

## Right to Information and Good Governance

Professor Sairam Bhat

Professor of Law

National Law School of India University

### Lecture 59: Information Commissions under the RTI Act - II

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#### Qualification of an Information Commissioner

- 1. The Chief Information Commissioner and the other Information Commissioners of both the Central Information Commission as well as the State Information Commission shall be persons with eminence in public life and those with wide knowledge and experience in law, science and technology, social service, management, journalism, mass media or administration and governance.
- 2. They should not be connected with a Political party or carrying on any business, they should not hold any office of profit or pursuing any other profession.
- 3. Hold office for three years, as amended in 2019 [originally was 5 years] or until they attain the age of 65 years. They are eligible for reappointment(once) or to be elevated to CIC. [originally they could not seek reappointment.]
- Sec.12(5).



The next point for discussion under this module is the qualification of Information Commissions. The RTI Act of 2005, lays down the fact that both the Chief Information Commissioner and the other Information Commissioners, either in the Central or the State Information Commissions shall be persons with eminence in public life, and those with wide knowledge of law, science, technology, social service, management, journalism, mass media or administrative and governance.

These are probably the stated qualifications that would be required for a person to be appointed as an Information Commissioner. Now, one would assume that the kind of qualifications that are prescribed by the RTI Act are pretty wide in nature and they can actually draw persons of eminence from a wide variety of backgrounds that we include not only administration, governance and law, but interestingly from other disciplines that may also have science, social service, management, and also journalism.

On the aspect of journalism, one would actually pursue the fact that a few journalists who have become or have been appointed as Information Commissioners and they have played a pivotal role in the way in which the Information Commission has gone about its functioning as well.

Interestingly, apart from the positive qualification that are required for an Information Commissioner, there are certain stipulations that the Commissioner may not have, they could be as regards those that should not be connected to any political party or carrying on any business, or they should not hold any office of profit or pursue any other profession. Which means, at the time of appointment, these should be probably given away and an information commissioner cannot hold two offices at the same time.

The office of the information commissioner is a full-time office and hence along with the same office, a person cannot be a member of a political party, cannot carry on any business, or hold any other office of profit or pursue any other profession. And hence, the role of the information commissioner is a full-time role and is not part time is what we can come to the conclusion by looking into point number 2. Third, it is important to understand that an Information Commissioner can hold office for three years.

This is as per the amended notification and rules to the RTI Act, that was brought in the year 2019. However, kindly note till this time, from 2005, originally as the Act stood, the office of the information Commission was 5 years. Or, till they attain 65 years of age, which means from 2005 till 2019, Information Commissioners had a 5-year tenure. However, post 2019 as the Act stands amended to this particular provision an Information Commissioner can hold office only for 3 years or till the age of 65, whichever is early.

Kindly note, again one important amendment was also introduced in 2019. That is regarding reappointment of the Information Commission. Originally, Information Commissioners could not seek reappointments. However, post 2019, as the amendment stand right now, an Information Commissioner can have once a reappointment, or he or she can be elevated as the Chief Information Commissioner. This is a possibility, thanks to the amendment 2019.

However, originally as it stood, they could not seek this reappointment or could not be seeking elevation from an Information Commissioner to a Chief Information Commissioner. So, these three points give you a brief background about who can be an information commissioner, what conditions apply to the appointment of an information commissioner as well.

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**Powers and Functions of the Information Commissions**

- 1. Appeal: sec. 19



Let us go forward and look at the powers and functions of the Information Commissions himself. Now, if we have to analyse the powers and functions of the information commissioner or commission as the case maybe, I think one will have to refer to Section 18 and Section 19 of the RTA Act. These two sections are very, very important and relevant to understand the scope ambit of the powers and functions entrusted the Information Commissions. Broadly, the powers and functions of the Information Commissions can be divided into two parts. First, what we call as the complaint power, where the information commissions can entertain complaints.

Second and most important is the function that the Information Commissions have is called as the appeal power. As we know, that the Information Commission can be an appellate organization from the orders passed by the first appellate priority in return to those kinds of grievances, where the right to information of a citizen has been adversely affected. And hence, Information Commission stand in second appeal. The provision of appeal under the RTI Act is provided in Section 19. We will probably go through Section 19 in detail and the grounds of the appeal as well.