

**Right to Information and Good Governance**  
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**Lecture No. 32**  
**Public Information Officers -IV**

(Refer Slide Time: 00:14)

### Appeal process



- Role of First Appellate Authority : sec 19
- Time for appeal is 60 days. Time to decide the appeal is 30 days. [beyond 30 days provide reasons for delay]
- Order to
  - Order the PIO to supply the information
  - Provide the information at the appeal itself.
- The appeal may be delivered through Speed Post or Registered Post or in person.



Friends, we will try and discuss the appeal process under the right to information act. As we have previously discussed, there are three processes put in place in the Right to Information Act to adjudicate any grievances that may arise from the application of the right and the disposal of the same vital Public Information Officer. And hence, when you look at the adjudicated process, it is quite a hierarchical process in which probably at the top is the Supreme Court of India followed below are the High Courts.

As I told you that when the central information commission is seated in Delhi, any challenge to the central information Commission's order is to the Delhi High Court whereas, any challenge from the orders of the state information commission will go to the State High Court, respectively. However, the second appeal, under the Right to Information Act, squarely lies at the information commission. And the first step lies at the first appellate authority who happens to be heading the public authority or somebody who is in a senior position to determine the affairs of the public authority.

And hence, the role of the first appellate authority who is over and above the Public Information Officer becomes very critical or crucial to actually manage cases before the information commission. As we are quite aware of, the information commissions are quite overwhelmed with the number of cases, either they are complaint cases or appeal cases and hence there is a process that has delayed the facilitation of the Right to Information through the information commissions. And hence if the cases should not reach the information Commissions, the role of the first appellate authority becomes very critical and crucial.

However kindly note, the first appellate authority is an executive officer of the organization, like the Public Information Officer is not independently appointed neither does he have autonomous powers as a judicial officer. The Right to Information Act is quite silent about the powers and functions of the first appellate authority vis-a-vis say the power to issue summons, examine witnesses, record evidence. However, when any role is casted on an executive officer to decide or adjudicate on any right, he has to perform the same in a quasi judicial manner.

It is his role to also apply the principles of natural justice while hearing any such appeal that comes before him, and hence the executive officer who is designated as the first appellate authority is covered under the quasi judicial functions that are necessarily to be performed under the Right to Information Act. You will notice that the first appellate authority is discussed under Section 19 of the Right to Information Act and from the order of the public information officer any citizen who is aggrieved by such order or any third party, who is aggrieved by such order can prefer an appeal to the first appellate authority.

Now the first appellate authority is somebody who has to be approached, kindly note, within 60 days of the order of the public information officer reaching the citizen. This is the limitation time that is fixed under the Right to Information Act for any citizen to prefer the first appeal. So, if the citizen does not reach the first appellate authority within 60 days, his right to appeal is exhausted. Interestingly, while a Public Information Officer has to provide information within 30 days, the first appellate authority is also duty bound under the Right to Information Act to dispose of the appeal within 30 days.

This very clearly stipulates that the timeframe has been clearly a preference and an essence of the Right to Information Act. It is something that is expected of the first appellate authority

that he does not consume his own time in deciding the appeal and he disposes the appeal within the 30 days from the time it has reached him. As we ordinarily understand and know, whenever the limitation law is prescribed, either under the Limitation Act or under any other special law, there is always the possibility of condonation of delay, if reasonable grounds and reasonable excuses like say a medical reason is provided for, then the appeal may be admitted even beyond the 60 days time.

Now, you will also notice that if the first appellate authority takes more than 30 days to decide the appeal, he has to record the reasons for the same. There are certain possibilities in which the first appellate authority may not be able to decide the appeal within the 30 days time. This could be cases like the cases where the first appellate authority is in charge of the district and he is probably involved in certain emergency or urgency action that the state wants him to undertake and he has not found the time to actually organize the appeal as the case may be.

So, if he is given the task of hearing this appeal, sometimes he can also extend the 30 days for hearing the appeal provided the reasons are recorded in writing. You will also notice that the first appellate authority interestingly, this is always a question that is asked how does the first appellate authority go about his business under the Right to Information Act? First and foremost you will notice that the first appellate authority has no power to impose penalty on a public information officer. So there is like a limitation to the powers of the first appellate authority.

So, the power to impose penalty on the PIO under Section 20 is only with the information commissions, it is not with the first appellate authority at all. So, the reading of the law is to be done in this case that the first appellate authority is there only to do two things. First, during the deal he decides or he tries to evaluate, why did the PIO not supply the information? What are the reasons? Are the reasons valid? Are they permitted under law or not?

And hence, if he disagrees with the order of the public information officer, then the first appellate authority will order for the information to be disclosed. So, he has to record why he disagrees with the public information officer. And once he disagrees, he passes an order to provide the said information to the citizen. So, please note the order to supply the information

to the Public Information Officer can be such, he may say that the PIO must supply the information within the next 15 days or he may order the PIO to supply the information then and there, which I think is the most preferred method of hearing the appeal.

So, the first appellate authority has very, very limited intervention though it is limited, it is significant, and he can actually dose the fire and provide the right and provide the information and he need not see that the matter reaches the information commission. However, you will notice that because the first appellate authority is an internal person, is somebody who works within the organization, somebody who probably heads the organization and is a bureaucrat and things like a bureaucrat.

There are very few cases where the first appellate authority have actually disagreed with the Public Information Officers, and hence the citizens generally do not find a purpose in taking first appeal. And hence, most of the time you will notice that citizens prefer the complaint mechanism rather than the appeal mechanism. So, this is one kind of criticism or evaluation, but how cases reach the information commission.

As I told you in the past, an appeal process is completely different from a complaint process. So, an appeal process is something that you go through in stages. So, from the order of the PIO you go to the first appeal, from the order of the first appeal, then you go to the information commission. However in the complaint process, you circumvent the first appellate authority that means you directly reach the information commission without reaching the first appellate authority.

So, citizens do not find much purpose with the first appellate authority for this reason that the first appellate authority is a bureaucrat, he is a government officer, he is within the organization, he is somebody just higher than the PIO and hence there is very less chances that he will disagree with the public information officer. So, that is where the complaint process is a preferred process for the citizen rather than the appeal process, because again, as I told you the appeal process is quite time consuming.

For example, it is 60 days for an appeal, 30 days to decide so nearly 90 days is what can be consumed in adjudicating the matter just before the first appellate authority. However, if you go to the information commission, probably at the same time, you will get the process

adjudicated much faster and order of the information commission is enforceable as a law. So, that is what is generally a preferred mechanism.

However, the law does provide for the first appellate authority to intervene and provide the information as the case may be, however again, a limitation the first appellate authority cannot recommend disciplinary action against the public information officer. He can recommend disciplinary action as a general routine process under his organization, but not under RTI Act which is again an exclusive power vested only with information Commissions.

So, information Commissions can impose penalty, can determine disciplinary action. However, the first appellate authority cannot do these two. Now kindly note that, an appeal before the first appellate authority can be either filed personally or individually or physically as the case may be, or it can be filed by sending the appeal through a registered post as well. So, the citizen does not have to necessarily physically travel to find the first appeal.

So, this is something that is very clearly provided by law and it is the duty of the first appellate authority to entertain appeals without the physical presence of the citizen or without the necessity of the citizen to come in person to file that appeal. Interestingly, we have seen that the first appellate authority is also encouraged by certain decisions of the information commission to hold the appeal in a video conferencing mode, so that there is less harassment for the citizen to travel to the actual proceeding of the appeal.

So, the technology must be used, citizen must be least affected, least harassed, least troubled, especially when the appeal process is to be done. You will also notice that during the appeal, a notice has to be sent to the public information officer and the public information officer may be asked to appear and justify his actions and that is what is the general process of what we call as the principle of natural justice.

(Refer Slide Time: 11:32)

Sr. no.	Situations where First Appeal can be filed	Time limit for filing First Appeal before FAA
1.	Applicant did not receive information within 30 days of the receipt of the request or is aggrieved by the decision of the PIO.	After the expiry of 30 days (plus 7 days for postal transit) but not beyond 60 days from the date of receipt of application at the office of PIO.
2.	RTI application was submitted through Assistant Public Information but PIO did not respond to it within the stipulated time frame of 30 days from the receipt of application in the office of PIO	After 35 days (plus 7 days for postal transit) but not beyond 60 days from the date of receipt of application at the office of PIO
3.	When the RTI application is transferred from one public authority to another public authority of some other department and the transferee PIO did not respond within 30 days from the receipt of the application.	After the expiry of 30 days (plus 7 days for postal transit) but not beyond 60 days from the date of receipt of RTI application at transferee PIO's office.
4.	Notice was issued to third party by PIO under section 11(1) of the Act but did not respond to the application within 40 days from the date of receipt of the application.	After the expiry of 40 (plus 7 days for postal transit) but not beyond 70 days from the date of receipt of RTI application at the office of PIO.
5.	Decision of PIO as to whether or not to disclose information by giving a notice of the same to third party under section 11(3) of the Act.	According to section 19(2) appeal by third party can be made within 30 days from the date of the decision made under section 11.



Now, if you perceive the time frame, under the Right to Information Act, you will notice that the timeframe of the right to Information Act is quite interesting. And it is interesting, and we will probably list it in 5 points, so that we understand what is the time framework and how it appears in the first appellate authority stage. So, let us assume that applicant did not receive information within 30 days of the request and is aggrieved by the decision of the public information officer.

Then in those circumstances, after the expiry of 30 days, you have to wait for 30 days to wait for the PIO to give you the information and then probably you wait for additional few days for communication then within 60 days, you have to find the first appeal, so this is normal process. Let us imagine that the RTI application was submitted to an assistant Public Information Officer. During this time, you will notice that the PIO gets 35 days.

So, please note after waiting for 35 days, you can prefer the first appeal so that is the timeframe. So 30 days for the PIO to respond. If he does not respond, then wait for an additional few days for postal transit, after which you can file the first appeal. If not, you can go to the first appellate authority in those cases. When the RTI application is transferred from one public authority to another public authority, this is under Section 6(3), then from the time the second public authority has received that application, you can wait for 30 days.

Again, from that time you get 60 days to go to the first appeal. So, the transfer process is that you have to wait for the application to reach the second public authority. In those cases where notice is issued to a third party, so within the first 5 days of receipt of the application, the PIO

has to send notice to the third party. So, when he uses the first 5 days, he may take another 6 days for the notice to reach the third party, after the third party receives the notice, then he has to respond to it.

So, in all of these you will notice that time is different, from the time you are aggrieved, from the time you think you have received the notice under the right to information act, you get 60 days time to refer and appeal. So, in each case that time has to be calculated as per the person who seems to be aggrieved by the actions or the order of the public information officer. So, that is how you have to look at the process of calculation of time, under the Right to Information Act.

So, for a third party, the time is going to be different, for an RTI applicant who has submitted it to an API the time is going to be different. And for a person who has submitted the application to a PIO the time process is going to start completely different. So, that is what this slide probably depicts and shares the same with you.

(Refer Slide Time: 14:54)

## FAA

- Furthermore, in OM No. 20/10/23/2007-IR dated 09.07.2009, while elaborating on the duties and responsibilities of the FAA, it was stated that: “ Deciding appeals under the RTI Act is a quasi judicial function. It is, therefore, necessary that the appellate authority should see that the justice is not only done but it should also appear to have been done. In order to do so, the order passed by the appellate authority should be a speaking order giving justification for the decision arrived at.
- **Fees for RTI First Appeal**
- In case of RTI First Appeal is made to a public authority under the Central Government of India, no fees is required for the same.
- In certain states, however, there is a prescribed fees to be given for the First Appeal.



Let us go further in trying to understand how the role of the first appellate authority is. Now, as per an order that was issued in 2009, this office memorandum did suggest that the responsibilities and the duties of the first appellate authority in deciding RTI appeal is that of a quasi judicial officer. It is necessary that the appellate authority should see this as a process of rendering justice and equity. And in case he finds that justice and equity has not been done by the public information officer, then it is his duty to pass a speaking order.

So, you will notice that the first appellate authority is like a judge in a court of law and he is not there hearing this matter in an administrative capacity. He is hearing this matter in a quasi judicial capacity. And hence, the order that he finally makes should be a judicial order, it should be a speaking order and it should provide justifications for the decision to arrive at. And it is expected that the first appellate authority uses the provisions of the law to provide the justification, provisions of both administrative law if possible, constitutional law if necessary, and most importantly, the Right to Information Act as the case may be.

Now, the next important issue or query that most of us may have, under the Right to Information Act, is that will there be a fee for the first appeal? Because there is a fee for information that Rupees 10 is the application fee, Rupees 2 is the information fee per page. So, what is the appeal fee? Now, interestingly under Central Government rules that the RTI rules of 2012 there is no fee for first appeal at all, so the appeal is free. However, certain states can prescribe those kinds of rules for a fee for the first appeal.





So, I think every State rules has to be perused to know whether there is a fee for everything. Most States do not have it anyway, but that is something that I have to clarify at this point of time and probably one will have to check each State to know whether there is a fee for the first appeal. So, that is left to the discretion of the state governments.

(Refer Slide Time: 17:18)

## Challenges to the FAA

- Qualification for FAA is not prescribed. Training is also not required.
- Misuse of office, boss as well as FAA.
- No power to impose penalty.
- Can PIO prefer the first appeal. Under Sec. 19 the term aggrieved person could be a PIO or a third party. The Act does not debar a second appeal either by the PIO or by a Public Authority. (SH.V.R.Eliza, CPIO Vs. Board of Excise and Customs, Decision no CIC/AT/A/2008/00291).



Kindly note that the law does not prescribe any qualification for the first appellate authority like we have seen the qualification for the information Commissions, there is no prescribed qualification. So, it is up to the public authority to determine who shall be the first appellate authority.

Second, interestingly, the law does not require any training or prior training to be a first appellate authority. Very often than not, in the first few years of the Right to Information Act, we found that the first appellate authority were clueless about the role and function under the Right to Information Act because there was no qualification necessary, there was no training that was given to them and naturally the citizens had the only hope in the information commissions.

So, I think any such law that is made must always look into the matter of qualification and training, so that the officers who will then act as quasi judicial officers, and who are expected to render justice and equity must actually do so to the best of their abilities and to the best of their knowledge. There are challenges to the first appellate authority because interestingly, very often than not the first appellate authority is the boss to the PIO. And we have seen cases

where as a boss, he has misused his office and he has not rendered it in an impartial, unbiased manner.

So, there are many citizens who have complained about the attitude of the first appellate authority which is nothing but an extension of what is the hierarchy in a government organization. So, the next very interesting issue is, can a PIO prefer first appeal? So, citizen can go on a first appeal. Can a PIO go on first appeal against his own order? So, I think when you look at the term 'aggrieved person', an aggrieved person can be any individual, it can be a third party, it can be a citizen but when we talk about a PIO, generally PIO has passed an order, against his own order he cannot go in first appeal. Though he can be an aggrieved individual, kindly note, as against going to the information commission, how is an aggrieved individual before an information commission? Suppose the first appellate authority reverses the order of the PIO, then the PIO can go and appeal to the information commission, because the PIO and the first appellate authority differ in their opinion.

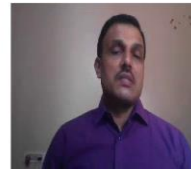
However, to the first appellate authority I do not think the PIO can go because against his own order, there is no appeal that is provided to the public information officer. So that was decided in this Eliza CPIO versus Board of excise and customs. It is a case decided by the central information commission in 2008. It very clearly said that under Section 19 of the Right to Information Act under the term aggrieved individual, the aggrieved individual can also be a public information officer.

However, that aggrieved individual as a PIO is only towards the second appeal and not on the first appeal.

(Refer Slide Time: 20:36)

## Process of second Appeal

- Rule 10 RTI Rules 2012 states that On receipt of an appeal, if the Commission is not satisfied that it is a fit case to proceed with, it may, after giving an opportunity of being heard to the appellant and after recording its reasons, dismiss the appeal: Provided that no appeal shall be dismissed only on the ground that it has not been made in the specified format if it is accompanied by documents as specified in rule 8.
- (2) The Commission shall not consider an appeal unless it is satisfied that the appellant has availed of all the remedies available to him under the Act.



Now the process of the second appeal is interesting. The RTI rules of 2012 passed by the Central government does establish this process and you will notice that under rule 10 it says that on receipt of an appeal, the commission if it is not satisfied that it is a fit case to be proceeded with, it may after giving an opportunity of being heard to that appellant and after recording its reason, dismiss the appeal.

So, it is not necessary that all appeals must be adequately and appropriately heard. Prima facie-ly the appeal does not have any substance and prima facie-ly the if information commission thinks that the appeal does not have a substantial grievance, the information commission can reject the appeal and dismiss the appeal as the case may be. However, please note, it is the duty of the information commission to give grounds when it actually dismisses such appeal, so that is very important.

So, the RTI Act does not mandate that the information commission must accept all appeals and give it a proper hearing. So, summarily, if it feels that the appeal does not have any substantial quotient for their intervention or is probably frivolous, vexatious or is not based on adequate appropriate grounds, in those cases the appeal can be dismissed. Now, this rule 10 under the RTI rules 2012 also applies to the first appeal.

So, at the stage of the first appeal, the first appellate authority thinks that the PIO has done his job very well and the citizen's grievance is just frivolous or it is meager and does not require his intervention then kindly note, he can also dismiss that appeal. So, this is summary

disposal of the matter without adequate proper substantial adjudicatory process being followed, so that is how appeals can be decided, so it all depends upon the merits of the case.

So, in the first appeal and the second appeal if there are no merits that are found prima facie, the Commission and the first appellate authority are having the prerogative to dismiss the appeal as the case may be. Kindly note, the commission shall not consider any appeal unless it is satisfied that the appellant has availed all other remedies available to him under the Act.

So, exhaustion of all other remedies for example, communicating with the PIO and telling him that what information has been provided is not sufficient. Just you know, you cannot keep preferring appeals on small and trivial matters. So, I think it is the duty of the citizen to also inform the PIO whether he has been satisfied or not, whether there are inadequacies which the PIO can remedy. So, you cannot just on trivial or on matters that can be normally resolved between the citizen and the PIO prefer appeal, appeal has to be on a substantial matter, appeal has to be on a grievance that the PIO has not taken into account or has dismissed to address, so if that is what the PIO has done, an appeal can be done nonetheless.

(Refer Slide Time: 23:58)



### Documents to file appeal

- Appeal shall be accompanied by the following documents, duly authenticated and verified by the appellant, namely:
- (i) a copy of the application submitted to the Central Public Information Officer;
- (ii) a copy of the reply received, if any, from the Central Public Information Officer;
- (iii) a copy of the appeal made to the First Appellate Authority;
- (iv) a copy of the Order received, if any, from the First Appellate Authority;
- (v) copies of other documents relied upon by the appellant and referred to in his appeal; and
- (vi) an index of the documents referred to in the appeal.



What are the documents to file an appeal? Very interesting, is it not? So kindly note, I think this is a procedural issue that we all should know before we appear before the information Commissions. Kindly note, these are the following documents that would be required in case you decide to file an appeal under Section 19 to the information commission. The list has around 6 documents that have to be attached. So procedurally, this looks to be cumbersome,

but I think these are basic documents that are necessary for any quasi judicial body to undertake an appeal.

The first one is that when you file an appeal, you should have a copy of the application itself. So, whatever you have submitted to the public information officer, you should have a copy of the same, so I think it is the duty of the citizen to at least have 2 or 3 copies of the application made so that when appeal is decided he can say, this is my original application. Second, I think whatever the PIO has communicated or whatever reply the PIO was given, it could be an interim reply, it could be the final reply of the PIO in which the PIO has finally adjudicated on the matter or provided the information or not provided the information or has transferred it.

So, anything of a communication that the PIO has done, a copy of the same has to be attached in appeal. Third, if the citizen has preferred the first appeal then a copy of the appeal to the first appellate court must also be provided. Obviously, when you have given the first appeal or gone to the first appellate authority, the first appellate authority will also give you order so that also has to be attached.

Then fifth, if there are any documents that you think will be important for the commission to rely upon, if there are any previous judgments on this markup, and the PIO has not adhered to those judgments, and the PIO has denied you that information however, in some other cases, the Information Commission has already said you must provide. So, if there are any other documents, then you should also attach those documents so that the information commission may take an informed evaluation of the case and may decide in your favor.

So, this is something that has to be done. And finally, the normal judicial process is to have an indexing of the document so that there is a very clear admin process. I think these are documents to file the appeal? No, you have to frame the appeal yourself. What are the grounds? How do you expect the information commission to help you out? I think the petition for appeal must be drafted following the documents of appeal. So, documents of appeal are only attachments, however the petition of appeal has to be drafted by the citizen himself.



(Refer Slide Time: 26:49)

## Procedure for deciding appeal



- RTI Rules 2012 Rule 11 states. Procedure for deciding appeals.—The Commission, while deciding an appeal may.— receive oral or written evidence on oath or on affidavit from concerned or interested person;
- (ii) peruse or inspect documents, public records or copies thereof;
- (iii) inquire through authorised officer further details or facts;
- (iv) hear Central Public Information Officer, Central Assistant Public Information Officer or the First Appellate Authority, or such person against whose action the appeal is preferred, as the case may be;
- (v) hear third party; and,
- (vi) receive evidence on affidavits from Central Public Information Officer, Central Assistant Public Information Officer, First Appellate Authority and such other person against whom the appeal lies or the third party.



Again, if you look at the procedure for deciding appeal, normally the procedure for different citing appeals can be decided by the information commission however the RTI rule additionally say what should be the process, this is some kind of a rule that the information Commissions are bound to follow. The Commission while deciding an appeal may receive oral or written evidence on oath or an affidavit from the concerned or interested persons. Oral evidence can be done orally through video conferencing or physically, or the commission may say oral evidence is not required, we will take the written evidence through the form of an affidavit.

So, the Commission has a prerogative to decide whether they want oral evidence or written evidence. So, when it is done orally, I think whatever is said will be recorded by the Commission or its officers, when it is taken in an affidavit it becomes very easy because it is a document of evidence that is acceptable. So, the Commission has the discretion to do either of it.

Second, the commission may peruse or inspect documents, public records or copies thereof, so the PIO may be asked to get these records and documents. Though the PIO has not shared with the citizen, he may have to share it with the information Commission for the commission to evaluate whether it should be provided or not. So, they can peruse or inspect any documents for the case may be.

Third, very interesting. Can during the appeal an inquiry be done? The answer is yes, it can

be done. So, we have already discussed under the powers of the information commission, how an inquiry can be done, in what cases the inquiry can be done. However, the only precaution over here is if the commission decides to hold an inquiry, it cannot delegate this power to any other officer, it has to be done by the commissioners themselves. So, the power of inquiry cannot be sub delegated is what the courts have very clearly observed. So, the information commissioners must exercise the power of inquiry themselves and not through any other office.

They can hear the PIOs, that is definitely possible as the case may be, they can hear third parties as well. They can receive evidence from any other person whose assistance has been sought under the right to Information Act. So, this is under Section 5(4) and 5(5). I told you that there can be the position of a deemed PIO as well. So, any other officers' evidence may also be required to adjudicate the matter or co educated that process as well.

(Refer Slide Time: 29:29)

### Presence of the appellant before the Commission



- Rule 12 RTI Rules states that (1) The appellant shall be informed of the date at least seven clear days before the date of hearing.
- (2) The appellant may be present in person or through his duly authorised representative or through video conferencing, if the facility of video conferencing is available, at the time of hearing of the appeal by the Commission.
- (3) „Where the Commission is satisfied that the circumstances exist due to which the appellant is unable to attend the hearing, then, the Commission may afford the appellant another opportunity of being heard before a final decision is taken or take any other appropriate action as it may deem fit



The presence of further appeal before the commission is something that is a discretion. Now, rule 12 of the Right to Information Act rules of 2012 states that the appellant shall be informed of the date of hearing at least 7 days in advance. This is the minimum notice time for the appeal to be heard, and he may come in person or through videoconferencing, that is a choice that has to be made available to the appellant, and the commission cannot force the applicant to come in person, that is something that you will have to notice.

Also if the appellant wants to appeal in person and cannot come on the date that the



Commission has fixed, he can ask for a new date as well. So, that kind of process has to be put in place and the commission may afford the appellant another opportunity to before them.

So, the date that is fixed is not only final, I think it can be negotiated and the appellant may say that it is inconvenient for me to come on that day, can you please fix another date. So, another date and another opportunity of being heard before a final decision is taken is something that the Commission is bound to do.

(Refer Slide Time: 30:51)

## Other aspects in Appeal



- Rule 13 states that the public authority may authorize any representative of any of its officers to present its case.
- Rule 14 states that the Commission may issue the notice by name, which shall be served in any of the following modes, namely:— (i) service by the party itself; (ii) by hand delivery (dasti) through Process Server; (iii) by registered post with acknowledgement due; (iv) by electronic mail in case electronic address is available.



Other aspects of the appeal, these are the concluding aspects that we will just take note and the consideration of. I am discussing this because the RTI of 2012 states the same. The public authority may authorize any representative to appear on behalf of them. So, this is an opportunity that the public authorities have. See, generally the public authorities are represented by the PIO, but the PIO and the public authority will differ.

So, in those cases if the public authority feels that its interest is going to be adversely decided, and the PIO is not capable as capable of advancing the interests of the public authority, then in those circumstances, public authority may authorize any representative office organization to be present in the case, because please note, a public authority is also or can be an aggrieved person in an appeal, because finally the information that is going to be shared is that of the public authority, is not it?

So, the PIO is not in tune with the policies of the public authority, then in those circumstances, the aggrieved agency will be the public authority. Rule 14 also says that the Commission may issue a notice by name, which shall be served like this, it can be served to

the party itself, it can be hand delivered, it can be through the server, it can be by post or it can be electronically as well. So, kindly note, any notice that is served to individuals or to the parties before the case can be served notice by all these means, so I think the electronic means of communication of serving notice is the easiest thing, it is less time consuming, it is less cumbersome and I am sure it is cost effective as well.

So, citizens should be aware that a notice to appear before the commission or to hold the appeal or to conduct the appeal date can be served electronically as well. So, the rules give this power to the information commission, as the case be.

(Refer Slide Time: 32:57)

## Penalty on PIO under Sec. 20



- In *Manohar Anchule v. State of Maharashtra* SC 2012, it was held that the SIC cannot impose penalty merely because the PIO sought adjournment of the appeal and imposing penalty without providing an opportunity of hearing to PIO is unacceptable and without merit.



Finally kindly note, you will see that the penalty on the PIO under section 20 can be imposed by the information commission. However, in this *Manohar Anchule versus State of Maharashtra*, it is a case of 2012. The Supreme Court warned that information Commissions should not impose penalty merely because the PIO has sought an adjournment of the appeal. So what happens is, the information Commissions think that the date fixed for appeal is the final and that cannot be negotiated or refused or adjourned on the request of the PIO.

So in this case, unfortunately the master information commission said that the PIO is seeking an adjournment of the appeal and is not serious and they felt that this case deserves penalty to be imposed on the PIO. But the Supreme Court very clearly said, I think this is provided under the RTI rules that there can be an adjournment that can be sought, a new date can be fixed. If the PIO can justify that it is inconvenient for him to appear before the commission or substantiate the case as the case may be, because the PIO may want to prepare for the appeal as well.

So, the time given may not be adequate enough for the PIO to make his defense, in those cases by giving adequate justification seeks an adjournment, the PIO shall not be acted upon is what the Supreme Court has very clearly warned the information commissions as well. So, an opportunity of hearing the PIO is definitely an opportunity that the PIO can insist upon, can plead with reasonable causes and this shall not attract any adverse action on the Public Information Officer by the information commission.

So what we have discussed today friends in the short presentation is the process of appeal, especially the process that is applicable to the first appeal, to the second appeal as well. We have discussed what are the documents that are required in the appeal process, we have looked at whether an appeal can be summarily dismissed if it does not have any merit. We have also discussed the limitation of the powers of the first appellate authority. They are not the same as the second appellate authority so the first appellate authority can only limit in terms of disclosure of the same said information.

We also discussed who can come in an appeal, whether there should be an exhaustion of local remedies or not. And finally, all this discussion are important in tune with the RTI rules of 20125 which the central government has passed in which the process of a bill has been very clearly laid down. And I think the penalty under section 20 is towards the delay in giving information and not towards any kind of error, omission or a gentleman that can be sought by the period during the appeal process. So, this is what the short presentation has looked into.