

*If you don't ask, you don't get.*

*Mahatma Gandhi*

# *Dynamics of Right to Information Act*

**Prof. M Sridhar Acharyulu**

# Shakespeare classified

- He knows not that he knows not,
  - is **fool**: shun him
- He knows that he knows not:
  - **is simple**: teach him
- He knows not that he knows:
  - **is slept**: awake him
- He knows and knows that he knows
  - **is wise**: follow him

# Two more kinds of persons!

- He knows not but he thinks that he knows
- He knows not but thinks others do not know any thing.
- *We all should know...*
- *Right to information is a small tool*
- Ignorance of one voter in a democracy impairs security of all .– **John F Kennedy**

# *We all think....*

- It is not allowing us to do our work. Diverting us and causing waste of time, paper, money and energy.
- Some are repeatedly asking same information to harass the public authority or higher officer. It does not serve any purpose!
- Ultimately, it is a **NUISANCE!**

# *Check those in power*

- *Even a democratically elected and benign government can easily be corrupted, when its power is not held in check by an independent Press.*

— Henry Grunwald

- *Independent and informed citizen should check the government and media.*
- *Corruption is injustice, silence is consent.*

-- A slogan at a public hearing on anti-corruption in India

# *How to know?*

- *Liberty of thought*
- *Freedom of expression*
- *Right to vote*
- *Right to question*
- All these rights depend upon

***RIGHT TO INFORMATION***

# Timely Response

- Right to Information Act 2005 mandates timely response to citizen requests for government information.
- The basic object to empower the citizens, promote transparency and accountability in the working of the Government, contain corruption, and make our democracy work for the people in real sense.

# Informed citizenry

- an informed citizen is better equipped to keep necessary vigil on the instruments of governance and
- make the government more accountable to the governed.
- The Act is a big step towards making the citizens informed about the activities of the Government.



# What is transparency?

- Transparency in public administration means that **relevant information** is made available to the general public **in usable form**, and that government **regulations and decisions are clear and adequately disseminated**.
- Transparency is a prerequisite for genuine accountability and reinforces predictability.
- **Inefficiency and corruption** thrive best in the dark, and the capacity to press for change from outside government requires a public with adequate information on the activities and standards by which to judge the performance of public services.

# **Internationally accepted RTI core principles**

Principle 1 - Maximum proactive disclosure

Principle 2 - Obligation to publish

Principle 3 - Promotion of open government

Principle 4 - Limited scope of exemptions

# Core Principles

Principle 5 - Processes to facilitate access

Principle 6 – Reasonable costs

Principle 7 - Disclosure takes precedence

# Held or controlled

- Information **HELD or CONTROLLED** by public authority has to be shared.
- Authority need not be the owner of the ‘information’.
- Authority need not have permission to share
- It is enough if authority controls the information. That has to be shared

# The Section

- Section 3: Subject to the provisions of this Act,
- *all citizens*
- *shall have*
- *the right to information.*

# As a matter of right

- Right to government information was enacted in Sweden in 1949,
- though the basic principle of access to official information had been recognized there in 1766. Finland adopted an access law in 1951.
- United States Freedom of Information Act 1966.
- A number of European countries enacted access to information legislation in the 1970s.
- Australia, Canada and New Zealand enacted in the early 1980s.

# Crucial expressions

- Held: whether files existed?
- Controlled: Can a regulatory authority collect it, whether agency has to report that info be given
- Is Record weeded out as per policy? If so whether policy is published? Authorized to be removed? Registered what record is removed when? Missing file is no defence/exception.

# Reasonable Assistance

- Reasonable assistance. 5(3), 6(1) and 7(4) (to sensorily disabled persons)
- Actual cost, fee or further fee, is it reasonable?
- Is PIO reasonably informing or communicating to applicant?
- Examine the mindset.



# Is it “information”?

- Definition decides scope,
- and scope is limited by Section 8,
- expanded by provisos to exceptions.
- Right to *information*
- No right to knowledge, not Right to Ask, not to counselling, not to seek answers to the questions, clarifications.
- But PIO has to render *necessary*/ reasonable assistance.

# Section 2(f)

- "information" means any material in any form, including records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material held in any electronic form **and**
- information relating to any private body which can be accessed by a public authority under any other law for the time being in force;

# What is information?

- Information is not an abstract concept.
- ‘Record’ is part of it.
- File notings is ‘record’ and ‘info’. (*Pyarelal Verma v Ministry of Rlys, CIC FB, Satyapal v TCIL, Suchi Pandey v MoUD, GoI*)
- File = includes Correspondence, Notes, Appendix to correspondence, Appendix to notes.

# Right to know, RTI

- In Bennett Coleman, (AIR 1973 SC 60) the right to information was held to be **included within the right to freedom of speech & expression** guaranteed by Art19(1)(a).
- In Raj Narain (1975) 4 SCC 428) the Court explicitly stated: ‘The people of this country have a right to know every public act, **everything that is done in a public way by their public functionaries.** They are entitled to know the particulars of every public transaction in all its bearings.’

# Power over info

- Lord Acton's dictum, that **power corrupts and absolute power absolutely.**
- Power over information is as corrupting as power over people.
- In contrast, transparency helps to **build open and accountable** government, and to inhibit corruption among public officials.
- Transparency in public administration has two main aspects: public communication and citizens' right of access to information held by government.

# Government info, service info,

- The different categories of information to be provided to the public include:
- Information about **government as a holder of data** —what records are maintained, and how is their accuracy ensured?
- Information about **government as a business** — how much does it spend, on what, why, and with what results?
- Information about **government as a service provider** —what services are available, at what price and quality, and how are they to be secured?

# Four Major Functions of PIOs

- There is a need for **professional public information officers** at national and sub-national government levels, with four major functions:
  - (i) **disseminating reliable information** to the public;
  - (ii) developing a **climate of trust** between the government and the citizens through openness and honesty in all communications and courteous treatment of all citizens;
  - (iii) providing guidance and training to all government officials and elected representatives in **communication skills**; and
  - (iv) continuously **monitoring public opinion** and disseminating the findings within government.

# His own, non-personal info

- The **right of citizens to have access** to information from governmental bodies on request includes:
  - (i) Personal information about themselves;
  - (ii) Non-personal information held by the government that does not endanger national security, law enforcement, free trade, or the rights of privacy of others; and
  - (iii) Information disseminated by the government on its own initiative.



# Transparency & Timely Response

- RTI Act has two major aspects:
- Transparency: Voluntary disclosure - Duty
- Respecting right of citizen: Giving information sought for
- If Section 4 is complied with, there will be a few RTI requests. It is not subject to Section 8 or any other provision of RTI Act. Organizations exempted also should disclose.

## 4(1): A major task

- *What needs to be done is explained under 4(1). This cannot be eternally postponed by the Public Authority. It is mandatory and essential.*
- Every public authority shall: (1) maintain all its records duly catalogued and indexed in a manner and the form which facilitates the right to information under this Act and ...

# Facilitate access to record

- ensure that all records that are appropriate to be computerised are, within a reasonable time and subject to availability of resources, computerised and connected through a network all over the country on different systems so that access to such records is facilitated;

- Particulars
- Policies
- Decisions
- Notifications
- Administrative Decisions
- Orders
- Agreements
- Details about Development Works
- Officers, their Salaries
- Particulars of PIOs APIOs

Decision making process  
Accountability

**Public  
Authority,  
Government  
Departments**

Resolutions of Councils  
Committees, Conferences

- Subsidies
- Eligibilities for Govt Schemes
- Programmes
- Regulations
- Rules of Working
- Budget
- Expenditure
- Distribution
- Procedure for
- Compensation
- Facilities for Citizen

## Section 4(1) (c), (d)

- (c) publish all **relevant facts** while formulating important policies or **announcing the decisions** which affect public;
- (d) provide **reasons for its administrative or quasi-judicial decisions** to affected persons.

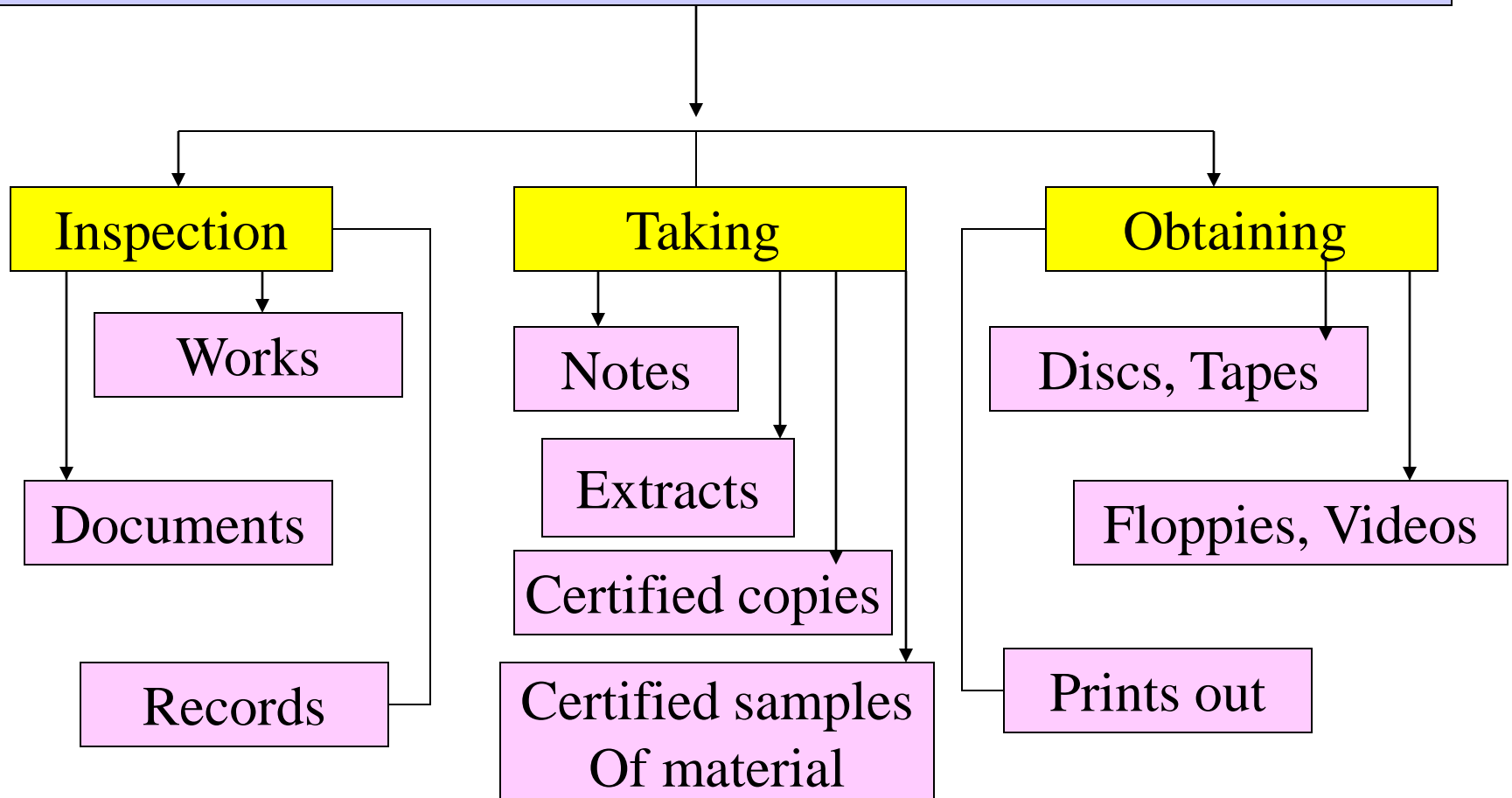
# Give reasons

- Selections, promotions and transfers are administrative decisions which need to be informed to affected persons. (selected and rejected)
- Decision should be based on reasons
- Reasons should be given along with decisions. Informing reasons is not enough.

# What is RIGHT TO INFORMATION

(To receive information under custody of Public Authority)

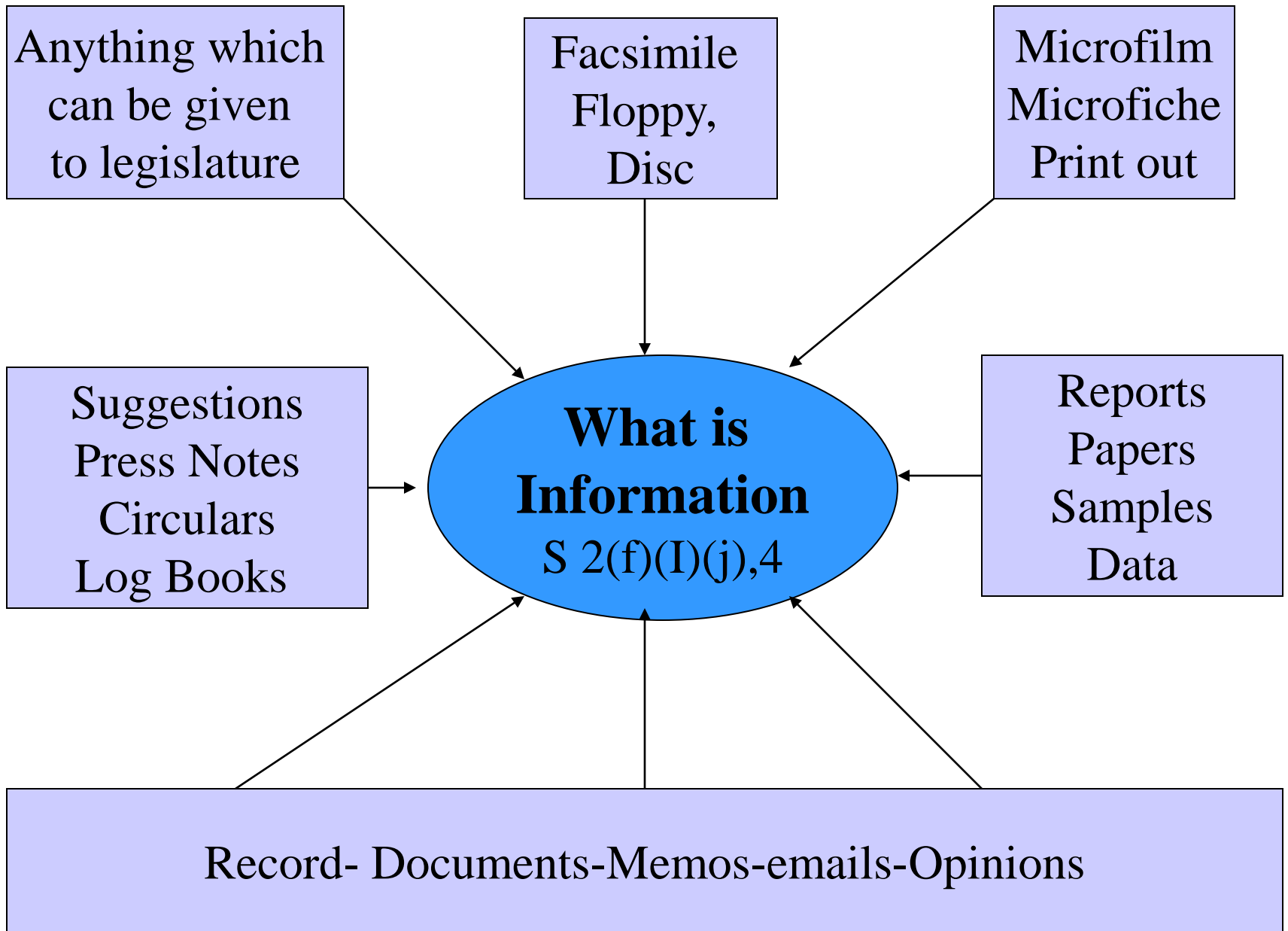
Sections 2(f), (i), (j), 3



# Defined RTI

- Definition itself a major limitation on RTI followed by Section 8
- Right to information only,
- not to knowledge, not Right to Ask, not to counselling, not to seek answers to the questions, clarifications.



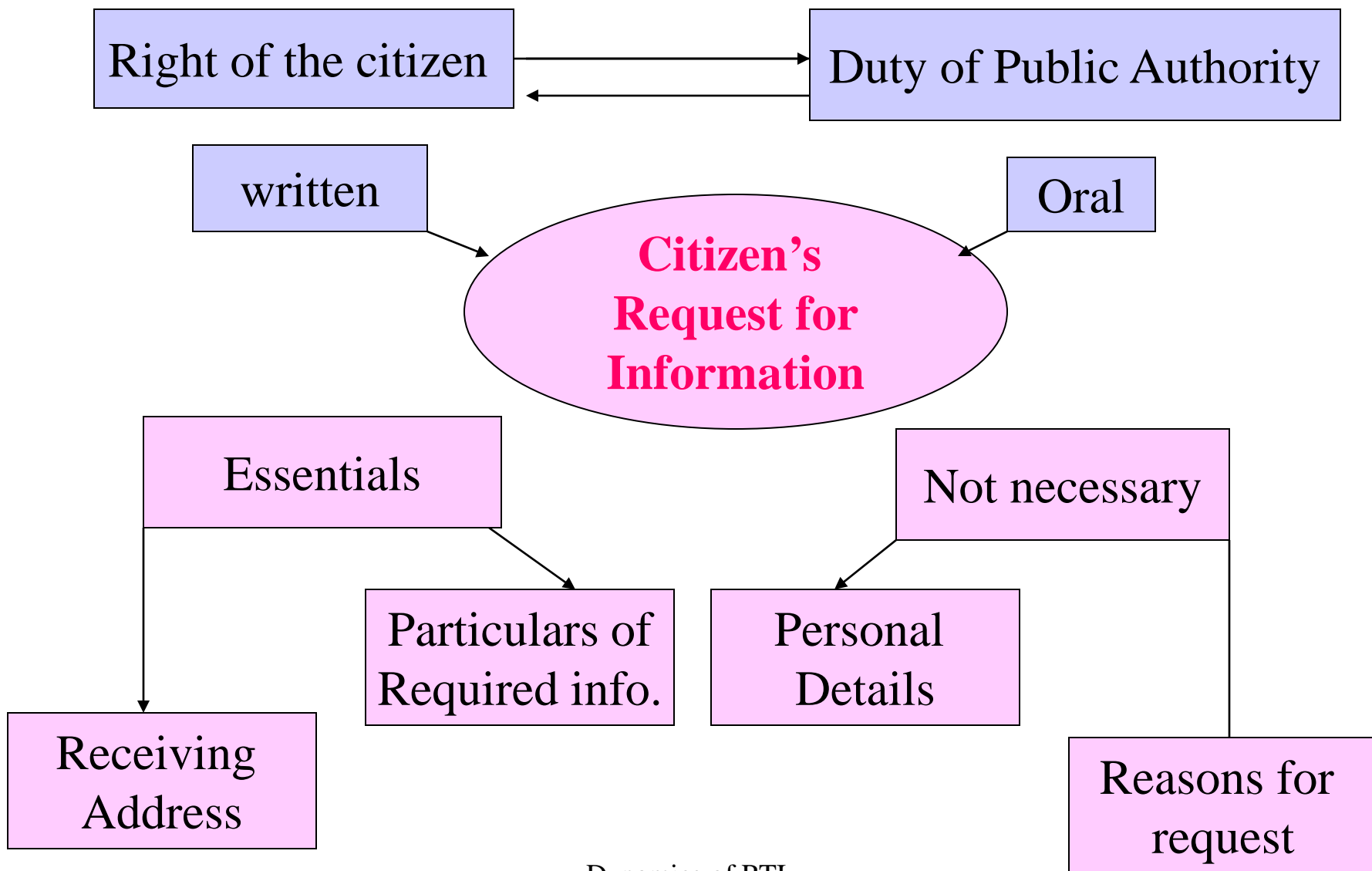


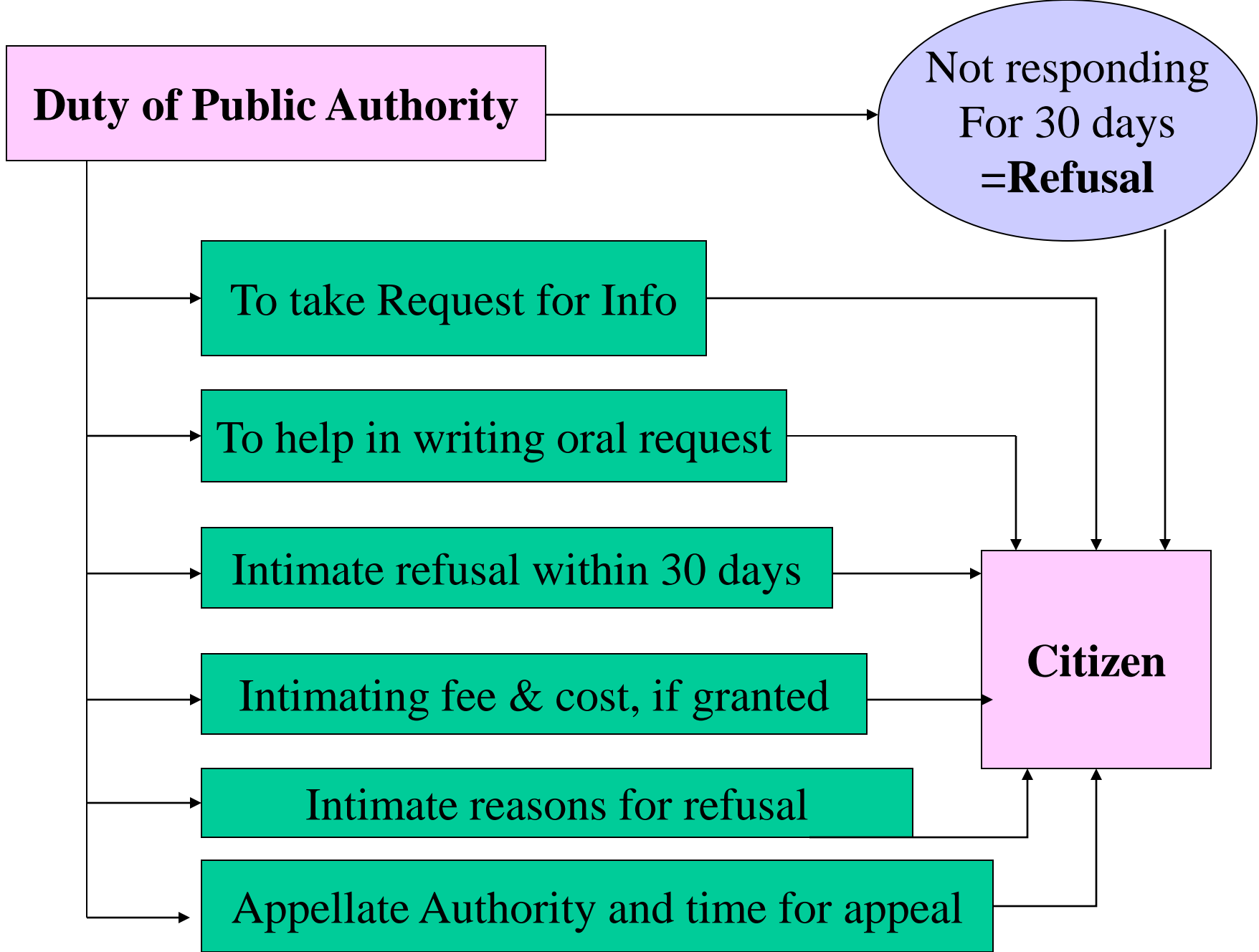
# Section 2(f)

- Information held by private bodies, if access is provided by any law, can be shared
- Though not all information from private bodies, it provides access to some extent.
- Definition of ‘public authority’ also expands the scope of ‘information’ held by certain bodies which are not purely governmental bodies.

# Reasonable extension

- Right to ask answers: All 4(1)(b) related answers should be given, if not, citizen can ask for them, it cannot be denied because it is mandatory.
- Right to seek compiled information, to the reasonable extent, except diverting substantive resources. PIO, FAA and IC has to decide whether it diverts.





# Duties of PIO

- Receive request. Rejection invite penalty
- Help in writing. Find requirement from contents of RTI application. Cannot reject saying not specific, find it. Because PIO render reasonable assistance.
- Give as early as possible, maximum 30 days. It is in fact right to priority.

# Transfer

- No response is deemed refusal.
- Transfer to another public authority if he thinks it possess. Within five days, and intimate appellant.
- Info to be given in the form asked unless it demands diversion of substantive resources.

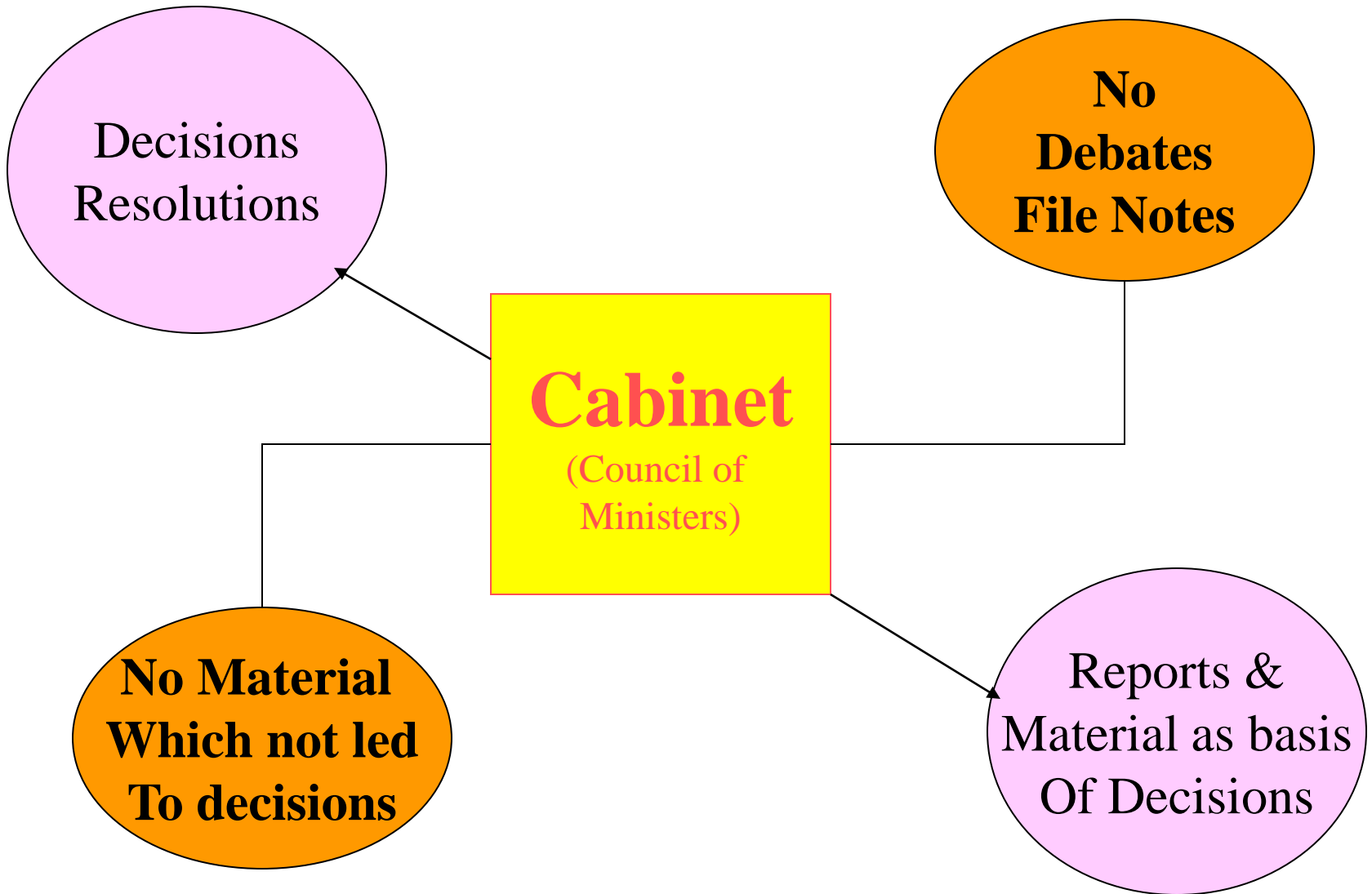
# Post office x PIO

- Discretion shall be used properly
- Apply mind, have a mindset to give to genuine. Deal with abusers, repeaters differently, as per law and rules.
- PIO is not post office. You have to decide.
- Disclosure lead to debate, nothing more than that.



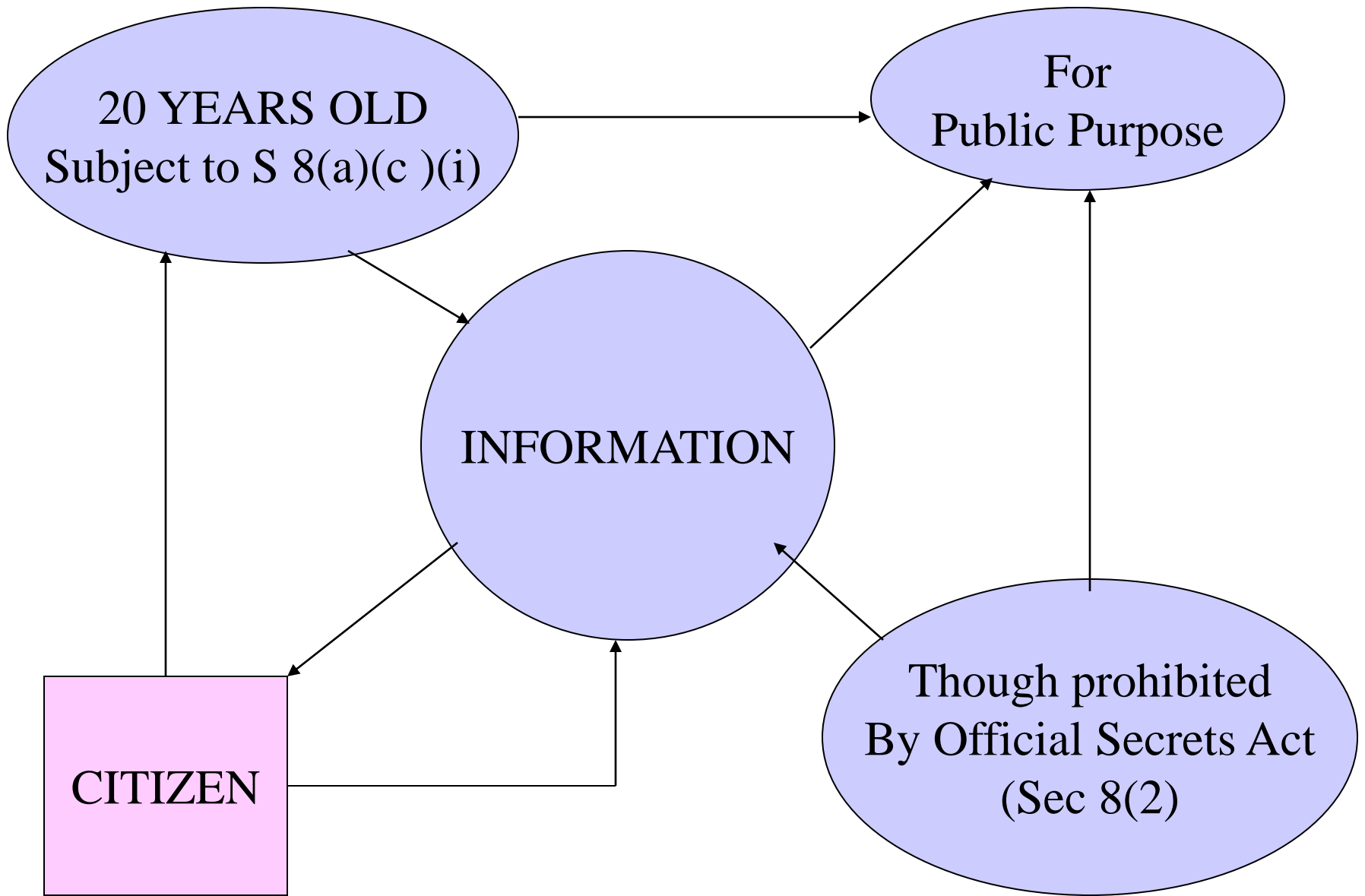
# Duties of PIO

- Fear of RTI force the officers to follow the rules and procedures.
- It will help in decision making in proper manner.
- Better to communicate with applicant to know his exact needs, especially when he demands huge information.
- If info is with another officer, send a written request to give that to you.



# Old information

- 8(3) Except the information prohibited by (a) security, (c) prohibited by court, (i) personal information, every information which 20 year old should be given.
- If public interest demands personal information, that also can be given.

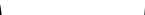


Dynamics of RTI

Information about Allegations of Corruption  
With Info Commissioner's consent



Functions  
Duties



**Police**  
**Intelligence**  
**Security**  
**Departments**



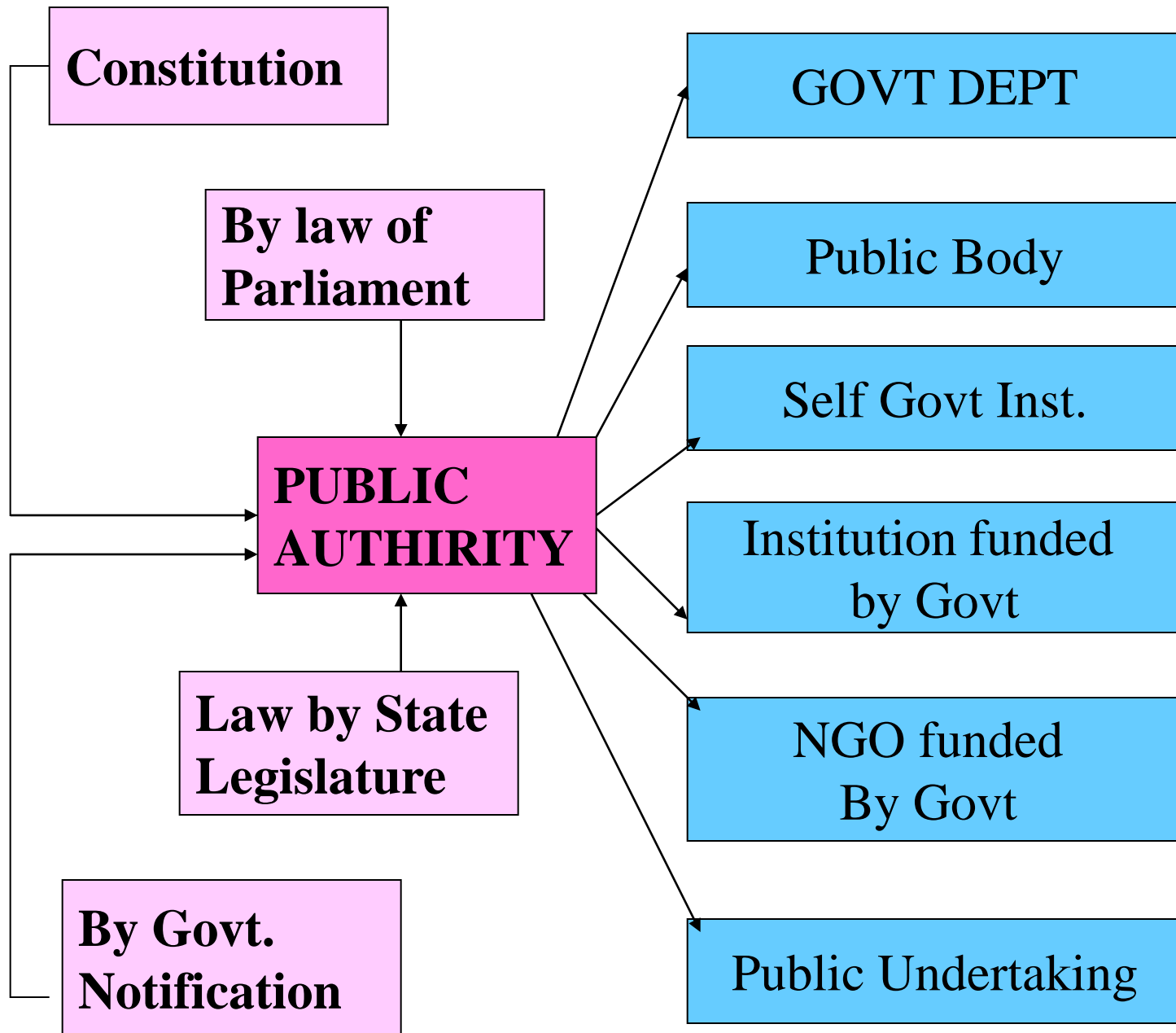
All other  
Non-security  
information

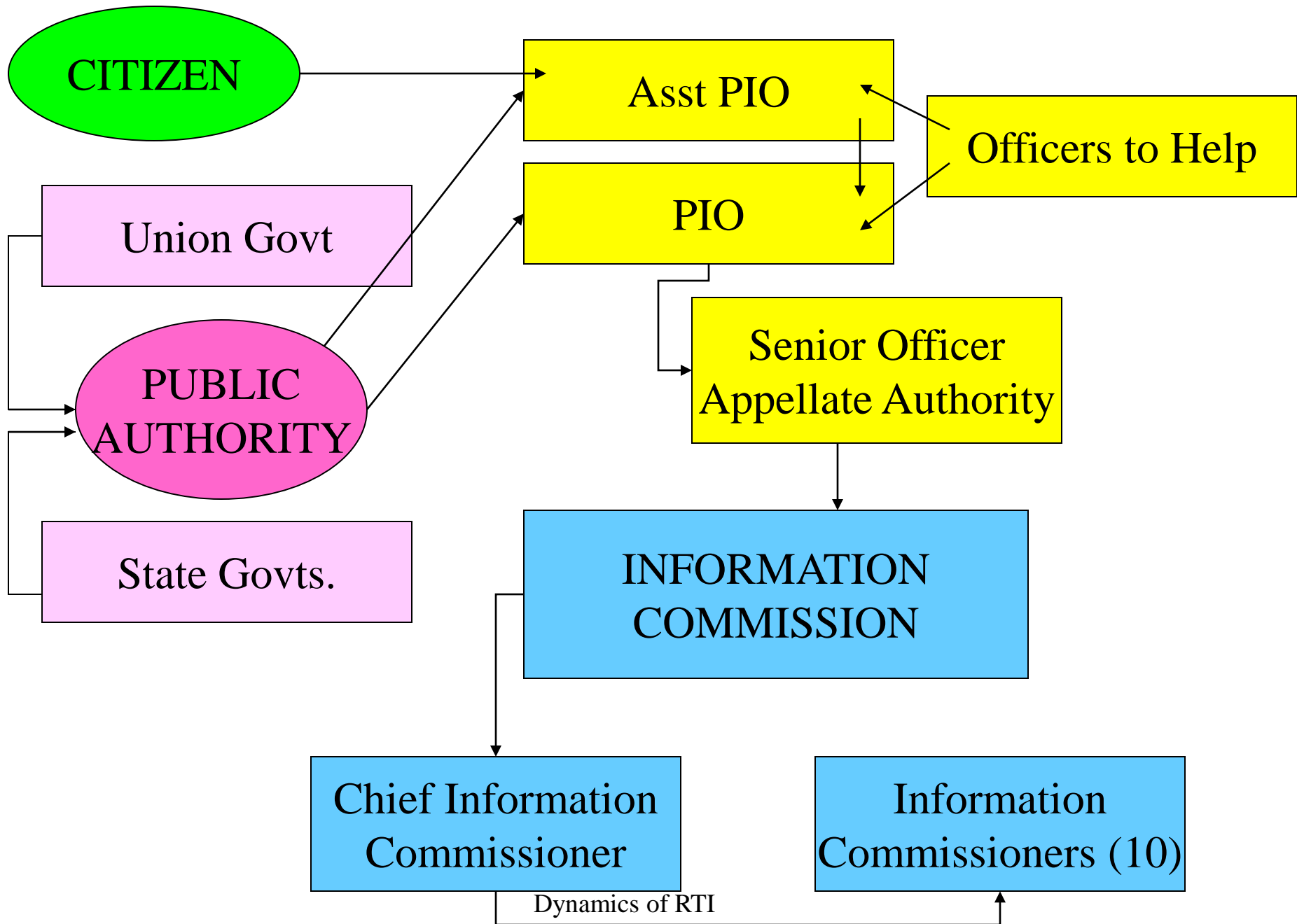


Information about violation of human rights  
With Info Commissioner's consent

# Who is public authority? 2(h)

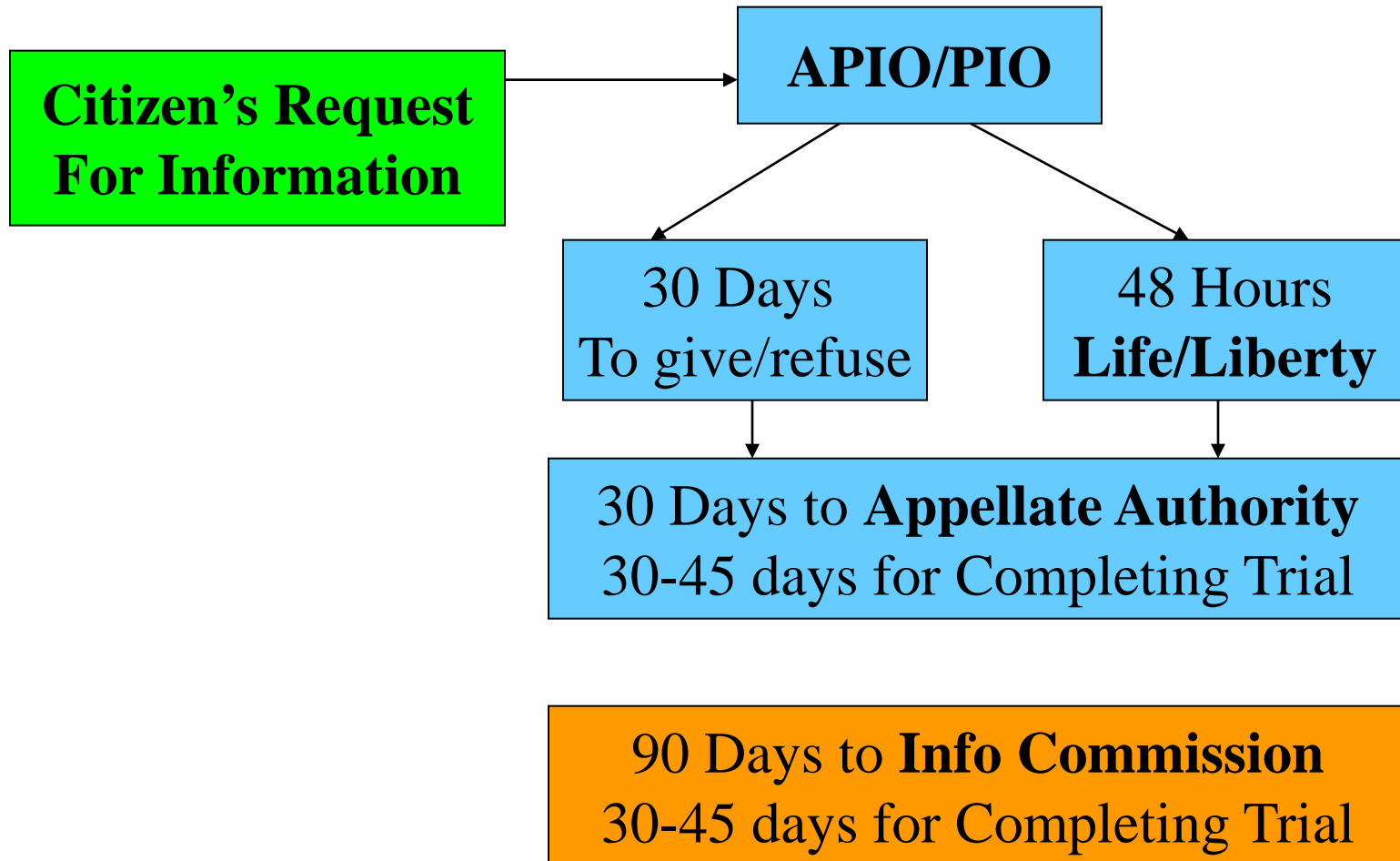
- Public private partners
- Substantially funded NGOs
- Constituted by Constitution
- Or by law of parliament or legislature
- Or by notification.
- Whether individual also could be an authority? LG Governor CM etc?







# TIME LIMITS FOR RIGHT TO INFORMATION



# TIME LIMITS FOR THE GOVERNMENT

**PUBLIC  
AUTHORITY**

**120 days To disclose particulars**

**120 days To designate PIOs**

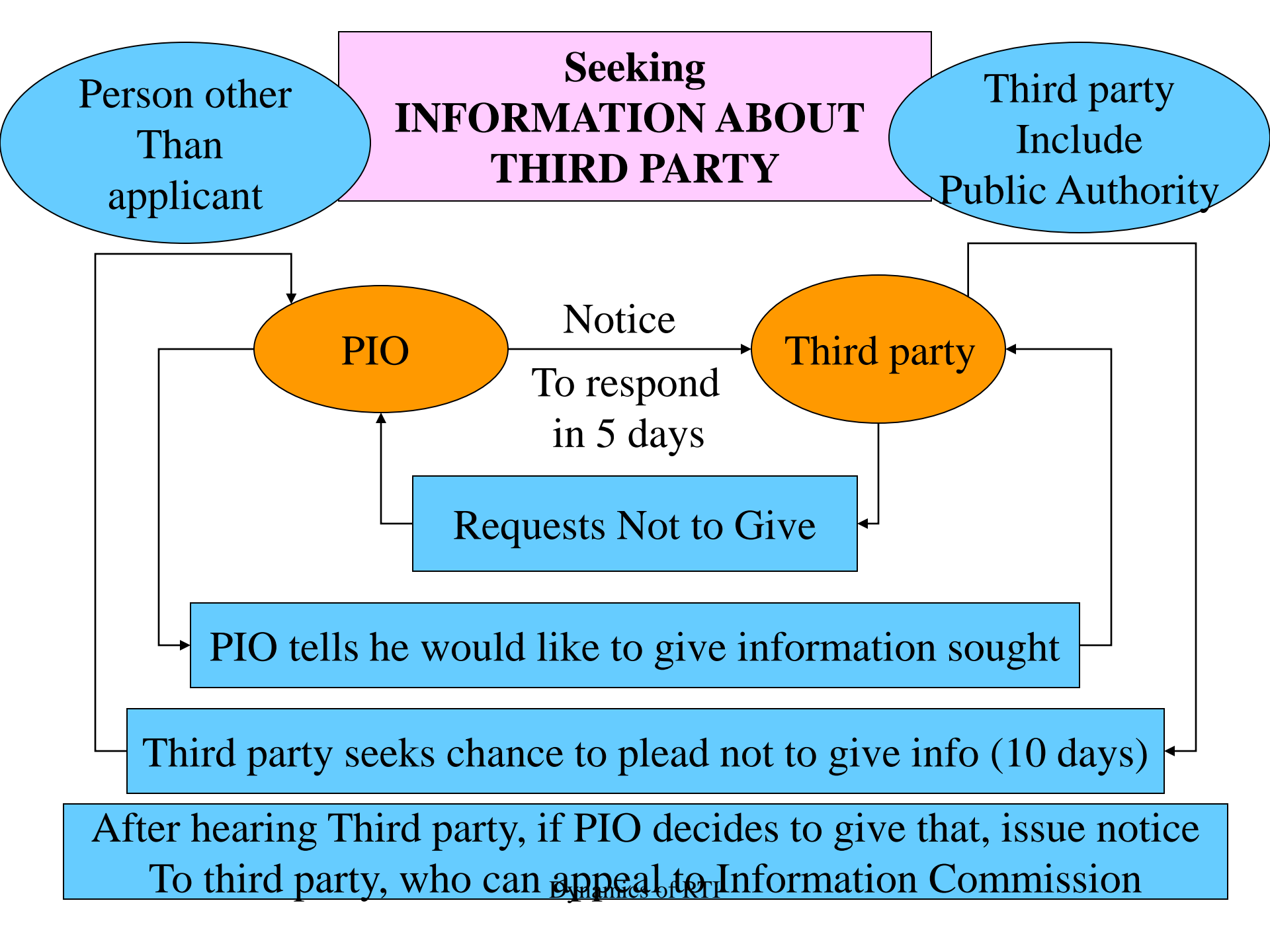
**The Government**

**195 days To Constitute ICs**

**18 months to frame guidelines  
For use manuals etc.**

# Who can ask?

- Citizen or Person? Section 3 mentions ‘citizen’, S 6 specifies ‘person’
- Can we insist on proof of ‘citizenship’.
- Public access to files of Public Authority...
- Who and why? When are they relevant?
- Purpose? Public purpose? Public interest?



**Seeking  
INFORMATION ABOUT  
THIRD PARTY**

Person other  
Than  
applicant

Third party  
Include  
Public Authority

PIO

Notice

To respond  
in 5 days

Third party

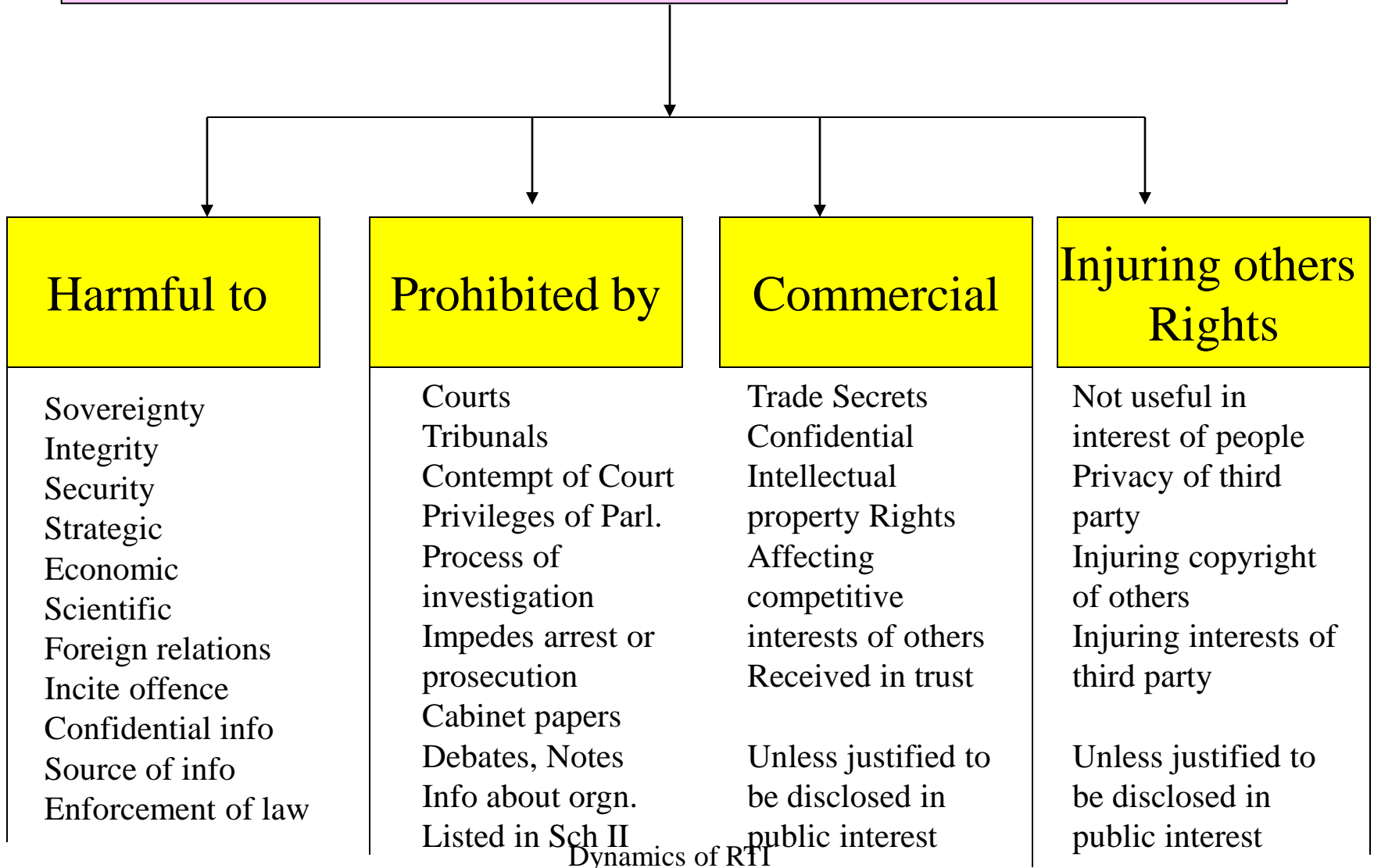
Requests Not to Give

PIO tells he would like to give information sought

Third party seeks chance to plead not to give info (10 days)

After hearing Third party, if PIO decides to give that, issue notice  
To third party, who can appeal to Information Commission

# INFORMATION WHICH CAN'T BE GIVEN



# Collection & Form

- Collection of information cannot be constituted as creation of information. **P Veerappan v DoP&T, CIC 2007 WB.**
- **M Raja Manohar v Ordnance Factory, Ministry of Defence, CIC 2007 WB,** Refusal of Info in the form asked is, under 7(9) is only when it becomes too cumbersome, otherwise, to be provided in the form it is sought.

# No reason to be given

- **Ram Kishan v NCERT**, CIC, OK, 2007, appellant asked about policy of appointment along with certain papers. PIO refused until source of those papers and reasons were given. Beyond scope of RTI.
- **Madhu Bhaduri v DDA**, CIC PB, WB2006, PIO asked appellant to submit info in a particular form, ‘whether you are owner of property or GPA or has any other interest?’ s 6(1),(2) breached.

# PIO: Don't make it difficult

- **Biswajit Mohanty v Ministry of E & F, 2006** WB, PA prescribed a form and laid a condition that “maximum period in each application should not exceed three years’. This cannot be made a means to deny info which is not exempt’. Para 5 of application form is contravention.
- **Prof H N Gulati v MoEF, 2008** WB sought refund of Rs 314 as info given after expiry, u/s 7(6), Yes



# ‘Further fee’, clarified

- **Subhodh Jain v DCP & Inst of Company Secretaries of India**, Full Bench of CIC SB/MA 2009, No fee other than what is prescribed u/S 6(1) application fee, s7(1) fee for photocopying, s7(5) for getting info printed or electronic format. Further fee u/s 7(3) refers only to procedure in availing fee already prescribed in s7(1) & 7(5). RTI (Regulation of Fee and Cost) 2005 prescribes actual cost only.

# Right to complain/appeal

- Right to complain 18(1)
- If unable to submit request to PIO 18(1)(a)
- Refused access to info 18(1)(b)
- Not given response in time 18(1)(c)
- Required to pay unreasonable fee 18(1)(d)
- Given incomplete, misleading or false 18(1)(e)
- Require info on any matter relating to accessing records 18(1)(f)
- Section 19(1), (3) Right to appeal

# PIO's liability

- 20(1): impose penalty: if without any reasonable cause: refused, not furnished in 30 days, malafidely denied, knowingly given incorrect, incomplete, misleading, destroyed, obstructed info
- 20(2) recommend disciplinary action, if without any reasonable cause, persistently failed to receive, persistently nor furnished,
- Malafidely denied, knowingly given incorrect, incomplete, misleading
- Destroyed info
- Obstructed info

# Exemptions

- **BR Manhas v M o Home Affairs** : invoking s 8 without adequate evidence is not correct. (Committee of SCICs of 9 states and 1 CIC constituted by CCIC gave this)
- Mere quoting provision is not sufficient **Mukul Mittal v IRCON International Ltd**, OK 2006 CIC
- **Vishaish Uppal v PMO**, CIC WB 2006, cannot withheld as ‘confidential’ under OS Act, see RTI s 8(2). ‘confidential’ can be disclosed if public interest override, **Sandeep Jain v IMD**, AT WB 2006

# Partial disclosure: Severance

- *Nusli Wadia v M o External Affairs*, FB of CIC WB, OK, MA, 2008 : s8(1) has to be read with s8(2) and s10(1) *separate unexempted info from exempted*.
- Most of the times the information sought cannot be en bloc exempted nor cannot be given. One has to severe parts which cannot b given.

# Dynamics of Exemptions

- RTI cannot extend to give info held by another public authority if part of function of judicial authority, **Rakesh Kumar Gupta v ITA**, WB, AT, PB 2006
- Seven out of ten exemptions not valid after 20 years under Section 8(3). Only s8(1) (a), (c) and (i) need to be invoked **S R Pershad v DG of Supplies and Disposal**, PB 2006, **Sayantana Das Gupta v MoHA**, WB, AT, OK, MA 2006.

# Exemption: Security concerns

- **Kamal Anand v Central Board of Direct Taxes**, MM, AT, WB. 2007, PA has to decide adverse effects of disclosure on economic interest of state. CIC can look into whether it was on objective criteria, is it a reasoned conclusion, not in arbitrary manner, justified, etc
- **SP Singh v MoHA**, info sought related to security and strategic interest, exempted s 8(1)(a).

# 8(1)(b) Forbidden by court

- **KM Talera v Cantonment Board Pune, AT 2006,**
- only if disclosure constitutes contempt of court or
- specifically forbidden by tribunal or court,
- Merely matter is sub judice cannot be a ground for denial.
- What would constitute CoC? Only that which obstructs the process of admn of justice. CoC Act 1971 need to be studied.



## 8(1)(c) Breach of privilege

- Disclosure of which would cause a breach of privilege of Parliament or Legislature.
- Need to refer to that law and practice. Area of privilege is shrinking, its very thin in UK/US. We are still following the law as practiced in UK before 1950 as our Constitution says so.
- Kaul and Shakdar explained what constitutes privilege. Subject matter of Constitutional law.

# Placing before House

- **Priya Pal Bhante v Rajya Sabha Secretariat, WB 2007**, sought copy of 105<sup>th</sup> report of Rajya Sabha Committee on Petitions along with ATR.
- Report was about Chakma Tribals of Arunachal Pradesh and Mizorum states. ‘report was given.
- Other documents submitted to committee were treated as confidential until placed on House and denied. It can be denied. Disclosure would have caused breach.

## 8(1)(d) Commercial confidence

- Info relating to commercial confidence, trade secret or intellectual property etc can be denied.
- **N. Ambarasan v National Informatics Centre NIC, OK PB 2006**, certified copies of files/documents and records relating to website applications/software developed by NIC for Karnataka Govt, hit by 8(1)(d). yes.

# Public domain...

- Information relating to public action regarding purchase process, relating to purchase of language software and computers in terms of technical and commercial bids submitted by various vendors and orders passed to make payment were denied claiming commercial confidence, trade secrets harm competitive interests etc.
- That info is supposed to be in public domain, hence, be given. (N Ambarasan case)

# Disclosure of

- Commercial agreement between public authority and third party is a public document. Copy of agreement can be shared. **S K Maheswari v Telcom Consultants India Ltd**, PB 2006, agreement between Mokhtar Ibrahim Saddi and TCIL sought.
- Denied on grounds of s 8(1) (d) and s 11, third party objected. Third party cannot raise any objection to disclosure of public document.

# Confidentiality clause

- **Anil Kumar v ITI Bangalore**, MA, PB 2006, info relating to collaboration of ITI with Alcatel on OCB283 switching technology and order for supply of 220 numbers of DLC systems of Alcatel make to MTNL. Confidentiality clause in collaboration agreement regarding OCB 283 technology. Upheld
- **AS Lall v Police Headquarters New Delhi**, AT MM 2006 licenses issued to eating houses, etc. not hit by 8(1) (d), (e) or (j).
- Logbooks, cut off marks can be disclosed.

# Commercial confidence?

- **Subhash Chandra Agrawal v Ministry of Petroleum & Natural Gas HPCL BPCCL**, MA 2008, incentives provided to consumers for promotion of business is critical for promotion of business, commercial confidence.
- **Shyam Lal Yadav v Air India**, MA 2008 details of free/concession travel availed by 78 ministers not commercial confidence.

# Commercial confidence v Public Interest

- **Divya Raghunandan v Dept of Bio Technology**, WB 2006, sought minutes of Review Committee on Genetic Manipulation, could be sensitive and commercial confidence related, however public interest override need to be examined.



# 8(1)(e) Fiduciary

- Fiducia = trust, an authority to act for another require total trust, good faith and honesty
- CIC before 2008 held ACR is exempted 8(1) (e)
- **Dev Dutt v UoI**, two judge Bench of SC (2008) 8 SCC 725, ACR not info received in fiduciary capacity. Very good for five years is criteria for promotion. One year it was 'good', which was not communicated. Arbitrary, violative of Article 14.
- After this, DoPT issued OM changing it to APAR

# Evaluated answer-sheet

- SC held in *Aditya Bandhopadhyay v CBSE*, not info received in fiduciary capacity. Its record.

# Consultation President & CJI

- President's consultation under Article 124(2) on appointment of Judges. Commission held it as personal & exempted s 8(1)(e). **Mukesh Kumar v Reg of SCI and Dept of Justice**, AT 2006
- **Subhash Chandra Agrawal v President's secretariat & Dept of Justice**, WB 2007, file notings about appointment of Justice Virender Jain as CJ of Punjab & Haryana, can be disclosed, after consulting third party, UoI filed WP before Delhi HC.

# SC Agrawal v SCI

- Correspondence with CJI, regd Union Minister approaching justice Raghupathi.
- Sought correspondence between Const. authorities regarding appointment and superseding of judges, fiduciary not accepted by CIC, not exempted by any exception. CIC directed to provide information. 2009 SB,
- Matter reached SC pending since 2009.

# Received in confidence from foreign govt. 8(1)(f)

- **Arun Jaitley v CBI**, MA 2006, sought correspondence between Crown Prosecution of UK, Interpol and CBI regarding freezing and de-freezing of bank accounts of Ottavio Quattrocchi.
- CBI claimed exemption (f) and (e) privileged and sub judice. CBI's decision was upheld but directed to expedite investigation.

## 8(1)(g) Endanger security

- **Kuldeep Kumar v CoP New Delhi**, AT MA, 2006, date-wise details of investigational steps (case diary) denied under 8(1) (g). Upheld.
- Case diary, FIR, Charge sheet, etc are ‘record’ or ‘information’, thus, subject to section 8.

## 8(1)(h) Impeding process of investigation

- **Bhagath Singh v CIC**, Delhi HC WP 3114, Dec 2007, Justice Ravindra Bhat, mere existence of investigation process does not exempt info, show that it impedes investigation process
- Similarly impeding process of apprehension and prosecution need to be established

## 8(1)(i) Cabinet papers

- Material on which decision was taken to be disclosed if decision has been finalized
- **Sweety Kothary v Dept of Legal Affairs**, AT MA 2006, decision regarding recommendation of interview/selection board regarding selection of IT Appellate Tribunal members on the ground that names were cleared by Appointment Committee of Cabinet ACC. Since decided, can be given.



## 8(1)(j) Personal information

- **GR Rawal v DG of Income Tax**, MA,AT,WB 2008 IT returns are ‘personal’.
- CIC FB Held that deciding what is personal depends on facts of each case.
- Property returns disclosable, **Kousthubha Upadhyaya v DoPT**, WB 2008.
- **Arun Varma v DG of IT**, PAN TAN – personal MA 2006
- Valuation of immovable property for loan – personal, **Manoj K Kamra v PNB**, MA 2006

# Not Personal

- Information regarding educational qualifications is 'third party and personal'. *Ajay Pal Singh v State Farms Corp of India*, AT MA 2006. (I think not correct)
- Family details, GPF, CGEIS, Nomin *Janardan Dubey v Office of Jt Sec CAO Ministry of Defence*, etc personal,, AT 2006
- Proceedings of selection committee, not personal, GN Kumar v West Central Railway Jabalpur, OK 2006. Marks obtained in promotional panel, not personal, *KSC Babu v NTPC*, PB 2006,
- Tour, travel expenses, not personal, *Dinesh Berry v BPCL*, MA 2006.

# LTC claims

- LTC claims can be disclosed except family names, age, etc, *SJ Godhwani v Ordnance Factory Board, Kolkata*, AT 2006

# Key words in exemptions

- Public interest, larger or comparative
- Prejudicially affect interests of state
- Information that may constitute contempt of court, commercial confidence, harming competitive position
- Privilege of Parliament, Fiduciary capacity
- Impeding
- Endangering life or security
- Cabinet decision, Matter is complete or over
- Relationship with public activity, unwarranted invasion

## S 8(2) of RTI Act

- **‘An RTI applicant seeking personal information of a third party has the obligation of proving that disclosure would serve the public interest better than keeping the information confidential. *Union Public Service Commission vs R K Jain, LPA No. 618/2012, dated 06/11/2012 – (DB) [196 (2013) DLT 170***

# Life line of RTI

- Section 8(2) which carves out common exception to all exemptions in S 8(1), Official Secrets Act,
- Section 8(3) relaxes 20 year old information from rigour of exemptions, only 3 are permitted
- Section 22 gives overriding power to RTI.

# Power of review

- Section 9 copyright of third party is secured
- Section 10: Provision of severance. PIO should give reasons for this decision for giving only a part information. He has to give his findings on any material question of fact.
- Inform the appellant that he has a right to review of decision regarding non-disclosure of part of the information, fee charged, under s19

# Complaint

- S 19: Duty of CIC to receive and inquire into complaint from any person, who is unable to submit RTI request, as no PIO, or PIO refused to accept or forward to PIO..
- If reasonable grounds are found, IC may initiate inquiry
- Then IC has same powers of civil court- summon and enforce attendance, requiring discovery and inspection of documents, receiving evidence in affidavits, requisitioning any public record or copies from any court or office, issue summons for examination of witnesses or documents, etc
- No such record shall be withheld by public authority



# Appeal power

- S 19: Any person: not received info in time, aggrieved by PIO, may admit appeal beyond 30 days, Third party also can appeal.
- 19(3) Second appeal: in 90 days: IC may admit beyond time, hear third party also.
- PIO has to justify denial
- IC has a duty to give reasons in writing.
- Shall be binding

# 19(8) IC can require

- A) To take steps necessary to comply with RTI, by providing access, by appointing PIO, publishing certain categories of info, by making necessary changes in practices in maintenance of records, enhance training to its officials on RTI, by providing it with an annual report
- B) to compensate
- C) impose penalty
- D) reject application

# Section 20

- (1) While deciding appeal or complaint, if opines, PIO has without reasonable cause, refused to receive application, not furnished in 20 days, malafidely denied, knowingly given incorrect, incomplete or misleading information or destroyed information sought,
- Can impose penalty of Rs. 250 maximum 25K
- PIO should prove that he acted reasonably and diligently
- (2) if persistently acts as above recommend disciplinary action under the service rules applicable.

# Complaint & Appeal

- The grounds for both Complaint or appeal or similar almost.
- SC held no info could be given in complaint
- Complainant can orally request it to consider complaint as appeal or vice-versa.
- In second appeal and complaint, the IC can initiate penal proceedings.
- “Without reasonable cause” or not?

# Adjournment

- IC has to give reasonable opportunity to present their case.
- Adjournment cannot be given in routine manner. Reasonability and requirement has to be examined
- As IC not a court strict and formal application of letter of law or procedure is not required
- Spirit of law and access to information need to be enhanced. Commission is quasi-judicial authority.

# Purpose

- Common man will not approach in RTI unless he has some problem
- RTI is not redressal of grievance mechanism. But, if he can ask what happened to his petition of grievance.
- If more employees are using RTI to question PA, it shows something is wrong with PA
- RTI should be used to help establish systems of better governance, make them accountable.

# Justify denial

- PIO need to justify invoking exception.
- (a) How disclosure poses threat to security of nation?
- (b) When forbidden by court?
- © How it causes breach of privilege of Parliament of State Legislature.
- (d) Commercial confidence x public interest

# Restrictions & exceptions

- (e) fiduciary relationship: explain how. Examine larger public interest.
- (f) received in confidence from foreign government
- (g) endangering security of person
- (h) impeding process of investigation, apprehension or prosecution of offender.



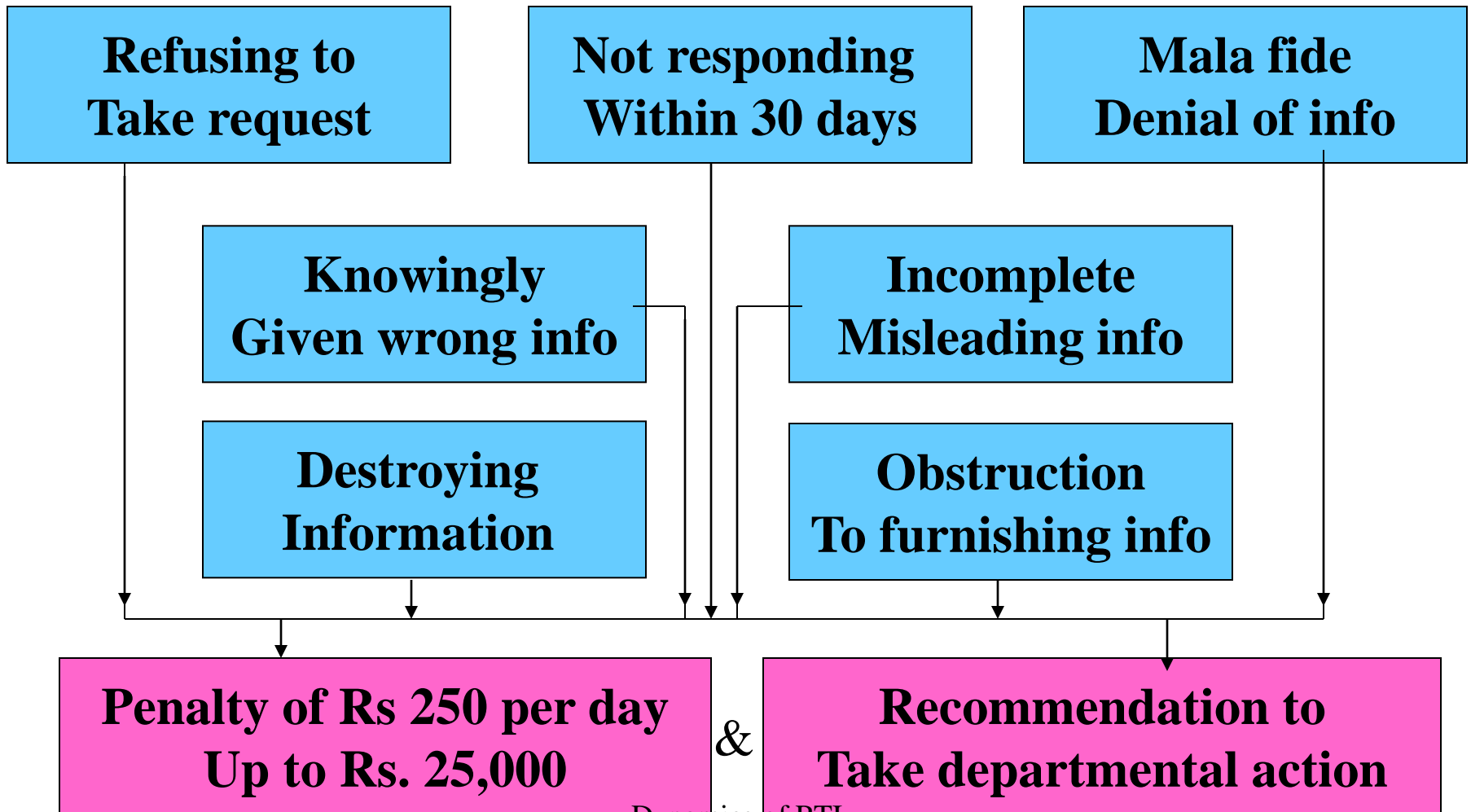
# Personal

- (i) cabinet papers, if decision is taken, and matter is complete or over;
- (j) personal info- larger public interest. Here right to privacy is protected in a limited manner.
- General Proviso: which cannot be denied to parliament, cannot be denied to citizen.

# Section 8(2)

- If public interest in disclosure outweighs the harm to the protected interest.
- It is an exception to OS Act, Section 8(1).
- It overrides other provisions. 8(2) read with S 22 will give superior power to RTI Act.
- Larger public interest is exception to three restrictions under 8(1). (d), (e), (j). 8(2) is general exception to all exemptions.

# **PENALTIES UNDER INFORMATION ACT** **Imposed by INFORMATION COMMISSION**



# INFORMATION COMMISSIONER

Team of PM, LoP,  
Minister Recommends

President  
Appoints

IC at CENTER

CHIEF IC

IC (10)

Team of CM, LoP,  
Minister Recommends

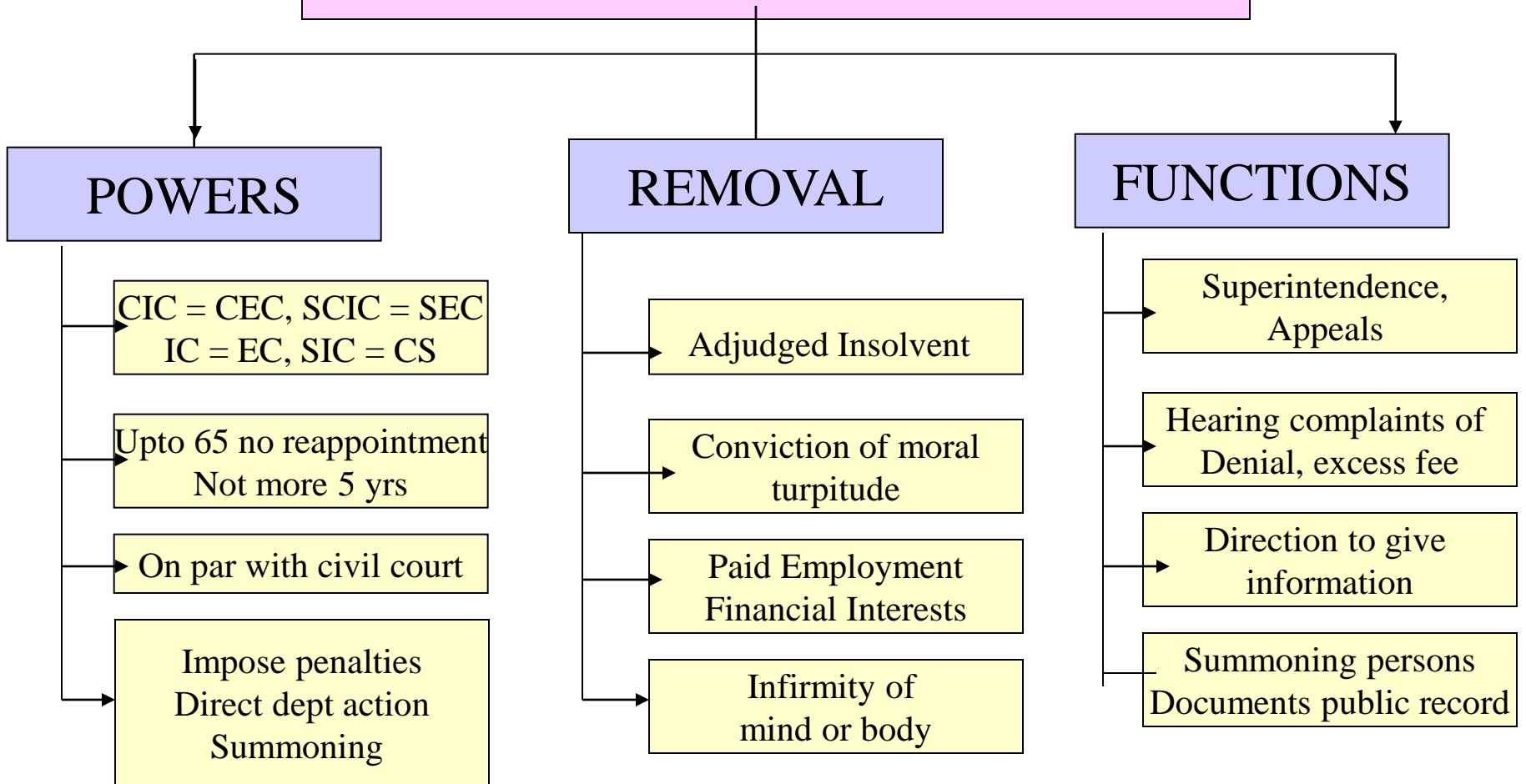
Governor  
Appoints

IC at STATE

Chief IC

IC (10)

# POWERS & FUNCTIONS OF INFORMATION COMMISSIONER



# Adarsh RTI

- Adarsh scam, Maharashtra: Simpreet Singh, a citizen journalist, who put to good use, the Right to Information Act. The media then performed the task of informing the public thereby creating a stir in both the bureaucratic and political circles in the country.

# Land grab scam & RTI

- IAS and IPS officers in Nasik formed a co-operative society to grab land reserved for defence. Brought out by Vinod Patil, a TV correspondent who acted upon a tip off used RTI Act. Top bureaucrats including a secretary in the chief minister's office, Nitin Kareer were found guilty.

# Pursued through RTI

- After the scam was exposed, the officers at Nasik surrendered the land and tried to come out clean. Another citizen Chetan Kamble filed suit after getting documents through RTI application. Many civil servants had declared false incomes in their affidavits. (Deccan Herald, 28.9.2014 Report) **The power of RTI Act in cracking land scams**, Prabhakar Kulkarni



## 2 G, Commonwealth Games

- From the Commonwealth Games to the 2G scam, RTI queries have been the starting point of exposure in a score of recent cases of corruption. Not surprisingly, the success of the law has been its greatest threat. <http://www.freedominfo.org/2013/10/eighth-anniversary-prompts-reflections-on-indian-rti-act/> (For review of RTI after 8 years)

# Need of supportive laws

- RTI cannot be successful without
- A) **Public Records Act 1993, IT Act 2000**
- B) *Whistle Blowers Protection Act 2014*
- C) **Public Services Law and implementation of Citizens' Charters**
- D) *Voluntary Disclosure of Information under Section 4*

# No more....Know more

- *Know more on Right to Information from <http://www.righttoinformation.gov.in/>*
- *Thank you for your attention!*