

North Block, New Delhi
Date: 24th May

OFFICE-MEMORANDUM

Subject: Payment of fee under the Right to Information Act, 2005 - scope of section (3) of Section 7 of the Act

The Undersigned is directed to say that a question is raised from time to time whether a Public Information Officer (PIO) has power to charge fee under Section 7(3) of the RTI Act, 2005 in addition to fee prescribed under Sections 6(1), 7(1) and 7(5) of the Act.

2. Section 6(1) of the Act enables the Government to prescribe application and sub-sections (1) and (5) of Section 7 to prescribe fee in addition to application fee for supply of information. On the other hand sub-section (3) of Section 7 provides the procedure which a PIO has to follow for realizing the fee prescribed under sub-sections (1) and (5) of the Section. Details of fees that can be charged by a public authority under the Central Government are contained in the Right to Information (Regulation of Fee & Cost) Rules, 2005. The Rules under the Act do not give power to the PIO to charge any fee other than prescribed in the Rules. Attention in this regard is invited to following extracts from the common order passed by the Central Information Commission in Appeal No. CIC/MA/A/2008/0 (Shri K.K. Kishore Vs. Institute of Company Secretaries of India) and Complaint No. CIC/WB/C/2007/00943 (Shri Subodh Jain Vs. Dy. Commissioner of Police) :

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3(A)
3(S1)
"The Act under proviso to sub-section (5) of Section 7 also provides that fee prescribed under sub-sections (1) and (5) of Section 7 shall be reasonable and no such fee shall be charged from the persons who are below poverty line as may be determined by the Appropriate Government.

Government has already prescribed fees as deemed reasonable mandated under Sections 7(1) and 7(5) of the Act and in the view of the Commission there is no provision for any further fee apart from the one already prescribed under Sections 7(1) and 7(5) of the Act".

Thus, there is no provision for charging fee towards supply of information in any form other than the application fee (Section 7(1)) which is payable towards supply of information in any form, etc. and Section 7(3) which is in regard to the payment of any charges in any form. But there is no provision for any further fee and if any fee is being charged by the Public Authority, it would be considered as a contravention of the Right to Information Act. The "further fee" mentioned in Section 7(3) only refers to the procedure in availing of the fee as prescribed under 7(5) of the RTI Act, which is "further" in terms of the fee of Rs.10/- Section 7(3), therefore, provides for procedure for such the fees so prescribed"

3. The Commission, while delivering decision in above cases, recommended this Department to make rules, for charging fee towards supply of information which may include fee for supply of books, maps, plans, documents, samples, models that are priced and towards postal/courier charges for mailing information, if postal/courier charges are in excess of minimum slab prescribed by the Department of Posts and for other similar situations.

4. The Right to Information (Regulation of Fee & Cost) Rules, 2005 provide provisions for charging of fee for giving information in diskettes or floppy in the form of photo copy; for providing samples, models, printed material like books, maps, plans etc; and for inspection of records. The Government have, however, considered it desirable to charge fee towards expenditure involved in providing information or overhead expenditure etc. Nevertheless, supply of information in any form which would disproportionately divert the resources of the public authority taken care of by Section 7(9) of the Act according to which information ordinarily be provided in the form in which it is sought but supply of information in any particular form may be refused if supply of information in that form would divert resources of the public authority disproportionately.

5. It is hereby clarified that where a Public Information Officer takes a decision to provide information on payment of fee in addition to the application fee, he should determine the quantum of such fee in accordance with the fee prescribed under the Fee and Cost Rules referred to above and give the details of such fee to the applicant together with the calculation made to arrive at such fee. Since the Rules do not provide for charging of fee towards postal expenses or cost incurred in deployment of man power for supply of information etc., he should not ask the applicant to pay fee on such account. However, wherever supply of information in any particular form would disproportionately divert the resources of the public authority, it would be detrimental to the safety or preservation of the records, the PIO may refuse to supply the information in that form.

6. Content of the CAA may be brought to the notice of the following:-

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1. All the Ministries/Departments of the Government of India
2. Union Public Service Commission/Lok Sabha Secretariat/Rajya Sabha Secretariat/Cabinet Secretary/Central Vigilance Commission/President Secretariat/Vice-President's Secretariat/Prime Minister's Office/Planning Commission/Election Commission
3. State Information Commissions
4. Staff Selection Commission, CGO Complex, New Delhi.
5. O/o the Comptroller & Auditor General of India, 10 Bahadur Shah Zafar Marg, New Delhi.
6. All Officers/Desks/sections, DOP&T and Department of Pension Pensioners Welfare.

Copy to : Chief Secretaries of all the States/UTs.

Copy also to : Central Information Commission with reference to Commission's recommendation referred to above.

सूचना का अधिकार अधिनियम, 2005

विषय सूचना का अधिकार अधिनियम 2005 के प्रावधान शुल्क का भुगतान अधिनियम की धारा 7 की उप धारा (5) का कार्यक्षेत्र ।

अधोहस्ताक्षरी को यह कहने का निर्देश हुआ है कि समय समय पर यह प्रश्न उठाया जाता रहा है कि क्या जन सूचना अधिकारी (पी.आई.ओ.) को सूचना का अधिकार अधिनियम 2005 की धारा 7(3) के अंतर्गत अधिनियम की धाराओं 6(1), 7(1) तथा 7(5) के अंतर्गत नियत शुल्क के अतिरिक्त शुल्क वसूल करने का अधिकार है ।

2. अधिनियम की धारा 6(1) सरकार को आवेदन शुल्क निर्धारित करने तथा धारा 7 की उपधाराएं (1) एवं (5) सूचना की आपूर्ति करने के लिए आवेदन फीस के अतिरिक्त शुल्क निर्धारित करने का अधिकार प्रदान करता है । दूसरी ओर, धारा 7 की उप धारा (3) में उस प्रक्रिया की व्यवस्था है, जिसका पी.आई.ओ. को धारा की उपधाराएं (1) एवं (5) के अंतर्गत निर्धारित शुल्क वसूल करने के लिए अनुपालन करना होता है । ऐसे शुल्कों के व्यौर, जिन्हें केन्द्रीय सरकार के अंतर्गत लोक प्राधिकारी द्वारा वसूल किया जा सकता है, सूचना का अधिकार (शुल्क एवं लागत का नियमन) नियमावली, 2005 में समाविष्ट हैं । नियम या अधिनियम पी.आई.ओ. को नियत शुल्क एवं लागत नियमावली के अतिरिक्त अन्य कोई शुल्क वसूल करने के लिए अधिकार प्रदान नहीं करता । इस संबंध में अपील सं. सी.आई.सी/एम.ए/ए/2008/01085 [श्री के. के. किशोर बनाम इंस्टीट्यूट ऑफ कंपनी सेक्रेटरीज ऑफ इंडिया] तथा शिकायत सं. सी.आई.सी डब्ल्यू.बी/सी/2007/00943 [श्री सुबोध जैन बनाम पुलिस उपायुक्त] में केन्द्रीय सूचना आयोग द्वारा दिए गए निर्णय के निम्नलिखित भाग की ओर ध्यान आकर्षित किया जाता है :-

“धारा 7 की उप-धारा (5) के परन्तुक के अंतर्गत अधिनियम में यह भी व्यवस्था कि धारा 7 की उप-धारा (1) एवं (5) के अंतर्गत निर्धारित शुल्क उपयुक्त होगा तब उपयुक्त सरकार द्वारा नियत की गई गरीबी रेखा से नीचे रहने वाले व्यक्तियों को ऐसे शुल्क नहीं वसूला जाएगा । सरकार ने धारा 7(1) तथा 7(5) के अंतर्गत उपयुक्त समझा गया शुल्क पहले ही निर्धारित कर दिया है । आयोग के अनुसार अधिनियम की धारा 7(1) एवं 7(5) के अंतर्गत निर्धारित शुल्क के अतिरिक्त किसी और शुल्क का कोई प्रावधान नहीं है ।”

7 (10) (C)

संख्या: 10/2019/100

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1. भारत सरकार के सभी अंतर्गत विभाग ।
2. संघ लोक सेवा आयोग/लोक सभा संसदीयता आयोग/राज्य सभा संसदीयता आयोग/सचिवालय/केन्द्रीय कार्यवाही आयोग/संसदीय कार्यवाही आयोग/सर्वेक्षण आयोग/प्रशासनिक कार्यवाही आयोग/सर्वेक्षण आयोग/विद्योक्त आयोग ।
3. राज्य सूचना आयोग ।
4. कर्मचारी चयन आयोग, सी जी ओ. कॉम्प्लेक्स, नई दिल्ली ।
5. भारत के नियंत्रक और महालेखा परीक्षक का कार्यालय, 10 बहादुरशाह जफर रोड, नई दिल्ली ।
6. सभी अधिकारी/डेस्क/अनुभाग, कार्मिक और प्रशिक्षण विभाग तथा पेशत एवं पेशतभोग कल्याण विभाग ।

प्रतिलिपि प्रेषित :- सभी राज्यों/संघ शासित प्रदेशों के मुख्य सचिव ।

प्रतिलिपि प्रेषित - उपर्युक्त आयोग की सिफारिश के संदर्भ में केन्द्रीय सूचना आयोग ।