

Frequently Asked Questions

1. What is the composition of the Commission?

The Commission consists of the Chief Information Commissioner and Information Commissioner. The present composition is available on the website of Himachal Pradesh State Information Commission.

2. Where is the office of the Commission located?

The office of the Commission is located at the following address:
State Information Commission,
Keonthal Complex, Khalini,
Shimla-171002 (H.P.)

3. What are the Public Authorities over which this Commission has jurisdiction as Second Appellate Authority?

As Second Appellate Authority, the Commission has jurisdiction over all public authorities under Government of Himachal Pradesh which are established, constituted, owned, controlled and substantially financed by funds provided directly or indirectly by the State Government. These include all Departments, Public Sector Undertakings under the Government of Himachal Pradesh.

4. Is there any scope for second appeal under RTI Act, 2005?

If the First Appellate Authority, fails to decide first appeal within 30 days or such extended period not exceeding a total of 45 days or appellant is not satisfied with the decision of First Appellate Authority, appellant may prefer a second appeal before the State Information Commission within 90 days from the date of decision made by the First Appellate Authority or was actually received by the appellant.

5. Is it necessary to file a first appeal before the First Appellate Authority, before filing the second appeal before this Commission?

Yes, a first appeal before the First Appellate Authority should be filed before moving second appeal before the Commission. If a second appeal is filed without filing a first appeal, the same is liable to be returned.

6. What is the procedure to file second appeal before the State Information Commission?

The procedure to file second appeal before the State Information Commission has been prescribed in Rule 6 of HP RTI Rules, 2006 as under:

Procedure in appeals before the Appellate Authorities :-

(1) Contents of appeal:- The Memorandum of appeal to the Appellate Authority/Commission shall contain the following information, namely:-

- (i) name and address of the appellant;
- (ii) name and address of the Public Information Officer against the decision of whom the appeal is preferred;
- (iii) particulars of the order including number, if any, against which the appeal is preferred;
- (iv) brief facts leading to the appeal
- (v) if the appeal is preferred against deemed refusal, the particulars of the application, including number and date and name and address of the Public Information Officer to whom the application was made;
- (vi) prayer or relief sought;
- (vii) grounds for the prayer or relief;
- (viii) verification by the appellant; and
- (ix) any other information which the Commission may deem necessary for deciding the appeal.

(2) The appellant shall submit two copies of the memorandum of appeal for official purpose.

(3) Every appeal made to the Appellate Authority/Commission shall be accompanied by the following documents, namely:-

- (i) self attested copies of the Orders or documents against which the appeal is being preferred;
- (ii) copies of documents relied upon by the appellant and referred to in the appeal; and
- (iii) an index of the documents referred to in the appeal.

7. What is the difference between second Appeal and Complaint under the RTI Act?

A complaint is one under Section 18. This is for taking action against a Public Information Officer for not responding properly. In a case under this Section, the Commission cannot give a direction to furnish information. (Supreme Court decision in S.L.P(C) No.32768-32769/2010). It can only decide whether the Public Information Officer is to be penalised. On the other hand, a second appeal is one in which a decision of the Public Information Officer or the Appellate Authority is challenged. In such a case, the Commission can give a direction to furnish information, if it finds that information has been wrongly refused. While disposing of a second appeal also, the commission can take action against the public information officer for any shortcomings noticed in his disposal of the petition under RTI. Another distinction is that a complaint can be filed even

without filing a first appeal. However, a second appeal can be filed only after exhausting the remedy of approaching the first appellate authority.

8. Is a complainant or an appellant entitled to priority in hearing cases?

The complaints and second appeals filed in this Commission under the RTI Act are taken up for hearing in chronological order. However, the Commission in a particular matter may decide to accord precedence depending on the facts and circumstances of the case. Appellant/ Complainant may send his request for early hearing citing the reasons.

9. Can a second appeal or a complaint be filed in this Commission electronically?

Efforts are being made to provide such facility in the near future.

10. How can I get confirmation that my appeal or complaint been registered in the Commission?

You can check status of your appeal or complaint by clicking on the Case Status link on State Information Commission website and entering your name therein.

11. Has the Commission power to admit the appeal after the expiry of the period of (90) ninety days?

Yes, if Commission is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time, is authorized to condone delay.

12. Is facility of hearing through video conferencing available?

Yes, facility of hearing through video conferencing is available at Commission office as well as at all district headquarter offices of National Informatics Centre (NIC).

13. Are hearings held in places other than Shimla?

Commission may hear cases at district headquarters depending on the volume of pending appeals from that district or neighbouring districts.

14. Is any fee required to be paid in the case of second appeal/complaint filed in the Commission?

No fee is required to be paid alongwith the second appeal/complaint.

15. Is the appellant required to be present in person at the time of hearing of the second appeal by this Commission?

The appellant may be present in person or through his duly authorized representative or If the appellant fails to appear on date of hearing, the Appellate Authority/ Commission, may in its discretion either dismiss the appeal or decide the matter ex-parte on merits.

16. How much time is taken by the Commission in deciding a complaint/appeal?

Receipt of second appeals/complaints is a continuous process and they are disposed of as expeditiously as possible. The complaint/appeal is taken up as per its turn. A priority hearing is accorded in a particular case or class of cases as per orders of the Chief IC/IC concerned. However, there is no prescribed time limit to decide the second appeal.

17. How much penalty the Commission in deciding a complaint/appeal can impose?

The Information Commission can impose a penalty of ₹250/- per day for the delayed period. However, the total amount of such penalty shall not exceed ₹25,000/-.

18. Has the Commission power to compensate the appellant/complainant for any loss or other detriment suffered by him?

Yes, in appropriate cases this Commission may order the public authority to compensate the appellant/ complainant.

19. Will the amount of penalty imposed on the Public Information Officer be paid to the appellant/ complainant as compensation?

No. The amount of penalty imposed under Section 20(1) will go to the government. The Commission may in suitable cases award a compensation to the appellant/ complainant under Section 19(8)(b) of the Act. These two provisions are independent of each other. The penalty has to be paid by the Public Information Officer while compensation has to be paid by the public authority, which is the department.

20. Has the Commission power to recommend disciplinary action against the PIO under the applicable service rules?

Yes, this Commission may recommend for disciplinary action against the PIO under the service rules if the Commission is of the opinion that the PIO has, without any reasonable cause and persistently failed 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.

21. How information about disposal of a case is conveyed to the parties?

After hearing of the cases by the Chief IC or IC concerned, a formal order is passed, a hard copy of which is provided to the complainant/appellant and the PIO concerned free of cost. A copy of the order passed is also uploaded on the website of the Commission.

22. Can appellant file an appeal against an order of the Information Commissioner to the Chief Information Commissioner?

No. There is no provision for such appeal.

23. Has this Commission power to reconsider or review its order(s) on merit?

No.

24. Is the decision of this Commission binding?

Yes, it is binding under section 19 (7) of the Act.

25. Can an appeal against the order of the State Information Commission, Himachal Pradesh be filed before the Central Information Commission?

No. All Information Commissions are independent. The Central Information Commission only deals with appeals over petitions under RTI Act relating to Central government.

26. What is the time line to dispose off RTI Application, First Appeal and Second Appeal at different levels?

| Sr. No. | Process of RTI Application/ Appeal | Authority Level | Time Period |
|---------|--|------------------------------|--|
| 1. | RTI Application Supply of information in normal course | Public Information Officer | 30 days |
| | Supply of information if it concerns the life or liberty of a person | | 48 hours |
| 2. | First Appeal (First Appeal may be filed within 30 days of the date of receipt of information/ Reply of PIO) | First Appellate Authority | The First Appellate Authority will decide the first appeal within 30 days from the date of receipt of the appeal extended to further 15 days for which reasons to be recorded in the decision. |
| 3. | Second Appeal (Second Appeal to the State Information Commission may be filed within 90 days from the date on which decision of First Appellate Authority is received) | State Information Commission | Second Appeals are disposed of as expeditiously as possible. However, there is no prescribed time limit to decide the second appeal in the RTI Act, 2005. |