

58 State Information Commission

The Right to Information Act of 2005 provides for the creation of not only the Central Information Commission but also a State Information Commission at the state level. Accordingly, all the states have constituted the State Information Commissions through Official Gazette Notifications.

The State Information Commission is a high-powered independent body which inter alia looks into the complaints made to it and decide the appeals. It entertains complaints and appeals pertaining to offices, financial institutions, public sector undertakings, etc., under the concerned state government.

COMPOSITION

The Commission consists of a State Chief Information Commissioner and not more than ten State Information Commissioners¹. They are appointed by the Governor on the recommendation of a committee consisting of the Chief Minister as Chairperson, the Leader of Opposition in the Legislative Assembly and a State Cabinet Minister nominated by the Chief Minister². They should be persons of eminence in public life with wide knowledge and experience in law, science and technology, social service, management, journalism, mass media or administration and governance. They should not be a Member of Parliament or Member of the Legislature of any State or Union Territory. They should not hold any other office of profit or connected with any political party or carrying on any business or pursuing any profession.

TENURE AND SERVICE CONDITIONS

The State Chief Information Commissioner and a State Information Commissioner shall hold office for such term as prescribed by the Central Government or until they attain the age of 65 years, whichever is earlier. They are not eligible for reappointment³.

The Governor can remove the State Chief Information Commissioner or any State Information Commissioner from the office under the following circumstances:

- (a) if he is adjudged an insolvent; or
- (b) if he has been convicted of an offence which (in the opinion of the Governor) involves a moral turpitude; or
- (c) if he engages during his term of office in any paid employment outside the duties of his office; or
- (d) if he is (in the opinion of the Governor) unfit to continue in office due to infirmity of mind or body; or
- (e) if he has acquired such financial or other interest as is likely to affect prejudicially his official functions.

In addition to these, the Governor can also remove the State Chief Information Commissioner or any State Information Commissioner on the ground of proved misbehaviour or incapacity⁴. However, in these cases, the Governor has to refer the matter to the Supreme Court for an enquiry. If the Supreme Court, after the enquiry, upholds the cause of removal and advises so, then the Governor can remove him.

The salary, allowances and other service conditions of the State Chief Information

Commissioner and a State Information Commissioner shall be such as prescribed by the Central Government. But, they cannot be varied to his disadvantage during service.

POWERS AND FUNCTIONS

The powers and functions of the State Information Commission are:

1. It is the duty of the Commission to receive and inquire into a complaint from any person:
 - (a) who has not been able to submit an information request because of non-appointment of a Public Information Officer;
 - (b) who has been refused information that was requested;
 - (c) who has not received response to his information request within the specified time limits;
 - (d) who thinks the fees charged are unreasonable;
 - (e) who thinks information given is incomplete, misleading or false; and
 - (f) any other matter relating to obtaining information.
2. The Commission can order inquiry into any matter if there are reasonable grounds (suo-moto power).
3. While inquiring, the Commission has the powers of a civil court in respect of the following matters:
 - (a) summoning and enforcing attendance of persons and compelling them to give oral or written evidence on oath and to produce documents or things;
 - (b) requiring the discovery and inspection of documents;
 - (c) receiving evidence on affidavit;
 - (d) requisitioning any public record from any court or office;
 - (e) issuing summons for examination of witnesses or documents; and
 - (f) any other matter which may be prescribed.
4. During the inquiry of a complaint, the Commission may examine any record which is under the control of the public authority and no such record may be withheld from it on any grounds. In other words, all public records must be given to the Commission during inquiry for examination.
5. The Commission has the power to secure compliance of its decisions from the public authority. This includes:
 - (a) providing access to information in a particular form;

- (b) directing the public authority to appoint a Public Information Officer where none exists;
 - (c) publishing information or categories of information;
 - (d) making necessary changes to the practices relating to management, maintenance and destruction of records;
 - (e) enhancing training provision for officials on the right to information;
 - (f) seeking an annual report from the public authority on compliance with this Act;
 - (g) requiring the public authority to compensate for any loss or other detriment suffered by the applicant;
 - (h) imposing penalties under this Act⁵; and
 - (i) rejecting the application.
6. The Commission submits an annual report to the State Government on the implementation of the provisions of this Act. The State Government places this report before the State Legislature.
7. When a public authority does not conform to the provisions of this Act, the Commission may recommend (to the authority) steps which ought to be taken for promoting such conformity.

RTI AMENDMENT ACT, 2019

The various features or provisions of the Right to Information (Amendment) Act, 2019 are as follows:

1. It provided that the Chief Information Commissioner and an Information Commissioner shall hold office for such term as prescribed by the Central Government. Before this amendment, their term was fixed for 5 years.
2. It provided that the salary, allowances and other service conditions of the Chief Information Commissioner and an Information Commissioner shall be such as prescribed by the Central Government. Before this amendment, the salary, allowances and other service conditions of the Chief Information Commissioner were similar to those of the Chief Election Commissioner and that of an Information Commissioner were similar to those of an Election Commissioner.
3. It provided that the State Chief Information Commissioner and a State Information Commissioner shall hold office for such term as prescribed by the Central government. Before this amendment, their term was fixed for 5 years.
4. It provided that the salary, allowances and other service conditions of the State Chief Information Commissioner and a State Information Commissioner shall be such as prescribed by the Central Government. Before this amendment, the salary, allowances and other service conditions of the State Chief Information Commissioner were similar to those of an Election Commissioner and that of a State Information Commissioner were similar to those of the Chief Secretary of the state government.
5. It removed the provisions regarding deductions in salary of the Chief Information Commissioner, an Information Commissioner, the State Chief Information Commissioner and a State Information Commissioner due to pension or any other retirement benefits received by them for their previous government service.

NOTES AND REFERENCES

1. The number of State Information Commissioners varies from one state to another state.
2. Where the Leader of Opposition in the Legislative Assembly has not been recognized as such, the Leader of the single largest group in opposition of the Government in the Legislative Assembly shall be deemed to be the Leader of the Opposition.
3. The State Information Commissioner is eligible for appointment as State Chief Information Commissioner but cannot hold office for more than a total of five years including his term as State Information Commissioner.
4. He is deemed to be guilty of misbehaviour, if he is concerned or interested in any contract or agreement made by the State Government or participates in any way in the profit of such contract or agreement or in any benefit or emolument arising there from otherwise than as a member and in common with the other members of an incorporated company.
5. The Commission can impose a penalty on the Public Information Officer at the rate of ₹250 per day up to a maximum of ₹25,000. It can also recommend for disciplinary action against the errant official.