state that Section 8 (1) (j) cannot be applied when the information concerns institutions, organizations or corporates).

The phrase 'disclosure of which has no relationship to any public activity or interest' means that the information must have some relationship to a Public activity. Various Public authorities in performing their functions routinely ask for 'personal' information from Citizens, and this is clearly a public activity. When a person applies for a job, or gives information about himself to a Public authority as an employee, or asks for a permission, licence or authorization, all these are public activities.

We can also look at this from another aspect. The State has no right to invade the privacy of an individual. There are some extraordinary situations where the State may be allowed to invade on the privacy of a Citizen. In those circumstances special provisos of the law apply, always with certain safeguards. Therefore it can be argued that where the State routinely obtains information from Citizens, this information is in relationship to a public activity and will not be an intrusion on privacy.

Certain human rights such as liberty, freedom of expression or right to life are universal and therefore would apply uniformly in all Countries uniformly. However, the concept of 'privacy' is related to the society and different societies' would look at these differently. India has not codified this right so far, hence in balancing the Right to Information of Citizens and the individual's Right to Privacy, the Citizen's Right to Information would be given greater weightage.

Therefore we can accept that **disclosure of information which is routinely collected by the Public authority and routinely provided by individuals, would not be an invasion on the privacy** of an individual and there will only be a few exceptions to this rule which might relate to information which is obtained by a Public authority while using extraordinary powers such as in the case of a raid or phone-tapping.

Following Information can't be denied by the Public authority on the ground that it is 'personal information'-

1. Appointments, promotions, ungradations are all public activity, hence the exemption has been wrongly applied.
2. Document regarding the transfer of two of his colleagues, vis-a-vis whom he felt that he had been discriminated against is not exempted.
3. It was pointed out that the details of leave taken by the public servant has to be disclosed, however, the purpose for which the leave was taken need not be given because it is exempted under section 8(1)(j) of the RTI Act.
4. LTC Information of officials not personal to them.
5. RULES GOVERNING salary, service matters, study leave records, Posting and transfer information of public servant can't be called 'personal information'.
6. Tour programme of officers not personal information.
7. Personal Information sought by legal heir of the deceased employee is not exempted to him.

The [Privacy Rights of Public Servants](#) may be read here!

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## Discuss this topic

~~DISCUSSION~~

## More Common terms under RTI

- [Annual Confidential Report](#)
- [Citizenship under RTI Act 2005](#)
- [Competent Authority under RTI Act](#)
- [Composite Petition under RTI Act](#)
- [Deemed PIO](#)

- Disproportionate Diversion of Resources
- What is Fiduciary Relationship
- File Notings under RTI Act
- Grounds for Rejection
- What is Information under RTI Act
- Investigation/Inquiry reports under RTI
- Justification for Denial of Information is mandatory
- Missing Files under RTI Act
- Pendency of Investigation
- Prescribed
- Privacy Rights of Public Servants
- What is Privacy under RTI
- Public Authority
- What is Public Interest
- Refund of Fees
- RTI Act or Statutory Rules for giving information under RTI Act 2005
- Severability
- Substantially Financed
- Suo Moto Disclosure under RTI
- Third Party under RTI
- Transfer of Application to other PIO
- Vicarious Liability

1)

Decision in Appeal No. CIC/WB/A/2006/00469; & 00394 -Shri Rakesh Kumar Singh Vs Lok Sabha Secretariat

2)

Mukesh Shukla

3)

REFERENCE: Bishamber Dayal Tyagi v PIO, Delhi Jal Board, Decision No. CIC/SG/A/2009/000172/3092

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