

## **ii) The powers and duties of its officers and employees**

Section 15 (4) provides that the general superintendence, direction and management of the affairs of the State Information Commission shall vest in the State Chief Information Commissioner who shall be assisted by the State Information Commissioners and may exercise all such powers and do all such acts and things which may be exercised or done by the State Information Commission autonomously without being subjected to directions by any other authority under this Act.

Section 18 of the Act spells out the powers and functions of the State Information Commission.

(1) It shall be the duty of the State Information Commission to receive and inquire into a complaint from any person, ---

- (a) who has been unable to submit a request to a Public Information Officer either by reason that no such officer has been appointed under this Act, or because the Assistant Public Information Officer has refused to accept his or her application for information or appeal under the Act for forwarding the same to the Public Information Officer or appellate officer of the Information Commission as the case may be;
- (b) who has been refused access to any information requested under the Act;

- (c) who has not been given a response to a request for information or access to information within the time limit specified under the Act;
- (d) who has been required to pay an amount of fee which he or she considers unreasonable;
- (e) who believes that he or she has been given incomplete misleading or false information under the Act; and
- (f) in respect of any other matter relating to requesting or obtaining access to records under the Act.

(2) Where the State Information Commission is satisfied that there are reasonable grounds to inquire into the matter, may initiate an enquiry in respect thereof.

(3) The State Information Commission shall, while inquiring into a complaint, have the same powers as are vested in a civil court while trying a suit under the Code of Civil Procedure, 1908, in respect of the following matters, namely:-

- (a) summoning and enforcing the attendance of persons and compel them to give oral or written evidence on oath and to produce the documents or things;
- (b) requiring the discovery and inspection of documents;
- (c) receiving evidence on affidavit;
- (d) requisitioning any public record or copies thereof from any court or office;
- (e) issuing summons for examination of witnesses or documents; and
- (f) any other matter which may be prescribed.

(4) Notwithstanding anything inconsistent contained in any other Act of Parliament or State Legislature, as the case may be the State Information Commission may during the inquiry of any complaint under this Act, examine any record to which this Act applies which is under the control of the Public Authority, and no such record may be withheld from it on any grounds.

**Section 19 [(8) of the Act highlight the powers of the Commission pertaining to the decision in appeals:**

- The information Commission to decide appeals in accordance with the prescribed procedure and its decision shall be binding;
- In its decision, the State Information Commission has the power to-
  - (a) require the public authority to take any such steps as may be necessary to secure compliance with the provisions of the Act, including---
    - (i) by providing access to information, if so requested, in a particular form;
    - (ii) by appointing a Public Information Officer;
    - (iii) by publishing certain information or categories of information;
    - (iv) by making necessary changes to its practices in relation to the maintenance, management and destruction of records;
    - (v) by enhancing the provision of training on the right to information for its officials;

(vi) by providing it with an annual report in compliance with clause (b) of sub-section (1) of section 4;

(b) require the public authority to compensate the complainant for any loss or other detriment suffered;

(c) impose any of the penalties provided under the Act;

(d) reject the application.

➤ The State information Commission shall give notice of its decision, including any right of appeal, to the complainant and the public authority.

**The Commission may also impose penalty on and/or recommend for disciplinary action against erring Public Information Officers**

**[Section 20(1), (2)]**

➤ Where the State Information Commission, at the time of deciding any complaint or appeal is of the opinion that the Public Information Officer, has, without, any reasonable cause, refused to receive an application for information or has not furnished information within the time specified under sub section (1) of section 7 or malafidely denied the request for information or knowingly given incorrect, incomplete or misleading information or destroyed information which was the subject of the request or obstructed in any manner in furnishing the information, it shall impose a penalty of Rs. 250/- each day till application is received or

information is furnished, so however, the total amount of such penalty shall not exceed Rs. 25,000/-;

- the Public Information Officer shall be given a reasonable opportunity of being heard by the Commission before any penalty is imposed on him or her;
- the burden of proving that a Public Information Officer acted reasonably and diligently shall be on himself/herself;

20 (2) where the Information Commission, at the time of deciding any complaint or appeal is of the opinion that the Public Information Officer, has, without any reasonable cause and persistently, failed to receive an application for information or has not furnished information within the time specified or malafidely denied the request for information or knowingly given incorrect, incomplete or misleading information which was the subject of the request or obstructed in any manner in furnishing the information, it shall recommend for disciplinary action against the Information Officer under the service rules applicable to him or her.