

**Compendium
of
Landmark Decisions
of
Central Information
Commission**

FOREWORD

Right to Information Act, 2005 enjoins a Public Authority to ensure timely responses to a citizen's request for information. Public Information Officers (PIOs) and First Appellate Authorities (FAAs) in all Public Authorities are responsible for implementation of the law in letter and spirit. The Information Commissions at the Centre and State levels, are constituted under the Act and function as the Second Appellate Authority. Even though this landmark legislation was enacted more than sixteen years ago, its implementation remains a work-in-progress, particularly since the legal position/interpretation of many of the provisions continue to evolve and are getting settled. This has become all the more apparent as a number of decisions are being taken to courts for judicial review despite the provisions of Section 23 of the RTI Act, 2005. Notwithstanding this, the Central Information Commission (CIC) has delivered some landmark decisions on various aspects while disposing second appeals/complaints under the Act.

In order to commemorate "Azadi Ka Amrit Mahotsav", CIC has taken the initiative to bring out a compendium of such landmark decisions pronounced in the recent past.

This compendium collates 43 such orders/decisions from various registries in the Commission. It is hoped that this compilation would be useful in appreciating the work of the Commission as well as progress in implementation of the RTI Act, 2005.

New Delhi
February 24, 2022

Y K Sinha
Chief Information Commissioner

RTI Act- Segregation/categorization of compendium of Landmark decisions/order of Central Information Commission

Sl.N o.	Case Title	Appeal No.	Registry	Date of Decision	Pg. No. (comp)	Section Involved	Provisions of RTI Act
1	Ms. Manju Rani Through Sh. Praveen Sh. Akshay Vs. PIO/Dy. Secy. (Secret Cell-I) (Govt. of NCT of Delhi) Through: Sh. Devender Kumar, So, Secret Cell	CIC/DSSS B/C/2018/ 128865	IC(YS)	05.02.2020	1-3	2 (f) (i), (j)	Section 2(a): "appropriate Government" means in relation to a public authority which is established, constituted, owned, controlled or substantially financed by funds provided directly or indirectly— (i) by the Central Government or the Union territory administration, the Central Government; (ii) by the State Government, the State Government; Section 2(d): "Chief Information Commissioner" and "Information Commissioner" mean the Chief Information Commissioner and Information Commissioner appointed under sub-section (3) of section 12; 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;
2	Shri Jagdish Maurya Vs. PIO/Dy. Secretary (RTI Cell), DSSSB, Karkardooma, Delhi Through: Sh. Devendra Sharma	CIC/DSSS B/A/2018/ 147194& CIC/DSSS B/A/2018/ 147113	IC(YS)	07.02.2020	4-7	2 (f) (i), (j)	
3	Smt. Neha Jain Vs. PIO/DSSSB, FC-18, Ins. Area, Karkardooma, Delhi (CC-1 Branch)	CIC/DSSS B/A/2019/ 123540	IC(YS)	31.07.2020	8-9	2 (f) (i), (j)	
4	Shri Sumatilal Kataria Vs. PIO, State Bar Council, Madhya Pradesh High Court Campus	CIC/BCOI N/C/2019/ 128724 and CIC/BCOI N/C/2019/	CIC(YS)	21.06.2021	18-23	2(a)	Section 2(h): "public authority" means any authority or body or institution of self- government established or constituted— a. by or under the Constitution; b. by any other law made by Parliament; c. by any other law made by State Legislature;

		128885					d. by notification issued or order made by the appropriate Government, and includes any— (i) body owned, controlled or substantially financed; (ii) non-Government organization substantially financed, directly or indirectly by funds provided by the appropriate Government; Section 2(i): "record" includes— a) any document, manuscript and file; b) any microfilm, microfiche and facsimile copy of a document; c) any reproduction of image or images embodied in such microfilm (whether enlarged or not); and d) any other material produced by a computer or any other device; Section (j): "right to information" means the right to information accessible under this Act which is held by or under the control of any public authority and includes the right to— (i) inspection of work, documents, records; (ii) (ii) taking notes, extracts or certified copies of documents or records; (iii) (iii) taking certified samples of material; (iv) (iv) obtaining information in the form of diskettes, floppies, tapes, video cassettes or in any other electronic mode or through printouts where such information is stored in a computer or in any other device;
5	Shri Ashok Kumar Vs. M/S Alamdar Social welfare society (NGO) and others	CIC/UTOJ K/A/2020/110388 and Others	CIC(YS)	30.12.2020	94-119	2(h)(d)(ii)	
6	Shri Ashok Kumar, Vs.M/S Society Welfare Downtrodden (NGO) and others	CIC/UTOJ K/A/2020/115496 and Others	CIC(YS)	27.11.2020	122-149	2(h)(d)(ii)	
7	Satish Ashok Sherkhane Vs. Central Public Information Officer, Indian Government Mint, Mumbai	CIC/IGM UM/A/2019/655511	IC(VN)	26.08.2021	152-156	2(f)	
8	Neeraj Sharma Vs. CPIO, NPCI, ITO, New Delhi	CIC/MOFI N/C/2017/131504/B KOB	IC(NG) & IC(SC)	09.10.2019	254-269	2(h)	
9	Sanjay Ramesh Shirodkar Vs. Mumbai International Airport	CIC/MA/C /2008/000 195	IC(SC) & IC(DP)	16.12.2019	327-357	2(h)	
10	Neeraj Sharma Vs. CPIO, NPCI, ITO, New Delhi	CIC/MOFI N/C/2017/131504/B	IC(NG) &	09.10.2019	358-374	2(h)	

		KOBD	IC(SC)				Section 3: Right to information — Subject to the provisions of this Act, all citizens shall have the right to information. Section 6: Request for obtaining information – (1) A person, who desires to obtain any information under this Act, shall make a request in writing or through electronic means in English or Hindi or in the official language of the area in which the application is being made, accompanying such fee as may be prescribed, to— (a) the Central Public Information Officer or State Public Information Officer, as the case may be, of the concerned public authority; (b) the Central Assistant Public Information Officer or State Assistant Public Information Officer, as the case may be, specifying the particulars of the information sought by him or her: Provided that where such request cannot be made in writing, the Central Public Information Officer or State Public Information Officer, as the case may be, shall render all reasonable assistance to the person making the request orally to reduce the same in Writing. (2) An applicant making request for information shall not be required to give any reason for requesting the information or any other personal details except those that may be necessary for contacting him. (3) Where an application is made to a public authority requesting for an information,— (i) which is held by another public authority; or (ii) the subject matter of which is more closely connected with the functions of another public authority, the public authority, to which such application is made,
11	Uttkarash Kumar Vs. CPIO, Deputy General Manager, East Central Railway, Hajipur & CPIO, Sr. Comm, Manager and APIO, Eastern Railway & CPIO, Indian Railway Catering and Tourism Corporation	CIC/ERAI L/A/2018/636294	IC(AP)	13.10.2020	375-383	2(f)	
12	Mr. Dhavalkumar Kirtikumar Patel Vs. CPIO, National Mission for Manuscripts (NMM) CPIO, Bhogilal Leherchand Institute of Indology CPIO, Bharat Itihas Sanshodhak Mandalan CPIO, O/O The Director Intach, Intach Conservation Institute	CIC/MCU LT/A/2020 /116107-UM and others	IC(UM)	05.10.2021, 28.10.2021, 29.10.2021	486-491	2(h)	
13	Samir Sardana Vs. CPIO, Mormugao Port Trust, Goa	CIC/MPO TR/A/2018/637412	IC(AM)	03.02.2021	406-434	3	
14	Ram Naresh Yadav	CIC/OFB	IC (VN)	14.09.2021	184-187	3	

	Vs. CPIO Ordnance Factory Khamariya, MP	KO/A/2019/656662					shall transfer the application or such part of it as may be appropriate to that other public authority and inform the applicant immediately about such transfer:
15	Avinash Kumar saxena Vs. CPIO O/o the Chief Executive Officer Cantonment Board, Meerut Cantt, Pin -250001	CIC/IAR MY/A/2019/148191 and Others	IC (VN)	16.08.2021	208-218	3	Provided that the transfer of an application pursuant to this sub-section shall be made as soon as practicable but in no case later than five days from the date of receipt of the Application.
16	Sushil Gandhi Vs. CPIO, Cantonment Board (CB), Meerut	CIC/IAR MY/A/2020/137326 and Others	IC (VN)	20.10.2021	219-245	3	Section 8: Exemption from disclosure of information.— (I) Notwithstanding anything contained in this Act, there shall be no obligation to give any citizen,— (a) information, disclosure of which would prejudicially affect the sovereignty and integrity of India, the security, strategic, scientific or economic interests of the State, relation with foreign State or lead to incitement of an offence; (b) information which has been expressly forbidden to be published by any court of law or tribunal or the disclosure of which may constitute contempt of court; (c) information, the disclosure of which would cause a breach of privilege of Parliament or the State Legislature; (d) information including commercial confidence, trade secrets or intellectual property, the disclosure of which would harm the competitive position of a third party, unless the competent authority is satisfied that larger public interest warrants the disclosure of such information; (e) information available to a person in his fiduciary relationship, unless the competent authority is satisfied that the larger public interest warrants the disclosure of such information;
17	Shri Jeetender Vs. CPIO, Ministry of Information and broadcasting	CIC/DS/C/2013/9005 60/SB	IC(SC) & IC(DP)	02.09.2019	288-291	2(h), 6(1), 18(1)	
18	Shri Prasenjit Bose Vs. 1. PIO, Under Secretary.Prime Minister's Office, 2. PIO, Nodal officer, RTI D/o Financial Services	CIC/PMOI N/A/2019/600261	CIC(YS)	28.09.2021	28-34	2(f), 6(3), 8(1)(h)	
19	Venkatesh Nayak Vs. CPIO, STQC, Ministry of IT and Electronic and IT	CIC/STA QC/2019/148958	IC (VN)	28.07.2021	188-194	8(1)(d)	

20	Ms. Hansa Mishra Vs. CPIO Zonal Passport Office, Lucknow	CIC/PASO F/A/2019/124108	CIC(YS)	01.10.2021	14-17	8(1)(j)	(f) information received in confidence from foreign Government; (g) information, the disclosure of which would endanger the life or physical safety of any person or identify the source of information or assistance given in confidence for law enforcement or security purposes; (h) information which would impede the process of investigation or apprehension or prosecution of offenders; (i) cabinet papers including records of deliberations of the Council of Ministers, Secretaries and other officers: Provided that the decisions of Council of Ministers, the reasons thereof, and the material on the basis of which the decisions were taken shall be made public after the decision has been taken, and the matter is complete, or over: Provided further that those matters which come under the exemptions specified in this section shall not be disclosed; (j) information which relates to personal information the disclosure of which has no relationship to any public activity or interest, or which would cause unwarranted invasion of the privacy of the individual unless the Central Public Information Officer or the State Public Information Officer or the appellate authority, as the case may be, is satisfied that the larger public interest justifies the disclosure of such information: Provided that the information which cannot be denied to the Parliament or a State Legislature shall not be denied to any person. (2) Notwithstanding anything in the Official Secrets Act, 1923 (19 of 1923) nor any of the exemptions permissible in accordance with sub-section (1), a public authority may allow access to information, if public interest in disclosure outweighs the harm to the protected interests.
21	Smt. Veena Vs. CPIO, IT officer, Ward no.2(1), Udaipur	CIC/CCIT J/A/2019/142221	IC(NG)	01.06.2021	246-253	8(1)(j), 19(3), 20	
22	Shri Vikram Singh Meena Vs. PIO Delhi Police	CIC/DEP OL/A/2019/132210	CIC(YS)	23.06.2021	24-27	8(1)(h)&(g)	
23	Ehtesham Qutubuddin Siddiqui Vs. CPIO, MHA	CIC/MHO ME/2019/107928	CIC(SB) IC(SC) & IC(BJ)	06.11.2019	270-278	8(3), 8(1)(j)	
24	Shri Neeraj Sharma Vs. CPIO, RBI	CIC/RBIN D/A/2017/167309	IC(SC)	20.03.2019	279-287	8(1)(a)& 8(1)(d)	
25	Shri Neeraj Sharma Vs. CPIO, RBI	CIC/RBIN D/A/2017/167309	IC(SC)	20.03.2019	308-316	8(1)(a),(d), (e) & 20	
26	Girish Mittal Vs. CPIO, Reserve Bank of India	CIC/RBIN D/A/2018/631240	IC(SC)	19.11.2020	317-326	2(f), 8(1)(g)&(j)	
27	Noorjahan Begum Vs. CPIO, Northern Railway	CIC/NRAI L/A/2019/102163	IC(AP)	29.12.2020	400-405	8(3)	
28	Akhilesh Bhargav Vs. CPIO, Sr. Divisional Personnel Officer, West Central Railway,	CIC/WEC RL/A/2018/173314	IC(AP)	11.11.2020	435-441	8(1)(d)	

	MP						(3) Subject to the provisions of clauses (a), (c) and (i) of sub-section (1), any information relating to any occurrence, event or matter which has taken place, occurred or happened twenty years before the date on which any request is made under section 6 shall be provided to any person making a request under that section: Provided that where any question arises as to the date from which the said period of twenty years has to be computed, the decision of the Central Government shall be final, subject to the usual appeals provided for in this Act. Section 18: Powers and functions of Information Commissions – (1) Subject to the provisions of this Act, it shall be the duty of the Central Information Commission or State Information Commission, as the case may be, to receive and inquire into a complaint from any person,- a) who has been unable to submit a request to a Central Public Information Officer or State Public Information Officer, as the case may be, either by reason that no such officer has been appointed under this Act, or because the Central Assistant Public Information Officer or State Assistant Public Information Officer, as the case may be, has refused to accept his or her application for information or appeal under this Act for forwarding the same to the Central Public Information Officer or State Public Information Officer or senior officer specified in sub-section (1) of section 19 or the Central Information Commission or the State Information Commission, as the case may be; b) who has been refused access to any information
29	Om Prakash Gaud Vs. PIO, Nodal Officer, Delhi Jal Board	CIC/DELJ B/A/2019/104620	IC(HS)	13.07.2021	454-464	8(1)(h)	
30	Mr. Prabhat C Chaturvedi Vs. CPIO,	CIC/MLA BE/A/2020/110437-UM	IC(UM)	14.09.2021	483-485	8(1)(j)	
31	Varun Krishna Vs. CPIO, Indian Security Press, DM/ISP, Nashik Road, District Nashik-422101, Maharastra	CIC/ISPN R/C/2018/627207	IC(NG) &IC (VN)	26.06.2020 20.10.2020	157-163	18	
32	Samir Sardana Vs. CPIO, SR. Divisional Commercial Manager, South western Railway	CIC/SWR LY/C/2019/600256	IC(AP)	20.05.2021	442-453	18 & 20	
33	Andy Sehgal Vs. PIO, Addl. Public Prosecutor, Directorate of Prosecution	CIC/DPRE L/A/2019/113594& others	IC(HS)	07.09.2021	465-482	18,19&20	
34	Shri Radhe Shyam Jangid Vs. PIO Rajasthan High Court Jaipur	CIC/HCO ST/A/2018/156230	CIC(YS)	15.02.2021	10-13	19	

35	Shri Rajendra Gupta Vs. PIO/East Delhi Municipal Corporation, Shahdara South Zone, Delhi	CIC/EMC DN/A/201 9/ 132384 And others	IC(YS)	26.06.2020	41-57	19	requested under this Act; c) who has not been given a response to a request for information or access to information within the time limit specified under this Act; d) who has been required to pay an amount of fee which he or she considers unreasonable; e) who believes that he or she has been given incomplete, misleading or false information under this Act; and f) in respect of any other matter relating to requesting or obtaining access to records under this Act. (2) Where the Central Information Commission or State Information Commission, as the case may be, is satisfied that there are reasonable grounds to inquire into the matter, it may initiate an inquiry in respect thereof. (3) The Central Information Commission or State Information Commission, as the case may be, shall, while inquiring into any matter under this section, have the same powers as are vested in a civil court while trying a suit under the Code of Civil Procedure, 1908 (5 of 1908), in respect of the following matters, namely:— a) summoning and enforcing the attendance of persons and compel them to give oral or written evidence on oath and to produce the documents or things; b) requiring the discovery and inspection of documents; c) receiving evidence on affidavit; d) requisitioning any public record or copies thereof from any court or office; e) issuing summons for examination of witnesses or documents; and f) any other matter which may be prescribed. (4) Notwithstanding anything inconsistent contained in any other Act of Parliament or State Legislature, as the case
36	Shri Rajendra Gupta Vs. PIO/East Delhi Municipal Corporation, Shahdara South Zone, Delhi	CIC/EMC DS/A/201 8/ 167425 And others	IC(YS)	22.06.2020	58-73	19	
37	Shri Rajendra Gupta Vs. PIO/East Delhi Municipal Corporation, Shahdara South Zone, Delhi	CIC/EMC DN/A/201 8/ 158232 And others	IC(YS)	22.06.2020	74-93	19	
38	Narendra Kumar Chandel Vs. CPIO/DDG(PG), Ministry of Railways & CPIO, Sr. Divisional Personnel Officer, West Central Railways	CIC/WEC RL/A/201 9/120546	IC(AP)	04.06.2021	384-399	19	
39	Mr. Kriplani M Vs. Mr. Ashutosh Kumar, CPIO & Dy. Commissioner of Customs (ACC), O/o Pr. Commissioner of	CIC/CCU BL/C/2017 /128442	IC(SC) & CIC(BJ)	18.02.2020	292-307	20	

	Customs & Joint Director, Directorate of Revenue Intelligence (DRI)						may be, the Central Information Commission or the State Information Commission, as the case may be, may, during the inquiry of any complaint under this Act, examine any record to which this Act applies which is under the control of the public authority, and no such record may be withheld from it on any grounds. Section 19: Appeal – (1) Any person who, does not receive a decision within the time specified in sub-section (1) or clause (a) of sub-section (3) of section 7, or is aggrieved by a decision of the Central Public Information Officer or State Public Information Officer, as the case may be, may within thirty days from the expiry of such period or from the receipt of such a decision prefer an appeal to such officer who is senior in rank to the Central Public Information Officer or State Public Information Officer as the case may be, in each public authority: Provided that such officer may admit the appeal after the expiry of the period of thirty days if he or she is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time. (2) Where an appeal is preferred against an order made by a Central Public Information Officer or a State Public Information Officer, as the case may be, under section 11 to disclose third party information, the appeal by the concerned third party shall be made within thirty days from the date of the order. (3) A second appeal against the decision under sub-section (1) shall lie within ninety days from the date on which the decision should have been made or was actually received, with the Central Information Commission or the State Information Commission:
40	Saurav Das Vs. CPIO, NEGD& CPIO, MEITY	CIC/DEOI T/C/2020/ 685084	IC (VN)	26.11.2020	164-183	25(5)	
41	Venkatesh Nayak Vs. CPIO, CLC, Ministry of Labour and Employment	CIC/OTC LC/C/2020 /669711	IC (VN)	27.05.2020	195-207	25(5)	
42	Shri Dinesh Vs. PIO/Lt.Governor's Office, Raj Niwas Marg, Delhi Through: Sh. J P Kothari – PIO and Sh. Subhash Chand Agrawal	CIC/LTGS E/A/2019 /115616 And others	IC(YS)	05.06.2020	35-37	Nil	
43	Shri Dinesh Vs. PIO/Lt.Governor's Office, Raj Niwas Marg, Delhi Through: Sh. J P Kothari – PIO and Sh. Subhash Chand Agrawal	CIC/LTGS E/A/2019/ 108692 And others	IC(YS)	05.06.2020	38-40	Nil	

							Provided that the Central Information Commission or the State Information Commission, as the case may be, may admit the appeal after the expiry of the period of ninety days if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time. (4) If the decision of the Central Public Information Officer or State Public Information Officer, as the case may be, against which an appeal is preferred relates to information of a third party, the Central Information Commission or State Information Commission, as the case may be, shall give a reasonable opportunity of being heard to that third party. (5) In any appeal proceedings, the onus to prove that a denial of a request was justified shall be on the Central Public Information Officer or State Public Information Officer, as the case may be, who denied the request. (6) An appeal under sub-section (1) or sub-section (2) shall be disposed of within thirty days of the receipt of the appeal or within such extended period not exceeding a total of forty-five days from the date of filing thereof as the case may be, for reasons to be recorded in writing. (7) The decision of the Central Information Commission or State Information Commission, as the case may be, shall be binding. (8) In its decision, the Central Information Commission or State Information Commission, as the case may be, has the power to – a. require the public authority to take any such steps as may be necessary to secure compliance with the provisions of this Act, including— i. by providing access to information, if so requested, in a particular form; ii. by appointing a Central Public Information
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							Officer or State Public Information Officer, as the case may be; iii. by publishing certain information or categories of information; iv. by making necessary changes to its practices in relation to the maintenance, management and destruction of records; v. by enhancing the provision of training on the right to information for its officials; vi. by providing it with an annual report in compliance with clause (b) of sub-section (1) of section 4; b. require the public authority to compensate the complainant for any loss or other detriment suffered; c. impose any of the penalties provided under this Act; d. reject the application. (9) The Central Information Commission or State Information Commission, as the case may be, shall give notice of its decision, including any right of appeal, to the complainant and the public authority. (10) The Central Information Commission or State Information Commission, as the case may be, shall decide the appeal in accordance with such procedure as may be prescribed. Section 20: Penalties - (1) Where the Central Information Commission or the State Information Commission, as the case may be, at the time of deciding any complaint or appeal is of the opinion that the Central Public Information Officer or the State Public Information Officer, as the case may be, has, without any reasonable cause, refused to receive an application for information or has not furnished information within the time specified under sub-section (1)
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							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, it shall impose a penalty of two hundred and fifty rupees each day till application is received or information is furnished, so however, the total amount of such penalty shall not exceed twenty-five thousand rupees: Provided that the Central Public Information Officer or the State Public Information Officer, as the case may be, shall be given a reasonable opportunity of being heard before any penalty is imposed on him: Provided further that the burden of proving that he acted reasonably and diligently shall be on the Central Public Information Officer or the State Public Information Officer, as the case may be. (2) Where the Central Information Commission or the State Information Commission, as the case may be, at the time of deciding any complaint or appeal is of the opinion that the Central Public Information Officer or the State Public Information Officer, as the case may be, 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, it shall recommend for disciplinary action against the Central Public Information Officer or the State
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							Public Information Officer, as the case may be, under the service rules applicable to him. Section 25: Monitoring and reporting — (1) The Central Information Commission or State Information Commission, as the case may be, shall, as soon as practicable after the end of each year, prepare a report on the implementation of the provisions of this Act during that year and forward a copy thereof to the appropriate Government. (2) Each Ministry or Department shall, in relation to the public authorities within their jurisdiction, collect and provide such information to the Central Information Commission or State Information Commission, as the case may be, as is required to prepare the report under this section and comply with the requirements concerning the furnishing of that information and keeping of records for the purposes of this section. (3) Each report shall state in respect of the year to which the report relates,— a) the number of requests made to each public authority; b) the number of decisions where applicants were not entitled to access to the documents pursuant to the requests, the provisions of this Act under which these decisions were made and the number of times such provisions were invoked; c) the number of appeals referred to the Central Information Commission or State Information Commission, as the case may be, for review, the nature of the appeals and the outcome of the appeals; d) particulars of any disciplinary action taken against any officer in respect of the administration of this Act; e) the amount of charges collected by each public
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							authority under this Act; f) any facts which indicate an effort by the public authorities to administer and implement the spirit and intention of this Act; g) Recommendations for reform, including recommendations in respect of the particular public authorities, for the development, improvement, modernisation, reform or amendment to this Act or other legislation or common law or any other matter relevant for operationalising the right to access information. (4) The Central Government or the State Government, as the case may be, may, as soon as practicable after the end of each year, cause a copy of the report of the Central Information Commission or the State Information Commission, as the case may be, referred to in sub-section (1) to be laid before each House of Parliament or, as the case may be, before each House of the State Legislature, where there are two Houses, and where there is one House of the State Legislature before that House. (5) If it appears to the Central Information Commission or State Information Commission, as the case may be, that the practice of a public authority in relation to the exercise of its functions under this Act does not conform with the provisions or spirit of this Act, it may give to the authority a recommendation specifying the steps which ought in its opinion to be taken for promoting such conformity.
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9	CIC/LTGSE/A/2019/115616, CIC/LTGSE/A/2019/115620, CIC/LTGSE/A/2019/115636, CIC/LTGSE/A/2019/115639, CIC/LTGSE/A/2019/115640, CIC/LTGSE/A/2019/115643, CIC/LTGSE/A/2019/115644, CIC/LTGSE/A/2019/115645, CIC/LTGSE/A/2019/115648, CIC/LTGSE/A/2019/115649, CIC/LTGSE/A/2019/115651, CIC/LTGSE/A/2019/115654, CIC/LTGSE/A/2019/115655, CIC/LTGSE/A/2019/115656, CIC/LTGSE/A/2019/115661, CIC/LTGSE/A/2019/115662, CIC/LTGSE/A/2019/115663, CIC/LTGSE/A/2019/108727, CIC/LTGSE/A/2019/108726, CIC/LTGSE/A/2019/108725, CIC/LTGSE/A/2019/108724, CIC/LTGSE/A/2019/108722, CIC/LTGSE/A/2019/108721, CIC/LTGSE/A/2019/108717, CIC/LTGSE/A/2019/108716, CIC/LTGSE/A/2019/108715, CIC/LTGSE/A/2019/108728, CIC/LTGSE/A/2019/108729, CIC/LTGSE/A/2019/108730, CIC/LTGSE/A/2019/108732, CIC/LTGSE/A/2019/108733, CIC/LTGSE/A/2019/108734, CIC/LTGSE/A/2019/108803, CIC/LTGSE/A/2019/108837, CIC/LTGSE/A/2019/108842, CIC/LTGSE/A/2019/108843, CIC/LTGSE/A/2019/108844, CIC/LTGSE/A/2019/109024, CIC/LTGSE/A/2019/109026, CIC/LTGSE/A/2019/1154621, CIC/LTGSE/A/2019/115622, CIC/LTGSE/A/2019/108734	35-37
10	CIC/LTGSE/A/2019/108692, CIC/LTGSE/A/2019/108694, CIC/LTGSE/A/2019/108693, CIC/LTGSE/A/2019/108695, CIC/LTGSE/A/2019/108696, CIC/LTGSE/A/2019/108698, CIC/LTGSE/A/2019/108699, CIC/LTGSE/A/2019/108700, CIC/LTGSE/A/2019/108704, CIC/LTGSE/A/2019/108705, CIC/LTGSE/A/2019/108706, CIC/LTGSE/A/2019/108709, CIC/LTGSE/A/2019/108712, CIC/LTGSE/A/2019/108710, CIC/LTGSE/A/2019/108713, CIC/LTGSE/A/2019/108711, CIC/LTGSE/A/2019/108714, CIC/LTGSE/A/2019/108804, CIC/LTGSE/A/2019/108805, CIC/LTGSE/A/2019/108806, CIC/LTGSE/A/2019/108807, CIC/LTGSE/A/2019/108829, CIC/LTGSE/A/2019/108830, CIC/LTGSE/A/2019/108832,	38-40

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12	CIC/EMCDS/A/2018/167425, CIC/EMCDS/A/2018/171801, CIC/EMCDS/A/2018/167413, CIC/EMCDS/A/2018/167429, CIC/EMCDS/A/2018/167420, CIC/EMCDS/A/2018/167430, CIC/EMCDS/A/2018/168656, CIC/EMCDS/A/2018/168658, CIC/EMCDS/A/2018/168659, CIC/EMCDS/A/2018/168660, CIC/EMCDS/A/2018/168662, CIC/EMCDS/A/2018/168645, CIC/EMCDS/A/2018/168646, CIC/EMCDS/A/2018/168647, CIC/EMCDS/A/2018/168649, CIC/EMCDS/A/2018/168650, CIC/EMCDS/A/2018/168651, CIC/EMCDS/A/2018/168652, CIC/EMCDS/A/2018/168653, CIC/EMCDS/A/2018/168655, CIC/EMCDS/A/2018/171812, CIC/EMCDS/A/2018/171811, CIC/EMCDS/A/2018/171810, CIC/EMCDS/A/2018/171808, CIC/EMCDS/A/2018/171807, CIC/EMCDS/A/2018/171806, CIC/EMCDS/A/2018/171805, CIC/EMCDS/A/2018/171804, CIC/EMCDS/A/2018/171802	58-73
13	CIC/EMCDN/A/2018/158232, CIC/EMCDN/A/2018/158233, CIC/EMCDN/A/2018/158234, CIC/EMCDN/A/2018/158235, CIC/EMCDN/A/2018/158237, CIC/EMCDN/A/2018/158238, CIC/EMCDN/A/2018/158239, CIC/EMCDN/A/2018/158240, CIC/EMCDN/A/2018/158242, CIC/EMCDN/A/2018/158251, CIC/EMCDN/A/2018/164888, CIC/EMCDN/A/2018/164889, CIC/EMCDN/A/2018/164890, CIC/EMCDN/A/2018/164891, CIC/EMCDN/A/2018/164892, CIC/EMCDN/A/2018/164893, CIC/EMCDN/A/2018/164894, CIC/EMCDN/A/2018/164897,	74-93

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15	CIC/UTOJK/A/2020/115496, CIC/UTOJK/A/2020/110822, CIC/UTOJK/A/2020/103192, CIC/UTOJK/A/2020/111458, CIC/UTOJK/A/2020/109478, CIC/UTOJK/A/2020/111460, CIC/UTOJK/A/2020/109479, CIC/UTOJK/A/2020/111461, CIC/UTOJK/A/2020/109477, CIC/UTOJK/A/2020/111462, CIC/UTOJK/A/2020/109480, CIC/UTOJK/A/2020/111463, CIC/UTOJK/A/2020/109481, CIC/UTOJK/A/2020/115141, CIC/UTOJK/A/2020/109482, CIC/UTOJK/A/2020/115143,	122-151

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16	CIC/IGMUM/A/2019/655511	152-156
17	CIC/ISPNR/C/2018/627207	157-163
18	CIC/DEOIT/C/2020/685084	164-183
19	CIC/OFBKO/A/2019/656662	184-187
20	CIC/STAQC/A/2019/148958	188-194
21	CIC/OTCLC/C/2020/669711/03585	195-207
22	CIC/IARMY/A/2019/148191, CIC/IARMY/A/2019/148171, CIC/IARMY/A/2019/149196, CIC/IARMY/A/2019/161765, CIC/IARMY/A/2019/156179, CIC/IARMY/A/2019/161766, CIC/IARMY/A/2019/149192, CIC/IARMY/A/2019/156176, CIC/IARMY/A/2019/161770, CIC/IARMY/A/2019/163290, CIC/IARMY/A/2019/161767, CIC/IARMY/A/2019/161768, CIC/IARMY/A/2019/161769, CIC/IARMY/A/2019/160213	208-218
23	CIC/IARMY/A/2020/137326+ 43 other files	219-245
24	CIC/CCITJ/A/2019/142221	246-253
25	CIC/MOFIN/C/2017/131504/BKOB	254-269
26	CIC/MHOME/A/2019/107928	270-278
27	CIC/RBIND/A/2017/167309	279-287
28	CIC/DS/C/2013/900560/SB	288-291
29	CIC/CCUBL/C/2017/128442	292-307
30	CIC/RBIND/A/2017/167309	308-316
31	CIC/RBIND/A/2018/631240	317-326
32	CIC/MA/C/2008/000195	327-357

33	CIC/MOFIN/C/2017/131504/BKOB	358-374
34	CIC/ERAIL/A/2018/636294	375-383
35	CIC/WECRL/A/2019/120546	384-399
36	CIC/NRAIL/A/2019/102163	400-405
37	CIC/MPOTR/A/2018/637412	406-434
38	CIC/WECRL/A/2018/173314	435-441
39	CIC/SWRLY/C/2019/600256	442-453
40	CIC/DELJB/A/2019/104620	454-464
41	CIC/DPREL/A/2019/113594, CIC/DPREL/A/2019/117227, CIC/DPREL/A/2019/117228	465-482
42	CIC/MLABE/A/2020/110437-UM	483-485
43	CIC/MCULT/A/2020/116107-UM, CIC/MCULT/A/2020/116106-UM, CIC/MCULT/A/2020/116109-UM, CIC/MCULT/A/2020/116112-UM	486-491

केन्द्रीय सूचना आयोग
Central Information Commission
बाबागंगनाथमार्ग, मुनिरका
Baba Gangnath Marg, Munirka
नई दिल्ली, New Delhi - 110067

शिकायत संख्या / Complaint No. **CIC/DSSSB/C/2018/128865**

Ms. Manju Rani
Through: Sh. Praveen
Sh. Akshay

शिकायतकर्ता / Complainant

VERSUS/बनाम

PIO/Dy. Secy. (Secret Cell-I)
(Govt. of NCT of Delhi)
Through: Sh. Devender Kumar, SO, Secret Cell

...प्रतिवादीगण / Respondent

Date of Hearing : 24.01.2020
Date of Decision : 05.02.2020

Information Commissioner : Shri Y. K. Sinha

Relevant facts emerging from appeal:

RTI application filed on : 17.07.2017
PIO replied on : 21.08.2017
First Appeal filed on : 03.10.2017
First Appellate Order on : 01.12.2017
2nd Appeal/complaint received on : 08.05.2018

Information sought and background of the case:

Complainant filed RTI application dated 17.07.2017 seeking information regarding the post of TGT (Computer Science) post code -192/14. In this regard, she sought following information:-

1. *Provide the copy of her OMR sheet (both sides) of the written examination held on 21.05.2017.*

PIO/Dy. Secy., Secret Cell-I, DSSSB vide letter dated 21.08.2017 stated that information may be obtained after declaration of final result.

Being dissatisfied, the Complainant filed First Appeal dated 03.10.2017.

FAA vide order dated 01.12.2017 directed PIO/DS (Secret Cell) to provide copy of OMR sheet to the Complainant within 15 days as per the RTI Act.

Feeling aggrieved over the non-compliance of FAO, Complainant filed a complaint before the Commission.

Facts emerging in Course of Hearing:

Both the parties are present for the hearing.

Complainant insists upon receiving the information sought by him. It is the grievance of the Complainant that despite FAA's directions no information has, till date, been provided to him.

Respondent is present and heard. Respondent has filed a submission dated 22.01.2020 on record. In response to query no. 1, reliance has been placed on the decision of Hon'ble Supreme Court in the matter of *UPSC vs. Angesh Kumar & Ors.* in C.A. No. (5)/6159-6162 of 2013 for non-disclosure of information.

Decision:

Upon hearing the averments of parties and perusal of records, based on the plea of the applicant, the instant complaint is converted into an appeal.

As a matter of routine, Commission receives several appeals regarding information pertaining to OMR sheets and answer keys of examinations. It is also observed that the candidates appearing in competitive examinations face immense inconvenience in retrieving information regarding their own performance in such examinations.

Considering the case law relied upon by the Respondent, Commission is inclined to draw attention to certain relevant excerpts in that case for the purpose of brevity.

In ***UPSC vs. Angesh Kumar & Ors.*** in C.A. No. (5)/6159-6162 of 2013 the Hon'ble Supreme Court has made following observations in context of disclosure of Civil Service Examinations marks under the RTI:

(8) The problems in showing evaluated answer sheets in the UPSC Civil Services Examination are recorded in Prashant Ramesh Chakkarwar v. UPSC1.

From the counter affidavit in the said case, following extract was referred to:

"(B) Problems in showing evaluated answer books to candidates.—(i) Final awards subsume earlier stages of evaluation. Disclosing answer books would reveal intermediate stages too, including the so-called 'raw marks' which would have negative implications for the integrity of the examination system, as detailed in Section (C) below.

(ii) The evaluation process involves several stages.

.....

(v) With the disclosure of evaluated answer books, the danger of coaching institutes collecting copies of these from candidates (after perhaps encouraging/inducing them to apply for copies of their answer books under the RTI Act) is real, with all its attendant implications.

.....

(viii) UPSC is now able to get some of the best teachers and scholars in the country to be associated in its evaluation work. An important reason for this is no doubt the assurance of their anonymity, for which the Commission goes to great lengths. Once disclosure of answer books starts and the inevitable challenges (including litigation) from disappointed candidates starts, it is only a matter of time before these examiners who would be called upon to explain their assessment/award, decline to accept further assignments from the Commission.

.....

(10) Weighing the need for transparency and accountability on the one hand and requirement of optimum use of fiscal resources and confidentiality of sensitive information on the other, we are of the view that information sought with regard to marks in Civil Services Exam cannot be directed to be furnished mechanically. Situation of exams of other academic bodies may stand on different footing.

From the above it cannot be denied that the facts of *UPSC vs. Angesh Kumar (supra)* case are distinguishable from those in the present case. The legal doctrine of 'Stare Decisis' obligates courts to follow historical cases when making a ruling on a similar case. It ensures that cases with similar scenarios and facts are approached in the same way. In the present case, upon perusing the available records, it is not clear as to how the *ratio* of the *UPSC vs. Angesh Kumar (supra)* case is applicable in the present case. Merely citing a case law does not suffice. The PIO has failed to establish and convince the Commission as to how the facts and circumstances of the *UPSC vs. Angesh Kumar (supra)* case are similar and applicable to the present case. Thus, the onus to prove that a denial of a request was justified is on the PIO. But in the instant case, the PIO has been unable to discharge that responsibility.

The provisions of RTI Act should be enforced strictly and all efforts should be made to bring to light the necessary information, which relates to securing transparency and accountability in the working of public authorities. The Commission therefore holds that candidates have a right to seek a copy of the OMR sheet. It will not only contribute to transparency but also facilitate the candidates in assessing their performance.

In the light of the foregoing, the Commission hereby directs the PIO to provide *Copy of applicant's OMR sheet (both sides) of the written examination held on 21.05.2017, as sought in query no. 1, to the Complainant/Appellant, in compliance with the FAO, under intimation to the Commission, within 3 weeks from the date of issue of this order.*

The appeal is disposed off accordingly, with the above observations and directions.

Y. K. Sinha (वाई. के. सिन्हा)
Information Commissioner (सूचना आयुक्त)

Authenticated true copy
(अभिप्रमाणित सत्यापित प्रति)

Ram Parkash Grover (राम प्रकाश ग्रोवर)
Dy. Registrar (उप-पंजीयक)
011-26180514

केन्द्रीय सूचना आयोग
Central Information Commission
बाबागंगनाथमार्ग, मुनिरका
Baba Gangnath Marg, Munirka
नई दिल्ली, New Delhi – 110067

द्वितीय अपील संख्या / Second Appeal No.

CIC/DSSSB/A/2018/147194
CIC/DSSSB/A/2018/147113

Shri Jagdish Maurya

... अपीलकर्ता / Appellant

VERSUS/बनाम

PIO/Dy. Secretary (RTI Cell), DSSSB,
Karkardooma, Delhi
Through: Sh. Devendra Sharma

... प्रतिवादीगण / Respondents

Date of Hearing : 06.02.2020

Date of Decision : 07.02.2020

Information Commissioner : Shri Y. K. Sinha

Since both the parties are same, the above mentioned cases are clubbed together for hearing and disposal.

Case No.	RTI Filed on	CPIO reply	First appeal	FAO
147194	27.04.2018	Nil	30.05.2018	Nil
147113	26.04.2018	Nil	10.05.2018	Nil

CIC/DSSSB/A/2018/147194

Appellant filed RTI application dated 27.04.2018 seeking scanned copy of OMR sheet along with revised answer key of his question booklet of post code 201/2014 (field Assistant in Food Safety Department), mentioning that his Roll Number for the post code 201/2014 is 15000928.

Having not received any reply from the PIO, Appellant filed First Appeal dated 30.05.2018 which was not adjudicated therefore Appellant approached the Commission with the instant Second Appeal.

Facts emerging in Course of Hearing:

Respondent alone is present for hearing to the exclusion of the Appellant despite service of hearing notice in advance. Respondent produced certain documents during the hearing stating that while the answer keys have already been provided to the candidates through OARS portal, as per Board's policy as a part of current policy copy of answer sheet/OMR sheet are denied placing reliance on the decision of the Hon'ble Supreme Court in the matter of *UPSC vs. Angesh Kumar & Ors.* in C.A. No. (5)/6159-6162 of 2013. It is noted that action history of the case,

submitted during hearing reveals that the FAA vide order dated 11.09.2018 had directed the PIO to furnish the OMR Sheet to the appellant.

Decision:

The Commission finds response of the respondent perplexing and cannot agree with the stance adopted by the respondent. In this context, the Commission finds it imperative to note that such queries regarding information pertaining to OMR sheets and answer keys of examination are regularly received in the form of several Second appeals, need whereof arises since the candidates appearing in competitive examinations face immense inconvenience in retrieving information regarding their own performance in such examinations.

Considering the case law relied upon by the Respondent, Commission is inclined to revisit the relevant excerpts of the Apex Court decision for the purpose of clarity. In the case of **UPSC vs. Angesh Kumar & Ors.** [in C.A. Nos. 6159-6162 of 2013 decision dated 20.02.2018], the Hon'ble Supreme Court has made following observations in context of disclosure of Civil Service Examinations marks under the RTI:

(8) The problems in showing evaluated answer sheets in the UPSC Civil Services Examination are recorded in Prashant Ramesh Chakkarwar v. UPSC1.

From the counter affidavit in the said case, following extract was referred to:

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(v) With the disclosure of evaluated answer books, the danger of coaching institutes collecting copies of these from candidates (after perhaps encouraging/inducing them to apply for copies of their answer books under the RTI Act) is real, with all its attendant implications.

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(viii) UPSC is now able to get some of the best teachers and scholars in the country to be associated in its evaluation work. An important reason for this is no doubt the assurance of their anonymity, for which the Commission goes to great lengths. Once disclosure of answer books starts and the inevitable challenges (including litigation) from disappointed candidates starts, it is only a matter of time before these examiners who would be called upon to explain their assessment/award, decline to accept further assignments from the Commission.

.....

(10) Weighing the need for transparency and accountability on the one hand and requirement of optimum use of fiscal resources and confidentiality of sensitive information on the other, we are of the

view that information sought with regard to marks in Civil Services Exam cannot be directed to be furnished mechanically. Situation of exams of other academic bodies may stand on different footing. Furnishing raw marks will cause problems as pleaded by the UPSC as quoted above which will not be in public interest. However, if a case is made out where the Court finds that public interest requires furnishing of information, the Court is certainly entitled to so require in a given fact situation. If rules or practice so require, certainly such rule or practice can be enforced..."

Perusal of the above decision clearly establishes that the decision above is specifically aimed at "marks in Civil Services Exam" and it has been mentioned in the order categorically that situation of exams of other academic bodies may stand on different footing. Thus facts of *UPSC vs. Angesh Kumar (supra)* case do not provide a blanket cover to deny marksheet/answersheet by all examining authorities and the above decision is distinguishable to the facts of the case at hand and ratio of the *Angesh Kumar* case cannot be applied to the instant case *mutatis mutandis* for difference of factual matrix. Since merely citing a decision is not sufficient unless they are factually akin, hence the reliance placed by the PIO on the Apex Court decision, for denial of information, is set aside since he has not been able to justify the denial of information and how the facts of the above case [Angesh Kumar] is applicable in this case.

The provisions of RTI Act should be enforced strictly and all efforts should be made to bring to light the necessary information, which relates to securing transparency and accountability in the working of public authorities. The Commission therefore holds that candidates have a right to seek a copy of their own OMR sheet. It will not only contribute to transparency but also facilitate the candidates in assessing their own performance.

In the light of the foregoing, the Commission hereby directs the PIO to provide *Copy of Appellant's OMR- answer Sheet* as sought by him, in compliance with the FAA's order dated 11.09.2018, within 3 weeks from the date of receipt of this order.

Compliance report with respect to the above directions shall be submitted by the PIO/DSSSB- Sh. Devendra Kumar Sharma, before the Commission by 10.03.2020, including proof of service of the requisite information/OMR sheet to the appellant. It is made clear that non-adherence of these directions shall attract penal action as per law.

The appeal is disposed off accordingly, with the above directions.

CIC/DSSSB/A/2018/147113

Appellant filed RTI application dated 26.04.2018 seeking information on the following 3points:

1. *Provide the revised answer key of post code 201/2014 filed Assistant in Food Safety Department.*
2. *Provide all 21 candidates marks list who qualified for the e-dossier in post code 201/2014.*
3. *When writing list provided for post code 70/13 i.e. in Delhi Transco Limited.*

Having not received any reply from the PIO, Appellant filed First Appeal dated 10.05.2018 which was not adjudicated therefore Appellant approached the Commission with the instant Second Appeal.

Facts emerging in Course of Hearing:

Respondent alone is present for hearing to the exclusion of the Appellant despite service of hearing notice in advance. Respondent has submitted a written submission dated 05.02.2020 indicating that information sought by the appellant has already been furnished to him through OARS portal and/or website of the Board.

Decision

After perusal of the records, the Commission notes that the desired information appears to have been provided by the PIO and is found to be in order and no interference with the same is required. Appellant has not appeared thereby indicating his disinterest in pursuing the matter. No further adjudication is necessary in this case.

Appeal is thus disposed off, with no further directions.

Y. K. Sinha (वाई. के. सिन्हा)
Information Commissioner(सूचना आयुक्त)

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Ram Parkash Grover (राम प्रकाश गेवर)
Dy. Registrar (उप-पंजीयक)/ 011-26180514

केन्द्रीय सूचना आयोग
Central Information Commission
बाबा गंगनाथ मार्ग, मुनिरका
Baba Gangnath Marg, Munirka
नई दिल्ली, New Delhi – 110067

द्वितीय अपील संख्या / Second Appeal No. **CIC/DSSSB/A/2019/123540**

Smt. Neha Jain

... अपीलकर्ता / Appellant

VERSUS/बनाम

PIO/DSSSB, FC-18, Ins. Area,
Karkardooma, Delhi (CC-I Branch)

...प्रतिवादीगण / Respondent

Through: Shri Devender Sharma,
APIO-Secret Cell present through
audio conference

Date of Hearing : 30.07.2020

Date of Decision : 31.07.2020

Information Commissioner : Shri Y. K. Sinha

Relevant facts emerging from appeal:

RTI application filed on : 15.02.2019
PIO replied on : 08.04.2019
First Appeal filed on : 26.03.2019
First Appellate Order on : Nil
2nd Appeal/complaint received on : 16.05.2019

Information sought and background of the case:

The Appellant filed an RTI application dated 15.02.2019 seeking information pertaining to an examination held on 30.09.2018 (result declared in January 2019) for Post Code No. 16/17 (01/18), PRT (MCD) on the following 3 points:

1. How many marks obtained by me.
2. How many marks given by DSSSB through NORMALIZATION.
3. Provide me my OMR Sheet copy.

[Queries are verbatim]

Having not received any reply from the PIO, the Appellant filed First Appeal dated 26.03.2019, PIO/DSSSB (CC-I Branch) vide letter dated 08.04.2019 stated that the candidate can see his/her marks on the OARS Portal. Since the First Appeal has not been adjudicated by the FAA, Appellant approached the Commission with the instant Second Appeal.

Facts emerging in Course of Hearing:

In order to ensure social distancing^{Page 9} and prevent the spread of the pandemic, COVID-19, audio hearings were scheduled after giving prior notice to both the parties.

The Appellant participated in the hearing on being contacted on her telephone. She stated that she is not satisfied with the information provided by the Respondent.

Respondent is represented by Shri Devender Sharma, APIO-Secret Cell through audio conference. He submitted that on 29.07.2020, the Commission has been apprised with the fact that the marks obtained by the Appellant before normalization is 83.5 and after normalization is 110.39 and a copy of the same has been marked to the Appellant as well. Upon being asked about divulging the OMR sheet to the respective candidates, he clarified that the Board has taken a decision to divulge the OMR sheets to the candidates upon request.

Decision:

Upon perusal of the records as well as on the basis of the proceedings during hearing, Commission directs the PIO to provide a comprehensive reply to the Appellant along with a copy of the averred OMR sheet, before 21.08.2020. A compliance report in this regard shall be submitted by the PIO within a week thereafter.

With the aforesaid directions, the instant Second Appeal is disposed off.

Y. K. Sinha (वाई. के. सिन्हा)
Information Commissioner (सूचना आयुक्त)

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Ram Parkash Grover (राम प्रकाश ग़ोवर)
Dy. Registrar (उप-पंजीयक)
011-26180514

केन्द्रीय सूचना आयोग
Central Information Commission
बाबागंगनाथमार्ग, मुनिरका
Baba Gangnath Marg, Munirka
नई दिल्ली, New Delhi – 110067

द्वितीय अपील संख्या / Second Appeal No. **CIC/HCOST/A/2018/156230**

Shri Radhe Shyam Jangid

... अपीलकर्ता / Appellant

VERSUS/बनाम

PIO

...प्रतिवादीगण / Respondent

Rajasthan High Court Jaipur

Date of Hearing : 09.02.2021

Date of Decision : 15.02.2021

Chief Information Commissioner : Shri Y. K. Sinha

Relevant facts emerging from appeal:

RTI application filed on : 04.04.2018

PIO replied on : -

First Appeal filed on : 10.05.2018

First Appellate Order on : -

2nd Appeal/complaint received on : 12.09.2018

Information sought and background of the case:

The Appellant filed an RTI application dated 04.04.2018 seeking following information on 04 points:-

1. 16710 पर राजस्थान के न्यायालय में केस चल रहा है सन 2012. इसके बाद में 2018 को सीता देवी बैरवा w/o जितेन्द्र बैरवा के आंगन बाड़ी कार्यकर्ता पद पोस्टिंग देने कारण बताओ।
2. केस 16710 कब फाइल हुआ उसकी फोटो को भी भेजे।
3. सन 2012 से सन 2018 तक की क्या क्या कार्यवाही की उसकी फोटो कॉपी भेजे।
4. दिनांक 03.09.2012 की ग्राम सभा में मेम्बर के सामने किसी का निर्णय नहीं लिया था उसकी मैं दस मेम्बरों के हस्ताक्षरों की फोटो कॉपी भेजता हूँ। तो अपने इसके बारे में क्या न्याय दिया है उसकी प्रति भेजे।

Having not received any response from the CPIO, the Appellant filed a First Appeal dated 10.05.2018 which remained unheard.

Feeling aggrieved over non receipt of information, the Appellant approached the Commission with the instant Second Appeal.

Facts emerging in Course of Hearing:

In order to ensure social distancing and prevent the spread of the pandemic, COVID-19, video hearing was scheduled after giving prior notice to both the parties.

The Appellant remained absent during the hearing despite prior intimation.

The Respondent is represented by Shri Vishal Meghwal, Advocate and Shri Gauri Shankar Sharma, Registrar, Rajasthan High Court through video conference. Shri Meghwal referred to their written submission dated 04.02.2021 wherein it was stated that as per their record they did not receive either of the RTI applications dated 22.02.2018 and 04.04.2018, the second one being part of the present second appeal. The Appeal dated 10.05.2018 was filed with the heading "Jaipur Vikas Pradhikaran, Jaipur" addressed to the Hon'ble Chief Justice of Rajasthan High Court. As per the provisions of the Rajasthan Right to Information (High Court and Subordinate Courts) Rules, 2006, it was found that the said appeal was not in the prescribed form G, D or E and was not presented with the memo of Appeal and the requisite fees to file the appeal. In view of the deficiencies, the record relating to the file of the Appellant was not called from SPIO and the Appellant was called for personal hearing on 12.06.2018. The FAA vide order dated 20.06.2018 noted that the Appeal did not comply with the Rajasthan Right to Information (High Court and Subordinate Courts) Rules, 2006.

Decision:

Keeping in view the facts of the case and the submissions made by the Respondent and in the light of the fact that neither was the Appellant present during the hearing nor did he raise any contention regarding the action taken by the Respondent in his second appeal, no further intervention of the Commission is required on his Second Appeal. Nonetheless on closer perusal of the Rajasthan Right to Information (High Court and Subordinate Courts) Rules, 2006, the Commission observes that Rule 7 (1) (b) of the Rules stipulates that for the purpose of filing of a first appeal, a fee of Rs. 100/- has to be deposited by the Appellant in the form of non-judicial adhesive stamp duly affixed or through Demand Draft/ Banker's Cheque in the name of the Appellate Authority.

The Commission notes that the Hon'ble Supreme Court in the context of charging of exorbitant fee for filing of RTI applications prescribed that as a normal rule the charge for application under RTI Act should not be more than Rs. 50/-. The relevant extract of the decision in *Common Cause vs High Court of Allahabad and Anr* WP (Civil) No 194 of 2012 decided on 20.03.2018 is as under:

"We are of the view that, as a normal Rule, the charge for the application should not be more than Rs.50/- and for per page information should not be more than Rs.5/-. However, exceptional situations may be dealt with differently. This will not debar revision in future, if situation so demands."

Although the issue of charging fee for admitting first appeals as per the subordinate rules was not under consideration in the above matter, it is worthwhile to consider that even for filing of RTI applications, the Apex Court prescribed a maximum fee of Rs 50/- whereas in the present instance a fee of Rs. 100/- is charged from Appellants.

On closer examination of the RTI Act, 2005 it is evident that there is no enabling provision in the principal Act i.e., RTI Act, 2005 for Rajasthan High Court to collect fees while admitting first appeals. Unlike Section 6(1) which clearly provides for collection of an application fee there is no mention of any fee payment in Section 19 of the principal Act which relates to filing of first and second appeals. Similarly, Section 28(2) which empowers the Rajasthan High Court to notify Rules for implementing the principal Act also makes no reference to collection of fees at the first appeal stage. Clearly, Parliament's intention was to make provisions for fee payment only at the application and information disclosure stage and not at the appeals stage. Given this scheme of fee payment in the principal Act, the general power of rule-making given in Section 28(1) of the principal Act should not be invoked to impose a new kind of fee on the applicant which is not provided in the RTI Act, 2005.

Furthermore, the Hon'ble Supreme Court in State of UP & Ors vs Renuagar Power Co and Ors 1988 AIR 1737 decided on 28.07.1988 held as follows:

"If the exercise of power is in the nature of subordinate legislation, the exercise must conform to the provisions of the statute. All the conditions of the statute must be fulfilled."

A perusal of Section 19 of the RTI Act, 2005 indicates that there is no provision for depositing fee for filing First Appeals before the concerned Public Authority. Hence, Rule 7 (1) (b) of the Rajasthan Right to Information (High Court and Subordinate Courts) Rules, 2006 as amended upto 24.07.2020 clearly appears to be in contravention of the parent statute. Therefore, in exercise of its powers under Section 25 (5) of the RTI Act, 2005, the Commission recommends to the Registrar, Rajasthan High Court to put up the instant decision before the competent authority to take a considered view regarding amending the Rajasthan Right to Information (High Court and Subordinate Courts) Rules, 2006 in view of the abovementioned observations.

With the above observation, the instant Second Appeal stands disposed off accordingly.

Sd/-

Y. K. Sinha (वाई. के. सिन्हा)

Chief Information Commissioner (मुख्य सूचना आयुक्त)

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S. K. Chitkara (एस. के. चिटकारा)
Dy. Registrar (उप-पंजीयक)
011-26186535

Copy to:

**The CPIO
Rajasthan High Court
Bhagwan Das Road, C Scheme,
Ashok Nagar, Jaipur,
Rajasthan – 302005**

**The Registrar
Rajasthan High Court
Bhagwan Das Road, C Scheme,
Ashok Nagar, Jaipur,
Rajasthan - 302005**

**Shri Radhe Shyam Jangid
Vill- Badh Bagpura, PO: Thali
The: Chaksu, Jaipur - 303901**

केन्द्रीय सूचना आयोग
Central Information Commission
बाबा गंगनाथ मार्ग, मुनिरका
Baba Gangnath Marg, Munirka
नई दिल्ली, New Delhi – 110067

द्वितीय अपील संख्या / Second Appeal No. **CIC/PASOF/A/2019/124108**

Ms. Hansa Mishra

... अपीलकर्ता / Appellant

VERSUS/बनाम

CPIO

...प्रतिवादीगण / Respondent

Zonal Passport Office, Lucknow

Date of Hearing : 28.09.2021

Date of Decision : 01.10.2021

Chief Information Commissioner : Shri Y. K. Sinha

Relevant facts emerging from appeal:

RTI application filed on : 13.02.2019
PIO replied on : -
First Appeal filed on : 28.03.2019
First Appellate Order on : -
2ndAppeal/complaint received on : 22.05.2019

Information sought and background of the case:

The Appellant filed an RTI application dated 13.02.2019 seeking information on the following 4 points:-

1. प्रार्थिनी द्वारा पंजीकृत मुकदमा संख्या 161/16 के संबंध में वरिष्ठ पुलिस अधीक्षक के कार्यालय से जारी पत्र संख्या वाचक/एस. एस. पी./367/2018/328 दिनांक 10.04.2018 जिसमें की पासपोर्ट संख्या पी-1527965(गोविंद मिश्रा) को निरस्त करने हेतु आदेश किया गया । उस संबंध में आपके कार्यालय द्वारा क्या कार्यवाही की गई । कृपया संबंधित कार्यवाही की विस्तृत जानकारी दे तथा प्रमाणित प्रतिलिपि उपलब्ध कराए ।
2. क्या आपके कार्यालय द्वारा उपरोक्त सन्दर्भ में पासपोर्ट पुनः जारी किया गया?
3. यदि पासपोर्ट कार्यालय द्वारा उपरोक्त संबंध में पुनः पासपोर्ट जारी किया गया तो उसका आधार क्या है? कृपया विस्तृत जानकारी दे तथा संबंधित आदेश की प्रमाणित प्रतिलिपि साक्ष्य उपलब्ध कराए ।
4. पुनः जारी किए गए पासपोर्ट की वैधता तारीख क्या है कृपया जानकारी दे ।

Having not received any reply from the PIO, the Appellant filed a First Appeal dated 28.03.2019 which was also not adjudicated by the First Appellate Authority.

Feeling aggrieved and dissatisfied, the Appellant approached the Commission with the instant Second Appeal.

Facts emerging in Course of Hearing:

In order to ensure social distancing and prevent the spread of the pandemic, COVID-19, hearing through audio conference was scheduled after giving prior notice to both the parties.

The Appellant participated in the hearing through audio conference. She stated that being the legally wedded wife of Shri Govind Mishra she cannot be considered as a third party and that the information was required by her to contest a court case against her husband who has deserted her. She further stated that despite the fact that the passport of her husband had been impounded, he fraudulently applied for a fresh passport which has been issued to him. Thus, the reasons for issuance of fresh passport, period of its validity, etc should be disclosed by the public authority.

The Respondent represented by Shri P. Roychaudhuri, Advocate participated in the hearing through audio conference. He stated that denial of the information sought u/s 8 (1) (j) of the RTI Act is squarely covered by the decision of the Hon'ble High Court of Delhi in Union of India v. R. Jayachandran WP (C) 3406/2012 dated 19.02.2014. Action, if any for providing false information or suppression of information at the time of obtaining the passport is strictly initiated under the Passport Act and that the Appellant can approach the Public Grievance Officer in this regard. However, disclosure of third party personal information is exempted as per Section 8 (1) (j) of the RTI Act, 2005.

Decision

Keeping in view the facts of the case and the submissions made by both the parties, the Commission concurs with the response of the CPIO with regard to non-disclosure of passport details of third parties u/s 8 (1) (j) of the RTI Act, 2005. The decision of the Hon'ble High Court of Delhi in Union of India v. R. Jayachandran WP (C) 3406/2012 dated 19.02.2014 states that passport details, copies of birth certificate and copies of records of educational qualification are personal information, the disclosure of which would cause unwarranted invasion of privacy of individuals unless there was an overbearing public interest in favour of disclosure. However, the present instance is a matter where the wife is seeking

the passport details of her husband. In several recent decisions, the Courts while making a distinction with the judgement of the Hon'ble Supreme Court in *Girish Ramchandra Deshpande vs. Central Information Commission & ors.* SLP(C) No. 27734 of 2012 dated 03/10/2012 have held that the wife/ husband is entitled to obtain the salary details of their spouse. In this context, the decision of the Division Bench of the Hon'ble High Court of M.P. in the matter of *Smt. Sunita Jain vs. Pawan Kumar Jain and others* W.A. No. 168/2015 and the Hon'ble High Court of Bombay (Nagpur Bench) in the matter of *Rajesh Ramachandra Kidile vs. Maharashtra SIC and Ors* in W.P. No. 1766 of 2016 dated 22.10.2018 can be cited. While it is true that the information sought in the present instance relates to passport details and not salary particulars, information on the limited aspect related to whether passport was reissued and the period of validity of the reissued passport as sought in points 2 and 4 of the RTI application can be disclosed considering that the information is sought by the wife in reference to her matrimonial dispute where she is contending that she has been deserted by her husband.

This bench of the Commission in *Reena vs Regional Passport Officer, Jaipur*, CIC/PASOF/A/2019/108227 decided on 05.01.2021 allowed disclosure of information regarding whether her husband's passport was renewed and the period of validity of renewed passport on the ground that the information seeker was aware of the earlier passport number and date of its issue. The relevant observation of the Commission in the said decision is as under:

"Upon careful perusal of the facts of the case, it is noted that Court case of Union of India vs Jayachandran cited by the Respondent deals with information related to passport number, date of issue, subsequent renewals, the name of police station from which verification had been done, nature of documents submitted with the passport application etc. In the instant case, the Appellant-Smt. Reena already possesses the passport number and date and validity thereof, as mentioned in the documents submitted by her. The query number 3 has been addressed by the Respondent, in compliance with the FAA's order.

In the given circumstances, the Commission is of the considered opinion that information as to whether the concerned passport was renewed or not and date of renewal cannot be considered as personal information, nor likely to infringe on the privacy of the individual, particularly because information pertaining to passport number and period of validity of the same are already available with the Appellant. The Respondent shall furnish a reply to query no. 2 only to the extent as to whether the passport mentioned in the RTI application was renewed or not and the date of renewal."

In the present instance as well, the Appellant already possesses the earlier passport number issued to her husband. Thus, the Commission directs the CPIO,

Zonal Passport Office, Lucknow to disclose information on points 2 and 4 of the RTI application by 15.11.2021 under intimation to the Commission.

No other information is allowed for disclosure in the instant Second Appeal which is disposed off accordingly.

Y. K. Sinha (वाई. के. सिन्हा)
Chief Information Commissioner (मुख्य सूचना आयुक्त)

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S. K. Chitkara (एस. के. चिटकारा)
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शिकायत संख्या / Complaint No.

CIC/BCOIN/C/2019/128724
CIC/BCOIN/C/2019/128885

Shri Sumatilal Kataria

... शिकायतकर्ता /Complainant

VERSUS/बनाम

Public Information Officer
State Bar Council
Madhya Pradesh High Court Campus,
Jabalpur - 482001

...प्रतिवादीगण /Respondent

Date of Hearing : 17.06.2021

Date of Decision : 21.06.2021

Chief Information Commissioner : Shri Y. K. Sinha

Relevant facts emerging from appeal:

Since both the parties are same, the above mentioned cases are clubbed together for hearing and disposal.

Case No.	RTI Filed on	CPIO reply	First appeal	FAO	2 nd Appeal dated
128724	19.12.2018	30.04.2019	-	-	18.06.2019
128885	19.12.2018	30.04.2019			18.06.2019

Information sought and background of the case:

(1) CIC/BCOIN/C/2019/128724

The Complainant filed an RTI application dated 19.12.2018 seeking information on the following 06 points:-

1. Number of complaints received against the practicing lawyers since the year 2017;
2. Name of advocates who violated the provisions of the Advocate Act, 1961,

3. Details of complaints/disciplinary cases against the advocates sent to Indore Chapter of the Council;
4. Copy of inward DAK register showing intake of the complaints received against advocates since 2017.
5. Copy of orders on action taken against the advocates published u/s 4(1)(b) of the RTI Act.

The CPIO vide letter dated 30.04.2019 informed the Complainant that he can be given information about an individual case which is related to him as it was not possible to give all the information.

Feeling aggrieved and dissatisfied, the Complainant approached the Commission with the instant complaint.

(2) CIC/BCOIN/C/2019/128885

The Complainant filed an RTI application dated 19.12.2018 seeking information on the following points:

1. Copy of Inward Dak Register showing receipt of his complaint dated 5.9.2017 and also of reminder letter dated 13.06.2018 as also of copy of complaint sent on 14.6.2018.
2. Copy of notice sent by the Bar Council to Mr. Vinay Zelawat seeking his explanation with regard to the complaint dated 5.9. 2017 by the complainant.
3. Copy of reply to notice from the Bar Council received from Mr. Vinay Zelawat
4. Copy of proceedings recorded on disposal of his complaint dated 5.9.2017
5. Copy of letter sent by the Bar Council to the complainant on disposal of his complaint dated 5.9.2017.
6. Copy of letter forwarding his complaint for regular hearing at Indore Chapter of the Bar Council.

The CPIO vide letter dated 30.04.2019 informed the Complainant that he can be given information about an individual case which is related to him as it was not possible to give all the information. A letter dated 28.05.2019 sent by the Officiating Secretary, State Bar Council, MP was also enclosed with the Complaint where it was mentioned that his Complaint was dismissed as allegation of professional misconduct was not justified.

Feeling aggrieved and dissatisfied, the complainant approached the Commission with the instant complaint.

Facts emerging in Course of Hearing:

A written submission has been received from the Complainant in Complaint No CIC/BCOIN/C/2019/128724 vide email dated 14.06.2021 wherein it was stated that instead of supplying him the information within 30 days, the Executive

Secretary of SBC returned the IPO towards the fees and requested for a DD after 3 months on 16.03.2019. He then complied with the PIO's request. Again on 30.04.2019, the SBC informed him that only information relating to his case can be provided which is still awaited. Stating that the information was vital with regard to his complaint dated 05.09.2017, the Complainant prayed for imposition of penalty against the erring official and compensation to him for deliberate withholding/ delay in information and detriment caused as the advocate regarding whom he had filed the complaint could not be taken to trial.

Another written submission has been received from the Complainant in Complaint No CIC/BCOIN/C/2019/128885 vide email dated 14.06.2021 wherein it was stated that instead of supplying him the information within 30 days, the Executive Secretary of SBC returned the IPO towards the fees and requested for DD after 3 months on 16.03.2019. He then complied with the PIO's request. Again on 30.04.2019, the SBC informed him that only information relating to his case can be provided which is still awaited. He stated that the information sought was about general functioning of the SBC and prayed for imposition of penalty against the erring official and compensation to him for deliberate withholding/ delay in information.

A written submission is also received from the Secretary, State Bar Council, MP dated 04.06.2021 in Complaint No CIC/BCOIN/C/2019/128885 wherein it was stated that State Bar Councils are statutory bodies established under Section 3 of the Advocates Act, 1961 that were set up as different councils for the states and UT's of India. They are regulatory bodies making rules for the legal profession and education in their respective states and also act as representatives of advocates of the states thereby acting in their interests. Section 6 of the Advocates Act also lays down the functions to be performed by the State Councils in their respective states. They work in coordination and under the supervision of Bar Council of India which is a national body established under Section 4 of the Advocates Act. Referring to Section 2 (k) of the RTI Act, it was stated that the State Bar Council is governed by the State Information Commission of MP and that the "appropriate government" with respect to the State Bar Council of MP is the Government of MP, since with respect to State Bar Council MP, all funds are provided by the Government of MP under different schemes like Mukhyamantri Adhivakta Kalyan Yojana, 2012; Adhivakta Kalyan Yojna, 1989; Scheme of Library (Development) of Bar Association in MP, etc. Thus, the Complaint was wrongly filed before the Central Information Commission. Moreover, a reference was made to the reply dated 28.05.2019 sent to the Complainant wherein the outcome of his complaint was intimated. It was also stated that the Complainant had a right to file an appeal under Section 37 of the Advocates Act, 1961 before the Bar Council of India.

In order to ensure social distancing and prevent the spread of the pandemic, COVID-19, hearing through audio conference was scheduled after giving prior notice to both the parties.

The Complainant participated in the hearing through audio conference. He referred to his written submissions and stated that there was a deliberate delay in providing the information as the IPO enclosed with his RTI application was deliberately returned after almost 3 months from the date of receipt of filing the RTI application. Moreover after depositing the fee in the mode suggested by the PIO, no information is provided, till date. With regard to the contention of the Respondent that the State Information Commission, Madhya Pradesh was the correct forum to file the complaint in the present matter, the Complainant referred to the decision of the Commission in CIC/SA/A/2015/001262, 001263, 001264 and 001265 dated 17.03.2016 wherein similar information regarding the number of complaints received against advocates, number of complaints disposed off, number of advocates who had violated the provisions of the Advocates Act, etc was sought. In the said matter, the CIC directed the CPIO, Bar Council of Punjab and Haryana to furnish the information sought and suo motu disclose the same as per Section 4 (1) (b) of the RTI Act. The Bar Associations of Rewari, Faridabad, Panchkula and Gurgaon were also directed to provide a copy of complaints, if any, forwarded to the State Bar Council.

The Respondent represented by Shri Prashant Dubey, Secretary, State Bar Council, Madhya Pradesh participated in the hearing through audio conference. At the outset he denied the receipt of notice of hearing from the Commission in Complaint No CIC/BCOIN/C/2019/128724. With regard to Complaint No CIC/BCOIN/C/2019/128885 he argued that the Complainant had incorrectly filed the instant complaint before the Central Information Commission as the State Bar Council, Madhya Pradesh was amenable to the jurisdiction of the State Information Commission, Madhya Pradesh. He re-iterated the written submissions in Complaint No CIC/BCOIN/C/2019/128885 for substantiating the contention regarding the jurisdictional issue. He also stated that the outcome of the Complaint dated 05.07.2017 which is the subject matter of the information sought in CIC/BCOIN/C/2019/128885 was already informed to the information seeker vide letter dated 28.05.2019. However, the Complainant did not exhaust the appeal mechanism under the Advocates Act, 1961 if he was aggrieved with the decision.

Decision

Keeping in view the facts of the case and the submissions made by both the parties, the Commission at the outset disagrees with the plea taken by the Respondent on the jurisdictional issue regarding the Complaint u/s 18 being incorrectly filed before this Commission. The Respondent has relied on the provisions of the Advocates Act, 1961 and the RTI Act, 2005 in doing so. The Commission however finds the interpretation of the Respondent incorrect for the following reasons: The State Bar Council of Madhya Pradesh is established in accordance with the provisions of the Advocates Act, 1961 which is a central legislation. Section 3 (a) of the Advocates Act, 1961 states as under:

“State Bar Councils.—(1) There shall be a Bar Council— (a) for each of States of Andhra Pradesh, Bihar, Gujarat, 1[Jammu and Kashmir],

2[Jharkhand] 3[**Madhya Pradesh**, Chhattisgarh], 4[***], 5[***], 6[Karnataka], Orissa, Rajasthan 7[Uttar Pradesh and Uttaranchal], to be known as the Bar Council of that State;"

The constitution of state bar council, terms of its members, its powers and functions, etc have been prescribed under the Advocates Act, 1961. Nowhere in the provisions of the Advocates Act, 1961 the role of State Governments is prescribed in the constitution/ establishment of State Bar Councils, manner of their functioning, appointment/ removal of members, etc. Rather, the power of general supervision and control over State Bar Councils vests with the Bar Council of India as per Section 48B of the Advocates Act, 1961. A reference can also be made to Section 49A of the Advocates Act, 1961 as per which the Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act including rules with respect to any matter for which the Bar Council of India or a State Bar Council has power to make rules.

The Commission also does not find merit on the reliance placed by the Respondent on Section 2 (a) which defines the term "appropriate government". Section 2 (a) clearly states that for a public authority that is established, constituted, owned, controlled or substantially financed by the Central Government or Union Territory administration, the "appropriate government" would be the Central Government. In the present instance, the State Bar Council, Madhya Pradesh is a creation of the Advocates Act, 1961 enacted by the Central Government. Moreover, the Second Appeals/ Complaints filed against the decisions of CPIO/ FAA of High Courts of each State and the Bar Council of India are also heard and decided by this Commission. Hence, there appears no reason why the instant Complaint filed against the PIO, State Bar Council, Madhya Pradesh cannot be decided by this bench.

With regard to the substantive issues raised by the Complainant, the Commission observes that prima facie there has been an inordinate delay in responding to the RTI application. Furthermore, there appears no cogent reason why instead of providing the information, the application was rejected on a technical plea and Complainant was requested vide letter dated 16.03.2019 to deposit fee by way of Demand Draft in the name of the Secretary, State Bar Council of Madhya Pradesh. The Commission observes that instead of adopting a dilatory approach, the CPIO should have focused on the RTI queries and provided point wise response.

The OM issued by the DoP&T in File No. 10/9/2008-IR dated 05.12.2008 specifically addresses the issues in the instant matter. The relevant extract of the OM is as under:

"Refusal to accept an application on the ground that the demand draft/ banker's cheque/ IPO submitted by the applicant has been drawn in the name of the Accounts Officer may amount to refusal to accept the application. It may result into imposition of penalty by the Central Information Commission on the concerned Central Public Information Officer

under Section 20 of the Act. All the public authorities should therefore ensure that payment of fee by demand draft/ banker's cheque/ IPO made payable to the Accounts Officer of the public authority is not denied."

Furthermore, Hon'ble Delhi High Court in the matter of Union of India vs. Vansh Sharad Gupta in W.P(C) 4761/2016 held that the technical approach undertaken by the Public Authorities for not filing the RTI application with the prescribed RTI fees should not be allowed to come in the way of substantial justice. The relevant observations made in the judgment are as under:

"3. In the present writ petition, it has been averred that the respondent never filed an RTI application in the prescribed form and the requisite fee. It is also stated that the respondent did not file the first appeal and hence the second appeal could not have been entertained by the CIC.

4. This Court is not an appellate Court of the CIC. Technical and procedural arguments cannot be allowed to come in the way of substantial justice. The directions given by the CIC in the impugned order are not only fair and reasonable but also promote the concept of rule of law. It is unfortunate that the petitioner did not take the initiative on its own to upload the latest amended bare Acts"

With regard to the queries raised in the RTI application under consideration in Complaint No CIC/BCOIN/C/2019/128885, the PIO has provided the action taken on the information seeker's complaint dated 05.09.2017. However, the remaining points are unaddressed. Similarly, no information is provided with regard to the queries under consideration in Complaint No CIC/BCOIN/C/2019/128784. The Commission has also confirmed that the notice issued for Complaint No CIC/BCOIN/C/2019/128784 had been delivered on 09.06.2021. Thus, the Registry of this bench is directed to issue a Show Cause notice to Shri Prashant Dubey, Secretary, State Bar Council, Madhya Pradesh to explain as to why penal action should not be initiated against him as per the RTI Act, 2005. The PIO must submit his explanation by 15.08.2021.

With the above direction, the instant Complaints stand disposed off accordingly.

Y. K. Sinha (वाई. के. सिन्हा)

Chief Information Commissioner (मुख्य सूचना आयुक्त)

Authenticated true copy

(अभिप्रमाणित सत्यापित प्रति)

S. K. Chitkara (एस. के. चिटकारा)

Dy. Registrar (उप-पंजीयक)

011-26186535

केन्द्रीय सूचना आयोग
Central Information Commission
बाबा गंगनाथ मार्ग, मुनिरका
Baba Gangnath Marg, Munirka
नई दिल्ली, New Delhi – 110067

द्वितीय अपील संख्या / Second Appeal No. **CIC/DEPOL/A/2019/132210**

Shri Vikram Singh Meena

... अपीलकर्ता /Appellant

VERSUS/बनाम

PIO

...प्रतिवादीगण /Respondent

Delhi Police

Date of Hearing : 22.06.2021

Date of Decision : 23.06.2021

Chief Information Commissioner : Shri Y. K. Sinha

Relevant facts emerging from appeal:

RTI application filed on : 06.03.2019
PIO replied on : 05.04.2019
First Appeal filed on : 29.04.2019
First Appellate Order on : 30.05.2019
2ndAppeal/complaint received on : 05.07.2019

Information sought and background of the case:

The Appellant filed an RTI application dated 06.03.2019 seeking copy of FIR no 477/2018 registered against him at PS Vikaspur, New Delhi.

The PIO /ADCP, West District vide letter dated 05.04.2019 stated that case FIR no. 477/18 u/s 354D/506/509 IPC, PS Vikas Puri is registered against the Appellant and now the case is pending investigation. Hence copy of FIR could not be provided under Section 8(1)(h) & (g) of the RTI Act.

Dissatisfied with the response received from the CPIO, the Appellant filed a First Appeal dated 29.04.2019. The FAA/DCP, West Distt. vide order dated 30.05.2019 upheld the reply of the CPIO.

Feeling aggrieved and dissatisfied, the Appellant approached the Commission with the instant Second Appeal.

Facts emerging in Course of Hearing:

In order to ensure social distancing and prevent the spread of the pandemic, COVID-19, hearing through audio conference was scheduled after giving prior notice to both the parties.

The Appellant did not respond to the telephone calls made to his telephone number for the audio hearing. A written submission has been received from the Appellant vide letter dated 11.06.2021 wherein he inter alia stated that the copy of the FIR was not uploaded on the CCTNS website in violation of the direction of the Hon'ble Supreme Court in Youth Bar Association of India vs Union of India WP (CRL) No 68 of 2016. He further referred to the decision of the Hon'ble High Court of Delhi in Court on its own motion through Mr Ajay Chaudhary vs State and the decision of Jiju Lukose vs State of Kerala to argue to FIR is a "public document" and has to be made available on an RTI application. While stating that no opportunity of hearing was provided to him by the FAA, the Appellant stated that exemption u/s 8 (1) (g) and (h) were incorrectly claimed by the PIO without any reasonable justification.

The Respondent represented by Shri Surender Kumar, ACP, Tilak Nagar participated in the hearing through audio conference. He stated that since it was a sensitive matter relating to stalking, criminal intimidation and outraging the modesty of a women registered under u/s 354D/506/509 of the IPC, the copy of the FIR was not provided by the PIO since the matter was under investigation at that point of time. However, subsequent to filing of the case before the Mahila Court, Dwarka on 17.07.2019, the copy of FIR, Section 161 statements and chargesheet has been provided to the Appellant. The next date of hearing in the matter is scheduled for 01.10.2021.

Decision

Keeping in view the facts of the case and the submissions made by both the parties, the Commission observes that appropriate response as per the provisions of the RTI Act, 2005 has been provided by the Respondent. The Hon'ble Supreme Court in its decision in Youth Bar Association of India vs Union of India and Ors WP (Crl) 68/2016 decided on 07.09.2016 has provided clear guidelines in the context of uploading of each FIR registered in a Police Station on its website. The relevant extracts of the decision are as under:

"d. The copies of the FIRs, unless the offence is sensitive in nature, like sexual offences, offences pertaining to insurgency, terrorism and of that category, offences under POCSO Act and such other offences, should be uploaded on the police website, and if there is no such website, on the official website of the State Government, within twenty-four hours of the registration of the First Information Report so that the accused or any person connected with the same can download the FIR and file appropriate application before the Court as per law for redressal of his grievances. It may be clarified here that in case there is connectivity problems due to geographical location or there is some other unavoidable difficulty, the time can be extended up to forty-eight hours. The said 48 hours can be extended maximum up to 72 hours and it is only relatable to connectivity problems due to geographical location.

e. The decision not to upload the copy of the FIR on the website shall not be taken by an officer below the rank of Deputy Superintendent of Police or any person holding equivalent post. In case, the States where District Magistrate

has a role, he may also assume the said authority. A decision taken by the concerned police officer or the District Magistrate shall be duly communicated to the concerned jurisdictional Magistrate.

f. The word 'sensitive' apart from the other aspects which may be thought of being sensitive by the competent authority as stated hereinbefore would also include concept of privacy regard being had to the nature of the FIR. The examples given with regard to the sensitive cases are absolutely illustrative and are not exhaustive.

g. If an FIR is not uploaded, needless to say, it shall not ensure per se a ground to obtain the benefit under Section 438 of the Cr.P.C.

h. In case a copy of the FIR is not provided on the ground of sensitive nature of the case, a person grieved by the said action, after disclosing his identity, can submit a representation to the Superintendent of Police or any person holding the equivalent post in the State. The Superintendent of Police shall constitute a committee of three officers which shall deal with the said grievance. As far as the Metropolitan cities are concerned, where Commissioner is there, if a representation is submitted to the Commissioner of Police who shall constitute a committee of three officers. The committee so constituted shall deal with the grievance within three days from the date of receipt of the representation and communicate it to the grieved person.

i. The competent authority referred to hereinabove shall constitute the committee, as directed herein-above, within eight weeks from today.

j. In cases wherein decisions have been taken not to give copies of the FIR regard being had to the sensitive nature of the case, it will be open to the accused/his authorized representative/parokar to file an application for grant of certified copy before the Court to which the FIR has been sent and the same shall be provided in quite promptitude by the concerned Court not beyond three days of the submission of the application."

As per the above mentioned decision of the Hon'ble Supreme Court, details of FIRs registered have to be disclosed online within 24 hours of its registration. However, disclosure of sensitive FIRs is only permissible if a representation is filed before the Superintendent of Police in Rural Areas and Commissioner of Police for Metropolitan Areas who shall constitute a Committee of 3 officers to decide the grievance within 3 days from the receipt of the representation. In the present instance, the Respondent claimed that the information was denied to the Appellant since the FIR was sensitive in nature for the reasons mentioned in their submissions stated above. Moreover, it is the submission of the Respondent that after filing of the charge sheet copy of statements and FIR has been provided to the accused after the filing of the charge sheet. The Commission finds that an appropriate response has been provided to the Appellant and no further intervention is required in the matter.

With the above observation, the instant Second Appeal stands disposed off accordingly.

Sd/-

Y. K. Sinha (वाई. के. सिन्हा)

Chief Information Commissioner (मुख्य सूचना आयुक्त)

Authenticated true copy

(अभिप्रमाणित सत्यापित प्रति)

S. K. Chitkara (एस. के. चिटकारा)

Dy. Registrar (उप-पंजीयक)

011-26186535

Copy to:

The PIO

Addl. DCP, Delhi Police,

West District P.S Rajouri Gardern

New Delhi - 110027

Shri Vikram Singh Meena

RZ- E- 65, Dabri Extension,

New Delhi - 110045

केन्द्रीय सूचना आयोग
Central Information Commission
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नई दिल्ली, New Delhi – 110067

द्वितीय अपील संख्या / Second Appeal No. **CIC/PMOIN/A/2019/600261**

Shri Prasenjit Bose

... अपीलकर्ता / Appellant

VERSUS/बनाम

1. PIO, Under Secretary.Prime Minister's Office,
South Block, New Delhi-110011
Through: Shri Praveen Kumar

...प्रतिवादीगण / Respondents

2. PIO, Nodal officer, RTI D/o Financial Services,
North Block, New Delhi-110001
Through: Shri Jnanatosh Roy – CPIO/BOA-I

Date of Hearing : 19.04.2021, 20.09.2021
Date of Interim Decision : 22.04.2021
Date of Final Decision : 28.09.2021

Chief Information Commissioner : Shri Y. K. Sinha

Relevant facts emerging from appeal:

RTI application filed on : 12.09.2018
PIO replied on : 10.10.2018
First Appeal filed on : 25.10.2018
First Appellate Order on : 22.11.2018
Second Appeal/complaint received on : 04.01.2019

Information sought and background of the case:

The Appellant filed an RTI application dated 12.09.2018 seeking information on the following 5 points:

1. *Whether the PMO received any letter from Dr. Raghuram Rajan when he was RBI Governor, containing a list of high profile cases of bank frauds urging coordinated action to bring the fraudsters to book.*
2. *If so, what was the date of receipt of that letter and what action was taken on the basis of the list?*
3. *Can a copy of the letter be shared with the applicant?*
4. *The bankwise details of all loan fraud cases over the past ten years, including the year of sanction of the loans and the year of detection.*
5. *Has the PMO issued any directive to concerned agencies to initiate legal action against the perpetrators of loan frauds in the past 4 years?*

The PIO, PMO vide letter dated 10.10.2018 furnished a reply on points no. 1 to 3 and 5 to the Appellant as under:

Sl No.	Information sought	Response
1.	Whether the PMO received any letter from Dr. Raghuram Rajan when he was RBI Governor, containing a list of high profile cases of bank frauds urging coordinated action to bring the fraudsters to book.	The information being sought by the applicant is in the form of query/ seeking opinion, clarification which does not constitute information as defined in Section 2(f) of RTI Act, 2005.
2.	If so, what was the date of receipt of that letter and what action was taken on the basis of the list?	Not applicable in view of inputs at point 1 above.
3.	Can a copy of the letter be shared with the applicant.	
5.	Has the PMO issued any directive to concerned agencies to initiate legal action against the perpetrators of loan frauds in the past 4 years.	The information sought is in the form of roving/ vague enquiry and does not come under the definition of "information" as per Section 2(f) of the RTI Act, 2005.

The RTI application for point No. 4 was transferred to D/o Financial Services.

Dissatisfied with the reply received from the PIO, the Appellant filed a First Appeal dated 25.10.2018. The FAA vide order dated 22.11.2018 directed the PIO, PMO to seek fresh inputs on points no. 1 to 3 and 5 and provide information to the Appellant within 15 days.

In compliance with the FAA's order, the PIO/PMO vide letter dated 11.12.2018 furnished a revised reply to the Appellant.

With his Second Appeal, the Appellant enclosed a copy of the reply sent by the PIO, D/o Financial Services, vide letter dated 12.12.2018 transferring point no. 4 of this RTI Application to all PSBs and RBI.

The Appellant also enclosed a reply sent by the PIO, SBI vide letter dated 14.12.2018 furnishing reply on point no. 4 to the Appellant as under:

"The information sought is third party personal information held by the bank in fiduciary capacity and exempted from disclosure under section 8(1)(e) & 8(1)(j) of the RTI Act, 2005."

Aggrieved and dissatisfied, the Appellant approached the Commission with the instant Second Appeal.

Facts emerging in Course of Hearing:

A written submission has been received from the Appellant vide letter dated nil and the same has been taken on record.

In order to ensure social distancing and prevent the spread of the pandemic, COVID-19, hearings through video conference were scheduled after giving prior notice to both the parties. Later, the hearings were held in audio conference mode, after informing the parties, in view of the rapid increase in Covid-19 infections.

The Appellant participated in the hearing through audio conference. He stated that the issues raised by him were in the larger public interest as it related to disclosure of high profile cases of bank frauds mentioned by Dr. Raghuram Rajan, former Governor, RBI in his letter to the PMO. He further stated that in his application he did not seek the detailed documents pertaining to the matter but only wanted information regarding the action taken by the PMO against perpetrators of loan frauds.

The Respondents, represented by Shri Parveen Kumar, US, PMO and Shri Gyantosh Roy, D/o Financial Services, participated in the hearing through audio conference. Shri Kumar stated that the matter was re-examined after the directions of the FAA and a revised point wise response was provided vide letter dated 11.12.2018. He stated that since the matter was currently pending investigation before various law enforcement agencies, hence the details of action taken on the representation of Dr. Raghuram Rajan, Ex-Governor, RBI dated 04.02.2015 cannot be provided at this stage as per Section 8 (1) (h) of the RTI Act, 2005. He also stated that the query raised in point no 5 was roving/ unspecific in nature as vague information pertaining to directions to "concerned agencies" for a period of 4 years was sought. Hence, an appropriate revised response was provided to the Appellant. Shri Gyantosh Roy stated that the RTI application was transferred to all Public Sector Banks (PSBs) and RBI for necessary action.

Interim Decision:

Having heard both the parties and on perusal of the available records and in the light of the fact that the matter requires detailed deliberation and examination which is difficult in an audio hearing, the Commission is of the view that the instant matter requires another hearing through video/ physical mode. The Commission thus directs the registry of this bench to list the instant matter as soon as the physical/ video conference hearings through NIC are resumed within the CIC premises.

Facts emerging in Course of Hearing: 20.09.2021

Pursuant to the above mentioned interim hearing, a written submission has been received from CPIO, Dept. of Financial Services vide letter dated 10.09.2021, relevant extracts whereof are as under:

Point no.4: The bank wise details of all loan fraud cases over the past ten years, including the year of sanction of the loans and the year of detection.

(ii) In this connection, it is submitted that the subject matter of the request i.e. point no.4 of the RTI application, Reserve Bank of India (RBI) and all Public Sector Banks (PSBs) is the appropriate public authority for providing information. The RTI application was transferred by the then CPIO to RBI and all PSBs under section 6(3) of the Right to Information Act, 2005 vide letter dated 12.12.2018. (Annexure-II).

The letter dated 11.12.2018 issued by the PIO, PMO in compliance with FAA's order dated 22.11.2018 is found on record which discloses the following information:

Sl No.	Information sought	Response
1.	Whether the PMO received any letter from Dr. Raghuram Rajan when he was RBI Governor, containing a list of high profile cases of bank frauds urging coordinated action to bring the fraudsters to book.	A letter dated 04.02.2015 of Shri Raghuram Rajan, the then Governor, RBI addressed to the Prime Minister had been received in this office. However, the copy of the said letter and action taken thereon cannot be disclosed as prescribed under Section 45E of the RBI Act, 1934 and the banking laws, which provide for obligation of a bank or financial institution to maintain secrecy about the affairs of its constituent. Further, investigation are ongoing in various law enforcement agencies on certain aspects of the aforesaid letter. Therefore, providing such information would impede the whole process of investigation or apprehension or prosecution of the offenders and is exempt from disclosure u/s 8(1)(h) of the RTI Act, 2005.
2.	If so, what was the date of receipt of that letter and what action was taken on the basis of the list?	
3.	Can a copy of the letter be shared with the applicant.	
5.	Has the PMO issued any directive to concerned agencies to initiate legal action against the perpetrators of loan frauds in the past 4 years.	The information sought by the applicant is in the form of roving enquiry, rather than seeking specific inputs. Particulars of information sought have not been specified. Hence, given the provision of Section 6 (1) read with Section 2(f) of the RTI Act, the details requested by the applicant do not come under the definition of information as per Section 2(f) of the RTI Act, 2005.

In order to ensure social distancing and prevent the spread of the pandemic, COVID-19, hearings through video conference were scheduled after giving prior notice to both the parties. All relevant parties participated in the hearing held through video conference and reiterated their respective contentions as have already been discussed above. The Appellant emphasised that though he had sought information about bank fraud cases, he had been denied access to such information invoking Section 45E of the RBI Act, 1934 which relates to non-disclosure of "credit information", especially the name of any banking company or its borrowers. He further objected to the fact that information about action taken in this regard had been wrongly declined to him invoking Section 8(1)(h) of the RTI Act.

Decision:

After careful perusal of the facts presented before this Commission, it is noted that the PIO, PMO had vide reply dated 11.12.2018 disclosed specific and satisfactory information in response to the queries raised by the Appellant, from available records. The main query of the Appellant which remains to be answered is query no. 4 about bank wise details of loan fraud cases, year of sanction of loan and year of detection.

It is pertinent to note that the issue in question has been dealt with by the Apex Court and the chronology of events in this regard is as follows:

1. The Supreme Court vide decision dated 16.12.2015 in the case of RBI vs. Jayantilal Mistry [2016 (3) SCC 525] and ten more connected cases, had upheld the decision of the CIC in 11 cases and dismissed the plea of the Banks deciding the issue that "*all the information sought for under the Right to Information Act, 2005 cannot be denied by the Reserve Bank of India and other Banks to the public at large on the ground of economic interest, commercial confidence, fiduciary relationship with other Bank on the one hand and the public interest on the other.*"
2. By a subsequent decision dated 26.04.2019, in the case of Girish Mittal vs. Parvati Sundaram [2019 (20) SCC 747], the SC held that RBI had committed contempt by withholding disclosure of information which had been directed to be disclosed referring to its earlier decision in *RBI vs Jayantilal Mistry*.
3. Subsequently, the banks had approached the Supreme Court praying for recalling of the decision in the *Jayantilal* case. The applications were rejected by the Supreme Court vide order dated 28.04.2021.

In the light of the above discussion, it is clear that the RBI and concerned Public Sector Banks are the actual custodian of information, which has been sought by the Appellant. The Department of Financial Services having received the RTI application on 12.11.2018, had thus correctly transferred the RTI application to the relevant custodians of information vide letter dated 12.12.2018, invoking Section 6(3) of the RTI Act. A public authority which is not the custodian of the information cannot be held liable for furnishing the same, under the RTI Act.

Before concluding the matter, the Commission wishes to point out a relevant portion of the landmark decision of the Hon'ble Supreme Court in the case of

Central Board Of Secondary Education & Anr. Vs. Aditya Bandopadhyay & Ors. dated 9 August, 2011:

“...35. At this juncture, it is necessary to clear some misconceptions about the RTI Act. The RTI Act provides access to all information that is available and existing. This is clear from a combined reading of section 3 and the definitions of ‘information’ and ‘right to information’ under clauses(f) and (j) of section 2 of the Act. If a public authority has any information in the form of data or analysed data, or abstracts, or statistics, an applicant may access such information, subject to the exemptions in section 8 of the Act. But where the information sought is not a part of the record of a public authority, and where such information is not required to be maintained under any law or the rules or regulations of the public authority, the Act does not cast an obligation upon the public authority, to collect or collate such non- available information and then furnish it to an applicant. A public authority is also not required to furnish information which require drawing of inferences and/or making of assumptions. It is also not required to provide ‘advice’ or ‘opinion’ to an applicant, nor required to obtain and furnish any ‘opinion’ or ‘advice’ to an applicant. The reference to ‘opinion’ or ‘advice’ in the definition of ‘information’ in section 2(f) of the Act, only refers to such material available in the records of the public authority. Many public authorities have, as a public relation exercise, provide advice, guidance and opinion to the citizens. But that is purely voluntary and should not be confused with any obligation under the RTI Act...”

Emphasis supplied

In view of the foregoing, the Commission finds no legal infirmity under the RTI Act, in the replies furnished by the Respondents in question. Information as available on record has been furnished and action as mandated under the RTI Act has been taken by the Respondents. Hence, no further direction is deemed necessary in the case at hand.

The appeal is disposed off accordingly.

Sd/-

Y. K. Sinha (वाई. के. सिन्हा)

Chief Information Commissioner (मुख्य सूचना आयुक्त)

Authenticated true copy
(अभिप्रमाणित सत्यापित प्रति)

S. K. Chitkara (एस. के. चिटकारा)
Dy. Registrar (उप-पंजीयक)
011-26186535

Copy to:

Shri Prasenjit Bose
A 9/4, Kalindi Housing Estate,
North 24 Parganas,
Kolkata - 700089

केन्द्रीय सूचना आयोग
Central Information Commission
बाबागंगनाथमार्ग, मुनिरका
Baba Gangnath Marg, Munirka
नई दिल्ली, New Delhi – 110067

द्वितीय अपील संख्या / Second Appeal Nos. **CIC/LTGSE/A/2019/115616**
CIC/LTGSE/A/2019/115620
CIC/LTGSE/A/2019/115636
CIC/LTGSE/A/2019/115639
CIC/LTGSE/A/2019/115640
CIC/LTGSE/A/2019/115643
CIC/LTGSE/A/2019/115644
CIC/LTGSE/A/2019/115645
CIC/LTGSE/A/2019/115646
CIC/LTGSE/A/2019/115648
CIC/LTGSE/A/2019/115649
CIC/LTGSE/A/2019/115651
CIC/LTGSE/A/2019/115652
CIC/LTGSE/A/2019/115654
CIC/LTGSE/A/2019/115655
CIC/LTGSE/A/2019/115656
CIC/LTGSE/A/2019/115661
CIC/LTGSE/A/2019/115662
CIC/LTGSE/A/2019/115663
CIC/LTGSE/A/2019/108727
CIC/LTGSE/A/2019/108726
CIC/LTGSE/A/2019/108725
CIC/LTGSE/A/2019/108724
CIC/LTGSE/A/2019/108722
CIC/LTGSE/A/2019/108721
CIC/LTGSE/A/2019/108720
CIC/LTGSE/A/2019/108717
CIC/LTGSE/A/2019/108716
CIC/LTGSE/A/2019/108715
CIC/LTGSE/A/2019/108728
CIC/LTGSE/A/2019/108729
CIC/LTGSE/A/2019/108730
CIC/LTGSE/A/2019/108732
CIC/LTGSE/A/2019/108733
CIC/LTGSE/A/2019/108734
CIC/LTGSE/A/2019/108803
CIC/LTGSE/A/2019/108837
CIC/LTGSE/A/2019/108842
CIC/LTGSE/A/2019/108843
CIC/LTGSE/A/2019/108844

CIC/LTGSE/A/2019/109024
 CIC/LTGSE/A/2019/109026
 CIC/LTGSE/A/2019/115621
 CIC/LTGSE/A/2019/115622
 CIC/LTGSE/A/2019/108734

Shri Dinesh

... अपीलकर्ता /Appellant

VERSUS/ बनाम

PIO/Lt. Governor's Office,
 Raj Niwas Marg, Delhi
 Through: Sh. J P Kothari – PIO
 and Sh. Subhash Chand Agrawal

...प्रतिवादीगण /Respondents

Date of Decision : 05.06.2020

Information Commissioner : Shri Y. K. Sinha

Since both the parties are same, the above mentioned cases are clubbed together for hearing and disposal.

Case No.	RTI Filed on	CPIO reply	First appeal	FAO
115616	01.10.2018	Nil	21.12.2018	Nil
115620	01.10.2018	Nil	21.12.2018	Nil
115636	17.09.2018	Nil	10.12.2018	Nil
115639	19.09.2018	Nil	10.12.2018	Nil
115640	19.09.2018	Nil	10.12.2018	Nil
115643	19.09.2018	Nil	10.12.2018	Nil
115644	19.09.2018	Nil	10.12.2018	Nil
115645	19.09.2018	Nil	10.12.2018	Nil
115646	20.09.2018	Nil	10.12.2018	Nil
115648	19.09.2018	Nil	10.12.2018	Nil
115649	20.09.2018	Nil	10.12.2018	Nil
115651	20.09.2018	Nil	10.12.2018	Nil
115652	20.09.2018	Nil	10.12.2018	Nil
115654	20.09.2018	Nil	10.12.2018	Nil
115655	20.09.2018	Nil	10.12.2018	Nil
115656	20.09.2018	Nil	10.12.2018	Nil
115661	20.09.2018	Nil	12.12.2018	Nil
115662	19.09.2018	Nil	12.12.2018	Nil
115663	28.09.2018	Nil	12.12.2018	Nil
108727	24.09.2018	Nil	12.12.2018	Nil
108726	17.09.2018	Nil	12.12.2018	Nil
108725	28.09.2018	Nil	07.12.2018	Nil
108724	17.09.2018	Nil	12.12.2018	Nil
108722	20.09.2018	Nil	12.12.2018	Nil
108721	19.09.2018	Nil	12.12.2018	Nil

108720	20.09.2018	Nil	12.12.2018	Nil
108717	17.09.2018	Nil	12.12.2018	Nil
108716	19.09.2018	Nil	12.12.2018	Nil
108715	28.09.2018	Nil	12.12.2018	Nil
108728	19.09.2018	Nil	12.12.2018	Nil
108729	20.09.2018	Nil	12.12.2018	Nil
108730	20.09.2018	Nil	12.12.2018	Nil
108732	28.09.2018	Nil	12.12.2018	Nil
108733	28.09.2018	Nil	12.12.2018	Nil
108734	17.09.2018	Nil	12.12.2018	Nil
108803	31.10.2018	Nil	28.12.2018	Nil
108837	16.10.2018	Nil	28.12.2018	Nil
108842	16.10.2018	Nil	28.12.2018	Nil
108843	16.10.2018	Nil	28.12.2018	Nil
108844	16.10.2018	Nil	28.12.2018	Nil
109024	30.10.2018	Nil	28.12.2018	Nil
109026	20.09.2018	Nil	12.12.2018	Nil
115621	01.10.2018	Nil	21.12.2018	Nil
115622	01.10.2018	Nil	21.12.2018	Nil

ORDER

The aforementioned Second Appeals are taken up today on a reference from the Registry of this Bench. Perusal of the Second Appeals reveals that a batch of 50 Second Appeals have been adjudicated by the Commission on **26.05.2020** vide Second Appeal No. **CIC/LTGSE/A/2019/107361& ors.** whereby the same issue has been adjudicated at length.

Accordingly, the present Appeals are decided on the same lines, since the adjudication of these appeals is barred by the principles of *res judicata*. No further direction is required to be passed in the present Appeals.

With the aforesaid observation, these Second Appeals are disposed off.

Y. K. Sinha(वाई. के. सिन्हा)
Information Commissioner (सूचना आयुक्त)

Authenticated true copy
(अभिप्रमाणितसत्यापितप्रति)

Ram Parkash Grover (राम प्रकाश ग्रोवर)
Dy. Registrar (उप-पंजीयक)/011-26180514

केन्द्रीय सूचना आयोग
Central Information Commission
बाबागंगनाथमार्ग, मुनिरका
Baba Gangnath Marg, Munirka
नई दिल्ली, New Delhi – 110067

द्वितीय अपील संख्या / Second Appeal Nos. **CIC/LTGSE/A/2019/108692**
CIC/LTGSE/A/2019/108694
CIC/LTGSE/A/2019/108693
CIC/LTGSE/A/2019/108695
CIC/LTGSE/A/2019/108696
CIC/LTGSE/A/2019/108698
CIC/LTGSE/A/2019/108699
CIC/LTGSE/A/2019/108700
CIC/LTGSE/A/2019/108704
CIC/LTGSE/A/2019/108705
CIC/LTGSE/A/2019/108706
CIC/LTGSE/A/2019/108709
CIC/LTGSE/A/2019/108712
CIC/LTGSE/A/2019/108710
CIC/LTGSE/A/2019/108713
CIC/LTGSE/A/2019/108711
CIC/LTGSE/A/2019/108714
CIC/LTGSE/A/2019/108804
CIC/LTGSE/A/2019/108805
CIC/LTGSE/A/2019/108806
CIC/LTGSE/A/2019/108807
CIC/LTGSE/A/2019/108829
CIC/LTGSE/A/2019/108830
CIC/LTGSE/A/2019/108832
CIC/LTGSE/A/2019/108831

Shri Dinesh

... अपीलकर्ता / Appellant

VERSUS/ बनाम

PIO/Lt. Governor's Office,
Raj Niwas Marg, Delhi
Through: Sh. J P Kothari – PIO
and Sh. Subhash Chand Agrawal

...प्रतिवादीगण / Respondents

Date of Decision : 05.06.2020

Information Commissioner : Shri Y. K. Sinha

Since both the parties are same, the above mentioned cases are clubbed together for hearing and disposal.

Case No.	RTI Filed on	CPIO reply	First appeal	FAO
108692	19.09.2018	Nil	12.12.2018	Nil
108694	17.09.2018	Nil	07.12.2018	Nil
108693	28.09.2018	Nil	12.12.2018	Nil
108695	20.09.2018	Nil	12.12.2018	Nil
108696	20.09.2018	Nil	12.12.2018	Nil
108698	28.09.2018	Nil	07.12.2018	Nil
108699	28.09.2018	Nil	12.12.2018	Nil
108700	20.09.2018	Nil	12.12.2018	Nil
108704	28.09.2018	Nil	07.12.2018	Nil
108705	20.09.2018	Nil	12.12.2018	Nil
108706	14.09.2018	Nil	12.12.2018	Nil
108709	19.09.2018	Nil	12.12.2018	Nil
108712	20.09.2018	Nil	12.12.2018	Nil
108710	10.09.2018	Nil	12.12.2018	Nil
108713	28.09.2018	Nil	07.12.2018	Nil
108711	14.09.2018	Nil	07.12.2018	Nil
108714	28.09.2018	Nil	12.12.2018	Nil
108804	18.10.2018	Nil	28.12.2018	Nil
108805	18.10.2018	Nil	28.12.2018	Nil
108806	18.10.2018	Nil	28.12.2018	Nil
108807	18.10.2018	Nil	28.12.2018	Nil
108829	23.10.2018	Nil	28.12.2018	Nil
108830	23.10.2018	Nil	22.10.2018	Nil
108832	30.10.2018	Nil	28.12.2018	Nil
108831	30.10.2018	Nil	28.12.2018	Nil

ORDER

The aforementioned Second Appeals are taken up today on a reference from the Registry of this Bench. Perusal of the Second Appeals reveals that a batch of 50 Second Appeals have been adjudicated by the Commission on **26.05.2020** vide

Second Appeal No. **CIC/LTGSE/A/2019/107361 & ors.** whereby the same issue has been adjudicated at length.

Accordingly, the present Appeals are decided on the same lines, since the adjudication of these appeals is barred by the principles of *res judicata*. No further direction is required to be passed in the present Appeals.

With the aforesaid observation, these Second Appeals are disposed off.

Y. K. Sinha(वाई. के. सिन्हा)
Information Commissioner (सूचना आयुक्त)

Authenticated true copy
(अभिप्रमाणितसत्यापितप्रति)

Ram Parkash Grover (राम प्रकाश ग़ोवर)
Dy. Registrar (उप-पंजीयक)/011-26180514

केन्द्रीय सूचना आयोग
Central Information Commission
बाबा गंगनाथ मार्ग, मुनिरका
Baba Gangnath Marg, Munirka
नई दिल्ली, New Delhi – 110067

द्वितीय अपील संख्या / Second Appeal Nos.

CIC/EMCDN/A/2019/132384	CIC/EMCDN/A/2019/132385
CIC/EMCDN/A/2019/132386	CIC/EMCDN/A/2019/132387
CIC/EMCDN/A/2019/132388	CIC/EMCDN/A/2019/132400
CIC/EMCDN/A/2019/132389	CIC/EMCDN/A/2019/132390
CIC/EMCDN/A/2019/132404	CIC/EMCDN/A/2019/132402
CIC/EMCDN/A/2019/132401	CIC/EMCDN/A/2019/132399
CIC/EMCDN/A/2019/132398	CIC/EMCDN/A/2019/132393
CIC/EMCDN/A/2019/132397	CIC/EMCDN/A/2019/132392
CIC/EMCDN/A/2019/132391	CIC/EMCDN/A/2019/127254
CIC/EMCDN/A/2019/115230	CIC/EMCDN/A/2019/115227
CIC/EMCDN/A/2019/115228	CIC/EMCDN/A/2019/115232
CIC/EMCDN/A/2019/115152	CIC/EMCDN/A/2019/115151
CIC/EMCDN/A/2019/115150	CIC/EMCDN/A/2019/115148
CIC/EMCDN/A/2019/115147	CIC/EMCDN/A/2019/115146
CIC/EMCDN/A/2019/115145	CIC/EMCDN/A/2019/152527
CIC/EMCDN/A/2019/152528	CIC/EMCDN/A/2019/152529
CIC/EMCDN/A/2019/152530	CIC/EMCDN/A/2019/152531
CIC/EMCDN/A/2019/152532	CIC/EMCDN/A/2019/152533
CIC/EMCDN/A/2019/152534	CIC/EMCDN/A/2019/152535
CIC/EMCDN/A/2019/152536	CIC/EMCDN/A/2019/152537
CIC/EMCDN/A/2019/152538	CIC/EMCDN/A/2019/152539
CIC/EMCDN/A/2019/152540	

Shri Rajendra Gupta

... अपीलकर्ता / Appellant

VERSUS/बनाम

PIO/East Delhi Municipal Corporation,
Shahdara South Zone, Delhi

...प्रतिवादीगण / Respondent

Date of Decision : 26.06.2020

Information Commissioner : **Shri Y. K. Sinha**

Case Nos.	RTI dated	CPIO Reply	First Appeal dated	FAA's Order dtd
CIC/EMCDN/A/2019/132384	05.09.2018	14.11.2018	15.03.2019	27.03.2019
CIC/EMCDN/A/2019/132385	05.09.2018	26.11.2018	15.03.2019	27.03.2019
CIC/EMCDN/A/2019/132386	05.09.2018	14.11.2018	15.03.2019	27.03.2019
CIC/EMCDN/A/2019/132387	05.09.2018	14.11.2018	15.03.2019	27.03.2019

CIC/EMCDN/A/2019/132388	05.09.2018	14.11.2018	15.03.2019	27.03.2019
CIC/EMCDN/A/2019/132400	05.09.2018	14.11.2018	15.03.2019	27.03.2019
CIC/EMCDN/A/2019/132389	05.09.2018	14.11.2018	15.03.2019	27.03.2019
CIC/EMCDN/A/2019/132390	05.09.2018	14.11.2018	15.03.2019	27.03.2019
CIC/EMCDN/A/2019/132404	05.09.2018	14.11.2018	15.03.2019	27.03.2019
CIC/EMCDN/A/2019/132402	05.09.2018	14.11.2018	15.03.2019	27.03.2019
CIC/EMCDN/A/2019/132401	05.09.2018	14.11.2018	15.03.2019	27.03.2019
CIC/EMCDN/A/2019/132399	05.09.2018	26.11.2018	15.03.2019	27.03.2019
CIC/EMCDN/A/2019/132398	05.09.2018	14.11.2018	15.03.2019	27.03.2019
CIC/EMCDN/A/2019/132393	05.09.2018	14.11.2018	15.03.2019	27.03.2019
CIC/EMCDN/A/2019/132397	05.09.2018	26.11.2018	15.03.2019	27.03.2019
CIC/EMCDN/A/2019/132392	05.09.2018	14.11.2018	15.03.2019	27.03.2019
CIC/EMCDN/A/2019/132391	05.09.2018	14.11.2018	15.03.2019	27.03.2019
CIC/EMCDN/A/2019/127254	05.09.2018	28.08.2018	15.03.2019	27.03.2019
CIC/EMCDN/A/2019/115230	28.06.2018	28.08.2018	24.10.2018	14.11.2018
CIC/EMCDN/A/2019/115227	28.06.2018	28.08.2018	25.10.2018	26.11.2018
CIC/EMCDN/A/2019/115228	28.06.2018	28.08.2018	25.10.2018	26.11.2018
CIC/EMCDN/A/2019/115232	28.06.2018	28.08.2018	25.10.2018	26.11.2018
CIC/EMCDN/A/2019/115152	04.09.2018	26.11.2018	07.12.2018	28.12.2018
CIC/EMCDN/A/2019/115151	31.08.2018	26.11.2018	03.12.2018	28.12.2018
CIC/EMCDN/A/2019/115150	31.08.2018	26.11.2018	03.12.2018	28.12.2018
CIC/EMCDN/A/2019/115148	31.08.2018	26.11.2018	03.12.2018	28.12.2018
CIC/EMCDN/A/2019/115147	04.9.2018	14.11.2018	07.12.2018	28.12.2018
CIC/EMCDN/A/2019/115146	23.8.2018	14.11.2018	19.11.2018	28.12.2018
CIC/EMCDN/A/2019/115145	31.08.2018	14.11.2018	3.12.2018	28.12.2018
CIC/EMCDN/A/2019/152527	02.05.2019	20.06.2019	15.07.2019	19.08.2019
CIC/EMCDN/A/2019/152528	02.05.2019	20.06.2019	15.07.2019	19.08.2019
CIC/EMCDN/A/2019/152529	02.05.2019	20.06.2019	15.07.2019	19.08.2019
CIC/EMCDN/A/2019/152530	02.05.2019	20.06.2019	15.07.2019	19.08.2019
CIC/EMCDN/A/2019/152531	02.05.2019	20.06.2019	15.07.2019	19.08.2019
CIC/EMCDN/A/2019/152532	02.05.2019	20.06.2019	15.07.2019	19.08.2019
CIC/EMCDN/A/2019/152533	02.05.2019	20.06.2019	15.07.2019	19.08.2019
CIC/EMCDN/A/2019/152534	02.05.2019	20.06.2019	15.07.2019	19.08.2019
CIC/EMCDN/A/2019/152535	02.05.2019	20.06.2019	15.07.2019	19.08.2019
CIC/EMCDN/A/2019/152536	02.05.2019	20.06.2019	15.07.2019	19.08.2019
CIC/EMCDN/A/2019/152537	02.05.2019	20.06.2019	15.07.2019	19.08.2019
CIC/EMCDN/A/2019/152538	02.05.2019	20.06.2019	15.07.2019	19.08.2019
CIC/EMCDN/A/2019/152539	02.05.2019	20.06.2019	15.07.2019	19.08.2019
CIC/EMCDN/A/2019/152540	02.05.2019	20.06.2019	15.07.2019	19.08.2019

Information sought and background of the case:

CIC/EMCDN/A/2019/132385

The Appellant filed an RTI Application dated 05.09.2018 seeking information about property no. L14936, Gali No.5, Balbir Nagar, Shahdara, Delhi. Delhi in connection with complaint filed on 4.4.2018 alleging illegal construction being carried out on the property and sought action taken on his complaint; details pertaining to orders issued/comments made in response to his complaint etc.

The PIO/EE-B-II, Shahdara North Zone, EDMC vide reply dated 14.11.2018 provided point-wise reply to the Appellant from records available.

Dissatisfied with the reply received from the PIO, the Appellant filed a First Appeal dated 15.03.2019, which was decided by the First Appellate Authority vide order dated 27.03.2019 directing the PIO to provide modified information with action taken report.

CIC/EMCDN/A/2019/132384

The Appellant filed an RTI Application dated 05.09.2018 seeking information about property no. 115208, Gali No.6, Balbir Nagar, Shahdara, Dethi in connection with complaint filed on 4.4.2018 alleging illegal construction being carried out on the property and sought action taken on his complaint; details pertaining to orders issued/comments made in response to his complaint etc.

The PIO/EE-B-II, Shahdara North Zone, EDMC vide reply dated 26.11.2018 provided point-wise reply to the Appellant from records available.

Dissatisfied with the reply received from the PIO, the Appellant filed a First Appeal dated 15.03.2019, which was decided by the First Appellate Authority vide order dated 27.03.2019 directing the PIO to provide modified information with action taken report.

CIC/EMCDN/A/2019/132386

The Appellant filed an RTI Application dated 05.09.2018 seeking information about property no. 1/4919, Gali No.7, Balbir Nagar Extn., Shahdara, in connection with complaint filed on 4.4.2018 alleging illegal construction being carried out on the property and sought action taken on his complaint; details pertaining to orders issued/comments made in response to his complaint etc.

The PIO/EE-B-II, Shahdara North Zone, EDMC vide reply dated 26.11.2018 provided point-wise reply to the Appellant from records available.

Dissatisfied with the reply received from the PIO, the Appellant filed a First Appeal dated 15.03.2019, which was decided by the First Appellate Authority vide order dated 27.03.2019 directing the PIO to provide modified information with action taken report.

CIC/EMCDN/A/2019/132387

The Appellant filed an RTI Application dated 05.09.2018 seeking information about property no. 1/4914, Gali No.7, Balbir Nagar Extn., Shahdara, Delhi , in connection with complaint filed on 4.4.2018 alleging illegal construction being carried out on the property and sought action taken on his complaint; details pertaining to orders issued/comments made in response to his complaint etc.

The PIO/EE-B-II, Shahdara North Zone, EDMC vide reply dated 26.11.2018 provided point-wise reply to the Appellant from records available.

Dissatisfied with the reply received from the PIO, the Appellant filed a First Appeal dated 15.03.2019, which was decided by the First Appellate Authority vide order dated 27.03.2019 directing the PIO to provide modified information with action taken report.

CIC/EMCDN/A/2019/132388

The Appellant filed an RTI Application dated 05.09.2018.2018 seeking information about property no.: 1/6999, Shivaji Park, Shahdara, Delhi, in connection with complaint filed on 4.4.2018 alleging illegal construction being carried out on the property and sought action taken on his complaint; details pertaining to orders issued/comments made in response to his complaint etc.

The PIO/EE-B-II, Shahdara North Zone, EDMC vide reply dated 26.11.2018 provided point-wise reply to the Appellant from records available.

Dissatisfied with the reply received from the PIO, the Appellant filed a First Appeal dated 15.03.2019, which was decided by the First Appellate Authority vide order dated 27.03.2019 directing the PIO to provide modified information with action taken report.

CIC/EMCDN/A/2019/132389

The Appellant filed an RTI Application dated 05.04.2018 seeking information about property no. : 1/6999, Shivaji Park, Shahdara, Delhi, in connection with complaint filed on 4.4.2018 alleging illegal construction being carried out on the property and sought action taken on his complaint; details pertaining to orders issued/comments made in response to his complaint etc.

The PIO/EE-B-II, Shahdara North Zone, EDMC vide reply dated 14.11.2018 provided point-wise reply to the Appellant from records available.

Dissatisfied with the reply received from the PIO, the Appellant filed a First Appeal dated 15.03.2019, which was decided by the First Appellate Authority vide order dated 27.03.2019 directing the PIO to provide modified information with action taken report.

CIC/EMCDN/A/2019/132390

The Appellant filed an RTI Application dated 05.04.2018 seeking information about property no. : 119, Gali No.13, Balbir Nagar Extn., Shahdara, Delhi. , in

connection with complaint filed on 4.4.2018 alleging illegal construction being carried out on the property and sought action taken on his complaint; details pertaining to orders issued/comments made in response to his complaint etc.

The PIO/EE-B-II, Shahdara North Zone, EDMC vide reply dated 14.11.2018 provided point-wise reply to the Appellant from records available.

Dissatisfied with the reply received from the PIO, the Appellant filed a First Appeal dated 15.03.2019, which was decided by the First Appellate Authority vide order dated 27.03.2019 directing the PIO to provide modified information with action taken report.

CIC/EMCDN/A/2019/132404

The Appellant filed an RTI Application dated 05.04.2018 seeking information about property no. : 119, Gali No.13, Balbir Nagar Extn., Shahdara, Delhi. , in connection with complaint filed on 4.4.2018 alleging illegal construction being carried out on the property and sought action taken on his complaint; details pertaining to orders issued/comments made in response to his complaint etc.

The PIO/EE-B-II, Shahdara North Zone, EDMC vide reply dated 14.11.2018 provided point-wise reply to the Appellant from records available.

Dissatisfied with the reply received from the PIO, the Appellant filed a First Appeal dated 15.03.2019, which was decided by the First Appellate Authority vide order dated 27.03.2019 directing the PIO to provide modified information with action taken report.

CIC/EMCDN/A/2019/132402

The Appellant filed an RTI Application dated 05.04.2018 seeking information about property no. : 115209 (Adj.1/5210), 60 Ft. Road, Balbir Nagar, Shahdara, Delhi, in connection with complaint filed on 4.4.2018 alleging illegal construction being carried out on the property and sought action taken on his complaint; details pertaining to orders issued/comments made in response to his complaint etc.

The PIO/EE-B-II, Shahdara North Zone, EDMC vide reply dated 14.11.2018 provided point-wise reply to the Appellant from records available.

Dissatisfied with the reply received from the PIO, the Appellant filed a First Appeal dated 15.03.2019, which was decided by the First Appellate Authority vide order dated 27.03.2019 directing the PIO to provide modified information with action taken report.

CIC/EMCDN/A/2019/132401

The Appellant filed an RTI Application dated 05.04.2018 seeking information about property no.: 118, Gali No.13, Balbir Nagar Extn', Shahdara, Delhi, in connection with complaint filed on 4.4.2018 alleging illegal construction being

carried out on the property and sought action taken on his complaint; details pertaining to orders issued/comments made in response to his complaint etc.

The PIO/EE-B-II, Shahdara North Zone, EDMC vide reply dated 14.11.2018 provided point-wise reply to the Appellant from records available.

Dissatisfied with the reply received from the PIO, the Appellant filed a First Appeal dated 15.03.2019, which was decided by the First Appellate Authority vide order dated 27.03.2019 directing the PIO to provide modified information with action taken report.

CIC/EMCDN/A/2019/132400

The Appellant filed an RTI Application dated 05.04.2018 seeking information about property no. : 1/7088, Shivaji Park, Shahdara, Delhi, in connection with complaint filed on 4.4.2018 alleging illegal construction being carried out on the property and sought action taken on his complaint; details pertaining to orders issued/comments made in response to his complaint etc.

The PIO/EE-B-II, Shahdara North Zone, EDMC vide reply dated 26.11.2018 provided point-wise reply to the Appellant from records available.

Dissatisfied with the reply received from the PIO, the Appellant filed a First Appeal dated 15.03.2019, which was decided by the First Appellate Authority vide order dated 27.03.2019 directing the PIO to provide modified information with action taken report.

CIC/EMCDN/A/2019/132399

The Appellant filed an RTI Application dated 05.04.2018 seeking information about property no.: 1/5506, Gali No.16, Govind Marg, Balbir Nagar Extn" Shahdara, Delhi, in connection with complaint filed on 4.4.2018 alleging illegal construction being carried out on the property and sought action taken on his complaint; details pertaining to orders issued/comments made in response to his complaint etc.

The PIO/EE-B-II, Shahdara North Zone, EDMC vide reply dated 26.11.2018 provided point-wise reply to the Appellant from records available.

Dissatisfied with the reply received from the PIO, the Appellant filed a First Appeal dated 15.03.2019, which was decided by the First Appellate Authority vide order dated 27.03.2019 directing the PIO to provide modified information with action taken report.

CIC/EMCDN/A/2019/132398

The Appellant filed an RTI Application dated 05.04.2018 seeking information about property no. Adj. 1/4935, 60 Ft. Road., Balbir Nagar, Shahdara, Delhi, in connection with complaint filed on 4.4.2018 alleging illegal construction being carried out on the property and sought action taken on his complaint; details pertaining to orders issued/comments made in response to his complaint etc.

The PIO/EE-B-II, Shahdara North Zone, EDMC vide reply dated 26.11.2018 provided point-wise reply to the Appellant from records available.

Dissatisfied with the reply received from the PIO, the Appellant filed a First Appeal dated 15.03.2019, which was decided by the First Appellate Authority vide order dated 27.03.2019 directing the PIO to provide modified information with action taken report.

CIC/EMCDN/A/2019/132397

The Appellant filed an RTI Application dated 05.04.2018 seeking information about property no. 41/6988, Shivaji Park, Shahdara, Delhi, in connection with complaint filed on 4.4.2018 alleging illegal construction being carried out on the property and sought action taken on his complaint; details pertaining to orders issued/comments made in response to his complaint etc.

The PIO/EE-B-II, Shahdara North Zone, EDMC vide reply dated 26.11.2018 provided point-wise reply to the Appellant from records available.

Dissatisfied with the reply received from the PIO, the Appellant filed a First Appeal dated 15.03.2019, which was decided by the First Appellate Authority vide order dated 27.03.2019 directing the PIO to provide modified information with action taken report.

CIC/EMCDN/A/2019/132393

The Appellant filed an RTI Application dated 05.04.2018 seeking information about property no. Adj. 1/7173 A, Gali No.3, Shivaji Park, Shahdara, Delhi, in connection with complaint filed on 4.4.2018 alleging illegal construction being carried out on the property and sought action taken on his complaint; details pertaining to orders issued/comments made in response to his complaint etc.

The PIO/EE-B-II, Shahdara North Zone, EDMC vide reply dated 14.11.2018 provided point-wise reply to the Appellant from records available.

Dissatisfied with the reply received from the PIO, the Appellant filed a First Appeal dated 15.03.2019, which was decided by the First Appellate Authority vide order dated 27.03.2019 directing the PIO to provide modified information with action taken report.

CIC/EMCDN/A/2019/132392

The Appellant filed an RTI Application dated 05.04.2018 seeking information about property no. 1/6849, Nehru Gali, East Rohtas Nagar, Shahdara, Delhi in connection with complaint filed on 4.4.2018 alleging illegal construction being carried out on the property and sought action taken on his complaint; details pertaining to orders issued/comments made in response to his complaint etc.

The PIO/EE-B-II, Shahdara North Zone, EDMC vide reply dated 14.11.2018 provided point-wise reply to the Appellant from records available.

Dissatisfied with the reply received from the PIO, the Appellant filed a First Appeal dated 15.03.2019, which was decided by the First Appellate Authority

vide order dated 27.03.2019 directing the PIO to provide modified information with action taken report.

CIC/EMCDN/A/2019/132391

The Appellant filed an RTI Application dated 05.04.2018 seeking information about property no. 1/6885, East Rohtash Nagar, Shahdara, Delhi in connection with complaint filed on 4.4.2018 alleging illegal construction being carried out on the property and sought action taken on his complaint; details pertaining to orders issued/comments made in response to his complaint etc.

The PIO/EE-B-II, Shahdara North Zone, EDMC vide reply dated 14.11.2018 provided point-wise reply to the Appellant from records available.

Dissatisfied with the reply received from the PIO, the Appellant filed a First Appeal dated 15.03.2019, which was decided by the First Appellate Authority vide order dated 27.03.2019 directing the PIO to provide modified information with action taken report.

CIC/EMCDN/A/2019/127254

The Appellant filed an RTI Application dated 05.04.2018 seeking information about property no.: 1/6989, Shivaji Park, Shahdara, Delhi, in connection with complaint filed on 4.4.2018 alleging illegal construction being carried out on the property and sought action taken on his complaint; details pertaining to orders issued/comments made in response to his complaint etc.

The PIO/EE-B-II, Shahdara North Zone, EDMC vide reply dated 28.08.2018 provided point-wise reply to the Appellant from records available.

Dissatisfied with the reply received from the PIO, the Appellant filed a First Appeal dated 15.03.2019, which was decided by the First Appellate Authority vide order dated 27.03.2019 directing the PIO to provide modified information with action taken report.

CIC/EMCDN/A/2019/115230

The Appellant filed an RTI Application dated 28.06.2018 seeking information about property no.: 1/5465, Gali No.16, Balbir Nagar, Shahdara, Delhi, in connection with complaint filed on 30.01.2018 alleging illegal construction being carried out on the property and sought action taken on his complaint; details pertaining to orders issued/comments made in response to his complaint etc.

The PIO/EE-B-II, Shahdara North Zone, EDMC vide reply dated 28.08.2018 provided point-wise reply to the Appellant from records available.

Dissatisfied with the reply received from the PIO, the Appellant filed a First Appeal dated 24.10.2018, which was decided by the First Appellate Authority vide order dated 14.11.2018 directing the PIO to provide modified information with action taken report.

CIC/EMCDN/A/2019/115227

The Appellant filed an RTI Application dated 28.06.2018 seeking information about property no. 1/1449/209, Durga Pur, Shahdara Delhi, in connection with complaint filed on 12.02.2018 alleging illegal construction being carried out on the property and sought action taken on his complaint; details pertaining to orders issued/comments made in response to his complaint etc.

The PIO/EE-B-II, Shahdara North Zone, EDMC vide reply dated 05.09.2018 provided point-wise reply to the Appellant from records available.

Dissatisfied with the reply received from the PIO, the Appellant filed a First Appeal dated 25.10.2018, which was decided by the First Appellate Authority vide order dated 26.11.2018 directing the PIO to provide modified information with action taken report.

CIC/EMCDN/A/2019/115228

The Appellant filed an RTI Application dated 28.06.2018 seeking information about property no 1/2019, corner of Mother Dairy, Ram Nagar, Shahdara, Delhi in connection with complaint filed on 12.02.2018 alleging illegal construction being carried out on the property and sought action taken on his complaint; details pertaining to orders issued/comments made in response to his complaint etc.

The PIO/EE-B-II, Shahdara North Zone, EDMC vide reply dated 05.09.2018 provided point-wise reply to the Appellant from records available.

Dissatisfied with the reply received from the PIO, the Appellant filed a First Appeal dated 25.10.2018, which was decided by the First Appellate Authority vide order dated 26.11.2018 directing the PIO to provide modified information with action taken report.

CIC/EMCDN/A/2019/115232

The Appellant filed an RTI Application dated 28.06.2018 seeking information about property no E-15, Mansarovar Park, Shahdara, Delhi in connection with complaint filed on 12.02.2018 alleging illegal construction being carried out on the property and sought action taken on his complaint; details pertaining to orders issued/comments made in response to his complaint etc.

The PIO/EE-B-II, Shahdara North Zone, EDMC vide reply dated 05.09.2018 provided point-wise reply to the Appellant from records available.

Dissatisfied with the reply received from the PIO, the Appellant filed a First Appeal dated 25.10.2018, which was decided by the First Appellate Authority vide order dated 26.11.2018 directing the PIO to provide modified information with action taken report.

CIC/EMCDN/A/2019/115152

The Appellant filed an RTI Application dated 04.09.2018 seeking information about property no X-2, Naveen Shahdara, Delhi in connection with complaint filed on 15.03.2018 alleging illegal construction being carried out on the

property and sought action taken on his complaint; details pertaining to orders issued/comments made in response to his complaint etc.

The PIO/EE-B-II, Shahdara North Zone, EDMC vide reply dated 26.11.2018 provided point-wise reply to the Appellant from records available.

Dissatisfied with the reply received from the PIO, the Appellant filed a First Appeal dated 7.12.2018, which was decided by the First Appellate Authority vide order dated 28.12.2018 directing the PIO to provide modified information with action taken report.

CIC/EMCDN/A/2019/115151

The Appellant filed an RTI Application dated 31.08.2018 seeking information about property no. Adj. 1/11252B Opp. 1/11423, Subhash Park, Naveen Shahdara, Delhi in connection with complaint filed on 13.03.2018 alleging illegal construction being carried out on the property and sought action taken on his complaint; details pertaining to orders issued/comments made in response to his complaint etc.

The PIO/EE-B-II, Shahdara North Zone, EDMC vide reply dated 26.11.2018 provided point-wise reply to the Appellant from records available.

Dissatisfied with the reply received from the PIO, the Appellant filed a First Appeal dated 3.12.2018, which was decided by the First Appellate Authority vide order dated 28.12.2018 directing the PIO to provide modified information with action taken report.

CIC/EMCDN/A/2019/115150

The Appellant filed an RTI Application dated 31.08.2018 seeking information about property no B-12, Naveen Shahdara, Delhi, in connection with complaint filed on 12.03.2018 alleging illegal construction being carried out on the property and sought action taken on his complaint; details pertaining to orders issued/comments made in response to his complaint etc.

The PIO/EE-B-II, Shahdara North Zone, EDMC vide reply dated 26.11.2018 provided point-wise reply to the Appellant from records available.

Dissatisfied with the reply received from the PIO, the Appellant filed a First Appeal dated 3.12.2018, which was decided by the First Appellate Authority vide order dated 28.12.2018 directing the PIO to provide modified information with action taken report.

CIC/EMCDN/A/2019/115148

The Appellant filed an RTI Application dated 31.08.2018 seeking information about property no. T-2, Naveen Shahdara, Delhi, in connection with complaint filed on 12.03.2018 alleging illegal construction being carried out on the property and sought action taken on his complaint; details pertaining to orders issued/comments made in response to his complaint etc.

The PIO/EE-B-II, Shahdara North Zone, EDMC vide reply dated 26.11.2018 provided point-wise reply to the Appellant from records available.

Dissatisfied with the reply received from the PIO, the Appellant filed a First Appeal dated 3.12.2018, which was decided by the First Appellate Authority vide order dated 28.12.2018 directing the PIO to provide modified information with action taken report.

CIC/EMCDN/A/2019/115147

The Appellant filed an RTI Application dated 04.09.2018 seeking information about property No. 1/11293, Gali No.B, Subhash park Extn., Shahdara, Delhi in connection with complaint filed on 15.03.2018 alleging illegal construction being carried out on the property and sought action taken on his complaint; details pertaining to orders issued/comments made in response to his complaint etc.

The PIO/EE-B-II, Shahdara North Zone, EDMC vide reply dated 14.11.2018 and 26.11.2018 provided point-wise reply to the Appellant from records available.

Dissatisfied with the reply received from the PIO, the Appellant filed a First Appeal dated 7.12.2018, which was decided by the First Appellate Authority vide order dated 28.12.2018/3.1.2019 directing the PIO to provide modified information with action taken report.

CIC/EMCDN/A/2019/115146

The Appellant filed an RTI Application dated 23.08.2018 seeking information about property B-130/3, West Nathu Colony, Shahdara, Delhi in connection with complaint filed on 16.02.2018 alleging illegal construction being carried out on the property and sought action taken on his complaint; details pertaining to orders issued/comments made in response to his complaint etc.

The PIO/EE-B-II, Shahdara North Zone, EDMC vide reply dated 14.11.2018 and 26.11.2018 provided point-wise reply to the Appellant from records available.

Dissatisfied with the reply received from the PIO, the Appellant filed a First Appeal dated 19.11.2018, which was decided by the First Appellate Authority vide order dated 28.12.2018/3.1.2019 directing the PIO to provide modified information with action taken report.

CIC/EMCDN/A/2019/115145

The Appellant filed an RTI Application dated 31.08.2018 seeking information about property No 1/11308B, Gali No.B, Subhash park Extn., Shahdara, Delhi. in connection with complaint filed on 13.03.2018 alleging illegal construction being carried out on the property and sought action taken on his complaint; details pertaining to orders issued/comments made in response to his complaint etc.

The PIO/EE-B-II, Shahdara North Zone, EDMC vide reply dated 14.11.2018 provided point-wise reply to the Appellant from records available.

Dissatisfied with the reply received from the PIO, the Appellant filed a First Appeal dated 3.12.2018, which was decided by the First Appellate Authority vide order dated 28.12.2018/3.1.2019 directing the PIO to provide modified information with action taken report.

CIC/EMCDN/A/2019/152527

The Appellant filed an RTI Application dated 05.05.2019 seeking information about property No P-4, Navin Shahdara, Delhi, in connection with complaint filed on 25.10.2018 alleging illegal construction being carried out on the property and sought action taken on his complaint; details pertaining to orders issued/comments made in response to his complaint etc.

The PIO/EE-B-II, Shahdara North Zone, EDMC vide reply dated 20.06.2019 provided point-wise reply to the Appellant from records available.

Dissatisfied with the reply received from the PIO, the Appellant filed a First Appeal dated 15.07.2019, which was decided by the First Appellate Authority vide order dated 19.08.2019 directing the PIO to provide modified information with action taken report.

CIC/EMCDN/A/2019/152528

The Appellant filed an RTI Application dated 05.05.2019 seeking information about property No D-24, Panchsheel Garden, Navin Shahdara, Delhi, in connection with complaint filed on 25.10.2018 alleging illegal construction being carried out on the property and sought action taken on his complaint; details pertaining to orders issued/comments made in response to his complaint etc.

The PIO/EE-B-II, Shahdara North Zone, EDMC vide reply dated 20.06.2019 provided point-wise reply to the Appellant from records available.

Dissatisfied with the reply received from the PIO, the Appellant filed a First Appeal dated 15.07.2019, which was decided by the First Appellate Authority vide order dated 19.08.2019 directing the PIO to provide modified information with action taken report.

CIC/EMCDN/A/2019/152529

The Appellant filed an RTI Application dated 05.05.2019 seeking information about property No P-1, Navin Shahdara, Delhi, in connection with complaint filed on 25.10.2018 alleging illegal construction being carried out on the property and sought action taken on his complaint; details pertaining to orders issued/comments made in response to his complaint etc.

The PIO/EE-B-II, Shahdara North Zone, EDMC vide reply dated 20.06.2019 provided point-wise reply to the Appellant from records available.

Dissatisfied with the reply received from the PIO, the Appellant filed a First Appeal dated 15.07.2019, which was decided by the First Appellate Authority

vide order dated 19.08.2019 directing the PIO to provide modified information with action taken report.

CIC/EMCDN/A/2019/152530

The Appellant filed an RTI Application dated 05.05.2019 seeking information about property No. 1/5306, Gali No.11, Balbir Nagar Ext. Shahdara Delhi, in connection with complaint filed on 25.10.2018 alleging illegal construction being carried out on the property and sought action taken on his complaint; details pertaining to orders issued/comments made in response to his complaint etc.

The PIO/EE-B-II, Shahdara North Zone, EDMC vide reply dated 20.06.2019 provided point-wise reply to the Appellant from records available.

Dissatisfied with the reply received from the PIO, the Appellant filed a First Appeal dated 15.07.2019, which was decided by the First Appellate Authority vide order dated 19.08.2019 directing the PIO to provide modified information with action taken report.

CIC/EMCDN/A/2019/152531

The Appellant filed an RTI Application dated 05.05.2019 seeking information about property No P-25-A, Navin Shahdara, Delhi, in connection with complaint filed on 25.10.2018 alleging illegal construction being carried out on the property and sought action taken on his complaint; details pertaining to orders issued/comments made in response to his complaint etc.

The PIO/EE-B-II, Shahdara North Zone, EDMC vide reply dated 20.06.2019 provided point-wise reply to the Appellant from records available.

Dissatisfied with the reply received from the PIO, the Appellant filed a First Appeal dated 15.07.2019, which was decided by the First Appellate Authority vide order dated 19.08.2019 directing the PIO to provide modified information with action taken report.

CIC/EMCDN/A/2019/152532

The Appellant filed an RTI Application dated 05.05.2019 seeking information about property No 1/10841 (opposite 1/10843), Subhash Parl, Shahdara, Delhi in connection with complaint filed on 25.10.2018 alleging illegal construction being carried out on the property and sought action taken on his complaint; details pertaining to orders issued/comments made in response to his complaint etc.

The PIO/EE-B-II, Shahdara North Zone, EDMC vide reply dated 20.06.2019 provided point-wise reply to the Appellant from records available.

Dissatisfied with the reply received from the PIO, the Appellant filed a First Appeal dated 15.07.2019, which was decided by the First Appellate Authority vide order dated 19.08.2019 directing the PIO to provide modified information with action taken report.

CIC/EMCDN/A/2019/152533

The Appellant filed an RTI Application dated 05.05.2019 seeking information about property No B-12, Navin Shahdara, Delhi, in connection with complaint filed on 25.10.2018 alleging illegal construction being carried out on the property and sought action taken on his complaint; details pertaining to orders issued/comments made in response to his complaint etc.

The PIO/EE-B-II, Shahdara North Zone, EDMC vide reply dated 20.06.2019 provided point-wise reply to the Appellant from records available.

Dissatisfied with the reply received from the PIO, the Appellant filed a First Appeal dated 15.07.2019, which was decided by the First Appellate Authority vide order dated 19.08.2019 directing the PIO to provide modified information with action taken report.

CIC/EMCDN/A/2019/152534

The Appellant filed an RTI Application dated 05.05.2019 seeking information about property No 1/10842 (opposite 1/10843) Subhash Park, Shahdara, Delhi in connection with complaint filed on 25.10.2018 alleging illegal construction being carried out on the property and sought action taken on his complaint; details pertaining to orders issued/comments made in response to his complaint etc.

The PIO/EE-B-II, Shahdara North Zone, EDMC vide reply dated 20.06.2019 provided point-wise reply to the Appellant from records available.

Dissatisfied with the reply received from the PIO, the Appellant filed a First Appeal dated 15.07.2019, which was decided by the First Appellate Authority vide order dated 19.08.2019 directing the PIO to provide modified information with action taken report.

CIC/EMCDN/A/2019/152535

The Appellant filed an RTI Application dated 05.05.2019 seeking information about property No. Between 1/10886 & 1/1079S, Gali No.B, Subhash park, Shahdara, Delhi, in connection with complaint filed on 25.10.2018 alleging illegal construction being carried out on the property and sought action taken on his complaint; details pertaining to orders issued/comments made in response to his complaint etc.

The PIO/EE-B-II, Shahdara North Zone, EDMC vide reply dated 20.06.2019 provided point-wise reply to the Appellant from records available.

Dissatisfied with the reply received from the PIO, the Appellant filed a First Appeal dated 15.07.2019, which was decided by the First Appellate Authority vide order dated 19.08.2019 directing the PIO to provide modified information with action taken report.

CIC/EMCDN/A/2019/152536

The Appellant filed an RTI Application dated 05.05.2019 seeking information about property No Adj. 1/4696, Gali No.4B, Balbir Nagar Extn., Shahdara, Delhi, in connection with complaint filed on 25.10.2018 alleging illegal construction being carried out on the property and sought action taken on his complaint; details pertaining to orders issued/comments made in response to his complaint etc.

The PIO/EE-B-II, Shahdara North Zone, EDMC vide reply dated 20.06.2019 provided point-wise reply to the Appellant from records available.

Dissatisfied with the reply received from the PIO, the Appellant filed a First Appeal dated 15.07.2019, which was decided by the First Appellate Authority vide order dated 19.08.2019 directing the PIO to provide modified information with action taken report.

CIC/EMCDN/A/2019/152537

The Appellant filed an RTI Application dated 05.05.2019 seeking information about property No 1/10839, Subhash Park, Shahdara, Delhi in connection with complaint filed on 25.10.2018 alleging illegal construction being carried out on the property and sought action taken on his complaint; details pertaining to orders issued/comments made in response to his complaint etc.

The PIO/EE-B-II, Shahdara North Zone, EDMC vide reply dated 20.06.2019 provided point-wise reply to the Appellant from records available.

Dissatisfied with the reply received from the PIO, the Appellant filed a First Appeal dated 15.07.2019, which was decided by the First Appellate Authority vide order dated 19.08.2019 directing the PIO to provide modified information with action taken report.

CIC/EMCDN/A/2019/152538

The Appellant filed an RTI Application dated 05.05.2019 seeking information about property No. 1/10910, Gali No. 7 Subhash Park Shahdara, Delhi, in connection with complaint filed on 25.10.2018 alleging illegal construction being carried out on the property and sought action taken on his complaint; details pertaining to orders issued/comments made in response to his complaint etc.

The PIO/EE-B-II, Shahdara North Zone, EDMC vide reply dated 20.06.2019 provided point-wise reply to the Appellant from records available.

Dissatisfied with the reply received from the PIO, the Appellant filed a First Appeal dated 15.07.2019, which was decided by the First Appellate Authority vide order dated 19.08.2019 directing the PIO to provide modified information with action taken report.

CIC/EMCDN/A/2019/152539

The Appellant filed an RTI Application dated 05.05.2019 seeking information about property No. 1/4687 Gali No.4 B, Balbir Nagar Extn. Shahdara, Delhi in connection with complaint filed on 25.10.2018 alleging illegal construction being carried out on the property and sought action taken on his complaint; details pertaining to orders issued/comments made in response to his complaint etc.

The PIO/EE-B-II, Shahdara North Zone, EDMC vide reply dated 20.06.2019 provided point-wise reply to the Appellant from records available.

Dissatisfied with the reply received from the PIO, the Appellant filed a First Appeal dated 15.07.2019, which was decided by the First Appellate Authority vide order dated 19.08.2019 directing the PIO to provide modified information with action taken report.

CIC/EMCDN/A/2019/152540

The Appellant filed an RTI Application dated 05.05.2019 seeking information about property No. 1/10700 Gali No.1 Subhash Park, Shahdara Delhi, in connection with complaint filed on 25.10.2018 alleging illegal construction being carried out on the property and sought action taken on his complaint; details pertaining to orders issued/comments made in response to his complaint etc.

The PIO/EE-B-II, Shahdara North Zone, EDMC vide reply dated 20.06.2019 provided point-wise reply to the Appellant from records available.

Dissatisfied with the reply received from the PIO, the Appellant filed a First Appeal dated 15.07.2019, which was decided by the First Appellate Authority vide order dated 19.08.2019 directing the PIO to provide modified information with action taken report.

Decision:

1. The current situation arising out of the COVID-19 pandemic, has caused a significant disruption in the functioning of all establishments and businesses alike. In respect of the Commission, this translates into a mounting backlog of Appeals and Complaints. In such circumstances, there is a pressing need to identify cases such as the ones under adjudication for cumulative disposal in order to facilitate expedient disposal of cases of genuine information seekers. In other words, this is where the aforementioned juxtaposition comes into play as the Commission seeks to strike a fine balance between the interests of genuine information seekers, while keeping the menace of frivolous and repetitive RTI Applicants under check.
2. The aforementioned Forty Three (43) Second Appeals filed by the Appellant before East Delhi Municipal Corporation have been examined. The records reveal that Appellant has sought information in a particular pattern wherein he has sought information relating to action taken on his complaints filed before the Respondent public authority regarding alleged illegal construction on 43 separate properties situated in and around Shahdara area. It is noted

that the Appellant's consistent grievance in all of the above Second Appeals, has been that the order of the First Appellate Authority has not been complied with by the PIO till the date of filing of Second Appeal.

3. Keeping in view the facts and circumstances in the aforesaid cases, and the current situation wherein a number of offices of Delhi Government have been sealed owing to corona positive cases in the premises or public officials are assigned to tackle the pandemic, COVID-19 or even quarantined, holding structured hearings of the above cases will only delay the dissemination of the desired information. Hence, Commission finds it expedient that all the aforesaid Second Appeals be remanded to the concerned FAA, East Delhi Municipal Corporation, Delhi to ensure compliance of the FAA's order/s and the PIO/EE-B-II, EDMC is directed to submit an action taken report before the Commission by 31.11.2020, failing which appropriate legal action shall be initiated against the errant official.

In view of the above, all the Second Appeals are disposed off with the above directions.

Y. K. Sinha (वाई. के. सिन्हा)
Information Commissioner(सूचना आयुक्त)

Authenticated true copy
(अभिप्रमाणितसत्यापितप्रति)

Ram Parkash Grover (राम प्रकाश ग़ोवर)
Dy. Registrar (उप-पंजीयक)
011-26180514

केन्द्रीय सूचना आयोग
Central Information Commission
बाबा गंगनाथ मार्ग, मुनिरका
Baba Gangnath Marg, Munirka
नई दिल्ली, New Delhi – 110067

द्वितीय अपील संख्या / Second Appeal Nos. **CIC/EMCDS/A/2018/167425**
CIC/EMCDS/A/2018/167413
CIC/EMCDS/A/2018/167429
CIC/EMCDS/A/2018/167420
CIC/EMCDS/A/2018/167430
CIC/EMCDS/A/2018/168656
CIC/EMCDS/A/2018/168658
CIC/EMCDS/A/2018/168659
CIC/EMCDS/A/2018/168660
CIC/EMCDS/A/2018/168662
CIC/EMCDS/A/2018/168645
CIC/EMCDS/A/2018/168646
CIC/EMCDS/A/2018/168647
CIC/EMCDS/A/2018/168649
CIC/EMCDS/A/2018/168650
CIC/EMCDS/A/2018/168651
CIC/EMCDS/A/2018/168652
CIC/EMCDS/A/2018/168653
CIC/EMCDS/A/2018/168655
CIC/EMCDS/A/2018/171812
CIC/EMCDS/A/2018/171811
CIC/EMCDS/A/2018/171810
CIC/EMCDS/A/2018/171808
CIC/EMCDS/A/2018/171807
CIC/EMCDS/A/2018/171806
CIC/EMCDS/A/2018/171805
CIC/EMCDS/A/2018/171804
CIC/EMCDS/A/2018/171802
CIC/EMCDS/A/2018/171801

Shri Rajendra Gupta

... अपीलकर्ता / Appellant

VERSUS/बनाम

PIO/East Delhi Municipal Corporation,
Shahdara South Zone, Delhi

...प्रतिवादीगण / Respondent

Date of Decision : 22.06.2020

Information Commissioner : Shri Y. K. Sinha

Since both the parties are same, the above mentioned cases are clubbed together for hearing and disposal

Case Nos.	RTI Filed on	CPIO Reply	First Appeal filed on	First Appellate Order on	2nd Appeal / Complaint received on
167425	11.06.2018	13.07.2018	05.09.2018	19.09.2018	14.11.2018
167413	11.06.2018	13.07.2018	05.09.2018	19.09.2018	14.11.2018
167429	11.06.2018	13.07.2018	05.09.2018	19.09.2018	14.11.2018
167420	14.06.2018	01.08.2018	06.09.2018	19.09.2018	14.11.2018
167430	11.06.2018	13.07.2018	05.09.2018	19.09.2018	14.11.2018
168658	14.06.2018	01.08.2018	06.09.2018	19.09.2018	19.11.2018
168656	14.06.2018	01.08.2018	06.09.2018	19.09.2018	19.11.2018
168660	14.06.2018	27.07.2018	06.09.2018	19.09.2018	19.11.2018
168659	14.06.2018	01.08.2018	06.09.2018	19.09.2018	19.11.2018
168662	14.06.2018	01.08.2018	06.09.2018	19.09.2018	19.11.2018
168645	15.06.2018	27.07.2018	11.09.2018	19.09.2018	19.11.2018
168646	15.06.2018	24.07.2018	11.09.2018	19.09.2018	19.11.2018
168647	15.06.2018	01.08.2018	10.09.2018	19.09.2018	19.11.2018
168649	15.06.2018	27.07.2018	11.09.2018	19.09.2018	19.11.2018
168650	15.06.2018	27.07.2018	11.09.2018	19.09.2018	19.11.2018
168651	15.06.2018	01.08.2018	11.09.2018	19.09.2018	19.11.2018
168652	15.06.2018	01.08.2018	10.09.2018	19.09.2018	19.11.2018
168653	15.06.2018	01.08.2018	11.09.2018	19.09.2018	19.11.2018
168655	15.06.2018	01.08.2018	11.09.2018	19.09.2018	19.11.2018
171812	02.05.2018	13.07.2018	13.08.2018	17.09.2018	05.12.2018
171811	02.05.2018	13.07.2018	13.08.2018	17.09.2018	05.12.2018
171810	02.05.2018	13.07.2018	13.08.2018	17.09.2018	05.12.2018
171808	02.05.2018	13.07.2018	13.08.2018	17.09.2018	05.12.2018
171807	02.05.2018	13.07.2018	13.08.2018	17.09.2018	05.12.2018
171806	02.05.2018	13.07.2018	13.08.2018	17.09.2018	05.12.2018
171805	02.05.2018	13.07.2018	13.08.2018	17.09.2018	05.12.2018
171804	02.05.2018	13.07.2018	13.08.2018	17.09.2018	05.12.2018
171802	02.05.2018	13.07.2018	13.08.2018	17.09.2018	05.12.2018
171801	02.05.2018	13.07.2018	13.08.2018	17.09.2018	05.12.2018

Information sought and background of the case:

1) CIC/EMCDS/A/2018/167425

The Appellant filed an RTI Application dated 11.06.2018 seeking information on 7 points pertaining to property no. F-269, Laxmi Nagar, Delhi in connection with complaint filed on 26.03.2018 pertaining to alleged illegal construction. He further sought action taken on his complaint; details pertaining to orders issued/comments made in response to his complaint etc.

The PIO vide reply dated 13.07.2018 provided point-wise information to the Appellant.

Dissatisfied with the reply received from the PIO, the Appellant filed a First Appeal dated 05.09.2018, whereupon the First Appellate Authority vide order dated 19.09.2018 observed that the PIO has provided unsatisfactory information, hence, PIO was directed to go through the contents of information asked by the Appellant and provide information about his specific complaints within 15 days.

Feeling aggrieved over the non-compliance of FAO, Appellant approached the Commission in the instant Second Appeal.

2) CIC/EMCDS/A/2018/167413

The Appellant filed an RTI Application dated 11.06.2018 seeking information on 7 points pertaining to property no. 508, Gali no. 15, West Guru Angad Nagar, Laxmi Nagar, Delhi (part of property) in connection with complaint filed on 26.03.2018 pertaining to alleged illegal construction. He further sought action taken on his complaint; details pertaining to orders issued/comments made in response to his complaint etc.

The PIO vide reply dated 13.07.2018 provided point-wise information to the Appellant.

Dissatisfied with the reply received from the PIO, the Appellant filed a First Appeal dated 05.09.2018, whereupon the First Appellate Authority vide order dated 19.09.2018 observed that the PIO has provided unsatisfactory information, hence, PIO was directed to go through the contents of information asked by the Appellant and provide information about his specific complaints within 15 days.

Feeling aggrieved over the non-compliance of FAO, Appellant approached the Commission in the instant Second Appeal.

3) CIC/EMCDS/A/2018/167429

The Appellant filed an RTI Application dated 11.06.2018 seeking information on 7 points pertaining to property no. 49, West Guru Angad Nagar, Laxmi Nagar, Delhi (part of property) in connection with complaint filed on 26.03.2018 pertaining to alleged illegal construction. He further sought action taken on his complaint; details pertaining to orders issued/comments made in response to his complaint etc.

The PIO vide reply dated 13.07.2018 provided point-wise information to the Appellant.

Dissatisfied with the reply received from the PIO, the Appellant filed a First Appeal dated 05.09.2018, whereupon the First Appellate Authority vide order dated 19.09.2018 observed that the PIO has provided unsatisfactory information, hence, PIO was directed to go through the contents of information asked by the Appellant and provide information about his specific complaints within 15 days.

Feeling aggrieved over the non-compliance of FAO, Appellant approached the Commission in the instant Second Appeal.

4) CIC/EMCDS/A/2018/167420

The Appellant filed an RTI Application dated 14.06.2018 seeking information on 7 points pertaining to property no. A-2, Vijay Block, Laxmi Nagar, Delhi in connection with complaint filed on 26.03.2018 pertaining to alleged illegal construction. He further sought action taken on his complaint; details pertaining to orders issued/comments made in response to his complaint etc.

The PIO vide reply dated 01.08.2018 provided point-wise information to the Appellant.

Dissatisfied with the reply received from the PIO, the Appellant filed a First Appeal dated 05.09.2018, whereupon the First Appellate Authority vide order dated 19.09.2018 observed that the PIO has provided unsatisfactory information, hence, PIO was directed to go through the contents of information asked by the Appellant and provide information about his specific complaints within 15 days.

Feeling aggrieved over the non-compliance of FAO, Appellant approached the Commission in the instant Second Appeal.

5) CIC/EMCDS/A/2018/167430

The Appellant filed an RTI Application dated 11.06.2018 seeking information on 7 points pertaining to property no. 39, East End Enclave, Laxmi Nagar, Delhi in connection with complaint filed on 26.03.2018 pertaining to alleged illegal construction. He further sought action taken on his complaint; details pertaining to orders issued/comments made in response to his complaint etc.

The PIO vide reply dated 13.07.2018 provided point-wise information to the Appellant.

Dissatisfied with the reply received from the PIO, the Appellant filed a First Appeal dated 05.09.2018, whereupon the First Appellate Authority vide order dated 19.09.2018 observed that the PIO has provided unsatisfactory information, hence, PIO was directed to go through the contents of information asked by the Appellant and provide information about his specific complaints within 15 days.

Feeling aggrieved over the non-compliance of FAO, Appellant approached the Commission in the instant Second Appeal.

6) CIC/EMCDS/A/2018/168656

The Appellant filed an RTI Application dated 14.06.2018 seeking information on 7 points pertaining to property no. 22, East End Enclave, Laxmi Nagar, Delhi in connection with complaint filed on 26.03.2018 pertaining to alleged illegal construction. He further sought action taken on his complaint; details pertaining to orders issued/comments made in response to his complaint etc.

The PIO vide reply dated 01.08.2018 provided point-wise information to the Appellant.

Dissatisfied with the reply received from the PIO, the Appellant filed a First Appeal dated 06.09.2018, whereupon the First Appellate Authority vide order dated 19.09.2018 observed that the PIO has provided unsatisfactory information, hence, PIO was directed to go through the contents of information asked by the Appellant and provide information about his specific complaints within 15 days.

Feeling aggrieved over the non-compliance of FAO, Appellant approached the Commission in the instant Second Appeal.

7) CIC/EMCDS/A/2018/168658

The Appellant filed an RTI Application dated 14.06.2018 seeking information on 7 points pertaining to property no. F-1, Gali No.16, Laxmi Nagar, Delhi in connection with complaint filed on 26.03.2018 pertaining to alleged illegal construction. He further sought action taken on his complaint; details pertaining to orders issued/comments made in response to his complaint etc.

The PIO vide reply dated 01.08.2018 provided point-wise information to the Appellant.

Dissatisfied with the reply received from the PIO, the Appellant filed a First Appeal dated 06.09.2018, whereupon the First Appellate Authority vide order dated 19.09.2018 observed that the PIO has provided unsatisfactory information, hence, PIO was directed to go through the contents of information asked by the Appellant and provide information about his specific complaints within 15 days.

Feeling aggrieved over the non-compliance of FAO, Appellant approached the Commission in the instant Second Appeal.

8) CIC/EMCDS/A/2018/168659

The Appellant filed an RTI Application dated 14.06.2018 seeking information on 7 points pertaining to property no. 12, Vijay Block, Laxmi Nagar, Delhi in connection with complaint filed on 26.03.2018 pertaining to alleged illegal construction. He further sought action taken on his complaint; details pertaining to orders issued/comments made in response to his complaint etc.

The PIO vide reply dated 01.08.2018 provided point-wise information to the Appellant.

Dissatisfied with the reply received from the PIO, the Appellant filed a First Appeal dated 06.09.2018, whereupon the First Appellate Authority vide order dated 19.09.2018 observed that the PIO has provided unsatisfactory information, hence, PIO was directed to go through the contents of information asked by the Appellant and provide information about his specific complaints within 15 days.

Feeling aggrieved over the non-compliance of FAO, Appellant approached the Commission in the instant Second Appeal.

9) CIC/EMCDS/A/2018/168660

The Appellant filed an RTI Application dated 14.06.2018 seeking information on 7 points pertaining to property no. 70-A/31, adjacent to Gurunanak Pura, Laxmi Nagar, Delhi in connection with complaint filed on 26.03.2018 pertaining to alleged illegal construction. He further sought action taken on his complaint; details pertaining to orders issued/comments made in response to his complaint etc.

The PIO vide reply dated 27.07.2018 provided point-wise information to the Appellant.

Dissatisfied with the reply received from the PIO, the Appellant filed a First Appeal dated 06.09.2018, whereupon the First Appellate Authority vide order dated 19.09.2018 observed that the PIO has provided unsatisfactory information, hence, PIO was directed to go through the contents of information asked by the Appellant and provide information about his specific complaints within 15 days.

Feeling aggrieved over the non-compliance of FAO, Appellant approached the Commission in the instant Second Appeal.

10) CIC/EMCDS/A/2018/168662

The Appellant filed an RTI Application dated 19.11.2018 seeking information on 7 points pertaining to property no. A-24, Gali No.2, Gurunanak Pura, Laxmi Nagar, Delhi in connection with complaint filed on 26.03.2018 pertaining to alleged illegal construction. He further sought action taken on his complaint; details pertaining to orders issued/comments made in response to his complaint etc.

The PIO vide reply dated 01.08.2018 provided point-wise information to the Appellant.

Dissatisfied with the reply received from the PIO, the Appellant filed a First Appeal dated 06.09.2018, whereupon the First Appellate Authority vide order dated 19.09.2018 observed that the PIO has provided unsatisfactory information, hence, PIO was directed to go through the contents of information

asked by the Appellant and provide information about his specific complaints within 15 days.

Feeling aggrieved over the non-compliance of FAO, Appellant approached the Commission in the instant Second Appeal.

11) CIC/EMCDS/A/2018/168645

The Appellant filed an RTI Application dated 15.06.2018 seeking information on 7 points pertaining to property no. F-193, Mangal Bazaar, Laxmi Nagar, Delhi in connection with complaint filed on 02.04.2018 pertaining to alleged illegal construction. He further sought action taken on his complaint; details pertaining to orders issued/comments made in response to his complaint etc.

The PIO vide reply dated 27.07.2018 provided point-wise information to the Appellant.

Dissatisfied with the reply received from the PIO, the Appellant filed a First Appeal dated 11.09.2018, whereupon the First Appellate Authority vide order dated 19.09.2018 observed that the PIO has provided unsatisfactory information, hence, PIO was directed to go through the contents of information asked by the Appellant and provide information about his specific complaints within 15 days.

Feeling aggrieved over the non-compliance of FAO, Appellant approached the Commission in the instant Second Appeal.

12) CIC/EMCDS/A/2018/168646

The Appellant filed an RTI Application dated 15.06.2018 seeking information on 7 points pertaining to property no. C-10, Aruna Park, Laxmi Nagar, Delhi in connection with complaint filed on 02.04.2018 pertaining to alleged illegal construction. He further sought action taken on his complaint; details pertaining to orders issued/comments made in response to his complaint etc.

The PIO vide reply dated 24.07.2018 provided point-wise information to the Appellant.

Dissatisfied with the reply received from the PIO, the Appellant filed a First Appeal dated 11.09.2018, whereupon the First Appellate Authority vide order dated 19.09.2018 observed that the PIO has provided unsatisfactory information, hence, PIO was directed to go through the contents of information asked by the Appellant and provide information about his specific complaints within 15 days.

Feeling aggrieved over the non-compliance of FAO, Appellant approached the Commission in the instant Second Appeal.

13) CIC/EMCDS/A/2018/168647

The Appellant filed an RTI Application dated 15.06.2018 seeking information on 7 points pertaining to property no. 95, Guru Angad Nagar Extension, Laxmi Nagar, Delhi in connection with complaint filed on 02.04.2018 pertaining to alleged illegal construction. He further sought action taken on his complaint; details pertaining to orders issued/comments made in response to his complaint etc.

The PIO vide reply dated 01.08.2018 provided point-wise information to the Appellant.

Dissatisfied with the reply received from the PIO, the Appellant filed a First Appeal dated 10.09.2018, whereupon the First Appellate Authority vide order dated 19.09.2018 observed that the PIO has provided unsatisfactory information, hence, PIO was directed to go through the contents of information asked by the Appellant and provide information about his specific complaints within 15 days.

Feeling aggrieved over the non-compliance of FAO, Appellant approached the Commission in the instant Second Appeal.

14) CIC/EMCDS/A/2018/168649

The Appellant filed an RTI Application dated 19.11.2018 seeking information on 7 points pertaining to property no. A-25, West Guru Angad Nagar Extension, Laxmi Nagar, Delhi in connection with complaint filed on 02.04.2018 pertaining to alleged illegal construction. He further sought action taken on his complaint; details pertaining to orders issued/comments made in response to his complaint etc.

The PIO vide reply dated 27.07.2018 provided point-wise information to the Appellant.

Dissatisfied with the reply received from the PIO, the Appellant filed a First Appeal dated 11.09.2018, whereupon the First Appellate Authority vide order dated 19.09.2018 observed that the PIO has provided unsatisfactory information, hence, PIO was directed to go through the contents of information asked by the Appellant and provide information about his specific complaints within 15 days.

Feeling aggrieved over the non-compliance of FAO, Appellant approached the Commission in the instant Second Appeal.

15) CIC/EMCDS/A/2018/168650

The Appellant filed an RTI Application dated 19.11.2018 seeking information on 7 points pertaining to property no. A-33, Guru Angad Nagar, Laxmi Nagar, Delhi in connection with complaint filed on 02.04.2018 pertaining to alleged illegal construction. He further sought action taken on his complaint; details pertaining to orders issued/comments made in response to his complaint etc.

The PIO vide reply dated 27.07.2018 provided point-wise information to the Appellant.

Dissatisfied with the reply received from the PIO, the Appellant filed a First Appeal dated 11.09.2018, whereupon the First Appellate Authority vide order dated 19.09.2018 observed that the PIO has provided unsatisfactory information, hence, PIO was directed to go through the contents of information asked by the Appellant and provide information about his specific complaints within 15 days.

Feeling aggrieved over the non-compliance of FAO, Appellant approached the Commission in the instant Second Appeal.

16) CIC/EMCDS/A/2018/168651

The Appellant filed an RTI Application dated 19.11.2018 seeking information on 7 points pertaining to property no. F-185, Mangal Bazaar, Laxmi Nagar, Delhi in connection with complaint filed on 02.04.2018 pertaining to alleged illegal construction. He further sought action taken on his complaint; details pertaining to orders issued/comments made in response to his complaint etc.

The PIO vide reply dated 01.08.2018 provided point-wise information to the Appellant.

Dissatisfied with the reply received from the PIO, the Appellant filed a First Appeal dated 11.09.2018, whereupon the First Appellate Authority vide order dated 19.09.2018 observed that the PIO has provided unsatisfactory information, hence, PIO was directed to go through the contents of information asked by the Appellant and provide information about his specific complaints within 15 days.

Feeling aggrieved over the non-compliance of FAO, Appellant approached the Commission in the instant Second Appeal.

17) CIC/EMCDS/A/2018/168652

The Appellant filed an RTI Application dated 15.06.2018 seeking information on 7 points pertaining to property no. F-182/A, Mangal Bazaar, Laxmi Nagar, Delhi in connection with complaint filed on 02.04.2018 pertaining to alleged illegal construction. He further sought action taken on his complaint; details pertaining to orders issued/comments made in response to his complaint etc.

The PIO vide reply dated 01.08.2018 provided point-wise information to the Appellant.

Dissatisfied with the reply received from the PIO, the Appellant filed a First Appeal dated 10.09.2018, whereupon the First Appellate Authority vide order dated 19.09.2018 observed that the PIO has provided unsatisfactory information, hence, PIO was directed to go through the contents of information asked by the Appellant and provide information about his specific complaints within 15 days.

Feeling aggrieved over the non-compliance of FAO, Appellant approached the Commission in the instant Second Appeal.

18) CIC/EMCDS/A/2018/168653

The Appellant filed an RTI Application dated 15.06.2018 seeking information on 7 points pertaining to property no. A-193B, Mangal Bazaar, Laxmi Nagar, Delhi in connection with complaint filed on 02.04.2018 pertaining to alleged illegal construction. He further sought action taken on his complaint; details pertaining to orders issued/comments made in response to his complaint etc.

The PIO vide reply dated 01.08.2018 provided point-wise information to the Appellant.

Dissatisfied with the reply received from the PIO, the Appellant filed a First Appeal dated 11.09.2018, whereupon the First Appellate Authority vide order dated 19.09.2018 observed that the PIO has provided unsatisfactory information, hence, PIO was directed to go through the contents of information asked by the Appellant and provide information about his specific complaints within 15 days.

Feeling aggrieved over the non-compliance of FAO, Appellant approached the Commission in the instant Second Appeal.

19) CIC/EMCDS/A/2018/168655

The Appellant filed an RTI Application dated 15.06.2018 seeking information on 7 points pertaining to property no. F-48/606, Laxmi Nagar, Delhi (part of property) in connection with complaint filed on 02.04.2018 pertaining to alleged illegal construction. He further sought action taken on his complaint; details pertaining to orders issued/comments made in response to his complaint etc.

The PIO vide reply dated 01.08.2018 provided point-wise information to the Appellant.

Dissatisfied with the reply received from the PIO, the Appellant filed a First Appeal dated 11.09.2018, whereupon the First Appellate Authority vide order dated 19.09.2018 observed that the PIO has provided unsatisfactory information, hence, PIO was directed to go through the contents of information asked by the Appellant and provide information about his specific complaints within 15 days.

Feeling aggrieved over the non-compliance of FAO, Appellant approached the Commission in the instant Second Appeal.

20) CIC/EMCDS/A/2018/171812

The Appellant filed an RTI Application dated 02.05.2018 seeking information on 7 points pertaining to property no. WB-146, Ganesh Nagar-II, Shakarpur, Delhi (part of property) in connection with complaint filed on 01.12.2017 pertaining to alleged illegal construction. He further sought action taken on his complaint; details pertaining to orders issued/comments made in response to his complaint etc.

The PIO vide reply dated 13.07.2018 provided point-wise information to the Appellant.

Dissatisfied with the reply received from the PIO, the Appellant filed a First Appeal dated 13.08.2018, whereupon the First Appellate Authority vide order dated 17.09.2018 observed that the PIO has provided unsatisfactory information, hence, PIO was directed to go through the contents of information asked by the Appellant and provide information about his specific complaints within 15 days.

Feeling aggrieved over the non-compliance of FAO, Appellant approached the Commission in the instant Second Appeal.

21) CIC/EMCDS/A/2018/171811

The Appellant filed an RTI Application dated 02.05.2018 seeking information on 7 points pertaining to property no. WB-155, Ganesh Nagar-II, Shakarpur, Delhi in connection with complaint filed on 01.12.2017 pertaining to alleged illegal construction. He further sought action taken on his complaint; details pertaining to orders issued/comments made in response to his complaint etc.

The PIO vide reply dated 13.07.2018 provided point-wise information to the Appellant.

Dissatisfied with the reply received from the PIO, the Appellant filed a First Appeal dated 13.08.2018, whereupon the First Appellate Authority vide order dated 17.09.2018 observed that the PIO has provided unsatisfactory information, hence, PIO was directed to go through the contents of information asked by the Appellant and provide information about his specific complaints within 15 days.

Feeling aggrieved over the non-compliance of FAO, Appellant approached the Commission in the instant Second Appeal.

22) CIC/EMCDS/A/2018/171810

The Appellant filed an RTI Application dated 02.05.2018 seeking information on 7 points pertaining to property no. C-617, Ganesh Nagar Extension-II, Shakarpur, Delhi in connection with complaint filed on 01.12.2017 pertaining to alleged illegal construction. He further sought action taken on his complaint; details pertaining to orders issued/comments made in response to his complaint etc.

The PIO vide reply dated 13.07.2018 provided point-wise information to the Appellant.

Dissatisfied with the reply received from the PIO, the Appellant filed a First Appeal dated 13.08.2018, whereupon the First Appellate Authority vide order dated 17.09.2018 observed that the PIO has provided unsatisfactory information, hence, PIO was directed to go through the contents of information asked by the Appellant and provide information about his specific complaints within 15 days.

Feeling aggrieved over the non-compliance of FAO, Appellant approached the Commission in the instant Second Appeal.

23) CIC/EMCDS/A/2018/171808

The Appellant filed an RTI Application dated 02.05.2018 seeking information on 7 points pertaining to property no. B-583 (adjacent to B-583), Gali no. 3, Ganesh Nagar Extension-II, Shakarpur, Delhi (part of property) in connection with complaint filed on 01.12.2017 pertaining to alleged illegal construction. He further sought action taken on his complaint; details pertaining to orders issued/comments made in response to his complaint etc.

The PIO vide reply dated 13.07.2018 provided point-wise information to the Appellant.

Dissatisfied with the reply received from the PIO, the Appellant filed a First Appeal dated 13.08.2018, whereupon the First Appellate Authority vide order dated 17.09.2018 observed that the PIO has provided unsatisfactory information, hence, PIO was directed to go through the contents of information asked by the Appellant and provide information about his specific complaints within 15 days.

Feeling aggrieved over the non-compliance of FAO, Appellant approached the Commission in the instant Second Appeal.

24) CIC/EMCDS/A/2018/171807

The Appellant filed an RTI Application dated 02.05.2018 seeking information on 7 points pertaining to property no. 429, Ganesh Nagar Extension-II, Shakarpur, Delhi in connection with complaint filed on 01.12.2017 pertaining to alleged illegal construction. He further sought action taken on his complaint; details pertaining to orders issued/comments made in response to his complaint etc.

The PIO vide reply dated 13.07.2018 provided point-wise information to the Appellant.

Dissatisfied with the reply received from the PIO, the Appellant filed a First Appeal dated 13.08.2018, whereupon the First Appellate Authority vide order dated 17.09.2018 observed that the PIO has provided unsatisfactory information, hence, PIO was directed to go through the contents of information asked by the Appellant and provide information about his specific complaints within 15 days.

Feeling aggrieved over the non-compliance of FAO, Appellant approached the Commission in the instant Second Appeal.

25) CIC/EMCDS/A/2018/171806

The Appellant filed an RTI Application dated 02.05.2018 seeking information on 7 points pertaining to property no. 38 (adjacent to 39), Ganesh Nagar Extension-II, Shakarpur, Delhi in connection with complaint filed on 01.12.2017 pertaining to alleged illegal construction. He further sought action taken on his complaint; details pertaining to orders issued/comments made in response to his complaint etc.

The PIO vide reply dated 13.07.2018 provided point-wise information to the Appellant.

Dissatisfied with the reply received from the PIO, the Appellant filed a First Appeal dated 13.08.2018, whereupon the First Appellate Authority vide order dated 17.09.2018 observed that the PIO has provided unsatisfactory information, hence, PIO was directed to go through the contents of information asked by the Appellant and provide information about his specific complaints within 15 days.

Feeling aggrieved over the non-compliance of FAO, Appellant approached the Commission in the instant Second Appeal.

26) CIC/EMCDS/A/2018/171805

The Appellant filed an RTI Application dated 02.05.2018 seeking information on 7 points pertaining to property no. A-119, (adjacent to plot no. 213), Chandra Vihar, Mandavali, Delhi in connection with complaint filed on 01.12.2017 pertaining to alleged illegal construction. He further sought action taken on his complaint; details pertaining to orders issued/comments made in response to his complaint etc.

The PIO vide reply dated 13.07.2018 provided point-wise information to the Appellant.

Dissatisfied with the reply received from the PIO, the Appellant filed a First Appeal dated 13.08.2018, whereupon the First Appellate Authority vide order dated 17.09.2018 observed that the PIO has provided unsatisfactory

information, hence, PIO was directed to go through the contents of information asked by the Appellant and provide information about his specific complaints within 15 days.

Feeling aggrieved over the non-compliance of FAO, Appellant approached the Commission in the instant Second Appeal.

27) CIC/EMCDS/A/2018/171804

The Appellant filed an RTI Application dated 02.05.2018 seeking information on 7 points pertaining to property no. adjacent to A-180, Gali no. 10, Chandra Vihar, Mandavali, Delhi in connection with complaint filed on 01.12.2017 pertaining to alleged illegal construction. He further sought action taken on his complaint; details pertaining to orders issued/comments made in response to his complaint etc.

The PIO vide reply dated 13.07.2018 provided point-wise information to the Appellant.

Dissatisfied with the reply received from the PIO, the Appellant filed a First Appeal dated 13.08.2018, whereupon the First Appellate Authority vide order dated 17.09.2018 observed that the PIO has provided unsatisfactory information, hence, PIO was directed to go through the contents of information asked by the Appellant and provide information about his specific complaints within 15 days.

Feeling aggrieved over the non-compliance of FAO, Appellant approached the Commission in the instant Second Appeal.

28) CIC/EMCDS/A/2018/171802

The Appellant filed an RTI Application dated 02.05.2018 seeking information on 7 points pertaining to property no. adjacent to WB-207D, Ganesh Nagar-II, Shakarpur, Delhi in connection with complaint filed on 01.12.2017 pertaining to alleged illegal construction. He further sought action taken on his complaint; details pertaining to orders issued/comments made in response to his complaint etc.

The PIO vide reply dated 13.07.2018 provided point-wise information to the Appellant.

Dissatisfied with the reply received from the PIO, the Appellant filed a First Appeal dated 13.08.2018, whereupon the First Appellate Authority vide order dated 17.09.2018 observed that the PIO has provided unsatisfactory information, hence, PIO was directed to go through the contents of information asked by the Appellant and provide information about his specific complaints within 15 days.

Feeling aggrieved over the non-compliance of FAO, Appellant approached the Commission in the instant Second Appeal.

29) CIC/EMCDS/A/2018/171801

The Appellant filed an RTI Application dated 02.05.2018 seeking information on 7 points pertaining to property no. B-175 (adjacent to WB-176), Ganesh Nagar-II, Shakarpur, Delhi (part of property) in connection with complaint filed on 01.12.2017 pertaining to alleged illegal construction. He further sought action taken on his complaint; details pertaining to orders issued/comments made in response to his complaint etc.

The PIO vide reply dated 13.07.2018 provided point-wise information to the Appellant.

Dissatisfied with the reply received from the PIO, the Appellant filed a First Appeal dated 13.08.2018, whereupon the First Appellate Authority vide order dated 17.09.2018 observed that the PIO has provided unsatisfactory information, hence, PIO was directed to go through the contents of information asked by the Appellant and provide information about his specific complaints within 15 days.

Feeling aggrieved over the non-compliance of FAO, Appellant approached the Commission in the instant Second Appeal.

Decision:

1. The current situation arising out of the COVID-19 pandemic, has caused a significant disruption in the functioning of all establishments and businesses alike. In respect of the Commission, this translates into a mounting backlog of Appeals and Complaints. In such circumstances, there is a pressing need to identify cases such as the ones under adjudication for cumulative disposal in order to facilitate expedient disposal of cases of genuine information seekers. In other words, this is where the aforementioned juxtaposition comes into play as the Commission seeks to strike a fine balance between the interests of genuine information seekers, while keeping the menace of frivolous and repetitive RTI Applicants under check.
2. The aforementioned Twenty Nine [29] Second Appeals filed by the Appellant before East Delhi Municipal Corporation have been examined. The records reveal that Appellant has sought information in a particular pattern wherein he has sought information relating to action taken on his complaints filed before the Respondent public authority regarding alleged illegal construction on 29 separate properties situated in and around Laxmi Nagar area. It is noted that the Appellant's consistent grievance in all of the above Second Appeals, has been that the order of the First Appellate Authority has not been complied with by the PIO till the date of filing of Second Appeal.
3. Keeping in view the facts and circumstances in the aforesaid cases, and the current situation wherein a number of offices of Delhi Government have been sealed on identification of corona positive cases in the premises or public officials are assigned to tackle the Covid pandemic or even

quarantined, holding structured hearing of the above cases will only delay the dissemination of the desired information. Hence, Commission finds it expedient that all the aforesaid Second Appeals be remanded to the concerned FAA, East Delhi Municipal Corporation, Delhi to ensure compliance of the FAA's order/s and the PIO/EE-B-II, EDMC is directed to submit an action taken report before the Commission by 31.10.2020, failing which appropriate legal action shall be initiated against the errant official.

In view of the above, all the Second Appeals are disposed off with the above directions.

Y. K. Sinha (वाई. के. सिन्हा)
Information Commissioner(सूचना आयुक्त)

Authenticated true copy
(अभिप्रमाणितसत्यापितप्रति)

Ram Parkash Grover (राम प्रकाश ग्रोवर)
Dy. Registrar (उप-पंजीयक)
011-26180514

केन्द्रीय सूचना आयोग
Central Information Commission
बाबागंगनाथमार्ग, मुनिरका
Baba Gangnath Marg, Munirka
नई दिल्ली, New Delhi – 110067

द्वितीय अपील संख्या / Second Appeal Nos. **CIC/EMCDN/A/2018/158232**
CIC/EMCDN/A/2018/158233
CIC/EMCDN/A/2018/158234
CIC/EMCDN/A/2018/158235
CIC/EMCDN/A/2018/158237
CIC/EMCDN/A/2018/158238
CIC/EMCDN/A/2018/158239
CIC/EMCDN/A/2018/158240
CIC/EMCDN/A/2018/158242
CIC/EMCDN/A/2018/158251
CIC/EMCDN/A/2018/164888
CIC/EMCDN/A/2018/164889
CIC/EMCDN/A/2018/164890
CIC/EMCDN/A/2018/164891
CIC/EMCDN/A/2018/164892
CIC/EMCDN/A/2018/164893
CIC/EMCDN/A/2018/164894
CIC/EMCDN/A/2018/164897
CIC/EMCDN/A/2018/164898
CIC/EMCDN/A/2018/164899
CIC/EMCDS/A/2018/165783
CIC/EMCDS/A/2018/165784
CIC/EMCDS/A/2018/165785
CIC/EMCDS/A/2018/165786
CIC/EMCDS/A/2018/165787
CIC/EMCDS/A/2018/165788
CIC/EMCDS/A/2018/165789
CIC/EMCDS/A/2018/165791
CIC/EMCDS/A/2018/165792
CIC/EMCDS/A/2018/165794
CIC/EMCDS/A/2018/165795
CIC/EMCDS/A/2018/165796
CIC/EMCDS/A/2018/165797
CIC/EMCDS/A/2018/165799
CIC/EMCDS/A/2018/165800
CIC/EMCDS/A/2018/165801
CIC/EMCDS/A/2018/165803

Shri Rajendra Gupta

... अपीलकर्ता/Appellant

VERSUS/बनाम

PIO/East Delhi Municipal Corporation,
Shahdara South Zone, Delhi

...प्रतिवादीगण /Respondent

Date of Decision : 22.06.2020

Information Commissioner : Shri Y. K. Sinha

Since both the parties are same, the above mentioned cases are clubbed together for hearing and disposal

Case Nos.	RTI dated	CPIO Reply	First Appeal dated	FAA's Order dtd	2 nd Appeal/ Complaint received on
158232	19.04.2018	29.05.2018	04.06.2018	22.06.2018	24.09.2018
158233	19.04.2018	29.05.2018	04.06.2018	22.06.2018	24.09.2018
158234	19.04.2018	29.05.2018	04.06.2018	22.06.2018	24.09.2018
158235	19.04.2018	29.05.2018	04.06.2018	22.06.2018	24.09.2018
158237	20.04.2018	11.06.2018	06.06.2018	27.06.2018	24.09.2018
158238	19.04.2018	29.05.2018	04.06.2018	27.06.2018	24.09.2018
158239	19.04.2018	29.05.2018	04.06.2018	27.06.2018	24.09.2018
158240	19.04.2018	29.05.2018	04.06.2018	27.06.2018	24.09.2018
158242	19.04.2018	29.05.2018	04.06.2018	27.06.2018	24.09.2018
158251	19.04.2018	11.06.2018	04.06.2018	27.06.2018	24.09.2018
164888	20.04.2018	11.06.2018	07.06.2018	27.06.2018	24.09.2018
164889	20.04.2018	11.06.2018	07.06.2018	27.06.2018	24.09.2018
164890	20.04.2018	11.06.2018	06.06.2018	27.06.2018	24.09.2018
164891	20.04.2018	11.06.2018	06.06.2018	27.06.2018	24.09.2018
164892	20.04.2018	11.06.2018	06.06.2018	27.06.2018	24.09.2018
164893	20.04.2018	11.06.2018	04.06.2018	27.06.2018	24.09.2018
164894	20.04.2018	11.06.2018	06.06.2018	27.06.2018	24.09.2018
164897	20.04.2018	11.06.2018	06.06.2018	27.06.2018	24.09.2018
164898	20.04.2018	11.06.2018	04.06.2018	27.06.2018	24.09.2018
164899	20.04.2018	11.06.2018	06.06.2018	27.06.2018	24.09.2018

165783	07.06.2018	13.07.2018	20.08.2018	05.09.2018	05.11.2018
165784	07.06.2018	13.07.2018	20.08.2018	05.09.2018	05.11.2018
165785	07.06.2018	13.07.2018	20.08.2018	05.09.2018	05.11.2018
165786	07.06.2018	13.07.2018	20.08.2018	05.09.2018	05.11.2018
165787	07.06.2018	13.07.2018	20.08.2018	05.09.2018	05.11.2018
165788	07.06.2018	13.07.2018	20.08.2018	05.09.2018	05.11.2018
165789	07.06.2018	13.07.2018	20.08.2018	05.09.2018	05.11.2018
165791	07.06.2018	13.07.2018	20.08.2018	05.09.2018	05.11.2018
165792	07.06.2018	13.07.2018	20.08.2018	05.09.2018	05.11.2018
165794	07.06.2018	13.07.2018	20.08.2018	05.09.2018	05.11.2018
165795	07.06.2018	13.07.2018	20.08.2018	05.09.2018	05.11.2018
165796	07.06.2018	13.07.2018	20.08.2018	05.09.2018	05.11.2018
165797	07.06.2018	13.07.2018	20.08.2018	05.09.2018	05.11.2018
165799	07.06.2018	13.07.2018	20.08.2018	05.09.2018	05.11.2018
165800	07.06.2018	13.07.2018	20.08.2018	05.09.2018	05.11.2018
165801	07.06.2018	13.07.2018	20.08.2018	05.09.2018	05.11.2018
165803	07.06.2018	13.07.2018	20.08.2018	05.09.2018	05.11.2018

Information sought and background of the case:

1) CIC/EMCDN/A/2018/158232

The Appellant filed an RTI Application dated 19.04.2018 seeking information about property no. 1/11886 (G-2), Subhash Park, Shahdara, Delhi in connection with complaint filed on 30.10.2017 alleging illegal construction being carried out on the property. He further sought action taken on his complaint; details pertaining to orders issued/comments made in response to his complaint etc.

The PIO/EE-B-II, Shahdara North Zone, EDMC vide reply dated 29.05.2018 provided point-wise reply to the Appellant from records available.

Dissatisfied with the reply received from the PIO, the Appellant filed a First Appeal dated 04.06.2018, which was decided by the First Appellate Authority vide order dated 22.06.2018 directing the PIO to provide modified information with action taken report within 30 days.

Feeling aggrieved over non-compliance of the FAA's order and dissatisfied with the PIO's reply, Appellant approached the Commission in the instant Second Appeal.

2) CIC/EMCDN/A/2018/158233

The Appellant filed an RTI Application dated 19.04.2018 seeking information about Plot No. 603, property no. 21, behind Gopal Watika Ram Nagar Shahdara, Delhi in connection with complaint filed on 24.08.2017 alleging illegal construction existing on the property. He further sought action taken on his complaint; details pertaining to orders issued/comments made in response to his complaint etc.

The PIO/EE-B-II, Shahdara North Zone, EDMC vide reply dated 29.05.2018 provided point-wise reply to the Appellant based on available records.

Dissatisfied with the reply received from the PIO, the Appellant filed a First Appeal dated 04.06.2018, which was decided by the First Appellate Authority vide order dated 22.06.2018 directing the PIO to provide modified information with action taken report within 30 days.

Feeling aggrieved over non-compliance of the FAA's order and dissatisfied with the PIO's reply, Appellant approached the Commission in the instant Second Appeal.

3) CIC/EMCDN/A/2018/158234

The Appellant filed an RTI Application dated 19.04.2018 seeking information about a complaint dated 01.09.2017 filed with respect to property no. 1/6984, Shivaji Park, Shahdara, Delhi, alleging illegal construction existing on the property. He further sought action taken on his complaint; details pertaining to orders issued/comments made in response to his complaint etc.

The PIO/EE-B-II, Shahdara North Zone, EDMC vide reply dated 29.05.2018 provided point-wise reply to the Appellant based on available records.

Dissatisfied with the reply received from the PIO, the Appellant filed a First Appeal dated 04.06.2018, which was decided by the First Appellate Authority vide order dated 22.06.2018 directing the PIO to provide modified information with action taken report within 30 days.

Feeling aggrieved over non-compliance of the FAA's order and dissatisfied with the PIO's reply, Appellant approached the Commission in the instant Second Appeal.

4) CIC/EMCDN/A/2018/158235

The Appellant filed an RTI Application dated 19.04.2018 seeking information about a complaint dated 01.09.2017 filed with respect to property no. 1/6226, East Rohtash Nagar, Delhi, alleging illegal construction existing on the property. He further sought action taken on his complaint; details pertaining to orders issued/comments made in response to his complaint etc.

The PIO/EE-B-II, Shahdara North Zone, EDMC vide reply dated 29.05.2018 provided point-wise reply to the Appellant based on available records.

Dissatisfied with the reply received from the PIO, the Appellant filed a First Appeal dated 04.06.2018, which was decided by the First Appellate Authority vide order dated 22.06.2018 directing the PIO to provide modified information with action taken report within 30 days.

Feeling aggrieved over non-compliance of the FAA's order and dissatisfied with the PIO's reply, Appellant approached the Commission in the instant Second Appeal.

5) CIC/EMCDN/A/2018/158237

The Appellant filed an RTI Application dated 20.04.2018 seeking information about a complaint dated 06.11.2017 and reminder complaints filed with respect to property no. B-8, Man Sarovar Park, Shahdara, Delhi alleging illegal construction existing on the property. He further sought action taken on his complaint; details pertaining to orders issued/comments made in response to his complaint etc.

The PIO/EE-B-II, Shahdara North Zone, EDMC vide reply dated 11.06.2018 provided point-wise reply to the Appellant based on available records.

Dissatisfied with the reply received from the PIO, the Appellant filed a First Appeal dated 06.06.2018, which was decided by the First Appellate Authority vide order dated 27.06.2018 directing the PIO to provide modified information with action taken report within 30 days.

Feeling aggrieved over non-compliance of the FAA's order and dissatisfied with the PIO's reply, Appellant approached the Commission in the instant Second Appeal.

6) CIC/EMCDN/A/2018/158238

The Appellant filed an RTI Application dated 19.04.2018 seeking information about a complaint dated 24.08.2017 and reminder complaints filed with respect to property no. 19, Plot No.603, behind Gopal Watika, Ram Nagar, Shahdara, Delhi alleging illegal construction existing on the property. He further sought action taken on his complaint; details pertaining to orders issued/comments made in response to his complaint etc.

The PIO/EE-B-II, Shahdara North Zone, EDMC vide reply dated 29.05.2018 provided point-wise reply to the Appellant based on available records.

Dissatisfied with the reply received from the PIO, the Appellant filed a First Appeal dated 04.06.2018, which was decided by the First Appellate Authority vide order dated 27.06.2018 directing the PIO to provide modified information with action taken report within 30 days.

Feeling aggrieved over non-compliance of the FAA's order and dissatisfied with the PIO's reply, Appellant approached the Commission in the instant Second Appeal.

7) CIC/EMCDN/A/2018/158239

The Appellant filed an RTI Application dated 19.04.2018 seeking information about a complaint dated 25.08.2017 and reminder complaints filed with respect to property no. 1/7403, Shivaji Park, Shahdara, Delhi alleging illegal construction on the property. He further sought action taken on his complaint; details pertaining to orders issued/comments made in response to his complaint etc.

The PIO/EE-B-II, Shahdara North Zone, EDMC vide reply dated 29.05.2018 provided point-wise reply to the Appellant based on available records.

Dissatisfied with the reply received from the PIO, the Appellant filed a First Appeal dated 04.06.2018, which was decided by the First Appellate Authority vide order dated 27.06.2018 directing the PIO to provide modified information with action taken report within 30 days.

Feeling aggrieved over non-compliance of the FAA's order and dissatisfied with the PIO's reply, Appellant approached the Commission in the instant Second Appeal.

8) CIC/EMCDN/A/2018/158240

The Appellant filed an RTI Application dated 19.04.2018 seeking information about a complaint dated 24.08.2017 and reminder complaints filed with respect to property no. 20, Plot No603, behind Gopal Vatika, Ram Nagar, Shahdara, Delhi alleging illegal construction on the property. He further sought action taken on his complaint; details pertaining to orders issued/comments made in response to his complaint etc.

The PIO/EE-B-II, Shahdara North Zone, EDMC vide reply dated 29.05.2018 provided point-wise reply to the Appellant based on available records.

Dissatisfied with the reply received from the PIO, the Appellant filed a First Appeal dated 04.06.2018, which was decided by the First Appellate Authority vide order dated 27.06.2018 directing the PIO to provide modified information with action taken report within 30 days.

Feeling aggrieved over non-compliance of the FAA's order and dissatisfied with the PIO's reply, Appellant approached the Commission in the instant Second Appeal.

9) CIC/EMCDN/A/2018/158242

The Appellant filed an RTI Application dated 19.04.2018 seeking information about a complaint dated 01.09.2017 and reminder complaints filed with respect illegal construction carried out Opposite property no. 1/6982, Shivaji Park,

Shahdara, Delhi. He further sought action taken on his complaint; details pertaining to orders issued/comments made in response to his complaint etc.

The PIO/EE-B-II, Shahdara North Zone, EDMC vide reply dated 29.05.2018 provided point-wise reply to the Appellant based on available records.

Dissatisfied with the reply received from the PIO, the Appellant filed a First Appeal dated 04.06.2018, which was decided by the First Appellate Authority vide order dated 27.06.2018 directing the PIO to provide modified information with action taken report within 30 days.

Feeling aggrieved over non-compliance of the FAA's order and dissatisfied with the PIO's reply, Appellant approached the Commission in the instant Second Appeal.

10) CIC/EMCDN/A/2018/158251

The Appellant filed an RTI Application dated 19.04.2018 seeking information about a complaint dated 06.11.2017 and reminder complaints filed with respect illegal construction carried out at property no.1/719, Kabool Nagar, Shahdara, Delhi. He further sought action taken on his complaint; details pertaining to orders issued/comments made in response to his complaint etc.

The PIO/EE-B-II, Shahdara North Zone, EDMC vide reply dated 11.06.2018 provided point-wise reply to the Appellant based on available records.

On non-receipt of response from the PIO, meanwhile, the Appellant filed a First Appeal dated 04.06.2018, which was decided by the First Appellate Authority vide order dated 27.06.2018 directing the PIO to provide modified information with action taken report within 30 days.

Feeling aggrieved over non-compliance of the FAA's order and dissatisfied with the PIO's reply, Appellant approached the Commission in the instant Second Appeal.

11) CIC/EMCDN/A/2018/164888

The Appellant filed an RTI Application dated 20.04.2018 seeking information about a complaint dated 06.11.2017 and reminder complaints filed with respect illegal construction carried out at property no.1/6483, East Rohtash Nagar, Shahdara, Delhi. He further sought action taken on his complaint; details pertaining to orders issued/comments made in response to his complaint etc.

The PIO/EE-B-II, Shahdara North Zone, EDMC vide reply dated 11.06.2018 provided point-wise reply to the Appellant based on available records.

On non-receipt of response from the PIO, meanwhile, the Appellant filed a First Appeal dated 07.06.2018, which was decided by the First Appellate Authority vide order dated 27.06.2018 directing the PIO to provide modified information with action taken report within 30 days.

Feeling aggrieved over non-compliance of the FAA's order and dissatisfied with the PIO's reply, Appellant approached the Commission in the instant Second Appeal.

12) CIC/EMCDN/A/2018/164889

The Appellant filed an RTI Application dated 20.04.2018 seeking information about a complaint dated 06.11.2017 and reminder complaints filed in respect of illegal construction carried out adjacent to property no.1/1449/14B, Gali No.1, 30 Ft. Road, Durga Puri, Shahdara, Delhi. He further sought action taken on his complaint; details pertaining to orders issued/comments made in response to his complaint etc.

The PIO/EE-B-II, Shahdara North Zone, EDMC vide reply dated 11.06.2018 provided point-wise reply to the Appellant based on available records.

On non-receipt of response from the PIO, meanwhile, the Appellant filed a First Appeal dated 07.06.2018, which was decided by the First Appellate Authority vide order dated 27.06.2018 directing the PIO to provide modified information with action taken report within 30 days.

Feeling aggrieved over non-compliance of the FAA's order and dissatisfied with the PIO's reply, Appellant approached the Commission in the instant Second Appeal.

13) CIC/EMCDN/A/2018/164890

The Appellant filed an RTI Application dated 20.04.2018 seeking information about a complaint dated 06.11.2017 and reminder complaints filed in respect of illegal construction carried out adjacent to property no.1/1449/109, Gali No.3, 100 Ft. Road, Durga Puri, Shahdara, Delhi. He further sought action taken on his complaint; details pertaining to orders issued/comments made in response to his complaint etc.

The PIO/EE-B-II, Shahdara North Zone, EDMC vide reply dated 11.06.2018 provided point-wise reply to the Appellant based on available records.

On non-receipt of response from the PIO, meanwhile, the Appellant filed a First Appeal dated 06.06.2018, which was decided by the First Appellate Authority vide order dated 27.06.2018 directing the PIO to provide modified information with action taken report within 30 days.

Feeling aggrieved over non-compliance of the FAA's order and dissatisfied with the PIO's reply, Appellant approached the Commission in the instant Second Appeal.

14) CIC/EMCDN/A/2018/164891

The Appellant filed an RTI Application dated 20.04.2018 seeking information about a complaint dated 09.11.2017 and reminder complaints filed in respect of illegal construction carried out adjacent to property no.1/5004A, Main Loni Road, Shahdara. Delhi. He further sought action taken on his complaint; details pertaining to orders issued/comments made in response to his complaint etc.

The PIO/EE-B-II, Shahdara North Zone, EDMC vide reply dated 11.06.2018 provided point-wise reply to the Appellant based on available records.

On non-receipt of response from the PIO, meanwhile, the Appellant filed a First Appeal dated 06.06.2018, which was decided by the First Appellate Authority vide order dated 27.06.2018 directing the PIO to provide modified information with action taken report within 30 days.

Feeling aggrieved over non-compliance of the FAA's order and dissatisfied with the PIO's reply, Appellant approached the Commission in the instant Second Appeal.

15) CIC/EMCDN/A/2018/164892

The Appellant filed an RTI Application dated 20.04.2018 seeking information about a complaint dated 06.11.2017 and reminder complaints filed in respect of illegal construction carried out at property no.1/4719, Gali No.5, Balbir Nagar Extn. Shahdara, Delhi. He further sought action taken on his complaint; details pertaining to orders issued/comments made in response to his complaint etc.

The PIO/EE-B-II, Shahdara North Zone, EDMC vide reply dated 11.06.2018 provided point-wise reply to the Appellant based on available records.

On non-receipt of response from the PIO, meanwhile, the Appellant filed a First Appeal dated 06.06.2018, which was decided by the First Appellate Authority vide order dated 27.06.2018 directing the PIO to provide modified information with action taken report within 30 days.

Feeling aggrieved over non-compliance of the FAA's order and dissatisfied with the PIO's reply, Appellant approached the Commission in the instant Second Appeal.

16) CIC/EMCDN/A/2018/164893

The Appellant filed an RTI Application dated 19.04.2018 seeking information about a complaint dated 06.11.2017 and reminder complaints filed in respect of illegal construction carried out at property no.1/2088, East Ram Nagar, Shahdara, Delhi. He further sought action taken on his complaint; details pertaining to orders issued/comments made in response to his complaint etc.

The PIO/EE-B-II, Shahdara North Zone, EDMC vide reply dated 11.06.2018 provided point-wise reply to the Appellant based on available records.

On non-receipt of response from the PIO, meanwhile, the Appellant filed a First Appeal dated 04.06.2018, which was decided by the First Appellate Authority vide order dated 27.06.2018 directing the PIO to provide modified information with action taken report within 30 days.

Feeling aggrieved over non-compliance of the FAA's order and dissatisfied with the PIO's reply, Appellant approached the Commission in the instant Second Appeal.

17) CIC/EMCDN/A/2018/164894

The Appellant filed an RTI Application dated 20.04.2018 seeking information about a complaint dated 06.11.2017 and reminder complaints filed in respect of illegal construction carried out at property no.1/2088, East Ram Nagar, Shahdara, Delhi. He further sought action taken on his complaint; details pertaining to orders issued/comments made in response to his complaint etc.

The PIO/EE-B-II, Shahdara North Zone, EDMC vide reply dated 11.06.2018 provided point-wise reply to the Appellant based on available records.

On non-receipt of response from the PIO, meanwhile, the Appellant filed a First Appeal dated 06.06.2018, which was decided by the First Appellate Authority vide order dated 27.06.2018 directing the PIO to provide modified information with action taken report within 30 days.

Feeling aggrieved over non-compliance of the FAA's order and dissatisfied with the PIO's reply, Appellant approached the Commission in the instant Second Appeal.

18) CIC/EMCDN/A/2018/164897

The Appellant filed an RTI Application dated 20.04.2018 seeking information about a complaint dated 06.11.2017 and reminder complaints filed in respect of illegal construction carried out at property no.1/6002, Gali No.6, Kabool Nagar, Shahdara, Delhi. He further sought action taken on his complaint; details pertaining to orders issued/comments made in response to his complaint etc.

The PIO/EE-B-II, Shahdara North Zone, EDMC vide reply dated 11.06.2018 provided point-wise reply to the Appellant based on available records.

On non-receipt of response from the PIO, meanwhile, the Appellant filed a First Appeal dated 06.06.2018, which was decided by the First Appellate Authority vide order dated 27.06.2018 directing the PIO to provide modified information with action taken report within 30 days.

Feeling aggrieved over non-compliance of the FAA's order and dissatisfied with the PIO's reply, Appellant approached the Commission in the instant Second Appeal.

19) CIC/EMCDN/A/2018/164898

The Appellant filed an RTI Application dated 20.04.2018 seeking information about a complaint dated 06.11.2017 and reminder complaints filed in respect of illegal construction carried out at 1/2320, Main Mandoli Road, Ram Nagar, Shahdara, Delhi.. He sought action taken on his complaint; details pertaining to orders issued/comments made in response to his complaint etc.

The PIO/EE-B-II, Shahdara North Zone, EDMC vide reply dated 11.06.2018 provided point-wise reply to the Appellant based on available records.

On non-receipt of response from the PIO, meanwhile, the Appellant filed a First Appeal dated 04.06.2018, which was decided by the First Appellate Authority vide order dated 27.06.2018 directing the PIO to provide modified information with action taken report within 30 days.

Feeling aggrieved over non-compliance of the FAA's order and dissatisfied with the PIO's reply, Appellant approached the Commission in the instant Second Appeal. However, in his First and Second appeal/s he mentioned a different property number, viz. 1/5663B, Gali No.11, Balbir Nagar, Shahdara, Delhi.

20) CIC/EMCDN/A/2018/164899

The Appellant filed an RTI Application dated 20.04.2018 seeking information about a complaint dated 06.11.2017 and reminder complaints filed in respect of illegal construction carried out at property no.1/5255, Gali No.8, Balbir Nagar, Extn., Shahdara, Delhi. He sought action taken on his complaint; details pertaining to orders issued/comments made in response to his complaint etc.

The PIO/EE-B-II, Shahdara North Zone, EDMC vide reply dated 11.06.2018 provided point-wise reply to the Appellant based on available records.

On non-receipt of response from the PIO, meanwhile, the Appellant filed a First Appeal dated 06.06.2018, which was decided by the First Appellate Authority vide order dated 27.06.2018 directing the PIO to provide modified information with action taken report within 30 days.

Feeling aggrieved over non-compliance of the FAA's order and dissatisfied with the PIO's reply, Appellant approached the Commission in the instant Second Appeal.

21)CIC/EMCDS/A/2018/165783

The Appellant filed an RTI Application dated 07.06.2018 seeking information about a complaint dated 10.01.2018 and reminder complaints filed in respect of illegal construction carried out at property no.A-61, ChandraVihar, Mandawali Delhi. He sought action taken on his complaint; details pertaining to orders issued/comments made in response to his complaint etc.

The PIO/EE-B-II, Shahdara South Zone, EDMC vide reply dated 13.07.2018 provided point-wise reply to the Appellant as provided by the concerned JE.

Dissatisfied with PIO's reply, the Appellant filed a First Appeal dated 20.08.2018, which was decided by the First Appellate Authority vide order dated 05.09.2018 disposed off 17 appeals filed by the appellant regarding different properties, with direction to the PIO to go through the contents of information asked by the appellant in his applications and provide specific information within 15 days from date of issue of the order, specifically mentioning the property no. with address.

The PIO sent a communication dated 15.10.2018 providing property specific point-wise information, in compliance of the FAA's order. Still aggrieved with the reply, Appellant approached the Commission in the instant Second Appeal.

22) CIC/EMCDS/A/2018/165784

The Appellant filed an RTI Application dated 07.06.2018 seeking information about a complaint dated 10.01.2018 and reminder complaints filed in respect of illegal construction carried out at property no.US-316, Gali No. 1, Mandawali Fazalpur, Delhi. He sought action taken on his complaint; details pertaining to orders issued/comments made in response to his complaint etc.

The PIO/EE-B-II, Shahdara South Zone, EDMC vide reply dated 13.07.2018 provided point-wise reply to the Appellant as provided by the concerned JE.

Dissatisfied with PIO's reply, the Appellant filed a First Appeal dated 20.08.2018, which was decided by the First Appellate Authority vide order dated 05.09.2018 disposed off 17 appeals filed by the appellant regarding different properties, with direction to the PIO to go through the contents of information asked by the appellant in his applications and provide specific information within 15 days from date of issue of the order, specifically mentioning the property no. with address.

Feeling aggrieved over non-compliance of the FAA's order and dissatisfied with the PIO's reply, Appellant approached the Commission in the instant Second Appeal.

23) CIC/EMCDS/A/2018/165785

The Appellant filed an RTI Application dated 07.06.2018 seeking information about a complaint dated 10.01.2018 and reminder complaints filed in respect of illegal construction carried out at property no.154(Adjacent to 155) Gali No. 9, Chandra Vihar, Mandawali. Delhi. He sought action taken on his complaint; details pertaining to orders issued/comments made in response to his complaint etc.

The PIO/EE-B-II, Shahdara South Zone, EDMC vide reply dated 13.07.2018 provided point-wise reply to the Appellant as provided by the concerned JE.

Dissatisfied with PIO's reply, the Appellant filed a First Appeal dated 20.08.2018, which was decided by the First Appellate Authority vide order dated 05.09.2018

disposed off 17 appeals filed by the appellant regarding different properties, with direction to the PIO to go through the contents of information asked by the appellant in his applications and provide specific information within 15 days from date of issue of the order, specifically mentioning the property no. with address.

Feeling aggrieved over non-compliance of the FAA's order and dissatisfied with the PIO's reply, Appellant approached the Commission in the instant Second Appeal.

24) CIC/EMCDS/A/2018/165786

The Appellant filed an RTI Application dated 07.06.2018 seeking information about a complaint dated 10.01.2018 and reminder complaints filed in respect of illegal construction carried out at property no.A-30, Chandra Vihar, Mandawali, Delhi. He sought action taken on his complaint; details pertaining to orders issued/comments made in response to his complaint etc.

The PIO/EE-B-II, Shahdara South Zone, EDMC vide reply dated 13.07.2018 provided point-wise reply to the Appellant as provided by the concerned JE.

Dissatisfied with PIO's reply, the Appellant filed a First Appeal dated 20.08.2018, which was decided by the First Appellate Authority vide order dated 05.09.2018 disposed off 17 appeals filed by the appellant regarding different properties, with direction to the PIO to go through the contents of information asked by the appellant in his applications and provide specific information within 15 days from date of issue of the order, specifically mentioning the property no. with address.

Feeling aggrieved over non-compliance of the FAA's order and dissatisfied with the PIO's reply, Appellant approached the Commission in the instant Second Appeal.

25) CIC/EMCDS/A/2018/165787

The Appellant filed an RTI Application dated 07.06.2018 seeking information about a complaint dated 10.01.2018 and reminder complaints filed in respect of illegal construction carried out at property no.US-140 (Adjacent to US-141) MandawaliFazalpur, Delhi. He sought action taken on his complaint; details pertaining to orders issued/comments made in response to his complaint etc.

The PIO/EE-B-II, Shahdara South Zone, EDMC vide reply dated 13.07.2018 provided point-wise reply to the Appellant as provided by the concerned JE.

Dissatisfied with PIO's reply, the Appellant filed a First Appeal dated 20.08.2018, which was decided by the First Appellate Authority vide order dated 05.09.2018 disposed off 17 appeals filed by the appellant regarding different properties, with direction to the PIO to go through the contents of information asked by the appellant in his applications and provide specific information within 15 days from date of issue of the order, specifically mentioning the property no. with address.

Feeling aggrieved over non-compliance of the FAA's order and dissatisfied with the PIO's reply, Appellant approached the Commission in the instant Second Appeal.

26) CIC/EMCDS/A/2018/165788

The Appellant filed an RTI Application dated 07.06.2018 seeking information about a complaint dated 10.01.2018 and reminder complaints filed in respect of illegal construction carried out at property no.229/5, Railway Colony, Mandawali, Delhi.. He sought action taken on his complaint; details pertaining to orders issued/comments made in response to his complaint etc.

The PIO/EE-B-II, Shahdara South Zone, EDMC vide reply dated 13.07.2018 provided point-wise reply to the Appellant as provided by the concerned JE.

Dissatisfied with PIO's reply, the Appellant filed a First Appeal dated 20.08.2018, which was decided by the First Appellate Authority vide order dated 05.09.2018 disposed off 17 appeals filed by the appellant regarding different properties, with direction to the PIO to go through the contents of information asked by the appellant in his applications and provide specific information within 15 days from date of issue of the order, specifically mentioning the property no. with address.

Feeling aggrieved over non-compliance of the FAA's order and dissatisfied with the PIO's reply, Appellant approached the Commission in the instant Second Appeal.

27) CIC/EMCDS/A/2018/165789

The Appellant filed an RTI Application dated 07.06.2018 seeking information about a complaint dated 10.01.2018 and reminder complaints filed in respect of illegal construction carried out at property no. US-90, Main Road, Corner of Gali No. 3, Mandawali, Fazalpur, Delhi. He sought action taken on his complaint; details pertaining to orders issued/comments made in response to his complaint etc.

The PIO/EE-B-II, Shahdara South Zone, EDMC vide reply dated 13.07.2018 provided point-wise reply to the Appellant as provided by the concerned JE.

Dissatisfied with PIO's reply, the Appellant filed a First Appeal dated 20.08.2018, which was decided by the First Appellate Authority vide order dated 05.09.2018 disposed off 17 appeals filed by the appellant regarding different properties, with direction to the PIO to go through the contents of information asked by the appellant in his applications and provide specific information within 15 days from date of issue of the order, specifically mentioning the property no. with address.

Feeling aggrieved over non-compliance of the FAA's order and dissatisfied with the PIO's reply, Appellant approached the Commission in the instant Second Appeal.

28) CIC/EMCDS/A/2018/165791

The Appellant filed an RTI Application dated 07.06.2018 seeking information about a complaint dated 10.01.2018 and reminder complaints filed in respect of illegal construction carried out at property no. US-161, Mandawali, Fazalpur, Delhi. He sought action taken on his complaint; details pertaining to orders issued/comments made in response to his complaint etc.

The PIO/EE-B-II, Shahdara South Zone, EDMC vide reply dated 13.07.2018 provided point-wise reply to the Appellant as provided by the concerned JE.

Dissatisfied with PIO's reply, the Appellant filed a First Appeal dated 20.08.2018, which was decided by the First Appellate Authority vide order dated 05.09.2018 disposed off 17 appeals filed by the appellant regarding different properties, with direction to the PIO to go through the contents of information asked by the appellant in his applications and provide specific information within 15 days from date of issue of the order, specifically mentioning the property no. with address.

Feeling aggrieved over non-compliance of the FAA's order and dissatisfied with the PIO's reply, Appellant approached the Commission in the instant Second Appeal.

29) CIC/EMCDS/A/2018/165792

The Appellant filed an RTI Application dated 07.06.2018 seeking information about a complaint dated 10.01.2018 and reminder complaints filed in respect of illegal construction carried out at property no. 38, Gali no. 7, Chandra ViharMandawali, Delhi. He sought action taken on his complaint; details pertaining to orders issued/comments made in response to his complaint etc.

The PIO/EE-B-II, Shahdara South Zone, EDMC vide reply dated 13.07.2018 provided point-wise reply to the Appellant as provided by the concerned JE.

Dissatisfied with PIO's reply, the Appellant filed a First Appeal dated 20.08.2018, which was decided by the First Appellate Authority vide order dated 05.09.2018 disposed off 17 appeals filed by the appellant regarding different properties, with direction to the PIO to go through the contents of information asked by the appellant in his applications and provide specific information within 15 days from date of issue of the order, specifically mentioning the property no. with address.

The PIO sent a communication dated 15.10.2018 providing property specific point-wise information, in compliance of the FAA's order. Still aggrieved with the reply, Appellant approached the Commission in the instant Second Appeal.

30) CIC/EMCDS/A/2018/165794

The Appellant filed an RTI Application dated 07.06.2018 seeking information about a complaint dated 10.01.2018 and reminder complaints filed in respect of illegal construction carried out at property no. A-18, Gali No. 3, Mandawali,

Fazalpur, Delhi. He sought action taken on his complaint; details pertaining to orders issued/comments made in response to his complaint etc.

The PIO/EE-B-II, Shahdara South Zone, EDMC vide reply dated 13.07.2018 provided point-wise reply to the Appellant as provided by the concerned JE.

Dissatisfied with PIO's reply, the Appellant filed a First Appeal dated 20.08.2018, which was decided by the First Appellate Authority vide order dated 05.09.2018 disposed off 17 appeals filed by the appellant regarding different properties, with direction to the PIO to go through the contents of information asked by the appellant in his applications and provide specific information within 15 days from date of issue of the order, specifically mentioning the property no. with address.

Feeling aggrieved over non-compliance of the FAA's order and dissatisfied with the PIO's reply, Appellant approached the Commission in the instant Second Appeal.

The PIO sent a communication dated 15.10.2018 providing property specific point-wise information, in compliance of the FAA's order. Still aggrieved with the reply, Appellant approached the Commission in the instant Second Appeal.

31) CIC/EMCDS/A/2018/165795

The Appellant filed an RTI Application dated 07.06.2018 seeking information about a complaint dated 10.01.2018 and reminder complaints filed in respect of illegal construction carried out at property no. 2291A-48 Adjacent to Corner of Galino. 2, MandawaliFazalpur, Delhi. He sought action taken on his complaint; details pertaining to orders issued/comments made in response to his complaint etc.

The PIO/EE-B-II, Shahdara South Zone, EDMC vide reply dated 13.07.2018 provided point-wise reply to the Appellant as provided by the concerned JE.

Dissatisfied with PIO's reply, the Appellant filed a First Appeal dated 20.08.2018, which was decided by the First Appellate Authority vide order dated 05.09.2018 disposed off 17 appeals filed by the appellant regarding different properties, with direction to the PIO to go through the contents of information asked by the appellant in his applications and provide specific information within 15 days from date of issue of the order, specifically mentioning the property no. with address.

The PIO sent a communication dated 15.10.2018 providing property specific point-wise information, in compliance of the FAA's order. Still aggrieved with the reply, Appellant approached the Commission in the instant Second Appeal.

32) CIC/EMCDS/A/2018/165796

The Appellant filed an RTI Application dated 07.06.2018 seeking information about a complaint dated 10.01.2018 and reminder complaints filed in respect of illegal construction carried out at property no. US-262, Mandawali Fazalpur,

Delhi. He sought action taken on his complaint; details pertaining to orders issued/comments made in response to his complaint etc.

The PIO/EE-B-II, Shahdara South Zone, EDMC vide reply dated 13.07.2018 provided point-wise reply to the Appellant as provided by the concerned JE.

Dissatisfied with PIO's reply, the Appellant filed a First Appeal dated 20.08.2018, which was decided by the First Appellate Authority vide order dated 05.09.2018 disposed off 17 appeals filed by the appellant regarding different properties, with direction to the PIO to go through the contents of information asked by the appellant in his applications and provide specific information within 15 days from date of issue of the order, specifically mentioning the property no. with address.

The PIO sent a communication dated 15.10.2018 providing property specific point-wise information, in compliance of the FAA's order. Still aggrieved with the reply, Appellant approached the Commission in the instant Second Appeal.

33) CIC/EMCDS/A/2018/165797

The Appellant filed an RTI Application dated 07.06.2018 seeking information about a complaint dated 10.01.2018 and reminder complaints filed in respect of illegal construction carried out at property no. A-38, Gali No. 5, ChanderViharLP Extn., Delhi. He sought action taken on his complaint; details pertaining to orders issued/comments made in response to his complaint etc.

The PIO/EE-B-II, Shahdara South Zone, EDMC vide reply dated 13.07.2018 provided point-wise reply to the Appellant as provided by the concerned JE.

Dissatisfied with PIO's reply, the Appellant filed a First Appeal dated 20.08.2018, which was decided by the First Appellate Authority vide order dated 05.09.2018 disposed off 17 appeals filed by the appellant regarding different properties, with direction to the PIO to go through the contents of information asked by the appellant in his applications and provide specific information within 15 days from date of issue of the order, specifically mentioning the property no. with address.

The PIO sent a communication dated 15.10.2018 providing property specific point-wise information, in compliance of the FAA's order. Still aggrieved with the reply, Appellant approached the Commission in the instant Second Appeal.

34) CIC/EMCDS/A/2018/165799

The Appellant filed an RTI Application dated 07.06.2018 seeking information about a complaint dated 10.01.2018 and reminder complaints filed in respect of illegal construction carried out at property no. US-97, Mandawali Fazalpur, Delhi,. He sought action taken on his complaint; details pertaining to orders issued/comments made in response to his complaint etc.

The PIO/EE-B-II, Shahdara South Zone, EDMC vide reply dated 13.07.2018 provided point-wise reply to the Appellant as provided by the concerned JE.

Dissatisfied with PIO's reply, the Appellant filed a First Appeal dated 20.08.2018, which was decided by the First Appellate Authority vide order dated 05.09.2018 disposed off 17 appeals filed by the appellant regarding different properties, with direction to the PIO to go through the contents of information asked by the appellant in his applications and provide specific information within 15 days from date of issue of the order, specifically mentioning the property no. with address.

The PIO sent a communication dated 15.10.2018 providing property specific point-wise information, in compliance of the FAA's order. Still aggrieved with the reply, Appellant approached the Commission in the instant Second Appeal.

35) CIC/EMCDS/A/2018/165800

The Appellant filed an RTI Application dated 07.06.2018 seeking information about a complaint dated 10.01.2018 and reminder complaints filed in respect of illegal construction carried out at property no. 230/16, Gali No. 3, Railway Colony Mandawali, Delhi. He sought action taken on his complaint; details pertaining to orders issued/comments made in response to his complaint etc.

The PIO/EE-B-II, Shahdara South Zone, EDMC vide reply dated 13.07.2018 provided point-wise reply to the Appellant as provided by the concerned JE.

Dissatisfied with PIO's reply, the Appellant filed a First Appeal dated 20.08.2018, which was decided by the First Appellate Authority vide order dated 05.09.2018 disposed off 17 appeals filed by the appellant regarding different properties, with direction to the PIO to go through the contents of information asked by the appellant in his applications and provide specific information within 15 days from date of issue of the order, specifically mentioning the property no. with address.

The PIO sent a communication dated 15.10.2018 providing property specific point-wise information, in compliance of the FAA's order. Still aggrieved with the reply, Appellant approached the Commission in the instant Second Appeal.

36) CIC/EMCDS/A/2018/165801

The Appellant filed an RTI Application dated 07.06.2018 seeking information about a complaint dated 10.01.2018 and reminder complaints filed in respect of illegal construction carried out at property no. US-113 (adjacent to US 112 and US 197) Mandawali, Fazalpur, Delhi. He sought action taken on his complaint; details pertaining to orders issued/comments made in response to his complaint etc.

The PIO/EE-B-II, Shahdara South Zone, EDMC vide reply dated 13.07.2018 provided point-wise reply to the Appellant as provided by the concerned JE.

Dissatisfied with PIO's reply, the Appellant filed a First Appeal dated 20.08.2018, which was decided by the First Appellate Authority vide order dated 05.09.2018 disposed off 17 appeals filed by the appellant regarding different properties, with direction to the PIO to go through the contents of information asked by the appellant in his applications and provide specific information within 15 days from date of issue of the order, specifically mentioning the property no. with address.

The PIO sent a communication dated 15.10.2018 providing property specific point-wise information, in compliance of the FAA's order. Still aggrieved with the reply, Appellant approached the Commission in the instant Second Appeal.

37) CIC/EMCDS/A/2018/165803

The Appellant filed an RTI Application dated 07.06.2018 seeking information about a complaint dated 10.01.2018 and reminder complaints filed in respect of illegal construction carried out at property no. A-57, Gali No.8, Chander Vihar Mandawali, Delhi. He sought action taken on his complaint; details pertaining to orders issued/comments made in response to his complaint etc.

The PIO/EE-B-II, Shahdara South Zone, EDMC vide reply dated 13.07.2018 provided point-wise reply to the Appellant as provided by the concerned JE.

Dissatisfied with PIO's reply, the Appellant filed a First Appeal dated 20.08.2018, which was decided by the First Appellate Authority vide order dated 05.09.2018 disposed off 17 appeals filed by the appellant regarding different properties, with direction to the PIO to go through the contents of information asked by the appellant in his applications and provide specific information within 15 days from date of issue of the order, specifically mentioning the property no. with address.

The PIO sent a communication dated 15.10.2018 providing property specific point-wise information, in compliance of the FAA's order. Still aggrieved with the reply, Appellant approached the Commission in the instant Second Appeal.

Decision:

1. The current situation arising out of the COVID-19 pandemic, has caused a significant disruption in the functioning of all establishments and businesses alike. In respect of the Commission, this translates into a mounting backlog of Appeals and Complaints. In such circumstances, there is a pressing need to identify cases such as the ones under adjudication for cumulative disposal in order to facilitate expedient disposal of cases of genuine information seekers. In other words, this is where the aforementioned juxtaposition comes into play as the Commission seeks to strike a fine balance between the interests of genuine information seekers, while keeping the menace of frivolous and repetitive RTI Applicants under check.

2. The aforementioned Thirty Seven [37] Second Appeals filed by the Appellant before East Delhi Municipal Corporation have been examined. The records reveal that appellant has sought information in a particular pattern wherein he has sought information relating to action taken on his complaints filed before the Respondent public authority regarding alleged illegal construction on 37 separate properties situated in and around Mandawali area. It is noted that the Appellant's consistent grievance in all of the above Second Appeals, has been that the order of the First Appellate Authority has either not been complied with by the PIO till the date of filing of Second Appeal or the compliance fails to satisfy his queries.
3. Keeping in view the facts and circumstances in the aforesaid cases, and the current situation wherein a number of offices of Delhi Government have been sealed on identification of corona positive cases in the premises or public officials are assigned to tackle the Covid pandemic or even quarantined, holding structured hearing of the above cases will only delay the dissemination of the desired information. Hence, Commission finds it expedient that all the aforesaid Second Appeals be remanded to the concerned FAA, East Delhi Municipal Corporation, Delhi to ensure compliance of the FAA's order/s and the PIO/EE-B-II, EDMC is directed to submit an action taken report before the Commission by 31.10.2020, failing which appropriate legal action shall be initiated against the errant official.

In view of the above, all the Second Appeals are disposed off with the above directions.

Y. K. Sinha (वाई. के. सिन्हा)
Information Commissioner(सूचना आयुक्त)

Authenticated true copy
(अभिप्रमाणितसत्यापितप्रति)

Ram Parkash Grover (राम प्रकाश ग्रोवर)
Dy. Registrar (उप-पंजीयक)
011-26180514

केन्द्रीय सूचना आयोग
Central Information Commission
बाबागंगनाथमार्ग, मुनिरका
Baba Gangnath Marg, Munirka
नई दिल्ली, New Delhi-110067

द्वितीय अपील संख्या / Second Appeal Nos.: File nos. as per **Annexure 1(A)**

Shri Ashok Kumar
Jammu Cantt – 180003

... अपीलकर्ता / Appellant

1. **M/s Alamdar Social Welfare Society (NGO)**
2. M/s Chaudhary Bright Academy (NGO)
3. M/s Blue Dart Centre for Women (NGO), Srinagar
4. M/s. Janu Social Welfare Society (NGO), Samba
5. M/s Centre for Slum Development (NGO), Srinagar
6. M.s United Welfare Society (NGO), Jammu
7. M/s Satya Education Research & Welfare Society (NGO), Jammu
8. M/sKiran Rural Women Development Society (NGO), Jammu
9. M/s Rural Artisans Welfare Society (NGO), Jammu
10. M/s. S.S.Institute of Professional & Technical Education (NGO), Jammu
11. M/s Shah Asrar People Welfare Association (NGO),Kishtwar
12. M/s. Allma Iqbal Development Environmental Sports & Cultural Welfare Society (NGO), Kishtwar
13. M/s Hassina Ladies Vocational Centre (NGO), Pulwama.
14. M/s Ganit-Ul-Aloom Charitable Trust, Doda
15. M/s Firdaus Institute (NGO). Banihal.
16. M/s Cultural Educational Environmental Organisation (NGO), Budgam
17. M/s Border Area Development Council (NGO), Kupwara
18. M/s Voluntary Organisation for International Cooperation & Equality (VOICE) (NGO), Jammu
19. M/s Social Welfare International Society (NGO), Jammu.
20. M/s Shakti Kala Shiksha Kendra (NGO), Jammu.
21. M/s Rukhsana Institute (NGO), Banihal
22. M/s Parivartan (NGO), Jammu
23. M/s Noor Education Society (NGO), Sopore.
24. M/s Master Institute (NGO), Srinagar.
25. M/s JagritiMahilaUdhyog Kendra (NGO), Jammu
26. M/s J&K State Welfare Institute (NGO), Doda
27. M/s. J&K Rural Welfare Institution (NGO), Srinagar
28. M/s Helping Hand A Society (NGO), Jammu.
29. M/s Mighli Ladies Institution (NGO), Srinagar.
30. M/s Kamal Voluntary Typing/Shorthand Training Institute (NGO), Jammu
31. M/s Educational Environmental Social Sports Cultural Society (NGO), Doda
32. M/s Evergreen Model Society (NGO)
33. M/sDilshada Institute (NGO), Pulwama

34. M/s J&K Yateem Trust, Srinagar.
35. M/sKapran Women's Welfare Society (NGO), Anantnag.
36. M/sSain Baba Welfare Society (NGO), Jammu
37. M/s New Light Women Welfare Society (NGO) Srinagar
38. M/sNational Selaee Centre (NGO), Anantnag.
39. M/s National Hamdard Society (NGO), Srinagar
40. M/sKhakni Ladies Vocational Centre (NGO), Anangnag.
41. M/s Women's Era Welfare Society (NGO), Srinagar.
42. M/s Village Social Welfare and Development Committee (NGO),Kathua
43. M/s Society for Welfare of Downtrodden (NGO), Jammu
44. M/s Shakti Women Welfare Society (NGO), Jammu
45. M/s Shab-I-Alam Women Welfare Society (NGO), Srinagar
46. M/s Shahmeer Welfare Education & Environmental Trust (NGO), Budgam
47. M/s NGO Coordination Federation (NGO), Srinagar
48. M/s Golden Urban & Rural Sanitation Society (NGO),Srinagar
49. M/s Scholastic Alliance for Human Action & Rural Development (NGO),
Regd. Off: Ward No. 4, Near Bus Stand, Billawar, Kathua
50. **PIO, J & K State Social Welfare Board/Department, Civil Secretariat
Jammu -180001**

...प्रतिवादीगण/Respondent

Date of Decision : 30.12.2020

Chief Information Commissioner : Shri Y. K. Sinha

Case No.	Date of RTI	CPIO reply	First Appeal dated	FAA's Order dated	Second Appeal filed on
110388	1.10.2019		26.11.2019		03.03.2020
110391	1.10.2019		28.11.2019		03.03.2020
115142	5.11.2019		22.11.2019		28.05.2020
115144	5.11.2019		22.12.2019		28.05.2019
115495	5.11.2019		22.11.2019		01.06.2020
123017	5.12.2019		25.01.2020		17.08.2020
123020	5.12.2019		25.01.2020		17.08.2020
132270	10.03.2020		28.07.2020		21.10.2020
132271	20.02.2020		13.05.2020		21.10.2020
132272	20.02.2020		20.05.2020	28.05.2020	21.10.2020

132273	28.02.2020		28.07.2020		21.10.2020
132274	28.02.2020		28.07.2020		21.10.2020
132510	28.02.2020		09.06.2020		22.10.2020
132511	28.02.2020		09.06.2020		22.10.2020
132512	28.02.2020		09.06.2020		22.10.2020
132513	28.02.2020		09.06.2020		22.10.2020
132514	28.02.2020		09.06.2020		22.10.2020
132515	28.02.2020		09.06.2020		22.10.2020
134202	28.02.2020		15.06.2020		05.11.2020
134204	28.02.2020		15.06.2020		05.11.2020
134205	28.02.2020		15.06.2020		05.11.2020
134206	28.02.2020		15.06.2020		05.11.2020
134207	28.02.2020		15.06.2020	22.06.2020	05.11.2020
134208	28.02.2020		15.06.2020		05.11.2020
134209	28.02.2020		15.06.2020		05.11.2020
134210	28.02.2020		15.06.2020		5.11.2020
134211	28.02.2020		15.06.2020		5.11.2020
134212	28.02.2020		15.06.2020		5.11.2020
134213	28.02.2020		15.06.2020		5.11.2020
134214	28.02.2020		15.06.2020		5.11.2020
134882	03.03.2020		20.06.2020		10.11.2020
134884	03.03.2020		20.06.2020		10.11.2020
134885	03.03.2020		20.06.2020		10.11.2020
134888	03.03.2020		20.06.2020		10.11.2020
134889	03.03.2020		20.06.2020		10.11.2020
134890	03.03.2020		20.06.2020		10.11.2020

134894	03.03.2020		20.06.2020		10.11.2020
134895	03.03.2020		20.06.2020		10.11.2020
137248	10.03.2020		22.06.2020		26.11.2020
137249	10.03.2020		22.06.2020		26.11.2020
137250	10.03.2020		22.06.2020		26.11.2020
137251	10.03.2020		22.06.2020		26.11.2020
137252	10.03.2020		22.06.2020		26.11.2020
137253	10.03.2020		22.06.2020		26.11.2020
137254	10.03.2020		22.06.2020		26.11.2020
137255	10.03.2020		22.06.2020		26.11.2020
137256	10.03.2020		22.06.2020		26.11.2020
137257	10.03.2020		22.06.2020		26.11.2020
137258	10.03.2020		22.06.2020		26.11.2020
137259	10.03.2020		22.06.2020		26.11.2020
139994	10.03.2020		11.07.2020		17.12.2020
139995	03.03.2020		11.07.2020		17.12.2020
139997	03.03.2020		11.07.2020	08.07.2020	17.12.2020
139998	28.02.2020		22.06.2020		17.12.2020
140289	10.03.2020		22.06.2020		21.12.2020
115499	15.12.2019		12.02.2020		01.06.2020
115500	24.12.2019		12.02.2020	10.03.2020	01.06.2020

Note: The present batch of appeals as listed above in Annexure 1A is preferred by the same Appellant from different NGOs (list attached) in the UT of Jammu & Kashmir. Since the issues involved in the present appeals as well as relief sought are identical in nature, the Commission proposes to club these said matters and adjudicate upon them all together through the present order for the sake of brevity and avoidance of multiple proceedings.

ORDER

Information sought and background of the case

(1) CIC/UTOJK/A/2020/110388

The Appellant vide RTI application dated 01.10.2019 sought the following information from M/s Alamdar Social Welfare Society (NGO):

- i. Subject matter of information: -
 - a) Information with regard to registration documents, accountability, functioning, genuineness & financial soundness of registered NGO substantially funded by GOI in the Ministry of Women & Child Development under Social Welfare Schemes.
- ii. The period to which the information relates: -
Financial Year 2016-17, 2017-18, 2018-19 & 2019-20
- iii. Description of the information required: -

A. Information pertaining to Registered NGO: -

- i. Kindly provide copy of latest Registration Renewal Certificate issued from O/o Registrar of Societies, J&K Government.
- ii. List of latest Managing Body Members issued from O/o District Magistrate, J&K Government.
- iii. Details of Bank Accounts (A/c No., Bank Name & Branch) maintained by the NGO and also provide list of authorized signatories.
- iv. Copy of PAN Card, Registration under 12AA & 80-G issued from O/o Commissioner Income Tax Department. Copy of FCRA issued from GOI in the Ministry of Home Affairs.
- v. Copy of Organizational Balance Sheet of NGO for the financial year 2016-17, 2017-18 & 2018-19.
- vi. Copy of Income Tax Returns along with Computation Statement for the assessment year 2017-18, 2018-19 & 2019-20.
- vii. Copy of Utilization Certificates of all the Grant-in-Aid Schemes (Govt. of India/ State Govt./ Corporations/ Agencies/ Banks/ Corporate Social Responsibility & Foreign Funding's) Sanctioned during the financial year 2016-17, 2017-18 & 2018-19.

B. Information pertaining to "National Creche Scheme" substantially funded by GOI in the Ministry of Women & Child Development: -

- i. Kindly provide details of Supplementary Nutrition expenditure for a period from 01/01/2016 to 30/09/2019 under 'National Creche Scheme'.
 - a. Name of the Dealer/Shopkeeper.
 - b. Amount of Nutrition purchased from each Dealer (provide copy of one Invoice of each Dealer).
 - c. Amount of Payment made to each Dealer (mention whether through Cash/Cheque/Bank transfer)
 - d. Amount of Payment outstanding towards each Dealer as on 30/09/2019.
- ii. Details of Creche Worker & Creche Helper for a period from 01/01/2016 to 30/09/2019 under 'National Creche Scheme' :
 - a. Name of the Creche Worker & Creche Helper along with address and period of their appointment.
 - b. Amount of Payment made to each Creche Worker & Creche Helper (mention whether through cash/Cheque/Bank transfer)
 - c. Amount of Payment outstanding towards each Creche Worker & Creche Helper as on 30/09/2019.
- iii. Details of Doctor for a period from 01/01/2016 to 30/09/2019 under National Creche Scheme:
 - a. Name of the Doctor with period of consultation under National Creche Scheme.
 - b. Amount of Honorarium paid & outstanding towards Doctor as on 30/09/2019.
- iv. Details of Yearly Grant-in-Aid sanctioned for the financial year 2016-17, 2017-18, 2018-19 & 2019-20 under 'National Creche Scheme' sponsored by GOI in the Ministry of Women & Child Development.
 - a. Yearly amount of Grant-in-Aid sanctioned.
 - b. Yearly amount of Utilization & Claim of NGO.
 - c. Yearly amount of acceptance of accounts from Govt.
 - d. Yearly amount of Grant-in-Aid released.
 - e. Amount of Grant-in-Aid outstanding as on 30/09/2019.
- v. Details of Income & Loans of NGO for the financial year 2016-17, 2017-18 & 2018-19.
 - a. Amount of Donations in Cash, Cheque & Bank transfer.
 - b. Amount of other Income (Sale/Interest/Rent etc.)
 - c. Amount of secured/unsecured Loan raised (mention Name & address of person provided loans)

Having not received any response from the public authority, the Appellant filed a first appeal on 22.12.2019 which remained unheard. Feeling aggrieved, the Appellant approached the Commission with the instant Second Appeal.

In the similar fashion, the Appellant has sought information with regard to other Non-Governmental organisations vide separate RTI applications.

(2) CIC/UTOJK/A/2020/103191

The Appellant filed an RTI application dated 1.10.2019 seeking the same information as mentioned in Appeal No.CIC/UTOJK/A/2020/110388 with regard to M/s Chaudhary Bright Academy (NGO).

Having not received any response from the public authority, the Appellant filed a first appeal on 22.12.2019 which remained unheard. Feeling aggrieved, the Appellant approached the Commission with the instant Second Appeal.

The Appellant has enclosed an order from Executive Director/Secretary, J & K State Social Welfare Board which is reproduced as under:

*“ORDER No. 37 of 2019
DATED: 11.06.2019*

subject:- stoppage of grant-in-aid in favour of NGO's/Vos receiving grant-in- aid from J&K State Social Welfare Board under National Creche Scheme.

Ref :- SIC/CO/SAI 09-1 0/201 8/1992-95 dated : 20.05.2019

Ref:- SWB/J&K(275-79 dated: 22.05.2019

Whereas, this office has received RTI application from Sh. Ashok Kumar H.No.280/2, Narwal Pain Satwari, Jammu time and again which was followed in letter and spirit under RTI Act 2009.

Whether, the Incharge Creche Scheme of concerned section has provided the records whatever was available with him/her and has further submitted that the rest of information sought in the instant RTI is not available in the Board records and the same is available with the NGO's/VO's.

Whereas this office has intimated the NGO's/VO's to provide the rest of information which remains available with the NGO's/VO's as per the set procedures and the norms. The PIO has time and again requested the NGO's/VO's to provide the pending information duly available with them.

Whereas, Hon'ble State Information Commission vide interim order No.SIC/CO/SA/709-10/2018/1992-95 dated 20.05.2019 has directed the J&K State Social Welfare Board for stopping the funds to NGO's/VO's receiving

grants-in-aid for failing to provide the information sought under National Creche Scheme.

Whereas, this office after receiving the interim order on 20.05.2019 immediately conveyed the directions of Hon'ble State Information Commission to the NGO's/VO's vide office letter No. SWB/J&K/275-79 dated 22.05.2019.

Whereas this office has provided a time period of seven days for receiving the information sought so that the same may be provided to the Hon'ble State Information Commission failing which the grants-in-aid funding will be stopped forthwith. It is worthwhile to mention here that this office has not received any information from the NGO's/VO's reflecting a clear violation of instructions of this office and hence State Information Commission as well.

Hence, in the light of above cited facts, it becomes crystal clear that NGO's/VO's seems disinterested to reveal the information sought time and again by J&K State Social Welfare Board for onward submission to the Hon'ble State Commission. All this undermines the credibility of this office besides causing the defamation and mental harassment for the Board authorities.

As a matter of fact, this office is duty-bound to comply with the instruction of Hon'ble State Information Commission which commands for the stoppage of funds under grant-in-aid (National Creche Scheme) with immediate effect.

Therefore, the funds available with the Board under the National Creche Scheme are hereby stopped with immediate effect until the NGO's/VO's provides the information/records to the outmost satisfaction of the Board and Hon'ble State Information Commission as well.

Sd/

(3) CIC/UTOJK/A/2020/115142

The Appellant filed an RTI application dated 05.11.2019.2019 seeking the same information as mentioned in Appeal No.CIC/UTOJK/A/2020/110388 with regard to M/s Blue Dart Centre for Women (NGO, Srinagar. Having not received any response from the public authority, the Appellant filed a first appeal on 25.11.2019 which remained unheard. Feeling aggrieved, the Appellant approached the Commission with the instantSecond Appeal.

(4) CIC/UTOJK/A/2020/115144

The Appellant filed an RTI application dated 05.11.2019 seeking the same information as mentioned in Appeal No.CIC/UTOJK/A/2020/110388 with regard to M/s Janu Social Welfare Society (NGO, Samba.

Having not received any response from the public authority, the Appellant filed a first appeal on 22.12.2019 which remained unheard. Feeling aggrieved, the Appellant approached the Commission with the instant Second Appeal.

(5) CIC/UTOJK/A/2020/115495

The Appellant filed an RTI application dated 05.11.2019 seeking the same information as mentioned in Appeal No.CIC/UTOJK/A/2020/110388 with regard to M/s Centre for Slum Development (NGO), Srinagar.

Having not received any response from the public authority, the Appellant filed a first appeal on 22.11.2019 which remained unheard. Feeling aggrieved, the Appellant approached the Commission with the instant Second Appeal.

(6) CIC/UTOJK/A/2020/123017

The Appellant filed an RTI application dated 05.12.2019 seeking the same information as mentioned in Appeal No.CIC/UTOJK/A/2020/110388 with regard to M/s United Welfare Society (NGO, Jammu. Having not received any response from the public authority, the Appellant filed First Appeal on 25.01.2020 which remained unheard. Feeling aggrieved, the Appellant approached the Commission with the instant Second Appeal.

(7) CIC/UTOJK/A/2020/123020

The Appellant filed an RTI application dated 05.10.2019 seeking the same information as mentioned in Appeal No.CIC/UTOJK/A/2020/110388 with regard to M/s. Satya Education Research and Welfare Society. Having not received any response from the public authority, the Appellant filed First Appeal on 28.11.2019.

Vide letter dated 03.03.2020, Chairperson, M/s Satya Education Research and Welfare Society sent a letter to the Secretary, J&K Social Welfare Board which is reproduced below:

Esteemed Sir / Madam

Myself Neeru Gupta Chairperson of Satya Educational Research & Welfare Society I would like to bring in your kind notice that we were running two Creches under Satva Educational Research Welfare Society from last 6-7 years. Now I am applying for the closure of both the Creches because due to insufficient funds and all the staff members has left because they have not been granted their salaries. In financial year 2016-17 & 2017-78 we were supported to receive funds for four quarters but received only for one quarter which is 61440, 6600, 2986 in each financial year. Both of our Creches were running smoothly till 31-2018. All the members also withdraw their name from the Society/ committee list. So I would like to conclude with; please clear all the funds which were pending because we

have the liabilities to pay which were like rent of the room, kirayana bill , electricity bill etc. Please consider our letter for the course of both the Creches.

*Thanking you
Satya Research & Educational Welfare Society.*

*Sd/
Chairperson
Neeru Gupta*

(8) CIC/UTOJK/A/2020/132270

The Appellant filed an RTI application dated 05.10.2019 seeking information as reproduced below with regard to M/s Kiran Rural Women Development Society (NGO), Jammu:

DETAILS OF INFORMATION SOUGHT

- I. Subject matter of information: - Information with regards to accountability, functioning, genuineness & financial soundness of – registered NGO/VO in implementing "National Creche Scheme" substantially funded by GoI in the Ministry of Women & Child Development.
- II. The period to which the information relates: - 01/01/2016 to 31/12/2019
- III. Description of the information required: -
 - A. Kindly provide certified copies of Supplementary Nutrition Invoices/ Bills for a period 01/01/2016 to 31/12/2019 in terms of implementing Grant-in-Aid under "National Creche Scheme".
 - B. Kindly provide details of Payments made to Suppliers of Supplementary Nutrition in terms of date, amount & mode of payment, for a period 01/01/2016 to 31/12/2019 in implementing Grant-in-Aid under "National Creche Scheme".
 - C. Kindly provide details of Unsecured Loan raised & refunded in terms of name, dates, amount & mode of loan raised & refunded for a period of 01/01/2016 to 31/12/2019.
 - D. Kindly provide the Creche wise details of facilities provided in terms of Furniture, Fan, Cooler, Inverter, Water Filter/Purifier,

Water Tank, Cooking Facilities (Gas/Kerosene Stover, Traditional Chullah), Utensils, Dari, pillow]Blankets and details of 03 Meals (morning snacks,' noon meal, afternoon snacks) provided to beneficiaries under "National Creche Scheme".

Having not received any response from the public authority, the Appellant filed First Appeal on 28.07.2020. Feeling aggrieved, the Appellant approached the Commission with the instant Second Appeal.

The Appellant vide letter dated 10.05.2020 also taken up the matter with the CPIO, J&K State Social Welfare Board seeking their assistance with regard to delivery/transfer of RTI application to the respondent since the RTI application has been returned undelivered from the postal department.

(9) CIC/UTOJK/A/2020/132272

The Appellant filed an RTI application dated 20.02.2020 seeking the same information as mentioned in Appeal No.CIC/UTOJK/A/2020/132270 with regard to M/s. Rural Artisans Welfare Society (NGO), Jammu. The Appellant vide letter dated 10.03.2020 also took up the matter with the CPIO, J&K State Social Welfare Board seeking their assistance with regard to delivery/transfer of RTI application to the respondent since the RTI application was returned undelivered by the postal department. CPIO/Welfare Officer, J&K Social Welfare Board vide letter dated 16.03.2020 forwarded the RTI application to the CPIO, Rural Artisans Welfare Society, Jammu.

CPIO vide letter dated 28.05.2020 furnished point wise information to Appellant as available on record. Dissatisfied with the information received, the Appellant filed First Appeal on 20.05.2020 which remained unheard. Feeling aggrieved, the Appellant approached the Commission with the instant Second Appeal.

(10) CIC/UTOJK/A/2020/132272

The Appellant filed an RTI application dated 20.02.2020 seeking the same information as mentioned in Appeal No.CIC/UTOJK/A/2020/132270 with regard to M/s S.S. Institute of Professional & Technical Education, Jammu. Having not received any response from the public authority, the Appellant filed First Appeal on 13.05.2020. The FAA vide order dated 10.06.2020 disposed of the appeal. Feeling aggrieved, the Appellant approached the Commission with the instant Second Appeal.

(11) CIC/UTOJK/A/2020/132273

The Appellant filed an RTI application dated 28.02.2020 seeking the same information as mentioned in Appeal No.CIC/UTOJK/A/2020/132270 with

regard to M/s. Shah Asrar People Welfare Association (NGO), Kishtwar. The Appellant vide letter dated 10.05.2020 also took up the matter with the CPIO, J&K State Social Welfare Board seeking their assistance with regard to delivery/transfer of RTI application to the respondent since the RTI application was returned undelivered by the postal department.

CPIO/Welfare Officer, J&K Social Welfare Board vide letter dated 17.06.2020 forwarded the RTI application to the CPIO, Rural Artisans Welfare Society, Jammu.

Having not received any response from the public authority, the Appellant filed First Appeal on 28.07.2020. Feeling aggrieved, the Appellant approached the Commission with the instant Second Appeal.

(12) CIC/UTOJK/A/2020/132274

The Appellant filed an RTI application dated 28.02.2020 seeking the same information as mentioned in Appeal No.CIC/UTOJK/A/2020/132270 with regard to M/s. Allma Iqbal Development Environmental Sports & Cultural Welfare Society (NGO), Kishtwar. The Appellant vide letter dated 10.05.2020 also took up the matter with the CPIO, J&K State Social Welfare Board seeking their assistance with regard to delivery/transfer of RTI application to the respondent since the RTI application was returned undelivered by the postal department.

CPIO/Welfare Officer, J&K Social Welfare Board vide letter dated 17.06.2020 forwarded the RTI application to the CPIO, Rural Artisans Welfare Society, Jammu.

Having not received any response from the public authority, the Appellant filed First Appeal on 28.07.2020 which remained unheard. Feeling aggrieved, the Appellant approached the Commission with the instant Second Appeal.

(13) CIC/UTOJK/A/2020/132510

The Appellant filed an RTI application dated 28.02.2020 seeking the same information as mentioned in Appeal No.CIC/UTOJK/A/2020/132270 with regard to M/s Hassina Ladies Vocational Centre (NGO), Pulwama. Having not received any response from the public authority, the Appellant filed First Appeal on 28.07.2020 which remained unheard. Feeling aggrieved, the Appellant approached the Commission with the instant Second Appeal.

(14) CIC/UTOJK/A/2020/132511

The Appellant filed an RTI application dated 28.02.2020 seeking the same information as mentioned in Appeal No.CIC/UTOJK/A/2020/132270 with regard to M/s Ganit-Ul-Aloom Charitable Trust, Doda. Having not received any response from the public authority, the Appellant filed First Appeal on 09.06.2020 which remained unheard. Feeling aggrieved, the Appellant approached the Commission with the instant Second Appeal.

(15) CIC/UTOJK/A/2020/132512

The Appellant filed an RTI application dated 28.02.2020 seeking the same information as mentioned in Appeal No.CIC/UTOJK/A/2020/132270 with regard to M/s. Firdous Institute (NGO), Banihal. Having not received any response from the public authority, the Appellant filed First Appeal on 09.06.2020 which remained unheard. Feeling aggrieved, the Appellant approached the Commission with the instant Second Appeal.

(16) CIC/UTOJK/A/2020/132513

The Appellant filed an RTI application dated 28.02.2020 the same information as mentioned in Appeal No.CIC/UTOJK/A/2020/132270 with regard to M/s Cultural Educational Environmental Organisation (NGO), Budgam. Having not received any response from the public authority, the Appellant filed First Appeal on 09.06.2020 which remained unheard. Feeling aggrieved, the Appellant approached the Commission with the instant Second Appeal.

(17) CIC/UTOJK/A/2020/132514

The Appellant filed an RTI application dated 28.02.2020 seeking the same information as mentioned in Appeal No.CIC/UTOJK/A/2020/132270 with regard to M/s. Chaudhary Bright Academy (NGO), Jammu. Having not received any response from the public authority, the Appellant filed First Appeal on 09.06.2020 which remained unheard. Feeling aggrieved, the Appellant approached the Commission with the Second Appeal.

(18) CIC/UTOJK/A/2020/132515

The Appellant filed an RTI application dated 28.02.2020 seeking the same information as mentioned in Appeal No.CIC/UTOJK/A/2020/132270 with regard to M/s Border Area Development Council (NGO), Kupwara. Having not received any response from the public authority, the Appellant filed First Appeal on 09.06.2020 which remained unheard. Feeling aggrieved, the Appellant approached the Commission with the instant Second Appeal.

(19) CIC/UTOJK/A/2020/134202

The Appellant filed an RTI application dated 28.02.2020 seeking the same information as mentioned in Appeal No.CIC/UTOJK/A/2020/132270 with regard to M/s Voluntary Organisation for International Cooperation & Equality (VOICE), Jammu. Having not received any response from the public authority, the Appellant filed First Appeal on 15.06.2020 which remained unheard. Feeling aggrieved, the Appellant approached the Commission with the instant Second Appeal.

(20) CIC/UTOJK/A/2020/134204

The Appellant filed an RTI application dated 28.02.2020 the same information as mentioned in Appeal No.CIC/UTOJK/A/2020/132270 with regard to M/s Socio Welfare International Society (NGO), Jammu. Having not received any response from the public authority, the Appellant filed First Appeal on 15.06.2020 which remained unheard. Feeling aggrieved, the Appellant approached the Commission with the instant Second Appeal.

(21) CIC/UTOJK/A/2020/134205

The Appellant filed an RTI application dated 28.02.2020 seeking the same information as mentioned in Appeal No.CIC/UTOJK/A/2020/132270 with regard to M/s Shakti Kala Shiksha Kendra (NGO), Jammu. Having not received any response from the public authority, the Appellant filed First Appeal on 15.06.2020 which remained unheard. Feeling aggrieved, the Appellant approached the Commission with the instant Second Appeal.

(22) CIC/UTOJK/A/2020/134206

The Appellant filed an RTI application dated 28.02.2020 seeking the same information as mentioned in Appeal No.CIC/UTOJK/A/2020/132270 with regard to M/s Rukhsana Institute (NGO) Banihal. Having not received any response from the public authority, the Appellant filed First Appeal on 15.06.2020 which remained unheard. Feeling aggrieved, the Appellant approached the Commission with the instant Second Appeal.

(23) CIC/UTOJK/A/2020/134207

The Appellant filed an RTI application dated 28.02.2020 seeking the same information as mentioned in Appeal No.CIC/UTOJK/A/2020/132270 with regard to M/s Parivartan (NGO), Jammu. Having not received any response from the public authority, the Appellant filed First Appeal on 15.06.2020 which remained unheard. Feeling aggrieved, the Appellant approached the Commission with the instant Second Appeal.

(24) CIC/UTOJK/A/2020/134208

The Appellant filed an RTI application dated 28.02.2020 seeking the same information as mentioned in Appeal No.CIC/UTOJK/A/2020/132270 with regard to M/s Noor Education Society (NG), Sopore. Having not received any response from the public authority, the Appellant filed First Appeal on 15.06.2020 which remained unheard. Feeling aggrieved, the Appellant approached the Commission with the instant Second Appeal.

(25) CIC/UTOJK/A/2020/134209

The Appellant filed an RTI application dated 28.02.2020 seeking the same information as mentioned in Appeal No.CIC/UTOJK/A/2020/132270 with regard to M/s Master Institute (NGO), Srinagar. Having not received any response from the public authority, the Appellant filed First Appeal on 15.06.2020 which remained unheard. Feeling aggrieved, the Appellant approached the Commission with the instant Second Appeal.

(26) CIC/UTOJK/A/2020/134210

The Appellant filed an RTI application dated 28.02.2020 seeking the same information as mentioned in Appeal No.CIC/UTOJK/A/2020/132270 with regard to M/s Jagriti Mahila Udhog Kendra (NGO), Jammu. Having not received any response from the public authority, the Appellant filed First Appeal on 15.06.2020 which remained unheard. Feeling aggrieved, the Appellant approached the Commission with the instant Second Appeal.

(27) CIC/UTOJK/A/2020/134211

The Appellant filed an RTI application dated 28.02.2020 seeking the same information as mentioned in Appeal No.CIC/UTOJK/A/2020/132270 with regard to M/s J&K State Welfare Institute (NGO), Doda. Having not received any response from the public authority, the Appellant filed First Appeal on 15.06.2020 which remained unheard. Feeling aggrieved, the Appellant approached the Commission with the instant Second Appeal.

(28) CIC/UTOJK/A/2020/134212

The Appellant filed an RTI application dated 28.02.2020 seeking the same information as mentioned in Appeal No.CIC/UTOJK/A/2020/132270 with regard to M/s J&K Rural Welfare Institution (NGO) Srinagar. Having not received any response from the public authority, the Appellant filed First Appeal on 15.06.2020 which remained unheard. Feeling aggrieved, the Appellant approached the Commission with the instant Second Appeal.

(29) CIC/UTOJK/A/2020/134213

The Appellant filed an RTI application dated 28.02.2020 seeking the same information as mentioned in Appeal No.CIC/UTOJK/A/2020/132270 with regard to M/s. Helping Hand A Society (NGO), Jammu. Having not received any response from the public authority, the Appellant filed First Appeal on 15.06.2020 which remained unheard. Feeling aggrieved, the Appellant approached the Commission with the instant Second Appeal.

(30) CIC/UTOJK/A/2020/134214

The Appellant filed an RTI application dated 28.02.2020 seeking the same information as mentioned in Appeal No.CIC/UTOJK/A/2020/132270 with regard to M/s Mighili Ladies Institution (NGO), Srinagar. Having not received any response from the public authority, the Appellant filed First Appeal on 15.06.2020 which remained unheard. Feeling aggrieved, the Appellant approached the Commission with the instant Second Appeal.

(31) CIC/UTOJK/A/2020/134882

The Appellant filed an RTI application dated 03.03.2020 seeking the same information as mentioned in Appeal No.CIC/UTOJK/A/2020/132270 with regard to M/s Kamal Voluntary Typing/Shorthand Training Institute (NGO), Jammu. Having not received any response from the public authority, the Appellant filed First Appeal on 20.06.2020 which remained unheard. Feeling aggrieved, the Appellant approached the Commission with the instant Second Appeal.

(32) CIC/UTOJK/A/2020/134884

The Appellant filed an RTI application dated 03.03.2020 seeking the same information as mentioned in Appeal No.CIC/UTOJK/A/2020/132270 with regard to Janu Social Welfare Society (NGO), Samba. Having not received any response from the public authority, the Appellant filed First Appeal on 20.06.2020 which remained unheard. Feeling aggrieved, the Appellant approached the Commission with the instant Second Appeal.

(33) CIC/UTOJK/A/2020/134885

The Appellant filed an RTI application dated 03.03.2020 seeking the same information as mentioned in Appeal No.CIC/UTOJK/A/2020/132270 with regard to M/s. Grameen Kalyan Sangthan Society (NGO), Kathua. Having not received any response from the public authority, the Appellant filed First Appeal on 20.06.2020 which remained unheard. Feeling aggrieved, the Appellant approached the Commission with the instant Second Appeal.

(34) CIC/UTOJK/A/2020/134888

The Appellant filed an RTI application dated 03.03.2020 seeking the same information as mentioned in Appeal No.CIC/UTOJK/A/2020/132270 with regard to M/s. Educational Environmental Social Sports Cultural Society (NGO), Doda. Having not received any response from the public authority, the Appellant filed First Appeal on 20.06.2020 which remained unheard. Feeling aggrieved, the Appellant approached the Commission with the instant Second Appeal.

(35) CIC/UTOJK/A/2020/134889

The Appellant filed an RTI application dated 03.03.2020 seeking the same information as mentioned in Appeal No.CIC/UTOJK/A/2020/132270 with regard to M/s. Evergreen Model Society (NGO), Srinagar. Having not received any response from the public authority, the Appellant filed First Appeal on 20.06.2020 which remained unheard. Feeling aggrieved, the Appellant approached the Commission with the instant Second Appeal.

(36) CIC/UTOJK/A/2020/134890

The Appellant filed an RTI application dated 03.03.2020 seeking the same information as mentioned in Appeal No.CIC/UTOJK/A/2020/132270 with regard to M/s. Dilshada Institute (NGO), Pulwama. Having not received any response from the public authority, the Appellant filed First Appeal on 20.06.2020 which remained unheard. Feeling aggrieved, the Appellant approached the Commission with the instant Second Appeal.

(37) CIC/UTOJK/A/2020/134894

The Appellant filed an RTI application dated 03.03.2020 seeking the same information as mentioned in Appeal No.CIC/UTOJK/A/2020/132270 with regard to M/s. J&K Yateem Trust (NGO), Srinagar. Having not received any response from the public authority, the Appellant filed First Appeal on 20.06.2020 which remained unheard. Feeling aggrieved, the Appellant approached the Commission with the instant Second Appeal.

(38) CIC/UTOJK/A/2020/134895

The Appellant filed an RTI application dated 03.03.2020 seeking the same information as mentioned in Appeal No.CIC/UTOJK/A/2020/132270 with regard to M/s. Kapran Women Welfare Society (NGO), Anantnag. Having not received any response from the public authority, the Appellant filed First

Appeal on 20.06.2020 which remained unheard. Feeling aggrieved, the Appellant approached the Commission with the instant Second Appeal.

(39) CIC/UTOJK/A/2020/137248

The Appellant filed an RTI application dated 10.03.2020 seeking the same information as mentioned in Appeal No.CIC/UTOJK/A/2020/132270 with regard to M/s. Satya Education Research & Welfare Society (NGO), Jammu. Having not received any response from the public authority, the Appellant filed First Appeal on 22.06.2020 which remained unheard. Feeling aggrieved, the Appellant approached the Commission with the instant Second Appeal.

(40) CIC/UTOJK/A/2020/137249

The Appellant filed an RTI application dated 10.03.2020 seeking the same information as mentioned in Appeal No.CIC/UTOJK/A/2020/132270 with regard to M/s. Sain Baba Welfare Society (NGO), Jammu. Having not received any response from the public authority, the Appellant filed First Appeal on 22.06.2020 which remained unheard. Feeling aggrieved, the Appellant approached the Commission with the instant Second Appeal.

(41) CIC/UTOJK/A/2020/137250

The Appellant filed an RTI application dated 10.03.2020 seeking the same information as mentioned in Appeal No.CIC/UTOJK/A/2020/132270 with regard to M/s. New Light Women Welfare Society (NGO), Srinagar. Having not received any response from the public authority, the Appellant filed First Appeal on 22.06.2020 which remained unheard. Feeling aggrieved, the Appellant approached the Commission with the instant Second Appeal.

(42) CIC/UTOJK/A/2020/137251

The Appellant filed an RTI application dated 10.03.2020 seeking the same information as mentioned in Appeal No.CIC/UTOJK/A/2020/132270 with regard to M/s. National Selaee Centre (NGO), Anantnag. Having not received any response from the public authority, the Appellant filed First Appeal on 22.06.2020 which remained unheard. Feeling aggrieved, the Appellant approached the Commission with the instant Second Appeal.

(43) CIC/UTOJK/A/2020/137252

The Appellant filed an RTI application dated 10.03.2020 seeking the same information as mentioned in Appeal No.CIC/UTOJK/A/2020/132270 with regard to M/s. National Hamdard Society (NGO) Srinagar. Having not received any response from the public authority, the Appellant filed First Appeal on

22.06.2020 which remained unheard. Feeling aggrieved, the Appellant approached the Commission with the instant Second Appeal.

(44) CIC/UTOJK/A/2020/137253

The Appellant filed an RTI application dated 10.03.2020 seeking the same information as mentioned in Appeal No.CIC/UTOJK/A/2020/132270 with regard to M/s. Khakni Ladies Vocational Centre (NGO), Anantnag. Having not received any response from the public authority, the Appellant filed First Appeal on 22.06.2020 which remained unheard. Feeling aggrieved, the Appellant approached the Commission with the instant Second Appeal.

(45) CIC/UTOJK/A/2020/137254

The Appellant filed an RTI application dated 10.03.2020 seeking the same information as mentioned in Appeal No.CIC/UTOJK/A/2020/132270 with regard to M/s. Women Era Welfare Society (NGO), Srinagar. Having not received any response from the public authority, the Appellant filed First Appeal on 22.06.2020 which remained unheard. Feeling aggrieved, the Appellant approached the Commission with the instant Second Appeal.

(46) CIC/UTOJK/A/2020/137255

The Appellant filed an RTI application dated 10.03.2020 seeking the same information as mentioned in Appeal No.CIC/UTOJK/A/2020/132270 with regard to M/s. Village Social Welfare & Development Committee (NGO), Kathua. Vide letter dated 04.07.2020, CPIO, Village Social Welfare and Development Committee provided details about supplementary nutrition payments made to the supplier for the period January, 2017 to December 2017. Dissatisfied with the information received, the Appellant filed First Appeal on 22.06.2020 which remained unheard. Feeling aggrieved, the Appellant approached the Commission with the instant Second Appeal.

(47) CIC/UTOJK/A/2020/137256

The Appellant filed an RTI application dated 10.03.2020 seeking the same information as mentioned in Appeal No.CIC/UTOJK/A/2020/132270 with regard to M/s. Society for Welfare of Downtrodden (NGO), Jammu. Having not received any response from the public authority, the Appellant filed First Appeal on 22.06.2020 which remained unheard. Feeling aggrieved, the Appellant approached the Commission with the instant Second Appeal.

(48) CIC/UTOJK/A/2020/137257

The Appellant filed an RTI application dated 10.03.2020 seeking the same information as mentioned in Appeal No.CIC/UTOJK/A/2020/132270 with

regard to M/s. Shakti Women Welfare Society (NGO), Jammu. Having not received any response from the public authority, the Appellant filed First Appeal on 22.06.2020 which remained unheard. Feeling aggrieved, the Appellant approached the Commission with the instant Second Appeal.

(49) CIC/UTOJK/A/2020/137258

The Appellant filed an RTI application dated 10.03.2020 seeking the same information as mentioned in Appeal No.CIC/UTOJK/A/2020/132270 with regard to M/s Shahmeer Welfare Education & Environmental Trust (NGO), Budgam. Having not received any response from the public authority, the Appellant filed First Appeal on 22.06.2020 which remained unheard. Feeling aggrieved, the Appellant approached the Commission with the instant Second Appeal.

(50) CIC/UTOJK/A/2020/137259

The Appellant filed an RTI application dated 10.03.2020 seeking the same information as mentioned in Appeal No.CIC/UTOJK/A/2020/132270 with regard to M/s Shab-I-Alam Women Welfare Society (NGO), Srinagar. Having not received any response from the public authority, the Appellant filed First Appeal on 22.06.2020 which remained unheard. Feeling aggrieved, the Appellant approached the Commission with the instant Second Appeal.

(51) CIC/UTOJK/A/2020/139994

The Appellant filed an RTI application dated 10.03.2020 seeking the same information as mentioned in Appeal No.CIC/UTOJK/A/2020/132270 with regard to M/s. United Welfare Society (NGO), Jammu. Having not received any response from the public authority, the Appellant filed First Appeal on 11.07.2020 which remained unheard. Feeling aggrieved, the Appellant approached the Commission with the instant Second Appeal.

(52) CIC/UTOJK/A/2020/139995

The Appellant filed an RTI application dated 03.03.2020 seeking the same information as mentioned in Appeal No.CIC/UTOJK/A/2020/132270 with regard to M/s Golden Urban & Rural Sanitation Society (NGO), Srinagar. Having not received any response from the public authority, the Appellant filed First Appeal on 11.07.2020 which remained unheard. Feeling aggrieved, the Appellant approached the Commission with the instant Second Appeal.

(53) CIC/UTOJK/A/2020/139997

The Appellant filed an RTI application dated 07.03.2020 seeking the same information as mentioned in Appeal No.CIC/UTOJK/A/2020/132270 with regard to M/s Centre for Slum Development (NGO), Srinagar. Having not received any response from the public authority, the Appellant filed First Appeal on 11.07.2020 which remained unheard. Feeling aggrieved, the Appellant approached the Commission with the instant Second Appeal.

(54) CIC/UTOJK/A/2020/139998

The Appellant filed an RTI application dated 28.02.2020 seeking the same information as mentioned in Appeal No.CIC/UTOJK/A/2020/132270 with regard to M/s NGO's Coordination Federation (NGO), Srinagar. Having not received any response from the public authority, the Appellant filed First Appeal on 22.06.2020 which remained unheard. Feeling aggrieved, the Appellant approached the Commission with the instant Second Appeal.

(55) CIC/UTOJK/A/2020/140289

The Appellant filed an RTI application dated 10.03.2020 seeking the same information as mentioned in Appeal No.CIC/UTOJK/A/2020/132270 with regard to M/s Scholastic Alliance for Human Action & Rural Development (NGO), Billawar, Kathua. Having not received any response from the public authority, the Appellant filed First Appeal on 22.06.2020 which remained unheard. Feeling aggrieved, the Appellant approached the Commission with the instant Second Appeal.

(56) CIC/UTOJK/A/2020/115499

The Appellant vide RTI application dated 18.12.2019 seeking the following information from Social Welfare Department, Jammu & Kashmir (UT):

DETAILS OF INFORMATION SOUGHT**I. Subject matter of information:-**

Information of STEP (Support to Training & Employment Programme) Scheme implemented by NGO's/VO's in Jammu & Kashmir State sponsored by GOI in the Ministry of Women & Child Development, New Delhi.

ii. The period to which the information relates:-
2009-10 to 2019-20 (11 Years)**iii. Description of the information required:-**

- a) Name of the NGO's/VO's accorded sanction of Grant-in-Aid under STEP Scheme in Jammu & Kashmir State for the past 11 Years.
- b) Copies of recommendation of NGO's/VO's under STEP Scheme from SLEC, J&K State Govt. submitted to GOI in the Ministry of Women & Child Development, New Delhi.
- c) Copies of Project Proposals submitted by NGO's/VO's under STEP Scheme in terms of :-
 - i) Application for (Part-I)
 - ii) Organisation Capability (Part-II)
 - iii) Project Proposal (Part-III)
 - iv) Project Cost Structure (Part-IV)
- d) Copies of Inspection Reports conducted by GOI/State Govt./ Agencies, for the projects implemented by NGO's/VO's under STEP Scheme.
- e) Copies of Utilization Certificates along with Audited Accounts in three forms of NGO's/VO's implemented STEP Scheme.

Having not received any information from the public authority, the Appellant filed First Appeal on 12.02.2020, which remained unheard. Feeling aggrieved, the Appellant approached the Commission with the instant Second Appeal.

(57) CIC/UTOJK/A/2020/115500

The Appellant filed an RTI application dated 24.12.2019 seeking the following information from J&K State Social Welfare Board, Jammu & Kashmir:

DETAILS OF INFORMATION SOUGHT

- i. Subject matter of information:-

Information of NGO's/VO's substantially fund Welfare Board in Jammu & Kashmir sponsored Women & Child Development, New Delhi.

- ii. The period to which the information relates:-

Financial year 2016-17, 2017-18, 2018-19 & 2019-20

- iii. Description of the information required:-

- a. Kindly provide copy of complete postal address of Registered/ Administrative/Head offices of NGO's/VO's substantially funded by J&K State Social Welfare Board under 'National Creche Scheme', 'Family Counseling Centre' & 'Swadhar Greh' sponsored by GOI in the Ministry of Women & Child Development, New Delhi. The information is requested w.e.f financial year 2016-17 to 2019-20.
- b. Kindly provide copy of complete residential postal addresses of President & Secretary of NGO's/VO's substantially funded by J&K

State Social Welfare Board under 'National Creche Scheme', 'Family Counseling Centre' & 'Swadhar Greh' sponsored by GOI in the Ministry of Women & Child Development, New Delhi.

- c. Kindly provide copy of complete residential postal addresses of Central Public Information Officer (CPIO) & First Appellate Authority (FAA) of NGO's/VO's substantially funded by J&K State Social Welfare Board under 'National Creche Scheme', 'Family Counseling Centre' & 'Swadhar Greh' sponsored by GOI in the Ministry of Women & Child Development, New Delhi.

Having not received any response from the public authority, the Appellant filed First Appeal on 15.02.2020. The FAA vide order dated 10.03.2020 directed the Incharge Family Counselling Centre, Swadhar Greh and National Creche Scheme, J&K Social Welfare Board to provide the said RTI information to the Appellant with 15 working days.

Decision:

1. The current situation arising out of the COVID-19 pandemic, has caused significant disruption in the functioning of public all establishments and businesses alike. In respect of the Commission, this translates into a mounting backlog of Appeals and Complaints. In such circumstances, there is a pressing need to identify cases such as the ones under adjudication for cumulative disposal in order to facilitate expedient disposal of cases of genuine information seekers. In other words, this is where the aforementioned juxtaposition comes into play as the Commission seeks to strike a fine balance between the interests of genuine information seekers, while keeping the menace of repetitive RTI Applicants under check.
2. Keeping in view the facts and circumstances in the aforesaid cases and the adverse impact of COVID-19 on normal functioning of officials as well as their deployment to combat the pandemic, holding structured physical hearings of the above cases is not deemed expedient in the current situation as it will only delay the dissemination of the desired information.
3. Since a single Appellant has filed all of the above cases and the subject matter in all these appeals are similar, the matters are decided by a common order. Upon perusal of the above cases, the Commission observes that the Appellant appears to be on a mission to conduct a performance audit of the NGOs, who, according to him, have been utilising grants from the Consolidated Fund of India, Major Head "2235" Social Security and Welfare. He has contended that the Grant-in-Aid schemes are implemented by the captioned NGO under "National Creche Scheme" sponsored by the Ministry of Women & Child Development through J&K State Social Welfare

Department/Board. It is the consistent contention of the Appellant in the above mentioned appeals that he has filed these RTI applications for the purpose of bringing transparency and probity in the functioning of the NGOs; seeking that appropriate guidelines are laid down for accreditation of NGOs and devise a proper accounting system to create a proper channel for utilization of funds from the Government. He further contended that every citizen has a right to know as to whether his/her money which has been given to an NGO is being used for the requisite purpose or not. The scope of information sought by the Appellant in all of the above appeal deals with various aspects of registration, functioning accountability of approximately 50 NGOs in Jammu and Kashmir. While the queries related to the NGOs overlap in the abovementioned appeals, as detailed above, in some of the appeals he has sought information about implementation of Support to Training in Employment Programme by the NGOs and information about NGOs which are substantially funded by J&K State Social Welfare Board under the National Creche Scheme.

4. Further, the Appellant has emphasised in his averments on the fact that the aforementioned NGOs were substantially funded by Ministry of Women & Child Development, Government of India, through J&K Social Welfare Department & Board. Thus being funded by public money, the Appellant claims that these NGOs fall within the ambit of Section 2 (h)(d)(ii) of the RTI Act, 2005, as discussed by the *Hon'ble Supreme Court of India in Thalappalam Ser. Coop. Bank Ltd. and Ors. Vs State of Kerala and Or's (in Civil Appeal No. 9017, 9020, 9029, 9023 of 2013)*. Relevant information about these NGOs, sought in the said RTI Applications ought to be disclosed under RTI Act, 2005. Moreover, Appellant has highlighted the need for transparency and probity in the functioning of the aforementioned NGOs, as these remain distant from public scrutiny and he has sought this information in the capacity of an ordinary citizen, without any personal interest.
5. In view of the averments raised by the Appellant and a perusal of the records of the case, the Commission observes that it is important for NGOs to achieve and maintain a high degree of transparency in not just their work but also their financial dealings. Keeping the financial statements and operations open to public scrutiny will aid in garnering greater public confidence about the organizations. However, in spite of mounting pressure for more openness and transparency, it appears that a number of NGOs remain reluctant to share information and/or recognize the need for accountability. More accountability and greater transparency are essential ingredients of good governance and responsiveness to public needs. The timely availability of reliable information is essential for the effective regulation and monitoring of NGOs by beneficiaries, donors and governments alike. The Commission upholds the contention of the Appellant seeking information in larger public interest and takes into

account the request for disclosure of the relevant information as sought in the said RTI Applications.

6. In view of the contention raised by the Appellant stating that the said NGOs are substantially funded by Ministry of Women & Child Development, Government of India, through J&K Social Welfare Department & Board, the Commission finds it expedient to implead J&K Social Welfare Department & Board as one of the respondents and accordingly directs PIO, J&K Social Welfare Department & Board to provide relevant information in respect of all the NGOs as sought in the aforementioned RTI Applications to the Appellant as available on records. In case relevant information is not available in their records then PIO/J&K Social Welfare Department & Board must procure the same from the actual custodians of information, invoking relevant provisions of the RTI Act, 2005 and provide it to the Appellant, free of cost. The, PIO is further directed to submit a detailed compliance report before the Commission by 31.03.2021, enumerating all the information provided to the Appellant.

7. The Commission has already adjudicated/disposed of 61 appeals of the same Appellant vide order dated 04.11.2020 and 27.11.2020 directing the PIO, J&K Social Welfare Department & Board to furnish the relevant information to the Appellant. In the abovementioned batch of 57 Second Appeals, the Appellant has sought some more details from the same NGOs, by extending the scope/details of information and time period of the information about National Creche Scheme/Support to Training & Employment Programme etc.

Considering the above facts, Commission directs the PIO, J&K Social Welfare Department & Board to carefully peruse the records in the instant matters and provide only information pertaining to these NGOs (as sought in the aforementioned 57 RTI Applications) which has not been provided already in compliance of the earlier orders of this Commission passed on 04.11.2020 and 27.11.2020. In case certain information in respect of the said NGOs has already been provided to the Appellant in compliance of the aforesaid orders, the same must be categorically mentioned in the compliance report along with the details of the relevant documents furnished in respect of the same.

8. The aforementioned directions of the Commission must be complied with by 31.03.2021 and a detailed compliance report must reach the Commission within the stipulated time period, failing which appropriate non-compliance proceedings shall be initiated as per law.
9. A copy of this order shall be sent to the FAA, J&K Social Welfare Department & Board to ensure compliance of directions as above by the concerned CPIO.

10. Before concluding the decision at hand the Commission notes that the same Appellant has been filing endless number of RTI applications on the same subject matter, with repetitive queries. This Commission has adjudicated more than 100 cases filed by the Appellant on the same subject matter of NGOs functioning under the "National Creche Scheme". Substantial amount of information has been directed to be disclosed in this order as in the 2 previous orders passed by this Commission, mentioned above. Accordingly, it is made clear that any further RTI applications by the Appellant on the same subject matter will be disposed off without any further directions to the respondent public authority.

In view of the above, all the Second Appeals are disposed off with the above directions.

Y. K. Sinha (वाई. के. सिन्हा)

Chief Information Commissioner(मुख्य सूचना आयुक्त)

Authenticated true copy
(अभिप्रमाणित सत्यापित प्रति)

S. K. Chitkara (एस. के. चिटकारा)

Dy. Registrar (उप-पंजीयक)

011-26180514

Annexure 1(A)

1. CIC/UTOJK/A/2020/ 110388	2. CIC/UTOJK/A/2020/134207
3. CIC/UTOJK/A/2020/ 110391	4. CIC/UTOJK/A/2020/134208
5. CIC/UTOJK/A/2020/ 115142	6. CIC/UTOJK/A/2020/134209
7. CIC/UTOJK/A/2020/ 115144	8. CIC/UTOJK/A/2020/134210
9. CIC/UTOJK/A/2020/ 115495	10. CIC/UTOJK/A/2020/134211
11. CIC/UTOJK/A/2020/ 123017	12. CIC/UTOJK/A/2020/134212
13. CIC/UTOJK/A/2020/ 123020	14. CIC/UTOJK/A/2020/134213
15. CIC/UTOJK/A/2020/ 132270	16. CIC/UTOJK/A/2020/134214
17. CIC/UTOJK/A/2020/ 132271	18. CIC/UTOJK/A/2020/134882
19. CIC/UTOJK/A/2020/ 132272	20. CIC/UTOJK/A/2020/134884
21. CIC/UTOJK/A/2020/ 132273	22. CIC/UTOJK/A/2020/134885
23. CIC/UTOJK/A/2020/ 132274	24. CIC/UTOJK/A/2020/134888
25. CIC/UTOJK/A/2020/ 132510	26. CIC/UTOJK/A/2020/134889
27. CIC/UTOJK/A/2020/ 132511	28. CIC/UTOJK/A/2020/134890
29. CIC/UTOJK/A/2020/ 132512	30. CIC/UTOJK/A/2020/134894
31. CIC/UTOJK/A/2020/ 132513	32. CIC/UTOJK/A/2020/134895
33. CIC/UTOJK/A/2020/ 132514	34. CIC/UTOJK/A/2020/137248
35. CIC/UTOJK/A/2020/ 132515	36. CIC/UTOJK/A/2020/137249
37. CIC/UTOJK/A/2020/ 134202	38. CIC/UTOJK/A/2020/137250
39. CIC/UTOJK/A/2020/ 134204	40. CIC/UTOJK/A/2020/137251
41. CIC/UTOJK/A/2020/ 134205	42. CIC/UTOJK/A/2020/137252
43. CIC/UTOJK/A/2020/ 134206	44. CIC/UTOJK/A/2020/137253
45. CIC/UTOJK/A/2020/137254	46. CIC/UTOJK/A/2020/137257
47. CIC/UTOJK/A/2020/ 137258	48. CIC/UTOJK/A/2020/ 137259

49. CIC/UTOJK/A/2020/139994	50. CIC/UTOJK/A/2020/139995
51. CIC/UTOJK/A/2020/139997	52. CIC/UTOJK/A/2020/139998
53. CIC/UTOJK/A/2020/137255	54. CIC/UTOJK/A/2020/115499
55. CIC/UTOJK/A/2020/137256	56. CIC/UTOJK/A/2020/115500
57. CIC/UTOJK/A/2020/140289	

केन्द्रीय सूचना आयोग
Central Information Commission
बाबागंगनाथमार्ग, मुनिरका
Baba Gangnath Marg, Munirka
नई दिल्ली, New Delhi-110067

द्वितीय अपील संख्या / Second Appeal Nos.: File nos. as per **Annexure 1(A)**

Shri Ashok Kumar
House No. 280/2, Narwal Pain
Satwari, Jammu Cantt – 180003

... अपीलकर्ता/Appellant

VERSUS/बनाम

1. M/s Society for Welfare of Downtrodden (NGO) :
2. M/s. SS Institute of Professional & Technical Education (NGO)
3. M/s NEAT (NGOs Education & Training
4. M/s Zabbar-Wan Women's Welfare & Child Care Development Organization (NGO).
5. M/s Lal Ded Mahilla Mandal Committee (NGO).
6. M/s Allama Iqbal Development Environmental Sports & Cultural Society (NGO)
7. M/s Ganit-Ul-Aloom Charitable Trust
8. M/s Rukhsana Institute (NGO).
9. M/s Shah Asrar People Welfare Association
10. M/s J&K Rural Welfare Institution (NGO).
11. M/s Cultural Educational Environmental Organisation (NGO)
12. M/s Noor Education Society (NGO).
13. M/s Social Welfare International Society (NGO).
14. M/s Parivartan (NGO).
15. M/s Firdaus Institute (NGO).
16. M/s New Citizen Women's Welfare Society (NGO).
17. M/s Hassina Ladies Vocational Centre (NGO).
18. M/s Darkshan Women's & Child Welfare (NGO).
19. M/s New Shalimar Women Welfare Society (NGO)
20. M/s Shamas Memorial Islamic Educational Institute (NGO).
21. M/s Border Area Development Council (NGO).
22. M/s Master Institute (NGO).
23. M/s J&K State Welfare Institute (NGO).

24. M/s Priya Women Welfare Society (NGO).
25. M/s Voluntary Organisation for International Cooperation & Equality (VOICE) (NGO).
26. M/s Majestic Voluntary Organisation (NGO).
27. M/s New Kashmir Women's United Organisation (NGO).
28. M/s NGO's Coordination Federation (NGO)
29. M/s Hidden Treasure Academy (NGO).
30. M/s Jagriti Mahila Udhog Kendra (NGO).
31. M/s Mighli Ladies Institution (NGO).
32. M/s New Star Human Welfare Society (NGO).
33. M/s Shakti Kala Shiksha Kendra (NGO).
34. M/s United Mahila Association for Integrated Development (NGO)
35. M/s Helping Hand A Society (NGO).
36. M/s J&K Confederation of Voluntary & Charitable Organisation (NGO).
37. M/s Socio Economic Development Society (NGO).
38. M/s Kashmir Research Institute of Education & Solar Technology (NGO).
39. M/s Evergreen Model Society (NGO).
40. M/s Kamal Voluntary Typing/Shorthand Training Institute (NGO).
41. M/s Shahmeer Welfare Education & Environmental Trust (NGO)
42. M/s Society for Welfare of Downtrodden (NGO)
43. M/s Kapran Women's Welfare Society (NGO).
44. M/s KJK Welfare Society (NGO)
45. M/s SR Institute of Development (NGO).
46. M/s Rural Artisans Welfare Society (NGO).
47. M/s SR Memorial Institute of Education (NGO).
48. M/s Grameen Kalyan Sangathan Society (NGO)
49. M/s J&K Yateem Trust.
50. M/s Golden Urban & Rural Sanitation Society (NGO)
51. M/s Educational Environmental Social Sports Cultural Society (NGO).
52. M/s Dilshada Institute (NGO).
53. M/s Shab-I-Alam Women Welfare Society (NGO).
54. M/s Women's Era Welfare Society (NGO).
55. M/s Khakni Ladies Vocational Centre (NGO).
56. M/s National Hamdard Society (NGO).
57. M/s National Selae Centre (NGO).
58. M/s Sain Baba Welfare Society (NGO).

59. M/s New Light Education Research & Welfare Society (NGO).
 60. M/s Scholastic Alliance for Human Action & Rural Development (NGO).
 61. M/s Kiran Rural Women Development Society (NGO)
 62. PIO, J & K State Social Welfare Board, 3rd Floor Pragati Bhawan
 Rail Head Complex, Jammu -180012

...प्रतिवादीगण/
Respondent

Date of Decision : 27.11.2020

Information Commissioner : Shri Y. K. Sinha

Case No.	Date of RTI	CPIO reply	First Appeal dated	FAA's Order dated	Second Appeal filed on
115496	8.11.2019	-	26.11.2019	-	17.01.2020
103192	7.10.2019	26.10.2019	26.11.2019	14.01.2020	17.01.2020
109478	7.10.2019	-	02.12.2019	-	26.02.2020
109479	7.10.2019	-	28.11.2019	-	26.02.2020
109477	7.10.2019	-	22.10.2019	-	26.02.2020
109480	5.10.2019	-	28.11.2019	-	26.02.2020
109481	7.10.2019	-	28.11.2019	-	26.02.2020
109482	7.10.2019	-	28.11.2019	-	26.02.2020
109483	7.10.2019	-	28.11.2019	-	26.02.2020

109484	7.10.2019	-	28.11.2019	-	26.02.2020
109485	7.10.2019	-	7.12.2019	-	26.02.2020
109486	7.10.2019	-	8.11.2019	-	26.02.2020
110238	18.10.2019	-	28.11.2019	-	02.03.2020
110239	4.10.2019	11.11.2019	19.11.2019	-	
110240	4.10.2019	-	02.12.2019	-	

110379	7.10.2019	-	28.11.2019	-	3.3.2020
110381	7.10.2019	-	28.11.2019	-	3.3.2020
110382	7.10.2019	-	28.11.2019	-	3.3.2020
110383	7.10.2019	-	08.11.2019	-	3.3.2020
110385	7.10.2019	-	28.11.2019	-	3.3.2020
110387	10.10.2019	-	02.12.2019	-	3.3.2020
110390	04.10.2019	-	28.11.2019	-	3.3.2020
110392	05.10.2019	-	22.10.2019	-	3.3.2020
110393	05.10.2019	-	28.11.2019	-	3.3.2020
110394	10.10.2019	-	28.11.2019	-	3.3.2020
110817	7.10.2019	-	28.11.2019	28.11.2019	3.3.2020
110818	7.10.2019	-	8.11.2019	-	5.3.2020
110819	7.10.2019	-	28.11.2019	-	5.3.2020
110820	4.10.2010	-	8.11.2019	-	5.3.2020
110821	10.10.2019	-	28.11.2019	-	5.3.2020
110822	7.10.2019	-	22.10.2019	-	5.3.2020
111458	10.10.2019	-	8.11.2019	-	11.03.2020
111460	10.10.2019		28.11.2019	-	11.03.2020
111461	7.10.2019	-	28.11.2019	-	11.03.2020
111462	10.10.2019	-	28.11.2019		11.03.2020
111463	10.10.2019	-	28.11.2019	-	11.03.2020
115141	8.11.2019	-	18.12.2019	-	28.05.2010
115143	8.11.2019		09.12.2019		28.05.2010
115145	13.11.2019	-	26.12.2019		28.05.2010
115250	8.11.2019	-	26.12.2019	-	29.05.2020
115494	12.12.2019	5.3.2020	29.01.2020	-	01.06.2020
115496	8.11.2019	-	26.11.2019	-	7.10.2019
115497	13.11.2019	-	26.11.2019	-	01.06.2020
115498	8.11.2019	-	26.11.2019	-	01.06.2020

116298	7.10.2019	-	22.10.2019	-	11.06.2020
116299	5.10.2019	-	22.10.2019	-	11.06.2020
116301	5.10.2019	-	22.10.2019	-	11.06.2020
120737	12.12.2019	-	29.01.2020	-	29.07.2020
120738	12.12.2019	-	29.01.2020	-	29.07.2020
120739	12.12.2019	-	29.01.2020	-	29.07.2020
120740	12.12.2019	-	29.01.2020	-	29.07.2020
120741	12.12.2019	-	29.01.2020	-	29.07.2020
121761	12.12.2019	-	29.01.2020	-	05.08.2020
121763	12.12.2019	-	29.01.2020	-	05.08.2020
121767	12.12.2019	-	29.01.2020	-	05.08.2020
121769	12.12.2019	-	29.01.2020	-	05.08.2020
121770	12.12.2019	-	29.01.2020	-	05.08.2020
123015	12.12.2019	-	29.01.2020	-	17.08.2020
123016	12.12.2019	-	29.01.2020	-	17.08.2020
123018	12.12.2019	-	29.01.2020	-	17.08.2020

Note: The present batch of appeals as listed above in Annexure 1A is preferred by the same Appellant from different NGOs (list attached) in the UT of Jammu & Kashmir. Since the issues involved in the present appeals as well as relief sought are identical in nature, the Commission proposes to club these said matters and adjudicate upon them all together through the present order for the sake of brevity and avoidance of multiple proceedings.

ORDER

Information sought and background of the case

(1) CIC/UTOJK/A/2020/115496

The Appellant vide RTI application dated 05.11.2019 sought the following information from **M/s Society for Welfare of Downtrodden (NGO)** :

i. Subject matter of information: -

- a) Information with regard to registration documents, accountability, functioning, genuineness & financial soundness of registered NGO substantially funded by GOI in the Ministry of Women & Child Development under Social Welfare Schemes.

- ii. The period to which the information relates: -
Financial Year 2016-17, 2017-18, 2018-19 & 2019-20
- iii. Description of the information required: -

A. Information pertaining to Registered NGO: -

- i. Kindly provide copy of latest Registration Renewal Certificate issued from O/o Registrar of Societies, J&K Government.
- ii. List of latest Managing Body Members issued from O/o District Magistrate, J&K Government.
- iii. Details of Bank Accounts (A/c No., Bank Name & Branch) maintained by the NGO and also provide list of authorized signatories.
- iv. Copy of PAN Card, Registration under 12AA & 80-G issued from O/o Commissioner Income Tax Department. Copy of FCRA issued from GOI in the Ministry of Home Affairs.
- v. Copy of Organizational Balance Sheet of NGO for the financial year 2016-17, 2017-18 & 2018-19.
- vi. Copy of Income Tax Returns along with Computation Statement for the assessment year 2017-18, 2018-19 & 2019-20.
- vii. Copy of Utilization Certificates of all the Grant-in-Aid Schemes (Govt. of India/ State Govt./ Corporations/ Agencies/ Banks/ Corporate Social Responsibility & Foreign Funding's) Sanctioned during the financial year 2016-17, 2017-18 & 2018-19.

B. Information pertaining to "National Creche Scheme" substantially funded by GOI in the Ministry of Women & Child Development: -

- i. Kindly provide details of Supplementary Nutrition expenditure for a period from 01/01/2016 to 30/09/2019 under 'National Creche Scheme'.
 - a. Name of the Dealer/Shopkeeper.
 - b. Amount of Nutrition purchased from each Dealer (provide copy of one Invoice of each Dealer).
 - c. Amount of Payment made to each Dealer (mention whether through Cash/Cheque/Bank transfer)
 - d. Amount of Payment outstanding towards each Dealer as on 30/09/2019.
- ii. Details of Creche Worker & Creche Helper for a period from 01/01/2016 to 30/09/2019 under 'National Creche Scheme' :

- a. Name of the Creche Worker & Creche Helper along with address and period of their appointment.
 - b. Amount of Payment made to each Creche Worker & Creche Helper (mention whether through cash/Cheque/Bank transfer)
 - c. Amount of Payment outstanding towards each Creche Worker & Creche Helper as on 30/09/2019.
- iii. Details of Doctor for a period from 01/01/2016 to 30/09 /2019 under National Creche Scheme:
- a. Name of the Doctor with period of consultation under National Creche Scheme.
 - b. Amount of Honorarium paid & outstanding towards Doctor as on 30/09/2019.
- iv. Details of Yearly Grant-in-Aid sanctioned for the financial year 2016-17, 2017-18, 2018-19 & 2019-20 under 'National Creche Scheme' sponsored by GOI in the Ministry of Women & Child Development.
- a. Yearly amount of Grant-in-Aid sanctioned.
 - b. Yearly amount of Utilization & Claim of NGO.
 - c. Yearly amount of acceptance of accounts from Govt.
 - d. Yearly amount of Grant-in-Aid released.
 - e. Amount of Grant-in-Aid outstanding as on 30/09/2019.
- v. Details of Income & Loans of NGO for the financial year 2016-17, 2017-18 & 2018-19.
- a. Amount of Donations in Cash, Cheque & Bank transfer.
 - b. Amount of other Income (Sale/Interest/Rent etc.)
 - c. Amount of secured/unsecured Loan raised (mention Name & address of person provided loans)

Having not received any response from the public authority, the Appellant filed a first appeal on 22.12.2019 which remained unheard. Feeling aggrieved, the Appellant approached the Commission with the instant 2nd appeal.

In the similar fashion, the Appellant has sought information with regard to other Non-Governmental organisations vide separate RTI applications.

(2) CIC/UTOJK/A/2020/103192

The Appellant filed an RTI application dated 7.10.2019 seeking the above mentioned information with regard to SS Institute of Professional & Technical Education (NGO). CPIO/Shiv Sadhna NGO furnished point-wise information to

the Appellant as available on record. Dissatisfied with the reply received from the PIO, Appellant filed a First Appeal dated 26.11.2019 FAA vide order dated 26.12.2019 disposed of the appeal with no direction to CPIO. The FAA vide letter dated 14.01.2020 informed the Appellant that reply of RTI has already been on 26.10.2019. Feeling aggrieved the Appellant approached the Commission stating that incomplete information have been provided in terms of Managing Body, Organisational Balance Sheets, Utilization certificate and other related issues.

(3) CIC/UTOJK/A/2020/109478

The Appellant filed an RTI application dated 07.10.2019 seeking information as detailed above with regard to M/s NEAT (NGOs Education & Training). Having not received any response from the public authority, the Appellant filed an appeal on 02.12.2019 which received undelivered.

The Appellant has enclosed an order from Executive Director/Secretary, J & K State Social Welfare Board which is reproduced as under:

"ORDER No. 37 of 2019

DATED: 11.06.2019

subject:- stoppage of grant-in-aid jn favour of NGO's/Vos receiving grant-in-aid from J&K State Social Welfare Board under National Creche Scheme.

Ref :- SIC/CO/SAI 09-1 0/201 8/1992-95 dated : 20.05.2019

Ref:- SWB/J&K(275-79 dated: 22.05.2019

Whereas, this office has received RTI application from Sh Ashok Kumar H.No.280/2, Narwal Pain Satwari, Jammu time and again which was followed in letter and spirit under RTI Act 2009.

Whether, the Incharge Creche Scheme of concerned section has provided the records whatever was available with him/her and has further submitted that the rest of information sought in the instant RTI is not available in the Board records and the same is available with the NGO's/VO's.

Whereas this office has intimated the NGO's/VO's to provide the rest of information which remains available with the NGO's/VO's as per the set procedures and the norms. The PIO has time and again requested the NGO's/VO's to provide the pending information duly available with them.

Whereas, Hon'ble State Information Commission vide interim order No.SIC/CO/SA/709-10/2018/1992-95 dated 20.05.2019 has directed the J&K State Social Welfare Board for stopping the funds to NGO's/VO's receiving grants-in-aid for failing to provide the information sought under National Creche Scheme.

Whereas, this office after receiving the interim order on 20.05.2019 immediately conveyed the directions of Hon'ble State Information Commission to the NGO's/VO's vide office letter No. SWB/J&K/275-79 dated 22.05.2019.

Whereas this office has provided a time period of seven days for receiving the information sought so that the same may be provided to the Hon'ble State Information Commission failing which the grants-in-aid funding will be stopped forthwith. It is worthwhile to mention here that this office has not received any information from the NGO's/VO's reflecting a clear violation of instructions of this office and hence State Information Commission as well.

Hence, in the light of above cited facts, it becomes crystal clear that NGO's/VO's seems disinterested to reveal the information sought time and again by J&K State Social Welfare Board for onward submission to the Hon'ble State Commission. All this undermines the credibility of this office besides causing the defamation and mental harassment for the Board authorities.

As a matter of fact, this office is duty-bound to comply with the instruction of Hon'ble State Information Commission which commands for the stoppage of funds under grant-in-aid (National Creche Scheme) with immediate effect.

Therefore, the funds available with the Board under the National Creche Scheme are hereby stopped with immediate effect until the NGO's/VO's provides the information/records to the utmost satisfaction of the Board and Hon'ble State Information Commission as well.

Sd/

(4) CIC/UTOJK/A/2020/109479

The Appellant filed an RTI application dated 07.10.2019 seeking information as detailed above with regard to M/s Zabbar-Wan Women's Welfare & Child Care Development Organisation (NGO). Having not received any response from the public authority, the Appellant filed an appeal on 28.11.2019. The FAA vide letter dated 11.12.2019 informed the Appellant that no application under RTI

Act 2005 for any information stands pending with their office. On this, the Appellant filed a rejoinder on 05.01.2020.

Further a copy of order dated 11.06.2019, as highlighted above, has been enclosed with regard to stoppage of grants-in-aid to the NGO/VO's until they provide the information to the satisfaction of the Board and Hon'ble State Information Commission

(5)CIC/UTOJK/A/2020/109477

The Appellant filed an RTI application dated 05.10.2019 seeking information as detailed above with regard to M/s Lal Ded Mahilla Mandal Committee (NGO). Having not received any response from the public authority, the Appellant filed an appeal on 28.11.2019 which remained unheard.

Further a copy of order dated 11.06.2019, as highlighted above, has been enclosed with regard to stoppage of grants-in-aid to the NGO/VO's until they provide the information to the satisfaction of the Board and Hon'ble State Information Commission

(6) CIC/UTOJK/A/2020/109480

The Appellant filed an RTI application dated 05.10.2019 seeking information as detailed above with regard to M/s Alima Iqbal Development Environmental Sports & Cultural Society (NGO) Having not received any response from the public authority, the Appellant filed an appeal on 28.11.2019 which remained unheard.

Further a copy of order dated 11.06.2019, as highlighted above, has been enclosed with regard to stoppage of grants-in-aid to the NGO/VO's until they provide the information to the satisfaction of the Board and Hon'ble State Information Commission

(7) CIC/UTOJK/A/2020/109481

The Appellant filed an RTI application dated 07.10.2019 seeking information as detailed above with regard to M/s Ganit-Ul-Aloom Charitable Trust. Having not received any response from the public authority, the Appellant filed an appeal on 28.11.2019 which remained unheard.

Further a copy of order dated 11.06.2019, as highlighted above, has been enclosed with regard to stoppage of grants-in-aid to the NGO/VO's until they provide the information to the satisfaction of the Board and Hon'ble State Information Commission.

(8) CIC/UTOJK/A/2020/109482

The Appellant filed an RTI application dated 05.10.2019 seeking information as detailed above with regard to M/s Rukhsana Institute (NGO). Having not received any response from the public authority, the Appellant filed an appeal on 26.11.2019 which remained unheard.

Further a copy of order dated 11.06.2019, as highlighted above, has been enclosed with regard to stoppage of grants-in-aid to the NGO/VO's until they provide the information to the satisfaction of the Board and Hon'ble State Information Commission.

(9) CIC/UTOJK/A/2020/109483

The Appellant filed an RTI application dated 07.10.2019 seeking information as detailed above with regard to M/s Shah Asrar People Welfare Association. Having not received any response from the public authority, the Appellant filed an appeal on 28.12.2019 which remained unheard.

Further a copy of order dated 11.06.2019, as highlighted above, has been enclosed with regard to stoppage of grants-in-aid to the NGO/VO's until they provide the information to the satisfaction of the Board and Hon'ble State Information Commission.

(10) CIC/UTOJK/A/2020/109484

The Appellant filed an RTI application dated 07.10.2019 seeking information as detailed above with regard to M/s J&K Rural Welfare Institution (NGO). CPIO vide letter dated 15.11.2019 informed the Appellant that he has sought all information from the concerned Social Welfare Board many times earlier and now annoying all NGO's with some personal motive due to which their Creche Centre funds have not been released since January, 2016. Having not received any response from the public authority, the Appellant filed an appeal on 28.11.2019 which remained unheard.

Further a copy of order dated 11.06.2019, as highlighted above, has been enclosed with regard to stoppage of grants-in-aid to the NGO/VO's until they provide the information to the satisfaction of the Board and Hon'ble State Information Commission

(11) CIC/UTOJK/A/2020/109485

The Appellant filed an RTI application dated 07.10.2019 seeking information as detailed above with regard to M/s Cultural Educational Environmental Organisation (NGO). Having not received any response from the public authority, the Appellant filed an appeal on 02.12..2019 which remained unheard.

Further a copy of order dated 11.06.2019, as highlighted above, has been enclosed with regard to stoppage of grants-in-aid to the NGO/VO's until they provide the information to the satisfaction of the Board and Hon'ble State Information Commission

(12) CIC/UTOJK/A/2020/109486

The Appellant filed an RTI application dated 07.10.2019 seeking information as detailed above with regard to M/s Noor Education Society (NGO). Having not received any response from the public authority, the Appellant filed an appeal on 08.11.2019 which remained unheard.

Further a copy of order dated 11.06.2019, as highlighted above, has been enclosed with regard to stoppage of grants-in-aid to the NGO/VO's until they provide the information to the satisfaction of the Board and Hon'ble State Information Commission.

(13) CIC/UTOJK/A/2020/109238

The Appellant filed an RTI application dated 04.10.2019 seeking information as detailed above with regard to M/s Social Welfare International Society (NGO). Having not received any response from the public authority, the Appellant filed an appeal on 28.11.2019 which remained unheard.

Further a copy of order dated 11.06.2019, as highlighted above, has been enclosed with regard to stoppage of grants-in-aid to the NGO/VO's until they provide the information to the satisfaction of the Board and Hon'ble State Information Commission.

(14) CIC/UTOJK/A/2020/109239

The Appellant filed an RTI application dated 04.10.2019 seeking information as detailed above with regard to M/s Parivartan (NGO). CPIO vide letter dated 11.11.2019 informed the Appellant as under:

"As per your letter, which was received by me on dated 10.10.2019/ As you know that J&K has now become an Union Territory from 31st October,

2019. So, now the same act is not implemented in our new UT. This is for your kind information."

Dissatisfied with the response received from the CPIO, Appellant filed an appeal on 19.11.2019 which remained unheard. Feeling aggrieved, the Appellant approached the Commission.

Further a copy of order dated 11.06.2019, as highlighted above, has been enclosed with regard to stoppage of grants-in-aid to the NGO/VO's until they provide the information to the satisfaction of the Board and Hon'ble State Information Commission.

(15) CIC/UTOJK/A/2020/109240

The Appellant filed an RTI application dated 04.10.2019 seeking information as detailed above with regard to M/s Firdaus Institute (NGO). Having not received any response from the public authority, the Appellant filed an appeal on 02.12.2019 which remained unheard.

Further a copy of order dated 11.06.2019, as highlighted above, has been enclosed with regard to stoppage of grants-in-aid to the NGO/VO's until they provide the information to the satisfaction of the Board and Hon'ble State Information Commission.

(16) CIC/UTOJK/A/2020/110379

The Appellant filed an RTI application dated 07.10.2019 seeking information as detailed above with regard to M/s New Citizen Women's Welfare Society (NGO). Having not received any response from the public authority, the Appellant filed an appeal on 28.11.2019 which remained unheard.

Further a copy of order dated 11.06.2019, as highlighted above, has been enclosed with regard to stoppage of grants-in-aid to the NGO/VO's until they provide the information to the satisfaction of the Board and Hon'ble State Information Commission.

(17) CIC/UTOJK/A/2020/110381

The Appellant filed an RTI application dated 07.10.2019 seeking information as detailed above with regard to M/s Hassina Ladies Vocational Centre (NGO). Having not received any response from the public authority, the Appellant filed an appeal on 28.11.2019 which remained unheard.

Further a copy of order dated 11.06.2019, as highlighted above, has been enclosed with regard to stoppage of grants-in-aid to the NGO/VO's until they provide the information to the satisfaction of the Board and Hon'ble State Information Commission.

(18) CIC/UTOJK/A/2020/110382

The Appellant filed an RTI application dated 07.10.2019 seeking information as detailed above with regard to M/s Darkshan Women's & Child Welfare (NGO). Having not received any response from the public authority, the Appellant filed an appeal on 28.11.2019 which remained unheard.

Further a copy of order dated 11.06.2019, as highlighted above, has been enclosed with regard to stoppage of grants-in-aid to the NGO/VO's until they provide the information to the satisfaction of the Board and Hon'ble State Information Commission.

(19) CIC/UTOJK/A/2020/110383

The Appellant filed an RTI application dated 07.10.2019 seeking information as detailed above with regard to M/s New Shalimar Women Welfare Society (NGO) Having not received any response from the public authority, the Appellant filed an appeal on 08.11.2019 which remained unheard.

Further a copy of order dated 11.06.2019, as highlighted above, has been enclosed with regard to stoppage of grants-in-aid to the NGO/VO's until they provide the information to the satisfaction of the Board and Hon'ble State Information Commission.

(20) CIC/UTOJK/A/2020/110385

The Appellant filed an RTI application dated 07.10.2019 seeking information as detailed above with regard to M/s Shamas Memorial Islamic Educational Institute (NGO). Having not received any response from the public authority, the Appellant filed an appeal on 28.11.2019 which remained unheard.

Further a copy of order dated 11.06.2019, as highlighted above, has been enclosed with regard to stoppage of grants-in-aid to the NGO/VO's until they provide the information to the satisfaction of the Board and Hon'ble State Information Commission.

(21) CIC/UTOJK/A/2020/110387

The Appellant filed an RTI application dated 07.10.2019 seeking information as detailed above with regard to M/s Border Area Development Council (NGO). Having not received any response from the public authority, the Appellant filed an appeal on 28.11.2019 which remained unheard.

Further a copy of order dated 11.06.2019, as highlighted above, has been enclosed with regard to stoppage of grants-in-aid to the NGO/VO's until they provide the information to the satisfaction of the Board and Hon'ble State Information Commission.

(22) CIC/UTOJK/A/2020/110390

The Appellant filed an RTI application dated 04.10.2019 seeking information as detailed above with regard to M/s Master Institute (NGO). Having not received any response from the public authority, the Appellant filed an appeal on 28.11.2019 which remained unheard.

Further a copy of order dated 11.06.2019, as highlighted above, has been enclosed with regard to stoppage of grants-in-aid to the NGO/VO's until they provide the information to the satisfaction of the Board and Hon'ble State Information Commission.

(23) CIC/UTOJK/A/2020/110392

The Appellant filed an RTI application dated 04.10.2019 seeking information as detailed above with regard to M/s J&K State Welfare Institute (NGO). Having not received any response from the public authority, the Appellant filed an appeal on 28.11.2019 which remained unheard.

Further a copy of order dated 11.06.2019, as highlighted above, has been enclosed with regard to stoppage of grants-in-aid to the NGO/VO's until they provide the information to the satisfaction of the Board and Hon'ble State Information Commission.

(24) CIC/UTOJK/A/2020/110393

The Appellant filed an RTI application dated 05.10.2019 seeking information as detailed above with regard to M/s Priya Women Welfare Society (NGO). Having

not received any response from the public authority, the Appellant filed an appeal on 28.11.2019 which remained unheard.

Further a copy of order dated 11.06.2019, as highlighted above, has been enclosed with regard to stoppage of grants-in-aid to the NGO/VO's until they provide the information to the satisfaction of the Board and Hon'ble State Information Commission.

(25) CIC/UTOJK/A/2020/110394

The Appellant filed RTI application dated 10.10.2019 seeking information as detailed above with regard to M/s Voluntary Organisation for International Cooperation & Equality (VOICE) (NGO). Having not received any response from the public authority, the Appellant filed an appeal on 28.11.2019 which remained unheard.

Further a copy of order dated 11.06.2019, as highlighted above, has been enclosed with regard to stoppage of grants-in-aid to the NGO/VO's until they provide the information to the satisfaction of the Board and Hon'ble State Information Commission.

(26) CIC/UTOJK/A/2020/110817

The Appellant filed an RTI application dated 07.10.2019 seeking information as detailed above with regard to M/s Majestic Voluntary Organisation (NGO). Having not received any response from the public authority, the Appellant filed an appeal on 28.11.2019. The FAA vide letter dated 28.11.2019 informed the Appellant that the J&K is now Union Territory and the acts passed by previous legislative assemblies stands cancelled and the Appellant was advised to seek the information as per new acts of Union Territory. The Appellant was also advised to seek the information after the law and order situation in the UT becomes conducive.

Further a copy of order dated 11.06.2019, as highlighted above, has been enclosed with regard to stoppage of grants-in-aid to the NGO/VO's until they provide the information to the satisfaction of the Board and Hon'ble State Information Commission.

(27) CIC/UTOJK/A/2020/110818

The Appellant filed an RTI application dated 07.10.2019 seeking information as detailed above with regard to M/s New Kashmir Women's United Organisation

(NGO). Having not received any response from the public authority, the Appellant filed an appeal on 08.11.2019 which remained unheard.

Further a copy of order dated 11.06.2019, as highlighted above, has been enclosed with regard to stoppage of grants-in-aid to the NGO/VO's until they provide the information to the satisfaction of the Board and Hon'ble State Information Commission.

(28) CIC/UTOJK/A/2020/110819

The Appellant filed an RTI application dated 07.10.2019 seeking information as detailed above with regard to M/s NGO's Coordination Federation (NGO) (NGO). Having not received any response from the public authority, the Appellant filed an appeal on 28.11.2019 which remained unheard.

Further a copy of order dated 11.06.2019, as highlighted above, has been enclosed with regard to stoppage of grants-in-aid to the NGO/VO's until they provide the information to the satisfaction of the Board and Hon'ble State Information Commission.

(29) CIC/UTOJK/A/2020/110820

The Appellant filed an RTI application dated 04.10.2019 seeking information as detailed above with regard to M/s Hidden Treasure Academy (NGO). Having not received any response from the public authority, the Appellant filed an appeal on 08.11.2019 which remained unheard.

Further a copy of order dated 11.06.2019, as highlighted above, has been enclosed with regard to stoppage of grants-in-aid to the NGO/VO's until they provide the information to the satisfaction of the Board and Hon'ble State Information Commission.

(30) CIC/UTOJK/A/2020/110821

The Appellant filed an RTI application dated 07.10.2019 seeking information as detailed above with regard to M/s Jagriti Mahila Udhyog Kendra (NGO). Having not received any response from the public authority, the Appellant filed an appeal on 08.11.2019 which remained unheard.

Further a copy of order dated 11.06.2019, as highlighted above, has been enclosed with regard to stoppage of grants-in-aid to the NGO/VO's until they provide the information to the satisfaction of the Board and Hon'ble State Information Commission.

(31) CIC/UTOJK/A/2020/110822

The Appellant filed an RTI application dated 07.10.2019 seeking information as detailed above with regard to M/s Mighli Ladies Institution (NGO). Having not received any response from the public authority, the Appellant filed an appeal on 22.10.2019 which remained unheard.

Further a copy of order dated 11.06.2019, as highlighted above, has been enclosed with regard to stoppage of grants-in-aid to the NGO/VO's until they provide the information to the satisfaction of the Board and Hon'ble State Information Commission.

(32) CIC/UTOJK/A/2020/111458

The Appellant filed an RTI application dated 10.10.2019 seeking information as detailed above with regard to M/s New Star Human Welfare Society (NGO). Having not received any response from the public authority, the Appellant filed an appeal on 08.11.2019 which remained unheard.

Further a copy of order dated 11.06.2019, as highlighted above, has been enclosed with regard to stoppage of grants-in-aid to the NGO/VO's until they provide the information to the satisfaction of the Board and Hon'ble State Information Commission.

(33) CIC/UTOJK/A/2020/111460

The Appellant filed an RTI application dated 10.10.2019 seeking information as detailed above with regard to M/s Shakti Kala Shiksha Kendra (NGO). Having not received any response from the public authority, the Appellant filed an appeal on 08.11.2019 which remained unheard.

Further a copy of order dated 11.06.2019, as highlighted above, has been enclosed with regard to stoppage of grants-in-aid to the NGO/VO's until they provide the information to the satisfaction of the Board and Hon'ble State Information Commission.

(34) CIC/UTOJK/A/2020/111461

The Appellant filed an RTI application dated 07.10.2019 seeking information as detailed above with regard to M/s United Mahila Association for Integrated Development (NGO). Having not received any response from the public authority, the Appellant filed an appeal on 28.11.2019 which remained unheard.

Further a copy of order dated 11.06.2019, as highlighted above, has been enclosed with regard to stoppage of grants-in-aid to the NGO/VO's until they provide the information to the satisfaction of the Board and Hon'ble State Information Commission.

(35) CIC/UTOJK/A/2020/111462

The Appellant filed an RTI application dated 10.10.2019 seeking information as detailed above with regard to M/s Helping Hand A Society (NGO). Having not received any response from the public authority, the Appellant filed an appeal on 28.11.2019 which remained unheard.

Further a copy of order dated 11.06.2019, as highlighted above, has been enclosed with regard to stoppage of grants-in-aid to the NGO/VO's until they provide the information to the satisfaction of the Board and Hon'ble State Information Commission.

(36) CIC/UTOJK/A/2020/111463

The Appellant filed an RTI application dated 10.10.2019 seeking information as detailed above with regard to M/s J&K Confederation of Voluntary & Charitable Organization (NGO). Having not received any response from the public authority, the Appellant filed an appeal on 22.10.2019 which remained unheard.

Further a copy of order dated 11.06.2019, as highlighted above, has been enclosed with regard to stoppage of grants-in-aid to the NGO/VO's until they provide the information to the satisfaction of the Board and Hon'ble State Information Commission.

(37)CIC/UTOJK/A/2020/115141

The Appellant filed an RTI application dated 05.11.2019 seeking information as detailed above with regard to M/s Socio Economic Development Society (NGO).

CPIO/ M/s Socio Economic Development Society (NGO) vide letter dated 30.11.2019 provided latest Registration Certificate issued from Registrar of Societies. The Appellant was further informed that their organization has not received any grant from any govt./central/state private or any organization for running any other project except grant for running two crèche centers for the financial year 2016-17, 2-17-18, 2018-19 or 2019-20 and sought some more time to collect and provide the information. Dissatisfied with response received from CPIO, the Appellant filed an appeal on 12.12.2019 which remained unheard. Feeling aggrieved, the Appellant approached the Commission with the instant 2nd appeal.

(38) CIC/UTOJK/A/2020/115143

The Appellant filed an RTI application dated 13.11.2019 seeking information as detailed above with regard to M/s Kashmir Research Institute of Education & Solar Technology (NGO). Having not received any response from the public authority, the Appellant filed an appeal on 07.12.2019 which remained unheard. Feeling aggrieved, the Appellant approached the Commission with the instant 2nd appeal.

(39) CIC/UTOJK/A/2020/115145

The Appellant filed an RTI application dated 13.11.2019 seeking information as detailed above with regard to M/s Evergreen Model Society (NGO). Having not received any response from the public authority, the Appellant filed an appeal on 26.12.2019 which remained unheard. Feeling aggrieved, the Appellant approached the Commission with the instant 2nd appeal

(40) CIC/UTOJK/A/2020/115250

The Appellant filed an RTI application dated 08.11.2019 seeking information as detailed above with regard to M/s. Kamal Voluntary Typing/Shorthand Training Institute (NGO). Having not received any response from the public authority, the Appellant filed an appeal on 26.12.2019 which remained unheard. Feeling aggrieved, the Appellant approached the Commission with the instant 2nd appeal

(41) CIC/UTOJK/A/2020/115494

The Appellant filed an RTI application dated 05.11.2019 seeking information as detailed above with regard to M/s Shahmeer Welfare Education & Environmental Trust (NGO).CPIO vide letter dated 27.02.2020 provided 13 pages information (not attached. Dissatisfied with the information received, the Appellant filed an appeal on 25.01.2020 which remained unheard. Feeling aggrieved, the Appellant approached the Commission with the instant 2nd appeal

(42) CIC/UTOJK/A/2020/115496

The Appellant filed an RTI application dated 13.11.2019 seeking information as detailed above with regard to M/s Society for Welfare of Downtrodden (NGO). Having not received any response from the public authority, the Appellant filed an appeal on 26.11.2019 which remained unheard. Feeling aggrieved, the Appellant approached the Commission with the instant 2nd appeal

(43) CIC/UTOJK/A/2020/115497

The Appellant filed an RTI application dated 13.11.2019 seeking information as detailed above with regard to M/s Kapran Women's Welfare Society (NGO). Having not received any response from the public authority, the Appellant filed an appeal on 26.12.2019 which remained unheard. Feeling aggrieved, the Appellant approached the Commission with the instant 2nd appeal

(44) CIC/UTOJK/A/2020/115498

The Appellant filed an RTI application dated 08.11.2019 seeking information as detailed above with regard to M/sKJK Welfare Society (NGO). Having not received any response from the public authority, the Appellant filed an appeal on 26.11.2019 which remained unheard. Feeling aggrieved, the Appellant approached the Commission with the instant 2nd appeal

(45) CIC/UTOJK/A/2020/116298

The Appellant filed an RTI application dated 07.10.2019 seeking information as detailed above with regard to M/s SR Institute of Development (NGO). The RTI application returned undelivered. Having not received any response from the public authority, the Appellant filed an appeal on 22.10.2019 which remained unheard. Feeling aggrieved, the Appellant approached the Commission with the instant 2nd appeal

(46) CIC/UTOJK/A/2020/116299

The Appellant filed an RTI application dated 05.10.2019 seeking information as detailed above with regard to M/s Rural Artisans Welfare Society (NGO). The RTI application returned undelivered. Having not received any response from the public authority, the Appellant filed an appeal on 22.10.2019 which remained unheard. Feeling aggrieved, the Appellant approached the Commission with the instant 2nd appeal.

(47) CIC/UTOJK/A/2020/116301

The Appellant filed an RTI application dated 05.10.2019 seeking information as detailed above with regard to M/s SR Memorial Institute of Education (NGO). The RTI application returned undelivered. Having not received any response from the public authority, the Appellant filed an appeal on 22.10.2019 which remained unheard. Feeling aggrieved, the Appellant approached the Commission with the instant 2nd appeal.

(48) CIC/UTOJK/A/2020/120737

The Appellant filed an RTI application dated 12.12.2019.2019 seeking information as detailed above with regard to M/sGrameen Kalyan Sangathan Society (NGO). Having not received any response from the public authority, the Appellant filed an appeal on 29.01.2020 which remained unheard. Feeling aggrieved, the Appellant approached the Commission with the instant 2nd appeal.

(49) CIC/UTOJK/A/2020/120738

The Appellant filed an RTI application dated 12.12.2019 seeking information as detailed above with regard to M/s J&K Yateem Trust. Having not received any response from the public authority, the Appellant filed an appeal on 29.01.2020 which remained unheard. Feeling aggrieved, the Appellant approached the Commission with the instant 2nd appeal.

(50) CIC/UTOJK/A/2020/120739

The Appellant filed an RTI application dated 12.12.2019 seeking information as detailed above with regard to M/s Golden Urban & Rural Sanitation Society (NGO). Having not received any response from the public authority, the Appellant filed an appeal on 29.01.2020 which remained unheard. Feeling aggrieved, the Appellant approached the Commission with the instant 2nd appeal.

(51) CIC/UTOJK/A/2020/120740

The Appellant filed RTI application dated 12.12.2019 seeking information as detailed above with regard to M/s Educational Environmental Social Sports Cultural Society (NGO). Having not received any response from the public authority, the Appellant filed an appeal on 29.01.2020 which remained unheard. Feeling aggrieved, the Appellant approached the Commission with the instant 2nd appeal.

(52) CIC/UTOJK/A/2020/120741

The Appellant filed an RTI application dated 12.12.2019 seeking information as detailed above with regard to M/s Dilshada Institute (NGO). CPIO/Dilshada Institute vide letter dated 18.02.2020 furnished some information with regard to registration, accountability, functioning, genuineness and financial soundness of registered NGO/VO. (not attached). Dissatisfied with the information received from the public authority, the Appellant filed an appeal on 29.01.2020 which remained unheard. Feeling aggrieved, the Appellant approached the Commission with the instant 2nd appeal.

(53) CIC/UTOJK/A/2020/121761

The Appellant filed an RTI application dated 12.12.2019 seeking information as detailed above with regard to M/s Shab-I-Alam Women Welfare Society (NGO). Having not received any response from the public authority, the Appellant filed an appeal on 29.01.2020 which remained unheard. Feeling aggrieved, the Appellant approached the Commission with the instant 2nd appeal.

(54) CIC/UTOJK/A/2020/121763

The Appellant filed an RTI application dated 12.12.2019 seeking information as detailed above with regard to M/s Women's Era Welfare Society (NGO). Having not received any response from the public authority, the Appellant filed an appeal on 29.01.2020 which remained unheard. Feeling aggrieved, the Appellant approached the Commission with the instant 2nd appeal.

(55) CIC/UTOJK/A/2020/121767

The Appellant filed an RTI application dated 12.12.2019 seeking information as detailed above with regard to M/sKhakni Ladies Vocational Centre (NGO). Having not received any response from the public authority, the Appellant filed an appeal on 29.01.2020 which remained unheard. Feeling aggrieved, the Appellant approached the Commission with the instant 2nd appeal.

(56) CIC/UTOJK/A/2020/121769

The Appellant filed an RTI application dated 12.12.2019 seeking information as detailed above with regard to M/s National Hamdard Society (NGO). Having not received any response from the public authority, the Appellant filed an appeal on 29.01.2020 which remained unheard. Feeling aggrieved, the Appellant approached the Commission with the instant 2nd appeal.

(57) CIC/UTOJK/A/2020/121770

The Appellant filed an RTI application dated 12.12.2019 seeking information as detailed above with regard to M/s National Selae Centre (NGO). Having not received any response from the public authority, the Appellant filed an appeal on 29.01.2020 which remained unheard. Feeling aggrieved, the Appellant approached the Commission with the instant 2nd appeal.

(58) CIC/UTOJK/A/2020/123015

The Appellant filed an RTI application dated 12.12.2019 seeking information as detailed above with regard to M/s Sain Baba Welfare Society (NGO). Having not received any response from the public authority, the Appellant filed an appeal on 29.01.2020 which remained unheard. Feeling aggrieved, the Appellant approached the Commission with the instant 2nd appeal.

(59) CIC/UTOJK/A/2020/123016

The Appellant filed an RTI application dated 12.12.2019 seeking information as detailed above with regard to M/s New Light Education Research & Welfare Society (NGO). Having not received any response from the public authority, the Appellant filed an appeal on 29.01.2020. The FAA vide letter dated 03.03.2020 informed the Secretary Social welfare Board, J&K (UT) with a copy to the Appellant which is reproduced as under:

"Esteemed Sir / Madam

Myself Surinder Kumar Gupto Chairman of New light Educational research & Welfare Society would like to bring in your kind notice that we were running two Creches under New Light Educational Research Welfare Society from last 6-7 years. Now I am applying for the closure of both the Creches because due to insufficient funds and all the staff members has left because they have not been granted their salaries. in financial year 2016-17 & 2017-18 we were supported to receive funds for four

quarters but received only for one quarter which is 61,440, 6600, 2986 in each financial year. Both of our Creches were running smoothly till 31.03.2018. All the members also withdraw their name from the Society/committee list. So I would like to conclude with please clear all the funds which were pending because we have the liabilities to pay which were like rent of the room karyana bill, electricity bill etc. Please consider our letter for the course of both the Creches.

Feeling aggrieved, the Appellant approached the Commission with the instant 2nd appeal.

(60) CIC/UTOJK/A/2020/123018

The Appellant filed an RTI application dated 12.12.2019 seeking information as detailed above with regard to M/s Scholastic Alliance for Human Action & Rural Development (NGO). Having not received any response from the public authority, the Appellant filed an appeal on 29.01.2020 which remained unheard. Feeling aggrieved, the Appellant approached the Commission with the instant 2nd appeal.

(61) CIC/UTOJK/A/2020/123019

The Appellant filed an RTI application dated 20.02.2020 seeking information as detailed above with regard to M/s Kiran Rural Women Development Society (NGO). Having not received any response from the public authority, the Appellant filed an appeal on 10.03.2020 which remained unheard. Feeling aggrieved, the Appellant approached the Commission with the instant 2nd appeal.

Decision:

1. The current situation arising out of the COVID-19 pandemic, has caused significant disruption in the functioning of all establishments and businesses alike. In respect of the Commission, this translates into a mounting backlog of Appeals and Complaints. In such circumstances, there is a pressing need to identify cases such as the ones under adjudication for cumulative disposal in order to facilitate expedient disposal of cases of genuine information seekers. In other words, this is where the aforementioned juxtaposition comes into play as the Commission seeks to strike a fine balance between the interests of genuine information seekers, while keeping the menace of repetitive RTI Applicants under check.

2. Keeping in view the facts and circumstances in the aforesaid cases and the adverse impact of COVID-19 on normal functioning of officials as well as their deployment to combat the pandemic, holding structured physical hearings of the above cases is not deemed expedient in the current situation as it will only delay the dissemination of the desired information.
3. Since a single Appellant has filed all of the above cases, the matters are decided by a common order. Upon perusal of the above cases, the Commission observes that the Appellant appears to be on a mission to conduct a performance audit of the NGOs, who, according to him, have been utilising grants from the Consolidated Fund of India, Major Head "2235" Social Security and Welfare. The Grant-in-Aid schemes are implemented by the captioned NGO under "National Creche Scheme" sponsored by the Ministry of Women & Child Development through J&K State Social Welfare Department/Board. It is the consistent contention of the Appellant in the above mentioned appeals that he has filed these RTI applications for the purpose of bringing transparency in public dealings and probity in public life and in NGOs or other bodies by the concerned Department; to lay down guidelines for accreditation of NGOs and devise a proper accounting system to create a proper channel for utilization of funds from the Government. He further contended that every citizen has a right to know as to whether his/her money which has been given to an NGO or any other body is being used for the requisite purpose or not.
4. Further, the Appellant has emphasised in his averments on the fact that the aforementioned NGOs were substantially funded by Ministry of Women & Child Development, Government of India, through J&K Social Welfare Department & Board. Thus being funded by public money, the relevant information about these NGOs, sought in the said RTI Applications ought to be disclosed under RTI Act, 2005. Moreover, Appellant has highlighted the issue of lack of transparency and probity in the domain of functioning of the aforementioned NGOs, as these remain distant from public scrutiny and he has sought this information in the capacity of an ordinary citizen, without any personal interest.
5. In view of the averments raised by the Appellant and a perusal of the records of the case, the Commission observes that it is important for NGOs to achieve and maintain a high degree of transparency in not just their work but also their financial dealings. Keeping the financial statements and operations open to public scrutiny will aid in garnering greater public confidence about the organizations. However, in spite of mounting pressure for more openness and transparency, it appears that a number of NGOs remain reluctant to share information and/or recognize the need for accountability. More accountability and greater transparency are essential ingredients of good governance and responsiveness to public needs. The

timely availability of reliable information is essential for the effective regulation and monitoring of NGOs by beneficiaries, donors and governments. Commission upholds the contention of the Appellant seeking information in larger public interest and takes into account the request for disclosure of the relevant information as sought in the said RTI Applications.

6. In view of the contention raised by the Appellant stating that the said NGOs are substantially funded by Ministry of Women & Child Development , Government of India, through J&K Social Welfare Department & Board, the Commission finds it expedient to implead J&K Social Welfare Department & Board as one of the respondents and accordingly directs PIO, J&K Social Welfare Department & Board to provide relevant information in respect of all the NGOs as sought in the aforementioned RTI Applications to the Appellant as available on records. In case relevant information is not available in their records then PIO/J&K Social Welfare Department & Board must procure the same from the actual custodians of information, invoking relevant provisions of the RTI Act, 2005 and provide it to the Appellant, free of cost. **Moreover, the, PIO will submit a detailed compliance report before the Commission enumerating all the information provided to the Appellant, by 31.03.2021.**

7. The Commission also observes that the Appellant, in case number **CIC/OTJOK/A/2020/102648**, had sought attested copies of Utilization Certificate along with Balance Sheet (in three forms) of 'National Creche Scheme' Project implemented by NGO's/VO's, substantially funded by J&K State Social Welfare Board Jammu/Srinagar for the Financial Years 2015-16, 2016-17, 2017-18, 2018-19, which is similar to the information sought in the aforementioned RTI Applications. Since, Appellant was not present during the hearing in the aforesaid matter (i.e. **CIC/OTJOK/A/2020/102648**) the specific details pertaining to the NGOs could not be ascertained and hence, this bench, in the interest of justice, adjudicated the said matter on 04.11.2020 with a specific direction to the PIO, J&K Social Welfare Department & Board to furnish the relevant information to the Appellant. **In view of the foregoing, Commission for the sake of brevity directs the PIO, J&K Social Welfare Department & Board to carefully peruse the records in the instant matters and provide only that information pertaining to the said NGOs (as sought in the aforementioned 61 RTI Applications) which has not been provided in compliance of the aforesaid order. In case certain information in respect of the said NGOs has already been provided to the Appellant in compliance of the aforesaid order then the same must be categorically mentioned in the compliance report along with the details of the relevant documents furnished in respect of the same.**

8. The aforementioned directions of the Commission must be complied with by 31.03.2021 and a detailed compliance report must reach the commission within the stipulated time period.
9. **A copy of this order is marked to the FAA, J&K Social Welfare Department & Board to ensure compliance of directions as above by the concerned CPIO.**

In view of the above, all the Second Appeals are disposed off with the above directions.

Y. K. Sinha (वाई. के.सिन्हा)
Chief Information Commissioner(मुख्य सूचना आयुक्त)

Authenticated true copy
(अभिप्रमाणितसत्यापितप्रति)

Ram Parkash Grover (राम प्रकाश ग़ोवर)
Dy. Registrar (उप-पंजीयक)
011-26180514

Annexure 1(A)

1. CIC/UTOJK/A/2020/115496	2. CIC/UTOJK/A/2020/110822
3. CIC/UTOJK/A/2020/103192	4. CIC/UTOJK/A/2020/111458
5. CIC/UTOJK/A/2020/109478	6. CIC/UTOJK/A/2020/111460
7. CIC/UTOJK/A/2020/109479	8. CIC/UTOJK/A/2020/111461
9. CIC/UTOJK/A/2020/109477	10. CIC/UTOJK/A/2020/111462
11. CIC/UTOJK/A/2020/109480	12. CIC/UTOJK/A/2020/111463
13. CIC/UTOJK/A/2020/109481	14. CIC/UTOJK/A/2020/115141
15. CIC/UTOJK/A/2020/109482	16. CIC/UTOJK/A/2020/115143
17. CIC/UTOJK/A/2020/109483	18. CIC/UTOJK/A/2020/115145
19. CIC/UTOJK/A/2020/109484	20. CIC/UTOJK/A/2020/115250
21. CIC/UTOJK/A/2020/109485	22. CIC/UTOJK/A/2020/115494
23. CIC/UTOJK/A/2020/109486	24. CIC/UTOJK/A/2020/115496
25. CIC/UTOJK/A/2020/110238	26. CIC/UTOJK/A/2020/115497
27. CIC/UTOJK/A/2020/110239	28. CIC/UTOJK/A/2020/115498
29. CIC/UTOJK/A/2020/110240	30. CIC/UTOJK/A/2020/116298
31. CIC/UTOJK/A/2020/110379	32. CIC/UTOJK/A/2020/116299
33. CIC/UTOJK/A/2020/110381	34. CIC/UTOJK/A/2020/116301
35. CIC/UTOJK/A/2020/110382	36. CIC/UTOJK/A/2020/120737
37. CIC/UTOJK/A/2020/110383	38. CIC/UTOJK/A/2020/120738
39. CIC/UTOJK/A/2020/110385	40. CIC/UTOJK/A/2020/120739
41. CIC/UTOJK/A/2020/110387	42. CIC/UTOJK/A/2020/120740
43. CIC/UTOJK/A/2020/110390	44. CIC/UTOJK/A/2020/120741

45. CIC/UTOJK/A/2020/110392	46. CIC/UTOJK/A/2020/121761
47. CIC/UTOJK/A/2020/110393	48. CIC/UTOJK/A/2020/121763
49. CIC/UTOJK/A/2020/110394	50. CIC/UTOJK/A/2020/121767
51. CIC/UTOJK/A/2020/110817	52. CIC/UTOJK/A/2020/121769
53. CIC/UTOJK/A/2020/110818	54. CIC/UTOJK/A/2020/121770
55. CIC/UTOJK/A/2020/110819	56. CIC/UTOJK/A/2020/123015
57. CIC/UTOJK/A/2020/110820	58. CIC/UTOJK/A/2020/123016
59. CIC/UTOJK/A/2020/110821	60. CIC/UTOJK/A/2020/123018
61. CIC/UTOJK/A/2020/123019	

केंद्रीय सूचना आयोग
CENTRAL INFORMATION COMMISSION

बाबा गंगनाथ मार्ग
Baba Gangnath Marg
मुनिरका, नई दिल्ली - 110067
Munirka, New Delhi-110067

File no.: - CIC/IGMUM/A/2019/655511

In the matter of:
Satish Ashok Sherkhane

... Appellant

Central Public Information Officer,
India Government Mint, Mumbai,
Shahid Bhagat Singh Marg Fort, Mumbai 400001

... Respondent

RTI application filed on	:	02/09/2019
CPIO replied on	:	01/10/2019
First appeal filed on	:	01/10/2019
First Appellate Authority order	:	31/10/2019
Second Appeal Filed on	:	31/10/2019
Date of Hearing	:	26/08/2021
Date of Decision	:	26/08/2021

The following were present:

Appellant: Not present

Respondent: Not present

Information Sought:

The appellant has sought the following information with reference to letter no. SC/ST-2015/07 dated 03/03/2015:

1. Provide photocopy of the above said letter submitted to General Manager along with file noting and signature of the officers.
2. Provide photocopy of documents which have been executed/prepared/issued/received till date by India Government Mint, Mumbai w.r.t. the above said letter along with all the file noting and signature of the officers, countersigned by Officers/Sr. Supervisor/Supervisor/Sr. Office Assistant/ Assistant.

3. If, there is no document available on record, then provide an Affidavit for the same.

Grounds for Second appeal

The CPIO did not provide the desired information.

Submissions made by Appellant and Respondent during Hearing:

The appellant's 4 cases were heard on the same day, this was his 7th case. The appellant started shouting and showed disorderly behaviour during the hearing. Despite repeated requests he failed to maintain the decorum of the Commission's hearing. His grievance regarding removal from service cannot be sorted out by the Commission or through the RTI route as this is purely an administrative matter of the organisation. It is pertinent to mention here that the mandate of the Commission was to ensure that he received an appropriate reply to his RTI application. Further, he had sent detailed written submissions on 15.08.2021 and despite being informed that the same was taken on record, he was unnecessarily shouting again and again and repeating his arguments.

The appellant was arguing the case without maintaining the decorum of the proceedings and without allowing the Commissioner to speak, in fact, even going to the extent of cutting her when she was speaking. Therefore, the Commission was constrained to disconnect the VC and decide the case on merits.

Observations:

The Commission is not a grievance redressal authority. In the garb of obtaining information, the appellant is trying to settle his personal scores. Further, the appellant has not shown any respect towards the cherished Act too. It is necessary that decorum has to be maintained at all times and even when the contention is justified it must be in a language of utmost restraint, always keeping in view that the person making the comment is also fallible. The appellant is advised to maintain good behaviour in future when addressing a Judicial or Quasi-Judicial body.

The appellant vide his written submissions dated 15.08.2021 submitted that he received the PIO's reply dated 01.10.2019 and the reply from Offender/Deemed PIO Shri Gulshan Sainani vide his Admn. Section note dated 30.09.2019 where he confirms that 'letter no. SC/ST-2015/07 dated 03.03.2015

is not found in the records'. The said letter was personally submitted by him at Dispatch desk alongwith representations of S/Shri Ambole, Worlikar and Kamble (Total 6 pages) and his copy were signed and stamped by Smt. Sharada Raibole and also in front of them the said letter alongwith Enclosures were submitted in the Office of General Manager by Smt. Sharada Raibole. Under the above circumstance, it is clearly proved that false information was provided by Shri Gulshan Sainani with criminal conspiracy and therefore he reserves his right to take legal action against Shri Gulshan Sainani and Smt. Priti Khedekar (She was Head Clerk of Admn. Section at relevant time) under POA Act and relevant act of the State. He further submitted that the Respondents are the Officers who were working with India Government Mint, Mumbai which are Public Record Officer as per the provisions of the Public Records Act, 1993 and are under obligation to maintain Public Record and further are Public Authority to provide information in respect of said Public Record to the Citizen as per the provisions of the RTI Act 2005. Shri Gulshan Sainani-Supervisor(HR) who has issued Administration Note dated 30.09.2019 mentioning that the information sought by him is not found in the records which indicates that in fact the Supervisor(HR) is the custodian of the said information and therefore comes within a preview of Deemed Public Information Officer as defined under Section 5(5) of the RTI Act 2005. The Respondent Authority is Government undertaking known as Security Printing and Minting Corporation of India Limited (SPMCIL) registered as a Company under the provisions of Companies Act, 1956, having its corporate office at New Delhi and its nine units which are working at various places in India and one of it being India Government Mint, Mumbai and as such it is a Record Creating Agency as per the provisions of the Public Records Act, 1993. Thus the Respondent being a Statutory Authority is duty bound to exercise its powers to secure and provide entitled information to the citizen and the Respondent being Public Authorities as per the provisions of the RTI Act 2005 read with the Public Records Act, 1993 are statutorily duty bound to maintain Public Record and provide the same to the citizen; however, all the Respondents have failed to exercise its power and duties resulting denial of entitled information thereby compelling the Petitioner to approach before this Hon'ble Authority under RTI Act 2005 for seeking appropriate order and directions. The Petitioner states that the Public Record Act, 1993 read with Public Record Rules, 1997 provided manner of destruction or disposal of Public Record and in contravention also prescribed penal provision. He requested the Commission to appreciate that answer in

the nature of file missing or not traceable or record not available has no legality as it is not recognised as exemption under the RTI Act 2005 and thus the said remark cannot be read into as exemption in addition to exemption lead down under the RTI Act 2005. That the action on the part of Respondent providing grounds of information not available on record in order to deny entitled information to him being not legal exemption as per the provisions of the RTI Act 2005 warrants strict penal action against the Respondent; further said strict penal action is required in order to stress out concerned file and for identifying the employees responsible for its disappearance and the same can not be done unless the law set in motion by filing appropriate First Information Report as per the provisions of the Public Records Act, 1993 and Public Record Rules, 1997. Therefore he pray for the Order for the registration of First Information Report in MRA Marg Police Station, Mumbai as per the provisions of the Public Records Act, 1993 and Public Record Rules, 1997.

At the outset the Commission finds it appropriate to mention that the appellant had submitted the letter dated 03.03.2015 and therefore, he cannot set into motion the RTI Act to obtain a copy. As far as the CPIO's reply that the same is not available on record is concerned, the CPIO has replied as per the availability of records.

The Commission after going through the submissions in detail came to the conclusion that the appellant is a cantankerous, disgruntled employee who is trying to harass the public authority by filing numerous RTI application asking for all and sundry information due to the fact that he was dismissed from service.. He is in the habit of providing bald arguments having no substance or relevance with the information sought.

Decision:

In view of the above observations, the Commission had to decide the cases fixed today for hearing on the basis of case records available and the written submissions. The appellant had not left any scope for the Commission to hear him. **The Registry is also therefore advised to examine the applicant's cases pending with this bench and put up the same before the bench, if the same relates to his service grievance. The bench shall take a decision on the requirement for hearing in future cases, to avoid any such wastage of time and resources of the Commission.**

- The Hon'ble Madras High Court in W.P.No.26781 of 2013 and M.P.No.1 of 2013 in the matter of The Public Information Officer, The Registrar (Administration), High Court, Madras. Vs. The Central Information Commission, & B.Bharathi vide decision dated 17.09.2014 held as follows:

24. Insofar as query (iv) is concerned, we fail to understand as to how the second respondent is entitled to justify his claim for seeking the copies of his own complaints and appeals. It is needless to say that they are not the information available within the knowledge of the petitioner; on the other hand, admittedly, they are the documents of the second respondent himself, and therefore, if he does not have copies of the same, he has to blame himself and he cannot seek those details as a matter of right, thinking that the High Court will preserve his frivolous applications as treasures/valuable assets. Further, those documents cannot be brought under the definition "information" as defined under Section 2(f) of the RTI Act. Therefore, we reject the contention of the second respondent in this aspect.

The above decision is very clear regarding the issue raised by the appellant. Therefore, following the above ratio, the appeal is rejected.

The appeal is dismissed accordingly.

Vanaja N. Sarna (वनजा एन. सरना)

Information Commissioner (सूचना आयुक्त)

Authenticated true copy

(अभिप्रमाणित सत्यापित प्रति)

A.K. Assija (ऐ.क. असीजा)

Dy. Registrar (उप-पंजीयक)

011- 26182594 /

दिनांक / Date

केंद्रीय सूचना आयोग
CENTRAL INFORMATION COMMISSION
बाबा गंगनाथ मार्ग
Baba Gangnath Marg
मुनिरका, नई दिल्ली- 110067
Munirka, New Delhi-110067

File no.: CIC/ISPNR/C/2018/627207

In the matter of:

Varun Krishna

... Complainant

VS

Central Public Information Officer,
 India Security Press (SPMCIL),
 DM(HR)/ISP, Nashik Road,
 District Nashik-422101, Maharashtra.

...Respondent

RTI application filed on	:	10/05/2018
CPIO replied on	:	31/05/2018
First appeal filed on	:	07/06/2018
First Appellate Authority order	:	04/07/2018
Complaint dated	:	29/07/2018
Date of Hearing	:	26/06/2020, 20/10/2020
Date of Decision	:	26/06/2020,20/10/2020

ORDER

1. The complainant filed an application under the Right to Information Act, 2005 (RTI Act) before the Central Public Information Officer (CPIO), India Security Press (SPMCIL), DM(HR)/ISP, Nashik Road, District Nashik, Maharashtra seeking information on three points, including, inter-alia:-

(i) Name, Designation, Email Address, and Official Mobile number of the concerned responsible official for providing investigation and Action Taken Report;

(ii) Copy of Investigation report and Action Taken Report (ATR); and

(iii) Copy of file noting pertaining to Email Dtd 6.10.17.

2. Being aggrieved with the response given by the CPIO/FAA, the complainant filed a complaint under Section 18 of the RTI Act before the Commission on the ground that action should be taken against the respondent.

Hearing:

3. The complainant attended the hearing through video-call. The respondent, Shri Ashesh Avinashi, CPIO attended the hearing through video-call.
4. The respondent submitted their written submissions dated 21.03.2020 and the same has been taken on record.
5. The complainant submitted that no information has been provided to him by the respondent on his RTI application dated 10.05.2018. The complainant submitted that the respondent has wrongly stated that no information is available on record and there is no file-noting on his e-mail dated 06.10.2017. The complainant apprised the Commission that in file no. CIC/ISPNR/C/2018/627199, there is a letter dated 23.10.2017 which was written by Manager (OL) & PIO to the General Manager, India Security Press, Nashik regarding his e-mail dated 06.10.2017. The complainant submitted that there must be documents on record with respect to the information sought by him in his RTI application. The complainant further submitted that evasive reply was given by the respondent on point no. 1 of the RTI application that the information is available on website. The complainant stated that as to how the information related to his e-mail is available on website. The complainant submitted that penalty should be imposed on the respondent.
6. The respondent reiterated the reply given by the CPIO and stated that no such information is available on their records. On query from the Commission regarding the letter dated 23.10.2017 written by the Manager (OL) & PIO regarding the e-mail of the complainant. The respondent has no plausible explanation with respect to the said query.

Interim Decision:

7. The Commission, after hearing the submissions of both the parties and after perusal of records, observes that the complainant has sought information on three points as enumerated above. In response to the RTI application, the respondent has informed that no such information is available on record on point nos. 2 and 3 of the RTI application. The respondent in response to point no. 1 of the RTI application has wrongly stated that the information is available on their website. The Commission is of the view that as to how the name, designation, email address, and official mobile number of the concerned responsible official for providing investigation and Action Taken Report in the case of appellant is available on website. The Commission further perused the

letter dated 23.10.2017 of Manager (OL) & PIO. The Commission is of the view that the Manager (OL) & PIO has forwarded the e-mail dated 06.10.2017 of the complainant in order to take necessary action in the matter. Therefore, any official of the respondent public authority must have processed the e-mail of the complainant on a note-sheet and information should have been available with the respondent public authority.

8. It was further observed that the respondent has not informed the Commission that correspondence has been made within the respondent public authority regarding the e-mail of the complainant. Further the e-mail of the complainant was forwarded for necessary action. It appears that there is a contradiction in the facts and the documents placed on record before the Commission, therefore, the Commission directs the CPIO to show-cause in writing the reasons that as to why penalty should not be imposed on him for wrongfully denying/obstructing the information under the RTI Act. The CPIO should comply the above directions of the Commission, within a period of 15 working days from the date of receipt of this order.

9. The Deputy Registrar is directed to fix hearing in the matter after 15 days for show-cause hearing.

10. Copy of the decision be provided free of cost to the parties.

Neeraj Kumar Gupta (नीरजकुमारगुप्ता)
Information Commissioner (सूचनाआयुक्त)
 दिनांक / Date: 26.06.2020

Date of Hearing : 20/10/2020

The following were present

Respondent: Shri Ashesh Avinashi, Deputy General Manager (HR) and CPIO, present over VC

Submissions made by Respondent during Hearing:

Shri Ashesh Avinashi, Deputy General Manager HR and the CPIO submitted that with regard to the RTI application dated 10.05.2018 a reply was given on 31.05.2018. The subject matter of the information asked by the applicant was pertaining to his e-mail dated 06.10.2017 and reminder dated 18.10.2017. Since the e-mail is addressed to the CMD SPMCIL, New Delhi and other officials

were kept in CC of the said e-mail, the then CPIO downloaded the e-mail and the copy of which is available on records. As there was no material information available on the action taken on the e-mail, the applicant was informed that no such information is available on record and also no file noting is available as no action was taken in ISP pertaining to his e-mail dated 06.10.2017.

He further summed up stating that he as the then CPIO had tried his level best to provide the available information on record to the applicant on time. He had no intention to obstruct or deny any information. Therefore, he requested to condone the show cause issued.

Furthermore, he reiterated his written submissions dated 10.07.2020 in which he submitted that no such investigation report and action taken report was available on record. Further, all information pertaining to officers along with their names and designations, telephone numbers are already uploaded on the website of ISP; it also contains organisation chart, Directory of officers, designated PIOs, designated Nodal officers etc. The applicant was informed that the same was available on the website, as the query raised by the applicant is not specific regarding the concerned responsible official for providing investigation and action taken report. Further, the information was also given to the applicant on the letter head of the India Security Press, wherein the phone number and e-mail address are printed and further the address and telephone number of Headquarters are provided. Therefore the reference of website was given in the reply of point no.1 and no such file noting pertaining to e-mail dated 06.10.2017 was available on record, and same has been conveyed to the applicant vide ISP letter dated 31.05.2018.

He further submitted that he had provided the available information as per the records and to the best of his knowledge. He pointed out that reference of this information was made to the applicant in good faith. He further submitted that he had no additional information apart from what he had given in his reply to the RTI application dated 10.05.2018. He had not denied or obstructed any available information.

Observations:

The content of the e-mail dated 06.10.2017 shows that the complainant was offended due to certain remarks made by the CPIO in his written submissions and hence he sent an e-mail to the Chief Managing Director, Security Printing and Minting Corporation of India Ltd describing that it is his moral duty to inform that the APIO/CPIO had adopted to use cheap tactics in order to evade

from the RTI accountability and also stated that the concerned officer was confronted on 05.10.2017 before the Commission during hearing. He requested for disciplinary action against the concerned officer as well raised concern regarding his safety and security and also pressed for proof that foul language as alleged by the CPIO was used by him.

The chain of events is important to understand the wastage of time and resources of the Commission caused by the complainant. In a second appeal or complaint he was present before the earlier bench of the Commission on 05.10.2017 and though there is no copy of the impugned written submissions submitted by the Complainant where the concerned CPIO had falsely alleged him nor the concerned CPIO is present to rebut the contentions, the Commission considers the facts as pleaded to be factual. However, the fact remains that the complainant has misconstrued the basic objective of the RTI Act and is using it as a tool to punish officers under the RTI Act who are discharging their duties as CPIO, APIO etc. The applicant and all concerned need to understand that the RTI Act was enacted to contain corruption and ensure transparency and is not meant for redressal of personal grievances. First, there was a hearing on 05.10.2017 and as per applicant there was some verbal argument and being aggrieved with the same, he filed a complaint through e-mail dated 06.10.2017 and asked the CMD to take action. Now he himself should understand that it is only the CMD who is the concerned person who shall take action or dispose of his e-mail request if found relevant. However, as the RTI Act has not restricted anybody from asking any information u/s 6 of the RTI Act, the applicant after waiting for almost a year as per record, had filed a RTI application on 10.05.2018 asking for the action taken on his e-mail dated 06.10.2017. Here, the discussion is important because the CMD who is the apex authority of the organisation is not obviously receiving one or two e-mails everyday that action shall be taken or records shall be maintained compulsorily. The e-mail facility is available in any organisation to promote paperless governance and expedite the process of administration. However, the same does not mean that each and every e-mail filed to the organisation shall be maintained in a folder and action shall be taken. Having said that, the Commission also gives the benefit of doubt to the applicant that his contentions were genuine or he was really misrepresented before the earlier bench on 05.10.2017 but that does not mean that he will start a fresh litigation by first sending an e-mail to the CMD which he can do as a citizen. However, after sending the e-mail, filing an RTI application on

10.05.2018 asking the CPIO ISP about the action taken was purely illogical. Now in view of that RTI the concerned CPIO had replied on time i.e 31.05.2018 as per the availability of record. The applicant was not satisfied with the reply, and filed a first appeal and thereafter the present complaint. The earlier bench while issuing a show cause notice in this case had mentioned that the complainant had submitted that the respondent has wrongly stated that no information is available on record and there is no file-noting on his e-mail dated 06.10.2017. **The complainant apprised the Commission that in file no. CIC/ISPNR/C/2018/627199, there is a letter dated 23.10.2017 which was written by Manager (OL) & PIO to the General Manager, India Security Press, Nashik regarding his e-mail dated 06.10.2017.** The respondent in response to point no. 1 of the RTI application has wrongly stated that the information is available on their website. The Commission is of the view that as to how the name, designation, email address, and official mobile number of the concerned responsible official for providing investigation and Action Taken Report in the case of appellant is available on website. The Commission further perused the letter dated 23.10.2017 of Manager (OL) & PIO. The Commission is of the view that the Manager (OL) & PIO has forwarded the e-mail dated 06.10.2017 of the complainant in order to take necessary action in the matter. Therefore, any official of the respondent public authority must have processed the e-mail of the complainant on a note-sheet and information should have been available with the respondent public authority.

The present bench perused the letter dated 23.10.2017 addressed to the General Manager, India Security Press, Nashik by Shri K.P Srivastava, Manager (OL) & PIO the content of the letter is extracted below for better understanding:

"Subject: Complaint of Shri Varun Krishna against PIO, India Security Press, Nashik.

Sir,

Please find enclosed a copy of e-mail dated 06.10.2017 sent by Shri Varun Krishna addressed to the CMD, SPMCIL complaining false allegation upon him of using foul language by PIO, ISP-Nashik.

As the matter pertains to India Security Press Nashik, the complaint of the applicant is sent herewith for necessary action."

The CPIO during the hearing was asked about this letter again, for which he tendered his unconditional apology for not being able to explain or communicate the facts correctly to the earlier bench. He further explained that

indeed the letter was received in ISP Nashik and was marked to the then CPIO. Thereafter as per record, the letter was simply filed and no action was taken.

The Commission observed that general information was given in respect of point no. 1, as specific to the complainant's e-mail who is the authority was not known to the CPIO. Moreover, in respect of points no. 2 & 3 the complainant is contesting the reply the CPIO has now explained categorically that there was no action taken on the e-mail dated 06.10.2017 and the subsequent letter dated 23.10.2017 also.

Decision:

The Commission is an implementing body of the RTI Act and is concerned with the growing trend of filing of these kind of personal vendetta applications in the form of RTI applications and which later on increases the number of appeals and complaints before the Commission. There is no ground found to initiate any action against the CPIO as per the RTI Act. The reply given in the case was just and proper and there is no scope for any action. The applicant is advised to exercise his right to information responsibly and constructively.

The CPIO is issued a warning for not providing a categorical reply to the complainant stating that no action was taken, as the same could have prevented this complaint and further proceedings. He is cautioned to be careful in future but as there was no malafide found on his part, the case is not fit for imposing penalty.

The show cause proceeding is disposed of accordingly.

Vanaja N. Sarna(वनजा एन. सरना)

Information Commissioner (सूचनाआयुक्त)

Authenticated true copy
(अभिप्रमाणितसत्यापितप्रति)

A.K. Assija (ऐ.के. असीजा)
Dy. Registrar (उप-पंजीयक)
011-26182594 /
दिनांक/ Date

केंद्रीय सूचना आयोग
CENTRAL INFORMATION COMMISSION
बाबा गंगनाथ मार्ग
Baba Gangnath Marg
मुनिरका, नई दिल्ली - 110067
Munirka, New Delhi-110067

File no.: CIC/DEOIT/C/2020/685084

In the matter of:

Saurav Das

... **Complainant**

VS

1. Central Public Information Officer,
National E-Governance Division (NEGD),
Ministry of Electronics and Information Technology,
Department of Electronics and Information Technology,
Electronics Niketan, 6, CGO Complex, Lodhi Road,
New Delhi- 110003

&

2. Central Public Information Officer,
Ministry of Electronics and Information Technology,
Electronics Niketan, 6, CGO Complex, Lodhi Road,
New Delhi- 110 003

... **Respondents**

RTI application filed on	:	01/08/2020
CPIO replied on	:	07/08/2020
First appeal filed on	:	Not on record
First Appellate Authority order	:	Not on record
Complaint dated	:	10/09/2020
Date of Hearing	:	22/10/2020, 24/11/2020
Date of Decision	:	26/10/2020, 26/11/2020

The following were present:

Complainant: Present over VC

Respondent: Shri S.K Tyagi, Deputy Director and CPIO, Shri D K Sagar, Deputy Director Electronics and Shri R A Dhawan, Senior General Manager (HR & Admn) and CPIO NeGD

Information Sought:

The complainant has sought the following information:

1. Provide the certified true copy of the entire file related to the creation of the Aarogya Setu app including a) origin of proposal, b) approval details, c) companies, d) people, govt. departments involved, e) file notings related to the app, f) comments on files by various officers, g) copies of communications between private people involved in making/developing the app and government departments concerned, etc. h) copies of request for collaboration with people from industry who have helped in making this app i) all communications received from all contributors/advisers of this app who have helped make this app. The responses be also provided. j) Internal notes, memos, file notings, correspondences while making this app and finalising it. k) Minutes of the meetings held while creating this app. l) Notings/documents related to any meetings between the Government and private contributors to this app. m) Details of meetings/inputs received from any other government agency on this app.
2. Provide the details of the law/legislation under which the app was created and is being handled.
3. Whether the Government of India has any proposal to bring in a law separately for this App and its handling.
4. And other related information.

Grounds for Complaint

The CPIO, NEGD and Ministry of Electronics & Information Technology did not provide any information.

Submissions made by Complainant and Respondent during Hearing:

The complainant requested to hold a hearing on an urgent basis due to the immense public interest in the matter and need for immediate public scrutiny. He also had pointed out that any failure by the public authorities to perform their duties as outlined in the Protocol, 2020 and its failure to inform the usage of people's personal and user data will have a severe and irreversible detrimental effect on people's right to privacy and therefore their fundamental right to life and liberty. He also submitted that the Aarogya Setu App will be rendered useless once the pandemic is over. In such a situation, if the normal time period of waiting is followed, it would take almost 2 years for the first hearing to come up before this Commission. He further submitted that this would lead to the matter becoming infructuous and of no use. Therefore, there is an urgent need to act and hear this matter urgently and on priority basis.

The Commission accepting the matter as related to right to privacy which is an essence of right to life and liberty deemed it fit to provide an opportunity of early hearing to the complainant and accordingly the hearing was fixed on priority basis.

The complainant in his complaint to the Commission mentioned that there was no reply given by the CPIO, National E-Governance Division, MeitY and CPIO, MeitY.

He further submitted that he filed this RTI application seeking to get information about the process of creation of Aarogya Setu App and other information relating to its creation. He further clarified that the present RTI also contains a few points which were also asked to the NIC vide RTI with reg. no. NICHQ/R/E/20/00283 dt. 01/08/2020. It was noted by the Commission that the referred RTI was adjudicated by the Commission in case no. CIC/NICHQ/C/2020/685079 on 22.10.2020.

The complainant further submitted that the information was anyway not provided by the NIC in that case since it stated that it "does not hold the information" relating to the App's creation, which is very surprising since it is the App's developer. Now MeitY also has not provided any information relating to the App's creation and other matters.

He strongly pleaded that in effect, no one has any information on how this App was created, the files relating to its creation, who has given inputs for this App's creation, what audit measures exists to check for misuse of the personal data of millions of Indians, whether any anonymisation protocols for user data have been developed and about who this data is being shared with. This is despite the fact that any omissions and commissions by these public authorities and any failure to perform their duties as outlined and mandated under the Protocol, 2020, could essentially lead to security compromise of millions of Indians' personal and user data. This would be a grave breach of fundamental right to privacy on a massive scale and threaten people's constitutionally guaranteed right to life and liberty.

He further argued that there seems to be a pattern among these public authorities to wilfully withhold information from any applicant asking for this information as no public authority has any details about any of the questions as asked which to him seems out-rightly false, malafide and done with an effort to frustrate and harass the applicant to give up.

He further requested that a senior level officer of the Ministry of Electronics and Information Technology be recognised as the deemed CPIO by this Commission in this matter and he/she be directed to furnish all the information in detail to the Complainant after collecting them from all relevant CPIOs.

He further submitted that due to the many credible media reports questioning the Aarogya Setu App and its making and handling, it is of utmost importance to bring transparency in the making and current handling of this App, which collects vast amounts of user and personal data of individuals. If the right to privacy is breached due to inept handling of people's personal and user data, it will be a breach to one's right to life and liberty. The information as asked for would fall under the category of threat to life and liberty of millions of Indians and if the urgent hearing is not provided, the matter will become infructuous and it is the mandate of the Commission to prioritise matters pertaining to one's, but in this case, millions of Indians' liberty on priority. This will be in larger public interest involved in the matter.

He also pressed for action against the CPIO, National E-Governance Division, MeitY under section 20(1) and 20(2) of the RTI Act for wilfully and repeatedly refusing to act in conformity with the RTI Act despite sending repeated reminders requesting them to furnish the information.

He further requested to convert this Complaint to a Second Appeal as the matter could not have waited if the first appeal route was followed and the Complainant had no faith in approaching the FAA of the public authorities.

Shri D K Sagar Deputy Director and CPIO, Department of Electronics submitted that a timely reply was given to the applicant on 07.08.2020 informing him that the RTI application has been transferred to the PIO, NeGD u/s 6(3) of the RTI Act. Shri R A Dhawan, Senior General Manager (HR & Admn) and CPIO NeGD submitted a copy of the reply dated 02.10.2020 in which he stated that the information sought in the RTI does not relate to NeGD. Accordingly, NeGD do not have any information on the above. He could not explain why it took him almost two months to provide a reply and that too informing that the information sought is not related to NeGD. Shri S.K Tyagi, Deputy Director and CPIO, MeitY was also present during the hearing and hence he was asked as to from where the information relating to the creation of Arogya Setu app can be

accessed. He also could not give a plausible explanation except that the creation of the same involves inputs from NITI Ayog. He further could not explain as to how it is possible that the App was created and the Ministry of Electronics and Information Technology has no clue about its origin. The Commission took note of the fact that on the same day two more complaints were also decided and the CPIO, from NIC was present in those cases but the CPIO NIC had also transferred those RTIs to different public authorities to obtain information of similar nature. Apparently, the CPIO, MeitY and all concerned CPIOs present during the hearing have provided a very evasive kind of reply as well as submissions and not even attempted to trace the holder of the information in this case. Moreover, the applicant has rightly pointed out that the App is being used by masses at large and can have wide reaching effects and breach of privacy cannot be ruled out completely. This Commission would not get into the right to privacy aspects as the technical details of the App and the regulatory mechanism has not yet been examined by any competent Court of Law.

Observations:

After hearing the averments of all the concerned parties and also the CPIO NIC who was present in this case on the basis of oral direction by the Commission, the denial of information by all the concerned authorities cannot be accepted at all.

It is relevant to mention here that Sec 6(3) of the RTI Act cannot be used by public authorities to push off the matter.

Taking note of the decision in case no. 685079 of the same complainant decided on 22.10.2020, the present complaint cannot be converted into an appeal. However, the complainant's plea that the CPIO, National E-Governance Division, MEITY should be penalised under section 20(1) and 20(2) of the RTI Act for wilfully and repeatedly refusing to act in conformity with the RTI Act despite sending repeated reminders requesting them to furnish the information seems correct in the absence of a reasoned and justifiable reply from the CPIOs concerned.

The reply dated 07.08.2020 given by the Department of Electronics & Information Technology was perused and the same read as follows:

"The online RTI request has been transferred to PIO, NeGD under section 6(3) of the RTI Act. Hence, the said online RTI request is disposed off from the portal."

Shri R A Dhwan's submission that information sought is not related to NeGD and Shri Tyagi's and Shri Sagar's submissions that the RTI application was transferred to NeGD shows that ultimately the steps taken till today failed to locate the source from where information can be accessed. The Commission observes that it is a current issue and it is not possible that there was no file movement while creating this App, a citizen cannot go round in circles to find out the custodian.

The CPIO, NIC's submissions that the entire file related to creation of the App is not with NIC is understandable, but the same submissions if accepted from MeITY, NeGD and NIC in toto, then it becomes more relevant to now find out how an App was created and there is no information with any of the relevant public authorities.

The Commission observed that none of the CPIOs provided any information. Therefore, the Commission directs the CPIO, NIC to explain this matter in writing as to how the website <https://aarogyasetu.gov.in/> was created with the domain name gov.in, if they do not have any information about it. Moreover, the registry is directed to send an e-mail to the e-mail id-support.aarogyasetu.gov.in as mentioned in the website directing them to send the concerned authority to be present before the Commission on the next date of hearing.

Furthermore, as per the website <https://aarogyasetu.gov.in/> it is mentioned that the content is owned, updated and maintained by the MyGov, MeitY. Therefore, Shri Tyagi is directed to explain in writing who is the concerned CPIO to explain regarding MyGov, MeitY maintaining the app. The CPIO NIC also should explain that when in the website it is mentioned that Aarogya Setu Platform is designed, developed and hosted by National Informatics Centre, Ministry of Electronics & Information Technology, Government of India, then how is it that they do not have any information about creation of the App.

None of the CPIOs were able to explain anything regarding who created the App, where are the files, and the same is extremely preposterous.

It is relevant to quote the Hon'ble Supreme Court decision in *Namit Sharma v. Union of India* 2012 (8) SCALE 593 in which it was held that the purpose and object for the enactment of the RTI Act was to make the government more transparent and accountable to the public and to ensure access to information to every citizen from the public authorities.

Further, the Hon'ble Supreme Court in ICAI v. Shaunak H Satya & Ors SLP (C) No.2040/2011 further held that the right to information regarding the functioning of public authorities is a fundamental right as envisaged under Article 19 of the Constitution of India. Further, it was pointed out that the very preamble of the RTI Act, 2005, substantiates the fact that the Act, does not create any new right but only provides machinery to effectuate the fundamental right to information. Furthermore, the Information Commissions are the implementing agencies/machinery. The right to access to information has only exemptions provided in Section 8 of the RTI Act. The Government of the people means the information should be open to public for informed citizenry.

Keeping in view the above ratio, the Commission took cognizance of the present complaint u/s 18(f) of the RTI Act and as per the mandate under that provision is of the view that it is necessary to identify the source/ custodian of information in respect of the complainant's request for obtaining access to records under this Act. The addressees cannot simply wash their hands off by stating that the information is not available with them. Some effort should have been put in to find out the custodian(s) of the information sought, by the concerned public authorities when apparently they are the relevant parties.

Interim Decision:

In view of the above observations, the Commission is constrained to issue a show cause notice to the concerned CPIOs

1. Shri S.K Tyagi, Deputy Director and CPIO,
2. Shri D K Sagar, Deputy Director Electronics
3. Shri R A Dhawan, Senior General Manager (HR & Admn) and CPIO NeGD
4. Shri Swarup Dutta, Scientist F and CPIO NIC

to explain why penalty u/s 20 of the RTI Act should not be imposed on them for prima facie obstruction of information and providing an evasive reply.

The CPIO, NIC shall also submit written submissions detailing their role in creation of the website <https://aarogyasetu.gov.in/> with the domain name gov.in. The CPIO, NeGD shall also explain the delay of about 2 months in replying to the RTI application.

The Commission directs the above-mentioned CPIOs to appear before the bench on **24.11.2020** at **01.15 pm** to show cause as to why action should not be initiated against them under Section 20 of the RTI Act. The CPIOs are also directed to send a copy of all supporting documents upon which they choose to rely upon during the hearing. The said documents be sent to the

Commission atleast 5 days prior to the hearing via linkpaper. If any other persons are responsible for the said omission, the CPIO shall serve a copy of this order on such persons to direct their presence before the bench as well.

The Registry shall endorse a copy of this interim order to the Secretary MeitY, CEO MyGOV and Director General NIC for information and necessary action.

The case is adjourned accordingly

Date of Hearing: 24/11/2020

Date of Decision: 24/11/2020

The following were present:

Respondent: Shri D.K Sagar, Deputy Director and CPIO (eGov), Shri R.A Dhawan, Senior General Manager, NeGD and Shri Swarup Dutta, Scientist-F and CPIO, NIC, Mr Shiloma Rao, GM and CPIO, NeGD, present CPIO, (present over Intra VC)

Submissions made by Respondent during the hearing:

All the CPIOs present during the hearing submitted that the written submissions dated 18.11.2020 may be considered as a common response of all concerned to adjudicate the matter.

Shri S.K Tyagi vide e-mail dated 19.11.2020 informed the Commission that as he is on bed rest (due to Corona) as advised by the doctor, he is not able to attend the showcause proceedings in person. He further relied on the written submissions dated 18.11.2020.

Shri Swarup Dutta submitted that he was not an original party to the case and NIC had replied properly and the FAA NIC had given the applicant a personal hearing in the spirit of the RTI Act in two other similar cases pertaining to the same subject matter.

Shri R.A Dhawan submitted that at that time they tried to collect the information from different sections/departments as the information was scattered but he could not do the same before the hearing on 22.10.2020 and therefore was unable to explain the matter.

Shri D.K Sagar submitted that previously the matter was scattered in different sections but after the CIC's order the concerned information was brought

together exclusively on one platform and he is now the DD in charge of handling all queries through RTIs on the Aarogya Setu app.

The present CPIO, Mr Rao tendered an unconditional apology on behalf of the concerned CPIOs as public confidence was shaken due to their irresponsible submissions before the Commission regarding the availability of information relating to the Aarogya Setu App. He admitted that the subject matter is of prime importance and unnecessarily the RTI application was poorly handled by the officers by providing what appeared to be evasive replies whereas actually there is nothing to hide and the creation of this app was a positive step and had actually helped immensely in controlling the pandemic.

The CPIO submitted that the requisite documents including privacy policies, details of usage etc. were made available in the portal itself on 02.04.2020 and on 08.04.2020 the Empowered Committee team details were also made available. Moreover, responsible senior officers were also included in these teams. He further added that more than 10 public conferences were held and very significantly the app was made open source. They even launched a bug bounting programme in which if anybody found fault with the app there was a provision for them to be rewarded also. He further submitted that recently the back end code was also made available. Everything regarding the app from its start is in public domain. He affirmed that from 2nd April 2020 onwards there was enough information in public domain.

If that was the case, the Commission during the hearing asked as to why the concerned officers could not provide any answers whatsoever during the previous hearing. The present CPIO then submitted that possibly the same happened due to lack of coordination among the different CPIOs and the fact that the information was scattered among various sections /departments. He stated that after the issuance of the showcause notice, it was brought to the notice of the competent authorities and the Ministry took the matter very seriously and accordingly the CPIOs were instructed to be pro active in supplying information. He referred to a circular of the MEITY dated 19.11.2020 in which a single CPIO has been given the responsibility to handle the subject matter under RTI. He informed that henceforth the entire matter of Aarogya Setu shall be dealt with by a single CPIO, Deputy Director, E-GOV Division, MEITY, Mr D K Sagar. He also submitted that this was done to ensure timely disposal of RTI applications and dissemination of maximum information in the spirit of the RTI Act.

The Commission asked Shri D K Sagar as to why he had not diligently gathered information before attending the previous hearing which could have prevented this showcase notice, to which he clarified that it was not that information was not available, but it was scattered in different divisions, and it took some time to bring it together and thus they were not able to satisfy the queries during the previous hearing. He assured the Commission that henceforth, RTI matters shall be dealt with with utmost care and caution.

The CPIOs viz. Shri S.K Tyagi, Deputy Director and CPIO, Shri D.K Sagar, Deputy Director and CPIO (eGov), Shri R.A Dhawan, Senior General Manager, NeGD and Shri Swarup Dutta, Sci-F and CPIO, NIC vide written explanations dated 18.11.2020 expressed their apologies and regret for not being able to respond clearly and coherently to the RTI application filed by the applicant as also during the hearing of the complaint dated 10.09.2020 filed by the applicant before the Commission.

They submitted that the above was primarily on account of the query of the applicant being related to multiple agencies and Government Departments for which though the entire information was available in public domain but the same was not specifically available to the individual CPIOs and hence a proper and clear reply could not be submitted in time to the applicant or during the hearing before the Commission .

They further submitted that the applicant had also filed two additional RTI applications with regard to the Aarogya Setu App to CPIO NIC which have already been responded to by NIC vide replies dated 10.08.2020 (disposed of online). Additional information was also provided to both the queries by e-mail dated 04.09.2020 and as part of the FAA's order in appeal disposed of on 15.10.2020 wherein all the queries under the purview of NIC were answered and the others are being transferred to the concerned organisations.

They submitted that vide orders No. 40-3/2020-DM-1(A) dated 29.03.2020 and 01.05.2020, the Central Government had constituted empowered groups under the Disaster Management Act, 2005 to ensure public safety, identify the problem areas and provide practical solutions in a time bound-manner and out of the same empowered groups, the Empowered Group no. 9 on technology and data management under the purview of Ministry of Electronics and Information Technology was entrusted with the responsibility of coordinating all technological solutions for fighting COVID-19.

They also submitted that the development of the Aarogya Setu App was done at a time when the entire nation was impacted by the COVID-19 pandemic and

the nation had gone into a complete lockdown in the last week of March 2020 following the call for Janata Curfew on 22.03.2020. The nature of COVID 19 virus is such that most people who get infected by the virus remain asymptomatic for around 2 weeks before showing any symptoms which results in a delay in the test diagnosing them as COVID-19 positive. During the period before they have been detected COVID positive such people may continue to infect other people with whom they come in contact and contribute to the spread of the virus. In order to address this, in many countries around the world a contact tracing app has proved to be an effective tool to alert people if they have come in contact with anyone who is tested positive for COVID-19 .

In view of the above, stakeholders from across Industry-Academia and Government authorities, including officials from NITI Aayog and MeitY had come together to build a Contact Tracing App for India. In the month of March, 2020 several such apps were being built, and after due consideration of all the competing Apps, it was decided that a National App for contact tracing namely Aarogya Setu will be built to strengthen the fight against COVID-19.

This app was built in a record time of less than 3 weeks without any cost to Government and was launched on 2nd April, 2020. Within 13 days of the launch of the App it had more than 50 million users which was a world record of the fastest time to reach 50 million users for any mobile app.

He further submitted that the App has more than 164 million users which is more than the combined users of all other Contact Tracing Apps in the world.

The app has proved to be effective in informing and alerting people if they have come in contact with any COVID-19 positive person and has also helped in educating people about the behavioural changes that may be needed regarding usage of masks, social distancing and hand washing. The app has also helped in identification of potential hotspots and strengthened the ability of health authorities and District Administrations in the fight against COVID-19. The app has been designed with a privacy first policy and the entire data of the users is completely safe. **Most of the data remains on the mobile phone of the users and gets auto deleted after 30 days if the person concerned is not COVID-19 positive. Data of only those who are tested positive is pushed to the server, with the objective of alerting people who might have come in Bluetooth contact with those who tested positive. Such data is also deleted after a maximum of 60 days from the date a person recovers. These protocols are clearly defined and available in public domain.** The Android and IOS code

of Aarogya Setu is available in the open domain alongwith the names of the persons who have been involved in the development of the app.

To establish a working mechanism of the Aarogya Setu Platform Ecosystem, MeitY has established an organisational set up consisting of members as given in the O.M dated 08th April 2020 and later on modified with the addition of P&CEO, NeGD and CEO, MyGOV as one of the members of the organisational set up (O.M dated 08.04.2020 and 28.04.2020).

In order to ensure secure data collection by the Aarogya Setu mobile application, protection of personal data of individuals, the MeitY has issued the Aarogya Setu Data Access and Knowledge Sharing Protocol 2020. The Aarogya Setu application fully complies with this protocol.

The user of the Aarogya Setu application is safeguarded with the provisions of the Information Technology Act, 2000 and Disaster Management Act, 2005. Moreover, all the necessary protection to the personal data of users is ensured as per the provisions of the proposed Personal Data Protection Bill 2018. The following privacy safeguards have already been provided to all the users of Aarogya Setu application and notified in the privacy policy and terms of the usage of the App.

- i. No personal data collected without user consent.
- ii. User is clearly informed regarding the following:
 1. What data is collected and how it is collected
 2. How the data will be used
 3. Retention of the data
 4. Rights of the users
 5. Security measures in place
 6. Grievance Redressal
- iii. Collected data is encrypted and stored on the user's phone.
- iv. Data is sent to servers only if the user tests positive for COVID or the user voluntarily submits his/her data with consent.
- v. Copy of Privacy policy and terms of usage was also enclosed.

All the necessary information about the Aarogya Setu application is already available in public domain, and details of application developers and contributors are also made available in the Github https://github.com/nic-delhi/AarogyaSetu_Android/graphs/contributors

The Ministry also issued necessary orders and directives to all CPIOs concerned to comply with the timelines and provisions of the RTI Act 2005 in letter and spirit to promote transparency.

The entire information and relevant documents regarding the development of the app are also available in the public domain on "aarogyaasetu.gov.in". The site was created with the domain name gov.in for NIC and approved by NIC's Nodal Officer and competent authority.

Regular press releases have also been issued regarding the Aarogya Setu App including dissemination of information via social media and hence, there is no reason to believe that at any point of time the Government has not shared information with regard to the functioning or development of the app. Copies of all press releases were annexed.

The CPIOs of NeGD, MeitY and NIC further extended their apology for not being able to share the above information at the time of the hearing on 22.10.2020 and requested to drop the showcause notice in view of all that has been explained during the hearing now.

Observations:

At the outset it was informed by the Registry of this bench that a written request has been received from the complainant to allow him to attend the showcause proceedings as per principles of natural justice. In response to this, reference is drawn to the judgement of the Hon'ble High Court of Delhi in the case of *Ankur Mutreja v. Delhi University* in LPA 764/2011 dated 09.01.2012 wherein it was held as under:

- a) the Act does not provide for the CIC to, in the penalty proceedings, hear the information seeker, though there is no bar also there against if the CIC so desires;*
- b) that the information seeker cannot as a matter of right claim audience in the penalty proceedings which are between the CIC and the erring information officer;*

c) there is no provision in the Act for payment of penalty or any part thereof imposed/recovered from the erring information officer to the information seeker;

d) the penalty proceedings are akin to contempt proceedings, the settled position wherein is that after bringing the facts to the notice of the Court, it becomes a matter between the Court and the contemnor and the informant or the relator does not become a complainant or petitioner in contempt proceedings."

The aforementioned decision was also relied upon and affirmed by the Hon'ble High Court of Delhi in its decision in Anand Bhushan v. R.A. Haritash: ILR (2012) 4 Delhi 657 wherein it was held as under:

"8.....The information seeker has no locus in the penalty proceedings, beyond the decision of the complaint/appeal and while taking which decision opinion of default having been committed is to be formed, and at which stage the complainant/information seeker is heard.

9. In the context of the RTI Act also, merely because the CIC, while deciding the complaints/appeals is required to hear the complainant/information seeker, would not require the CIC to hear them while punishing the erring Information Officer, in exercise of its supervisory powers."

Following the above ratio, the Commission finds it pertinent to mention here that it was not inclined to allow the applicant to participate in the showcase proceedings as the matter is between the Commission and the respondents.

It is relevant to mention here that due to the CPIOs' poor preparation of the facts of the case the impression given to the Commission on 22.10.2020 during the first hearing was that there is no information available in public domain.

The Commission observed that the present case is a complaint and not a second appeal, therefore, it cannot direct the CPIO to provide information. However, in all fairness, the present CPIO volunteered to satisfy the complainant and provide information (in hard copies) as well hyperlink wherever applicable within 3 days from the date of issue of this order.

The Commission finds it relevant to mention here that subsequent to the present show cause notice hearing, it has come to light that there was plenty of material available in public domain on the app, however, the CPIOs gave the wrong impression. Therefore, the complainant's grievance appeared well founded that he was not given any information and therefore it appeared that there was none and the whole matter appeared to be non-transparent.

The present CPIO had also requested to take on record that the intent behind creating this app was to control the pandemic and not to breach the privacy of individuals. He was involved in the development stage and even World Health Organisation (WHO) had appreciated the app. He requested to drop the showcause notice considering the subject matter as unique and considering all the facts that have now been placed before the Commission.

He had again reiterated that henceforth the RTI Act shall be upheld in the true spirit of transparency.

Mr Rao also informed that date-wise events shall be informed to the applicant starting from April 2020, so that whole information as available from time to time in public domain is known to him.

Based on a perusal of the written explanation and the relevant enclosures, the Commission observed that the fact remains that the CPIOs concerned were not prepared for the hearing on 22.10.2020 and it is after the showcause notice was issued, that they located the documents and provided a detailed explanation. As far as the showcause notice issued was concerned, the questions raised by the Commission now stand answered in detail by the present CPIO. However, the fact remains that the complainant was not given a proper reply guiding him to the hyperlink where the information sought was available nor was he given the copies of the relevant guidelines. The key information is that vide orders No. 40-3/2020-DM-1(A) dated 29.03.2020 and 01.05.2020, the Central Government had constituted empowered groups under the Disaster Management Act, 2005 to ensure public safety, identify the problem areas and provide practical solutions in a time bound-manner and with regard to the overall aspect of controlling the pandemic 11 empowered groups were formed. The Empowered Group no. 9 on technology and data management under the purview of Ministry of Electronics and Information Technology was entrusted with the responsibility of coordinating all technological solutions for fighting COVID-19. Further, stakeholders from across Industry-Academia and Government authorities, including officials from

NITI Aayog and MeitY had come together to build a Contact Tracing App for India. This app was built in a record time of less than 3 weeks without any cost to Government and was launched on 2nd April, 2020. Within 13 days of the launch of the App it had more than 50 million users which was a world record of the fastest time taken to reach 50 million users for any mobile app. Furthermore, it was also observed that the privacy concern raised by the applicant was also properly explained by the CPIOs in their written submissions.

The Commission observes that after the showcause notice was issued the CPIOs made all possible efforts and coordinated with the concerned record holders to provide a proper explanation. However, due to the callousness and lackadaisical approach of the CPIOs during the hearing on 22.10.2020 the Commission was constrained to issue a showcause notice for want of a proper response to the RTI applicant and to the queries raised during the hearing. Nevertheless, from the above explanation it is also clear that there was no malafide intent on the part of the CPIOs, rather, they failed to provide a point-wise reply to the applicant due to the data being available in a scattered manner and due to the fact that proper co-ordination among all the concerned agencies was not undertaken before appearing for the hearing .

The Commission finds that there is enough and more information regarding the said App in public domain which can be accessed by citizens at large. Further, a lot of work has been done in a very short time to bring out this app to help in containing the spread of Covid-19.

Finally, with regard to the imposition of penalty on the CPIO/PIO under Section 20 of the RTI Act, 2005, the Commission took note of the ruling of the Hon'ble Delhi High Court in W.P.(C) 11271/2009 Registrar of Companies & Ors v. Dharmendra Kumar Garg & Anr. (delivered on: 01.06.2012) wherein it was held:

" 61. Even if it were to be assumed for the sake of argument, that the view taken by the learned Central Information Commissioner in the impugned order was correct, and that the PIOs were obliged to provide the information, which was otherwise retrievable by the querist by resort to Section 610 of the Companies Act, it could not be said that the information had been withheld malafide or deliberately without any

reasonable cause. It can happen that the PIO may genuinely and bonafidely entertain the belief and hold the view that the information sought by the querist cannot be provided for one or the other reasons. Merely because the CIC eventually finds that the view taken by the PIO was not correct, it cannot automatically lead to issuance of a showcase notice under Section 20 of the RTI Act and the imposition of penalty. **The legislature has cautiously provided that only in cases of malafides or unreasonable conduct, i.e., where the PIO, without reasonable cause refuses to receive the application, or provide the information, or knowingly gives incorrect, incomplete or misleading information or destroys the information, that the personal penalty on the PIO can be imposed.** This was certainly not one such case. If the CIC starts imposing penalty on the PIOs in every other case, without any justification, it would instill a sense of constant apprehension in those functioning as PIOs in the public authorities, and would put undue pressure on them. They would not be able to fulfil their statutory duties under the RTI Act with an independent mind and with objectivity. Such consequences would not auger well for the future development and growth of the regime that the RTI Act seeks to bring in, and may lead to skewed and imbalanced decisions by the PIOs Appellate Authorities and the CIC. It may even lead to unreasonable and absurd orders and bring the institutions created by the RTI Act in disrepute."

Similarly, the following observation of the Hon'ble Delhi High Court in Bhagat Singh v. CIC & Ors. WP(C) 3114/2007 is pertinent in this matter:

"17. This Court takes a serious note of the two year delay in releasing information, the lack of adequate reasoning in the orders of the Public Information Officer and the Appellate Authority and the lack of application of mind in relation to the nature of information sought. **The materials on record clearly show the lackadaisical approach of the second and third respondent in releasing the information sought. However, the Petitioner has not been able to demonstrate that they malafidely denied the information sought.** Therefore, a direction to the Central Information Commission to initiate action under Section 20 of the Act, cannot be issued."

The Commission also observed that the Hon'ble High Court of Delhi in the matter of R.K. Jain v. V.P. Pandey, CPIO, CESTAT, New Delhi in W.P. (C) No. 4785/ 2017 dated 10.10.2017 adjudicated an order of the Commission dated 17.04.2017 whereby the Respondent was cautioned to exercise due care in future and to ensure that correct and complete information is furnished to the RTI applicants. It was decided that:

"2. The grievance of the petitioner is that although the CIC had accepted that there was a delay in providing the necessary information to the petitioner, the CIC had not imposed the penalty as required under Section 20(1) of the Right to Information Act, 2005. It is well settled that imposing of the penalty is a discretionary measure. In Anand Bhushan v. R.A. Haritash: ILR (2012) 4 Delhi 657 a division bench of this Court had considered the question whether the levy of penalty was discretionary and held as under.....

3. In this case it is apparent that the CIC had in its discretion considered that a order cautioning the CPIO would be sufficient. This Court is not inclined to interfere with such exercise of discretion."

Decision:

Keeping in view the detailed reply to the show cause notice furnished by the CPIOs and the lengthy explanation given by the present CPIO during the hearing, the Commission accepts the apology of all concerned officers and cautions them to be careful in future while replying to RTI applications as well as the need to come well prepared for the Commission's hearings. This is all the more important when there was sufficient information regarding the app in public domain which unfortunately was not conveyed to the complainant in reply to his RTI application nor to the Commission during the first hearing. Since no malafide or intention to conceal information has been found in the CPIOs' oral and written replies, the Commission is not inclined to impose any penalty on them. As the present case is a complaint u/s 18 no direction for disclosure can be given, however the CPIO volunteered to provide the hard copies of the documents/relevant enclosures submitted to the Commission as well the hyperlink wherever applicable, to the appellant within 7 days from the date of issue of order in the spirit of the RTI Act.

The Commission issues an advisory u/s 25(5) of the RTI Act, 2005 to the Secretary, Ministry of Electronics and Information Technology to ensure that the Aarogya Setu website is robust and maintained uptodate at all times

so as to be able to satisfy the citizens queries on the subject without having to resort to filing of RTI applications and in this manner promote suo moto disclosure of information.

The show cause notice proceedings are dropped and the complaint too is disposed of accordingly .

Vanaja N. Sarna (वनजा एन. सरना)

Information Commissioner (सूचना आयुक्त)

Authenticated true copy

(अभिप्रमाणित सत्यापित प्रति)

A.K. Assija (ऐ.के. असीजा)

Dy. Registrar (उप-पंजीयक)

011- 26182594 /

दिनांक / Date

Copy to:

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3rd Floor, Room no-3015

Ministry of Electronics and Information Technology

(Government of India)

Electronics Niketan, 6, CGO Complex,

Lodhi Road,

New Delhi – 110003,

3.The Secretary

Ministry of Electronics and Information Technology,
Electronics Niketan, 6, CGO Complex, Lodhi Road,
New Delhi- 110003

4.Director General,

National Informatics Centre (NIC)
6th Floor, A-Block, CGO Complex
Lodhi Road, New Delhi -110003

5.CPIO

National Informatics Centre (NIC)
6th Floor, A-Block, CGO Complex
Lodhi Road, New Delhi -110003

केंद्रीय सूचना आयोग
CENTRAL INFORMATION COMMISSION
बाबा गंगनाथ मार्ग
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मुनिरका, नई दिल्ली- 110067
Munirka, New Delhi-110067

File no.: CIC/OFBKO/A/2019/656662

In the matter of:
 Ram Naresh Yadav

... Appellant

VS

Central Public Information Officer
 Ordnance Factory Khamaria,
 Jabalpur – 482 005, Madhya Pradesh

...Respondent

RTI application filed on	:	19/08/2019
CPIO replied on	:	18/09/2019
First appeal filed on	:	18/09/2019
First Appellate Authority order	:	Not on Record
Second Appeal dated	:	12/11/2019
Date of Hearing	:	14/09/2021
Date of Decision	:	14/09/2021

The following were present:

Appellant: Present over VC

Respondent: Dinesh Kumar, DGM (Admin) and CPIO, present over VC

Information Sought:

The appellant has sought the following information:

1. Provide a copy of the rules/regulations in terms of which charge-sheet is not provided at the time of issue of suspension order.
2. Provide charter of duties of MT/CMD.
3. Provide charter of duties of hospital/AMD.
4. And other related information **(total 62 points)**

Grounds for filing Second Appeal

The CPIO did not provide the desired information.

Submissions made by Appellant and Respondent during Hearing:

The appellant could not justify his RTI application which contained 62 points.

The CPIO submitted that a suitable reply was given on 18.09.2019 rejecting his application as misuse of the RTI Act.

Observations:

The CPIO vide letter dated 18.09.2019 rightly denied the information stating that the same is a misuse of the RTI Act, as information was sought on 62 points.

The same appellant's 9 second appeals were dismissed on 06.09.2021 with the following observations:

"At the outset, the Commission observed that the appellant is nursing a service grievance and therefore asking for all and sundry information relating to the same. In most of his RTI applications, he asked for information on various points like in case no. CIC/OFBKO/A/2019/652172+CIC/OFBKO/A/2019/653073 information on a total of 84 points were asked. In File No. CIC/OFBKO/A/2019/652821 a total 97 queries were asked. In File No. CIC/OFBKO/A/2019/655781 information was sought on a total of 28 points. In File No. CIC/OFBKO/A/2019/655791 information was sought on 34 points. In File No. CIC/OFBKO/A/2019/655896 information was sought on 33 points.

It is relevant to mention below the Apex Court observations relating to impractical demands of the appellants in the case of CBSE vs Aditya Bandopadhyay & Ors on 9 August, 2011, CIVIL APPEAL NO.6454 OF 2011[Arising out of SLP [C] No.7526/2009

"37.Indiscriminate and impractical demands or directions under RTI Act for disclosure of all and sundry information (unrelated to transparency and accountability in the functioning of public authorities and eradication of corruption) would be counter-productive as it will adversely affect the efficiency of the administration and result in the executive getting bogged down with the non-productive work of collecting and furnishing information. The Act should not be allowed to be misused or abused, to become a tool to obstruct the national development and integration, or to

*destroy the peace, tranquility and harmony among its citizens. Nor should it be converted into a tool of oppression or intimidation of honest officials striving to do their duty. **The nation does not want a scenario where 75% of the staff of public authorities spends 75% of their time in collecting and furnishing information to applicants instead of discharging their regular duties. The threat of penalties under the RTI Act and the pressure of the authorities under the RTI Act should not lead to employees of a public authorities prioritising 'information furnishing', at the cost of their normal and regular duties.***"

The apparent act of numerous questions in each of the applications of the applicant is a complete mockery of the Act. Further, during the hearing also he failed to substantiate his appeals. The Commission agrees with the CPIO that these kinds of RTI applications shall exhaust the resources of the public authority and are lengthy and vexatious seeking all and sundry information from the respondent authority. If a single RTI application can raise over 90 queries, the respondent authority will be flooded with answering them, depriving them of attending to their core work and responding to other genuine information seekers.

Decision:

Following the above ratio, the Commission finds the above-mentioned appeals of the appellant to be vexatious and lacks merit. The respondents cannot be expected to reply to such lengthy RTIs as this would drain their resources and deprive the organization of dealing with their core duties. Such kind of RTIs are indeed nothing but a misuse of the RTI Act. The appellant is hereby advised to exercise his right to information responsibly in future."

Decision:

In view of the above decision dated 06.09.2021, the present appeal is also dismissed as being devoid of merits. The appellant is once again advised to use the RTI Act in a responsible manner.

The appeal is disposed of accordingly.

Vanaja N. Sarna (वनजा एन. सरना)

Information Commissioner (सूचना आयुक्त)

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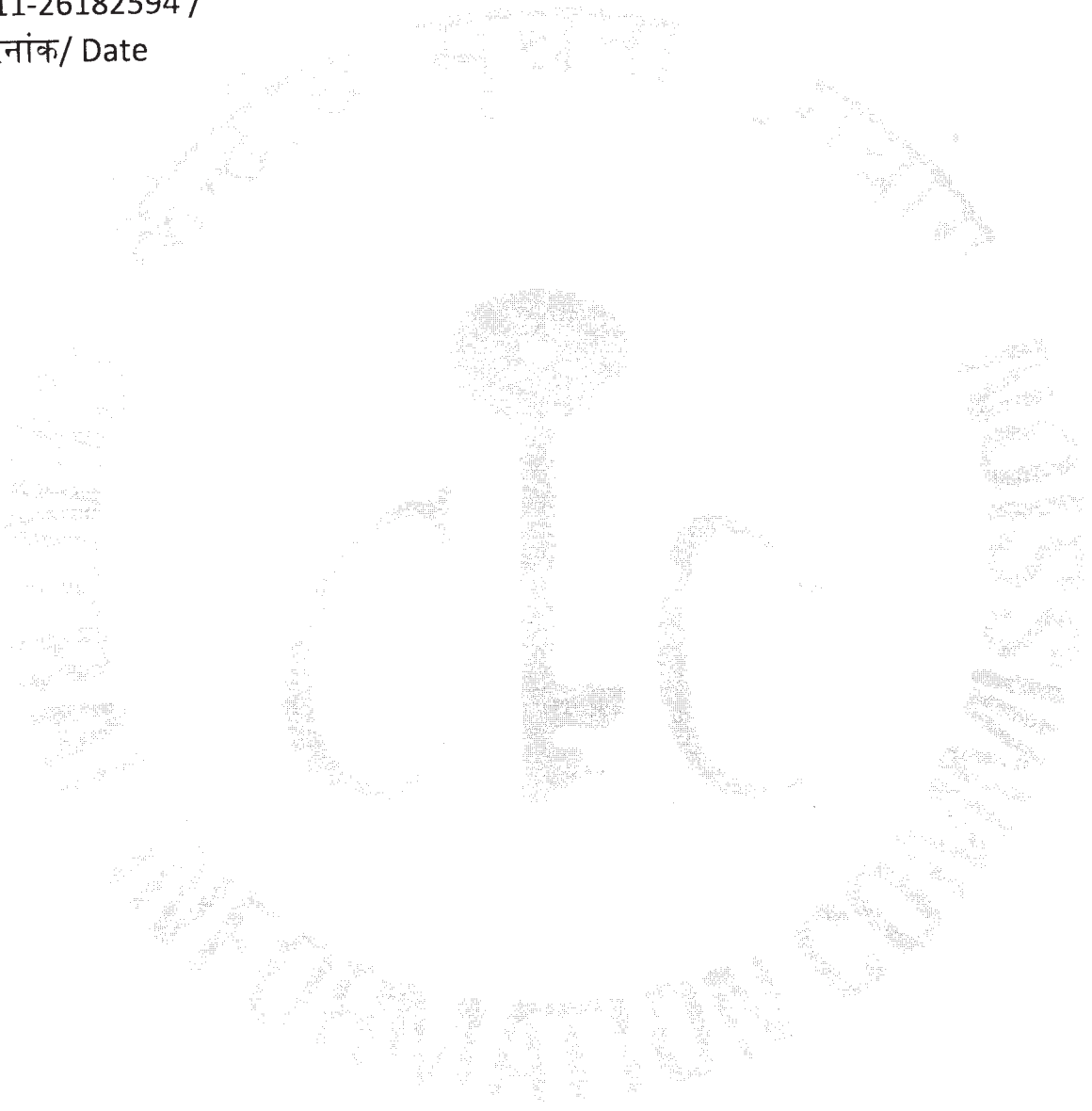
(अभिप्रमाणित सत्यापितप्रति)

A.K. Assija (ऐ.के. असीजा)

Dy. Registrar (उप-पंजीयक)

011-26182594 /

दिनांक/ Date



केंद्रीय सूचना आयोग
CENTRAL INFORMATION COMMISSION

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Munirka, New Delhi-110067

File no.: CIC/STAQC/A/2019/148958

In the matter of:

Venkatesh Nayak

... Appellant

VS

Central Public Information Officer
Standardization, Testing and
Quality Certification (STQC) Directorate
Ministry of Electronics & IT
Electronics Niketan, III Floor,
6-CGO Complex, Lodi Road, New Delhi – 110 003

...Respondent

RTI application filed on	:	24/06/2019
CPIO replied on	:	10/07/2019
First appeal filed on	:	12/07/2019
First Appellate Authority order	:	22/08/2019
Second Appeal dated	:	09/10/2019
Date of Hearing	:	28/07/2021
Date of Decision	:	28/07/2021

The following were present:

Appellant: Present over phone

Respondent: Sh. Anil Kumar, Scientist F & CPIO, present over phone

Information Sought:

The appellant has sought the following information:

1. Provide the **name and designation of the members of the STQC team** which carried out the testing of the firmware of Electronic Voting Machines (EVMs) of M3 and M2 generation and Voter Verified Paper Audit Trail (VVPAT) units manufactured by ECIL and BEL and used in 2019 Lok Sabha Elections.

2. Provide the **exact dates on which the STQC team** carried out the said testing and evaluation as stated in para 1 above.
3. Provide the **geographical locations or the premises** at which the STQC team carried out the said testing and evaluation.
4. And other related information.

Grounds for Second Appeal

The CPIO did not provide the desired information u/s 8(1)(d) of the RTI Act.

Submissions made by Appellant and Respondent during Hearing:

The appellant while explaining the contents of his RTI application which has occasioned the current appeal proceedings, made a reference to certain information obtained by him under the RTI Act containing the reports of the Technical Evaluation Committees (TEC) constituted by the Election Commission of India for the purpose of providing aid and advise to the said Commission in matters relating to Electronic Voting Machines (EVMs) and Voter Verified Paper Trail Units (VVPATs) which have a bearing on the queries contained in the instant RTI application pending before the Commission in the current appeal proceedings.

That the appellant sought leave of the bench to submit a relevant report of the TEC in support of his contention that the instant RTI application is aimed at obtaining information to ascertain the role and duties of and performance of such duties by the public authority while carrying out third party audits of the software/firmware embedded in the EVMs and VVPATs in compliance with the recommendations of the TEC.

He further submitted that he received reports of the TEC submitted to the Election Commission of India of the years 1990, 2006, 2007 and 2013 under the RTI Act, in April 2019, prior to the submission of the RTI application to the Respondent public authority which forms the subject matter of the current appeal proceedings.

He further placed before the bench, the 2013 TEC report obtained from the Election Commission of India along with scanned copies of the RTI application, the fee intimation letter issued by the CPIO of the Election Commission, the proof of fee payment and the covering note sent by the CPIO while supplying

the information under the RTI Act as evidence of the fact that the said TEC report has been obtained by this appellant legitimately following due procedures under the RTI Act.

He further stated that the observations and recommendations of the TEC in its 2013 report with regard to the necessity of ensuring transparency of the EVM Code to allay fears of possibility of tampering raised repeatedly by political parties.

The relevant paragraphs from pages 4-5 of the 2013 TEC report (corresponding to pages 15-16 of the current PDF file) were mentioned by the appellant in his submissions as follows:

"v. Transparency of EVM Code: Facility to be provided in EVM units so that Code in the EVM units can be read out by an approved external unit and the code so read may be compared with corresponding reference code to show that the code is the same as that in reference units. The scope of comparison is only to ensure that there is no Trojan or other malware for EVMs in use. Election Commission may consider the format (binary or nex any other) in which the reference code is made available and modalities of preserving the reference code include code revisions. This provision being introduced for the first time, may be done in a phased manner with due caution. Thus the Commission may initially consider undertaking this exercise in a limited scale as per mechanisms they deem fit and availability of logistics at FLC stage, and/or third party. Thereafter having gained the experience on modalities and logistics needed, and the time that will be required to set up the logistics on larger scale, later extend access to this facility.

xiii. Third party checks: While BEL and ECIL have been using robust quality Assurance practices, the Election Commission may consider introducing gradually, third party check of EVM units at all and any stage from manufacture to final use, to ensure robustness and correct functioning of EVMs, the scope of tests and their modalities can be reviewed and revised time to time. This will put to rest any concern of "insider attack" on EVMs."

That the public interest underpinning the instant RTI application, which forms the subject matter of the current appeal proceeding, is to ascertain the role of

the respondent public authority in complying with the aforementioned recommendations of the TEC. The role of the respondent public authority with regard to third party audit of the software/firmware has already been confirmed by ECIL- one of the manufacturers of the EVMs and VVPATs in response to another RTI application filed by the applicant, a copy of which was annexed to the instant RTI application which forms the subject matter of the current proceedings.

The appellant further submitted that the respondent public authority's claim of harm likely be caused by the disclosure of the information requested in the instant RTI application to the competitive position of third parties is not tenable simply because only two companies namely, BEL and ECIL have been given the exclusive rights to manufacture and supply EVMs and VVPATs to the Election Commission of India for use during the elections to Parliament and State Legislatures. This virtually creates a situation of duopoly for the said two companies as there is no other competitor who can bid for supply of EVMs and VVPATs to the Election Commission of India. Further, the appellant also submitted that both BEL and ECIL are not in competition with each other as the Election Commission of India divides up its demand for supply of EVMs and VVPATs between the two companies based on their capacity to manufacture and deliver the said machines according to the timelines determined by the Election Commission.

In respect of the RTI application, the appellant submitted that information on points no. 1 & 2 are fit to be disclosed. In respect of points no. 4, 5, 9 and 10 he argued that the information sought are totally statistical and therefore, by no stretch of imagination it can be denied. In respect of points no. 6 and 7 he submitted that he will agree with the CIC's decision.

He drew attention of the Commission to para 10.1.6 of his second appeal in which he had relied on a decision of the previous bench of this Commission. In the matter of Sunil Kishore Ahya vs CPIO, Election Commission of India, CPIO ECIL and CPIO BEL, vide case no. CIC/ECOMM/A/2017/171660 decision dated 11.09.2018. The extract of the relevant para of the decision is as follows:

" Since, the issues raised by the appellant are in the interest of creation of public trust in the voting system through EVMs, the CPIO is advised to place the matter before the competent authority for their perusal and necessary actions, if any."

He relied on the above judgment to support his argument regarding larger public interest. He also submitted that the FAA in his order failed to provide a signed copy of his order.

The CPIO submitted that the overall intent is that all STQC Lab/Centres are third party independent testing/Audit organisations and provide services by levying charges against contractual requests. Hence, the ownership of details of service provided along with all artifacts generated out of this activity is with the requestor of the service. Due to the contractual terms, information is not shared. Therefore, he submits that EVM and VVPAT testing information cannot be shared with the appellant as the information sought belongs to the requestor of the service and is of "commercial confidence", the disclosure of which would harm the competitive position of the requestor. Thus the information sought by the appellant at Sl. No. 8.2(a,b,c,d,e,f,g,h,i,j) is denied as per clause 8(1)(d) of the RTI Act.

Furthermore, during the hearing, on a query to the respondent as to why for point no. 1, the names and designations cannot be given, he submitted that they can be influenced by interested parties and therefore it is prejudicial to the interest of the nation to disclose such information under the RTI Act.

Observations:

Based on a perusal of the record, it was noted that the CPIO vide letter dated 10.07.2019 had denied the information sought u/s 8(1)(d) of the RTI Act on all the points. Further, the appellant had filed a first appeal on 12.07.2019 being dissatisfied with the CPIO's reply. The FAA vide order dated 22.08.2019 concurred with the CPIO's reply and held that the same is justified. The Commission observed that Sec 8(1)(d) was not amplified or justified by the respondents in their reply and the same was therefore asked during the hearing. The involvement of third party independent testing/Audit organisations and providing of services by levying charges against contractual requests seems to be an issue of commercial confidence. The appellant rightly pointed out that only ECIL and BEL are the two organisations involved in the manufacturing and supply of EVMs and VVPATs but that does not automatically mean that the testing also would be done only by them. The CPIO had categorically stated in his written submissions that the independent testing/Audit organisations provide services to them in compliance with

contractual terms and conditions. Further, the broader picture is that any kind of speculation would be prejudicial to the interest of the nation and therefore, a suitable point-wise reply in respect of each point should be given by the CPIO in the letter and spirit of the Act. The appellant's plea that the information was sought to ascertain the role and duties of and the performance of such duties by the public authority while carrying out third party audits of the software/firmware embedded in the EVMs and VVPATs in compliance with the recommendations of the TEC is irrelevant and any citizen of India in his exercise of right to information can seek information.

Further, the FAA should be careful in future and even if the same is an online order, the name and designation of the FAA should be invariably mentioned.

The Commission finds the appellant's plea in respect of points no. 4,5,9 and 10 justified as statistical information can be given and there is no exemption applicable in disclosing the numbers. As far as point no. 1 is concerned, the names and designations need not be disclosed, being personal in nature and the same may influence the process of testing of EVMs and VVPATs. Therefore, the same is considered to be information of commercial confidence of the independent testing/audit organisations and hence exempted u/s 8(1)(d) of the RTI Act.

As far as point no. 2 is concerned, the dates are eminently disclosable and can be given to the appellant. In respect of point no. 3, the geographical locations without specifying further details can be given. During the hearing, the CPIO stated that the testing was done at various locations including at BEL & ECIL. The specific locations can therefore be provided. As far as points no. 6,7 and 8 are concerned, the CPIO shall revisit the records vis-a-vis the RTI application and provide suitable replies amplifying the exemption clause applicability for those points with full justification where information is being denied and also shall examine the possibility of providing partial information on those points, where it is not covered under any exemption clause. In those circumstances, the exempted portion can be masked by following the provisions of Sec. 10 of severability.

Decision:

In view of the above observations, the CPIO shall comply with the Commission's directions as given above, within 10 days from the date of its receipt under intimation to the Commission.

The appeal is disposed of accordingly.

Vanaja N. Sarna (वनजा एन. सरना)

Information Commissioner (सूचना आयुक्त)

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(अभिप्रमाणित सत्यापितप्रति)

A.K. Assija (ऐ.के. असीजा)

Dy. Registrar (उप-पंजीयक)

011-26182594 /

दिनांक/ Date

केंद्रीय सूचना आयोग
CENTRAL INFORMATION COMMISSION
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मुनिरका, नई दिल्ली- 110067
Munirka, New Delhi-110067

Decision no.: CIC/OTCLC/C/2020/669711/03585
File no.:CIC/OTCLC/C/2020/669711

In the matter of:
Venkatesh Nayak

... Complainant

VS

Central Public Information Officer,
Office of the Chief Labour Commissioner (CLC),
Ministry of Labour and Employment
Shram Shakti Bhawan,
Rafi Marg, New Delhi - 110001

...Respondent

RTI application filed on	:	21/04/2020
CPIO replied on	:	05/05/2020
First appeal filed on	:	Not on record
First Appellate Authority order	:	Not on record
Complaint filed on	:	05/05/2020
Date of Hearing	:	27/05/2020
Date of Decision	:	27/05/2020

NOTE: The Commission upon considering the importance of the issue related to the stranded migrant workers as well the complainant's request for early hearing has provided an opportunity of out of turn hearing to him.

The following were present:

Complainant: Heard over phone

Respondent: Shri Ravi, Deputy Director & CPIO, heard over phone

Information Sought:

The Complainant has sought the following information from CLC with reference to the D.O. letter dated 08/04/2020 issued by the Chief Labour Commissioner to all Regional Heads regarding urgent collection of data about migrant workers, who are stranded and placed in various temporary

shelters/relief camps arranged by the (i) State Government authorities; (ii) employers in SITU/at workplace itself and (iii) where they are generally clustered in some localities :

1. State-wise names of districts from which data about the stranded migrant workers has been received.
2. District wise numbers of male and female migrant workers belonging to each of the three categories mentioned above as reported from each state.
3. And other related information.

Grounds for Complaint

The CPIO has not provided the satisfactory reply to the complainant.

Submissions made by Complainant and Respondent during Hearing:

The complainant submitted that he is not satisfied with the reply of the CPIO as he is not seeking any personal information about any particular stranded migrant worker. Instead he merely sought State-wise and district-wise statistics of compliance with the D.O. letter of the Chief Labour Commissioner and statistical information about migrant workers identified during the said enumeration exercise, along with their gender-wise and occupation-wise breakups. Furthermore, extremely distressed by stories of the pain and sufferings of stranded migrant workers circulated widely by the print, electronic and digital mass media, this Complainant initiated this RTI intervention to urge the Respondent Public Authority to place statistical data in public domain through an official website. He did not seek copies of any records for himself. Instead he only sought intimation of the URL of the webpage where the statistics are posted on an official website. He further submitted that all the Regional Heads to whom the Respondent Public Authority addressed the D.O. letter of 08.04.2020 are subject by law to its administrative jurisdiction. There is no reason why the Regional Heads would not have complied with the instructions of the Respondent Public Authority to complete the enumeration exercise and send the data within the time period specified in the said D.O. Therefore the reply of the CPIO is difficult to believe and highly unacceptable. There is no reason why this Respondent Public Authority ought not to have such information in their custody when such information has been specifically called for through the D.O. The CPIO does not

appear to have paid attention to these matters while uploading his reply on the RTI Online Facility.

In addition to the above submissions, during the hearing the appellant informed the Commission that India is a founder member of the International Labour Organisation (ILO) established in 1919 and currently part of the United Nations Organisation. India has ratified several International Conventions that govern the rights of workers. A complete list of the ILO Conventions that India ratified is available on the website of the Ministry of Labour and Employment which has jurisdiction over the respondent Public Authority. In April 1992, India ratified the Labour Statistics Convention, 1985 and as per the footnote appended to the said list of ILO Conventions, the Union Ministry of Labour and Employment has indicated that India has ratified the Labour Statistics Convention, 1985 to the extent of Article 8 of Part II. Part II of the said Convention pertains to the Basic Labour Statistics that a country that ratifies the said Convention is duty bound to collect and publish, in addition to furnishing the same to ILO. Article 8 of the said Convention is reproduced below:

"Article 8 Statistics of the structure and distribution of the economically active population shall be compiled in such a way as to be representative of the country as a whole, for detailed analysis and to serve as benchmark data.";

He also brought to the notice of the Commission that even before the respondent authority issued the D.O. letter dated 08.04.2020, its parent Ministry, namely the Union Ministry of Labour and Employment being the nodal Ministry for the purpose of implementing the said ILO Convention, was under an international obligation to collect data about all categories of workers across India and ensure that such data is available in public domain. He submitted that the Respondent Authority's D.O. dated 08.04. 2020 is in the nature of action that it would have had to perform under the said ILO Convention even under normal circumstances. The duty to collect data about migrant workers across India arises not solely from the said D.O. but first and foremost from the international obligation as a member of ILO who has ratified the said International Convention. Therefore, the Respondent Authority cannot shy away from its responsibility of collecting information about migrant workers and making the same publicly accessible even during normal times.

He further submitted that according to several news reports of a press briefing held on 23.05.2020 by Ms. Punya Salila Srivastava, Joint Secretary, Union Ministry of Home Affairs (MHA), there are four crore migrant labourers according to the 2011 Census data which was made public only in July 2019, i.e., almost nine years later after they had been collected. It is reasonable to expect that the number of migrant workers across the country would have only grown much higher during the intervening period, given the severe agrarian distress visible across the country over the last few years. According to the data furnished at the press briefing held on 23.05.2020 by the senior officer of the MHA, only 75 lakh migrant workers are said to have returned home on special Shramik trains run by the Indian Railways and buses organised by the State Governments as on that date. To substantiate his submission, he annexed a copy of two news reports of the press briefing where this data was presented by the said officer. In other words, going by the figures collected during the 2011 Census, at least 3.25 crore migrant workers might be continuing to live in States other than their domicile States, even today. Even this figure might be an underestimation, given the fact that the Census database from which the senior officer of MHA has quoted figures about migrant workers is of 2011 vintage. Therefore, he humbly believes that the findings of the data enumeration exercise are all the more important for developing policy prescriptions and making arrangements to alleviate the suffering of migrant workers who continue to be stranded in various parts of the country.

He concluded submitting that given the aforementioned facts which are already available in public domain, there is no reason why the Respondent Authority cannot plan for the publication of data about migrant workers collected pursuant to the D.O. dated 08.04. 2020, in a timely and if required even in a piece-meal manner. Placing such information in public domain can deepen public confidence on the intent and ability of the concerned authorities including the Respondent Public Authority to take resolute action to alleviate the enormous suffering that migrant workers as a category are facing due to the lockdown imposed to contain the spread of COVID-19 epidemic. He believes that suo moto and time bound public disclosure of data about migrant workers is of utmost importance for ensuring the well-being of this key segment of our society and economy.

The CPIO submitted that an appropriate reply was given to the complainant on 05.05.2020. He also stated that as he is working in a subordinate office, he is not aware whether any data has been received from different Regional Heads in compliance with the D.O. issued by the Chief Labour Commissioner on 08.04.2020 and hence a reply to that effect was given to the complainant.

Observations:

Having heard the submissions of both the parties and after perusal of the relevant documents, it is established beyond doubt that the CPIO has handled the RTI application in a very callous and casual manner. The complainant through his RTI application has raised a very important issue related to the stranded migrant workers, seeking information in relation to a D.O. letter dated 08.04.2020 issued by the Chief Labour Commissioner to all Regional Heads requiring them to enumerate all migrant workers stranded at different places around the country under the most trying of circumstances due to the enforcement of the strict lockdown imposed by the government to prevent the spread of the COVID-19 epidemic. According to the said D.O., the Regional heads were required to send detailed information about migrant workers stranded in relief camps or shelters organised by governments or at the workplace of their employers or generally clustered in any district. The complainant wanted to know the State-wise names of districts from which data about the stranded migrant workers has been received, the district-wise numbers of male and female migrant workers belonging to each of the three categories mentioned above as reported from each State, the occupation-wise number of male and female migrant workers reported from each State as per the List of Occupations mentioned in Annexure-I of the said D.O., the Sector-wise number of male and female migrant workers reported from each State as per the List of Sectors mentioned in Annexure-II of the said D.O., and the Native State-wise cumulative figures for male and female migrant workers according to each Occupation and Sector mentioned in Annexure-I and Annexure-II, respectively of the said D.O., reported from each State. The CPIO in his reply dated 05.05.2020 has simply stated that as per the Stat Section is concerned, no such details are available. The Commission is not convinced with the fact that when a D.O. letter is issued by the Chief Labour Commissioner during the time when the whole country is under the grip of a pandemic which has seriously affected the migrant workers and the D.O. letter was sent to all Regional heads to collect the data related to migrant workers, then how is it

possible that no action, whatsoever, was taken on this D.O. To some extent, while it may be possible that the desired information was not available with the answering CPIO, but having regard to the sensitive & important nature of the information sought by the Complainant, it was incumbent upon the CPIO either to transfer the RTI application u/s 6(3) of the RTI Act to different Regional heads who were to act upon the D.O. dated 08.04.2020 or to seek assistance from them u/s 5(4) of the RTI Act so that whatever information was supplied to the CPIO could have been forwarded to the Complainant and that may even have been part information at that point of time as the data was to be collected from across the whole country. But to the utmost surprise of the Commission, the CPIO has given a cursory, flimsy and inappropriate reply to the Complainant while totally ignoring the seriousness of the issue raised by the Complainant.

It is pertinent to mention here that the Supreme Court has suo-moto taken cognizance of this important issue of migrant workers in writ petition no. 06/2020 in the matter of : Problems And Miseries Of Migrant Labourers and has passed an order on 26.05.2020 while making the following observations:

"We take suo-motu cognizance of problems and miseries of migrant workers who had been stranded in different parts of the country. The newspaper reports and the media reports have been continuously showing the unfortunate and miserable conditions of migrant labourers walking on-foot and cycles from long distances. They have also been complaining of not being provided food and water by the administration at places where they were stranded or in the way i.e. highways from which they proceed on foot, cycles or other modes of transport. In the present situation of lockdown in the entire country, this Section of society needs succor and help by the concerned Governments especially steps need to be taken by the Government of India, State Governments/Union Territories in this difficult situation to extend helping hand to these migrant labourers.

This court has also received several letters and representations from different sections of the society highlighting the problem of migrant labourers. The crises of migrant labourers is even continuing today with large sections still stranded on roads, highways, railway stations and state borders. The adequate transport arrangement, food and shelters are immediately to be provided by the Centre and State Government free of cost.

Although the Government of India and the State Governments have taken measures yet there have been inadequacies and certain lapses. We are of the view that effective concentrated efforts are required to redeem the situation. We, thus, issue notice to the Union of India and all States/Union Territories to submit their responses looking into the urgency of the matter."

On similar lines, the Orissa High Court took up the issue of migrants on 07.05.2020. This decision was, however, stayed by the Supreme Court on 08.05.2020. This was followed by the Gujarat High Court, which took suo moto notice of newspaper reports on 11.05 2020. These were followed by the Andhra Pradesh High Court and the Madras High Court, both on 15.05.2020 asked some very relevant and searching questions of the state as well as the Central governments. The Madras High Court, for example, has asked the Union of India, represented by its Secretary, Ministry of Home Affairs, New Delhi and the government of Tamil Nadu, represented by its Chief Secretary, Chennai, to respond to the following questions by 22.05 2020:

- "1. Whether any data is being maintained by the Government of India regarding the details of migrant workers working in each State/Union Territories in India?*
- 2. If so, what is the number of migrant workers in each State/Union Territories in India and the details regarding their nativity?*
- 3. What is the number of migrant workers stranded in each State/Union Territories in India as on today?*
- 4. And other points as well.*

Recently, the Madras High Court also issued an order in a habeas corpus petition asking the government to produce 400 Tamil workers stuck in Maharashtra, a bench of Justices N Kirubakaran and R Hemalatha said:

"One cannot control his/her tears after seeing the pathetic condition of migrant labourers shown in the media for the past one month. It is nothing but a human tragedy.

It is very unfortunate that those persons were neglected by all the authorities. The heart breaking stories are reported in the print as well as visual media that millions of workers were compelled to start walking to their native States with their little children carrying all their belongings over their head, surviving on the

food provided by good Samaritans, as no steps were taken by the Governments to help those migrant workers.

..it is a pity to see the migrant labourers walking for days together to reach their native places and in the process, some of them had lost their lives due to accidents. The Government authorities of all the States should have extended their human services to those migrant labourers."

The Andhra Pradesh High Court has also observed:

"This court notices that the labour who have left their ancestral homes and villages and moved to the cities for better livelihood to ensure that all of us live in comfort are on the roads today.

If at this stage this court does not react and pass these orders, this court would be failing in its role as a protector and alleviator of suffering."

The purpose of putting every relevant observation passed by the Hon'ble Supreme Court and different High Courts on record is to highlight the fact that on such an important issue the CPIO has given a cryptic one liner reply almost as if its importance is not known to the CPIO. The Commission is pained to see such a callous and non-serious attitude of the CPIO while handling the RTI application, more so, during such times of pandemic when every citizen is worried about the frayed lives of the country's poor and has precipitated an unprecedented humanitarian crisis for migrant workers.

The Commission records its severe admonition against the CPIO for such negligent handling of the RTI application concerning an issue of such wide implications. The CPIO appears to be completely unaware of the provisions of the RTI Act as had he been aware, he could have transferred the same to the appropriate authority in the Chief Labour Commissioner's office to obtain the collated information from them. He should note that such poor handling shows complete laxity towards the implementation of the RTI Act which was enacted to promote transparency and accountability in the country and in case such a lapse is repeated in future, the Commission will be constrained to initiate penal action against him.

Having said so, the main issue before the Commission is to consider whether the information sought by the Complainant should have been uploaded on the website of the Respondent Authority or not as this is the relief sought by the complainant. At this point, it is pertinent to quote verbatim the instruction given by the Chief Labour Commissioner to all the regional heads. The main paras are extracted below for ready reference:

"As you all are well aware that huge number of migrant workers are impacted due to the lock down in view of spread of COVID-19. Number of migrant workers are stranded and placed in various temporary shelters/relief camps arranged by state Government authorities, employers at work place itself and also there are some localities where migrant workers are generally clustered.

In view of above a comprehensive data in respect of the migrant workers are urgently required within three days. The details collected should be in three different categories that is mentioned as below .-

(A) Relief Camps/Shette (District Wise)

(B) Employers Whose Labour is IN-SITU at work place

(C) Local where Migrant Workers are generally Clustered (other than, A, and B')

The data is to be collected by the District Administrative and the manner in which the data is to be collected has been mentioned in the enclosed performa along with the two number of Annexure -I and Annexure - II that is regarding list of occupation and list-of sectors .

It is reiterated that data as mentioned above is urgently required so all Deputy CLC(c)/Regional Labour commissioner(c)/Assistant Labour commissioner(c) as per the list enclosed have been nominated as nodal officers. They are required to constantly being in coordination with the State Government and District Administration Authorities for obtaining the details of migrant workers in relief camps arranged by them (district wise) and also with the employers who have arranged their own camps at work place itself and also the other localities where migrant workers are stranded and clustered.

You are also advised to with take immediate action in above direction and may also depute other officers/staff under you for the above task. You may also take assistance from local EPFO and ESIC officials."

The Commission observed that the above mentioned D.O. letter dated 08.04.2020 which has been referred to by the complainant was issued keeping in mind the urgent necessity of providing relief to almost 3 crore population of

our country and was to be followed in letter and spirit. The urgency of the matter can also be established from the fact that the data was to be submitted within 03 days itself from the date of the issue of the letter. This issue has gained more importance after the issue of 16 migrants being run over by a goods train while they were sleeping on the railway tracks during their journey back to their respective hometowns. As a matter of fact, the number of people who are moving is huge and this becomes a matter of concern for every single individual.

Undoubtedly, the need of the hour is to get concrete data regarding the number of stranded migrant workers across the country so that necessary measures may be taken by the concerned State Governments/ UTs to provide some relief to them.

During the hearing, the appellant also brought to the notice of the Commission that in April 1992, India ratified the Labour Statistics Convention, 1985 and as per the footnote appended to the said list of ILO Conventions, the Union Ministry of Labour and Employment has indicated that India has ratified the Labour Statistics Convention, 1985 to the extent of Article 8 of Part II. The Commission while verifying the authenticity of this submission found that India has ratified Article 8 of Part II of the Labour Statistics Convention, 1985 on 01.04.1992 which is still in force and for the purpose of implementing the said ILO Convention, India is under an international obligation to collect data about all categories of workers across India even under normal circumstances. This makes it clear that the duty to collect data about migrant workers across India arises not solely from the said D.O. letter but first and foremost from the international obligation as a member of ILO who has ratified the said International Convention. Therefore, the Respondent Authority is under a bounden duty to collect information about migrant workers and make the same publicly accessible even during normal times.

While referring to several news reports of a press briefing by Ms. Punya Salila Srivastava, Joint Secretary, Union Ministry of Home Affairs (MHA), the appellant stated that there are four crore migrant labourers according to the 2011 Census data. According to the data furnished at the press briefing held on 23.05.2020 by the senior officer of the MHA, only 75 lakh migrant workers are said to have returned home on special Shramik trains run by the Indian

Railways and buses organised by the State Governments as on that date. In other words, going by the figures collected during the 2011 Census, at least 3.25 crore migrant workers might be continuing to live in States other than their domicile States, even today and this makes his point even stronger that there is a dire need for developing policy prescriptions and making arrangements to alleviate the suffering of migrant workers who continue to be stranded in various parts of the country.

Keeping in view the submissions of the appellant and the poor response from the respondent, the Commission considers the contentions of the complainant to be well founded, and strongly opines that what is required is to immediately place the data regarding migrant workers on the website of the Respondent Authority. It is pertinent to note that given the uncertainties of the present times, any further delay in disclosing these details or evading the disclosure will only compound the difficulties of either side, the government and that of the unfortunate migrant workers.

Moreover, being a matter of national importance during this pandemic, it is likely that there will be more requests for information on similar lines from the citizens in the immediate future which necessitates expeditious action on the part of the Respondent office to voluntarily disclose as much data as possible so that citizens do not have to file RTI Applications to seek such basic yet significant information. Section 4(2) of RTI Act may be noted in this regard which mandates every public authority to provide as much information suo-moto to the public at regular intervals through various means of communication, including the Internet, so that the public need not resort to the use of RTI Act.

Here, reference may be had to the following observation of the Hon'ble Supreme Court of India in the matter of CBSE and Anr. Vs. Aditya Bandopadhyay and Ors 2011 (8) SCC 497:

"37. The right to information is a cherished right. Information and right to information are intended to be formidable tools in the hands of responsible citizens to fight corruption and to bring in transparency and accountability. The provisions of RTI Act should be enforced strictly and all efforts should be made to bring to light the necessary information under Clause (b) of Section 4(1) of

the Act which relates to securing transparency and accountability in the working of public authorities and in discouraging corruption."

Similarly, the Hon'ble High Court of Delhi in *General Manager Finance Air India Ltd & Anr v. Virender Singh*, LPA No. 205/2012, Decided On: 16.07.2012 regarding the disclosure of information for public interest, held:

"8. The RTI Act, as per its preamble was enacted to enable the citizens to secure access to information under the control of public authorities, in order to promote transparency and accountability in the working of every public authority. An informed citizenry and transparency of information have been spelled out as vital to democracy and to contain corruption and to hold Governments and their instrumentalities accountable to the governed. The said legislation is undoubtedly one of the most significant enactments of independent India and a landmark in governance."

Moreover, the purpose and object of the promulgation of the RTI Act, 2005 was to make the public authorities more transparent and accountable to the public and to provide freedom to every citizen to secure access to information under the control of public authorities, consistent with public interest, in order to promote openness, transparency and accountability in administration and in relation to matters connected therewith or incidental thereto.

The foregoing excerpts lend adequate emphasis on the need for the Respondent office to act in a manner which is favourable to dispensation of justice. Although this bench is conscious of the fact that under Section 18 of the RTI Act, directions for disclosure of information is not warranted, however, keeping in view the extraordinary circumstances that necessitated this complaint, it is prudent to cloak the requirement of the Complainant in the letter and spirit of the RTI Act. In doing so, the Commission invokes section 25(5) of the RTI Act and issues an advisory to the respondent authority to maintain a robust and dynamic website for placing all data related to migrant workers therein as and when it is received from different Regional Heads. At this point, it is necessary for the CPIO to put his best possible efforts to collect this data from different Regional Heads and place the same on their website immediately even if it is done in a piecemeal manner. It is also necessary to

continue to update this data from time to time as additional data is received from various quarters.

Decision:

In view of the above observations, an advisory is issued u/s 25(5) of the RTI Act to the Chief Labour Commissioner, to suo-moto upload maximum data as available with them in relation to the migrant workers stranded in relief camps or shelters organised by governments or at the workplace of their employers or generally clustered in any district and wherever possible cumulative numbers of the migrant workers and the names of the districts from where the data is collected should also be uploaded in compliance with Section 4 of the RTI Act, 2005, having regard to the peculiar circumstances prevalent in the country. The website should be continuously updated as and when additional data on this subject matter is received from time to time. The Chief Labour Commissioner is advised to ensure compliance of this advisory in letter and spirit and to submit a compliance report to the Commission within a period of 01 week from today. The present CPIO is directed to serve a copy of this order on the Chief Labour Commissioner for his immediate and necessary action.

The complaint is disposed of accordingly.

Vanaja N. Sarna (वनजा एन. सरना)

Information Commissioner (सूचनाआयुक्त)

Authenticated true copy

(अभिप्रमाणितसत्यापितप्रति)

A.K. Assija (ऐ.के. असीजा)

Dy. Registrar (उप-पंजीयक)

011-26182594 /

दिनांक/ Date

Copy to:

2.The Chief Labour Commissioner
Ministry of Labour and Employment
Shram Shakti Bhawan,
Rafi Marg, New Delhi - 110001

केंद्रीय सूचना आयोग
CENTRAL INFORMATION COMMISSION
बाबा गंगनाथ मार्ग
Baba Gangnath Marg
मुनिरका, नई दिल्ली – 110067
Munirka, New Delhi-110067

File No.:- CIC/IARMY/A/2019/148191+
13 other files (as per annexure-1)

In the matter of:
Avinash Kumar Saxena

... Appellant

VS

Central Public Information Officer
O/o the Chief Executive Officer
Cantonment Board, Meerut Cantt, Pin – 250 001

...Respondent

Date of Hearing: 16/08/2021
Date of Decision: 16/08/2021

The following were present:

Appellant: Not present

Respondent: Sh Piyush Gautam, CPIO, Sh V K Tyagi, Sanitary Superintendent & CPIO, Sh. Rajesh John, Accountant & CPIO, Smt. Kiran Bala, Revenue Superintendent & CPIO, Sh. Jaypal Singh Tomar/Office Superintendent & CPIO, present over phone

1. File No. CIC/IARMY/A/2019/148191

RTI Application filed on	CPIO replied on	First Appeal filed on	FAA order dated	Second Appeal filed on
13/05/2019	11/06/2019	26/06/2019	20/07/2019	24/09/2019

Information Sought:

The appellant has sought the following information related to the water coolers installed at Meerut Cantt:

1. Provide list containing details of the water coolers and plants for supply of water installed in Meerut Cantt.

2. Provide the list containing the name and addresses of the persons / entities which are engaged in the business of water in Lalkurti, Topkhana, Sadar Bazar, Civil and Bungalow areas
3. Give details of the factories which are manufacturing ice-cream in Meerut Cantt.

2. File No. CIC/IARMY/A/2019/148471

RTI Application filed on	CPIO replied on	First Appeal filed on	FAA Order dated	Second Appeal filed on
25/05/2019	24/06/2019	22/07/2019	16/08/2019	27/09/2019

Information Sought:

The appellant has sought the following information:

1. Provide the details of the grants-in-aid given by Ministry of Defence or DGDE or State Govt. to Cantt Board Meerut from 1st April 2009 to 30th April 2019.
2. Provide project-wise details of the expenditure made out of the said grants.

3. File No. CIC/IARMY/A/2019/149196

RTI Application filed on	CPIO replied on	First Appeal filed on	FAA Order dated	Second Appeal filed on
04/06/2019	01/07/2019	08/07/2019	07/08/2019	07/10/2019

Information Sought:

The appellant has sought the following information related to Mr. Awadhesh Yadav, working as Field Staff and Technical Staff in the engineering department of Cantt Board Meerut:

1. Provide copy of the documents (diploma, degree, educational qualification and experience certificate) available in the file records related to the appointment of Mr. Yadav.
2. Provide details of diploma or degree qualification possessed by Mr. Yadav at the time of joining Cantonment Board. Provide the name of institute/college from where he pursued the course. Also provide copy of the degree/diploma certificate.
3. Provide the details of the officers who were member of the selection committee, which interviewed Mr. Yadav. Also provide the date on which the interview was held.
4. And other related information

4. File No. CIC/IARMY/A/2019/161765

RTI Application filed on	CPIO replied on	First Appeal filed on	FAA order dated	Second Appeal filed on
22/06/2019	18/07/2019	08/08/2019	04/09/2019	02/12/2019

Information Sought:

The appellant has sought the following information in respect of the hoardings, flex boards, uni-polls, etc. Installed in the Meerut Cantt:

1. Provide the details of contractor to whom the contract for the above stated works has been awarded. Also provide the duration of the contract and a copy of the contract executed with the contractor.
2. Provide the terms and conditions of the contract pertaining to installation of hoardings, flex boards, uni-polls, etc.
3. Provide a copy of the contract entered into between contractor and Cantt. Board Meerut.
4. And other related information

5. File No. CIC/IARMY/A/2019/156179

RTI Application filed on	CPIO replied on	First Appeal filed on	FAA order dated	Second Appeal filed on
12/06/2019	17/07/2019	01/08/2019	Not on Record	13/11/2019

Information Sought:

The appellant has sought the following information pertaining to the Board meeting held on 29/05/2019:

1. Provide details of the 14 cases of mutation which had been placed for consideration at the above said Board meeting.
2. Provide a copy of Minutes of the above said Board meeting.

6. File No. CIC/IARMY/A/2019/161766

RTI Application filed on	CPIO replied on	First Appeal filed on	FAA order dated	Second Appeal filed on
22/06/2019	18/07/2019	09/08/2019	04/09/2019	04/12/2019

Information Sought:

The appellant has sought the following information:

1. Provide details of the contractors to whom parking contracts have been awarded. Provide a copy of each of the contracts.

2. Provide terms and conditions of the parking contract.
3. Provide copy of the contract executed between Cantonment Board and the contractor.
4. And other related information.

7. File No. CIC/IARMY/A/2019/149192

RTI Application filed on	CPIO replied on	First Appeal filed on	FAA order dated	Second Appeal filed on
30/05/2019	27/06/2019	05/07/2019	29/07/2019	04/10/2019

Information Sought:

1. How many properties had been sealed under Cantonment Act 2006 in **Civil area** during 13/08/2015 to 12/02/2018 during the tenure of Ex-CEO Mr. Rajiv Srivastava? Provide the list containing property number, name of the owner, his address and survey No. Also provide the copy of the notice issued.
2. How many properties had been sealed under Cantonment Act 2006 in **Bungalow area** during 13/08/2015 to 12/02/2018 during the tenure of Ex-CEO Mr. Rajiv Srivastava? Provide the list containing property number, name of the owner, his address and survey No. Also provide the copy of the notice issued.

8. File No. CIC/IARMY/A/2019/156176

RTI Application filed on	CPIO replied on	First Appeal filed on	FAA order dated	Second Appeal filed on
14/06/2019	10/07/2019	17/07/2019	13/08/2019	15/11/2019

Information Sought:

1. How many properties had been sealed under PPE Act 1971 in **Civil area** during 13/08/2015 to 12/02/2018 during the tenure of Ex-CEO Mr. Rajiv Srivastava? Provide the list containing property number, name of the owner, his address and survey No. Also provide the copy of the notice issued. Provide details of properties which had been de-sealed.
2. How many properties had been sealed under PPE Act 1971 in **Bungalow area** during 13/08/2015 to 12/02/2018 during the tenure of Ex-CEO Mr. Rajiv Srivastava? Provide the list containing property number, name of

the owner, his address and survey No. Also provide the copy of the notice issued. Provide details of properties de-sealed.

9. File No. CIC/IARMY/A/2019/161770

RTI Application filed on	CPIO replied on	First Appeal filed on	FAA order dated	Second Appeal filed on
17/07/2019	26/08/2019	31/08/2019	31/10/2019	17/12/2019

Information Sought:

The appellant has sought the following information:

1. Provide copies of the orders issued by the CEO for stopping the unauthorized construction in the Cantonment area for the period from 01/04/1999 to 30/03/2009.
2. Give details of the court cases (District Courts, High Courts and Supreme Court) where Cantonment Board has lost the cases under PPE Act in respect of properties located at old grant land of Civil Area.

10. File No. CIC/IARMY/A/2019/163290:

RTI Application filed on	CPIO replied on	First Appeal filed on	FAA order dated	Second Appeal filed on
25/05/2019	25/06/2019	24/07/2019	18/09/2019	26/11/2019

Information Sought:

The appellant has sought the following information:

1. Provide copies of the orders issued by the CEO for stopping the unauthorized construction in the Cantonment area for the period from 01/04/1999 to 30/03/2009.
2. Give details of the court cases (District Courts, High Courts and Supreme Court) where Cantonment Board has lost the cases under PPE Act in respect of properties located at old grant land of Civil Area.

11. File No. CIC/IARMY/A/2019/161767

RTI Application filed on	CPIO replied on	First Appeal filed on	FAA order dated	Second Appeal filed on
24/06/2019	17/07/2019	13/08/2019	21/09/2019	14/12/2019

Information Sought:

The appellant has sought the following information:

1. Provide details of amount incurred on the installation of idols/effigy in the park opposite to the office of the Cantonment Board, during the tenure of Mr. Rajiv Srivastava, CEO.
2. Provide the name and designation of the officials who supervised and inspected the work of installation of idols/effigy in the park.
3. Give details of all the places in the Cantonment Board area where idols/effigy have been installed. Provide a copy of the file with regard to the same, containing details of orders issues, amount spent, name of officials who supervised the work, name of the contractor, date of commencement and date of completion of work, etc.
4. And other related information.

12. File No. CIC/IARMY/A/2019/161768

RTI Application filed on	CPIO replied on	First Appeal filed on	FAA order dated	Second Appeal filed on
24/06/2019	17/07/2019	14/08/2019	17/09/2019	15/12/2019

Information Sought:

The appellant has sought the following information:

1. Provide details of the triangular platforms erected on the roads or nearby roads during the period from 01/07/2017 to August, 2017. Give details of the expenditure incurred as also the copy of the approval given for the same.
2. Provide details of the expenditure incurred on erecting triangular platform near Jolly Shopping centre.
3. Provide details of the expenditure incurred on erecting triangular platform near Shudh Namkeen Bhandar.
4. And other related information

13. File No. CIC/IARMY/A/2019/161769

RTI Application filed on	CPIO replied on	First Appeal filed on	FAA order dated	Second Appeal filed on
26/06/2019	25/07/2019	12/08/2019	17/09/2019	16/12/2019

Information Sought:

The appellant has sought the following information with reference to the orders passed by the Hon'ble High Court, Allahabad in the year 2014 and 2016

for taking action against the officials of the Cantonment Board with regard to unauthorized constructions carried out at Bungalow No. 210-B:

1. Provide details of action taken against the officials of the Cantonment Board in compliance of the order issued by the High Court in 2014.
2. Provide the status with regard to the compliance of the order of the High Court passed in the year 2014.
3. Provide details of action taken against the official of the Cantonment Board in compliance of the order issued by the High Court in 2016.
4. And other related information.

14. File No. CIC/IARMY/A/2019/160213:

RTI Application filed on	CPIO replied on	First Appeal filed on	FAA order dated	Second Appeal filed on
20/06/2019	17/07/2019	05/08/2019	17/09/2019	25/11/2019

Information Sought:

The appellant has sought the following information:

1. Provide details of the properties in the **Civil Area** in respect of which orders were issued for stopping the unauthorized construction during the period of Ex-CEO Mr. Rajiv Srivastava from 13/08/2015 to 12/02/2018. Also provide the copies of the notices issued in this regard.
2. Out of the properties mentioned at point 1 above, provide details of the properties in respect of which orders for demolition were issued under Cantonment Act. Also provide copies of the said orders.
3. Provide details of the properties in the **Bungalow Area** in respect of which orders were issued for stopping the unauthorized construction during the period of Ex-CEO Mr. Rajiv Srivastava from 13/08/2015 to 12/02/2018. Also provide the copies of the notices issued in this regard.
4. And other related information.

Grounds for filing Second Appeal

The CPIO did not provide the desired information.

Submissions made by Appellant and Respondent during Hearing:

The appellant was not available on mobile phone despite due service of notice on 20.07.2021 vide speed post acknowledgment no. ED509334883IN. Further, his mobile phone was switched off at the appointed time for audio

conferencing. In view of the same, the Commission decided to dispose of the cases based on the materials available on record.

The CPIOs available during the hearing requested to consider the decision of the same bench of 29.07.2021 in the matter of the same applicant and dismiss the present cases due to it being devoid of merits.

Observations:

At the outset it was noted that the same bench had disposed of the appellant's 12 second appeals on 29.07.2021, in which the information sought was from the same respondent and though different information was sought, but basically they revolved around the same issues. The relevant paras of the decision taken on 29.07.2021 are enumerated below:

*"The Commission finds no flaw in the respondents' replies. The FAA's offer of inspection was in the spirit of the Act and shows the helpful attitude of the Appellate Authority, despite numerous RTI applications filed by the same applicant. It is pertinent to mention here that the appellant's unwillingness to visit the respondent's office for inspection shows his inaction and lack of interest in obtaining information. His allegations of undue pressure by the respondents are premature as he had never actually visited the CPIO's office for inspection. Furthermore, it came to light that there are a few applicants who are in the habit of filing repeated RTI applications asking for similar information from the Meerut Cantonment, which is flooding the Commission also with second appeals of repetitive nature and more or less on the same subject matter, broadly related to illegal construction, eviction, notices of eviction etc. **Therefore, the CPIO Piyush Gautam is hereby directed to send a written statement of the list of such applicants whose second appeals are pending with this bench and which can be disposed of in a clubbed manner reducing the pendency of this bench as well as for quick disposal for the parties too. The CPIO shall submit the list by 15th of August 2021 to the Deputy Registrar of this bench without fail. The CPIO shall also comply with the order of the bench in case no. 160222 within 7 days from the the date of receipt of this order. The appellant is advised to exercise his right to information responsibly and refrain from casting aspersions on the officers without any substantial proof. He is also advised to go for inspection in future wherever it is offered and is justified.**"*

Taking note of the above decision, the Commission also notes that today 14 second appeal cases are again fixed for hearing, in which various information was sought by the appellant as listed above from the same respondent. The Commission had already advised the appellant to exercise his right to

information responsibly. However, his RTI applications being related to the same time period i.e. 2019, was examined by the applicant case-wise and noted that in these 14 cases also, the appellant has basically asked for information relating to various subjects, viz. Water coolers, grants in aid, educational certificates of Awadesh Yadav, Flex boards, mutation, parking contracts, sealing of properties, PPE Act information, stopping unauthorised construction, installation of idols/effigy, triangular platforms, unauthorised construction of Bungalow no. 210-B etc. The earlier 12 second appeals which were already adjudicated were also compared and it was noted that the appellant is asking for all and sundry information from the same respondents and it appears that he is having personal grievance with the respondent and is simply making a mockery of the RTI Act and harassing the public authority.

The Legislative scheme of the RTI Act was never to allow applicants to exercise their right recklessly without any restraint. However, the replies were examined of all the 14 appeals and it was noted that suitable replies were given in all the appeals. Further, it was also noted that the CPIO had offered inspection, wherever information sought was voluminous and the appellant as in previous cases, without any justification failed to avail of the inspection facility.

It is relevant to mention below the Apex Court observations relating to impractical demands of the appellants in the case of *CBSE vs Aditya Bandopadhyay & Ors* on 9 August, 2011, CIVIL APPEAL NO.6454 OF 2011[Arising out of SLP [C] No.7526/2009]

*"37.Indiscriminate and impractical demands or directions under RTI Act for disclosure of all and sundry information (unrelated to transparency and accountability in the functioning of public authorities and eradication of corruption) would be counter-productive as it will adversely affect the efficiency of the administration and result in the executive getting bogged down with the non-productive work of collecting and furnishing information. The Act should not be allowed to be misused or abused, to become a tool to obstruct the national development and integration, or to destroy the peace, tranquility and harmony among its citizens. Nor should it be converted into a tool of oppression or intimidation of honest officials striving to do their duty. **The nation does not want a scenario where 75% of the staff of public authorities spends 75% of their time in collecting and furnishing information to applicants instead of discharging their regular duties. The threat of penalties under the RTI Act and the pressure of the authorities under the RTI Act should not lead to employees of a public authorities prioritising 'information furnishing', at the cost of their normal and regular duties."***

Decision:

Keeping in view the facts on record and the submissions made during the hearing by the CPIOs and the above citation, the Commission grants no relief to the appellant in the matter. From the appellant's unavailability over phone at the appointed time for audio hearing, it is rather apparent that his only intention was to harass the public authority as well as to waste the time and resources of the Commission.

In view of the foregoing and the decision of the Commission in 12 appeals decided on 27.07.2021 referred to above, these appeals are accordingly dismissed.

Vanaja N. Sarna (वनजा एन. सरना)

Information Commissioner (सूचना आयुक्त)

Authenticated true copy

(अभिप्रमाणित सत्यापित प्रति)

A.K. Assija (ऐ.के. असीजा)

Dy. Registrar (उप-पंजीयक)

011- 26182594 /

दिनांक / Date

Annexure - 1

Date of hearing : 16/08/2021	
S No.	File Number
1.	CIC/IARMY/A/2019/148191
2.	CIC/IARMY/A/2019/148471
3.	CIC/IARMY/A/2019/149196
4.	CIC/IARMY/A/2019/161765
5.	CIC/IARMY/A/2019/156179
6.	CIC/IARMY/A/2019/161766
7.	CIC/IARMY/A/2019/149192
8.	CIC/IARMY/A/2019/156176
9.	CIC/IARMY/A/2019/161770
10.	CIC/IARMY/A/2019/163290
11.	CIC/IARMY/A/2019/161767
12.	CIC/IARMY/A/2019/161768
13.	CIC/IARMY/A/2019/161769
14.	CIC/IARMY/A/2019/160213

केंद्रीय सूचना आयोग
CENTRAL INFORMATION COMMISSION
बाबा गंगनाथ मार्ग
Baba Gangnath Marg
मुनिरका, नई दिल्ली - 110067
Munirka, New Delhi-110067

File No. CIC/IARMY/A/2020/137326
+ other 43 files as per Annexure

In the matter of:
Sushil Gandhi

...Appellant

VS

Central Public Information Officer
Cantonment Board (CB),
Meerut, UP-250001

...Respondent

Date of Decision	:	20/10/2021
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Information Sought:

1. CIC/IARMY/A/2020/137326:-

File No.	RTI Application dated	CPIO Reply dated	First Appeal filed on	FAA's Order dated	Second Appeal dated
137326	19/12/2019	18/01/2020	11/02/2020	26/03/2020	22/11/2020

The appellant has sought the following information with regard to the notices issued / cases filed pertaining to the properties located in the Civil Area and Bungalow Area during the period from **April 2015 to March 2016** by the then CEO:

1. Provide copies of the Order Sheet, Order, Notice, Field Report, etc. in respect of the properties located in the Civil Area.
2. Provide details of properties of Civil Area in respect of which notices were issued but Orders were not issued. Also provide copies of all the documents in the related files.
3. And other related information.

2. CIC/IARMY/A/2020/137325:-

File No.	RTI Application dated	CPIO Reply dated	First Appeal filed on	FAA's Order dated	Second Appeal dated
137325	18/12/2019	18/01/2020	07/02/2020	26/03/2020	20/11/2020

The appellant has sought the following information with regard to the notices issued / cases filed pertaining to the properties located in the Civil Area and Bungalow Area during the period from **April 2016 to March 2017** by the then CEO:

1. Provide copies of the Order Sheet, Order, Notice, Field Report, etc. in respect of the properties located in the Civil Area.
2. Provide details of properties of Civil Area in respect of which notices were issued but Orders were not issued. Also provide copies of all the documents in the related files.
3. And other related information.

3. CIC/IARMY/A/2020/137247:-

File No.	RTI Application dated	CPIO Reply dated	First Appeal filed on	FAA's Order dated	Second Appeal dated
137247	17/01/2020	17/02/2020	12/03/2020	26/03/2020	20/10/2020

The appellant has sought the following information with regard to the notices issued / cases filed pertaining to the properties located in the Civil Area and Bungalow Area during the period from **April 2011 to March 2012** by the then CEO:

1. Provide copies of the Order Sheet, Order, Notice, Field Report, etc. in respect of the properties located in the Civil Area.
2. Provide details of properties of Civil Area in respect of which notices were issued but Orders were not issued. Also provide copies of all the documents in the related files.
3. And other related information.

4. CIC/IARMY/A/2020/137246:-

File No.	RTI Application dated	CPIO Reply dated	First Appeal filed on	FAA's Order dated	Second Appeal dated
137246	07/01/2020	07/02/2020	27/02/2020	26/03/2020	18/10/2020

The appellant has sought the following information for the period from **April 2011 to March 2012**:

1. Provide details of notices issued in respect of properties located in the Civil Area, viz. letter no, letter date, name and address of the person to whom issued, survey number, etc.
2. Provide copies of the replies received in response to the notices issued.
3. And other related information.

5. CIC/IARMY/A/2020/137245:-

File No.	RTI Application dated	CPIO Reply dated	First Appeal filed on	FAA's Order dated	Second Appeal dated
137245	16/01/2020	15/02/2020	03/03/2020	26/03/2020	19/10/2020

The appellant has sought the following information with regard to the notices issued / cases filed pertaining to the properties located in the Civil Area and Bungalow Area during the period from **April 2012 to March 2013** by the then CEO:

1. Provide copies of the Order Sheet, Order, Notice, Field Report, etc. in respect of the properties located in the Civil Area.
2. Provide details of properties of Civil Area in respect of which notices were issued but Orders were not issued. Also provide copies of all the documents in the related files.
3. And other related information.

6. CIC/IARMY/A/2020/137244:-

File No.	RTI Application dated	CPIO Reply dated	First Appeal filed on	FAA's Order dated	Second Appeal dated
137244	06/01/2020	05/02/2020	25/02/2020	26/03/2020	17/10/2020

The appellant has sought the following information for the period from **April 2012 to March 2013**:

1. Provide details of notices issued in respect of properties located in the Civil Area, viz. letter no, letter date, name and address of the person to whom issued, survey number, etc.
2. Provide copies of the replies received in response to the notices issued.
3. And other related information.

7. CIC/IARMY/A/2020/137243:-

File No.	RTI Application dated	CPIO Reply dated	First Appeal filed on	FAA's Order dated	Second Appeal dated
137243	26/12/2019	25/01/2020	20/02/2020	26/03/2020	16/10/2020

The appellant has sought the following information with regard to the notices issued / cases filed pertaining to the properties located in the Civil Area and Bungalow Area during the period from **April 2013 to March 2014** by the then CEO:

1. Provide copies of the Order Sheet, Order, Notice, Field Report, etc. in respect of the properties located in the Civil Area.
2. Provide details of properties of Civil Area in respect of which notices were issued but Orders were not issued. Also provide copies of all the documents in the related files.
3. And other related information.

8. CIC/IARMY/A/2020/137242:-

File No.	RTI Application dated	CPIO Reply dated	First Appeal filed on	FAA's Order dated	Second Appeal dated
137242	24/12/2019	22/01/2020	18/02/2020	26/03/2020	15/10/2020

The appellant has sought the following information with regard to the notices issued / cases filed pertaining to the properties located in the Civil Area and Bungalow Area during the period from **April 2014 to March 2015** by the then CEO:

1. Provide copies of the Order Sheet, Order, Notice, Field Report, etc. in respect of the properties located in the Civil Area.
2. Provide details of properties of Civil Area in respect of which notices were issued but Orders were not issued. Also provide copies of all the documents in the related files.
3. And other related information.

9. CIC/IARMY/A/2020/137241:-

File No.	RTI Application dated	CPIO Reply dated	First Appeal filed on	FAA's Order dated	Second Appeal dated
137241	21/12/2019	20/01/2020	15/02/2020	26/03/2020	14/10/2020

The appellant has sought the following information for the period from **April 2013 to March 2014**:

1. Provide details of notices issued in respect of properties located in the Civil Area, viz. letter no, letter date, name and address of the person to whom issued, survey number, etc.
2. Provide copies of the replies received in response to the notices issued.
3. And other related information.

10. CIC/IARMY/A/2020/137240:-

File No.	RTI Application dated	CPIO Reply dated	First Appeal filed on	FAA's Order dated	Second Appeal dated
137240	20/12/2019	20/01/2020	13/02/2020	26/03/2020	12/10/2020

The appellant has sought the following information for the period from **April 2014 to March 2015**:

1. Provide details of notices issued in respect of properties located in the Civil Area, viz. letter no, letter date, name and address of the person to whom issued, survey number, etc.
2. Provide copies of the replies received in response to the notices issued.
3. And other related information.

11. CIC/IARMY/A/2020/134201:-

File No.	RTI Application dated	CPIO Reply dated	First Appeal filed on	FAA's Order dated	Second Appeal dated
134201	04/01/2020	17/02/2020	16/03/2020	22/07/2020	21/10/2020

The appellant has sought the following information:

1. Provide details of meetings of the Cantonment Board held during June, 2019. Also provide copies of the agenda papers and Minutes of the said meetings in Hindi.
2. Provide copies of the field reports, orders issued by the executives, file notings, which were mentioned or submitted along with agenda papers in the meetings of the Cantonment Board held in June, 2019.
3. And other related information.

12. File No. CIC/IARMY/A/2020/134200:

File No.	RTI application filed on	CPIO replied on	First Appeal filed on	FAA's Order on	Second appeal filed on
134200	10/01/2020	29/01/2020	18/03/2020	22/07/2020	22/10/2020

The appellant has sought the following information:

1. Provide copies of the agenda papers in Hindi for the meeting of the Cantonment Board held in July, 2019. Also provide dates of issues of the agenda items.
2. Provide number of documents pertaining to point 1 above.

13. File No. CIC/IARMY/A/2020/134199:

File No.	RTI application filed on	CPIO replied on	First Appeal filed on	FAA's Order on	Second appeal filed on
134199	13/01/2020	17/02/2020	20/03/2020	22/07/2020	23/10/2020

The appellant has sought the following information:

1. Provide details of meetings of the Cantonment Board held during **July, 2019**. Also provide copies of the agenda papers and Minutes of the said meetings in Hindi.
2. Provide copies of the field reports, orders issued by the executives, file notings, which were mentioned or submitted along with agenda papers in the meetings of the Cantonment Board held in June, 2019.
3. And other related information.

14. File No. CIC/IARMY/A/2020/134198:

File No.	RTI application filed on	CPIO replied on	First Appeal filed on	FAA's Order on	Second appeal filed on
134198	04/02/2020	03/03/2020	04/06/2020	22/07/2020	24/10/2020

The appellant has sought the following information:

1. Provide copies of the agenda papers in Hindi for the meeting of the Cantonment Board held in **Sept, 2019**. Also provide dates of issues of the agenda items.
2. Provide number of documents pertaining to point 1 above.

15. File No. CIC/IARMY/A/2020/122087:

File No.	RTI application filed on	CPIO replied on	First Appeal filed on	FAA's Order on	Second appeal filed on
122087	17/12/2019	16/01/2020	05/02/2020	13/03/2020	04/07/2020

The appellant has sought the following information for the period from **April 2015 to March 2016**:

1. Provide details of notices issued in respect of properties located in the Civil Area, viz. letter no, letter date, name and address of the person to whom issued, survey number, etc.
2. Provide copies of the replies received in response to the notices issued.
3. And other related information.

16. File No. CIC/IARMY/A/2020/121877:

File No.	RTI application filed on	CPIO replied on	First Appeal filed on	FAA's Order on	Second appeal filed on
121877	16/12/2019	16/01/2020	03/02/2020	13/03/2020	03/07/2020

The appellant has sought the following information for the period from **April 2016 to March 2017**:

1. Provide details of notices issued in respect of properties located in the Civil Area, viz. letter no, letter date, name and address of the person to whom issued, survey number, etc.
2. Provide copies of the replies received in response to the notices issued.
3. And other related information.

17. File No. CIC/IARMY/A/2020/118087:

File No.	RTI application filed on	CPIO replied on	First Appeal filed on	FAA's Order on	Second appeal filed on
118087	27/11/2019	26/12/2019	17/01/2020	16/02/2020	20/06/2020

The appellant has sought the following information for the period from **April 2017 to March 2018**:

1. Provide details of notices issued in respect of properties located in the Civil Area, viz. letter no, letter date, name and address of the person to whom issued, survey number, etc.
2. Provide copies of the replies received in response to the notices issued.
3. And other related information.

18. File No. CIC/IARMY/A/2020/118085:

File No.	RTI application filed on	CPIO replied on	First Appeal filed on	FAA's Order on	Second appeal filed on
118085	12/12/2019	13/01/2020	28/01/2020	13/03/2020	23/06/2020

The appellant has sought the following information with regard to the notices issued / cases filed pertaining to the properties located in the Civil Area and

Bungalow Area during the period from **April 2018 to March 2019** by the then CEO:

1. Provide copies of the Order Sheet, Order, Notice, Field Report, etc. in respect of the properties located in the Civil Area.
2. Provide details of properties of Civil Area in respect of which notices were issued but Orders were not issued. Also provide copies of all the documents in the related files.
3. And other related information.

19. File No. CIC/IARMY/A/2020/105191

RTI Application	CPIO Replied on	First Appeal filed on	FAA's Order dated	Second Appeal dated
22/07/2019	22/08/2019	01/10/2019	31/10/2019	27/01/2020

The appellant has sought the following information:

1. Provide copy of the Annual Administration Report for the period from April 2015 to March 2016 along with file notings.
2. Provide copy of the Annual Administration Report for the period from April 2016 to March 2017 along with file notings.
3. Provide copy of the Annual Administration Report for the period from April 2017 to March 2018 along with file notings.
4. And other related information.

20. File No. CIC/IARMY/A/2020/117844:

File No.	RTI application filed on	CPIO replied on	First Appeal filed on	FAA's Order on	Second appeal filed on
117844	26/11/2019	26/12/2019	16/01/2020	16/02/2020	19/06/2020

The appellant has sought the following information for the period from **April 2018 to March 2019**:

1. Provide details of notices issued in respect of properties located in the Civil Area, viz. letter no, letter date, name and address of the person to whom issued, survey number, etc.
2. Provide copies of the replies received in response to the notices issued.
3. And other related information.

21. File No. CIC/IARMY/A/2020/117794:

File No.	RTI application filed on	CPIO replied on	First Appeal filed on	FAA's Order on	Second appeal filed on
117794	13/12/2019	13/01/2020	31/01/2020	13/03/2020	24/06/2020

The appellant has sought the following information with regard to the notices issued / cases filed pertaining to the properties located in the Civil Area and Bungalow Area during the period from **April 2017 to March 2018** by the then CEO:

1. Provide copies of the Order Sheet, Order, Notice, Field Report, etc. in respect of the properties located in the Civil Area.
2. Provide details of properties of Civil Area in respect of which notices were issued but Orders were not issued. Also provide copies of all the documents in the related files.
3. And other related information.

22. File No. CIC/IARMY/A/2020/116685:

File Nos.	RTI application filed on	CPIO replied on	First Appeal filed on	FAA's Order on	Second appeal filed on
116685	11/10/2019	09/12/2019	07/01/2020	31/01/2020	06/06/2020

The appellant has sought the following information pertaining to the cases pending in the Allahabad High Court and other high courts filed under PPE Act in which Estate Officer/CEO, CB are respondents:

1. Provide details of cases with name of appellant, respondent and name of the court. Also provide date of next hearing.
2. Provide copies of the following documents in respect of the said cases.
(i) Order sheet (ii) order issued (iii) Application (iv) Notice issued (v) Other related documents.
3. And other related information.

23. File No. CIC/IARMY/A/2020/116344

RTI Application	CPIO Replied on	First Appeal filed on	FAA's Order dated	Second Appeal dated
07/10/2019	04/12/2019	03/01/2020	31/01/2020	04/06/2020

The appellant has sought the following information:

1. Provide details of cases filed under PPE Act 1971, which are pending in the District Court, Meerut.
2. Provide copies of the order sheet, order issued and other related documents related to the above said cases.
3. Provide the total number of documents pertaining to 1 and 2 above.
4. Provide the details of the CPIO concerned.

24. File No. CIC/IARMY/A/2020/113959

RTI Application	CPIO Replied on	First Appeal filed on	FAA's Order dated	Second Appeal dated
05/10/2019	01/11/2019 (not on record)	25/11/2019	18/12/2019	20/03/2020

Information Sought:

The appellant has sought the following information in respect of the orders issued in respect of properties located in civil area and bungalow area under PPE Act 1971:-

1. How many order/directions have been passed during 01/01/1994 to 31/12/1996.
2. Provide copies of the order sheet, order issued and other related documents related to the above said cases.
3. Provide copies of the notice issued/cases filed under PPE Act 1971 in respect of the properties located in civil area during the said period where Orders have not been issued. Also provide copies all the documents available in the file.
4. And other related information.

25. File No. CIC/IARMY/A/2020/113978

RTI Application	CPIO Replied on	First Appeal filed on	FAA's Order dated	Second Appeal dated
04/10/2019	01/11/2019	21/11/2019	18/12/2019	16/03/2020

The appellant has sought the following information pertaining to Civil area and Bungalow Area:-

1. How many notices have been issued under PPE Act during 01/01/1994 to 31/12/1996.
2. Provide copies of the notice issued/cases filed under PPE Act 1971 in respect of the properties located in civil area during the said period.
3. And other related information.

26. File No. CIC/IARMY/A/2020/112393

RTI Application	CPIO Replied on	First Appeal filed on	FAA's Order dated	Second Appeal dated
30/09/2019	01/11/2019	21/11/2019	18/12/2019	12/03/2020

The appellant has sought the following information pertaining to Civil area and Bungalow Area:-

1. How many Orders have been passed under PPE Act during 01/01/1997 to 31/12/1999.
2. Provide copies of the documents, viz. order sheet, Order issued, Application, notice, internal office report, technical staff report, etc. Also provide copies of the notings recorded in this regard.
3. And other related information.

27. CIC/IARMY/A/2020/111863:-

File No.	RTI Application dated	CPIO Reply dated	First Appeal filed on	FAA's Order dated	Second Appeal dated
111863	28/09/2019	21/10/2019	15/11/2019	11/12/2019	08/03/2020

The appellant has sought the following information for the period from 01/01/1997 to 21/12/1999 with regard to notices issued under PPE Act for the properties located in Civil Area and Bungalow Area:

1. Provide number of notices issued during the said period.
2. Provide details of notices issued in respect of the properties located in Civil Area.
3. Provide details of notices issued in respect of the properties located in Bungalow Area.
4. And other related information.

28. CIC/IARMY/A/2020/111479:-

File No.	RTI Application dated	CPIO Reply dated	First Appeal filed on	FAA's Order dated	Second Appeal dated
111479	05/09/2019	03/10/2019	30/10/2019	30/11/2019	03/03/2020

The appellant has sought the following information for the period from 01/04/1999 to 31/03/2009:

1. Provide total number of the Orders issued for stopping the illegal / unauthorised constructions during the said period. Also provide copies of the said Orders.
2. Provide details of Orders / directions issued to the Engg. Deptt, Cleaning Deptt and other Deptts for stopping the illegal / unauthorised constructions during the said period. Also provide copies of the said Orders.
3. And other related information.

29. CIC/IARMY/A/2020/110276:-

File No.	RTI Application dated	CPIO Reply dated	First Appeal filed on	FAA's Order dated	Second Appeal dated
110276	07/09/2019	04/10/2019	31/10/2019	29/11/2019	28/02/2020

The Appellant has sought the following information for the period from 01/04/1999 to 31/03/2009:

1. Provide details of Orders / judgements issued by the various Courts during the said period in respect of cases filed under PPE Act.
2. Provide copies of the documents pertaining to the cases where judgements have been passed by the District Courts.
3. And other related information.

30. CIC/IARMY/A/2020/110218:-

File No.	RTI Application dated	CPIO Reply dated	First Appeal filed on	FAA's Order dated	Second Appeal dated
110218	02/09/2019	04/10/2019	24/10/2019	30/11/2019	27/02/2020

The appellant has sought the following information for the period from 01/04/2009 to 31/08/2019:

1. Provide total number of the Orders issued for stopping the illegal / unauthorised constructions during the said period. Also provide copies of the said Orders.
2. Provide details of Orders / directions issued to the Engg. Deptt, Cleaning Deptt and other Deptts for stopping the illegal / unauthorised constructions during the said period. Also provide copies of the said Orders.
3. And other related information.

31. File No. CIC/IARMY/A/2020/109998:

RTI application filed on	CPIO replied on	First Appeal filed on	FAA's Order on	Second appeal filed on
31/07/2019	12/09/2019	05/10/2019	22/11/2019	25/02/2020

The Appellant has sought the following information with regard to installation of mobile tower / COW tower:

1. Provide terms and conditions applicable for the installation of the said towers.
2. Provide details of the contractor who has been given contract for the said work. Also provide copies of the documents submitted by the contractor.
3. And other related information.

32. File No. CIC/IARMY/A/2020/109468

RTI application filed on	CPIO replied on	First Appeal filed on	FAA's Order on	Second appeal filed on
13/09/2019	09/10/2019	06/11/2019	03/12/2019	22/02/2020

The appellant has sought the following information in respect of orders/directions issued under PPE Act 1971 for properties located in Civil Area and Bungalow Area during 01 January 2000 to 31 January 2003:

1. Provide number of orders issued under PPE Act during the said period.
2. Provide copies of the notice issued/cases filed under PPE Act 1971 in respect of the properties located in civil area during the said period. Also provide copies all the documents available in the file.
3. And other related information.

33. File No. CIC/IARMY/A/2020/109177

RTI application filed on	CPIO replied on	First Appeal filed on	FAA's Order on	Second appeal filed on
04/09/2019	01/10/2019	22/10/2019	19/11/2019	20/02/2020

The Appellant has sought the following information for the period from 01/04/2009 to 31/08/2019:

1. Provide details of Orders / judgements issued by the various Courts during the said period in respect of cases filed under PPE Act.
2. Provide copies of the documents pertaining to the cases where judgements have been passed by the District Courts.
3. And other related information.

34. File No. CIC/IARMY/A/2020/108805

RTI Application	CPIO Replied on	First Appeal filed on	FAA's Order dated	Second Appeal dated
09/09/2019	04/10/2019	25/10/2019	19/11/2019	18/02/2020

The appellant has sought the following information in respect of orders/directions issued under PPE Act 1971 for properties located in Civil Area and Bungalow Area during 01 January 2000 to 31 January 2003:

1. Provide number of orders issued under PPE Act during the said period.
2. Provide copies of the notice issued/cases filed under PPE Act 1971 in respect of the properties located in civil area during the said period. Also provide copies all the documents available in the file.
3. And other related information.

35. File No. CIC/IARMY/A/2020/108215

RTI Application	CPIO Replied on	First Appeal filed on	FAA's Order dated	Second Appeal dated
31/08/2019	21/01/2020	08/11/2019	31/12/2019	14/02/2020

The appellant has sought the following information in respect of orders/directions issued under PPE Act 1971 for properties located in Civil Area and Bungalow Area during 01 January 2003 to 31 January 2006:

1. Provide number of orders issued during the said period.
2. Provide copies of the notice issued/cases filed under PPE Act 1971 in respect of the properties located in civil area during the said period. Also provide copies all the documents available in the file.
3. And other related information.

36. File No. CIC/IARMY/A/2020/107447

RTI Application	CPIO Replied on	First Appeal filed on	FAA's Order dated	Second Appeal dated
30/08/2019	25/09/2019	21/10/2019	19/11/2019	10/02/2020

Information Sought:

The appellant has sought the following information in respect of orders/directions issued under PPE Act 1971 for properties located in Civil Area and Bungalow Area during 01 January 2003 to 31 January 2006:

1. Provide number of orders issued during the said period.
2. Provide copies of the notice issued/cases filed under PPE Act 1971 in respect of the properties located in civil area during the said period. Also provide copies all the documents available in the file.
3. And other related information.

37. File No. CIC/IARMY/A/2020/107167

RTI Application	CPIO Replied on	First Appeal filed on	FAA's Order dated	Second Appeal dated
16/08/2019	11/09/2019	15/10/2019	08/11/2019	06/02/2020

The appellant has sought the following information:

1. Provide copies of the cases filed under PPE Act 1971 in respect of the properties located in civil area during the period May 2009 to June 2011. Also provide copies of the order sheet, order issued and other related documents.
2. Provide copies of the notices issued / cases filed under PPE Act 1971 in respect of the properties located in civil area during the period May 2009 to June 2011 but orders have not been passed for the same. Also provide copies all the documents available in the file.
3. Provide copies of the cases filed under PPE Act 1971 in respect of the properties located in bungalow area during the period May 2009 to June 2011. Also provide copies of the order sheet, order issued and other related documents.
4. And other related information.

38. File No. CIC/IARMY/A/2020/106261

RTI Application	CPIO Replied on	First Appeal filed on	FAA's Order dated	Second Appeal dated
14/08/2019	11/09/2019	09/10/2019	08/11/2019	02/02/2020

The appellant has sought the following information:

1. Provide copies of the notices issued under PPE Act 1971 in respect of the properties located in civil area during the period May 2009 to June 2011.
2. Provide copies of the notices issued under PPE Act 1971 in respect of the properties located in bungalow area during the period May 2009 to June 2011.
3. Provide the total number of documents pertaining to 1 and 2 above.
4. Provide the details of the CPIO concerned.

39. File No. CIC/IARMY/A/2020/105538

RTI Application	CPIO Replied on	First Appeal filed on	FAA's Order dated	Second Appeal dated
23/07/2019	22/08/2019	26/08/2019	31/10/2019	31/01/2020

The appellant has sought the following information:

1. Provide a copy of the Annual Audit Report of the Cantonment Board for the period from April 2018 to March 2019.
2. Provide the name, designation and name of the Organisation of the officials who had audited the books of CB for the period from April 2018 to March 2019.
3. Provide the total number of documents pertaining to 1 and 2 above.
4. Provide the details of the CPIO concerned.

40. File No. CIC/IARMY/A/2020/104267

RTI Application	CPIO Replied on	First Appeal filed on	FAA's Order dated	Second Appeal dated
07/08/2019	02/09/2019	28/09/2019	22/10/2019	20/01/2020

The appellant has sought the following information:

1. Provide copies of the cases filed under PPE Act 1971 in respect of the properties located in civil area during the period from June 2013 to July 2015. Also provide copies of the order sheet, order issued and other related documents.
2. Provide copies of the cases filed under PPE Act 1971 in respect of the properties located in civil area during the period June 2013 to July 2015 but orders have not been passed for the same.
3. Provide copies of the cases filed under PPE Act 1971 in respect of the properties located in bungalow during the period June 2013 to July 2015. Also provide copies of the order sheet, order issued and other related documents.
4. And other related information.

41. File No. CIC/IARMY/A/2020/103467

RTI Application	CPIO Replied on	First Appeal filed on	FAA's Order dated	Second Appeal dated
06/08/2019	02/09/2019	26/09/2019	21/10/2019	16/01/2020

The appellant has sought the following information:

1. Provide copies of the notices issued under PPE Act 1971 in respect of the properties located in the civil area during the period from June 2013 to July 2015.
2. Provide copies of the notices issued under PPE Act 1971 in respect of the properties located in bungalow area during the period from June 2013 to July 2015.
3. Provide the total number of documents pertaining to 1 and 2 above.
4. Provide the details of the CPIO concerned.

42. File No. CIC/IARMY/A/2020/103040

RTI Application	CPIO Replied on	First Appeal filed on	FAA's Order dated	Second Appeal dated
27/07/2019	22/08/2019	20/09/2019	18/10/2019	12/01/2020

The appellant has sought the following information:

1. Provide copies of the cases filed under PPE Act 1971 in respect of the properties located in civil area during the period from July 2011 to June 2013. Also provide copies of the order sheet, order issued and other related documents.
2. Provide copies of the cases filed under PPE Act 1971 in respect of the properties located in civil area during the period July 2011 to June 2013 but orders have not been passed for the same.
3. Provide copies of the cases filed under PPE Act 1971 in respect of the properties located in bungalow during the period July 2011 to June 2013. Also provide copies of the order sheet, order issued and other related documents.
4. And other related information.

43. File No. CIC/IARMY/A/2020/102011

RTI Application	CPIO Replied on	First Appeal filed on	FAA's Order dated	Second Appeal dated
25/07/2019	22/08/2019	17/09/2019	15/10/2019	08/01/2020

The appellant has sought the following information with regard to the service tenure of Sh. Purushottam Lal, Estate Officer working in Meerut Cantt.:

1. Provide copies of the notices issued under PPE Act 1971 in respect of the properties located in the civil area during the period from July 2011 to June 2013.
2. Provide copies of the notices issued under PPE Act 1971 in respect of the properties located in bungalow area during the period from July 2011 to June 2013.
3. Provide the total number of documents pertaining to 1 and 2 above.
4. Provide the details of the CPIO concerned.

44. File No. CIC/IARMY/A/2020/101171

RTI Application	CPIO Replied on	First Appeal filed on	FAA's Order dated	Second Appeal dated
11/07/2019	09/08/2019	07/09/2019	27/11/2019	05/01/2020

The appellant has sought the following information:

1. Provide the property owners detail and survey No. in which where illegal constructions were carried out from 11 July 2017 to 10 July 2019 in Meerut Cantt region. Also provide the details of action taken in this regard.
2. Provide the name, property no. and survey No. where illegal construction had been carried out in the bungalow and in the area outside the bungalow.
3. Provide the name, property no. and survey No. where illegal construction were carried out on residential properties.
4. And other related information.

Grounds for filing Second Appeal

The CPIO did not provide the desired information.

Observations:

The Commission has clubbed the instant cases for decision to avoid multiplicity of proceedings in the light of the observations made in certain earlier decisions issued with respect to the Appeals and Complaints of the same Appellant/Complainant on 19.07.2021 and 26.07.2021. At the outset the Commission finds it relevant to mention that there were several appeals of the same appellant adjudicated earlier on the similar subject matter in respect of the same public authority. The same bench on 19.07.2021 decided 12 cases of the same appellant and had given relief wherever possible. The appellant was also advised to exercise his right responsibly. The following is the relevant para of the order dated 19.07.2021:

".....The appellant is also advised to exercise his right to information responsibly as so many RTI applications filed with the same authority around the same time, 11 on all and sundry matters of the respondent does indeed take a toll on the day to day functioning of the organization and drains its resources in terms of manpower and time. The RTI Act should therefore be used judiciously keeping these factors in view by the appellant."

The same bench on 26.07.2021 decided 13 cases of the same appellant and there also he was given relief wherever possible.

The Commission examined all 44 cases of the appellant registered in the year 2020 which were pending for adjudication before this bench. It was noted that basically he is asking for repeated information for different years and the same were also dealt with earlier by this bench. The nature of the information sought is broadly related to properties located in the civil area during the period from 2011 to 2019, details of meetings of the cantonment board, Agenda papers in Hindi, details of the cases pending before the Allahabad High Court and other HCs filed under PPE Act in which Estate officer/CEO, CB are respondents. He also asked for details of cases pending in District courts. Number of notices issued from the year 1994 to 2019, details of notices issued. He asked for information on installation of mobile tower/COW tower, copy of Annual Audit report, service tenure of Shri Purushottam Lal and copies of notices issued during his tenure. Primarily all these subject matters were earlier also dealt with and the appellant without any substantial ground is in the habit of filing repetitive RTI applications.

The Commission took note of the fact that the appellant is unnecessarily wasting the time and resources of the public authority as well as the

Commission. The Hon'ble High Court of Bombay in its decision dated 21.09.2021 in the matter of La Fin Financial Services Private Ltd vs Multi Commodity Exchange of India Ltd while deciding a frivolous application by a plaintiff had observed as under:

*"19. Because this is clearly a vexatious and mischievous proceeding that has unnecessarily wasted the Court's time, I can think of no reason to withhold an order of costs against the Plaintiffs. The quantum of costs cannot be trivial. Amended Section 35 clearly intends the power of ordering costs to be used as a deterrent to prevent parties from making such frivolous applications. It would be meaningless to order a paltry amount. **Plaintiffs such as this one will understand that Courts are not playgrounds, and litigation is not a pastime.***

20. There will, therefore, be an order of costs against the Plaintiff and in favour of the Defendant to be paid within two weeks from today in the amount of Rs.25 lakhs. If not paid in that time, the costs will carry interest at 9% per annum, and the Defendant is entitled to put this order into execution against the Plaintiff for recovery of these costs. "

Following the above dicta, the Commission advises the appellant to take note of the above decision and refrain from filing frivolous, repetitive applications. Further, he may also note that litigation is not a pastime. There are numerous RTI applicants waiting for their turn for disposal of their second appeals/complaints and such filing of a large number of multiple RTI applications deprives genuine information seekers from obtaining timely information, as the system gets clogged with frivolous applications.

The Commission is an implementing body of the RTI Act and is concerned with the growing trend of filing of these kind of personal vendetta applications in the form of RTI applications and which later on increase the number of appeals and complaints before the Commission. There is, therefore, no ground found to conduct hearings of these cases, as similar subject matters have already been heard and adjudicated by the Commission earlier .

The Hon'ble Supreme Court in Central Board of Secondary Education (CBSE) & anr. v. Aditya Bandhopadhyay and others [(2011) 8 SCC 497] held as follows:

'37. The right to information is a cherished right. Information and right to information are intended to be formidable tools in the hands of responsible citizens to fight corruption and to bring in transparency and accountability. The provisions of RTI Act should be enforced strictly and all efforts should be made to bring to light the necessary information under clause (b) of section 4(1) of the Act which relates to securing transparency and accountability in the working of public authorities and in discouraging corruption. But in regard to other information, (that is information other than those enumerated in section 4(1)(b) and (c) of the Act), equal importance and emphasis are given to other public interests (like confidentiality of sensitive information, fidelity and fiduciary relationships, efficient operation of governments, etc.). Indiscriminate and impractical demands or directions under RTI Act for disclosure of all and sundry information (unrelated to transparency and accountability in the functioning of public authorities and eradication of corruption) would be counter-productive as it will adversely affect the efficiency of the administration and result in the executive getting bogged down with the non-productive work of collecting and furnishing information. The Act should not be allowed to be misused or abused, to become a tool to obstruct the national development and integration, or to destroy the peace, tranquility and harmony among its citizens. Nor should it be converted into a tool of oppression or intimidation of honest officials striving to do their duty. The nation does not want a scenario where 75% of the staff of public authorities spends 75% of their time in collecting and furnishing information to applicants instead of discharging their regular duties. The threat of penalties under the RTI Act and the pressure of the authorities under the RTI Act should not lead to employees of a public authorities prioritising 'information furnishing', at the cost of their normal and regular duties.'

Similarly, in *ICAI v. Shaunak H. Satya*, (2011) 8 SCC781 the Hon'ble Supreme Court has held that:-

'39. We however agree that it is necessary to make a distinction in regard to information intended to bring transparency, to improve accountability and to reduce corruption, falling under Sections 4(1)(b) and (c) and other information which may not have a bearing on accountability or reducing corruption. The competent authorities under the RTI Act will have to maintain a proper balance so that while achieving transparency, the demand for information does not reach unmanageable proportions affecting other public interests, which include

efficient operation of public authorities and the Government, preservation of confidentiality of sensitive information and optimum use of limited fiscal resources.'

In the matter of Rajni Maindiratta- Vs Directorate of Education (North West - B) [W.P.(C) No. 7911/2015] the Hon'ble High Court of Delhi has held that:

'8. Though undoubtedly, the reason for seeking the information is not required to be disclosed but when it is found that the process of the law is being abused, the same become relevant. Neither the authorities created under the RTI Act nor the Courts are helpless if witness the provisions of law being abused and owe a duty to immediately put a stop thereto.'

A more lucid rationale can be drawn in the facts of the present matter by referring to the matter of Shail Sahni vs Sanjeev Kumar [W.P.(C) 845/2014] wherein the Hon'ble High Court of Delhi has held that:

*'...In the opinion of this Court, the primary duty of the officials of Ministry of Defence is to protect the sovereignty and integrity of India. **If the limited manpower and resources of the Directorate General, Defence Estates as well as the Cantonment Board are devoted to address such meaningless queries, this Court is of the opinion that the entire office of the Directorate General, Defence Estates Cantonment Board would come to stand still.'***

'This Court is also of the view that misuse of the RTI Act has to be appropriately dealt with, otherwise the public would lose faith and confidence in this "sunshine Act". A beneficent Statute, when made a tool for mischief and abuse must be checked in accordance with law.'

The aforesaid court decisions essentially prove that the misuse of the RTI Act is a well recognized bane and citizens such as the appellant should take note that their right to information is not after all absolute. Keeping this in view, the Commission advises the appellant to make judicious use of the cherished statute of the RTI Act in future.

Decision:

In view of the above discussion and the fact that the above mentioned appeals lack merit, the same are dismissed in limine.

The appeals are dismissed accordingly.

Vanaja N. Sarna (वनजा एन. सरना)
Information Commissioner (सूचना आयुक्त)

Authenticated true copy
(अभिप्रमाणित सत्यापित प्रति)

A.K. Assija (ऐ.के. असीजा)
Dy. Registrar (उप-पंजीयक)
011- 26182594 /
दिनांक / Date

Annexure	
S.No	File Number.
1	CIC/IARMY/A/2020/137326
2	CIC/IARMY/A/2020/137325
3	CIC/IARMY/A/2020/137247
4	CIC/IARMY/A/2020/137246
5	CIC/IARMY/A/2020/137245
6	CIC/IARMY/A/2020/137244
7	CIC/IARMY/A/2020/137243
8	CIC/IARMY/A/2020/137242
9	CIC/IARMY/A/2020/137241
10	CIC/IARMY/A/2020/137240
11	CIC/IARMY/A/2020/134201
12	CIC/IARMY/A/2020/134200
13	CIC/IARMY/A/2020/134199
14	CIC/IARMY/A/2020/134198
15	CIC/IARMY/A/2020/122087
16	CIC/IARMY/A/2020/121877
17	CIC/IARMY/A/2020/118087
18	CIC/IARMY/A/2020/118085
19	CIC/IARMY/A/2020/105191
20	CIC/IARMY/A/2020/117844
21	CIC/IARMY/A/2020/117794
22	CIC/IARMY/A/2020/116685
23	CIC/IARMY/A/2020/116344
24	CIC/IARMY/A/2020/113959
25	CIC/IARMY/A/2020/113978
26	CIC/IARMY/A/2020/112393
27	CIC/IARMY/A/2020/111863
28	CIC/IARMY/A/2020/111479
29	CIC/IARMY/A/2020/110276
30	CIC/IARMY/A/2020/110218
31	CIC/IARMY/A/2020/109998
32	CIC/IARMY/A/2020/109468
33	CIC/IARMY/A/2020/109177
34	CIC/IARMY/A/2020/108805
35	CIC/IARMY/A/2020/108215
36	CIC/IARMY/A/2020/107447
37	CIC/IARMY/A/2020/107167
38	CIC/IARMY/A/2020/106261
39	CIC/IARMY/A/2020/105538
40	CIC/IARMY/A/2020/104267
41	CIC/IARMY/A/2020/103467
42	CIC/IARMY/A/2020/103040
43	CIC/IARMY/A/2020/102011
44	CIC/IARMY/A/2020/101171

केन्द्रीय सूचना आयोग
Central Information Commission
बाबा गंगनाथ मार्ग, मुनिरका
Baba Gangnath Marg, Munirka
नई दिल्ली, New Delhi – 110067

द्वितीय अपील संख्या/Second Appeal No. CIC/CCITJ/A/2019/142221

Smt. Veena

... अपीलकर्ता/Appellant

VERSUS

बनाम

CPIO, O/o. the Income Tax Officer,
Ward No. 2(1), Udaipur

...प्रतिवादी /Respondent

Relevant dates emerging from the appeal:

RTI : 11-03-2019	FA : 30-04-2019	SA : 31-08-2019
CPIO : 11-04-2019	FAO : 20-05-2019	Hearing : 01-06-2021

ORDER

1. The appellant filed an application under the Right to Information Act, 2005 (RTI Act) before the Central Public Information Officer (CPIO), O/o. the Income Tax Officer, Ward No. 2(1), Udaipur, seeking following information:-

“Certified copies of complete ITR files of Mr. Jagdish Chandra Rathore from 2016 onwards.”

2. The CPIO responded on 11-04-2019. The appellant filed the first appeal dated 30-04-2019 which was disposed of by the first appellate authority on 20-05-2019. Thereafter, she filed a second appeal u/Section 19(3) of the RTI Act before the Commission requesting to take appropriate legal action against the CPIO u/Section 20 of the RTI Act, 2005 and also to direct him to provide the sought for information.

Hearing:

3. The appellant, Smt. Veena attended the hearing through audio conferencing. Mr. A K Khatri, CPIO participated in the hearing representing the respondent through audio conferencing. The written submissions are taken on record.

4. The appellant limited her submissions on furnishing the gross income of her husband Mr. Jagdish Chandra Rathore and further contended that it cannot be

treated as personal information. She submitted that now the PAN number of her husband Mr. Jagdish Chandra Rathore has been sent to the public authority.

5. The respondent submitted that the PAN number was initially not provided by the appellant and therefore, the gross income of her husband Mr. Jagdish Chandra Rathore could not be furnished. However, he claimed exemption u/Section 8(1)(j) of the RTI Act, 2005 for not disclosing the ITR files of Mr. Jagdish Chandra Rathore.

Decision:

6. With regards to the applicability of Section 8(1)(j) of the RTI Act, 2005 regarding non-disclosure of the Income Tax Returns, this Commission refers to the judgment dated 03-10-2012 of the **Hon'ble Supreme Court of India** in SLP(C) No. 27734 of 2012 titled as **Girish Ramchandra Deshpande v. Central Information Commission & ors.**, wherein, it has been held as under:-

"12. The petitioner herein sought for copies of all memos, show cause notices and censure/punishment awarded to the third respondent from his employer and also details viz. movable and immovable properties and also the details of his investments, lending and borrowing from Banks and other financial institutions. Further, he has also sought for the details of gifts stated to have accepted by the third respondent, his family members and friends and relatives at the marriage of his son. The information mostly sought for finds a place in the income tax returns of the third respondent. The question that has come up for consideration is whether the abovementioned information sought for qualifies to be "personal information" as defined in clause (j) of Section 8(1) of the RTI Act.

13. We are in agreement with the CIC and the courts below that the details called for by the petitioner i.e. copies of all memos issued to the third respondent, show cause notices and orders of censure/punishment etc. are qualified to be personal information as defined in clause (j) of Section 8(1) of the RTI Act. The performance of an employee/officer in an organization is primarily a matter between the employee and the employer and normally those aspects are governed by the service rules which fall under the expression "personal information", the disclosure of which has no relationship to any public activity or public interest. On the other hand, the disclosure of which would cause unwarranted invasion of privacy of that individual. Of course, in a given case, if the Central Public Information Officer or the State Public Information Officer of the Appellate Authority is satisfied that the

larger public interest justifies the disclosure of such information, appropriate orders could be passed but the petitioner cannot claim those details as a matter of right.

14. The details disclosed by a person in his income tax returns are "personal information" which stand exempted from disclosure under clause (j) of Section 8(1) of the RTI Act, unless involves a larger public interest and the Central Public Information Officer or the State Public Information Officer or the Appellate Authority is satisfied that the larger public interest justifies the disclosure of such information."

7. Henceforth, the legal issue to be decided herein is whether the appellant claiming to be the legally wedded wife of Mr. Jagdish Chandra Rathore is entitled to seek details of his income tax returns. In this regard, it is apt to mention the decision dated 01-07-2009 of the **Hon'ble High Court of Delhi** in W.P.(C) 803/2009 titled as **Vijay Prakash v. UOI & others** wherein it has been clarified that in a private dispute between husband and wife, the basic protection afforded by virtue of the exemption from disclosure enacted under Section 8(1)(j) cannot be lifted or disturbed unless the petitioner is able to justify how such disclosure would be in 'public interest'. In the matter at hand, the appellant has not succeeded in establishing that the information sought is for larger public purpose.

8. Since filing of the Income Tax Returns by an individual with the Income Tax Department is not a public activity and rather it is in the nature of an obligation which a citizen owes to the State viz. to pay his taxes, this information cannot be disclosed to the appellant in the absence of any larger public interest relying on the legal principle enunciated in the judgment dated 11-06-2015 rendered by the **Hon'ble Bombay High Court** in Writ Petition No. 8753 of 2013 titled as **Shailesh Gandhi v. The Central Information Commission**, wherein, it has been observed as follows:-

"16...The Petitioner possibly being aware of the said position has therefore sought to contend that filing of the Income Tax Returns is a public activity. I am afraid the said contention is thoroughly misconceived as filing of Income Tax Returns can be no stretch of imagination be said to be a public activity, but is an obligation which a citizen owes to the State viz. to pay his taxes and since the said information is held by the Income Tax Department in a fiduciary capacity, the same cannot be directed to be revealed unless the pre-requisites for the same are satisfied."

9. The Hon'ble High Court of Delhi in the decision of **Naresh Kumar Trehan v. Rakesh Kumar Gupta** in W.P.(C) 85/2010 & CM Nos.156/2010 & 5560/2011 dated 24-11-2014 has observed as under:-

“25. Indisputably, Section 8(1)(j) of the Act would be applicable to the information pertaining to Dr Naresh Trehan (petitioner in W.P.(C) 88/2010) and the information contained in the income tax returns would be personal information under Section 8(1)(j) of the Act. However, the CIC directed disclosure of information of Dr Trehan also by concluding that income tax returns and information provided for assessment was in relation to a “public activity.” In my view, this is wholly erroneous and unmerited. The act of filing returns with the department cannot be construed as public activity. The expression “public activity” would mean activities of a public nature and not necessarily act done in compliance of a statute. The expression “public activity” would denote activity done for the public and/or in some manner available for participation by public or some section of public. There is no public activity involved in filing a return or an individual pursuing his assessment with the income tax authorities. In this view, the information relating to individual assessee could not be disclosed. Unless, the CIC held that the same was justified “in the larger public interest.”

10. The division bench of the **Hon'ble High Court of Delhi** in the decision of **Harish Kumar v. Provost Marshall cum Appellate Authority & Anr**, LPA No. 253/2012 dated 30-03-2012 while denying information in a matrimonial dispute has held as under:-

“11. A Division Bench of this Court in **Paardarshita Public Welfare Foundation Vs. UOI** AIR 2011 Del. 82, in the context of Section 8(1)(j) (supra) and relying upon **Gobind Vs. State of Madhya Pradesh** (1975) 2 SCC 148, **Rajagopal Vs. State of Tamil Nadu** (1994) 6 SCC 632 and **Collector Vs. Canara Bank** (2005) 1 SCC 496 has held right to privacy to be a sacrosanct facet of Article 21 of the Constitution of India. It was further held that when any personal information sought has no nexus with any public activity or interest, the same is not to be provided. Finding the information sought in that case to be even remotely having no relationship with any public activity or interest and rather being a direct invasion in private life of another, information was denied. The full bench of this Court also in **Secretary General, Supreme Court of India Vs. Subhash Chandra Agarwal** AIR 2010 Del. 159 has held that the conflict between the right to personal privacy and public interest in the disclosure of personal information is recognized by the legislature by

incorporating Section 8(1)(j) of the Act. It was further observed that personal information including tax returns, medical records etc. cannot be disclosed unless the bar against disclosure is lifted by establishing sufficient public interest in disclosure and disclosure even then can be made only after duly notifying the third party and after considering his views.”

11. At this juncture, this Commission deems it appropriate to quote Section 2(n) of the RTI Act, 2005 which reads as under:-

“2(n):- “third party” means a person other than the citizen making a request for information and includes a public authority.”

12. From the words circumscribed u/Section 2(n) of the RTI Act, 2005, it is vividly clear that any person other than the citizen making a request for information can be termed as ‘third party’. Therefore, Mr. Jagdish Chandra Rathore being a person other than the RTI applicant surely comes within the definition of ‘third party’. Moreover, the CPIO has not intended to disclose the information and has rather pleaded that there is no public interest in the matter. This Commission also does not find any public interest which outweighs the harm caused in its disclosure.

13. This Commission also refers to the judgment of the **Hon’ble Supreme Court of India** in Civil Appeal No. 10044 of 2010 & Ors. dated 13-11-2019 titled as **CPIO, Supreme Court of India v. Subhash Chandra Agarwal**, wherein, it was observed as follows:-

“59. Reading of the aforesaid judicial precedents, in our opinion, would indicate that personal records, including name, address, physical, mental and psychological status, marks obtained, grades and answer sheets, are all treated as personal information. Similarly, professional records, including qualification, performance, evaluation reports, ACRs, disciplinary proceedings, etc. are all personal information. Medical records, treatment, choice of medicine, list of hospitals and doctors visited, findings recorded, including that of the family members, information relating to assets, liabilities, income tax returns, details of investments, lending and borrowing, etc. are personal information. Such personal information is entitled to protection from unwarranted invasion of privacy and conditional access is available when stipulation of larger public interest is satisfied. This list is indicative and not exhaustive.”

14. In light of the aforesaid decisions and the legal principles enunciated therein, this Commission after considering the factual matrix of the case is of the opinion

that in the absence of any larger public interest in the matter, the appellant is not entitled to seek the details of the Income Tax Returns filed by the third party, Mr. Jagdish Chandra Rathore which is exempted u/Section 8(1)(j) of the RTI Act, 2005.

15. However, with regard to disclosure of remuneration of the spouse, the Division Bench of the **Hon'ble High Court of Madhya Pradesh** vide its decision dated 15-05-2018 in the matter of **Smt. Sunita Jain v. Pawan Kumar Jain and others, W.A. No. 168/2015** and **Smt. Sunita Jain v. Bharat Sanchar Nigam Limited and others, W.A. No. 170/2015** has decided in affirmative with following observations:-

“The controversy involved in the present writ appeal is whether the information sought is exempt under Section 8(1)(j) of the Act or it is covered by Section 4(1)(b)(x) which obliges the public authorities to display on public domain the monthly remuneration received by each of its officers and employees.

For ready reference, Section 4(1)(b)(x) of the Act reads as under:-

“4. Obligations of public authorities.- (1) Every public authority shall-
(b). publish within one hundred and twenty days from the enactment of this Act.-

(i) xxxxxxxxxxxx

(ii) xxxxxxxxxxxx

(iii) xxxxxxxxxxxx

(iv) xxxxxxxxxxxx

(v) xxxxxxxxxxxx

(vi) xxxxxxxxxxxx

(vii) xxxxxxxxxxxx

(viii) xxxxxxxxxxxx

(ix) xxxxxxxxxxxx

(x) the monthly remuneration received by each of its officers and employees, including the system of compensation as provided in its regulations.”

The question of consideration is whether such information is exempt Section 8(1)(j) of the Act, which reads as under:-

“8. Exemption from disclosure of information.- (1) Notwithstanding anything contained in this Act, there shall be no obligation to give any citizen.-

(a) xxxxxxxxxxxx

(b) xxxxxxxxxxxx

(c) xxxxxxxxxxxx

(d) xxxxxxxxxxxx

- (e) xxxxxxxxxxxx
- (f) xxxxxxxxxxxx
- (g) xxxxxxxxxxxx
- (h) xxxxxxxxxxxx
- (i) xxxxxxxxxxxx

(j) Information which relates to personal information the disclosure of which has no relationship to any public activity or interest, or which would cause unwarranted invasion of the privacy of the individual unless the Central Public Information Officer or the State Public Information Officer or the appellate authority, as the case may be, is satisfied that the larger public interest justifies the disclosure of such information.”

The question is whether information sought is a personal information, the disclosure of which has no relationship to any public activity or interest or would cause unwarranted invasion of privacy of Shri Pawan Kumar Jain.

In Strouds Judicial Dictionary, Vol.IV (4th edn.) ‘public interest’ is defined thus:

“Public interest – 1. A matter of public or general interest does not mean that which is interesting as gratifying curiosity or a love of information or amusement; but that in which a class of the community have a pecuniary interest, or some interest by which their legal rights or liabilities are affected.”

In Black’s Law Dictionary (6th edn.). ‘public interest’ is defined as follows:

“Public Interest – Something in which the public, the community at large, has some pecuniary interest, or some interest by which their legal rights or liabilities are affected. It does not mean anything so narrow as mere curiosity, or as the interests of the particular localities, which may be affected by the matters in question. Interest shared by citizens generally in affairs of local, state or national government...”

While dealing with the Section 8(1)(j) of the Act, we cannot lose sight of the fact that the appellant and the respondent No.1 are husband and wife and as a wife she is entitled to know what remuneration the respondent No.1 is getting.

Present case is distinguishable from the case of **Girish Ramchandra Deshpande** (supra) and therefore the law laid down by their Lordships in the case of **Girish Ramchandra Deshpande** (supra) are not applicable in the present case.

In view of the foregoing discussion, we allow the appeal and set aside the order passed by the Writ Court in W.P. No. 341/2008.

Similarly, the W.A. No. 170/2015 is also allowed and the impugned order passed in W.P. No. 1647/2008 is set aside.”

16. Therefore, in view of the legal position stipulated in the case of **Smt. Sunita Jain (Supra)**, this Commission directs the respondent to disclose the ‘gross income’ of Mr. Jagdish Chandra Rathore so that she could defend her maintenance case effectively considering the aspect of marital discord between the husband and wife vis-à-vis her right of maintenance. The ‘gross income’ of Mr. Jagdish Chandra Rathore should be disclosed to the appellant, within a period of 15 working days from the date of receipt of this order.

17. With the above observations, the appeal is disposed of.

18. Copy of the decision be provided free of cost to the parties.

Neeraj Kumar Gupta (नीरज कुमार गुप्ता)
Information Commissioner (सूचना आयुक्त)
दिनांक / Date: 01-06-2021

Authenticated true copy
(अभिप्रमाणित सत्यापित प्रति)

S. C. Sharma (एस. सी. शर्मा),
Dy. Registrar (उप-पंजीयक),
(011-26105682)

Addresses of the parties:

CPIO
O/o. the Income Tax Officer,
Ward No. 2(1), Room No. 213,
2nd Floor Aayakar Bhawan, Subcity Centre,
Savina, Udaipur, Rajasthan

Smt. Veena

केन्द्रीय सूचना आयोग
Central Information Commission
बाबा गंगनाथ मार्ग, मुनिरका
Baba Gangnath Marg, Munirka
नई दिल्ली, New Delhi – 110067

शिकायत संख्या / Complaint No. CIC/MOFIN/C/2017/131504/BKOB

Neeraj Sharma

...शिकायतकर्ता/Complainant

VERSUS

बनाम

CPIO, National Payments
Corporation of India, ITO, New
Delhi.

...प्रतिवादीगण /Respondents

Relevant dates emerging from the appeal:

RTI : 10.12.2016	FA : 15.02.2017	Complaint : 07.04.2017
CPIO : No reply	FAO : No order	Hearing : 09.10.2019

ORDER
(06.12.2019)

1. The issues under consideration i.e. the reliefs sought by the complainant in his complaint dated **07.04.2017** due to alleged non-supply of information vide his RTI application dated **10.12.2016**, are as under:

- (i) A direction to the PIO to provide the requested information in the form of certified copy.
- (ii) Imposition of penalty on the PIO under section 20 of the RTI Act for not providing the information within 30 days.

2. Succinctly the facts of the case are that the complainant filed an application dated 10.12.2016 under the Right to Information Act, 2005 (RTI Act) before the Central Public Information Officer (CPIO), National Payments Corporation of India, (NPCI), ITO, New Delhi seeking inter-alia the following information:

(a) Provide details of the PIO and the Appellate Authority under the RTI Act and also publish these details of NPCI website <http://www.npci.org.in>

The CPIO did not furnish any reply to the RTI application. Aggrieved by this, the complainant filed complaint dated 07.04.2017 before this Commission.

2.1. The complainant has filed complaint dated 01.04.2017 *inter alia* on the grounds that no information has been given by the CPIO till the date of filing of complaint to the Central Information Commission.

2.2. The CPIO has not given any reply to the complainant

Hearing 01.11.2018:

2.3. The complainant Mr. Neeraj Sharma along with his representative Mr. Pulkit Verma attended the hearing personally. The respondent was absent.

2.4. The Commission passed the following directions on 20.02.2019:

"The Commission after adverting to the facts and circumstances of the case, hearing of the complainant and perusal of records, feels that without hearing the respondent, the facts of this case cannot be ascertained hence, in the interest of justice and proper disposal of this case, the Commission adjourns the matter to 13.03.2019 at 03:00 PM."

Hearing on 23.04.2019:

2.5. The complainant along with Mr. Pulkit Verma attended the hearing in person. On behalf of the respondent Mr. Sanjay Saxena, Chief Finance Officer, Advocate Sudip Mullick and Advocate Sneha Joshi attended the hearing in person.

2.6. The Commission passed the following directions:

"The Commission after adverting to the facts and circumstances, hearing both parties and perusal of records, feels that resolution of the complaint dated 07.04.2017 involves a substantial question of law i.e. whether NPCI is a public authority and whether the information sought is required to be disclosed. To consider the aforementioned substantial questions of law. On reference from this Bench a Division Bench has been constituted."

Hearing on 28.08.2019:

2.7. The complainant along with his counsels Mr. Pulkit Verma and Mr. Nikhil Borwankar, and on behalf of the respondent Mr. Sanjay Saxena, Chief Legal Officer, and counsels Shri Sudip Mullick, Ms. Sneha Oak Joshi attended the hearing in person.

2.8. The Commission passed the following directions:

"During the course of hearing both parties exchanged copies of their written submissions and copies of judgments relied upon by them. . However, due to paucity of time, both the parties could not conclude their respective submissions. Therefore, a final opportunity is given to both parties to conclude their arguments. The matter is adjourned for final hearing to 09.10.2019 at 03:00 p.m."

The matter was heard on 09.10.2019 and on 27.11.2019:

3. The complainant accompanied by Shri Pulkit Verma, Advocate and Nikhil Borwankar, Advocate and on behalf of the respondent Shri Sudip Mullick and Ms Sneha Oak Joshi, Advocate of Khaitan and Company attended the hearing in person.

3.1 The complainant while arguing his case and seeking the aforementioned reliefs *inter alia* submitted that the NPCI having been incorporated in the year 2008 under Section 25 of the Companies Act, 1956 was a 'public authority' under Section 2(h) of the RTI Act, 2005; that the respondent company (NPCI) being a deemed Government company within the meaning of Section 619B of the Companies Act, the auditors of the respondent company were appointed by the Comptroller and Auditor General of India (CAG) under sub-section (5) of Section 139 of the Companies Act, 2013; that only the company owned or controlled directly or indirectly by the Central Government or by the State Government were subject to CAG Audit; that the respondent company was 'substantially financed' by the Government; that the respondent company was an umbrella organization for retail payment system in India with the guidance and support of Reserve Bank of India as several public functions were carried out by the NPCI such as; a) National Automated Clearing House System; (b) cheque truncation system; (c) National Financial Switch; (d) Immediate Payment System; (e) Rupay cards; (f) Unified Payment Interface and (g) National Electronic Toll Collection; that the respondent company not only enjoyed monopoly in carrying out operations on behalf of the RBI, it also operated Aadhar Based payment including Aadhar Automated Payment System (AAPS), Aadhar Payment Bridge System (APBS); that the perusal of the Standing Committee Report on Finance (2206-07) 14th Lok Sabha and reply given by the Ministry of Finance revealed that the respondent company was entrusted with operations of the detailed payment system and that their case was supported by the law laid down by the Supreme Court in the following cases:-

Central Inland Water Transport Corporation Limited and Ors Vs Brojo Nath Ganguly and Ors AIR 1986 SC 1571; General Manager, Kisan Sahkari Chini Mills Ltd., Sultanpur, UP Vs Satrughan Nishad and Ors (2003) 8 SCC 639; Ajay Hasia and Ors Vs Khalid Mujib Sehravardi and Ors AIR 1981 SC 487; Thalappalam Ser. Coop. Bank Ltd., Vs State of Kerala and Ors. (2013) 16 SCC 82; New Tirupur Area Development Corporation Ltd. Vs State of Tamil Nadu (2010) 4 MadLJ 1110; Binny Ltd. And Ors V V Sadasivan and Ors. (2005) 6 SCC 657; National

Stock Exchange of India Vs Central Information Commission and Ors. (2010) SCC On Line Del 1513 and Tamil Nadu Road Development Co. Ltd Vs Tamil Nadu Information Commission and Ors. 2009(243) ELT 171(Mad)

4. The respondent while defending that their case and refuting the averments made by the complainant *inter alia* submitted that the respondent company(NPCI) being a limited company incorporated under Section 25 of the Companies Act, 1956 and a non-profit organization under Section 8 of the Companies Act, 2013 was not a 'public authority' that the respondent company was not 'substantially financed' by Government and as regards Rs.500 crores given to the respondent company was not a financial assistance but was for implementation of Digital schemes of "Lucky Grahak Yojana", " Digi-Dhan Vyapar Yojana" by Government of India and Niti Aayog through NPCI and no fund was utilized by the respondent company; that the Government of India did not own any share capital of the respondent company and hence might not be called as owned by Central or State Government; that the respondent company was owned by 56 banks consisting of 19 public sector banks, 17 private banks, 10 RRBs, 3 foreign banks, 7 multi-state cooperative banks; that the respondent company was neither established nor constituted by or under Constitution of India or by any other law made by Parliament or State Legislature; that RBI as a regulator regulated banks including private and foreign banks operating in India; that it was not correct that CAG audited only the government companies; that the respondent company had no monopoly and RBI had authorized many organizations to carry out such functions; that the respondent company earned majority revenue from RuPay card, UPI, IMPS and NFS; that the NPCI was in direct competition with Mastercard and Visa Wallets and that the use of the term 'National' which was being used by several private companies was not criteria for holding respondent company as public authority.

5. The main grievance of the complainant is that the respondent company namely the NPCI, being government company or instrumentality of the State under article 12 of the constitution is 'public authority' under the provisions of section 2(h) the RTI

Act, 2005 and thus bound by the provisions of the RTI Act, to appoint central public information officers with a duty to disclose information as per mandate of the RTI Act. Section 2(h) of the RTI Act, reads as under:

"2. In this Act, unless the context otherwise requires,-

a)

.....

(h) "public authority" means any authority or body or institution of self-government established or constituted-

(a) by or under the Constitution;

(b) by any other law made by Parliament;

(c) by any other law made by State Legislature;

(d) by notification issued or order made by the appropriate Government, and includes any-

(i) body-owned, controlled or substantially financed,

(ii) non-Government organization substantially financed, directly or indirectly by funds provided by the appropriate Government.

5.1 It is an admitted fact that the NPCI has not been established or constituted by or under the constitution or by any other law made by Parliament or by State Legislature. It has been incorporated as company under section 25 of the Companies Act 1956 and is a nonprofit organization under section 28 of the Companies Act, 2013. The only issue for the consideration of the Commission is whether the NPCI falls within the ambit of the provisions of sub clause (d) of clause (h) of section 2 of the RTI Act or not. It had also been contended vehemently by the complainant on the strength of various judicial pronouncements that NPCI was a "State" under article 12 of the constitution. We may discuss the same for clarity on the subject.

5.2. In the case of *Central Inland Water Transport Corporation (Corporation) case (supra)*, the facts include that one Brojonath Ganguly was an employee (Deputy Chief Accounts Officer) in a company namely, the 'Rivers Stream Navigation Company

limited'. The said Company was taken over by the 'Corporation' in accordance with a scheme of arrangement. Mr Brojonath, among others, was appointed by the Corporation after taking over the company in accordance with terms and conditions of the letter of appointment. The issue which cropped up and came for consideration before the Apex Court was whether termination of service of a permanent employee (Brojonath and others) in accordance with Rule 9 of the Service & Disciplinary Rules of the Corporation (unconscionable term), was legally sustainable. The plea to challenge the order of termination within 48 hours of the show cause notice, in spite of refutation of the charges, *inter alia* included that the Corporation being State might have not breached its duty of acting in accordance with the provisions of Part III & Part IV of the constitution.

The Supreme Court held-

"113 We would like to observe here that as the definition of "the State" in Article 12 is for the purposes of both Part III and Part IV of the Constitution, State actions, including actions of the instrumentalities and agencies of the State, must not only be in conformity with the Fundamental Rights guaranteed by Part III but must also be in accordance with the Directive Principles of State Policy prescribed by Part IV. Clause (a) of Article 39 provides that the State shall, in particular, direct its policy towards "securing that the citizens, men and women, equally have the right to adequate means of livelihood." Article 41 requires the State, within the limits of its economic capacity and development, to "make effective provision for securing the right to work". An adequate means of livelihood cannot be secured to the citizens by taking away without any reason the means of livelihood. The mode of making "effective provision for securing the right to work" cannot be by giving employment to a person and then without any reason throwing him out of employment. The action of an instrumentality or agency of the State, if it frames a service rule such as Clause (a) of Rule 9 or a rule analogous thereto would, therefore, not only

be violative of Article 14 but would also be contrary to the Directive Principles of State Policy contained in Clause (a) of Article 39 and in Article 41."

5.3 The Central Inland Water Transport Corporation is not only a Government company as defined under section 617 of the Companies Act 1956, but is wholly owned by the three Governments- Central Government and the Governments of West Bengal and Assam jointly. It is financed entirely by these three Governments and is completely under the control of the Central Government, and is managed by the Chairman and Board of Directors appointed by the Central Government and removable by it. In every respect it is thus a veil behind which the Central Government operates through the instrumentality of a Government company. The activities carried on by the Corporation are of vital national importance. There can thus be no doubt that the corporation is a Government undertaking in the public sector.

5.4. In the *Sabhajit Tiwari case*(supra), the Supreme Court while holding the Council of Scientific and Industrial Research(CSIR) not as State under article 12 of the Constitution relied upon its non-statutory character like those of the Oil and Natural Gas Commission, or the Life Insurance Corporation(LIC), or the Industrial Finance Corporation(IFC). However, *Sabhajit* (supra) stands overruled by the law laid down in *Pradeep Kumar Biswal case*(2002).

5.5. Ramana Dayaram Shetty vs International Airport Authority of India & Ors. [1979 SCR (3)1014]

The relevant tests gathered from the decision in the International Airport Authority's case may be summarized as: (i) One thing is clear that if the entire share capital of the corporation is held by Government it would go a long way towards indicating that the Corporation is an instrumentality or agency of Government. (ii) Where the financial assistance of the State is so much as to meet almost entire expenditure of the Corporation, it would afford some indication of the corporation being impregnated with governmental character (iii) It may also be a relevant factor whether the corporation enjoys monopoly status which is the State conferred or State protected (iv)

Existence of 'deep and pervasive' State control may afford an indication that the Corporation is a state agency or instrumentality. (v) If the functions of the corporation of public importance and closely related to governmental functions, it would be a relevant factor in classifying the corporation as an instrumentality or agency of Government (vi) Specifically, if a department of Government is transferred to a corporation, it would be a strong factor supportive of this inference of the corporation being an instrumentality or agency of Government.

5.6. Thalappalam Ser.Coop.Bank Ltd.& Ors. vs State Of Kerala & Ors [(2013) 16 SCC 82]

The Supreme Court of India held that a co-operative society registered under the Kerala Co-operative Societies Act was not bound by the country's Right to Information (RTI) Act to provide information sought by a citizen and that the Society did not fall within the definition of "public authority" under the RTI Act. The Applicant had requested information relating to the bank accounts of certain members of the Mulloor Rural Co-operative Society Ltd. The Court reasoned that co-operative societies neither met the threshold of control by government required under the definition of "the State" in Article 12 of the Constitution nor were "substantially financed" by the government so as to qualify as a "public authority" under the RTI Act. In balancing the Applicant's right to disclosure against the privacy rights of the Society's members the Court reasoned that the information was personal and did not relate to any public activity or interest, so the public authority or officer was not obliged to comply with the request.

5.7 The Supreme Court in the case of :-

DAV College Trust and Management Society and Ors Vs Director of Public Instructions & Ors (Civil Appeal No. 9828 of 2013) while discussing case law and taking note that various DAV Colleges received grant between 40 to 44% of the total financial outlay in each year and that as far as work are concerned 95% salary of the teaching and non-teaching staff of the colleges are borne by the State Government. The Apex Court found that those were substantial payment and amounted to half of the expenditure of the Colleges/Schools and more than 95% of the expenditure as far as

teaching and other staff was concerned. Therefore it was held that those colleges and schools were substantially financed and thus public authority within the meaning of Section 2(h) of the Act.

5.8 The High Court of Delhi in the case of

Hardicon Limited Vs Madan Lal in W.P.(C) 6946/2011 & CM No. 15943/2011 while setting aside order dated 21.4.2011 of the full bench of the Central Information Commission(CIC) observed as:-

"15. The CIC held that as 61.5% of equity of the petitioner was subscribed by government owned entities and the same would meet the criteria of substantial financing by an appropriate Government. I find it difficult to agree with the said conclusion. Admittedly, the Government - whether it be State Government or Central Government - has not provided any direct funding to the petitioner. The question whether the entity has been indirectly financed is to be determined on the facts of each case. In this case, there is no material to indicate any flow of funds from any government to the petitioner. In order to hold that an entity has been indirectly financed by an appropriate Government, first of all, it is necessary to find that the Central Government has parted with some funds for financing the authority/body; and secondly, the said funds have found their way to the authority/body in question. The link between the financing received by an entity and an appropriate Government must be clearly established.

16. In this case, there is no material to indicate that any of the funds received by the petitioner owed their source to either the Central Government or the State Government. The constituent shareholders of the petitioner are independent entities and whose source of funds are not limited to the Central Government/State Government. Although, substantial part of equity of nationalized banks is held by the Government, the sources of funds available to the bank are not limited to the Government alone. Banks receives substantial deposits as a part of their business. In addition, the banks also generate substantial income from their commercial activities. Such funds are also deployed by banks by lending and investing in other entries. Since the funds received by the petitioner by way of subscription to its equity cannot be traced to any Government. The conclusion that the government has indirectly provided substantial finance to the petitioner is not sustainable."

5.9. The complainant's submissions that the Respondent Company was incorporated in the year 2008 under Section 25 of Companies Act, 1956 and during the initial years of its incorporation the affairs of the company were managed by personnel who were deputed from Reserve bank of India and some of the promoter banks, were not disputed. The RBI's approval in relation to the appointment of the Managing Director and the Chief Executive Officer of the respondent company was as the regulator under the Payment and Settlement Act, 2007. Thus it may not be correct to infer on the basis of the above facts that RBI has control over NPCI.

5.10. The complainant further argued that the respondent company having taken over the operations of National Financial Switch from Institute of Development and Research Banking Technology (*hereinafter referred to as IDRBT*) was the nodal agency for the purpose of NFS operations. The complainant referred to article 127 of the Articles of Association of the Respondent Company which entitled the Reserve Bank of India to appoint or remove any director appointed by it. We may consider this point when we consider the points of control and that of instrumentality of 'State' or public authority under RTI Act.

5.11 Before the Payment and Settlement Act, 2007 RBI was enabling the inter-bank settlement through IDRBT and technology driven payment settlements was emerging. With the advancement of technology, real time settlement of payments, emergence of various fintech products providing options to consumers, and fast changing developments, government enacted the Payment and Settlement Act and declared RBI as regulator rather than operator of all products and opened the field for private players. RBI continues to operate RTGS directly and permit various operators and products on merit as the regulator. As a regulator, RBI continues to remain public authority u/s 2(h) of the RTI Act so as to ensure transparency and accountability of all operators in this space and to guard public interest; and any person seeking information about policies and products permitted for digital payments by various players may seek the same through RBI.

5.12. With reference to the contention that the respondent operated public functions such as (a) National Automated Clearing House System; (b) cheque truncation system; (c) National Financial Switch; (d) Immediate Payment System; (e) Unified Payment Interface; (f) National Electronic Toll Collection, it may be submitted that these were products for digital transactions used by consumers out of their own choice. There might be other payment products operated by fintech companies, RBI and on other switches permitted to operate by regulator in India. RBI as regulator has not accorded any monopoly status to the NPCI and decides to permit various products/providers to operate in India in payment and settlement space on case to case basis. Even the products of NPCI such as UPI is open for use by other fintech companies including banks, social networks, e-marketing companies etc., which are in direct competition with BHIM of NPCI.

5.13. It is noticed that the RBI regulates all banks including private and foreign banks operating in India. The Respondent Company is administered under the provisions the Companies Act, as is the case with all other companies registered under the Companies Act. Any person desirous of commencing and carrying on a digital payment system and introduce such products is free to apply to the RBI for authorization under the Payment and Settlement Act, 2007.

5.14. As regards the report of Standing Committee on Finance (2006-07) Fourteenth Lok Sabha by the Ministry of Finance on the enactment of Payment and Settlements Systems Bill, 2006, the observations of the Standing Committee and the reply given by the Ministry of Finance, it may not be out of place to mention that the outcome of the report etc., was the Payment and Settlement Act, 2007.

5.15. The fact that the respondent company was owned by 56 (Fifty-six) banks consisting of 19 (Nineteen) Public Sector Banks, 17 (Seventeen) Private Sectors Banks, 10 (Ten) Regional Rural Banks, 3 (Three) Foreign Banks and 7 (Seven) Multi-State Co-Operative Banks was not disputed. It was submitted that the Government and the Public Sector Banks were separate and distinct entities. That was an undisputed fact

that the equity of the Corporation had not been funded and provided by the Government.

5.16. The Board of Directors of the Respondent had 20 (Twenty) members comprising 12 (Twelve) nominee directors, 6 independent directors, 3 RBI nominees and MD and CEO. Nominee directors include 5 (Five) from the Public Sector Banks. The Central Government does not appoint any directors on the board of the Respondent corporation. The Central Government did not control the day to day workings of the Respondent and did not have 'pervasive control' over the Respondent. Thus, the Central Government does not in any way appoint or influence the appointment of majority of directors of the Respondent. The Managing Director of the Respondent is only approved by RBI and not appointed by RBI. Similarly, RBI approves the Managing Director of all banks including Private Banks, Foreign Banks, Rural Banks in India and is done by the RBI in its regulatory capacity.

5.17. Consideration of the pleadings and other submissions reveals that the Central Government had allocated an amount of Rs 500 crores (Rupees Five Hundred Crores Only) to the Respondent. The Government of India ("GoI") and NITI Aayog (National Institution for Transforming India) with a view to bringing the poor, lower middle class and small businesses into the digital payment fold and to incentivize digital transactions had announced the "Digidhan Vyapar Yojana" and "Lucky Grahak Yojana" (collectively referred to as "the Schemes"). NABARD executed the MOU with the Respondent where under the Respondent was required to utilize the funds provided by NABARD and distribute the same to the winners under the Schemes. It is also made clear that any other entity could be appointed to carry out the said functions carried by the Respondent under the Schemes by executing a new memorandum of understanding with NABARD. NPCI had never sought the money as grant or offered to run the scheme; rather the Government decided to take its services for transfer of funds under the scheme to the selected individual beneficiary. Without prejudice to the above, allocation of funds was for the Schemes to be transferred to the account of winner beneficiary and not to meet operational requirements of the Respondent and in view of

the decision of the Court in Thalapallam case, the same would not satisfy the requirement of 'substantially financed'.

5.18 With respect to the contention of the appellant for use of the word 'National', attention may be drawn to Section 3 read with para 7 of the Schedule to the Emblems and Names (Prevention of Improper Use) Act, 1950 which *inter alia* prohibit the use of any name which may suggest or be calculated to suggest the patronage of the Government of India or the Government of a State; or in connection with any local authority or any corporation or body constituted by the Government under any law for the time being in force. The Companies Act, 2013 deals with the rules pertaining to the Registration of the Companies. Sub-sections (2) and (3) of Section 4 of the Companies Act, 2013 provides for the conditions which are to be adhered while choosing the name of a company. The relevant portion of Section 4 reads as under:

" 1) The memorandum of a company shall state;

a).....

b).....

2) The name stated in the memorandum shall not-

a)

b) be such that its use by the company-

i) will constitute an offence under any law for the time being in force; or

ii) is undesirable in the opinion of the Central Government.

3) Without prejudice to the provisions of sub-section (2), a company shall not be registered with a name which contains-

a)

b)

● However, the Ministry of Corporate Affairs vide Circular No.2/2014 dated 11.02.2014 has curbed the use of word 'National' in the names of Companies or LLP unless it is a Government Company and the Central/State Governments has a stake in it. Perusal of the circular dated 11th February, 2014 refers to above reveals that the Government is aware of certain improper use of the word 'National' which requires to be looked into by the appropriate authority. We are not aware as to whether the NPCI or the Registrar of Companies before registering the corporation with the word 'National' have obtained permission of the concerned administrative ministry. However, not following the procedure or impropriety in the name *per se* may not make the corporation a Government company and thus state or state instrumentality or public authority within the meaning of RTI Act.

5.19. As regards the appointment of the auditor of the respondent by the CAG may not *ipso facto* imply that the respondent is a company owned and controlled directly or indirectly by the Central Government. It has also been made clear that the accounts of the respondent are not placed before the Parliament but are only filed with Registrar of Companies, Ministry of Corporate Affairs as is being done for any other company incorporated and registered under the Companies Act. It has also been made clear that the Respondent's shareholders are not audited by CAG. The CAG has the power to audit private companies under certain circumstances and it would be unreasonable to argue that such companies would become 'public authorities' under the RTI Act merely by reason of such audit.

6. The Commission after adverting to the facts and circumstances of the case, hearing both the parties and perusal of records, observes that the complainant had not filed second appeal aggrieved by non receipt of information/reply in response to his RTI application and first appeal before approaching this commission by way of complaint. It may not be unreasonable for NPCI to consider itself not covered within the meaning of public authority under RTI. However keeping in view of the above facts, it may not be proper for this Commission, on a complaint, to include within the ambit of public authority what was not intended explicitly by the legislature. Not

declared as public authority NPCI might not be under an obligation to disclose the information requested for by the complainant nor maintain a list of CPIOs as mandated by the RTI Act. Commission is also of the view that it may be open to the complainant to seek information through public authority for NPCI i.e. RBI or Ministry of Finance as the case may be. That being so, the complaint of the complainant is unfounded and the same is rejected.

Sd/-

(Suresh Chandra) (सुरेश चंद्रा)

Information Commissioner

दिनांक/Date: 06.12.2019

Sd/-

(Neeraj Kumar Gupta) (नीरज कुमार गुप्ता)

Information Commissioner

दिनांक / Date: 06.12.2019

Authenticated true copy

(अभिप्रमाणित सत्यापित प्रति)

(Brig Vipin Chakrawarti) (ब्रिगेडियर विपिन चक्रवर्ती)

Registrar (पंजीयक)

011-2610502

Addresses of the parties:

The Central Public Information Officer (CPIO),
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New Delhi- 110002

The First Appellate Authority (under RTI Act),
National Payments Corporation of India
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Bahadur Shah Zafar Marg, ITO,
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Shri Neeraj Sharma,
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केन्द्रीय सूचना आयोग
Central Information Commission
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द्वितीय अपील संख्या / Second Appeal No. CIC/MHOME/A/2019/107928

Ehtesham Qutubuddin Siddiqui

... अपीलकर्ता/Appellant

VERSUS

बनाम

CPIO, Ministry of Home Affairs,
IPS-IV Desk, North Block, New
Delhi.

...प्रतिवादीगण /Respondents

Relevant dates emerging from the appeal:

RTI : 26.08.2018	FA : 29.10.2018	SA : 04.02.2019
CPIO : 03.09.2018	FAO : 30.11.2018	Hearing : 06.11.2019

ORDER

(29.11.2019)

CORAM

*HON'BLE CIC SHRI SUDHIR BHARGAVA
HON'BLE IC SHRI BIMAL JULKA
HON'BLE IC SHRI SURESH CHANDRA*

1. The appellant filed an application under the Right to Information Act, 2005 (RTI Act) before the Central Public Information Officer (CPIO), Ministry of Home Affairs (MHA), North Block, New Delhi seeking copies of UPSC forms along with complete documents annexed therewith of each of 12 IPS officers mentioned in his RTI application.

2. The appellant filed second appeal before the Commission on the grounds that the CPIO incorrectly denied information under Section 8(1)(j) of the RTI Act. The respondent submitted that the information sought pertained to personal information of third parties and no public interest was involved in the matter. In fact, appointments of the IPS officers in question were made 20 years prior to the date on which the RTI application was made. Hence, in view of Section 8(3) of the RTI Act, exemption provided under Section 8(1)(j) of the RTI Act was not available in to the present case. The appellant requested the Commission to direct the CPIO to provide the information sought for.

Hearing (13.06.2019) :

3. The appellant, Shri Ehtesham Qutubuddin Siddiqui attended the hearing through video-conferencing. The respondent Shri Anjan Sarkar, Under Secretary (IPS-IV Desk), Ministry of Home Affairs, New Delhi was present in person.

Interim Decision:

4. The Commission passed the following directions:

"In view of the above, the Commission surmises that a decision in this case would have major implications for the implementation of the RTI Act. In view of this, the Commission is of the opinion that the matter should be referred to a larger bench."

Hearing on 06.11.2019:

5. The appellant attended the hearing through video conference and on behalf of the respondents Shri Pankaj Gangwar and Shri S K Verma, Under Secretary, Department of Personnel and Training and Shri Ravi Nirmal, Under Secretary, Ministry of Home Affairs, New Delhi, attended the hearing in person.

5.1. The appellant argued that the CPIO incorrectly denied information under Section 8(1)(j) of the RTI Act on the ground that the information sought for pertained to personal information of third parties. He contended that the appointments of IPS officers in question were made 20 years before the date on which the RTI application was made. Hence, in view of the provisions contained under Section 8(3) of the RTI Act, the exemption of personal information of third

party provided under Section 8(1)(j) of the RTI Act ceases to exist. Hence, the CPIO should have provided the information sought for.

5.2. The respondent while defending their case reiterated that the information sought by the appellant pertained to personal information of third parties, the disclosure of which had no relationship to any public interest and would have caused unwarranted invasion of the privacy of the third parties. The respondent emphasized that the Hon'ble Supreme Court of India in plethora of cases had held that the right to privacy was a fundamental right, and hence, the same could have not been eclipsed by ordinary statute. Hence, the information sought for could not be disclosed under the provisions of the RTI Act. The respondent denied the fact that the right to privacy arose 20 years back and ended with the appointment. The respondent contested the claim of the appellant that the limitation period of 20 years expired after lapse of 20 years from the date of appointment. It was contended that it was continuing and hence the provisions of Section 8(3) were not attracted in that case. The matter of privacy was continuous phenomenon.

5.3. The issue before the Commission was as to whether by virtue of the provisions contained under sub-section (3) of section 8 of the RTI Act, the personal information which was in the custody of a public authority was to be disclosed under RTI application after lapse of 20 years. The relevant portion of section 8 of the RTI Act read as under:

"8.Exemption from disclosure of information.- (1) Notwithstanding anything contained in this Act, there shall be no obligation to give any citizen,-

(a) information, disclosure of which would prejudicially affect the sovereignty and integrity of India, the security, strategic, scientific or economic interests of the State, relation with foreign State or lead to incitement of an offence;

.....

(c) information, the disclosure of which would cause a breach of privilege of Parliament or the State Legislature;

.....

(i) cabinet papers including records of deliberations of the Council of Ministers, Secretaries and other officers;

.....

Provided that the information, which cannot be denied to the Parliament or a State Legislature shall not be denied to any person.

(2)

(3) *Subject to the provisions of clauses (a), (c) and (i) of sub-section (1), any information relating to any occurrence, event or matter which has taken place, occurred or happened twenty years before the date on which any request is made under section 6 shall be provided to any person making a request under that section:*

Provided that where any question arises as to the date from which the said period of twenty years has to be computed, the decision of the Central Government shall be final, subject to the usual appeals provided for in this Act."

5.4. The Right to Privacy is not enumerated as a Fundamental Right either in terms of Article 21 of the Constitution or otherwise. It, however by reasons of an elaborate explanation of the Apex Court, has been held to be an essential ingredient of "personal liberty".

5.5. The Supreme Court in case of *Kharak Singh vs. The State of U. P. & Others* [1963 AIR 1295] dated 18.12.1962 has held as under:

"Further, the right to personal liberty takes in not only a right to be free from restrictions placed on his movements, but also free from encroachments on his private life. It is true our constitution does not expressly declare a right to privacy as a Fundamental Right, but the said right is an essential ingredient of personal liberty. Every democratic country sanctifies domestic life....."

5.6. The Supreme Court in case of *R.Rajgopal vs. State of Tamil Nadu* [1995 AIR 264] dated 07.10.1994 has held as under:

“...The right to privacy is implicit in the right to life and liberty guaranteed to the citizens of this country by Article 21. It is a ‘right to be let alone’. A citizen has a right to safeguard the privacy of his own, his family, marriage, procreation, motherhood, child bearing and education among other matters.”

5.7. In *Thappalam Service Cooperative Bank Limited vs State of Kerala*(2013) 16 SCC 82, the Supreme Court has recognized that the Right to Privacy as a Fundamental Right emanates from Article 21 of the Constitution.

5.8. The Commission further notes that the Hon’ble Supreme Court of India in case of Justice K. S. Puttaswamy (Retd.) vs. Union of India, WP(C) No. 494/2012 dated 26.09.2018 has observed that:

“446) (m) it stands established, without any pale of doubt that privacy has now been treated as part of fundamental right. The Court has held that, in no uncertain terms, that privacy has always been a natural right which given an individual freedom to exercise control over his or her personality. The judgment further affirms three aspects of the fundamental right to privacy namely:

- (i) Intrusion with an individual’s physical body,*
- (ii) Informational privacy and*
- (iii) Privacy of choice.”*

5.9. The Hon’ble Supreme Court of India had further observed that informational privacy deals with the person’s mind. “In this manner, it protects a person by giving her control over the dissemination of material that is personal to her and disallowing unauthorized use of such information by the State.”

5.10. The Hon’ble Supreme Court of India, in catena of cases, has also emphasized the primacy of the provisions of the Constitution and that the provisions of the Constitution will prevail over any enactment of the legislature, which itself is a creature of the Constitution.

5.11. The High-Level Committee chaired by Justice B.N.Srikrishna in their report on data protection law has observed that:

“data protection law is designed to limit the processing of personal data to legitimate reasons where the flow of information is beneficial and respects the autonomy of the data principal. It is particularly sensitive to the harm to an individual pursuant to the disclosure of personal data and seeks to actively prevent such harm.

However, disclosure of information from the public authorities may lead to private harms being caused. It is thus important to recognize that, in this context, there is a conflict of fundamental rights, between transparency and privacy. This requires careful balancing. The fact that neither the right to privacy nor the right to information is absolute and will have to be balanced against each other in some circumstances has been recognized by the Supreme Court.”

5.12. The Constitutional Court of South Africa in *NM & Ors vs Smith & Ors.*, 2007 (5) SA 250(CC), while dealing with the fundamental right to privacy recognized by the South African Constitution, has made the following observations:

“An implicit part of this aspect of privacy is the right to choose what personal information of ours is released into the public space. The more intimate that information, the more important it is in fostering privacy, dignity and autonomy that an individual makes the primary decision whether to release the information or not. That decision should not be made by others. This aspect of the right to privacy must be respected by all of us, not only the state.....”

5.13. In *D S Nakara & ors vs Union of India* (1983) 2 SCR 165 the Supreme Court while holding that the division of pensioners into two classes being violative of Article 14 of the Constitution *inter alia* observed that a pension scheme which looked to the goals for attainment of welfare state proposed to be

set up in the light of the Directive Principles of State Policy and Preamble of the Constitution the pensioners for payment of pension from a class. The division which classified the pensioners into two classes on the basis of the specific date was devoid of any rational principle and was both arbitrary and unprincipled being unrelated to the object sought to be achieved by grant of liberalized pension and the guarantee of equal treatment contained in Article 14 was violated inasmuch as the pension rules which were statutory in character meted out differential and discriminatory treatment to equals in the matter of computation of pension from the dates specified in the impugned memoranda.

5.14. In the case under consideration issue is whether the personal information could be disclosed. As per the provisions of sub-section (3) of Section 8 of the RTI Act, personal information which is in the custody of public authority may be disclosed after 20 years from the date of occurrence. Perhaps the RTI Act aims to ensure greater accountability so as to make the public authorities more progressive, participatory and meaningful. The operation of the statute would provide more access to the information and thus bring transparency and accountability. The RTI Act is a statute Act which provides for rights and obligations of persons. On the other hand, the right to privacy is a facet of right to life and personal liberty enshrined in Article 21 of the Constitution. There has to be harmonious construction of both the provisions.

5.15. The Supreme Court in plethora of cases had held that the right to privacy is an evolving right which may vary from case to case and depending upon the facts of the case and public interest involved in disclosure of information. Right to Privacy being a facet to the Right to Life and personal liberty is on a higher pedestal and a harmonious construction of the provisions of the RTI Act and of the Constitutional provisions would necessitate reading down of the provisions of RTI Act so as to avoid illegality of the statutory provisions. Moreover, the respondent argued that it was not an event or occurrence which happened 20

years back. The respondent vehemently claimed that the event was continuous and thus provisions of Section 8(3) were not applicable in this case.

6. The Commission after adverting to the facts and circumstances of the case, hearing both parties and perusal of records, feels that the right to privacy being a facet of fundamental right under Article 21 of the Constitution has to be protected in accordance with the three parameters laid down by the Supreme Court in the case of K.S.Puttaswamy (*Supra*) i.e. (i) there must be legal object, (ii) there must be legal framework and (iii) there must be nexus between the objective to be achieved and the privacy to be compromised. It appears that for meeting different treatment, there must be a reasonable classification and the classification must have a rational nexus with the objective to be achieved. If we take that the RTI Act contains provisions providing framework for disclosures outweighing right to privacy under Section 8(3) of the RTI Act which aims transparency and accountability, the appellant may be entitled for the information of the occurrence which took place 20 years before the RTI application. Thus the Right to Privacy of the 3rd party may not be absolute if the same is falling within the ambit of the aforementioned parameters. However, the respondent have claimed that the occurrence was not a onetime event i.e. the Right to Privacy is a continuous process and drawing a line of giving applications for appointment as such may not be a water tight compartment wherein the Right to Privacy was not existing or continuing after the lapse of 20 years

Proviso to sub section 3 of section 8 of the RTI Act provides that wherein a question arises as to the date from which the said period of 20 years has to be computed the decision of the Central Government shall be final subject to the usual appeals provided in this Act. Keeping in view the submissions made by both the parties and the above observations, the appeal is dismissed.

Copy of the decision be provided free of cost to the parties.

Sd/-

Sd/-

● (Suresh Chandra) (सुरेश चंद्रा)

Information Commissioner

दिनांक / Date: 29.11.2019

(Bimal Julka) (बिमलकुल्का)

Information Commissioner

दिनांक/Date: 29.11.2019

Sd/-

Sudhir Bhargava (सुधीर भार्गव)

Chief Information Commissioner

Date/ 29.11.2019

Authenticated true copy

(अभिप्रमाणित सत्यापित प्रति)

(Brig Vipin Chakrawarti) (ब्रिगेडियर विपिनचक्रवर्ती)

Registrar (पंजीयक)

011-26105021

Addresses of the parties:

1. The First Appellate Authority (FAA)
Ministry of Home Affairs,
Police-I Division (IPS-IV Desk),
Room No. 220, North Block, New Delhi.
2. The Central Public Information Officer (CPIO),
Ministry of Home Affairs,
(IPS-IV Desk),
Room No. 220, North Block, New Delhi.
3. Shri Ehtesham Qutubuddin Siddiqui
Confined At Nagpur Central Prison
(C-9168, Chhoti Gol Separate),
Warda Road, Nagpur, Maharashtra- 440020

केन्द्रीय सूचना आयोग
Central Information Commission
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Baba Gangnath Marg, Munirka
नईदिल्ली, New Delhi – 110067

द्वितीय अपील संख्या / Second Appeal No. CIC/RBIND/A/2017/167309

Shri Neeraj Sharma

... अपीलकर्ता/Appellant

VERSUS

बनाम

CPIO, Reserve Bank of India,
Colaba, Mumbai.

...प्रतिवादीगण /Respondents

Relevant dates emerging from the appeal:

RTI : 23.05.2017	FA : 16.06.2017	SA : 25.09.2017
CPIO : 13.06.2017	FAO : 24.07.2017	Hearing : 20.03.2019

ORDER

(15.05.2019)

1. The issues under consideration arising out of **second appeal dated 25.09.2017** include non-receipt of the following information sought by the appellant through his RTI application dated 23.05.2017 and first appeal dated 16.06.2017 :

- (i) When Finance Ministry became aware on the case of 32 lakh debit cards compromised.
- (ii) Is any internal enquiry done on this case, Please provide the enquiry report on Case of 32 lakh debit cards compromised.

- (iii) Please provide copy of all letters/Memo/Emails sent or received by finance ministry on Case of 32 lakh debit card compromised.
- (iv) How many FIRs registered on the Case of 32 lakh debit cards compromised and provide all FIR Numbers.
- (v) Which investigating agency investigated this Case of 32 lakh debit card compromised please provide the name of the agency and investigation officer names.
- (vi) Is Investigation completed on the above case.
- (vii) Is any Commission formed by the govt. to investigate the case. If yes, please provide the commission members details. And copy of commission report.
- (viii) Please provide total loss in Rupees due to 32 lakh debit card compromised with their bank details.
- (ix) Please provide loss of amount by Bank.
- (x) Please provide loss of amount by Bank's Customers.
- (xi) Please provide the compensation details given to customers by Bank by Govt. of India.

2. Succinctly facts of the case are that the appellant filed an application dated 23.05.2017 under the Right to Information Act, 2005 (hereinafter called the RTI Act) before the Central Public Information Officer (CPIO), Reserve Bank of India, Colaba, Mumbai, seeking the aforesaid information. The CPIO replied on 13.06.2017. Not satisfied with the response of the CPIO, the appellant filed first appeal dated 16.06.2017. The First Appellate Authority disposed of the first appeal

vide order dated 24.07.2017. Aggrieved by this, the appellant has filed the second appeal dated 25.09.2017 before this Commission which is under consideration.

3. The appellant has filed the instant appeal dated 25.09.2017 *inter alia* on the grounds that the information has been wrongfully denied by the CPIO whereas in this case disclosure of the information outweighs the protected interest of wrong doers who have conspired in compromising the financial data of huge number of citizens. He requested the Commission to direct the concerned CPIO to supply complete information sought by the appellant and impose penalty as per section 20 of RTI Act. He also requested the Commission to direct the public authority to make entry in service book/annual performance appraisal report of the CPIO for defying the provisions of the Act.

4. The CPIO denied the information vide his reply dated 13.06.2017 on point no. 2 and 3 of the RTI application by taking recourse to the provisions of section 8 (1) (a) and (d) of the RTI Act. The CPIO stated that the information relating to point no. 1 of the RTI application is available at their web portal and information on point no. 4 and 5 of the RTI application is not available with them. The FAA furnished revised response on all points of the RTI application.

5. The appellant and the respondent Ms. Leela Ramesh, Assistant Legal Advisor, Reserve Bank of India, Bandra, attended the hearing through Video Conferencing.

5.1. The appellant submitted that the respondent is misusing the provision of section 8 (1) of the RTI Act to deny information. He alleged that the public authority took cognizance of the matter relating to fraudulent transactions carried out in case of 32 lakh debit cards only when it was highlighted through news channels. He stated that the public authority either omitted to respond or provided misleading information with respect to point no. 2, 3, 4, 5, 7, 8, and 11 of the RTI application.

5.2. The Appellant contended that the Appellate Authority wrongly relied upon the CIC case- *Shri Ashok Jain, New Delhi v. Securities & Exchange Board of India, Mumbai* (Appeal No. CIC/MP/A/2016/001266 dated December 10, 2016). He further submitted that in the said decision, the Hon'ble Commission dealt with individual concern wherein the information was denied as the same was held in fiduciary capacity. Whereas the present case involves an overriding concern of public interest wherein financial wealth of millions of fraudulent acts of certain unknown individuals/groups, hence, the exemption carved out under section 8 of the Act has no applicability in denying the information. The appellant stated that the Hon'ble Supreme Court in a batch of petitions titled as *Reserve Bank of India & Ors. v Jayantilal N. Mistry & Ors* dated 16.12.2015 held that:

"61. The baseless and unsubstantiated argument of the RBI that the disclosure would hurt the economic interest of the country is totally misconceived. In the impugned order, the CIC has given several reasons to state why the disclosure of the information sought by the Respondents would hugely serve public interest, and non-disclosure would be significantly detrimental to public interest and not in the economic interest of India. RBI's argument that if people, who are sovereign, are made aware of the irregularities being committed by the banks then the country's economic security would be endangered, is not only absurd but is equally misconceived and baseless.

62. The exemption contained in Section 8(1) (e) applies to exceptional cases and only with regard to certain pieces of information, for which disclosure is unwarranted or undesirable. If information is available with a regulatory agency not in fiduciary relationship, there is no reason to withhold the disclosure of the same. However, where information is required by mandate of law to be provided to an authority, it cannot be said that such information is being provided in a fiduciary relationship. As in the instant case, the financial institutions have an obligation to provide all the information to the RBI and such an information shared under an obligation/duty cannot be considered to come under the purview of being

shared in fiduciary relationship. One of the main characteristic of a Fiduciary relationship is "Trust and Confidence". Something that RBI and the Banks lack between them."

The appellant further stated that the Appellate Authority had directed the CPIO to revisit the query and provide a supplementary reply to the appellant with respect to bank-wise details of losses caused in the matter. He requested the Commission to set aside the order of the First Appellate Authority dated 24.07.2017 and direct the concerned CPIO to supply the complete information sought by him.

5.3. The respondent submitted that forensic investigation was conducted by ATM service provider M/s Hitachi and a copy of the report was received by the Reserve Bank of India (hereinafter called the RBI). However, the report is confidential in nature and contains information about how the hackers entered the infrastructure, the patterns that were hacked, the future measures that may be formulated for security purposes. The disclosure of the above mentioned report would leak crucial information risking possibility of misuse of such information by hackers for illegal activities. The security strategies of the RBI and other bank would be compromised upon disclosure of details of the report. Therefore, the information was denied under section 8 (1) (a) and (d) of the RTI Act. The respondent stated that the disclosure of the names of the banks wherein the cards were misused would cause panic within the customers and the general public.

5.4. The Commission has observed that the respondent furnished reply to the appellant vide letter dated 13.06.2017. The appellant stated that he is aggrieved by the response given by the respondent. As per the appellant, the respondent has prioritized economic interest over the larger public interest. However, it is only in public interest that the security strategies and measures are safeguarded by the RBI. The risk involved in disclosure of the report overrides the requirement of its

availability in the public domain. The case relied upon by the appellant is distinguishable as the exemption is claimed u/s 8(1) (a) & (d) and not u/s 8(1)(e).

5.5. The appellant has alleged inaction on the part of the respondent in the matter. The respondent took cognizance of the matter and investigation was conducted by the ATM service provider. The press release pertaining to details how the cyber security incident came into the notice of the RBI was issued on 24.10.2016 and the same is placed on their web portal.

5.6. In *Manohar Lal Sharma v Union of India* [(2016) 13 SCC 710], the Supreme Court declined to entertain a PIL seeking the Court's directions to restrain the union government from incurring security and other expenses with respect to certain individuals in the state of Jammu and Kashmir, holding that "*nationally sensitive issues concerning the security of the nation ...should be left to the executive ... and that these writs are judicially unmanageable.*" It is relevant to quote the landmark judgment given by the Constitution Bench in *Re: Special Reference No 1 of 2012*, [(2012), 10 SCC 1]:

"The Supreme Parliament and the legislatures, composed as they are of the representatives of the people, are supposed to know and be aware of the needs of the people and what is good and bad for them. The Court cannot sit in judgment over their wisdom. In this connection, it should be remembered that even in the case of administrative action, the scope of judicial review is limited to three grounds viz (i) unreasonableness, which can more appropriately be called irrationality, (ii) illegality and (iii) procedural impropriety"

5.7. The RBI has taken cognizance of the matter and is taking all measures to safeguard the economic security.

5.8. The Hon'ble Apex Court in the case of *Central Board of Secondary Education and another v. Aditya Bandopadhyay and Others*, [(2011) 8 SCC 497] has held:

"67. Indiscriminate and impractical demands or directions under the RTI Act for disclosure of all and sundry information (unrelated to transparency and accountability in the functioning of public authorities and eradication of corruption) would be counter-productive as it will adversely affect the efficiency of the administration and result in the executive getting bogged down with the non-productive work of collecting and furnishing information. The Act should not be allowed to be misused or abused, to become a tool to obstruct the national development and integration, or to destroy the peace; tranquility and harmony among its citizens. Nor should it be converted into a tool of oppression or intimidation of honest officials striving to do their duty."

6. The respondent has revisited the RTI application and reiterated its earlier stand after the directions of the First Appellate Authority with respect to point no. 8 of the RTI application. The respondent has provided information as available with them. The Commission agrees with the contentions of the respondent that the disclosure of the names of the banks where such fraudulent transactions had occurred along with amounts of losses would create a state of panic within their customers.

The authorities have claimed exemption by virtue of the provisions under section 8(1) (a) and (d) of the RTI Act. The presumption that the legislature understands the needs of its people and that even its discrimination and classifications are based on adequate grounds has been acknowledged by the Supreme Court itself (*in special reference No 1 of 2012, [(2012), 10 SCC 1]*). The logic of balance exercise of judicial power has an assurance of institutional stability and re-organization of boundary of power is implicit in the Constitutional arrangement. It is contended that the failings of democracy and inadequacies of the democratic process cannot be

invoked to negate the core of the democratic principle, namely that ultimate sovereignty vests in the people. Thus, arrangements of governance embodied in the Constitution resulting from the exercise of their free will cannot be used to deprive the ultimate masters of the right of final decision over their destiny. It is argued that “juridification of politics and politization of the judiciary” would be a loss for both the legislature and judiciary and that judiciary cannot act as a “censor of all governmental action”. There have been plethora of judicial orders highlighting the issue of restraint by judicial bodies in substituting their wisdom over those who have been assigned the function of implementation of Laws. The Commission after adverting to the facts and circumstances of the case, hearing both the parties and perusal of records, feels that due reply has been given by the respondent. Accordingly, the appeal is dismissed.

Copy of the decision be provided free of cost to the parties.

(Suresh Chandra) (सुरेश चंद्रा)
Information Commissioner (सूचना आयुक्त)
 दिनांक/ Date: 15.05.2019

Authenticated true copy
 (अभिप्रमाणित सत्यापित प्रति)

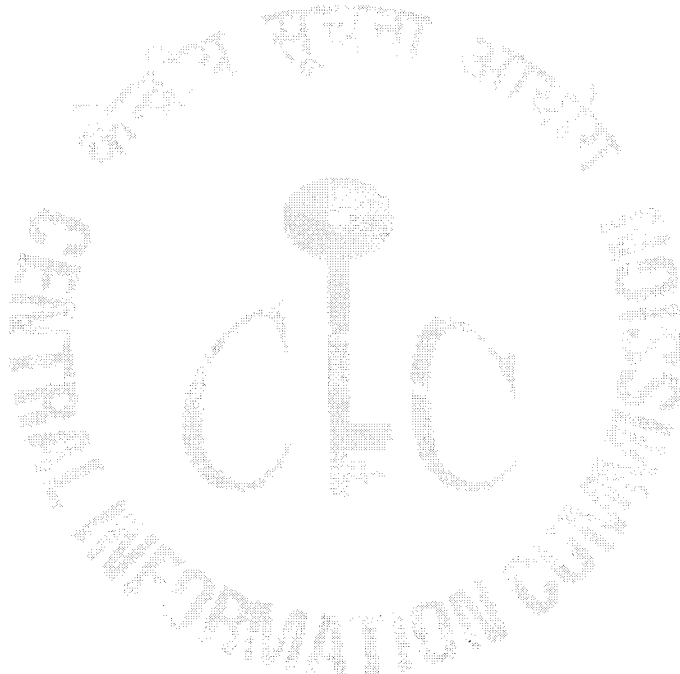
(R. Sitarama Murthy) (आर. सीताराम मूर्ति)
 Deputy Registrar (उप पंजीयक)
 011-26181927 (०११-२६१८१९२७)
ADDRESSES OF THE PARTIES:

THE CENTRAL PUBLIC INFORMATION OFFICER (CPIO),
 RESERVE BANK OF INDIA,
 DEPARTMENT OF BANKING SUPERVISION,
 CENTRAL OFFICE - 1 CUFFE PARADE,
 COLABA, MUMBAI- 400005

MR.NEERAJ SHARMA,
FF-41/A 2ND FLOOR, LAXMI NAGAR,
DELHI - 110092

Copy to:

1. The First Appellate Authority, (under RTI)
Reserve Bank of India, Department of
Banking Supervision,
World Trade Centre, Cuffe Parade,
MUMBAI-400 005



केन्द्रीय सूचना आयोग
Central Information Commission
बाबा गंगनाथ मार्ग, मुनिरका
Baba Gangnath Marg, Munirka
नई दिल्ली, New Delhi – 110067

शिकायत संख्या / Complaint No. CIC/DS/C/2013/900560/SB

Shri Jeetender

...शिकायतकर्ता/Complainant

VERSUS

बनाम

CPIO: Ministry of
Information &
Broadcasting, New
Delhi.

...प्रतिवादीगण/Respondents

Date of complaint:	06.10.2013
Date of Hearing:	02.09.2019

ORDER
(25.09.2019)

1. The issue under consideration is the **complaint dated 06.10.2013** against press media (newspaper publications) for failing to perform functions of public authorities under the RTI Act, 2005.
2. Succinctly facts of the case are that the complainant had filed PIL W.P. (C) 4794/2013 in Delhi High Court. The same was dismissed as withdrawn by the Hon'ble Court with the following order dated 31.07.2013:

"The learned counsel for the petitioner seeks permission to withdraw this application with liberty to approach the Central Information Commission by way of an appropriate proceeding."

3. Following the order dated 31.07.2013 of the Delhi High Court, the complainant filed the complaint dated 06.10.2013 before this Commission against the Ministry of Information and Broadcasting which is under consideration.

Hearing on 08.05.2017:

4. The complainant Shri Jeetender Gupta and Shri P.C. Chamoli, Section Officer, Press Information Bureau (PIB), Ms. Nidhi Pandey, ADG, PIB, Shri S.K. Maggo, VS, Press Council of India (PCI) and Shri Ramesh Tandon, Section Officer, PCI were present in person.

4.1. The Commission passed the following directions on 08.05.2017:

"The Commission after hearing the submissions of both the parties and perusing the records, observes that the guiding factor for the determination of a "public authority" under the RTI Act is stipulated in section 2 (h) of the RTI Act. The Commission notes the averments of the appellant that, seemingly, the functioning of the Print Media establishments and/or the journalists is substantially financed by the Government of India qualifying them to be included within the parameters stipulated in section 2 (h) of the RTI Act. However, having regard to the divergence of opinion in the interpretation of section 2 (h), the Commission is of the cogent view that there is a need to refer the issue, to a larger bench of the Commission, for adjudication of the issue whether the print media establishments merit inclusion in the definition of "public authority" under the RTI Act."

Hearing on 02.09.2019

5. The complainant and on behalf of the respondent Ms. Sonia Malhotra, Under Secretary; and Shri Arun Mohan, Deputy Director, Ms. Nidhi Pandey, Assistant Director General, Press Information Bureau, attended the hearing in person.

5.1. The complainant submitted that he had approached this Commission by filing a complaint under section 18 (1) (a) of the RTI Act. He stated that the press media

● (registered newspapers) having been not brought under the purview of section 2 (h) of the RTI Act, there were no designated CPIOs of the leading publications to whom he could address an RTI application. The complaint dated 06.10.2013 was filed subsequent to his PIL W.P. (C) 4794 of 2013 before the Delhi High Court.

5.2. Perusal of records reveals that the complainant has not filed any RTI application either with the respondent authority or with any media house before approaching the Commission. The complainant has resorted to section 18 (1) of the RTI Act without making a request for information as per section 6 (1) of the RTI Act.

6. The complainant sought permission to withdraw his complaint with liberty to file, if necessary, appropriate proceedings. Accordingly, the complaint is dismissed as withdrawn.

Copy of the decision be provided free of cost to the parties.

(Divya Prakash Sinha)
Information Commissioner

(Suresh Chandra)
Information Commissioner
25.09.2019

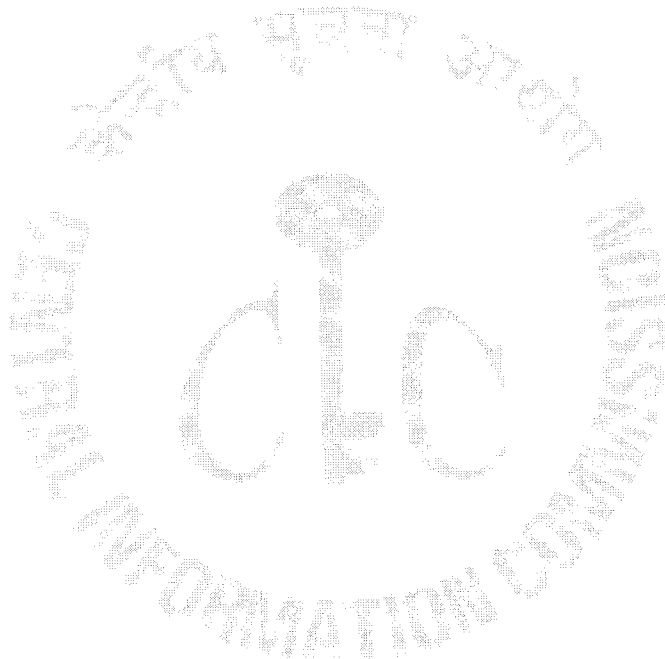
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(Piyush Agarwal) (पीयूष अग्रवाल)
Registrar/पंजीयक

ADDRESSES OF THE PARTIES:

CENTRAL PUBLIC INFORMATION OFFICER
MINISTRY OF INFORMATION & BROADCASTING,
A-WING, SHASTRI BHAWAN
NEW DELHI-110001.

SHRI JEETENDER
150, SECTOR-7A, FARIDABAD,
HARYANA-121006.



केन्द्रीय सूचना आयोग
Central Information Commission
बाबागंगनाथमार्ग, मुनिरका
Baba Gangnath Marg, Munirka
नई दिल्ली, New Delhi – 110067

शिकायतसंख्या / Complaint No. CIC/CCUBL/C/2017/128442

Mr. Kriplani M

...शिकायतकर्ता/Complainant

VERSUS

बनाम

1) Mr. Ashutosh Kumar
CPIO & Dy. Commissioner of Customs (ACC)
Office of the Pr. Commissioner of Customs
Air Cargo Complex, Menzies Aviation,
Bobba Cargo Terminal, Dev Anahalli
Bengaluru – 560300

2) Mr. Sujith Kumar P Sompur,
Jt. Director, Directorate of
Revenue Intelligence(DRI),
Guwahati Zonal Unit, No.6,
Krishna Nagar, Chand Mari,
Guwahati-781003

...प्रतिवादीगण /Respondent

Relevant dates emerging from the complaint:

RTI: 17.06.2016	FA: Nil	Complaint : 09.06.2017
CPIO: 25.07.2016	FAO: Nil	Hearing: 18.02.2020

ORDER
(12.03.2020)

The issue under consideration i.e. relief sought by the complainant in his complaint dated 03.08.2016 (diarised in Commission on 01.05.2017) is as under:

- Initiate severe action and also impose fine/penalty and recommend the lapses/misdeeds for disciplinary/departmental action against the accused.

2. The brief facts of the case include that the complainant made an application dated 17.06.2016 wherein he sought information about Mr. Srinivas. The CPIO, Customs Department, Bangalore, furnished reply. Aggrieved by the reply he filed a complaint dated 09.06.2017 which is under consideration.

2.1 The matter was earlier heard by the Commission on 19.01.2018 wherein vide order dated 23.01.2018, the Commission had disposed of the matter as under:

“Keeping in view the facts of the case and the submissions made by both the parties and in the light of the aforesaid judgments, no further intervention of the Commission is warranted in the matter. For redressal of grievance, the Complainant is required to approach an appropriate forum.”

2.2. Aggrieved by the decision of the Commission, the Complainant approached the Hon’ble High Court of Karnataka in W.P. No. 8286/2018 which was decided by the Hon’ble High Court of Karnataka vide order dated 19.09.2019, the relevant extracts of which are as under:

“Admittedly, the petitioner by way of communication dated 25.07.2016 was informed that no such person by name Shri Srinivas, Inspector of Customs, Air Cargo Complex, Bangalore is posted in the office. Being aggrieved, the petitioner filed a complaint under Section 18 (e) of the Act before the Central Information Commission on the ground that he has been supplied incorrect and misleading information. From perusal of the order dated 25.09.2017 passed by the Central Information Commission, I find substance in the submission made on behalf of the petitioner that the information which has been supplied to the petitioner prima facie appears to be incorrect and misleading. However, the aforesaid aspect of the matter has not been considered by the Central Information Commission while passing the impugned order dated

23.01.2018. *The complaint submitted by the petitioner has been rejected on the ground that the Complainant could not substantiate regarding mala fide denial of information by the respondent. The impugned order therefore suffers from the voice of information, application of mind and cannot be sustained in the eye of law. It is accordingly quashed. The Central Information Commission is directed to decide the issue, whether or not, the application of the petitioner is incorrect/ misleading, in the light of order dated 25.09.2017 passed by the Central Information Commission in complaint no. CIC/DOREV/C/2017/311926-BJ, by a speaking order, after affording an opportunity of hearing to the parties, within a period of one month from the date of receipt of certified copy of the order passed today. It is made clear that this Court has not expressed any opinion on the merits of the case.*"

2.2.1 In compliance with the aforesaid order of the Hon'ble High Court of Karnataka, the Legal Cell, Central Information Commission, *inter alia* placed the matter before Information Commissioner (IC)- Bimal Julka who vide his note dated 04.10.2019 proposed to schedule the hearing with another IC for the sake of objectivity / transparency. Thereafter, the Legal Cell, Central Information Commission vide another note dated 04.10.2019 *inter alia* placed the matter before Chief Information Commissioner (CIC) who vide his note dated 07.10.2019 stated that the matter be heard by Information Commissioner(BJ) and Information Commissioner(SC).

2.2.2 Hearing: 30.10.2019

The following interim order was made on 01.11.2019:-

"Hearing both the parties and on perusal of the records and advertent to the facts and circumstances of the case, the Commission feels that in order to ascertain more clarity and reasons, a show cause notice may be issued to the then CPIO and the present CPIO as to why penal

action should not be initiated against them in accordance with the provisions of the RTI Act, 2005 for misleading the Commission with the correct identity of the Customs Official where information was sought by the Complainant. Therefore, the Commission instructs Mr. Sujith Kumar P. Sompur, the then CPIO and Dy. Commissioner, Air Cargo Complex and the present CPIO Mr. Ashutosh Kumar, Dy. Commissioner of Customs and CPIO, Air Cargo Complex to explain as to why penal action should not be initiated against them as per Section 20(1) of the RTI Act, 2005 within a period of 15 days from the date of receipt of this order. Mr. Ashutosh Kumar, Dy. Commissioner of Customs and CPIO, Air Cargo Complex is also directed to intimate Mr. Sujith Kumar P. Sompur, the then CPIO and Dy. Commissioner, Air Cargo Complex about the instant order and ensure his presence on the next date of hearing fixed by the Commission.

Since the Registrar, CIC is not in position as on date, the Dy. Registrar (IC-BJ) is instructed to fix another date of hearing in the matter under intimation to all the concerned parties."

2.2.3 Hearing on 05.12.2019

The following order/directions was passed on 20.12.2019:-

Hearing both the parties and on perusal of the records and adverting to the facts and circumstances of the case, the Commission feels that in order to comply with the principles of natural justice, a copy of the replies to the show cause notice submitted by both the CPIOs should be forwarded to the Complainant to enable him to submit his views by way of his written submission, if any. Therefore, the Commission while directing both the Respondents to forward their replies to the Complainant by way of e-mail also directed the Complainant to submit his written submission against the same, if any, within a period of 10 days from the date of receipt of the replies to the Commission and the

Respondents. Based on the written submissions of the Complainant, the Commission may either fix another date of hearing, if required, or decide the matter on merits.

2.2.4 Hearing on 18.02.2020

The complainant attended the hearing and on behalf of the respondent Mr. K. V. Arvind, Sr. Standing Counsel (Customs), Bangalore, Mr. Ashutosh Kumar, Dy. Commissioner of Customs and CPIO, Air Cargo Complex, Bangalore and Mr. Nirmal Joy, Dy. Commissioner, Air Cargo Complex, Bangalore and Mr. Sujith Kumar P Sompur, Jt. Director, Guwahati, attended the hearing through video conference. Both parties made submissions.

3. The complainant while arguing his case *inter alia* alleged that the respondent by giving nil information misrepresented the facts; that criminal cases were pending against certain persons including Mr. M V Srinivas charges were also framed on 28.9.2017 that the CPIO evaded disclosure of information intentionally and that in a similar case vide order CIC/DOREV/C/2017/311926-BJ dated 25.9.2017 the Central Information Commission found the response of the respondent contradictory and in grave violation of the provisions of the RTI Act. The complainant also enclosed copies of the FIRs, chargesheets etc. to highlight that the respondent had given wrong information with *mala fide*. He also acknowledged that he received a copy of the response of the respondents with reference to the show cause notice in pursuance to the Commission's order dated 30.10.2019.

3.1. The complainant also made written submissions dated 28.10.2019 wherein it had *inter alia* been stated that the RTI application was filed seeking information on one Mr. Srinivas, Inspector of Customs, Bangalore, Air Cargo Complex who was directly reporting to Mr. Sujith Kumar P. Sompur (CPIO) as Mr. Srinivas was with the CIU (Customs Intelligence Unit) department. Mr. Sujith Kumar P Sompur

being the CIU head had only two inspectors allocated to him namely Mr. Srinivas and Mr. Niranjana Murthy. He thereafter alleged that Mr. Sujith Kumar P Sompur and Mr. Srinivas had jointly and severally committed several corrupt criminal acts and numerous FIRs and Charge Sheets had been filed by CBI, Local Police as well as by the CVC based on various complaints during the year 2015-16. When the RTI application was filed seeking information on Mr. Srinivas, Inspector of Customs, Mr. Sujith Kumar P Sompur (CPIO) with a sinister view to exonerate and extricate themselves had intentionally filed a false and malicious statement that there existed “*No person by the name Shri Srinivas, Inspector of Customs, Air Cargo Complex, Bengaluru working at their office.*”

3.2 The complainant also made written submissions dated 17.12.2019 wherein it was *inter alia* stated that the CPIO Mr. Ashutosh Kumar during the initial hearing on 30.10.2019 had made his initial defence/ submission that the person on whom information was sought i.e., Mr Srinivas, Inspector of Customs was not working at Air Cargo complex at the relevant point of time whereas on the next date of hearing, the CPIO Mr. Ashutosh Kumar took a contradictory defence that the inspector by the name of Mr. M V Srinivas was working in their department at the relevant point of time, however since the instant RTI application pertained to seeking information on Mr. Srinivas hence they could not ascertain as to who was the actual Mr. Srinivas. The Complainant further stated that the information sought in point no 01 of both the RTI applications pertained to the present posting of Mr Srinivas against which an appropriate response was given. Hence, the contention of the Respondent that there was lack of clarity/ full details of the information sought fell on the ground. On one hand, the Respondent recognised the said person in question i.e., Mr. Srinivas and replied to the RTI application whereas in the other application, they mislead by providing false information that there was no such person by the name of Mr. Srinivas which established *mala fide* on the part of the CPIO (Mr. Sujith Kumar P Sompur. While establishing the *mala fide* on the part of

- Mr. Sujith Kumar P Sompur, the Complainant referred to incidents to establish that he indulged in repeated offences and thereby made a mockery of the RTI Act. In view of the above, it was prayed to initiate penal action against Mr. Sujith Kumar P Sompur and departmental/ disciplinary action proceeding initiated against him as also penal action against Mr. Ashutosh Kumar.

4. The Respondent while defending the reply given by the then CPIO *inter alia* argued that the information sought was not about Mr. M. V. Srinivas and that subsequently the Complainant had revealed the additional information that he was referring to the specific person i.e. Mr. M. V. Srinivas. Hence, based on the earlier application, the CPIO could not have ascertained about the information sought and the information given at that according to him point of time according to him was correct as there was no person by name 'Srinivas' in the O/o the Pr. Commissioner of Customs, Air Cargo Complex, Bengaluru. Thus, the CPIO in the absence of correct name could not have inferred or created information which was not in the custody of the CPIO. There are a plethora of judicial pronouncements including those of the Central Information Commission supporting his view point that CPIO was not to invent or create information/ provide opinion/ advice or draw inference. He referred to the decision of the Commission in Complaint No CIC/CCUBL/C/2017/108697-BJ dated 12.12.2017 wherein it was articulated that the Complainant had prior knowledge of the presence of Mr. M.V. Srinivas, Customs Official whereas in the instant case he refrained to spell out the correct identity details.

4.1 In his reply, the Respondent (Mr. Sujith Kumar P. Sompur, the then CPIO) reiterated his response to the show cause notice and primarily argued that no *mala fide* intention existed on his part while replying to the RTI application since two similar RTI applications were filed by the Complainant on the same date i.e., 17.06.2017 wherein in one application he had sought information regarding "Mr. M.V. Srinivas, Inspector of Customs" while in the other application he had sought

information regarding “Mr. Srinivas, Inspector of Customs” (Air Cargo Complex, Bangalore). Both the applications were replied on the same date i.e., 25.07.2016 denying information regarding “Mr. M.V. Srinivas” u/s 8 (1) (j) of the RTI Act, 2005 on the ground that the information sought was the personal information of a Third Party and no larger public interest warranting its disclosure was justified by the Appellant.

4.2 However, on the RTI application dated 17.06.2016 which is also replied by the CPIO, he mentioned that since there existed no officer by the name “Mr. Srinivas” in their department, a response with the comment “Nil” was provided on that RTI application. It was submitted that the CPIO was not competent to draw an inference or make an assumption that both the RTI applications related to the same person. The Complainant had prior knowledge of the presence of Mr. Srinivas M. V. Custom Official. Thus, the CPIO had no reason or basis or cause or even a belief to assume or to conclude that both of them were in respect of one and the same person/officer.

4.3 It was therefore prayed by the respondents that the Commission might appreciate the different facts and circumstances as presented by the Complainant in the two cases. Accordingly the contention of the applicant/complainant that information was provided to mislead or wrong information was provided was totally incorrect and baseless contended the respondent. The Respondent (Mr. Ashutosh Kumar, CPIO and Dy. Commissioner of Customs, Bangalore) at the outset handed over a copy of his reply to the show cause notice sent to the Commission to the Complainant as well and submitted that he has been transferred now and was not the incumbent CPIO anymore. While reiterating the submissions of Mr. Sujith Kumar P. Sompur, the then CPIO, he submitted that in accordance with the directions of the Commission in the last hearing, he had conveyed that Mr. M.V. Srinivas, Inspector of Customs had worked in the O/o the Pr. Commissioner of Customs, Airport and Air Cargo Complex between 08.06.2015 and 23.08.2018

and that other than Mr. M.V. Srinivas, Inspector of Customs, no Mr. Srinivas, Inspector of Customs was working in the O/o the Pr. Commissioner of Customs, Air Cargo Complex and that no Mr. Srinivas, Inspector of Customs was reporting to the then CPIO in the relevant period. Mr. M. V. Srinivas was therefore identifiable Inspector of Customs whereas Mr. Srinivas could not be identified and no assumptions could be taken with regard to the identity of the said official.

4.4 The Commission was in receipt of a reply to the show cause notice from the Respondent (Mr. Sujith Kumar P Sompur, the then CPIO) dated 14.11.2019, wherein it was stated that the Complainant Sri Kriplani had filed an RTI application dated 17.06.2016 to the CPIO, Office of the Commissioner of Customs, Queens Road, Bangalore seeking the information in respect of “Mr. M. V. Srinivas” – Inspector of Customs (SHED Air Cargo Complex, Bangalore). The application was transferred to the CPIO at Air Cargo Complex and was received by the then CPIO on 27.06.2016 and was replied by the then CPIO by his response dated 25.07.2016. It was submitted that the said response in respect of “Mr. M. V. Srinivas” was the subject matter of a Second Appeal before the Commission in Appeal No. CIC/CCUBL/C/2017/108697/BJ which was decided on 12.12.2017 wherein the Commission recorded the finding that no further intervention of the Commission was warranted in the matter. It was submitted that the said “Mr. M. V. Srinivas” in respect of whom the applicant had sought information, had worked in the Office of the Commissioner of Customs, Airport and Air Cargo Complex between 08.06.2015 and 23.08.2018.

4.5 Mr. Sujith Kumar P Sompur further submitted that the very same Complainant/Applicant had also filed another RTI application on the same date, viz. 17.06.2016, before the same CPIO, Office of the Commissioner of Customs, Queens Road, Bangalore seeking the information in respect of “Mr. Srinivas” – Inspector of Customs (Air Cargo Complex, Bangalore). It was submitted that the said second application was also transferred to the then CPIO and was received by

him also on 27.06.2016. The then CPIO by his response also dated 25.07.2016 furnished the reply to the applicant informing that "*There is no person by name Mr. Srinivas, Inspector of Customs, Air Cargo Complex, Bangalore working at this office and hence the information sought vide his application may be treated as Nil*". Thus it was prayed to take note of the dates of both the applications. Both the RTI applications were filed by the same Applicant/Complainant on the same date viz. 17.06.2016. In both the applications the Applicant/Complainant had sought similar items of information but had used a different phraseology. Both the applications were made to the PIO, Office of the Principal Commissioner of Customs, Queens Road, Bengaluru and that PIO had transferred them under Sec. 6(3) of the RTI Act to the then CPIO under the same letter and were received by the then CPIO on 27.06.2016. It was submitted that both the applications were replied by the then CPIO on 25.07.2016. Thus, in view of two RTI applications having been filed by the same applicant on the same date and seeking almost similar items of information pertaining to one in respect of "Mr. M. V. Srinivas" (Inspector of Customs, (SHED, Air Cargo Complex) and another in respect of "Mr. Srinivas" (Inspector of Customs, Air Cargo Complex), the then CPIO had no reason or basis or cause or even a belief to assume or to conclude that both of them were in respect of one and the same person/officer. In view of the above factual aspects, the contention of the applicant/complainant that information was provided to mislead or wrong information was provided was totally incorrect and baseless. The *bona fide* of the then CPIO was further justified in view of the response provided by him to the application filed by the applicant in respect of Mr. M. V. Srinivas, which response was upheld by the Commission in the Second Appeal. In fact the Complainant had sought information about 11 persons vide 11 separate RTI applications on the same date i.e. 17.06.2016. The CPIO had replied to all the 11 applications, which further demonstrates the *bona fide* of the then CPIO. It was further submitted that the CPIO was not competent to draw an inference and/or

● make an assumption that both the RTI applications related to the same person. In the above facts and circumstances, the response given by the then CPIO in respect of the application relating to "Mr. Srinivas" could not be considered as denial of information or providing misleading information in view of the application filed by the same applicant in respect of Mr. M. V. Srinivas having been responded as it was possible to identify that officer on the basis of the records and that response had been confirmed by the Commission. The Complainant had prior knowledge of the presence of Mr. Srinivas M. V., Customs Official whereas in the instant case he refrained to spell out the correct details.

4.6. It was also stated that the facts and circumstances of the decision of the Commission in Complaint No. CIC/DOREV/C/2017/311926-BJ dated 25.09.2017 was completely different from the instant case. However, on closer examination it was very clear that though the information sought pertained to Mr. Srinivas, the Commission took a view to issue a show cause notice to the CPIO on an earlier occasion who attended the video conference as he provided a contradictory reply vis-a-vis the original reply by the CPIO. A reference was also made to the decision of the Hon'ble Delhi High Court in W P (C) 11271/2009 in the case of Registrar of Companies Vs. the Dharmendra Kumar Garg decided on 01.06.2012. Furthermore, the RTI application in question, which was the basis of the complaint, itself was not maintainable as it was hit by the principles of resjudicata. When the application itself was not maintainable, it could not be the basis of the complaint under Sec. 20 of the RTI Act. The Respondent also referred to the judgment of the Hon'ble Delhi High Court in its decision in W. P. (C) 845/2014-Shail Sahini Vs. Sanjeev Kumar & others decided on 05.02.2014. It was also submitted that the Complainant was using the RTI Act for his self interest, without any public interest, for his personal vengeance against the Respondents PIOs and the Public Authority. Therefore, it was prayed to accept the above explanation and withdraw the show cause notice in the interest of justice and equity.

4.7. The Commission was also in receipt of a reply to the show cause notice from the Respondent (Mr. Ashutosh Kumar, CPIO and Dy. Commissioner of Customs) dated 13.11.2019 wherein he submitted that as per records available Mr. M.V. Srinivas, Inspector of Customs had worked in the O/o the Pr. Commissioner of Customs, Airport and Air Cargo Complex between 08.06.2015 and 23.08.2018 and that other than Mr. M.V. Srinivas, Inspector of Customs, no Mr. Srinivas, Inspector of Customs was working in the O/o the Pr. Commissioner of Customs, Air Cargo Complex and that no Mr. Srinivas, Inspector of Customs was reporting to the then CPIO in the relevant period. It was also stated that being the present CPIO he only attended the hearing on 30.10.2019 and represented the office based on available records. Furthermore, in view of the fact, that the applicant had filed two different RTI applications on the same date asking similar information in respect of Mr. M.V. Srinivas, Inspector of Customs (SHED, Air Cargo Complex) and Mr. Srinivas, Inspector of Customs (Air Cargo Complex) respectively from the same CPIO and that only Mr. M.V. Srinivas, Inspector of Customs was identifiable as working in the Air Cargo Complex as per the available records in the relevant period, had no reason or basis or cause or even a belief to assume or to conclude that both the applications were in respect of one and the same person/ officer. It was further stated that he had only put the correct factual position before the Commission and had no intention either to refuse information or to mislead the Commission hence the provisions of Section 20 were not applicable to the present CPIO.

5. Perusal of the RTI application dated 17.06.2016 reveals that complainant before filing the complaint sought the following information about Shri Srinivas, Inspector of Customs (Air Cargo Complex, Bangalore)

“Complete detailed list of Postings/Departments served until today from the date of joining duty with the department.

Address and ownership details of present Residential Premises if it is own property which has been purchased after joining duty with the department (to ascertain the prevailing market value) and also the mortgage details if any on the property, loans availed towards purchase, renovations etc.

At the time of joining duty, was he staying in rented premises or own. If own premises please provide complete details like whether it was Parental/Ancestral/Self Acquired etc.

Detailed list of assets acquired after joining duty with the department. (Movable/Immovable/Tangible/Intangible assets).

Number of children and their present educational qualifications and status to ascertain the mode and means of educational expenses. If children have completed or undergoing any professional courses in India or abroad like Medicine/Engineering/Management, require the details to know the means and mode of educational expenses incurred if it has been paid for by known legitimate means."

5.1 The CPIO vide his letter dated 25.07.2016 replied to the appellant as under:-

"There is no person by name Mr. Srinivas, Inspector of Customs, Air Cargo Complex, Bangalore, working at this office and hence the information sought vide your application may be treated as Nil."

5.2 Aggrieved by the reply of the CPIO, he filed complaint. Besides, he filed on the same date another RTI dated 17.06.2016 (on the same date) seeking similar information against Mr. Srinivas M. V. and both the RTIs were replied on 25.07.2016.

5.3 On being queried by the Commission regarding the reason why he did not mention the complete details of the officer i.e., Mr. M.V. Srinivas, Inspector of

Customs in the instant RTI application which was admittedly done by him in another RTI application filed on the same day, no satisfactory response was provided by the Complainant who made a feeble plea in support of his contention that the name plate of the said officer only indicated the name Mr. Srinivas.

5.4 It is not the case that the CPIO had not replied/provided the information, but contention is that the CPIO misrepresented. Considering that both the RTI applications were filed on the same date i.e., 17.06.2016 before the same CPIO, the Complainant could have filed a single application seeking all information in a consolidated manner in order to avoid multiplicity of proceedings. Moreover, on perusal of both the applications, it is clear that the information sought in one application decided earlier in CIC/CCUBL/C/2017/108697-BJ dated 12.12.2017 pertained to Mr. M.V. Srinivas whereas the instant application pertained to Mr. Srinivas. It appears that the Complainant had not approached the Commission with clean hands. The Respondent provided two different replies strictly on the basis of the name of the officer regarding whom the information was sought and that the names mentioned by the complainant in RTI applications were not identical.

6. The Commission after adverting to the facts and circumstances of the case, hearing both the parties and perusal of records notes that both the CPIOs (Mr. Ashutosh Kumar and Mr. Sujith Kumar P Sompur) had pleaded that the reply given was genuine, contextually correct and not misleading. It is also observed that it was not the case that the CPIO did not disclose identity of Mr. Srinivas M.V. Two RTI applications having been filed on the same date about one person namely Mr. Srinivas M V and in the name of another person Mr. Srinivas. One having been replied claiming exemption and the other replied by conveying that there was no such person by name Mr. Srinivas. It may also be otherwise inferred that the complainant having full knowledge had not mentioned the correct identity. Moreover, the complainant has not approached the Commission by way of 2nd appeal and also did not file 1st appeal. He had jumped over the opportunity of

● identification and correction if there was any communication gap or so called irregularities in the perception of the CPIO by not filing appeals. Moreover, if he was referring to the information concerning Mr. Srinivas M.V. the information was provided to him and may not take the plea that the information was not provided or misleading information was provided. On the other hand if he was referring to some person by name Mr. Srinivas who was different from Mr. Srinivas M V then the reply was contextual not incorrect. Under the given circumstances of the case it may not be unreasonable on the part of CPIO to infer under the circumstances as was inferred by the CPIO and communicate a nil report. Moreover, if the complainant has relied upon the order dated 25.9.2017 then the matter has attained finality and his complaint might suffer on the basis of the principle of *res judicata*. The Hon'ble High Court while referring the case to the Commission observed that it had not expressed any opinion and that the earlier order dated 23.01.2018 of the Commission was suffering for want of reasons. In view of the above, the Commission is of the view that the view taken by the CPIO in his reply that there was no such person by name Mr. Srinivas was not implausible. In view of the above, the CPIO may not be held responsible. Accordingly, the complaint is rejected and show cause notice is dropped.

Sd/-

(Suresh Chandra) (सुरेश चन्द्र)
Information Commissioner
 दिनांक / Date: 12.03.2020

Sd/-

(Bimal Julka) (बिमलकुलका)
Chief Information Commissioner
 दिनांक / Date: 12..03.2020

Authenticated true copy
 (अभिप्रमाणित सत्यापित प्रति)

(Brig Vipin Chakrawarti) (ब्रिगेडियर विविपन्नचक्रवर्ती)
 Registrar (पंजीयक)
 011-26105021

Copy to:

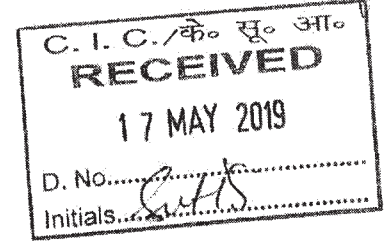
Address of the parties:

1) Mr. Ashutosh Kumar
CPIO & Dy. Commissioner of Customs (ACC)
Office of the Pr. Commissioner of Customs
Air Cargo Complex, Menzies Aviation,
Bobba Cargo Terminal, Dev Anahalli
Bengaluru – 560300

2) Mr. Sujith Kumar P Sompur,
Jt. Director, Directorate of Revenue
Intelligence(DRI),
Guwahati Zonal Unit, No.6, Krishna
Nagar, Chand Mari,
Guwahati-781003

Mr. Kriplani M.
863, 7th Main, 3rd Cross Hal,
2nd Stage, Indira Nagar
Bangalore – 560008, Karnataka

केन्द्रीय सूचना आयोग
Central Information Commission
बाबा गंगनाथ मार्ग, मुनिरका
Baba Gangnath Marg, Munirka
नई दिल्ली, New Delhi - 110067



द्वितीय अपील संख्या / Second Appeal No. CIC/RBIND/A/2017/167309

Shri Neeraj Sharma

... अपीलकर्ता/Appellant

VERSUS

बनाम

CPIO, Reserve Bank of India,
Colaba, Mumbai.

...प्रतिवादीगण /Respondents

Relevant dates emerging from the appeal:

RTI : 23.05.2017	FA : 16.06.2017	SA : 25.09.2017
CPIO : 13.06.2017	FAO : 24.07.2017	Hearing : 20.03.2019

ORDER

(15.05.2019)

1. The issues under consideration arising out of **second appeal dated 25.09.2017** include non-receipt of the following information sought by the appellant through his RTI application dated 23.05.2017 and first appeal dated 16.06.2017 :

- (i) When Finance Ministry became aware on the case of 32 lakhs debit cards compromised.
- (ii) Is any internal enquiry done on this case, Please provide the enquiry report on Case of 32 lakh debit cards compromised.

- (iii) Please provide copy of all letters/Memo/Emails sent or received by finance ministry on Case of 32 lakh debit card compromised.
- (iv) How many FIRs registered on the Case of 32 lakh debit cards compromised and provide all FIR Numbers.
- (v) Which investigating agency investigated this Case of 32 lakh debit card compromised please provide the name of the agency and investigation officer names.
- (vi) Is Investigation completed on the above case.
- (vii) Is any Commission formed by the govt. to investigate the case. If yes, please provide the commission members details. And copy of commission report.
- (viii) Please provide total loss in Rupees due to 32 lakh debit card compromised with their bank details.
- (ix) Please provide loss of amount by Bank.
- (x) Please provide loss of amount by Bank's Customers.
- (xi) Please provide the compensation details given to customers by Bank by Govt. of India.

2. Succinctly facts of the case are that the appellant filed an application dated 23.05.2017 under the Right to Information Act, 2005 (hereinafter called the RTI Act) before the Central Public Information Officer (CPIO), Reserve Bank of India, Colaba, Mumbai, seeking the aforesaid information. The CPIO replied on 13.06.2017. Not satisfied with the response of the CPIO, the appellant filed first appeal dated 16.06.2017. The First Appellate Authority disposed of the first appeal



5.2. The Appellant contended that the Appellate Authority wrongly relied upon the CIC case- *Shri Ashok Jain, New Delhi v. Securities & Exchange Board of India, Mumbai* (Appeal No. CIC/MP/A/2016/001266 dated December 10, 2016). He further submitted that in the said decision, the Hon'ble Commission dealt with individual concern wherein the information was denied as the same was held in fiduciary capacity. Whereas the present case involves an overriding concern of public interest wherein financial wealth of millions of fraudulent acts of certain unknown individuals/groups, hence, the exemption carved out under section 8 of the Act has no applicability in denying the information. The appellant stated that the Hon'ble Supreme Court in a batch of petitions titled as *Reserve Bank of India & Ors. v Jayantilal N. Mistry & Ors* dated 16.12.2015 held that:

"61. The baseless and unsubstantiated argument of the RBI that the disclosure would hurt the economic interest of the country is totally misconceived. In the impugned order, the CIC has given several reasons to state why the disclosure of the information sought by the Respondents would hugely serve public interest, and non-disclosure would be significantly detrimental to public interest and not in the economic interest of India. RBI's argument that if people, who are sovereign, are made aware of the irregularities being committed by the banks then the country's economic security would be endangered, is not only absurd but is equally misconceived and baseless.

62. The exemption contained in Section 8(1) (e) applies to exceptional cases and only with regard to certain pieces of information, for which disclosure is unwarranted or undesirable. If information is available with a regulatory agency not in fiduciary relationship, there is no reason to withhold the disclosure of the same. However, where information is required by mandate of law to be provided to an authority, it cannot be said that such information is being provided in a fiduciary relationship. As in the instant case, the financial institutions have an obligation to provide all the information to the RBI and such an information shared under an obligation/duty cannot be considered to come under the purview of being

vide order dated 24.07.2017. Aggrieved by this, the appellant has filed the second appeal dated 25.09.2017 before this Commission which is under consideration.

3. The appellant has filed the instant appeal dated 25.09.2017 *inter alia* on the grounds that the information has been wrongfully denied by the CPIO whereas in this case disclosure of the information outweighs the protected interest of wrong doers who have conspired in compromising the financial data of huge number of citizens. He requested the Commission to direct the concerned CPIO to supply complete information sought by the appellant and impose penalty as per section 20 of RTI Act. He also requested the Commission to direct the public authority to make entry in service book/annual performance appraisal report of the CPIO for defying the provisions of the Act.

4. The CPIO denied the information vide his reply dated 13.06.2017 on point no. 2 and 3 of the RTI application by taking recourse to the provisions of section 8 (1) (a) and (d) of the RTI Act. The CPIO stated that the information relating to point no. 1 of the RTI application is available at their web portal and information on point no. 4 and 5 of the RTI application is not available with them. The FAA furnished revised response on all points of the RTI application.

5. The appellant and the respondent Ms. Leela Ramesh, Assistant Legal Advisor, Reserve Bank of India, Bandra, attended the hearing through Video Conferencing.

5.1. The appellant submitted that the respondent is misusing the provision of section 8 (1) of the RTI Act to deny information. He alleged that the public authority took cognizance of the matter relating to fraudulent transactions carried out in case of 32 lakh debit cards only when it was highlighted through news channels. He stated that the public authority either omitted to respond or provided misleading information with respect to point no. 2, 3, 4, 5, 7, 8, and 11 of the RTI application.



shared in fiduciary relationship. One of the main characteristic of a Fiduciary relationship is "Trust and Confidence". Something that RBI and the Banks lack between them."

The appellant further stated that the Appellate Authority had directed the CPIO to revisit the query and provide a supplementary reply to the appellant with respect to bank-wise details of losses caused in the matter. He requested the Commission to set aside the order of the First Appellate Authority dated 24.07.2017 and direct the concerned CPIO to supply the complete information sought by him.

5.3. The respondent submitted that forensic investigation was conducted by ATM service provider M/s Hitachi and a copy of the report was received by the Reserve Bank of India (hereinafter called the RBI). However, the report is confidential in nature and contains information about how the hackers entered the infrastructure, the patterns that were hacked, the future measures that may be formulated for security purposes. The disclosure of the above mentioned report would leak crucial information risking possibility of misuse of such information by hackers for illegal activities. The security strategies of the RBI and other bank would be compromised upon disclosure of details of the report. Therefore, the information was denied under section 8 (1) (a) and (d) of the RTI Act. The respondent stated that the disclosure of the names of the banks wherein the cards were misused would cause panic within the customers and the general public.

5.4. The Commission has observed that the respondent furnished reply to the appellant vide letter dated 13.06.2017. The appellant stated that he is aggrieved by the response given by the respondent. As per the appellant, the respondent has prioritized economic interest over the larger public interest. However, it is only in public interest that the security strategies and measures are safeguarded by the RBI. The risk involved in disclosure of the report overrides the requirement of its

availability in the public domain. The case relied upon by the appellant is distinguishable as the exemption is claimed u/s 8(1) (a) & (d) and not u/s 8(1)(e).

5.5. The appellant has alleged inaction on the part of the respondent in the matter. The respondent took cognizance of the matter and investigation was conducted by the ATM service provider. The press release pertaining to details how the cyber security incident came into the notice of the RBI was issued on 24.10.2016 and the same is placed on their web portal.

5.6. In *Manohar Lal Sharma v Union of India* [(2016) 13 SCC 710], the Supreme Court declined to entertain a PIL seeking the Court's directions to restrain the union government from incurring security and other expenses with respect to certain individuals in the state of Jammu and Kashmir, holding that "*nationally sensitive issues concerning the security of the nation ...should be left to the executive ... and that these writs are judicially unmanageable.*" It is relevant to quote the landmark judgment given by the Constitution Bench in *Re: Special Reference No 1 of 2012*, [(2012), 10 SCC 1]:

"The Supreme Parliament and the legislatures, composed as they are of the representatives of the people, are supposed to know and be aware of the needs of the people and what is good and bad for them. The Court cannot sit in judgment over their wisdom. In this connection, it should be remembered that even in the case of administrative action, the scope of judicial review is limited to three grounds viz (i) unreasonableness, which can more appropriately be called irrationality, (ii) illegality and (iii) procedural impropriety"

5.7. The RBI has taken cognizance of the matter and is taking all measures to safeguard the economic security.



5.8. The Hon'ble Apex Court in the case of *Central Board of Secondary Education and another v. Aditya Bandopadhyay and Others*, [(2011) 8 SCC 497] has held:

"67. Indiscriminate and impractical demands or directions under the RTI Act for disclosure of all and sundry information (unrelated to transparency and accountability in the functioning of public authorities and eradication of corruption) would be counter-productive as it will adversely affect the efficiency of the administration and result in the executive getting bogged down with the non-productive work of collecting and furnishing information. The Act should not be allowed to be misused or abused, to become a tool to obstruct the national development and integration, or to destroy the peace; tranquility and harmony among its citizens. Nor should it be converted into a tool of oppression or intimidation of honest officials striving to do their duty."

6. The respondent has revisited the RTI application and reiterated its earlier stand after the directions of the First Appellate Authority with respect to point no. 8 of the RTI application. The respondent has provided information as available with them. The Commission agrees with the contentions of the respondent that the disclosure of the names of the banks where such fraudulent transactions had occurred along with amounts of losses would create a state of panic within their customers.

The authorities have claimed exemption by virtue of the provisions under section 8(1) (a) and (d) of the RTI Act. The presumption that the legislature understands the needs of its people and that even its discrimination and classifications are based on adequate grounds has been acknowledged by the Supreme Court itself (in special reference No 1 of 2012, [(2012), 10 SCC 1]). The logic of balance exercise of judicial power has an assurance of institutional stability and re-organization of boundary of power is implicit in the Constitutional arrangement. It is contended that the failings of democracy and inadequacies of the democratic process cannot be

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invoked to negate the core of the democratic principle, namely that ultimate sovereignty vests in the people. Thus, arrangements of governance embodied in the Constitution resulting from the exercise of their free will cannot be used to deprive the ultimate masters of the right of final decision over their destiny. It is argued that "juridification of politics and politization of the judiciary" would be a loss for both the legislature and judiciary and that judiciary cannot act as a "censor of all governmental action". There have been plethora of judicial orders highlighting the issue of restraint by judicial bodies in substituting their wisdom over those who have been assigned the function of implementation of Laws. The Commission after adverting to the facts and circumstances of the case, hearing both the parties and perusal of records, feels that due reply has been given by the respondent. Accordingly, the appeal is dismissed.

Copy of the decision be provided free of cost to the parties.

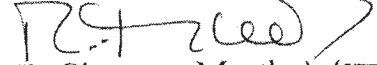

(Suresh Chandra) (सुरेश चंद्रा)

Information Commissioner (सूचना आयुक्त)

दिनांक/ Date: 15.05.2019

Authenticated true copy

(अभिप्रमाणित सत्यापित प्रति)



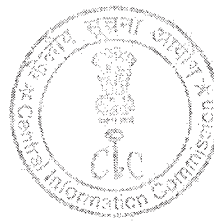
(R. Sitarama Murthy) (आर. सीताराम मूर्ति)

Deputy Registrar (उप पंजीयक)

011-26181927 (०११-२६१८१९२७)

ADDRESSES OF THE PARTIES:

THE CENTRAL PUBLIC INFORMATION OFFICER (CPIO),
RESERVE BANK OF INDIA,
DEPARTMENT OF BANKING SUPERVISION,
CENTRAL OFFICE - 1 CUFFE PARADE,
COLABA, MUMBAI- 400005



MR.NEERAJ SHARMA.
FF-41 A 2ND FLOOR, LAXMI NAGAR,
DELHI - 110092

Copy to:

- I. The First Appellate Authority, (under RTI)
Reserve Bank of India, Department of
Banking Supervision,
World Trade Centre, Cuffe Parade,
MUMBAI-400 005

केन्द्रीय सूचना आयोग
Central Information Commission
बाबा गंगनाथ मार्ग, मुनिरका
Baba Gangnath Marg, Munirka
नई दिल्ली, New Delhi – 110067

द्वितीय अपील संख्या / Second Appeal No. CIC/RBIND/A/2018/631240

Girish Mittal

... अपीलकर्ता/Appellant

VERSUS

बनाम

CPIO: Reserve Bank of India,
Central Office, Mumbai,

...प्रतिवादीगण/Respondents

Relevant dates emerging from the appeal:

RTI : 13.07.2018	FA : 30.08.2018	SA : 12.09.2018
CPIO : 10.08.2018 & 27.09.2018	FAO : 10.09.2018	Hearing : 19.11.2020

CORAM:

Hon'ble Commissioner

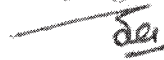
SHRI SURESH CHANDRA

ORDER

(07.01.2021)

1. The issues under consideration arising out of the **second appeal dated 12.09.2018** include non-receipt of the following information raised by the appellant through his RTI application dated 13.07.2018 and first appeal dated 30.08.2018:-

- Whether the RBI has made AADHAR seeding mandatory for opening and operating bank account. If yes, provide file with file noting where this decision was taken.*
- Whether RBI was aware of decision on Hon'ble Supreme Court order dated 13th March, indefinitely extending the requirement of linking AADHAR till the Hon'ble Supreme Court pronounces the final judgment on validity of AADHAR.*



(c) *Provide information on file with file noting where RBI has decided to be in contempt of order of Hon'ble Supreme Court mentioned in point (b) above by issuing direction for linking of AADHAR.*

2. Succinctly facts of the case are that the appellant filed an application dated 13.07.2018 under the Right to Information Act, 2005 (RTI Act) before the Central Public Information Officer (CPIO), Reserve Bank of India, Central Office, Mumbai, seeking aforesaid information. The CPIO replied on 10.08.2018. Dissatisfied with the response of the CPIO, the appellant filed first appeal dated 30.08.2018. The First Appellate Authority disposed of the first appeal vide order dated 10.09.2018. In compliance with the FAA's order, the CPIO furnished revised reply on 27.09.2018. Aggrieved by this, the appellant has filed a second appeal dated 12.09.2018 before this Commission which is under consideration.

3. The appellant filed the instant appeal dated 12.09.2018 *inter alia* on the grounds that the reply given by the CPIO was not satisfactory. The appellant has requested the Commission to direct the CPIO to provide the information immediately and take necessary action as per sub-section (1) of section 20 of the RTI Act.

4. The CPIO vide letter dated 10.08.2018 gave point-wise reply to the RTI application wherein they stated that information sought on point no. (c) of the RTI application was in the form of seeking opinion which did not fall within the definition of "information" as defined under section 2 (f) of the RTI Act. They provided copy of one page file noting as sought on point no. (a) of the RTI application after severing names of the persons who made such notings under section 8 (1)(j) of the RTI Act. The FAA vide his order dated 10.09.2018 directed the CPIO to revisit the query no. (a) of the RTI application and provide supplementary reply subject to the provisions of the RTI Act within 10 days. In compliance of the order of the FAA, the CPIO vide letter dated 27.09.2018 replied that information severed in the RTI reply to query no. (a) was exempted under section 8 (1) (g) of the RTI Act.

Hearing on 05.08.2020:

4.1. The appellant and on behalf of the respondent, Shri Nayeem Akhtar, Law Officer, Reserve Bank of India, Bandra, attended the hearing through audio conference.

4.2. The Commission passed the following directions on 16.10.2020:

"6. *The Commission after adverting to the facts and circumstances of the case, hearing both the parties and perusal of records, feels that due to paucity of time the*

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*parties could not conclude their submissions. Hence, the matter was **adjourned part-heard**. Now the matter fixed for hearing on 19.11.2020 and the Registry of this Bench is directed to issue fresh notice to the parties."*

Hearing on 19.11.2020:

5. The appellant and on behalf of the respondent, Shri Ram Subramaniam, CPIO, Reserve Bank of India, Bandra, attended the hearing through audio conference.

5.1. The appellant *inter alia* submitted that he had received the reply given by the CPIO however, the reply given on point no. (a) of the RTI application was incomplete. He stated that on point no. (a) he sought information as to whether RBI has made AADHAR seeding mandatory for opening and operating bank account, if yes, provide file with file noting where this decision was taken. In this regard the respondent had provided copy of the file noting as sought, however, they severed the names of the official(s) who made such proposal under section 8 (1) (i) of the RTI Act. He contended that exemption claimed by the respondent was arbitrary and against the transparency law. He referred clause (c) of sub-section (2) of section 10 of the RTI Act which provides that when the access was granted to part of the record under sub-section (1) of section 10 of the RTI Act, the CPIO should have furnished the appellant the name and decision of the person giving the decisions. Hence, he requested the Commission to direct the respondent to provide name of the person who had made such proposal

5.2. The respondent while defending their case *inter alia* submitted that they had already furnished point-wise reply to the RTI application vide letter dated 10.08.2018. They stated that the appellant's main issue was with regard to point no. (a) of the RTI application. The information sought on point no. (a) of the RTI application i.e. whether RBI has made AADHAR seeding mandatory for opening and operating bank account, if yes, provide file with file noting where that decision was taken. The reply given by the CPIO vide letter dated 10.08.2018 against point no. (a) reads as follows "*Aadhar has been made mandatory for account based relationships by the Government of India vide their Gazette Notification GSR 538 (E) dated June 1, 2017. Accordingly, in terms of sub rule (14) of Rule 9 of the Prevention of Money Laundering Rules, 2005 (PML Rules), RBI on April 20, 2018 has amended the Master Direction on KYC dated February 25, 2016. The Revised Master Directions is in accordance with the changes carried out in the PML Rules vide the aforementioned Gazette Notification and the subsequent Gazette Notifications including Gazette Notification 314 (F), dated March*

31, 2018. Further, this is subject to the judgment of the Hon'ble Supreme Court in the case of Justice K.S. Puttaswamy (Retd.) and Anr. Vs. Union of India, W.P. (Civil) 494/2012 etc. (Aadhar cases). The CPIO also informed the appellant that the aforementioned Master Direction is available on the website of RBI- www.rbi.org.in under the link 'Notification'. A copy of the file noting was furnished to the appellant after severing details under 8(1)(j) of the RTI Act, 2005."

5.3 They stated that the appellant's main issue was denial of names of officials who made the said proposal severing clause. They contended disclosure of name of the officials/manager who made such proposal to amend KYC rules would endanger his life and physical safety, hence, it could not be given under section 8 (1) (g) of the RTI Act and the same was conveyed to the appellant vide letter 27.09.2018. They further submitted that the Notes on any subject/issue in RBI move in a hierarchical manner and the designations of all the personnel involved in that particular Note had already been provided to the appellant. The CPIO had duly provided the Note which was put up on the letter head of the Reserve Bank without severing any content of the material except the names of the officials

6. The Commission after adverting to the facts and circumstances of the case, hearing both the parties and perusal of records, observes that the respondent had furnished point-wise reply/information to the appellant vide letter dated 10.08.2018. The appellant was not satisfied with regard to point no. (a) of the RTI application only. The appellant's main contention was with regard to disclosure of the names of officials/Managers who initiated the note to amend KYC rules. Though, initially this information was denied by the respondent under section 8 (1) (j) of the RTI Act, subsequently in compliance of the order of the FAA, they provided copy of note sheet and blackened out the names of the officials on the ground of danger to the life, physical safety and personal threat being exempted under section 8 (1) (g) of the RTI Act. Before we conclude in that matter, we may discuss the judicial pronouncements on the subject.

6.1. In *UPSC Vs Lalit Kumar*, Delhi High Court in decision dated April 05, 2011, the Bench made the following observations regarding non-disclosure of file notings:-

"The grievance of the Petitioner Union Public Service Commission (UPSC) is that by the impugned order dated 12th January 2011, the Central Information Commission (CIC) had directed the UPSC to provide the Respondent photocopies of the relevant file

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notings concerning two disciplinary cases involving the Respondent after deleting the names and all other references to the individual officers/authorities concerned so that their identity remains concealed.

The information sought by the Respondent concerns the file notings in two disciplinary cases involving him. In the considered view of this Court, the CIC has rightly permitted disclosure by applying Section 10 of the Right to Information Act, 2005 by directing deletion of the names and all other references to the individual officers/authorities concerned. No prejudice can be said to be caused to the Petitioner by the said direction."

6.2. In *Mr. G. S. Sandhu vs Union Public Service Commission* [CIC/SN/A/2011/001771] on 1 May, 2013, Full Bench of Central Information Commission while allowing file notings relating to the matter gave liberty to UPSC to obliterate the names and designations of the officers of UPSC who made notings in the file under section 10 (1) of the RTI Act. The High Court of Delhi on challenge while upholding the order of CIC in its decision dated 7/10/2013 [W.P. (C) 4079/2013] *Union Public Service Commission vs. G. S. Sandhu* observed as under:

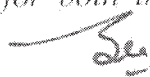
"11. In my view, the apprehension of the petitioner that if the identity of the author of the file notings is revealed by his name, designation or in any other manner, there is a possibility of such an employee being targeted, harassed and even intimidated by the persons against whom an adverse noting is recorded by him on the file of UPSC, is fully justified. Though, ultimately it is for the members of the UPSC who are to accept or reject such notings, this can hardly be disputed that the notings do play a vital role in the advice which UPSC ultimately renders to the concerned department. Therefore, the person against whom an adverse advice is given may hold the employee of UPSC recording a note adverse to him on the file, responsible for an adverse advice given by UPSC against him and may, therefore, harass and sometime even harm such an employee/officer of UPSC, directly or indirectly. To this extent, the officers of UPSC need to be protected. However, the purpose can be fully achieved by blocking the name, designation or any other indication which would disclose or tend to disclose the identity of the author of the noting. Denying the notings altogether would not be justified when the intended objective can be fully achieved by adopting such safeguards."

6.3. In *Rajesh Batlish vs. CPIO, Ministry of Defence (Navy)* [CIC/INAVY/A/2017/103441] Central Information Commission vide decision dated 31.08.2017 observed as under:

"CPIO is directed to invoke Section 10 of the RTI Act to adequately severe the details of other officers who have been discussed upon in the file noting(s) as also any location or deployment details. This is to mean that the portions where Appellant's transfer has been deliberated upon will be provided by the CPIO. CPIO is at liberty to either black out or extract the relevant information regarding the circumstances of Appellant's transfer while applying Section 10. The extracted or blacked out information will be provided to the Appellant within 15 days from the date of receipt of this order."

6.4. There have been plethora of cases in which the Hon'ble Supreme Court and High Courts have laid down that the wisdom of public authority to claim exemptions provided under the RTI Act may not be substituted unless found unreasonable or against the public interest. It is relevant to quote the decision given by the Central Information Commission in *Neeraj Sharma vs. Reserve Bank of India* [CIC/RBIND/A/2017/167309] vide decision dated 15.05.2019:

"The authorities have claimed exemption by virtue of the provisions under section 8(1) (a) and (d) of the RTI Act. The presumption that the legislature understands the needs of its people and that even its discrimination and classifications are based on adequate grounds has been acknowledged by the Supreme Court itself (in special reference No 1 of 2012, [(2012), 10 SCC 1]. The logic of balance exercise of judicial power has an assurance of institutional stability and re-organization of boundary of power is implicit in the Constitutional arrangement. It is contended that the failings of democracy and inadequacies of the democratic process cannot be invoked to negate the core of the democratic principle, namely that ultimate sovereignty vests in the people. Thus, arrangements of governance embodied in the Constitution resulting from the exercise of their free will cannot be used to deprive the ultimate masters of the right of final decision over their destiny. It is argued that "juridification of politics and politization of the judiciary" would be a loss for both the legislature and judiciary and that judiciary



cannot act as a "censor of all governmental action". There have been plethora of judicial orders highlighting the issue of restraint by judicial bodies in substituting their wisdom over those who have been assigned the function of implementation of Laws. The Commission after adverting to the facts and circumstances of the case, hearing both the parties and perusal of records, feels that due reply has been given by the respondent. Accordingly, the appeal is dismissed."

6.5. The appellant during the course of hearing submitted that name and designation of officials/manager who initiated the note to amend KYC rules should be disclosed as per clause (c) of sub-section (2) of section 10 of the RTI Act. The clause (c) of sub-section (2) of section 10 of the RTI Act is reproduced as under:-

"10. Severability.-

(1) Where a request for access to information is rejected on the ground that it is in relation to information which is exempt from disclosure, then, notwithstanding anything contained in this Act, access may be provided to that part of the record which does not contain any information which is exempt from disclosure under this Act and which can reasonably be severed from any part that contains exempt information.

(2) Where access is granted to a part of the record under sub-section (1), the Central Public Information Officer or State Public Information Officer, as the case may be shall give a notice to the applicant, informing,-

(a) that only part of the record requested, after severance of the record containing information which is exempt from disclosure, is being provided;

(b) the reasons for the decision, including any findings on any material question of fact, referring to the material on which those findings were based;

(c) the name and designation of the person giving the decision;

....

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...."

6.6 Name and designations of the officials as referred in Clause (c) of sub-section (2) of the RTI Act may refer to the following three persons:

- (i) who had put up the notes on the RBI file in pursuance to the notification dated 01.06.2017 issued under the Prevention of Money Laundering Rules, 2005 ;
- (ii) The CPIO who redacted and severed the information, and ;
- (iii) the authority who had made the rules/or the authority who had made Aadhar mandatory for account based relationship and thereafter approved the notification dated 01.06.2017.

6.7 If the appellant was referring to the person/authority as envisaged under the proposition (iii) above i.e. who approved the aforementioned Rules, 2005 then, the same might not be in the RBI, as the Rules were issued by the Government of India. Besides, CPIO in RBI might not be the concerned CPIO as he was not the custodian of that information which resulted in issuance of the notification dated 01.06.2017. However, the CPIO had made it known to the appellant as the notification dated 01.06.2017 was quoted by him.

6.8 As regards the person who had written/initiated the note as envisaged in proposition no. (i) mentioned in para 6.6 above, is concerned, he was carrying out the orders of the Government of India or following the rules, and was not the approving authority. Even if he/they was/were approving the same, their names could be redacted/obliterated by the CPIO as per the provisions contained under sub-section (1) of Section 10 of the RTI Act.

6.9. As regards proposition no. (ii) contained in para 6.6 above is concerned. it may be reaffirmed that whenever the CPIO has been taking decision to allow disclosure of information or withholding the part, he is supposed to mention his/her name and designation and in this case, if not disclosed, the same may be disclosed immediately.

6.10. Perusal of the language of the provisions contained under Section 10 of the RTI Act reveals that the power of severing the information disclosable from the exempted one vest in the CPIO, if this power is read as not vesting in him, it may render the very provision *otiose*. In this case, the name and designation of the official referred to in clause (c) of sub-section (2) of section 10 of RTI Act, may be construed, unless rebutted, as the CPIO that communicates

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decision to the appellant under the provisions of the RTI Act. The provision has to be read in holistic manner and any interpretation which leads to absurdity will have to be discarded. Moreover, it is not the case that the exemption which had been claimed by the CPIO was not available to him.

6.11. The term '*the decision*' has figured in clause (b) and clause (c) of sub-section (2) of section 10 of the RTI Act and a careful reading would reveal that the same may be referring to 'the decision' of the CPIO. Perusal further reveals the 'name and designation of the person giving the decision' mentioned in Clause (c) of sub- section(2) of section 10 of the RTI Act would mean the CPIO as it was CPIO who, under the ordinary circumstances would have taken the decision to disclose the disclosable information after redacting the exempted information. Even, if it is presumed that the appellant was referring to the persons who initiated or approved that particular note, the same could be severed and thus denied and in the absence of larger public interest, the Commission does not feel it expedient or reasonable to substitute the wisdom of the CPIO. Moreover, the appellant having received the note, having received the rules under which Aadhar was made mandatory, was not without remedy and it could not be said that there was no transparency. If name and designation of the CPIO who had taken the decision of severing as envisaged under Section 10, were not communicated, the same may be communicated to the appellant within 3 weeks from the date of receipt of this order.

The Commission disposes of the second appeal with the aforementioned observations and directions.

Copy of the decision be provided free of cost to the parties.


 (Suresh Chandra) (सुरेश चंद्रा)
 Information Commissioner (सूचना आयुक्त)
 दिनांक/Date: 07.01.2021

Authenticated true copy

R. Sitarama Murthy (आर. सीताराम मूर्ती)
 Dy. Registrar (उप पंजीयक)
 011-26181927(०११-२६१८१९२७)

Addresses of the parties:

CPIO :

RESERVE BANK OF INDIA
DEPTT. OF BANKING REGULATION,
CENTRAL OFFICE,
CENTRAL OFFICE BUILDING,
13TH FLOOR, SHAHID BHAGAT
SINGH MARG, FORT, MUMBAI - 400 001

THE F.A.A.
RESERVE BANK OF INDIA
DEPTT. OF BANKING REGULATION,
CENTRAL OFFICE,
CENTRAL OFFICE BUILDING,
13TH FLOOR, SHAHID BHAGAT
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MUMBAI - 400 001

GIRISH MITTAL

1305 DHURUV, ASHOK VAN,
BORIVALI EAST,
MUMBAI - 400 066
MAHARASHTRA

केन्द्रीय सूचना आयोग
Central Information Commission
बाबा गंगनाथ मार्ग, मुनिरका
Baba Gangnath Marg, Munirka
नई दिल्ली, New Delhi – 110067

File No: CIC/MA/C/2008/000195

Sanjay Ramesh Shirodkar

...अपीलकर्ता/Complainant

VERSUS

बनाम

Mumbai International Airport Ltd.
Chhatrapati Shivaji Maharaj International Airport
1st Floor, Terminal 1
Santacruz East, Mumbai – 400099

....प्रतिवादीगण /Respondent

RTI: 04/01/2008	FA: Nil	Complaint : Nil
CPIO: 13/02/2008	FAO: Nil	Hearing: 16.12.2019

ORDER
(18.05.2020)

CORAM

HON'BLE IC SHRI DIVYA PRAKASH SINHA
HON'BLE IC SHRI SURESH CHANDRA

The issue under consideration which has eventually copped up following an RTI dated 04.01.2008, Complaint dated nil and the High Court of Delhi's Order dated 30.05.2011 is as under:

- Whether the Mumbai International Airport Limited(MIAL) is a Public Authority

2. Succinctly the facts of the case include that the complainant filed an RTI application dated 11.12.2017 seeking the following information:

- i) *As per Airports Authority of India NOTIFICATION (File No. AAA/PERS/EDPA/Reg/2002) who is the "Competent Authority" as CSIA-Chhatrapati Shivaji International Airport, Mumbai-400099.*

- ii) *As per NOTIFICATION (File No. AAA/PERS/EDPA/Reg/2002) and mentioned in Section 18 of it, please provide a copy of Policy Guideline/Government Resolution/Notification regarding parking or waiting of any vehicle of carriage within the Airports and Civil Enclaves at CSIA-Chhatrapati Shivaji International Airport, Mumbai-400099.*
- iii) *Policy Guideline/Government Resolution/Notification, if any exemption given under Section 18 of Airports Authority of India NOTIFICATION (File No. AAA/PERS/EDPA/Reg/2002) to any one by the "Competent Authority" at CSIA-Chhatrapati Shivaji International Airport, Mumbai-400099.*

2.1 The authorized signatory of the respondent replied on 18.12.2007 informing the applicant that MIAL was not a public authority and that the RTI Act was not applicable to it.

2.2 The applicant made another RTI dated 4.1.2008 seeking the following information:

- i) *Who is the "Competent Authority" at CSIA- Chhatrapati Shivaji International Airport, Mumbai-400099.*
- ii) *Please provide a copy of Policy Guideline/Government Resolution/Notification regarding parking or waiting of any vehicle of carriage within the Airports and Civil Enclaves at CSIA- Chhatrapati Shivaji International Airport, Mumbai-400099.*
- iii) *Please provide a copy of Policy Guideline/Government Resolution/Notification, if any exemption given to any one by the "Competent Authority" at CSIA- Chhatrapati Shivaji International Airport, Mumbai-400099.*
- iv) *Please provide a copy of all approved rates & brands of Mineral Water which is sold at Chhatrapati Shivaji International Airport.*
- v) *Please specify the exact locations of "Designated VIP car parking area" at CSIA- Chhatrapati Shivaji International Airport, Mumbai-400099.*

2.3 The respondent's authorized signatory vide letter dated 13.02.2008 replied and reiterated their stand taken in their earlier letter dated 18.12.2007. It was also informed that the matter was *sub judice*.

Aggrieved by that the complainant filed a complaint on 20.02.2008 which read with the directions of the High Court order dated 17.05.2019 is under consideration.

2.4 It may also be recalled that the Commission in its order dated 30.05.2011 held as under:

"37 We find no hesitancy in declaring MIAL as a Public Authority under Clauses (d) and (i) respectively, of Section 2(h) of the RTI Act. MIAL shall appoint a CPIO and FAA within 30 days of the receipt of this Order and shall also fulfil the mandate of Section 4(1) disclosure as mandated under the RTI Act, within 2 months of the receipt of this Order"

2.5 Aggrieved by the order dated 30.05.2011 MIAL filed an appeal before the Delhi High Court. The Delhi High Court in its order dated 17.05.2019 in para 6 observed as under:

"6. Accordingly, impugned order is set aside and the matter is remanded back to the CIC for a fresh consideration of the issue whether MIAL is a public authority within the meaning of Section 2(h) of the Act. While doing so, CIC shall hear the respondent herein as well. The issue being of importance, it shall be appropriate that the same is decided as expeditiously as possible, but within a period of three months as an outer limit. It is made clear that this court has not expressed itself on the merit of the issue, which shall be considered by the CIC."

Attendance during the hearing on 16.07.2019:

Complainant: Remained absent.

Respondent: Abhinav Vashist, Sr. Advocate; N. Nihal Rao, Advocate; Kunal Dutt, Advocate; Ekta Kapil, Advocate; Akshita Sachdeva, Advocate; P.S. Ganguly (MIAL) and Ramkrishna Shukla (MIAL) present in person.

Third party: Sanjeev Kumar, AGM (F) & Rep. of CPIO, Airports Authority of India, New Delhi present in person.

Attendance during the hearing on 02.09.2019:

Complainant: Remained absent.

Respondent: Rajiv Nayyar, Senior Advocate; Ekta Kapil, Advocate; N. Nihal Rao, Advocate; Kunal Dutta, Advocate; Manjari Raj Gupta, Advocate and P.S. Ganguly, EVP & Head-Legal (MIAL) present in person.

Third party: Sanjeev Kumar, DGM (F) & Rep. of CPIO, Airports Authority of India, New Delhi present in person.

Attendance during the hearing on 15.11.2019:

Complainant: Remained absent.

Respondent: Amar Dave, Senior Advocate; Ekta Kapil, Advocate; N. Nihal Rao, Advocate; Kunal Dutta, Advocate and P.S. Ganguly EVP & Head-Legal (MIAL) Ramkrishna Shukla (MIAL) present in person.

Third party: Sanjeev Kumar, DGM (F) & Rep. of CPIO, Airports Authority of India, New Delhi present in person.

Attendance during the hearing on 16.12.2019:

Complainant: Present through Video Conference.

Respondent: Amar Dave, Senior Advocate; Ekta Kapil, Advocate; N. Nihal Rao, Advocate; Kunal Dutta, Advocate and P.S. Ganguly, EVP & Head-Legal (MIAL) Ramkrishna Shukla (MIAL) present in person.

Third party: Santosh Kumar Singh, Under Secretary, Ministry of Civil Aviation, New Delhi and Sanjeev Kumar, DGM (F), Airports Authority of India, New Delhi present in person.

3. The complainant while contending his case *inter alia* submitted that since the term “substantial funding” had not been defined anywhere in the RTI Act and as per the averments of the MIAL that 50% of shareholding constitute to substantial funding, then Stamp Duty worth Rs.250 crores waived off by the Government of Maharashtra along with land and infrastructure of 2000 acres worth more than 80,000 crores in Mumbai given on Rs.100 per year(lease premium), amounted to “substantial funding”; that AAI being the 26% of active partner in this JV had shirked the responsibility answering to public

questions under the RTI Act; that since many years, AAI claiming to be the owner of Mumbai Airport property always passed the buck to its lessee i.e., MIAL on questions asked pertaining to owner's land and infrastructure under RTI Act; that the MIAL was an agent or instrumentality of State and therefore, "State" within the meaning of Article 12 of the Constitution of India; that the statutory functions performed by the AAI were enumerated in Section 12 of the Airports Authority of India Act, 1994; that the monies payable by the lessee i.e., MIAL to AAI were public monies and public funds; that MIAL was performing public functions in public interest; that the MAIL was a part and parcel of Ministry of Civil Aviation and the entire details pertaining to the JV of AAI and MIAL should have been in the public domain i.e., in the website of Ministry of Civil Aviation in compliance with Section 4(1)(b) of the RTI Act and that the reliance by the respondent upon many orders and judgements of various Courts in the present matter, were unnecessary since the subject-matter of the instant RTI Application was very simple.

3.1 Besides, that complainant invited the respondent to reply as to what difficulty will be faced by the respondent in the event MIAL is brought under the RTI Act, whether any pending project will be stalled in doing so, even if the MIAL is considered as a Public Authority under Section 2(h) of the RTI Act, they always have a recourse under exemption clauses i.e., Section 8 and 9 of the RTI Act to deny information.

3.2 Complainant stressed on the fact that the Respondent has taken a loan of several thousands of crores which are taxpayers money and he being a tax payer and a citizen of this country, many aspects pertaining to MIAL is unknown and since the Government is involved in the instant subject-matter, RTI Act should apply by default. He further stated that he is only acting as a whistle-blower and that he has no personal or vested interest in the present matter.

3.3 Complainant relied upon the Hon'ble Commission's order in the matter of **Kishan Lal v. Rohit Prasad, Director (Development and Strategy), Public Health Foundation of India, New Delhi** vide **Complaint no. CIC/SG/C/2011/001273** dated 14.02.2012, wherein the Former Information Commissioner Shri Shailesh Gandhi declared Public Health Foundation of India as a Public Authority.

3.4 Complainant stated that AAI exercises deep and pervasive control over the affairs of the Respondent and since AAI is not an ordinary shareholder as it is clear from a perusal of some of the clauses of the Articles of Association which are summarised as under:

- 1.8.1 Article 7 provides that the rights attached to various classes of shares may be varied only at a meeting at which the AAI nominee is present*
- 1.8.2 Article 12 provides that the shareholding of AAI in MIAL cannot be diluted. The said Article further provides that AAI shall have the right to participate in any future issue of shares by the MIAL.*
- 1.8.3 Article 34 provides that the consent of AAI shall be obtained as per Article 35 before shares in the MIAL are transferred by/to a private shareholder.*
- 1.8.4 Article 64 provides that the quorum for meeting relating to Reserved Shareholders shall be two members of which at least one member shall be a nominee of AAI. Article 68 provides that change of business of the Company, change in rights attached to shares, transfer of the undertaking of the Company, commencement of action for dissolution and any special resolution cannot be given effect to unless approved by the AAI by an affirmative vote at the General Meeting. Article 112 contains an identical provision in case of Board Meetings.*
- 1.8.5 Article 91 provides that AAI shall have right to appoint a proportionate number of Directors on the Board of the MIAL and further that AAI shall have a right to appoint at least one Director irrespective of whether it is a shareholder of the MIAL.*
- 1.8.6 Under Article 101, the MIAL may not remove a Director nominated by AAI before the expiry of his term.*
- 1.8.7 By Article 107, the Directors nominated by the AAI have been given the power to convene Board meetings and Article 110 states that the quorum for Board meeting shall include at least one Director nominated by AAI.*
- 1.8.8 Article 115 provides that AAI shall have right to appoint one nominee on every committee and sub-committee of the Board.*

1.8.9 Article 135(c) gives AAI the right to inspect the books, records and accounts of the Company and also mandates that AAI shall be provided with monthly accounts of the Company.

1.8.10 Article 138 provides that the Auditors of the Company shall be appointed at the General Meeting by a Special Resolution with an affirmative vote of AAI.

4. **Submissions of the Respondent:**

4.1 The respondents while refuting the claims of the complainant *inter alia* submitted that the present case raised substantial questions of law *inter alia*, in respect of the applicability of the provisions of the RTI Act to private entities, which are engaged in and undertake independent and commercial operations.

4.2 In this regard, the Respondent provided a brief background of the instant matter, which is as under:

4.2.1 The Government of India issued a Policy on Airport Infrastructure in 1997 the objective whereof was upgradation and modernization of infrastructure of the Indian airports. Some of the objectives of the said Policy were:

4.2.1.1 To provide a boost to international trade and tourism and enhance the country's image in the comity of nations;

4.2.1.2 To provide airport capacity ahead of demand, in order to handle an increasing volume of air traffic and to garner the maximum share of traffic in the region;

4.2.1.3 To enhance airport facilities to make the airport user-friendly and achieve higher level of customer satisfaction;

4.2.1.4 To provide a market orientation to the present structure, bridge the resource gap and encourage greater efficiency and enterprise in the operation of airports, through the introduction of **private capital** and **management skills**;

4.2.1.5 To foster the development of a strong airport infrastructure, maintaining a balance between the need for economic viability and the objective of equitable regional dispersal of infrastructural facilities...; **[Emphasis supplied]**.

4.3 In order to implement the Policy, the Airports Authority of India Act, 1994 was amended by the Airports Authority of India (Amendment) Act, 2003. Statement of Objects and Reasons of the Airports Authority of India (Amendment) Act, 2003 *inter alia*, states:

4.3.1. *There is need to improve the standard of services and facilities at the airports to bring them at par with international standards. To facilitate the process for such improvement, there is need, both for the infusion of private sector investments as also for restructuring of airports. This will speed up airport infrastructure development, improve managerial efficiency, increase local responsiveness and improve service levels. It will, in turn, generally stimulate the economy by boosting tourism and trade. It has been decided to undertake the task of restructuring the airports under the Airports Authority of India as well as to encourage private participation for the Greenfield airports in the country. Since the Airports Authority of India Act, 1994 is applicable to all airports whereas air transport services are operated or are intended to be operated, significant private sector investments in such project require an effective legal framework within which the investors would feel safe and secure about their operational and managerial independence.* [Emphasis supplied]

4.4 Further, the Respondent submitted that the MIAL was incorporated under the provisions of the Companies Act, 1956 in the year 2006 as a special purpose vehicle to undertake the operation, management and development of the Mumbai Airport. The private participants own 74% of the equity share capital and majority management rights in MIAL and the rest 26% of the equity share capital is held by the Airport Authority of India. He further submitted a detail of the shareholders of MIAL, which has been reproduced as under:

Shareholder	Percentage of Holding
Private Participants (including their nominees)	
GVK Airport Holdings Pvt. Ltd.	50.50%
Bid Services Division (Mauritius) Ltd.	13.50%
ACSA Global Ltd.	10.00%
Sub Total	74%
Pubic Participant	
Airports Authority of India	26%
Total	100%

4.5 Upon the instance of the Bench, Advocate of the Respondent submitted that the significance of having 26% of shareholding with AAI is on the basis of Special Resolution as per Companies Act. He further submitted that pursuant to the grant of concession, MIAL entered into an Operation, Management and Development Agreement (OMDA) on 04.04.2006 with the Airports Authority of India (AAI) for the operation, maintenance, development, design, construction, upgradation, modernization, financing and management of the Mumbai Airport. As a part of the concession, MIAL in addition to OMDA executed the State Support Agreement (SSA), Shareholders Agreement, Lease Deed etc. which are defined as “*Project Agreements*” under the OMDA. Article 20.3.2 of the OMDA categorically mentions that the OMDA represents the entire understanding between the parties i.e., MIAL and AAI, in relation thereto and in the event of a conflict between the terms of OMDA and of any Project Agreements, the terms of the OMDA shall prevail. Hence, to understand and appreciate the unique status and position of MIAL vis-à-vis AAI, the OMDA would be the guiding document and not any other extraneous documents. The OMDA forms the basis of the relationship between MIAL and AAI and defines the specific rights and obligations of MIAL. The OMDA, being the parent document, takes precedence over other documents.

4.6 Upon the instance of the Bench, Advocate of the Respondent submitted that Article 90 and 91 of OMDA categorically states as under:

90. Maximum number of Directors: *The Company shall have maximum number of twelve Directors. Subject to the provisions of the Act, the Company may increase or reduce the number of Directors.*

91. Composition of Board of Directors: *The Board shall comprise as under:*

(a) AAI shall have the right to nominate such number of Directors as is proportionate to its equity shareholding in the Company subject to a minimum of one Director. For abundant clarity, it is expressly set out here that the aforesaid right of AAI to nominate one director to the Board shall subsist and survive irrespective of AAI not being a Shareholder in the Company.

(b) Private Participants shall have the right to nominate the remaining Directors.

Any fraction of a number or decimal numbers shall, while determining the entitlement of AAI and each of the Private Participant to nominate Directors, be rounded off to the nearest integer number.

4.7 Upon the instance of the Bench regarding the strength of the existing Directors, Advocate of the Respondent submitted that as on the present date, out of 12 Directors, 9 are from MIAL and the remaining 3 are from AAI. In addition, Advocate of the Respondent explained that under the Shareholder Agreement, the Directors representing the private parties constitute the majority. The Managing Director and Chairman of MIAL are also nominated by the private participants. The Shareholders Agreement would make it amply clear that neither the Central Government nor the State Government exercise control over the management of the affairs of or financial control over MIAL. He specifically demarcated to the following clauses of the Shareholders Agreement between all shareholders of MIAL:

“5.3.1 The Parties hereby undertake and agree that till such time as the Private Participants in the aggregate hold more than fifty (50) percent of the total paid up and outstanding equity share capital of the JVC, they shall have the right to nominate the Chairman of the JVC, who shall be appointed by the Board.

5.4.1 The Private Participants shall also nominate the Managing Director of the JVC, who shall, following a Board resolution, be appointed by the Board. The Managing Director shall not be liable to retire by rotation. The term of each appointment for the Managing Director shall be for such period as would be decided by the Board from time to time and subject to a details employment agreement (if considered necessary by the Board) with the appointee.”

4.8 Subsequently, the Respondent explicated the interpretation and applicability of RTI Act on MIAL with specific reference to the term “Public Authority” which has been defined in Section 2(h) of the RTI Act as under:

“Section 2. Definitions.- In this Act, unless the context otherwise requires,-

(h) “public authority” means any authority or body or institution of self-government established or constituted –

(a) by or under the Constitution;

(b) by any other law made by Parliament;

(c) by any other law made by State Legislature;

(d) by notification issued or order made by the appropriate Government, and includes any –

(i) body owned, controlled or substantially financed;

(ii) non-Government organization substantially financed, directly or indirectly by funds provided by the appropriate Government;”

4.9 The Respondent, further, submitted that the pre-requisites contemplated under Section 2(h) of the RTI Act were mandatory in nature and must have been demonstrably existed in the facts of a case to make the provisions of the RTI Act applicable in the first place. He further submitted that the MIAL was a company of which majority shareholding (74%) was owned and controlled by private parties. He explained that the MIAL used to undertake its operations purely on professional and competitive norms, and endeavoured to generate revenues and profits with the objective of future expansion and growth for the benefit of the stakeholders and that the requisite ingredients for the application of the Act was absent. He furthermore submitted that the RTI Act itself laid the contours of its applicability and could not therefore be made applicable in all cases and situations overriding the clear legislative intent. Doing so would not only amount to re-legislating but would also result in disturbing the other aspects which have been considered by the legislature such as a bundle of conflicting recognised rights, e.g., the parallel right to privacy, right to do business freely etc. at the time of enacting the RTI Act. Bypassing these necessary checks and balances by re-legislating the RTI Act under the guise of

interpretation would result in a chaotic and irreconcilable position which was clearly not permitted under Law. In this regard, the Respondent relied upon the judgment of the Hon'ble Supreme Court in the matter of ***Thalappalam Ser. Coop. Bank Ltd. and Ors. Vs. State of Kerala and Ors.*** [(2013) 16 SCC 82]. The relevant observations reads as under:

*“27. Legislature, in its wisdom, while defining the expression “public authority” under Section 2(h), intended to embrace only those categories, which are specifically included, unless the context of the Act otherwise requires. Section 2(h) has used the expressions ‘means’ and ‘includes’. When a word is defined to ‘mean’ something, the definition is prima facie restrictive and where the word is defined to ‘include’ some other thing the definition is prima facie extensive. But when both the expressions “means” and “includes” are used, the categories mentioned there would exhaust themselves. Meanings of the expressions ‘means’ and ‘includes’ have been explained by this Court in **Delhi Development Authority v. Bhola Nath Sharma (Dead) by LRs and others** (2011) 2 SCC 54, (in paras 25 to 28). When such expressions are used, they may afford an exhaustive explanation of the meaning which for the purpose of the Act, must invariably be attached to those words and expressions.*

28. Section 2(h) exhausts the categories mentioned therein. The former part of Section 2(h) deals with:

- (1) an authority or body or institution of self-government established by or under the Constitution,*
- (2) an authority or body or institution of self-government established or constituted by any other law made by Parliament,*
- (3) an authority or body or institution of self-government established or constituted by any other law made by the State Legislature, and*
- (4) an authority or body or institution of self-government established or constituted by notification, issued or order made by the appropriate Government.*

4.10 Consequently, Advocate of the Respondent submitted that the Right to Information was not an absolute right and that the MIAL operated in a competitive field and therefore

had to ensure confidentiality, which if breached would result in irreparable damage or in some cases would adversely affect its operations. He further submitted that for various reasons, the provisions of RTI Act itself contained limitations on its applicability and consciously did not apply in all cases including, to private entities. He furthermore submitted that MIAL had been formed under a Public Private Partnership model to bridge the resource gap and encouraged greater efficiency and enterprise in the operation of airports, through the introduction of private capital and management skills.

4.11 As per the oral directions of the Bench during the proceedings held on 16.07.2019, Advocate of the Respondent produced a copy of Guidelines on Establishing Joint Ventures in Infrastructure Sectors published by The Secretariat for the Committee on Infrastructure, Planning Commission, Government of India. He also produced a copy of the following:

2.11.1 Aircraft movements under various heads such as:

2.11.1.1 International (Scheduled and Non-Scheduled);

2.11.1.2 Domestic (Scheduled and Non-Scheduled); and

2.11.1.3 General Aviation (Defence and Business) at Mumbai Airport for the period from 2014-15 to 2018-19;

2.11.2 Passenger movements under various heads such as:

2.11.2.1 International (Embarked, Disembarked and Transit);

2.11.2.2 Domestic (Embarked and Disembarked) at Mumbai Airport for the period from 2014-15 to 2018-19

2.11.3 No. of Airlines operating at Mumbai Airport classified into:

2.11.3.1 International (Passenger and Freighter); and

2.11.3.2 Domestic (Passenger and Freighter) at Mumbai Airport for the period from 2014-15 to 2018-19.

4.12 Advocate of the Respondent in order to explain the Grant of Function to the JVC, he elucidated on the scope of Grant which has been categorically mentioned at Chapter II of the OMDA, that states as under:

“2.1 Grant of Function

1.1.1 AAI hereby grants to the JVC, the exclusive right and authority during the Term to undertake some of the functions of the AAI being the functions of operation, maintenance, development, design, construction, upgradation, modernization, finance and management of the Airport and to perform services and activities constituting Aeronautical Services, and Non-Aeronautical Services (but excluding Reserved Activities) at the Airport and the JVC hereby agrees to undertake the functions of operation, maintenance, development, design, construction, upgradation, modernization, finance and management of the Airport and at all times keep in good repair and operating condition the Airport and to perform services and activities constituting Aeronautical Services and non-Aeronautical Services (but excluding Reserved Activities) at the Airport, in accordance with the terms and conditions of this Agreement (the “Grant”).

1.1.2 Without prejudice to the aforesaid, AAI recognizes the exclusive right of the JVC during the Term, in accordance with the terms and conditions of this Agreement, to:

- (i) develop, finance, design, construct, modernize, operate, maintain, use and regulate the use by third parties of the Airport;*
- (ii) enjoy complete and uninterrupted possession and control of the Airport Site and the Existing Assets for the purpose of providing Aeronautical Services and Non-Aeronautical Services;*
- (iii) determine, demand, collect, retain and appropriate charges from the users of the Airport in accordance with Article 12 hereto; and*
- (iv) Contract and/or sub contract with third parties to undertake functions on behalf of the JVC, and sub-lease and/or license the Demised Premises in accordance with Article 8.5.7.*

4.13 In continuation, Advocate of the Respondent stressed upon the fact by referring to the Guidelines on Establishing Joint Ventures in Infrastructure Sectors that Rule 7 categorically deals with shareholding in a JV. Rule 7.1 and 7.2 states as under:

“7.1 The share of the public sector entity in a JV could be in any proportion, say 74:26, 50:50 or 40:60 etc. If the public sector entity owns more than 50 per cent share, the JV would be regarded as a public sector entity. However, if the share of public sector entity is 50 per cent or less, then the JV is a private sector company and would therefore, not be accountable to the Government, Public Accounts Committee, Public Undertakings Committee, C&AG, etc. Nor would the Government rules relating to procurement and expenditure apply to such a JV. Such a JV must, therefore, be treated at par with other private companies and any procurement of goods or services from such a JV must follow the normal tendering processes as per GFR.

7.2 The share of public sector entity is often kept at 50 per cent or less so as to enable the JV to function as a private sector entity with greater commercial freedom. However, this implies that though the public exchequer would contribute to the equity of such an enterprise, it would hardly exercise control over its functioning. It should be borne in mind that private sector entities would find such a JV to be more attractive as it would provide them with government funds and support without any accountability as noted above. It could also give them an undue advantage in government procurement as a JV would often be perceived to be a government or semi-government company. Such possibilities of undue advantage or vitiating of the government procurement process should be identified and eliminated in case a JV is proposed to be formed.

4.14 In addition, Advocate of the Respondent explained the actuality of MIAL having been not established or constituted under the Constitution or by the Legislature etc, the same was not ‘Public Authority’. He submitted that notification or order contemplated in

the said provision i.e., Section 2(h)(d) must have a direct effect of constituting or establishing the said body, as is abundantly clear from a plain reading of the language of the said Section. Section 2(h)(d) contemplates a direct notification or order under which the body is established or constituted. It does not contemplate any such formation/establishment by way of implication. In the absence of the same, the mandatory pre-requisites of Section 2(h) of the RTI Act would certainly not get fulfilled and consequently the same would not be applicable. The preceding categories dealing with the constitution of a body by enactment of law, etc. also threw light on this aspect and demonstrated that what was contemplated was a specific notification directly resulting in the constitution of the body.

4.15 He further submitted that the AAI was a statutory corporation completely distinct from the Central Government as held by the Hon'ble Supreme Court in the case of *Municipal Commissioner of Dum Dum Municipality and Ors. vs. Indian Tourism Development Corporation and Ors. (1995 SCC (5) 251)*.

4.16 He furthermore submitted that MIAL was not "controlled" either directly or indirectly by the appropriate government. With regard to the term, "controlled", the same had been construed in various judicial pronouncements and also in the judgment of the Hon'ble Supreme Court in the matter of *Thalappalam Ser. Coop. Bank Ltd. and Ors. Vs. State of Kerala and Ors. [(2013) 16 SCC 82]* in the context of the RTI Act itself wherein the Hon'ble Court observed as under:

"31. ...

(a) ...

(b) ...

A body which is controlled by the appropriate government can fall under the definition of public authority under Section 2(h)(d)(i). Let us examine the meaning of the expression "controlled" in the context of RTI Act and not in the context of the expression "controlled" judicially interpreted while examining the scope of the expression "State" under Article 12 of the Constitution or in the context of maintainability of a writ against a body or authority under Article 226 of the

Constitution of India. The word “control” or “controlled” has not been defined in the RTI Act, and hence, we have to understand the scope of the expression ‘controlled’ in the context of the words which exist prior and subsequent i.e. “body owned” and “substantially financed” respectively. The meaning of the word “control” has come up for consideration in several cases before this Court in different contexts. In **State of West Bengal v. Nripendra Nath Bagchi**, AIR 1966 SC 447 while interpreting the scope of Article 235 of the Constitution of India, which confers control by the High Court over District Courts, this Court held that the word “control” includes the power to take disciplinary action and all other incidental or consequential steps to effectuate this end and made the following observations:

“The word ‘control’, as we have seen, was used for the first time in the Constitution and it is accompanied by the word ‘vest’ which is a strong word. It shows that the High Court is made the sole custodian of the control over the judiciary. Control, therefore, is not merely the power to arrange the day-to-day working of the court but contemplates disciplinary jurisdiction over the presiding Judge.... In our judgment, the control which is vested in the High Court is a complete control subject only to the power of the Governor in the matter of appointment (including dismissal and removal) and posting and promotion of District Judges. Within the exercise of the control vested in the High Court, the High Court can hold enquiries, impose punishments other than dismissal or removal, ...”

32. The above position has been reiterated by this Court in **Chief Justice of Andhra Pradesh and others v. L.V.A. Dixitulu and others** (1979) 2 SCC 34. In **Corporation of the City of Nagpur Civil Lines, Nagpur and another v. Ramchandra and others** (1981) 2 SCC 714, while interpreting the provisions of Section 59(3) of the City of Nagpur Corporation Act, 1948, this Court held as follows:

“4. It is thus now settled by this Court that the term “control” is of a very wide connotation and amplitude and includes a large variety of powers which are incidental or consequential to achieve the powers-vested in the authority concerned.....”

4.17 Advocate of the Respondent submitted that the perusal of the above left no room for doubt that the term “controlled” envisioned substantial control and not mere regulatory or supervisory nature of control. In the present case, no such substantive control could be established. In fact, MIAL was a closely held company undertaking its business operations with commercial and professional objectives. It took independent decisions pertaining to management and operations. Admittedly, the professionally appointed persons in MIAL used to take decisions for the benefit of the company and were guided by professional norms. He further submitted that like every other industry, aviation industry was also regulated, for instance by AERA i.e., Airports Economic Regulatory Authority. Merely on the basis of the fact that MIAL was engaged in a regulated industry could not be a ground to hold the same a ‘Public Authority’. While the aviation industry was regulated by AERA, the day-to-day operations of MIAL were not regulated by AERA. He furthermore submitted that it could not be also lost sight of the fact that, a regulatory mechanism virtually engulfed any entity existing in some form or the other and hence if that was sought to be read in as a criteria in the RTI Act, not only would the same be an exercise of re-legislation, but would make the same unworkable.

4.18 Subsequently, Advocate of the Respondent submitted that the aspect of “controlled” has been elucidated by the Hon’ble Supreme Court in the case of **Thalappalam (supra)**. The relevant portion of the judgment is reproduced as under:

“34. We are of the opinion that when we test the meaning of expression “controlled” which figures in between the words “body owned” and “substantially financed”, the control by the appropriate government must be a control of a substantial nature. The mere ‘supervision’ or ‘regulation’ as such by a statute or otherwise of a body would not make that body a “public authority” within the meaning of Section 2(h)(d)(i) of the RTI Act. In other words just like a

body owned or body substantially financed by the appropriate government, the control of the body by the appropriate government would also be substantial and not merely supervisory or regulatory. Powers exercised by the Registrar of Cooperative Societies and others under the Cooperative Societies Act are only regulatory or supervisory in nature, which will not amount to dominating or interfering with the management or affairs of the society so as to be controlled. Management and control are statutorily conferred on the Management Committee or the Board of Directors of the Society by the respective Cooperative Societies Act and not on the authorities under the Co-operative Societies Act.

35. *We are, therefore of the view that the word “controlled” used in Section 2(h)(d)(i) of the Act has to be understood in the context in which it has been used vis-à-vis a body owned or substantially financed by the appropriate government, that is the control of the body is of such a degree which amounts to substantial control over the management and affairs of the body.”*

4.19 In addition, Advocate of the Respondent submitted that the aspect of “substantial financing” has been explicated by the Hon’ble Supreme Court in the case of **Thalappalam (supra)**. The relevant portion of the judgment is reproduced as under:

*“36. The words “substantially financed” have been used in Section 2(h)(d)(i) & (ii), while defining the expression public authority as well as in Section 2(a) of the Act, while defining the expression “appropriate Government”. A body can be substantially financed, directly or indirectly by funds provided by the appropriate Government. The expression “substantially financed”, as such, has not been defined under the Act. “Substantial” means “in a substantial manner so as to be substantial”. In **Palser v. Grimling** (1948) 1 All ER 1, 11 (HL), while interpreting the provisions of Section 10(1) of the Rent and Mortgage Interest Restrictions Act, 1923, the House of Lords held that “substantial” is not the same as “not unsubstantial” i.e. just enough to avoid the de minimis principle. The word “substantial” literally means solid, massive etc. Legislature has used the expression “substantially financed” in Section 2(h)(d)(i) and (ii) indicating that*

the degree of financing must be actual, existing, positive and real to a substantial extent, not moderate, ordinary, tolerable etc.

37. We often use the expressions “questions of law” and “substantial questions of law” and explain that any question of law affecting the right of parties would not by itself be a substantial question of law. In **Black’s Law Dictionary (6th Edn.)**, the word ‘substantial’ is defined as ‘of real worth and importance; of considerable value; valuable Belonging to substance; actually existing; real: not seeming or imaginary; not illusive; solid; true; veritable. Something worthwhile as distinguished from something without value or merely nominal. Synonymous with material.’ The word ‘substantially’ has been defined to mean ‘essentially; without material qualification; in the main; in substance; materially.’ In the **Shorter Oxford English Dictionary (5th Edn.)**, the word ‘substantial’ means ‘of ample or considerable amount of size; sizeable, fairly large; having solid worth or value, of real significance; sold; weighty; important, worthwhile; of an act, measure etc. having force or effect, effective, through.’ The word ‘substantially’ has been defined to mean ‘in substance; as a substantial thing or being; essentially, intrinsically.’ Therefore the word ‘substantial’ is not synonymous with ‘dominant’ or ‘majority’. It is closer to ‘material’ or ‘important’ or ‘of considerable value.’ ‘Substantially’ is closer to ‘essentially’. Both words can signify varying degrees depending on the context.

38. Merely providing subsidiaries, grants, exemptions, privileges etc., as such, cannot be said to be providing funding to a substantial extent, unless the record shows that the funding was so substantial to the body which practically runs by such funding and but for such funding, it would struggle to exist. The State may also float many schemes generally for the betterment and welfare of the cooperative sector like deposit guarantee scheme, scheme of assistance from NABARD etc., but those facilities or assistance cannot be termed as “substantially financed” by the State Government to bring the body with the fold of “public authority” under Section 2(h)(d)(i) of the Act. But, there are instance, where private educational institutions getting ninety five per cent grant-in-aid

from the appropriate government, may answer the definition of public authority under Section 2(h)(d)(i).

4.20 Upon the instance of the Bench, the Advocate of the Respondent concluded his submissions that 28.7% of projected revenue is being financed from Airports Authority of India and about 9000 crores have been paid by the Mumbai International Airport Ltd.

4.21 Advocate of the Respondent in response to the claim of the Complainant submitted that the Complainant has largely failed in proving the factum that the MIAL was a Public Authority. In this regard, he further relied upon the Hon'ble Supreme Court in the case of **Thalappalam (supra)**. The relevant portion of the judgment is reproduced as under:

"40. The burden to show that a body is owned, controlled or substantially financed or that a non-government organization is substantially financed directly or indirectly by the funds provided by the appropriate Government is on the applicant who seeks information or the appropriate Government and can be examined by the State Information Commission or the Central Information Commission as the case may be, when the question comes up for consideration. A body or NGO is also free to establish that it is not owned, controlled or substantially financed directly or indirectly by the appropriate Government.

41. Powers have been conferred on the Central Information Commissioner or the State Information Commissioner under Section 18 of the Act to inquire into any complaint received from any person and the reason for the refusal to access to any information requested from a body owned, controlled or substantially financed, or a non-government organization substantially financed directly or indirectly by the funds provided by the appropriate Government. Section 19 of the Act provides for an appeal against the decision of the Central Information Officer of the State Information Officer to such officer who is senior in rank to the Central Information Officer or the State Information Officer, as the case may be, in each public authority. Therefore, there is inbuilt mechanism in the Act itself to examine whether a body is owned, controlled or substantially financed or an NGO is

substantially finance, directly or indirectly, by funds provided by the appropriate authority.

4.22 Adding on to it, Advocate of the Respondent submitted that with reference to the 26% shareholding of MIAL, it is stated that it does not constitute substantial financing as in the case of *Col. P.K. Garg v. Care Homes Limited (CIC/A/523/ICPB/2007)* wherein the Hon'ble Commission has held that the percentage of shareholding held by the Life Insurance Corporation (a Public Authority) was 39.14% and yet the same was not found to be germane to the issue of the company being a "Public Authority" under the provisions of the RTI Act. Most importantly, there is not an iota of evidence brought on record by the Complainant to establish any financial assistance or loan having been extended by the Central Government to AAI for the purpose of acquiring 26% shareholding in MIAL. He further submitted that with regard to the lease granted by AAI to MIAL at a concessional rate, it was stated that the basis of the concession was the revenue sharing model wherein 38.7% of the projected pre-tax gross revenue was paid by MIAL to AAI as Annual Fee (in addition to Rs. 150 crores paid by MIAL to AAI as a non-refundable upfront fee). In terms of the provisions, MIAL had paid over 9,635.29 crores to AAI in the last 13 years, of which Rs. 1437 crores was given in the year 2018-19 as annual fee. The relation subsisting between AAI and MIAL was purely commercial in nature. He reiterated that a higher revenue share coupled with technical competence were the determining factors towards selection of the successful bidder and not lease rent.

4.23 Finally, Advocate of the Respondent relied upon an order of the Commission in the matter of *D.K. Soni v. Apollo Hospital (CIC/AD/A/2009/000964)* wherein it was held that the grant of land on lease at concessional rate was not a necessary parameter for purposes of deciding the status of a body as a "Public Authority", especially when the hospital in that case was required to treat some percentage of patients free.

5. The main grievance of the complainant was that the respondent company namely the MIAL, being government company or instrumentality of the State under article 12 of the constitution was 'public authority' under the provisions of section 2(h) of the RTI Act, 2005 and thus bound by the provisions of the RTI Act, to appoint central public information

officers with a duty to disclose information as per mandate of the RTI Act. Section 2(h) of the RTI Act, reads as under:

“2. In this Act, unless the context otherwise requires,-

a)

.....

.....

(h) “public authority” means any authority or body or institution of self-government established or constituted-

(a) by or under the Constitution;

(b) by any other law made by Parliament;

(c) by any other law made by State Legislature;

(d) by notification issued or order made by the appropriate Government, and includes any-

body-owned, controlled or substantially financed;

(i) non-Government organization substantially financed, directly or indirectly by funds provided by the appropriate Government.

5.1 It is an admitted fact that the MIAL has not been established or constituted by or under the constitution or by any other law made by Parliament or by State Legislature. It has been incorporated as company under the provisions of the Companies Act 1956 wherein private participation is 74% and the remaining 26% is with AAI. The only issue for the consideration of the Commission was whether the MIAL fell within the ambit of the provisions of sub clause (d) of clause (h) of section 2 of the RTI Act or not. It had also been contended vehemently by the complainant on the strength of various judicial pronouncements that MIAL was a “State” under article 12 of the constitution. We may discuss the same for clarity on the subject.

5.2 The object of defining 'State' under Article 12 of the Constitution is to put restrictions on the 'public authorities' and ensure that they abide by the mandate of 'Part III' (Fundamental Rights) and 'Part IV' (Directive Principles of State Policy) of the Constitution. Such restrictions are not applicable to private bodies (*Shamdasoni vs Central Bank of India AIR.1952 SC 59; K.A.Karim Vs ITO 1983 Tax LR 1168; Haji Mohd. Ibrahim Vs Gift Tax Officer 1963 Tax LR 1160*).

5.3 In *Sukhdev Singh Vs Bhagatram AIR 1975 SC 1331*, while examining the bodies i.e. LIC, ONGC and Finance Corporation *inter alia* held that an autonomous body whether statutory or non-statutory were found to be a instrumentalities of STATE though these bodies had independent *legal* personality on account of being the under control of the Government.

5.4 In *Sabhajit Tewary Vs Union of India AIR 1975 SC 1329*, CSIR was not held as STATE on the ground that the same was not a statutory body but a society registered under Societies Registration Act though the same was under deep pervasive control and was also financed by the Government.

5.5 In *Rajasthan State Electricity Board Vs Mohan Lal AIR 1967 SC 1857* though the RSE Board was carrying commercial activities in distinction with the Governmental functions. The same was already to be said on the strength that the Government could carrying commercial activities under the provisions of Article 298 of the Constitution. Similarly the principles of instrumentality was discussed in the matter of *R D Ramana Vs International Airport Authority of India AIR 1979 SC 1628* and *Somprakash Vs Union of India AIR 1981 SC 212*. A new judicial trend emerged in the case of *Ajay Hasia Vs Khalid Mujib AIR 1981 SC 487* wherein the concept of instrumentality or change of the Government was not held to be limited to a corporation created by a statute but the same was held to be *equally* applicable to a company or a society. Thus a registered society was held an authority for the purpose of Article 12 in contradistinction of *Sabhajit Tewary (supra)*. The court laid down the following tests to adjudge whether a body is an instrumentality of government or not:

- i) If the entire share capital of the body is held by the government;

- ii) Where the financial assistance given by the government is so large as to meet almost entire expenditure of the body;
- iii) It is a relevant factor if the body enjoys monopoly status which is conferred or protected by the State;
- iv) Existence of deep and pervasive state control may afford an indication that the body is a state instrumentally;
- v) If the functions performed by the body are of public importance and closely related to governmental functions.

5.6. In the case of *Central Inland Water Transport Corporation (Corporation) case (supra)*, the facts include that one Brojonath Ganguly was an employee (Deputy Chief Accounts Officer) in a company namely, the 'Rivers Stream Navigation Company Limited'. The said Company was taken over by the 'Corporation' in accordance with a scheme of arrangement. Mr Brojonath, among others, was appointed by the Corporation after taking over the company in accordance with terms and conditions of the letter of appointment. The issue which cropped up and came for consideration before the Apex Court was whether termination of service of a permanent employee (Brojonath and others) in accordance with Rule 9 of the Service & Disciplinary Rules of the Corporation (unconscionable term), was legally sustainable. The plea to challenge the order of termination within 48 hours of the show cause notice, in spite of refutation of the charges, *inter alia* included that the Corporation being State might have not breached its duty of acting in accordance with the provisions of Part III & Part IV of the constitution.

The Supreme Court held-

"113 We would like to observe here that as the definition of "the State" in Article 12 is for the purposes of both Part III and Part IV of the Constitution, State actions, including actions of the instrumentalities and agencies of the State, must not only be in conformity with the Fundamental Rights guaranteed by Part III but must also be in accordance with the Directive Principles of State Policy prescribed by Part IV. Clause (a) of Article 39 provides that the State shall, in particular, direct its policy towards "securing that the citizens, men

and women, equally have the right to adequate means of livelihood.” Article 41 requires the State, within the limits of its economic capacity and development, to “make effective provision for securing the right to work”. An adequate means of livelihood cannot be secured to the citizens by taking away without any reason the means of livelihood. The mode of making “effective provision for securing the right to work” cannot be by giving employment to a person and then without any reason throwing him out of employment. The action of an instrumentality or agency of the State, if it frames a service rule such as Clause (a) of Rule 9 or a rule analogous thereto would, therefore, not only be violative of Article 14 but would also be contrary to the Directive Principles of State Policy contained in Clause (a) of Article 39 and in Article 41.”

5.7 The Central Inland Water Transport Corporation is not only a Government company as defined under section 617 of the Companies Act 1956, but is wholly owned by the three Governments- Central Government and the Governments of West Bengal and Assam jointly. It is financed entirely by these three Governments and is completely under the control of the Central Government, and is managed by the Chairman and Board of Directors appointed by the Central Government and removable by it. In every respect it is thus a veil behind which the Central Government operates through the instrumentality of a Government company. The activities carried on by the Corporation are of vital national importance. There can thus be no doubt that the corporation is a Government undertaking in the public sector.

5.8 In the *Sabhajit Tiwari case*(supra), the Supreme Court while holding the Council of Scientific and Industrial Research(CSIR) not as State under article 12 of the Constitution relied upon its non-statutory character like those of the Oil and Natural Gas Commission, or the Life Insurance Corporation(LIC), or the Industrial Finance Corporation(IFC). However, *Sabhajit* (supra) stands overruled by the law laid down in *Pradeep Kumar Biswal case*(2002).

5.9 Thalappalam Ser.Coop.Bank Ltd.& Ors. vs State Of Kerala & Ors [(2013) 16 SCC 82]

The Supreme Court of India held that a co-operative society registered under the Kerala Co-operative Societies Act was not bound by the country's Right to Information (RTI) Act to provide information sought by a citizen and that the Society did not fall within the definition of "public authority" under the RTI Act. The Applicant had requested information relating to the bank accounts of certain members of the Mulloor Rural Co-operative Society Ltd. The Court reasoned that co-operative societies neither met the threshold of control by government required under the definition of "the State" in Article 12 of the Constitution nor were "substantially financed" by the government so as to qualify as a "public authority" under the RTI Act. In balancing the Applicant's right to disclosure against the privacy rights of the Society's members the Court reasoned that the information was personal and did not relate to any public activity or interest, so the public authority or officer was not obliged to comply with the request.

5.10 The Supreme Court in the case of :-

DAV College Trust and Management Society and Ors Vs Director of Public Instructions & Ors (Civil Appeal No. 9828 of 2013) while discussing case law and taking note that various DAV Colleges received grant between 40 to 44% of the total financial outlay in each year and that as far as work are concerned 95% salary of the teaching and non-teaching staff of the colleges are borne by the State Government. The Apex Court found that those were substantial payment and amounted to half of the expenditure of the Colleges/Schools and more than 95% of the expenditure as far as teaching and other staff was concerned. Therefore it was held that those colleges and schools were substantially financed and thus public authority within the meaning of Section 2(h) of the Act.

5.11 The High Court of Delhi in the case of:-

Hardicon Limited Vs Madan Lal in W.P.(C) 6946/2011 & CM No. 15943/2011 while setting aside order dated 21.4.2011 of the full bench of the Central Information Commission(CIC) observed as:-

“15. The CIC held that as 61.5% of equity of the petitioner was subscribed by government owned entities and the same would meet the criteria of substantial financing by an appropriate Government. I find it difficult to agree with the said conclusion. Admittedly, the Government - whether it be State Government or Central Government - has not provided any direct funding to the petitioner. The question whether the entity has been indirectly financed is to be determined on the facts of each case. In this case, there is no material to indicate any flow of funds from any government to the petitioner. In order to hold that an entity has been indirectly financed by an appropriate Government, first of all, it is necessary to find that the Central Government has parted with some funds for financing the authority/body; and secondly, the said funds have found their way to the authority/body in question. The link between the financing received by an entity and an appropriate Government must be clearly established.

16. In this case, there is no material to indicate that any of the funds received by the petitioner owed their source to either the Central Government or the State Government. The constituent shareholders of the petitioner are independent entities and whose source of funds is not limited to the Central Government/State Government. Although, substantial part of equity of nationalized banks is held by the Government, the sources of funds available to the bank are not limited to the Government alone. Banks receives substantial deposits as a part of their business. In addition, the banks also generate substantial income from their commercial activities. Such funds are also deployed by banks by lending and investing in other entities. Since the funds received by the petitioner by way of subscription to its equity cannot be traced to any Government. The conclusion that the government has indirectly provided substantial finance to the petitioner is not sustainable.”

5.12 It may not be out of place to state that, among others, the objective of the RTI Act is to place the ‘public authority’ subject to part III and part IV of the Constitution. Moreover, as a *quasi* judicial body the CIC may not include what is not intended by the legislature.

The Supreme Court (2005)4 SCC,649,684) while holding that the Board of Control for Cricket in India (BCCI) not as 'State' observed that in a democracy there is a dividing line between a State enterprise and a non-State enterprise, which is distinct and the judiciary should not be an instrument to erase the said dividing line unless, of course, the circumstances of the day require it to do so.

5.13 The above discussion makes it amply clear that the evolution of the definition of 'state' under article 12 of the constitution has been subsumed into the definition 'public authority' and that the obligation of disclosure of information is upon the public authority in contradistinction of the private body.

6. The Commission after adverting to the facts and circumstances of the case, hearing both the parties and perusal of records, observes that the complainant had not filed second appeal aggrieved by non receipt of information/reply in response to his RTI application and first appeal before approaching this commission by way of complaint. *Prima facie*, it may not be unreasonable for MIAL to consider itself not covered within the meaning of public authority under the RTI Act. Keeping in view of the above facts, it might not be proper for this Commission, on a complaint, where the relief sought had been punishment for not maintaining a list of CPIOs to punish without holding MIAL a 'public authority' or to treat complaint as second appeal. The ideal situation should have been that the complainant had exhausted available remedies i.e. First Appeal and/or Second Appeal. Having been not declared as 'public authority', MIAL might not be under an obligation to disclose the information requested for by the complainant nor maintain a list of CPIOs as mandated by the RTI Act.

6.1 The Supreme Court in the case of *Chief Information Commissioner and Another Vs State of Manipur and Another [(2011) 15 Supreme Court Cases 1]* has held :-

"The only order which can be passed by the Information Commissioner under Section 18 is an order of penalty provided under Section 20. However, before such order is passed the Commissioner must be satisfied that the conduct of the Information Officer was not bona fide. The Commissioner while

entertaining a complaint under Section 18 has no jurisdiction to pass an order providing for access to the information.

The appellant after having applied for information under Section 6 and then not having received any reply thereto, it must be deemed that he has been refused the information. The remedy for such a person who has been refused the information is provided under Section 19 of the Act."

6.2 Now a specific direction has been given by the Hon'ble High Court of Delhi to the Commission to consider afresh and decide whether MIAL is a 'public authority'. In pursuance of the directions we have reconsidered the issue and heard both parties. The Commission after adverting to the facts and circumstances of the case, hearing both parties and perusal of records feels that MIAL is not a 'public authority' under S. 2 (h) of the RTI Act, 2005. We are also of the view that it may be open to the complainant to seek information through public authority for MIAL i.e. AAI or Ministry of Civil Aviation as the case may be. That being so, the complaint of the complainant is unfounded and the same is rejected. The Commission puts it on record that it could not meet the timelines provided by the Hon'ble High Court due to the reasons including Constitution of Bench, non-appearance of parties and COVID-19 which were procedural and beyond the Commission's powers.

Sd/-

(Suresh Chandra) (सुरेश चंद्रा)
Information Commissioner
दिनांक/Date: 18.05.2020

Sd/-

(Divya Prakash Sinha) (दिव्य प्रकाश सिन्हा)
Information Commissioner
दिनांक / Date: 18.05.2020

Authenticated true copy
 (अभिप्रमाणित सत्यापित प्रति)

(Brig Vipin Chakrawarti) (ब्रिगेडियर विपिनचक्रवर्ती)
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बाबा गंगनाथ मार्ग, मुनिरका
Baba Gangnath Marg, Munirka
नई दिल्ली, New Delhi – 110067

शिकायतसंख्या / Complaint No. CIC/MOFIN/C/2017/131504/BKOB

Neeraj Sharma

...शिकायतकर्ता/Complainant

CPIO, National Payments
Corporation of India, ITO, New
Delhi.

...प्रतिवादीगण /Respondents

Relevant dates emerging from the appeal:

RTI : 10.12.2016	FA : 15.02.2017	Complaint : 07.04.2017
CPIO : No reply	FAO : No order	Hearing : 09.10.2019

ORDER
(06.12.2019)

1. The issues under consideration i.e. the reliefs sought by the complainant in his complaint dated **07.04.2017** due to alleged non-supply of information vide his RTI application dated **10.12.2016**, are as under:

- (i) A direction to the PIO to provide the requested information in the form of certified copy.
- (ii) Imposition of penalty on the PIO under section 20 of the RTI Act for not providing the information within 30 days.

2. Succinctly the facts of the case are that the complainant filed an application dated 10.12.2016 under the Right to Information Act, 2005 (RTI Act) before the Central Public Information Officer (CPIO), National Payments Corporation of India, (NPCI), ITO, New Delhi seeking inter-alia the following information:

(a) Provide details of the PIO and the Appellate Authority under the RTI Act and also publish these details of NPCI website <http://www.npci.org.in>

The CPIO did not furnish any reply to the RTI application. Aggrieved by this, the complainant filed complaint dated 07.04.2017 before this Commission.

2.1. The complainant has filed complaint dated 01.04.2017 *inter alia* on the grounds that no information has been given by the CPIO till the date of filing of complaint to the Central Information Commission.

2.2. The CPIO has not given any reply to the complainant

Hearing 01.11.2018:

2.3. The complainant Mr. Neeraj Sharma along with his representative Mr. Pulkit Verma attended the hearing personally. The respondent was absent.

2.4. The Commission passed the following directions on 20.02.2019:

"The Commission after adverting to the facts and circumstances of the case, hearing of the complainant and perusal of records, feels that without hearing the respondent, the facts of this case cannot be ascertained hence, in the interest of justice and proper disposal of this case, the Commission adjourns the matter to 13.03.2019 at 03:00 PM."

Hearing on 23.04.2019:

2.5. The complainant along with Mr. Pulkit Verma attended the hearing in person. On behalf of the respondent Mr. Sanjay Saxena, Chief Finance Officer, Advocate Sudip Mullick and Advocate Sneha Joshi attended the hearing in person.

2.6. The Commission passed the following directions:

"The Commission after adverting to the facts and circumstances, hearing both parties and perusal of records, feels that resolution of the complaint dated 07.04.2017 involves a substantial question of law i.e. whether NPCI is a public authority and whether the information sought is required to be disclosed. To consider the aforementioned substantial questions of law. On reference from this Bench a Division Bench has been constituted."

Hearing on 28.08.2019:

2.7. The complainant along with his counsels Mr. Pulkit Verma and Mr. Nikhil Borwankar, and on behalf of the respondent Mr. Sanjay Saxena, Chief Legal Officer, and counsels Shri Sudip Mullick, Ms. Sneha Oak Joshi attended the hearing in person.

2.8. The Commission passed the following directions:

"During the course of hearing both parties exchanged copies of their written submissions and copies of judgments relied upon by them. . However, due to paucity of time, both the parties could not conclude their respective submissions. Therefore, a final opportunity is given to both parties to conclude their arguments. The matter is adjourned for final hearing to 09.10.2019 at 03:00 p.m."

The matter was heard on 09.10.2019 and on 27.11.2019:

3. The complainant accompanied by Shri Pulkit Verma, Advocate and Nikhil Borwankar, Advocate and on behalf of the respondent Shri Sudip Mullick and Ms Sneha Oak Joshi, Advocate of Khaitan and Company attended the hearing in person.

3.1 The complainant while arguing his case and seeking the aforementioned reliefs *inter alia* submitted that the NPCI having been incorporated in the year 2008 under Section 25 of the Companies Act, 1956 was a 'public authority' under Section 2(h) of the RTI Act, 2005; that the respondent company (NPCI) being a deemed Government company within the meaning of Section 619B of the Companies Act, the auditors of the respondent company were appointed by the Comptroller and Auditor General of India (CAG) under sub-section (5) of Section 139 of the Companies Act, 2013; that only the company owned or controlled directly or indirectly by the Central Government or by the State Government were subject to CAG Audit; that the respondent company was 'substantially financed' by the Government; that the respondent company was an umbrella organization for retail payment system in India with the guidance and support of Reserve Bank of India as several public functions were carried out by the NPCI such as; a) National Automated Clearing House System; (b) cheque truncation system; (c) National Financial Switch; (d) Immediate Payment System; (e) Rupay cards; (f) Unified Payment Interface and (g) National Electronic Toll Collection; that the respondent company not only enjoyed monopoly in carrying out operations on behalf of the RBI, it also operated Aadhar Based payment including Aadhar Automated Payment System (AAPS), Aadhar Payment Bridge System (APBS); that the perusal of the Standing Committee Report on Finance (2206-07) 14th Lok Sabha and reply given by the Ministry of Finance revealed that the respondent company was entrusted with operations of the detailed payment system and that their case was supported by the law laid down by the Supreme Court in the following cases:-

Central Inland Water Transport Corporation Limited and Ors Vs Brojo Nath Ganguly and Ors AIR 1986 SC 1571; General Manager, Kisan Sahkari Chini Mills Ltd., Sultanpur, UP Vs Satrughan Nishad and Ors (2003) 8 SCC 639; Ajay Hasia and Ors Vs Khalid Mujib Sehravardi and Ors AIR 1981 SC 487; Thalappalam Ser. Coop. Bank Ltd., Vs State of Kerala and Ors. (2013) 16 SCC 82; New Tirupur Area Development Corporation Ltd. Vs State of Tamil Nadu (2010) 4 MadLJ 1110; Binny Ltd. And Ors V V Sadasivan and Ors. (2005) 6 SCC 657; National

Stock Exchange of India Vs Central Information Commission and Ors.
(2010) SCC On Line Del 1513 and Tamil Nadu Road Development Co.
Ltd Vs Tamil Nadu Information Commission and Ors. 2009(243) ELT
171(Mad)

4. The respondent while defending that their case and refuting the averments made by the complainant *inter alia* submitted that the respondent company(NPCI) being a limited company incorporated under Section 25 of the Companies Act, 1956 and a non-profit organization under Section 8 of the Companies Act, 2013 was not a 'public authority' that the respondent company was not 'substantially financed' by Government and as regards Rs.500 crores given to the respondent company was not a financial assistance but was for implementation of Digital schemes of "Lucky Grahak Yojana", " Digi-Dhan Vyapar Yojana" by Government of India and Niti Aayog through NPCI and no fund was utilized by the respondent company; that the Government of India did not own any share capital of the respondent company and hence might not be called as owned by Central or State Government; that the respondent company was owned by 56 banks consisting of 19 public sector banks, 17 private banks, 10 RRBs, 3 foreign banks, 7 multi-state cooperative banks; that the respondent company was neither established nor constituted by or under Constitution of India or by any other law made by Parliament or State Legislature; that RBI as a regulator regulated banks including private and foreign banks operating in India; that it was not correct that CAG audited only the government companies; that the respondent company had no monopoly and RBI had authorized many organizations to carry out such functions; that the respondent company earned majority revenue from RuPay card, UPI, IMPS and NFS; that the NPCI was in direct competition with Mastercard and Visa Wallets and that the use of the term 'National' which was being used by several private companies was not criteria for holding respondent company as public authority.

5. The main grievance of the complainant is that the respondent company namely the NPCI, being government company or instrumentality of the State under article 12 of the constitution is 'public authority' under the provisions of section 2(h) the RTI

Act, 2005 and thus bound by the provisions of the RTI Act, to appoint central public information officers with a duty to disclose information as per mandate of the RTI Act. Section 2(h) of the RTI Act, reads as under:

“2. In this Act, unless the context otherwise requires,-

a)

.....

.....

(h) “public authority” means any authority or body or institution of self-government established or constituted-

(a) by or under the Constitution;

(b) by any other law made by Parliament;

(c) by any other law made by State Legislature;

(d) by notification issued or order made by the appropriate Government, and includes any-

(i) body-owned, controlled or substantially financed;

(ii) non-Government organization substantially financed, directly or indirectly by funds provided by the appropriate Government.

5.1 It is an admitted fact that the NPCI has not been established or constituted by or under the constitution or by any other law made by Parliament or by State Legislature. It has been incorporated as company under section 25 of the Companies Act 1956 and is a nonprofit organization under section 28 of the Companies Act, 2013. The only issue for the consideration of the Commission is whether the NPCI falls within the ambit of the provisions of sub clause (d) of clause (h) of section 2 of the RTI Act or not. It had also been contended vehemently by the complainant on the strength of various judicial pronouncements that NPCI was a “State” under article 12 of the constitution. We may discuss the same for clarity on the subject.

5.2. In the case of *Central Inland Water Transport Corporation (Corporation) case (supra)*, the facts include that one Brojonath Ganguly was an employee (Deputy Chief Accounts Officer) in a company namely, the ‘Rivers Stream Navigation Company

Limited'. The said Company was taken over by the 'Corporation' in accordance with a scheme of arrangement. Mr Brojonath, among others, was appointed by the Corporation after taking over the company in accordance with terms and conditions of the letter of appointment. The issue which cropped up and came for consideration before the Apex Court was whether termination of service of a permanent employee (Brojonath and others) in accordance with Rule 9 of the Service & Disciplinary Rules of the Corporation (unconscionable term), was legally sustainable. The plea to challenge the order of termination within 48 hours of the show cause notice, in spite of refutation of the charges, *inter alia* included that the Corporation being State might have not breached its duty of acting in accordance with the provisions of Part III & Part IV of the constitution.

The Supreme Court held-

"113 We would like to observe here that as the definition of "the State" in Article 12 is for the purposes of both Part III and Part IV of the Constitution, State actions, including actions of the instrumentalities and agencies of the State, must not only be in conformity with the Fundamental Rights guaranteed by Part III but must also be in accordance with the Directive Principles of State Policy prescribed by Part IV. Clause (a) of Article 39 provides that the State shall, in particular, direct its policy towards "securing that the citizens, men and women, equally have the right to adequate means of livelihood." Article 41 requires the State, within the limits of its economic capacity and development, to "make effective provision for securing the right to work". An adequate means of livelihood cannot be secured to the citizens by taking away without any reason the means of livelihood. The mode of making "effective provision for securing the right to work" cannot be by giving employment to a person and then without any reason throwing him out of employment. The action of an instrumentality or agency of the State, if it frames a service rule such as Clause (a) of Rule 9 or a rule analogous thereto would, therefore, not only

be violative of Article 14 but would also be contrary to the Directive Principles of State Policy contained in Clause (a) of Article 39 and in Article 41."

5.3 The Central Inland Water Transport Corporation is not only a Government company as defined under section 617 of the Companies Act 1956, but is wholly owned by the three Governments- Central Government and the Governments of West Bengal and Assam jointly. It is financed entirely by these three Governments and is completely under the control of the Central Government, and is managed by the Chairman and Board of Directors appointed by the Central Government and removable by it. In every respect it is thus a veil behind which the Central Government operates through the instrumentality of a Government company. The activities carried on by the Corporation are of vital national importance. There can thus be no doubt that the corporation is a Government undertaking in the public sector.

5.4. In the *Sabhajit Tiwari case*(supra), the Supreme Court while holding the Council of Scientific and Industrial Research(CSIR) not as State under article 12 of the Constitution relied upon its non-statutory character like those of the Oil and Natural Gas Commission, or the Life Insurance Corporation(LIC), or the Industrial Finance Corporation(IFC). However, *Sabhajit* (supra) stands overruled by the law laid down in *Pradeep Kumar Biswal case*(2002).

5.5. Ramana Dayaram Shetty vs International Airport Authority of India & Ors. [1979 SCR (3)1014]

The relevant tests gathered from the decision in the International Airport Authority's case may be summarized as: (i) One thing is clear that if the entire share capital of the corporation is held by Government it would go a long way towards indicating that the Corporation is an instrumentality or agency of Government. (ii) Where the financial assistance of the State is so much as to meet almost entire expenditure of the Corporation, it would afford some indication of the corporation being impregnated with governmental character (iii) It may also be a relevant factor whether the corporation enjoys monopoly status which is the State conferred or State protected (iv)

Existence of 'deep and pervasive' State control may afford an indication that the Corporation is a state agency or instrumentality. (v) If the functions of the corporation of public importance and closely related to governmental functions, it would be a relevant factor in classifying the corporation as an instrumentality or agency of Government (vi) Specifically, if a department of Government is transferred to a corporation, it would be a strong factor supportive of this inference of the corporation being an instrumentality or agency of Government.

5.6. Thalappalam Ser.Coop.Bank Ltd.& Ors. vs State Of Kerala & Ors [(2013) 16 SCC 82]

The Supreme Court of India held that a co-operative society registered under the Kerala Co-operative Societies Act was not bound by the country's Right to Information (RTI) Act to provide information sought by a citizen and that the Society did not fall within the definition of "public authority" under the RTI Act. The Applicant had requested information relating to the bank accounts of certain members of the Mulloor Rural Co-operative Society Ltd. The Court reasoned that co-operative societies neither met the threshold of control by government required under the definition of "the State" in Article 12 of the Constitution nor were "substantially financed" by the government so as to qualify as a "public authority" under the RTI Act. In balancing the Applicant's right to disclosure against the privacy rights of the Society's members the Court reasoned that the information was personal and did not relate to any public activity or interest, so the public authority or officer was not obliged to comply with the request.

5.7 The Supreme Court in the case of :-

DAV College Trust and Management Society and Ors Vs Director of Public Instructions & Ors (Civil Appeal No. 9828 of 2013) while discussing case law and taking note that various DAV Colleges received grant between 40 to 44% of the total financial outlay in each year and that as far as work are concerned 95% salary of the teaching and non-teaching staff of the colleges are borne by the State Government. The Apex Court found that those were substantial payment and amounted to half of the expenditure of the Colleges/Schools and more than 95% of the expenditure as far as

teaching and other staff was concerned. Therefore it was held that those colleges and schools were substantially financed and thus public authority within the meaning of Section 2(h) of the Act.

5.8 The High Court of Delhi in the case of

Hardicon Limited Vs Madan Lal in W.P.(C) 6946/2011 & CM No. 15943/2011 while setting aside order dated 21.4.2011 of the full bench of the Central Information Commission(CIC) observed as:-

“15. The CIC held that as 61.5% of equity of the petitioner was subscribed by government owned entities and the same would meet the criteria of substantial financing by an appropriate Government. I find it difficult to agree with the said conclusion. Admittedly, the Government - whether it be State Government or Central Government - has not provided any direct funding to the petitioner. The question whether the entity has been indirectly financed is to be determined on the facts of each case. In this case, there is no material to indicate any flow of funds from any government to the petitioner. In order to hold that an entity has been indirectly financed by an appropriate Government, first of all, it is necessary to find that the Central Government has parted with some funds for financing the authority/body; and secondly, the said funds have found their way to the authority/body in question. The link between the financing received by an entity and an appropriate Government must be clearly established.

16. In this case, there is no material to indicate that any of the funds received by the petitioner owed their source to either the Central Government or the State Government. The constituent shareholders of the petitioner are independent entities and whose source of funds are not limited to the Central Government/State Government. Although, substantial part of equity of nationalized banks is held by the Government, the sources of funds available to the bank are not limited to the Government alone. Banks receives substantial deposits as a part of their business. In addition, the banks also generate substantial income from their commercial activities. Such funds are also deployed by banks by lending and investing in other entries. Since the funds received by the petitioner by way of subscription to its equity cannot be traced to any Government. The conclusion that the government has indirectly provided substantial finance to the petitioner is not sustainable.”

5.9. The complainant's submissions that the Respondent Company was incorporated in the year 2008 under Section 25 of Companies Act, 1956 and during the initial years of its incorporation the affairs of the company were managed by personnel who were deputed from Reserve bank of India and some of the promoter banks, were not disputed. The RBI's approval in relation to the appointment of the Managing Director and the Chief Executive Officer of the respondent company was as the regulator under the Payment and Settlement Act, 2007. Thus it may not be correct to infer on the basis of the above facts that RBI has control over NPCI.

5.10. The complainant further argued that the respondent company having taken over the operations of National Financial Switch from Institute of Development and Research Banking Technology (*hereinafter referred to as IDRBT*) was the nodal agency for the purpose of NFS operations. The complainant referred to article 127 of the Articles of Association of the Respondent Company which entitled the Reserve Bank of India to appoint or remove any director appointed by it. We may consider this point when we consider the points of control and that of instrumentality of 'State' or public authority under RTI Act.

5.11 Before the Payment and Settlement Act, 2007 RBI was enabling the inter-bank settlement through IDRBT and technology driven payment settlements was emerging. With the advancement of technology, real time settlement of payments, emergence of various fintech products providing options to consumers, and fast changing developments, government enacted the Payment and Settlement Act and declared RBI as regulator rather than operator of all products and opened the field for private players. RBI continues to operate RTGS directly and permit various operators and products on merit as the regulator. As a regulator, RBI continues to remain public authority u/s 2(h) of the RTI Act so as to ensure transparency and accountability of all operators in this space and to guard public interest; and any person seeking information about policies and products permitted for digital payments by various players may seek the same through RBI.

5.12. With reference to the contention that the respondent operated public functions such as (a) National Automated Clearing House System; (b) cheque truncation system; (c) National Financial Switch; (d) Immediate Payment System; (e) Unified Payment Interface; (f) National Electronic Toll Collection, it may be submitted that these were products for digital transactions used by consumers out of their own choice. There might be other payment products operated by fintech companies, RBI and on other switches permitted to operate by regulator in India. RBI as regulator has not accorded any monopoly status to the NPCI and decides to permit various products/providers to operate in India in payment and settlement space on case to case basis. Even the products of NPCI such as UPI is open for use by other fintech companies including banks, social networks, e-marketing companies etc., which are in direct competition with BHIM of NPCI.

5.13. It is noticed that the RBI regulates all banks including private and foreign banks operating in India. The Respondent Company is administered under the provisions the Companies Act, as is the case with all other companies registered under the Companies Act. Any person desirous of commencing and carrying on a digital payment system and introduce such products is free to apply to the RBI for authorization under the Payment and Settlement Act, 2007.

5.14. As regards the report of Standing Committee on Finance (2006-07) Fourteenth Lok Sabha by the Ministry of Finance on the enactment of Payment and Settlements Systems Bill, 2006, the observations of the Standing Committee and the reply given by the Ministry of Finance, it may not be out of place to mention that the outcome of the report etc., was the Payment and Settlement Act, 2007.

5.15. The fact that the respondent company was owned by 56 (Fifty-six) banks consisting of 19 (Nineteen) Public Sector Banks, 17 (Seventeen) Private Sectors Banks, 10 (Ten) Regional Rural Banks, 3 (Three) Foreign Banks and 7 (Seven) Multi-State Co-Operative Banks was not disputed. It was submitted that the Government and the Public Sector Banks were separate and distinct entities. That was an undisputed fact

that the equity of the Corporation had not been funded and provided by the Government.

5.16. The Board of Directors of the Respondent had 20 (Twenty) members comprising 12 (Twelve) nominee directors, 6 independent directors, 3 RBI nominees and MD and CEO. Nominee directors include 5 (Five) from the Public Sector Banks. The Central Government does not appoint any directors on the board of the Respondent corporation. The Central Government did not control the day to day workings of the Respondent and did not have 'pervasive control' over the Respondent. Thus, the Central Government does not in any way appoint or influence the appointment of majority of directors of the Respondent. The Managing Director of the Respondent is only approved by RBI and not appointed by RBI. Similarly, RBI approves the Managing Director of all banks including Private Banks, Foreign Banks, Rural Banks in India and is done by the RBI in its regulatory capacity.

5.17. Consideration of the pleadings and other submissions reveals that the Central Government had allocated an amount of Rs 500 crores (Rupees Five Hundred Crores Only) to the Respondent. The Government of India ("GoI") and NITI Aayog (National Institution for Transforming India) with a view to bringing the poor, lower middle class and small businesses into the digital payment fold and to incentivize digital transactions had announced the "Digidhan Vyapar Yojana" and "Lucky Grahak Yojana" (collectively referred to as "the Schemes"). NABARD executed the MOU with the Respondent where under the Respondent was required to utilize the funds provided by NABARD and distribute the same to the winners under the Schemes. It is also made clear that any other entity could be appointed to carry out the said functions carried by the Respondent under the Schemes by executing a new memorandum of understanding with NABARD. NPCI had never sought the money as grant or offered to run the scheme; rather the Government decided to take its services for transfer of funds under the scheme to the selected individual beneficiary. Without prejudice to the above, allocation of funds was for the Schemes to be transferred to the account of winner beneficiary and not to meet operational requirements of the Respondent and in view of

the decision of the Court in Thalapallam case, the same would not satisfy the requirement of 'substantially financed'.

5.18 With respect to the contention of the appellant for use of the word 'National', attention may be drawn to Section 3 read with para 7 of the Schedule to the Emblems and Names (Prevention of Improper Use) Act, 1950 which *inter alia* prohibit the use of any name which may suggest or be calculated to suggest the patronage of the Government of India or the Government of a State; or in connection with any local authority or any corporation or body constituted by the Government under any law for the time being in force. The Companies Act, 2013 deals with the rules pertaining to the Registration of the Companies. Sub-sections (2) and (3) of Section 4 of the Companies Act, 2013 provides for the conditions which are to be adhered while choosing the name of a company. The relevant portion of Section 4 reads as under:

“ 1) *The memorandum of a company shall state;*

a)

b)

2) *The name stated in the memorandum shall not-*

a)

b) *be such that its use by the company-*

i) will constitute an offence under any law for the time being in force; or

ii) is undesirable in the opinion of the Central Government.

3) *Without prejudice to the provisions of sub-section (2), a company shall not be registered with a name which contains-*

a)

b)

However, the Ministry of Corporate Affairs vide Circular No.2/2014 dated 11.02.2014 has curbed the use of word 'National' in the names of Companies or LLP unless it is a Government Company and the Central/State Governments has a stake in it. Perusal of the circular dated 11th February, 2014 refers to above reveals that the Government is aware of certain improper use of the word 'National' which requires to be looked into by the appropriate authority. We are not aware as to whether the NPCI or the Registrar of Companies before registering the corporation with the word 'National' have obtained permission of the concerned administrative ministry. However, not following the procedure or impropriety in the name *per se* may not make the corporation a Government company and thus state or state instrumentality or public authority within the meaning of RTI Act.

5.19. As regards the appointment of the auditor of the respondent by the CAG may not *ipso facto* imply that the respondent is a company owned and controlled directly or indirectly by the Central Government. It has also been made clear that the accounts of the respondent are not placed before the Parliament but are only filed with Registrar of Companies, Ministry of Corporate Affairs as is being done for any other company incorporated and registered under the Companies Act. It has also been made clear that the Respondent's shareholders are not audited by CAG. The CAG has the power to audit private companies under certain circumstances and it would be unreasonable to argue that such companies would become 'public authorities' under the RTI Act merely by reason of such audit.

6. The Commission after adverting to the facts and circumstances of the case, hearing both the parties and perusal of records, observes that the complainant had not filed second appeal aggrieved by non receipt of information/reply in response to his RTI application and first appeal before approaching this commission by way of complaint. It may not be unreasonable for NPCI to consider itself not covered within the meaning of public authority under RTI. However keeping in view of the above facts, it may not be proper for this Commission, on a complaint, to include within the ambit of public authority what was not intended explicitly by the legislature. Not

declared as public authority NPCI might not be under an obligation to disclose the information requested for by the complainant nor maintain a list of CPIOs as mandated by the RTI Act. Commission is also of the view that it may be open to the complainant to seek information through public authority for NPCI i.e. RBI or Ministry of Finance as the case may be. That being so, the complaint of the complainant is unfounded and the same is rejected.

Sd/-

(Suresh Chandra) (सुरेश चंद्रा)
Information Commissioner
दिनांक/Date: 06.12.2019

Sd/-

(Neeraj Kumar Gupta) (नीरज कुमार गुप्ता)
Information Commissioner
दिनांक / Date: 06.12.2019

Authenticated true copy

(अभिप्रमाणित सत्यापित प्रति)

(Brig Vipin Chakrawarti) (ब्रिगेडियर विपिनचक्रवर्ती)

Registrar (पंजीयक)

011-26105021

Addresses of the parties:

The Central Public Information Officer (CPIO),
National Payments Corporation of India
2nd Floor, Gulab Bhawan 6,
Bahadur Shah Zafar Marg, ITO,
New Delhi- 110002

The First Appellate Authority (under RTI Act),
National Payments Corporation of India
2nd Floor, Gulab Bhawan 6,
Bahadur Shah Zafar Marg, ITO,
New Delhi- 110002

Shri Neeraj Sharma,
FF-41A, 2nd Floor, Laxmi Nagar,
Delhi- 110092.



केन्द्रीय सूचना आयोग
Central Information Commission
बाबागंगनाथमार्ग, मुनिरका
Baba Gangnath Marg, Munirka
नई दिल्ली, New Delhi – 110067

द्वितीय अपील संख्या/ Second Appeal No.CIC/ERAIL/A/2018/636294

In the matter of:

Uttkarsh Kumar

... अपीलकर्ता/Appellant

VERSUS

बनाम

1. CPIO,
Deputy General Manager (G),
East Central Railway,
Head Quarters, Hajipur,
Dist. Vaishali,
Bihar – 844 101

...प्रतिवादीगण
/Respondent

2. CPIO,
Sr. Comml. Manager (Catg.) & APIO,
Eastern Railway,
O/o. Chief Commercial Manager,
3, Kolaghat Street,
Kolkata – 700 001

3. CPIO,
Indian Railway Catering &
Tourism Corporation (IRCTC),
B – 148, 11th Floor,
Statesman House,
Barakhamba Road,
New Delhi – 110 001

Relevant dates emerging from the appeal:

RTI : 29.07.2018	FA : 13.09.2018	SA : Nil
CPIO : 09.08.2018, 10.09.2018, 11.09.2018 & 05.10.2018	FAO : 22.10.2018	Hearing : 13.10.2020

The following were present:

Appellant: Heard over the phone

Respondent: Shri K.K.Mishra, ACM (Catg.), East Central Railway, Hajipur, Dist. Vaishali, Bihar and Shri K.D.Das, Dy. CCM (System), Eastern Railway, Kolkata, heard over the phone

ORDER

Information Sought:

The appellant filed an online RTI application on 29.07.2018, seeking information on four points pertaining to PNR No. 2448017482, including;

- 1) The passenger had filed online TDR on 27/06/18 for refund against PNR Number 2448017482 for reason that the train was late for more than three hours and passenger did not travel with Reference No : 100000249226100.
- 2) On date 02/07/18 passenger received an email from IRCTC informing that with reference to refund against PNR Number 2448017482, an amount of Rs. 495/- has been received from concerned Zonal Railways.
- 3) According to the extant refund rules of Indian Railways, if the train is delayed by more than 3 hours then full refund will be granted.

- 4) Total ticket amount of passenger ticket was 990 rupees then, why Railways refunded only 495 rupees to the passengers.

The CPIO, East Central Railway, vide online reply dated 09.08.2018, transferred the RTI application to CPIO, Eastern Railway u/s 6(3) of the RTI Act. The CPIO, Eastern Railway, vide online reply dated 10.09.2018, transferred the RTI application to CPIO, Indian Railway Catering & Tourism Corpn. Ltd. The CPIO, Indian Railway Catering & Tourism Corpn. Ltd., vide online reply dated 11.09.2018, transferred the RTI application to CPIO, Eastern Railway. Further, vide letter dated 05.10.2018, Sr. Comml. Manager (Catg.) & APIO, Eastern Railway informed the appellant that on receipt of a proper registration from IRCTC, his refund claim may be processed. Being dissatisfied, the appellant filed **first appeal** dated 13.09.2018. FAA, vide order dated 22.10.2018, upholding the action taken by Dy. CCM(G) & PIO/Eastern Railway vide letter no. C. 498/RTI Act/U.K. 207(18)/RTI Cell dated 03.10.2018, enclosed a copy of the same. With regards to the contention of the appellant in relation to East Central Railway, a copy of the RTI appeal along with its enclosure were sent by FAA with its decision to AGM/East Central Railway/Hajipur for necessary disposal of the RTI appeal pertaining to his jurisdiction. The FAA, further, advised the appellant to approach the proper grievance redressal forum for redressal of his grievance in the matter of anomaly in getting refund against his reserved ticket.

Grounds for Second Appeal:

The appellant filed second appeal u/s 19 of the Act on the ground of unsatisfactory reply furnished by the respondent. He requested the Commission to direct the CPIO to provide the information sought for and take appropriate legal action against the concerned CPIO and also to provide him compensation.

Submissions made by Appellant and Respondent during Hearing:

The appellant submitted that as per Section 6(3) of the RTI Act, where an application is made to a public authority but the subject matter of the RTI application pertains to another public authority, the CPIO of the public authority receiving the RTI application has to transfer the same to the public authority concerned within five days of the receipt of the application. However, his RTI application on 29.07.2018 was transferred by East Central Railway to CPIO, Eastern Railway on 09.08.2018 i.e. after 11 days of the receipt of the application. Further, CPIO, Eastern Railway transferred his application to IRCTC on 10.09.2018 i.e. after 30 days. The appellant furthermore submitted that his first appeal was disposed off by the FAA without serving a notice of hearing upon the appellant. He alleged that the implementation of the RTI Act, 2005, in the Respondent Public Authority is far from satisfactory and that they were not adhering to the provisions of the RTI Act, 2005 and therefore, desired strict action to be initiated against the erring CPIO.

The written submissions dated 24.09.2020 filed by the appellant were taken on record.

The respondent, Shri K.K.Mishra, submitted that since the appellant's RTI application was pertaining to refund against his reserved ticket, the position in respect of the same was being ascertained internally. On receipt of the status on 08.08.2018, it was found that the claim pertains to Eastern Railway, Kolkata and thus, the RTI application was accordingly transferred to the concerned division on 09.08.2018.

The written submissions dated 28.09.2020 filed by Dy. CCM/G, East Central Railway were taken on record.

The respondent, Shri K.D.Das, submitted that the appellant, vide his RTI application in question, has not sought any information within the meaning of Section 2(f) of the RTI Act and has rather raised a grievance pertaining to the refund against his reserved ticket. Nonetheless, the CPIO instead of denying him information treated his RTI as an application for refund and immediately started the due enquiry with respect to the same. Subsequently, his claim was not found to be registered and hence, the RTI application was transferred to IRCTC to provide a proper registration number. The respondent furthermore apprised the Commission that the appellant's claim has now been settled in full and complete refund has already been made to him. However, the appellant is raising technical issues with respect to delay in transfer without appreciating the fact that despite being a grievance, his RTI application was duly processed.

The appellant contended that he never demanded to process his RTI application as an application for refund.

The written submissions dated 08.10.2020 filed by Jt. General Manager/IT & CPIO, IRCTC were taken on record.

Decision:

The Commission, after hearing the submissions of both the parties and perusing the records, observes that the appellant, vide point nos. 1 – 3 of his RTI application in question, has merely stated facts of the case and vide point no. 4, the appellant has sought clarification with respect to the difference in the amount refunded. The

Commission finds it pivotal to note that at the outset, it is clarified that under the provisions of the RTI Act only such information as is available and existing and held by the public authority or is under control of the public authority can be provided. The PIO is not supposed to create information that is not a part of the record. He is also not required to interpret information or provide clarification or furnish replies to hypothetical questions. Similarly, redressal of grievance, reasons for non compliance of rules/contesting the actions of the respondent public authority are outside the purview of the Act. Further, the Hon'ble Supreme Court of India in the case of **Khanapuram Gandaiah Vs. Administrative Officer and Ors.** in SLP (C) 34868 of 2009 dated 04.01.2010 had held as under:

"6. Under the RTI Act "information" is defined under Section 2(f) which provides: "information" means any material in any form, including records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, report, 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.

7.the Public Information Officer is not supposed to have any material which is not before him; or any information he could have obtained under law. Under Section 6 of the RTI Act, an applicant is entitled to get only such information which can be accessed by the "public authority" under any other law for the time being in force. The answers sought by the petitioner in the application could not have been with the public authority nor could he

have had access to this information and Respondent No. 4 was not obliged to give any reasons as to why he had taken such a decision in the matter which was before him. A judge cannot be expected to give reasons other than those that have been enumerated in the judgment or order.”

Nonetheless, the respondent undertook to process the appellant's complete refund against his reserved ticket on the basis of the grievance raised by him in his RTI application. Thus, it cannot be said that the respondent deliberately or with malafide intent delayed the transfer of the RTI application. Hence, in the absence of any malafide intention, it would not be appropriate to initiate any action for imposition of penalty on the respondent.

As regards appellant's grievance that his first appeal was disposed of by the FAA without providing him an opportunity of being heard, the Commission observes that the FAA should invariably provide appellants an opportunity of hearing, especially if so requested. In view of this, the Commission would like to counsel the FAA, Eastern Railway, Kolkata to be more careful in future so that such lapses do not recur.

With the above observations, the appeal is disposed of.

Copy of the decision be provided free of cost to the parties.

The appeal, hereby, stands disposed of.

Amita Pandove (अमितापांडव)

Information Commissioner (सूचना आयुक्त)

दिनांक / Date 13.10.2020

Authenticated true copy
(अभिप्रमाणित सत्यापित प्रति)

B. S. Kasana (बी. एस. कसाना)
Dy. Registrar (उप-पंजीयक)
011-26105027

Addresses of the parties:

1. The First Appellate Authority (FAA)
/Addl. General Manager (G),
East Central Railway,
Head Quarters, Hajipur,
Dist. Vaishali, Bihar
2. The Central Public Information Officer
Deputy General Manager (G),
East Central Railway,
Head Quarters, Hajipur,
Dist. Vaishali,
Bihar – 844 101
3. The Central Public Information Officer
Sr. Comml. Manager (Catg.) & APIO,
Eastern Railway,
O/o. Chief Commercial Manager,
3, Kolaghat Street,
Kolkata – 700 001
4. The Central Public Information Officer
Indian Railway Catering &
Tourism Corporation (IRCTC),
B – 148, 11th Floor,
Statesman House,
Barakhamba Road,
New Delhi – 110 001

5. Mr. Uttkarsh Kumar
SDO Road, Mahua Chowk,
Mishra Bhawan, Hajipur,
Dist. Vaishali,
Bihar – 844 101

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केन्द्रीय सूचना आयोग
Central Information Commission
बाबा गंगनाथ मार्ग, मुनिरका
Baba Gangnath Marg, Munirka
नई दिल्ली, New Delhi – 110067

द्वितीय अपील संख्या/ Second Appeal No. CIC/WECRL/A/2019/120546

In the matter of:

Narender Kumar Chandel

... अपीलकर्ता/Appellant

VERSUS

बनाम

1. CPIO,
/DD(PG), Ministry of Railway,
Railway Board, (Registration &
Coordination), Room No. 5, RTI
Cell, Ground Floor, Rail Bhawan,
New Delhi-110001

...प्रतिवादीगण /Respondent

2.CPIO
Sr. Divisional Personnel Officer,
West Central Railway, Office of
the Divisional Railway Manager,
Divisional Office, Kota Division,
Kota, Rajasthan

Relevant dates emerging from the appeal:

RTI Application filed on	:	16.01.2019
CPIO replied on	:	08.03.2019
First Appeal filed on	:	17.02.2019
First Appellate Authority order	:	Not on record
Second Appeal received on	:	03.05.2019
Date of Hearing	:	04.06.2021

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The following were present:

Appellant: Shri Narender Kumar Chandel participated in the hearing upon being contacted on his telephone.

Respondent: Shri D.K.Biswas, APIO (Co-ord), RTI Cell and Dy. Director (PG), Railway Board and Shri C.P. Sokia, APO, Kota participated in the hearing upon being contacted on their respective telephones.

ORDER

Information sought:

The Appellant filed an RTI Application dated 16.01.2019 seeking information on the following eleven points:

निवेदन है कि प्रार्थी को प्रधानमंत्री कार्यालय, भारत सरकार के माध्यम से रेल मंत्रालय, भारत सरकार से निम्न सूचनाएं लिखित में चाहिये।

1. प्रार्थी का चयन रेलवे भर्ती बोर्ड अजमेर द्वारा दिनांक 18 फरवरी 2008 को जारी पत्र के अनुसार सैक्शन इंजीनियर (विद्युत) पद वेतनमान रुपये 6500-10500 (सर्वे) पद पर हुआ था तथा प्रार्थी की नियुक्ति की सिफारिश महाप्रबन्धक (कार्मिक) पश्चिम मध्य रेलवे, जबलपुर को की गयी थी। (पत्र की प्रति संलग्न है।) प्रार्थी का RTI Act-2005 के तहत यहसूचना चाहिये की प्रार्थी के सैक्शन इंजीनियर (विद्युत) पद का नियुक्ति प्राधिकारी (Appointing Authority) किसको निर्धारित किया गया है।
2. प्रार्थी का चयन रेलवे भर्ती बोर्ड अजमेर से रेलवे भर्ती बोर्ड अजमेर से दिनांक 18 फरवरी 2008 को जारी पत्र के

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अनुसार सैक्शन इंजीनियर (विद्युत) पद पर हुआ है जिसका वेतनमान रुपये 6500-10500 (सर्वे) निर्धारित किया गया है। प्रार्थी को RTI Act-2005 के तहत यह सूचना चाहिये की Directly Recruited Section Engineer (Electrical) पद की Appeal and Discipline Authority कौन होगा अर्थात् Directly Recruited Section Engineer (Electrical) पद के विरुद्ध कौनसा अधिकारी Disciplinary Action ले सकता है। तथा कौन अधिकारी Appellate Authority होगा कृपया उक्त अधिकारी के पदनाम का स्पष्ट विवरण देने की कृपा करें।

3. रेल मंत्रालय, भारत सरकार द्वारा जारी master circular number 29 के अनुसार Initial Period of Training को Curtail करना Desirable नहीं है। प्रार्थी को RTI Act-2005 के तहत यह सूचना चाहिये की यदि General Manager से below Rank का कोई Officer किसी Trainee के Initial Period of Training को Curtail करता है तो क्या उस अधिकारी को Initial Period of Training को Curtail करने का Legal Rights है यदि है तो ऐसे order/ circular की certified copy देने की कृपा करें।
4. रेलवे भर्ती बोर्ड अजमेर से दिनांक 18 फरवरी, 2008 को जारी पत्र के अनुसार प्रार्थी का चयन सैक्शन इंजीनियर (विद्युत) वेतनमान रुपये 6500-10500 (सर्वे) पद पर हुआ था तथा प्रार्थी की नियुक्ति की सिफारिश उक्त पत्र के अनुसार

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महाप्रबन्धक (कार्मिक) पश्चिम मध्य रेलवे, जबलपुर को की गयी थी तथा उक्त पत्र के आधार पर दिनांक 17 मार्च, 2008 को महाप्रबन्धक कार्यालय कार्मिक शाखा इन्दिरा मार्केट जबलपुर से जारी पत्र संख्या पभरे/ का. मुख्या./ 110/ भर्ती/ से. इंजी. के अनुसार प्रार्थी की नियुक्ति कर के मेटालाइजेशन रिपोर्ट महाप्रबन्धक (कार्मिक) पश्चिम रेलवे जबलपुर को भेजने का आदेश मण्डल रेल प्रबन्धक (कार्मिक) कोटा मण्डल (राजस्थान) को दिया गया था। पत्र की प्रति इस प्रार्थना पत्र के साथ संलग्न है। प्रार्थी को RTI Act-2005 के तहत यह सूचना चाहिये की मण्डल रेल प्रबन्धक (कार्मिक) कोटा मण्डल, राजस्थान द्वारा प्रार्थी की नियुक्ति की क्या मेटालाइजेशन रिपोर्ट महाप्रबन्धक कार्यालय कार्मिक शाखा इन्दिरा मार्केट जबलपुर को भेजी थी। प्रार्थी को उक्त मेटालाइजेशन रिपोर्ट की Certified Copy देने की कृपा करे।

5. रेलवे भर्ती बोर्ड अजमेर से दिनांक 18 फरवरी 2008 को जारी पत्र के अनुसार प्रार्थी का चयन सैयशन इंजीनियर (विद्युत) पद वेतनमान रुपये 6500-10500 (सर्वे) पर हुआ था तथा उक्त पत्र के आधार पर महाप्रबन्धक कार्यालय कार्मिक शाखा इन्दिरा मार्केट जबलपुर से दिनांक 17 मार्च 2008 को जारी पत्र क्रमांक पभरे/ का. मुख्या./ 110/ भर्ती/ से. इंजी. के आधार पर महाप्रबन्धक (कार्मिक) कार्यालय द्वारा प्रार्थी को नियुक्ति देकर मेटालाइजेशन रिपोर्ट महाप्रबन्धक कार्यालय

कार्मिक शाखा जबलपुर को भेजने का आदेश दिया गया था जबकि उक्त पत्र के नियुक्ति देने के आदेश के विरुद्ध दिनांक 18 अगस्त 2008 को कार्यालय मण्डल रेल प्रबन्धक पश्चिम मध्य रेलवे कोटा (राजस्थान) से जारी कार्यालय आदेश संख्या ई/ ईएल/ टीआरएस/ 890/ 1/ भाग-2 (पत्र की प्रत इस प्रार्थना पत्र के साथ संलग्न है) के अनुसार प्रार्थी को महाप्रबन्धक कार्यालय कार्मिक शाखा इन्दिरा मार्केट जबलपुर से दिनांक 17 मार्च, 2008 को जारी पत्र का आधार बनाकर प्रार्थी को रेलवे भर्ती बोर्ड अजमेर से प्रशिक्षु सैवशन इंजीनियर (विद्युत) चयनित बताकर 52 सप्ताह के प्रारंभिक प्रशिक्षण पर इलेक्ट्रिक लोको शोड वेस्ट सेन्ट्रल रेलवे तुंगलकाबाद, नई दिल्ली भेज दिया गया। प्रार्थी को RTI Act-2005 के तहत यह सूचना चाहिये की क्या कार्यालय मण्डल रेल प्रबन्धक (कार्मिक) वेस्ट सेन्ट्रल रेलवे कोटा (राजस्थान) को वर्ष 2008 में रेलवे भर्ती बोर्ड अजमेर से चयनित सैवशन इंजीनियर (विद्युत) को प्रशिक्षु सैवशन इंजीनियर (विद्युत) चयनित बताकर 52 सप्ताह के प्रारंभिक प्रशिक्षण पर भेजने का Legal Rights है यदि ऐसा Legal Rights कार्यालय मण्डल रेल प्रबन्धक के सम्बन्धित अधिकारी को दिया गया है तो ऐसे Order/ Circular की Certified Copy प्रार्थी को देने की कृपा करें।

6. 52 सप्ताह का प्रारंभिक प्रशिक्षण पूर्ण हो जाने के बाद स्थायी नियुक्ति हेतु होने वाले Final Retention Test की Answer

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Book (उत्तर पुस्तिका) में यदि Trainee उक्त Test में पूछे गये प्रश्नों के वही उत्तर (Answer) लिखता है जो कि Ministry of Railways (रेल मंत्रालय, भारत सरकार) ने उक्त प्रश्नों के उत्तर लिखे हैं व Examiner द्वारा Trainee को अपनी Personal Enmity (वैयक्तिक दुश्मनी) के कारण से Test में Fail कर दिया जाता है तो प्रार्थी को RTI Act-2005 के तहत यह सूचना चाहिये की ऐसे Examiner के विरुद्ध रेल मंत्रालय द्वारा क्या Legal Action लिया जा सकता है। ऐसे Order/ Circular की Certified Copy प्रार्थी को देने की कृपा करे।

7. प्रार्थी का चयन Railway Recruitment Board Ajmer से वर्ष 2008 में Section Engineer (Electrical) पद वेतनमान रुपये 6500-10500 (सर्वे) पर हुआ था तथा प्रार्थी को Office of the Divisional Railway Manager West Central Railway, Kota द्वारा Trainee Section Engineer (Electrical) नियमित बता कर 52 weeks के Initial Period of Training पर Electric Loco Shed West Central Railway Tughlakabad, New Delhi भेज दिया गया तथा Final Retention Test में Examiner द्वारा प्रार्थी को अपनी वैयक्तिक दुश्मनी (Personal Enmity) के कारण से Test में Fail कर दिया गया। प्रार्थी Scheduled Castes Category का उम्मीदवार है। प्रार्थी को RTI Act-2005 के

तहत यह सूचना चाहिये की Scheduled Castes Category का उम्मीदवार होने के नाते प्रार्थी को उक्त Test की प्रार्थी की Answer Book (उत्तर पुस्तिका) की पुनः जांच (Rechecking of the Answer Book of Applicant) का Legal Rights क्या प्रार्थी को दिया गया है यदि ऐसा Legal Rights प्रार्थी को दिया गया है तो ऐसे Order/ Circular की Certified Copy, RTI Act-2005 के तहत प्रार्थी को देने की कृपा करें।

8. प्रार्थी वर्ष 2008 में Railway Recruitment Board, Ajmer से Section Engineer (Electrical) Select हुआ था व प्रार्थी को Trainee Section Engineer बताकर Office of the Divisional Railway Manager West Central Railway, Kota (Rajasthan) द्वारा प्रार्थी जो कि Scheduled Castes Category का उम्मीदवार है को अपनी वैयक्तिक दुश्मनी (Personal Enmity) के कारण से स्थायी नियुक्ति हेतु होने वाले Final Retention Test में Fail कर दिया गया व प्रार्थी को Repeat Course के Three Chance नहीं दिये गये। प्रार्थी को RTI Act-2005 के तहत यह सूचना चाहिये की Scheduled Castes के Trainee/ Employees की Legal Security हेतु भारत सरकार व Parliament द्वारा क्या प्रावधान किये गये हैं यदि ऐसे प्रावधान किये गये हैं तो

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Engineer (Electrical) का नाम व उनकी Educational Qualification क्या है इसकी सूचना RTI Act-2005 के तहत Public Servant की Educational Qualification की जानकारी देने की मनाही (Prohibition) नहीं है। अतः प्रत्येक Section Engineer का नाम व उसकी Educational Qualification बताने की कृपा करें।

The CPIO vide letter dated 08.03.2019, enclosed a letter / note endorsed by the Sr. Divisional Personnel Officer, West Central Railway, Kota, wherein the Appellant was informed as under:

उपरोक्त संदर्भ में प्रभाग कार्यालय जबलपुर के पत्र संख्या पनरे/का.मुख्या / 110 / भर्ती / सी. इजी- दिनांक 17.03.2008 जिसमें तहत जोका नम्बरल आवंटित किया था। की प्रति संलग्न है।
दिनांक 17.03.2008 का पत्र मुख्यालये द्वारा पत्र संख्या पनरे/का.मुख्या/1410/भर्ती/सी.इजी- दिनांक 17.03.2008 द्वारा जारी नहीं किया गया, अपितु पत्र संख्या पनरे/का.मुख्या / 110 / भर्ती / सी. इजी- दिनांक 17.03.2008 जारी किया गया है।
इसे संशोधित रूप से पका जाये।

Being dissatisfied, the appellant filed a **First Appeal** dated 17.09.2019, which has not been adjudicated by the First Appellate Authority.

Grounds for Second Appeal:

The Appellant filed a Second Appeal u/s 19 of the Act on the ground of unsatisfactory reply furnished by the Respondent. He requested the Commission to direct the CPIO to provide complete information sought for.

Submissions made by Appellant and Respondent during Hearing:

The Appellant alleged that the Respondent is in a habit of not providing information to the RTI Applications. At the instance of the Commission as to on

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which information provided by the Respondent he is dissatisfied, he replied that the reply provided by the Respondent are not satisfactory as the same are imaginary in nature.

Shri D.K. Biswas reiterated the contents of the written submission dated 01.06.2021. The Commission remarked to clarify the factum as to how they have provided an 11-pointer reply, whereas the instant RTI Application contains only 8 points, he clarified that the instant RTI Application was filed before the PMO and not before the answering Respondent's office. He further clarified that the answering Respondent was put to knowledge about the instant case only when they received the hearing notice from the Commission, which also contained a copy of the RTI Application, First Appeal and Second Appeal. He furthermore clarified that the 11-pointer reply was in response to the Second Appeal, which invariably encompasses the information sought in the instant RTI Application as well.

Upon queried by the Commission, the Appellant explained that he has no trust/faith in the Respondent. Hence, he has made it a practice to file RTI Application before the PMO, who shall forward the same to the concerned public authority. He self-proclaimed himself as an RTI activist and that his efforts would caste some amount of responsibility on the answering Respondent. At the instance of the Commission as to on which point of the RTI Application he has not received satisfactory information, he replied to the Bench to read out the contents of the RTI Application, so that he can think and counter the claims/averments of the Commission.

C.P. Sokia reiterated the contents of the written submission dated 28.05.2021.

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A written submission has been received by the Commission from Shri Subodh Vishwakarma, PIO and Sr. DPO, O/o. DRM, Kota vide letter dated 28.05.2021, wherein he has stated as under:

"1) On 18-02-2018, Applicant Shri Narendra Kumar Chandel, had asked thru RTI Cell Kota, and desired a copy of his own recruitment letter issued by HQR. Office – Jabalpur No. WCR/P-Q/1410/Recruitment/Section Engineer, dated 17-03-2008, which has been provided to him vide this office letter No. WCR-P-Kota/740/RTI/2018/217, dated 08-03-2018. (Copy enclosed).

2) On receipt of letter mentioned in item 1 above, applicant has not given any appeal to this office.

3) Applicant has sent second appeal to CIC – New Delhi on dt. 03-5-2019, and papers enclosed with his second appeal to CIC – New Delhi, it is revealed that information given or desired by applicant is totally different from the main RTI case given by applicant to RTI Cell, DRMs Office, Kota on 18-02-2018, (vide Point No.1 above)."

A written submission has been received by the Commission from Shri D.K.Biswas, APIO (Co-ord), RTI Cell and Dy. Director (PG), Railway Board vide letter dated 01.06.2021, wherein he has stated as under:

"1. BACKGROUND:

(i): The applicant, Shri Narendra Kumar Chandel vide his RTI application dated 16.01.2019 submitted in PMO Office, sought information related to selection procedure of Section Engineer on 11 points.

(ii): On scrutiny of the online records in this office revealed that the RTI application dated 16.01.2019 & 1st Appeal dated 17.02.2019 of the appellant have not been found registered on the Online RTI Web Portal.

(iii) It appears that the above RTI application has been sent by PMO Office to Nodal RTI Cell, Railway Board by physical means and it might have got mixed up with other records and it could not be registered on Online RTI portal.

3. ACTION TAKEN ON RECEIPT OF HEARING NOTICE OF HON'BLE CIC:

(iv): On receipt of RTI application/Appeal with Hearing Notice of CIC, the matter was discussed with CPIO/HQ/WCR, who informed that the subject

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matter is related to Kota Division/W.C.Railway. Accordingly, the RTI application was forwarded to Sr. DPO, Kota, W.C.Railway for providing the requisite information/documents to the appellant as the subject matter is related to functioning of Kota Division of W.C.Railway.

(v): On Perusal of the RTI application, it appears that the RTI queries are in the nature of seeking redressal of grievance of the complainant. However, the point-wise information on all points has now been received from Sr. DPO/Kota, W.C.Railway which is enclosed as Annexure-I for kind perusal of Hon'ble IC. A copy of same with the submission is also being sent to the applicant.

(vi): Copy of the Hearing Notice has also been forwarded to Sr. DPO/Kota, W.C.Railway by the Hon'ble CIC for appearing in the Hearing as per scheduled date & time.

It is submitted that in the Centralized RTI Cell, Railway Board CIC related works i.e. registration and forwarding of 2nd Appeal/complaint, hearing notice, CIC decision etc. were handled by outsourced staff who has left his job without prior intimation or handing over the records or pending works. In the scenario, new set of staff has been placed and organized to handle the job. However, working of RTI Cell has further been streamlined.

PRAYER/APPEAL:

It is further submitted that this Ministry being the one of largest recipient of RTI applications and appeals, the work load on the given team is ever challenging. But such kinds of fewer lapses do take place inadvertently due to mixing of papers/records.

It is a matter of record that in the last 4 years 2016, 2017, 2018 & 2019 as compared to 2010 in M/o Railways, we have received number of RTI applications, 1st appeals, 2nd Appeals & CIC hearing Notices as follows:-

S. No.	Description	Year				
		2010-11	2016-17	2017-18	2019-19	2019-20
1	Initial application	5,193	10,819	13,692	14,103	15,152
2	1 st Appeal	839	2,363	1,679	1,674	1,549
3	2 nd Appeal	173	635	657	123	221
	CIC hearing	-	-		418	489
	Total	6,205	13,817	16,028	16,318	17,411

From the figure mentioned in the table above, the work load of RTI Cell may be appreciated as the base figures of RTI application gets split into many part files in

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course of electronic transaction by CPIOs on the Online Portal @ 6 to 20 each case on an average and the number initial RTI applications/cases is not less than 1 lakh a year. It is never an easy work for any centralized & coordination RTI Cell of any public authority.

In view of above submission and the fact that even the RTI queries are in the nature of seeking redressal of grievance of the complainant, reply is being sent to the applicant without any malafide intension, hence no interference is required in the instant case please."

Decision:

Upon perusal of the facts on record as well as on the basis of the proceedings during the hearing, [the Commission observes that the instant RTI Application has been filed by the Appellant before the PMO and has vehemently argued that it is his usual practice to file RTI Applications before the PMO, who shall forward the same to the concerned public authorities. It is also a matter of record that the PMO has holistically forwarded the RTI Application to the answering Respondent, though they were under no mandate as per the DoPT OMs/Circular Nos. 10/2/2008-IR dated 12.06.2008 to do so. At this juncture, it is pertinent to note that the entire scope of Section 6 of the RTI Act had been discussed and interpreted threadbare at the formative stage of the Act by a Full Bench comprising of Information Commissioners Shri Wajahat Habibullah, Shri A.N. Tiwari and Shri Shailesh Gandhi, in a decision dated 22.09.2009, while deciding a case no. **CIC/AT/A/2008/01280** between **Ketan Kantilal Modi vs. Central Board of Excise and Customs**, wherein it was held as under:

"48. ... reasoning that an application for information will have to first stand the test of Section 6(1) in order to be validly accepted by the CPIO concerned for processing for disclosure of information. In case the application is not filed before the 'concerned public authority' / CPIO, it shall not qualify to be a valid request for information.

49. The expression "concerned public authority" implies that that public authority should be holding the information which the petitioner sought as per Section 2(j)

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of the RTI Act, which states that right to information means “the right to information accessible under this Act which is held by or under the control of any public authority...”. Section 6(1) – its expression ‘concerned public authority’ – becomes clearer when read in conjunction with Section 2(j) of the Act.

...

53. It follows from it that when a petitioner is aware of the location of a given information vis-à-vis a public authority, it is not open to him to file his RTI-application before any other public authority in the expectation that this latter public authority would act under Section 6(3) to transfer his application to where the information was known to be held. As in this particular case, it is quite obvious that the appellant was fully cognizant of the fact about the information requested by him being held by Chief Commissionerates and Commissionerates of Central Excise. Yet, rather than approach those public authorities – and all these where public authorities in their own rights – for the information under Section 6(1), he chose the east way out of filing his application under Section 6(1) read with Section 6(3) before the CPIO, CBEC, demanding simultaneously that the application be transferred to the Commissioners. Appellant’s argument that CBEC were to be all that appellant says it is – nodal office or Apex body, etc. – under the RTI Act it is a public authority and its right and obligations flow from its status as that public authority under Section 2(h) of the Act. A public authority cannot be forced to accept obligations beyond the statutory limit in order to suit a petitioner’s convenience.

...

56. A public authority which does not hold or is not related to an information sought by a petitioner, will not be obliged to provide an answer to the petitioner only for the reason that that public authority was the Apex body or the nodal office of others sub-ordinate public authorities. ...”

In view of the above, it is clear that such improper, indiscriminate and mindless filing of the RTI Application disrupts the objective of achieving good governance. It is obviously against propriety and legality to file an RTI Application before a different public authority when the information sought is unrelated to its office. There is no justification for compelling the PMO to transfer the RTI Application and the same is sheer wastage of public money and time of the PMO. It is further

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clear that the PMO are devoting substantial share of their office time on this kind of wasteful and unrelated applications every day. It compels them to indulge in totally needless correspondence, write forwarding letters addressed to the actual custodian of information, post them to concerned public authority and intimate the Appellant through another letter.)

The Commission finds it pertinent to note that the Appellant has vociferously remarked about the malfunctioning and expressed complete lack of faith in the Respondent. The conduct of the Appellant indicates that he is not only a perpetual litigant but also a vexatious one who is seeking to submerge the normal functioning of the Respondent public authority. The Commission finds this as a gross abuse of the RTI Act.

Moreover, the information sought in the instant RTI Application is generic in nature and that he is harping on grievance redressal since 2008. In addition, the Appellant during the proceedings of the hearing has displayed casual, callous and careless attitude before the Bench and the same is being viewed adversely. Consequently, the Commission has learnt that the Appellant has till date, filed 10 Second Appeals/Complaints before the Commission against the M/o. Railways and PMO since 2012 and the subject-matter of each Second Appeal/Complaint are similar. The Commission is constrained to warn the Appellant to be more careful in future and refrain from this relentless litigation involving high offices, which are unrelated to the subject matter. In case such avalanche of frivolous, vexatious and wasteful litigation resurfaces, the Commission will be compelled to dismiss his applications without hearing, on the grounds of being vexatious, repetitive and with an ulterior motive.

With the above observations, the instant Second Appeal is disposed of.

CIC/WECRL/A/2019/120546

Copy of the decision be provided free of cost to the parties.

The Appeal, hereby, stands disposed of.

Amita Pandove (अमिता पांडव)

Information Commissioner (सूचना आयुक्त)

दिनांक / Date: 07.06.2021

Authenticated true copy

(अभिप्रमाणित सत्यापित प्रति)

B. S. Kasana (बी. एस. कसाना)

Dy. Registrar (उप-पंजीयक)

011-26105027

Addresses of the parties:

1. The First Appellate Authority
ED (PG), Ministry of Railway,
Railway Board, (Registration &
Coordination), Room No.-507-A,
5th Floor, Rail Bhawan,
New Delhi -110001
2. The Central Public Information Officer
/ DD(PG), Ministry of Railway,
Railway Board, (Registration &
Coordination), Room No. 5, RTI Cell,
Ground Floor, Rail Bhawan,
New Delhi-110001
3. The Central Public Information Officer
/Sr. Divisional Personnel Officer,
West Central Railway,
O/o the Divisional Railway Manager,
Divisional Office, Kota Division,
Kota, Rajasthan

CIC/WECRL/A/2019/120546

4. Mr. Narendra Kumar Chandel
S/o. Doulat Ram Chandel,
Ward Number 17, Keshorai Patan,
District Bundi, Rajasthan-323601

CIC/NRAIL/A/2019/102163

केन्द्रीय सूचना आयोग
Central Information Commission
बाबागंगनाथमार्ग, मुनिरका
Baba Gangnath Marg, Munirka
नई दिल्ली, New Delhi – 110067

द्वितीय अपील संख्या/ Second Appeal No. CIC/NRAIL/A/2019/102163

In the matter of:

Noorjahan Begum

... अपीलकर्ता/Appellant

VERSUS
बनाम

1. CPIO,
Northern Railway,
Office of the Divisional Railway
Manager, Lucknow Division,
Lucknow, Uttar Pradesh

... प्रतिवादीगण /Respondent

2. CPIO,
Northern Railway, Commercial
Branch, Lucknow Division,
Lucknow, Uttar Pradesh

Relevant dates emerging from the appeal:

RTI : 31.08.2018	FA : 10.10.2018	SA : 15.01.2019
CPIO : 10.09.2018, 14.09.2018, 15.03.2019	FAO : Not on record	Hearing : 29.12.2020

CIC/NRAIL/A/2019/102163

The following were present:

Appellant: Shri Ayub Ali, Representative, heard through video conferencing.

Respondent: Shri Surya Prakash Yadav, Chief OS & Deemed PIO, Northern Railway, Lucknow Division, Lucknow, Uttar Pradesh, heard through video conferencing.

ORDER

Information Sought:

The appellant filed an RTI application on 31.08.2018 seeking information on three points as under:-

“दिनांक 21.02.2017 को ट्रेन नम्बर 12144 लोकमान तिलक एक्सप्रेस से मेरा पुत्र मोहम्मद रेहान रजा लखनऊ से लोकमान तिलक गया था। जिसकी सीट नं० एस० 4 में 64 नम्बर की थी। इस सम्बन्ध में निम्नलिखित बिन्दुओं पर सूचना चाहती हूँ

- 1) उक्त ट्रेन लखनऊ से किस समय पर छूटी थी और भोपाल जं० व लोकमान तिलक किस दिनांक को किस समय पहुंची थी।
- 2) क्या जब टी०टी० द्वारा उसका टिकट व आई०डी० चेक की तो मोहम्मद रेहान रजा अपनी सीट पर मौजूद था।
- 3) जिस टी०टी० द्वारा चेक किया गया था उसका नाम व पता व नम्बर देने का कष्ट करें।”

Having not received any information from the CPIO, the appellant filed **first appeal** dated 10.10.2018. CPIO, RTI Cell, OPTG, Northern Railway, Lucknow, vide letter dated 15.03.2019, furnished information on point no. 1 to the appellant

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and informed her against point no. 2 that the information sought for pertains to Commercial department. FAA's order, if any, is not available on record.

Grounds for Second Appeal:

The appellant filed second appeal u/s 19 of the Act on the ground of unsatisfactory reply furnished by the respondent. She requested the Commission to direct the CPIO to provide complete information sought for.

Submissions made by Appellant and Respondent during Hearing:

The appellant's representative submitted that although information on point no. 1 has been received by the appellant, requisite information on point nos. 2 and 3 was not furnished by the respondent. He further submitted that the appellant has sought information pertaining to her son, Mohd. Rehan Raza as a false FIR was filed against him at the time of his travel by the aforesaid train number 12144, Lokman Tilak Express. He further referred to Section 8(3) of the RTI Act, 2005 and submitted that as per the said provision, the respondent is required to preserve the records for a period of twenty years. However, the respondent instead of preserving the records, stated against point nos. 2 and 3 that the preservation period for the required information is six months. Hence, the same cannot be furnished to the appellant.

The respondent submitted that information sought vide point no. 1 pertained to their department and the same was furnished to the appellant vide replies dated 14.09.2018 and 15.03.2019. He further apprised the Commission that the CPIO, Commercial department has met with an accident and is currently on bed rest. Hence, he could not attend today's hearing. However, as per his submissions, reservation charts are preserved only for a period of six months. Hence, the

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information as sought vide point nos. 2 and 3 was not available in their department as the same had been weeded out as per their Record Retention Policy. He further submitted that a copy of the relevant policy was also furnished to the appellant along by the Commercial department along with their reply dated 10.09.2018.

The appellant's representative contested that no policy was received by the appellant from the Commercial department.

The written submissions dated 21.12.2020 filed by DCM, Northern Railway, Lucknow were taken on record.

Decision:

The Commission, after hearing the submissions of both the parties and perusing the records, notes that as per the submissions of the respondent, since the preservation period for reservation charts is six months, information sought vide point nos. 2 and 3 could not be made available to the appellant as the same has been weeded out. [Further, with regards to appellant's contention to preserve documents for twenty years, the Commission observes that *Section 8(3) merely requires furnishing of information pertaining to any occurrence, event or matter that has taken place, occurred or happened twenty years before the date of request. However, nowhere does it state or require any public authority to maintain/retain every record, every event and every occurrence for a period of twenty years.* The Commission notes that expecting public authorities to retain every record for twenty years thereby creating enormous pile of records/files will not only hamper their key function of proper maintenance of records but also create an impractical situation of collecting and furnishing every information that is twenty years old. Moreover, the very purpose of having a Record Retention Schedule will be dismantled.] The Commission, therefore, invalidates the aforesaid

CIC/NRAIL/A/2019/102163

contention of the appellant and observes that an appropriate reply has been furnished to the appellant by the respondent. The respondent is, however, directed to furnish a copy of their Record Retention Schedule as well as the order of the Competent Authority for the destruction of the relevant records to the appellant within a period of 15 days from the date of receipt of a copy of this order under intimation to the Commission.

With the above observations, the appeal is disposed of.

Copy of the decision be provided free of cost to the parties.

The appeal, hereby, stands disposed of.

Amita Pandove (अमिता पांडव)

Information Commissioner (सूचना आयुक्त)

दिनांक / Date: 29.12.2020

Authenticated true copy

(अभिप्रमाणित सत्यापित प्रति)

B. S. Kasana (बी. एस. कसाना)

Dy. Registrar (उप-पंजीयक)

011-26105027

Addresses of the parties:

1. The First Appellate Authority (FAA)
Northern Railway,
Office of the Divisional
Railway Manager,
Lucknow Division, Lucknow,
Uttar Pradesh

CIC/NRAIL/A/2019/102163

2. The Central Public Information Officer

Northern Railway,
Office of the Divisional
Railway Manager,
Lucknow Division, Lucknow,
Uttar Pradesh

3. The Central Public Information Officer

Northern Railway,
Commercial Branch,
Lucknow Division, Lucknow,
Uttar Pradesh

4. Mrs. Noorjahan Begum

W/o Firasat Khan,
Mo MNJE Jalalnagar,
Near Ek Minar Masjid,
Distt. Shahjahanpur,
Uttar Pradesh

CIC/MPOTR/A/2018/637412

केन्द्रीय सूचना आयोग
Central Information Commission
बाबागंगनाथमार्ग, मुनिरका
Baba Gangnath Marg, Munirka
नईदिल्ली, New Delhi – 110067

द्वितीय अपील संख्या/ Second Appeal No. CIC/MPOTR/A/2018/637412

In the matter of:

Samir Sardana

... अपीलकर्ता/Appellant

VERSUS

बनाम

CPIO,
Mormugao Port Trust,
Administrative Office,
Headland, Sada, Goa.

...प्रतिवादीगण /Respondent

Relevant dates emerging from the appeal:

RTI : 23.05.2018	FA : 13.10.2018	SA : 20.12.2018
CPIO Reply : 19.09.2018	FAO : 02.11.2018 (not on record)	Hearing : 03.02.2021

The following were present:

Appellant: Shri Samir Sardana participated in the hearing on being contacted on his telephone.

Respondent: Shri Jerome Clement, Sr. Dy. Traffic Manager and CPIO for Traffic Department, Mormugao Port Trust participated in the hearing on being contacted on his telephone.

CIC/MPOTR/A/2018/637412

ORDER**Information Sought:**

The Appellant filed an RTI Application dated 23.05.2018 seeking the following information:

TYPE A – IRON**NOC – Iron Ore**

- - W.r.t the iron ore exports, PIO to confirm that they have the NOC for mineral exports in their records from 2010.
 - If Not, the PIO to confirm the period for which it is available
 - PIO to ALSO confirm that it (THE NOC) is available in e-copy format
 - <http://www.mptgoa.com/wp-content/uploads/2016/05/shippers%2015-16%20to%2017-18.pdf>

Iron Ore exports

- - W.r.t the iron ore exports in the last 5 years (<http://www.mptgoa.com/wp-content/uploads/2016/05/shippers%2015-16%20to%2017-18.pdf>) the PIO to provide the name of the CEO/Promoter, IEC data, Legal entity registration data and the legal entity status of shipper, as maintained, in the records of MPT
- - Delta
 - Kalinga

-
- Fomento Resources
 - Royal Liner
 - Agarwal Minerals
 - Amit
 - KAI International
 - Ms Infrasteel
 - Pandurang Timblo Industries
 - Crest Merchandise
 - Blie Globe
 - Minescape
 - TPL
 - M/s Infrastructure
 - Bagadia Bros

TYPE B – CONSULTANTS**Consultants****CSE**

- PIO to confirm that a NGO by the name of CSE, has done any consulting/analytical work or review for MPT or related to the activities of the MPT or the proposed projects of MPT
 - If yes, the dates and the nature of the consulting offered
- PIO to confirm that the consulting reports of CSE are available in e-format

ANNA UNIVERSITY - IRS

- PIO to confirm that a institution by the name of ANNA UNIVERSITY – IRS, has done any consulting/analytical work or review for MPT or related to the activities of the MPT or the proposed projects of MPT
 - If yes, the dates and the nature of the consulting offered
- PIO to confirm that the consulting reports of ANNA UNIVERSITY - IRS are available in e-format

SAP

- PIO to provide the name of the vendor who installed the SAP in MPT Goa
- PIO to confirm that the cost of the SAP acquisition was funded by the MPT or the Ministry of Shipping
- PIO to confirm that the list of MIS, Efficiency Report, Productivity Reports and Risk Reports, in the SAP, are available in e-format (irrespective of frequency and reporting level)
- PIO to identify the list of MIS, Efficiency Report, Productivity Reports and Risk Reports in the SAP - which were created, identified and /or customised by MPT Goa and not the SAP Vendor (irrespective of frequency

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and reporting level)

- PIO to allow the Applicant to inspect and photograph the abovesaid reports

BCG (Project Unnatil)

- PIO to confirm that it has used BCG for any consulting work for MPT, with the specifics of each assignment w.r.t date and purpose
- PIO to confirm the Scope of Work and TOR of the consulting work, done for MPT or in connection with MPT by BCG
- PIO to confirm the number of pages in the report of BCG and the 1st and last para number of the report
- PIO to allow the Applicant to inspect and photograph the report of BCG related to MPT Goa
- PIO to confirm that the maps/photos in the BCG Report w.r.t the Gates and the Berths - were provided

by MPT or the Ministry of Shipping

- PIO to confirm the paras of the BCG accepted by MPT
- PIO to provide the ATR on the BCG report excluding the Capital Dredging plans for Coal and Iron ore berths
- PIO to confirm that there was a written confirmation by BCG, that it was a consultant to Jindals before it tendered for the MPT consulting project
- PIO to allow the Applicant to inspect and photograph the records, related to the selection of BCG for the consulting assignment for MPT

Other Consultants

- PIO to provide the list of all consultants engaged by MPT Goa, since 2010 - wherein the fees was paid by MPT Goa, the nature of the consultancy used, and that the report of the consultant is with MPT Goa, and in e-format or not
- PIO to provide the list of all consultants engaged by MPT Goa, or for activities related to MPT Goa since 2010 - wherein the fees was NOT paid by MPT Goa, the nature of the consultancy used, and that the report of the consultant is with MPT Goa, and in e-format or not
- PIO to provide the list of all consultants engaged by Ministry of Shipping for MPT Goa, or for activities related to MPT Goa since 2010 - wherein the fees was paid by MPT Goa, the nature of the consultancy used and that the report of the consultant is with MPT Goa, and in e-format or not
- PIO to provide the list of all consultants engaged by Ministry of Shipping for MPT Goa, or for activities related to MPT Goa since 2010 - wherein the fees was NOT paid by MPT Goa, the nature of the consultancy used, and that the report of the consultant is with MPT Goa, and in e-format or not
- PIO to provide the list of all consultants engaged by any agency/deptt/govt (excluding MPT Goa) for MPT Goa or for activities related to MPT Goa since 2010 - wherein the fees was NOT paid by MPT Goa, the nature of the consultancy used, and that the report of the consultant is with MPT Goa, and in e-format or not
- PIO to confirm that the report made by AECOM India Private Limited which RELATES TO MPT Goa, is approved by MPT Goa and the Ministry of Shipping
- PIO to confirm that the maps/photos in the AECOM Report w.r.t the Berths etc. - were provided by MPT or the Ministry of Shipping
- PIO to confirm that this is the authentic and approved report of AECOM India Private Limited
 - o http://sagarmala.gov.in/sites/default/files/7.Final%20Master%20Plan_Mormugao.pdf

TYPE C -Others

-

Write Offs

- PIO to confirm the amount of Receivables/Debtors/Recoverables written off from reserves or profits or grants in aid in terms of value by year for the last 7 years, with the year of write off and names of the debtors whose accounts/amounts were written off

RTI Register

- PIO to allow the Inspection and Photographing of the RTI Register, for the last 7 years Accounts

VTMS

- PIO to confirm that the VTMS is Information under the RTI Act and that the Applicant

CIC/MPOTR/A/2018/637412

can inspect the same

- o PIO to confirm the name of the vendor who has supplied the VTMS system
- o PIO to confirm the name of the vendor who serviced and maintained the VTMS system for the last 5 years
- o PIO to allow the Applicant to inspect and photograph the contract related to the servicing and maintenance of the VTMS system (for last 3 years - in other words contract may be 10 years old – but the servicing is done in the last 3 years)
- o PIO to allow the Applicant to inspect and photograph the contract related to the procurement of the VTMS system

Class III and IV staff

- W.r.t the Class III and IV staff of the MPT ,as disclosed in the Annual Accounts, the PIO to indicate the following
 - o Numerical strength of each class in each functionality of the MPT operations, in the last 3 years
 - o Value of expense (Rs 108 crores in 2015-16) incurred on the 2 classes separately, in the last 3 years
 - o Account head in the Annual accounts, wherein the expense for the 2 classes are booked, in the last 3 years

SWPL port of JSW

- PIO to allow inspection and photographing of all Files maintained by the MPT w.r.t the SWPL port of JSW in Goa (in the last 3 years)

Environmental Audits and other Reports

- PIO to confirm that the MPT has the Environmental Audit report (done at any time in the last 5 years) w.r.t the various port and barge/ship operations in MPT ports and waterways
 - o If Yes, the PIO to allow the Applicant to inspect and photograph the said report
- PIO to confirm that the MPT has a copy of any feasibility/appraisal report carried out by any agency, or MPT to affix/appraise/review the levies chargeable on the operation of any vessel in MPT (for the last 6 years)
 - o PIO to allow the Applicant to inspect and photograph the said report

Inspection and PHOTOGRAPHING

- PIO to ALLOW THE APPLICANT TO INSPECT AND PHOTOGRAPH (SEE PARA 5) ANY OF THE ABOVE STATED RECORDS AND INFORMATION SOUGHT IN THIS APPLICATION

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5. Photographing is allowed under the RTI Act as under :**Section 2(j)(iv) of the RTI Act, 2005**

(iv) obtaining information in the form of diskettes, floppies, tapes, video cassettes or in any other electronic mode or through printouts where such information is stored in a computer or in any other device;

Digital photography is a "electronic mode". CIC/AD/A/09/00125-Mr.Sidharth Mishra vs Bsnl, Cuttack on 23 February, 2009. The Commission invokes Section 2(j) (iv) of the RTI Act to allow use of camera by the Appellant to take photos of documents required. Accordingly, the CPIO is directed to provide all the information as requested by the Appellant in his RTI request dt. 18.8.08 and also allow the use of photographic camera for taking photographs of records in the file which the BSNL had agreed to show to the Appellant. The information to be provided within 15 days of the receipt of this Order

6. Information required in Public Interest

6.1. Based on "several SC and CIC judgments", this RTI Application falls in the category of public interest, as under :

In State of Gujarat v Mirzapur Moti Kureshi Kasab Jamat & others AIR 2006 Supreme Court 212, the Apex Court held "the interest of general public (public interest) is of a wide import covering public order, public health, public security, morals, and the objects mentioned in "Part IV of the Constitution" (i.e. Directive Principles of State Policy, economic welfare of the community)".

As per the "Central Information Commission" - Public interest includes "disclosure of information that leads towards greater transparency and accountability" [in the working of a public authority] Decision No. CIC/OK/A/2006/00046, dt. 02.05.2006

- In the case of Delhi High Court W.P. (C) 1243/2011 & C.M. No. 2618/2011, Decided On: 13.07.2012, Appellants: UPSC Vs. Respondent: R.K. Jain, the High Court specifically "defined personal information and public activity", as under :
 - o "Public activity" qua a person are those activities which are performed by the person in discharge of a public duty, i.e. in the public domain. There is an inherent public interest involved in the discharge of such activities, as all public duties are expected to be discharged in public interest.
 - o The Court stated - "Consequently, information of a person which is related to, or has a bearing on his public activities, is not exempt from disclosure under the scheme and provisions of the Act, whose primary object is to ensure an informed citizenry and transparency of information and also to contain corruption".

6.2. THIS COUNTRY'S MARITIME SECURITY AND EFFICIENCY IS IN THE PUBLIC INTEREST ESPECIALLY SINCE MPT GOA IS A LOSS MAKING VENTURE, POST THE BAN OF MINING IN GOA AND BAN ON COAL HANDLING AT MPT GOA. The Minister is on record stating that he wants to shut down MPT Goa (as losses will keep rising, due to large staff costs, and their geometric costs - in terms of pensions and gratuity etc.)

<https://indianexpress.com/article/india/goas-mormugao-port-might-shut-down-if-losses-mount-gadkari-5104550/>

6.3. RELIANCE OF SOUTH BASED STEEL AND POWER PLANTS ON COAL AND ORE IMPORTS FROM MPT AND ITS IMPACT ON POLLUTION IN GOA AND THE POLITICAL IMPLICATIONS OF THE SAME AND THE PAST ACTIONS OF THE NGT AND THE GSPCB, GSCRZ - HAVE PLACED THE ROLE OF MPT IN

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SERIOUS DOUBT , AND HENCE THE MATTER IS IN PUBLIC INTEREST**6.4.THE ACTIONS OF MPT ARE QUESTIONABLE AND HAVE BEEN QUESTIONED BY THE NGT AS UNDER**

- MPT Goa was granted the Environmental Clearance on 9th February, 2016, but the actual dredging activities has commenced from 1st January, 2016 in violation of the provisions of the Environmental (Protection) Act and EIA Notification, 2006 - as also stated in Para 22(b) of the NGT Order dated 2nd September, 2016
- Environmental Clearance has been granted without the mandatory public hearing required for category 'A' projects as per the EIA Notification.
- NGT challenge to the thesis of MOT Goa that it was doing maintenance dredging and not capital dredging (Para 22(a) of the NGT Order dated 2nd September, 2016)
- NGT Quashed the Order dated 23rd September, 2015, issued by MoEF giving exemption from public consultation to the capital dredging project of MPT Goa (Para 31 of the NGT Order dated 2nd September, 2016)
- NGT confirms that the CRZ and EIA study was done on BEHALF OF JSW INFRASTRUCTURE (Para 33 of the NGT Order dated 2nd September, 2016)

6.5 THE MOST DAMNING INDICTMENT OF MPT GOA COMES FROM PARA 48 OF THE NGT ORDER AS UNDER

- Para 48 of Order - "Distinction has been totally ignored" and for "obvious reasons" the project which is a capital dredging is "construed as a maintenance dredging", which is exempted under Clause-7 of the EIA Notification.
- Therefore, we have taken a view that it is not a neglect or omission, **BUT MAY BE FOR SOME OTHER REASONS.**

6.6.HENCE THIS APPLICATION IS IN PUBLIC INTEREST**7.Section 10 of the RTI Act**

7.1. In addition, as per Section 10 of the RTI Act, which provides for "severability of the information" - the RTI information "could be provided", after "blanking out the portions" that relate to the "so called secret information".

8.Proviso to Section 8(1)(j) of the RTI Act,2005

8.1 per Section 8(1)(j) of the RTI Act, 2005, "Provided that the information which cannot be denied to the Parliament or a State Legislature shall not be denied to any person". The information that I seek, could be sought by the State Assembly or the Indian Parliament.

8.2. It must be noted that the MPT, is "not exempted", under the 2nd schedule of the RTI Act, 2005.

9.Section 22 of the RTI ACT

9.1..Kindly note that "Section 22 of the RTI Act", supersedes all laws in the Cuckoo Land of India, including the OSA.

9.2..You are advised to send me the information as soon as possible

10. Burden of Proof - By Law and Case Laws

10.1. As per Section 19(5) of the RTI Act, 2005, the burden of proof lies in the PIO/CPIO/Public Authority. According to Section 19(5) "In any appeal proceedings, the onus to prove that a denial of a request was

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justified shall be on the Central Public Information Officer or State Public Information Officer, as the case may be, who denied the request."

The same is also held in **BS. Mathur Vs. Public Information Officer of Delhi High Court, W.P. (C) 295 and 608/2011 High Court of Delhi**.

10..2. As per Section 20(1) of the RTI Act - Provided further that the "burden of proving that he acted reasonably and diligently shall be on the Central Public Information Officer" or the State Public Information Officer, as the case may be.

The CPIO vide letter dated 19.09.2018 provided item-wise information to the Appellant. Being dissatisfied, the Appellant filed a **First Appeal** dated 13.10.2018. The First Appellate Authority vide order dated 02.11.2018 disposed of the instant First Appeal (**not on record**).

Grounds for Second Appeal:

The Appellant filed a Second Appeal u/s 19 of the Act on the ground of unsatisfactory reply furnished by the Respondent. He requested the Commission to direct the CPIO to provide complete information sought for.

Submissions made by Appellant and Respondent during Hearing:

At the outset, the Commission asked as to how many RTI Applications have been filed on the same subject-matter, he replied that only 4 RTI Applications have been filed before the Respondent public authority but the same are not repetitive in nature.

The Appellant stated that he is not satisfied with the information provided by the Respondent public authority. He further stated that the Respondent relying upon a newspaper article has illegally sought his citizenship proof and requested to penalize them on this count. At the instance of the Commission, he explained that the Respondent public authority is in the verge of shutting down and despite that, the Respondent public authority has allegedly resorted to selling certain information in the market/to various private companies, for which he has

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proof/evidence. He added that the stand taken by the Respondent that the information sought is exempt from disclosure under Section 8(1)(d) is incorrect as the said data/information is already available in the public domain. He asserted that the information sought in the instant RTI Application is not only in public interest but also in the national interest. Upon queried by the Commission as to how the information sought is in the public/national interest, he explained that the country's maritime security and efficiency is in the public interest. He further explained that the Respondent is a loss making venture, post the ban of mining in Goa and the ban on coal handling at Mormugao Port Trust, Goa. He relied upon a newspaper article dated 20.03.2018, published in *The Indian Express*, Panaji Edition in which the then Union Shipping Minister had categorically averred that the continued losses at the Mormugao Port Trust might result in shutdown.

The Respondent submitted that available and relevant information has been provided to the Appellant. He requested the Commission to treat the contents of his written submission dated 19.11.2020 as part and parcel of his oral arguments. He further submitted that he will abide by the orders of the Commission, if any in the matter.

A written submission has been received by the Commission from Shri Anant V.P. Chodnekar, CPIO and FA/CAO vide letter dated 17.11.2020, wherein he has stated as under:

"1. Mormugao Port Trust is a body Corporate under the Major Port Trusts Act, 1963 and provides various services to the Port Users and the Nation for facilitating import-export trade and commerce in accordance with the provisions of the Act. There are seven separate departments in the Mormugao Port Trust, each having independent and distinct activity to perform under their control and the activities of the finance department are looked after by the Financial Advisor and Chief Accounts Officer (FA&CAO). Undersigned has taken the charge of the Finance Department with effect from 08-11-2019 consequent to the transfer of my

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predecessor Shri Vinayak Rao B.S. to the New Mangalore Port Trust as per the order of the Central Government.

2. *The above named Appellant has filed around 08 different Appeal under Section 19 of the RTI Act, 2005 (Diary No. CIC/MPOTR/A/2018/637355, 637402, 637389, 637410, 637391, 637412, 637392 & 637409) and further another 04 Complaints under Section 18 of the Act (CIC/MPOTR/A/2018/637414, 637415, 637419 & 637379) and the contents of all the said appeals as well as all the complaints appears to be same and completely mixed up and written in a most vague form, completely difficult for any CPIO or any independent department to severe and to respond in respect to the matter relating to its functioning.*

3. *From the records of the Finance Department, it is observed that, the present Appellant/Complainant had submitted 4 applications under section 2(f), 2(j) and 6(1) of the RTI Act for seeking information to the Office of Finance Department on 23.08.2018 when my predecessor, Shri Vinayaka Rao B.S. was the HoD & CPIO for the Finance Department. The issues/queries raised in each of the application were many in numbers and largely concerning the functioning of various other department whereas the subject covering Finance Department was to the minimum extent found only on his Application No.1 and No.2 (partly).*

4. *Accordingly, the then FA&CAO & CPIO for Finance Department vide his covering letter No. FD/Est-1(45)2018/590 dated 28.08.2018 forwarded the copy of the Appellant's/Complainant's Application No.1, 2 & 4 to the CPIO for the Traffic Department to examine and furnish the information concerning his department directly to the information seeker. Copy of the Application No.1 & 3 was sent to the CPIO for Mechanical Engineering Department with similar request. And a copy of the Application No.2 transferred to the CPIO for Marine Department to respond to the extent pertaining to their departments directly and another copy of the Application No.2 & 4 was sent to the CPIO for the General Administration Department for enabling them to submit the information directly to the information seeker. While transferring the copies of the Applications by the then erstwhile CPIO for the Finance Department in his transfer communication as stated above has clearly mentioned that, the information pertaining to their respective department to be furnished directly to their information seeker as such the transfer was made impliedly under Section 6(3) of the Act.*

5. *As said in the commencement part of the present submission that, some limited part queries of Application No. 1 and No.2 were concerning Finance Department and to the large extent the remaining queries/matter was substantially relating to the functioning of the other department. The then CPIO for the Finance Department vide communication No. FA/B-13/2018/195 dated 18.09.2018*

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furnished the relevant information covered by the Appellants Application No.2 to the fullest extent and a copy of the same here annexed as ANNEXURE-I.

6. *Whereas the then CPIO for the Finance Department vide his communication No. FA/B-13/2018/194 dated 18.09.2018 agreed to furnish the relevant information covered by item No. 4.1 in the Application No.2 and requested the present Appellant/Complainant to make arrangement for depositing the costs of Rs. 230/- for supply of 115 pages the information sought by him. A copy of the said communication dated 18.09.2018 here annexed as ANNEXURE-II.*

7. *In the above said communication dated 18.09.2018 – ANNEXURE-II, a respectful statement was also made by the then CPIO for the Finance Department stating that, the information seeker to kindly provide a copy of document confirming his citizenship which the Appellant was impliedly required to submit only at the time payment of the costs/collection of the public information. The then CPIO for the Finance Department has made the statement most respectfully after possibly viewing the media news that the Mr. Samir Sardana, a son of retired Major General arrested in Goa for suspected terror links. Hon'ble Chief Minister of Goa also tabled papers in the Legislative Assembly. He was arrested by the ATS Police at Vasco Railway Station for suspicious movements and had seized 4 mobile phones, six passports, 23 SIM Cards and laptop whereas ATS had managed to obtain some 35 e-mail ID's and also discovered internet-downloaded data about previous bomb blast in the country and information about bomb-making. Copies of the news item 05 in nos. of annexed as ANNEXURE-III.*

8. *In such a circumstances as explained above, without casting any stigma, the then CPIO for the Finance Department has respectfully agreed to part away the information to the information seeker after his providing the costs by showing his citizenship identity and the said statement was made in absolute good faith.*

9. *And whereas the Appellant failed to deposit the costs and to collect the information sought and on the contrary through email dated 17.10.2018 lodged an Appeal before the First Appellate Authority, Shri Guruprasad Rai, Deputy Chairman & FAA against the communication No. FA/B-13/2018/194 dated 18.09.2018 mixing issues concerning other CPIO's and Departments. Subsequently, the Appellant made another 8 different appeals before the FAA by consolidating the matter of all the CPIO's and to pursued the same by sending communication by email dated 20.10.2018, 28.10.2018 and 01.11.2018, copies of the same here annexed as ANNEXURE-IV collectively.*

10. *And whereas the First Appellate Authority pleased to consider the various joint and mixed appeals made by the present Appellant/Complainant and disposed of the same vide his Common Order/Communication No. GAD/LB(46-*

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RTI)/2018/2500 dated 05.11.2018 and a copy of the same here annexed as ANNEXURE-V.

11. This CPIO for Finance Department of the Mormugao Port Trust makes his submission out of abundant caution in all the matter that is, 12 nos appeals under section 19 of the RTI Act and 4 nos complaints under section 18 of the Act even though the issues raised in all the above applications directly does not pertains to this CPIO to avoid a situation or any such allegations from the appellant/complainant at a later stage that this CPIO did not furnish his submission or reply in any of those matters. Therefore, the present submission of this respondent kindly be taken on record along with the submission made by other respective CPIOs of the other departments in the respective matters.

12. In the light of the submissions made above, it is abundantly clear that, the then CPIO for the Finance Department has done his lawful duty to segregate his part of the information relevant to his department and to furnish to the Appellant/Complainant even though the same was jumbled by the information pertaining to several other CPIO's/Departments. Further, the First Appellate Authority was considerate enough to entertain such a jumbled up appeals and issued his order dated 05.11.2018 as stated above disposing off his all the first appeals together jointly. Therefore, the prayers made by the present Appellant/Complainant for imposing punishment under section 20(1) and 20(2) of the RTI Act on the concerned CPIO's is completely unjust and improper. Further, the prayer made by the Appellant/Complainant for issuing Censures on the First Appellate Authority is totally uncalled, unjustified and in the circumstances deserves to be condemned and rejected with warning to the Appellant/Complainant.

13. Therefore, it is prayed that:

- a) By an order of the Hon'ble Commission both the Appeals and Complaints preferred against the CPIO for the Finance Department be dismissed with costs;*
- b) By an order the Hon'ble Commission may reject all the reliefs claimed by the Appellant/Complainant as not sustainable in law; and*
- c) Any other order the Hon'ble Commission may deem to be fit in the circumstances of the present case.*

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A written submission has been received by the Commission from Shri Jerome Clement, CPIO for Traffic Department and Dy. Traffic Manager, Mormugao Port Trust vide letter dated 19.11.2020, wherein he has stated as under:

“ ...

PIO to provide the top 15 items imported and exported from/through MPT in Break Bulk form by quantity and FOB/CIF value for the year and imports and exports separately (as the same items are imported and exported) for the last three years

PIO to provide top 15 items imported and exported from/through MPT in containers – for each year and FOB/CIF value separately (as some items are imported and exported) for last 3 years

- a) Para 4 of application No. 4. – On perusal of para 8.1 of the Memo with reference to value of EXIM Data by product and quantity, the information w.r.t. total quantity was provided vide our letter No. TM/443/2018/1151 dated 19.09.2018 (***Annexure – A***). Further it is submitted that since the shippers are not registered with the Port, does not maintain FOB/CIF value of import and export.
- b) Para 8.1.1 of the memo – No comments. The applicant has used unparliamentarily and derogatory language. Not applicable.
- c) 8.1.2 of the Memo – No comments as no data is maintained.
- d) 8.1.3 of the memo – The extract from Case Law Digest of CIC is enclosed (***Annexure – B***).
- e) 8.1.4 of the memo – The extract from Case Law Digest of CIC is enclosed (***Annexure – B***).
- f) Para 8.1.7 – Value is not maintained.
- g) Para 8.2 – Mormugao Port Trust is a service provider for EXIM trade. The charges for services rendered by the Port is charges as per the Scale of Rate as approved by the TAMP. Mormugao Port does not have any relation w.r.t. value of product handled by the customers and the same is not maintained at Port and hence could not be provided.
- h) Para 8.2.1 – No comments. Unparliamentarily
- i) Para 8.3 of the appeal – IEC, value is not maintained

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PIO to confirm that it has carried out a benchmarking study of the Port operations

- j) *Para 8.4 – The RTI application was transferred by FA&CAO to Traffic Department and in compliance of the Act, the available information was provided to the applicant vide our letter No. TM443/2018/1151 dated 19.09.2018. It is humbly submitted that as per our understating, the Right to information Act is attracted only in cases when the information is available with the Public Authority, which is in the form of records, documents, memos, etc. as defined in Section 2(f) and (j) of the RTI act.*

It is also respectfully submitted that information as admissible under the RTI Act to be disclosed, have always been promptly furnished as and when sought for and complied.”

A written explanation has been received by the Commission from the Appellant vide letter dated 07.11.2020, wherein he has alleged that the Respondent has provided him an illegal and negligent reply. He has further alleged *mala fide* and fraudulent intent on the part of the PIO and the FAA. He has termed the action of the Respondent as nonsensical rejection of the information as the same is already available in the public domain.

Decision:

Upon perusal of the facts on record as well as on the basis of the proceedings during the hearing, the Commission observes that the Appellant in his written submission has adopted a convoluted method to express the facts of the instant case. In fact, the information sought by the Appellant in the instant RTI Application also runs more than 6 pages. In addition, the Appellant has quoted several orders of the Commission, judgments of the Hon'ble High Court of Delhi as well as a reference has also been made to the orders of National Green Tribunal, in order to support his claim for information. The Commission is of the view that as much as the CPIO has a statutory responsibility to comply with the provisions of the RTI Act, the Applicants filing a request under RTI Act should also keep in

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mind that they should not transgress the letter and spirit of the RTI Act by flooding RTI Applications, which are cumbersome, protracted and circumlocutory in nature. The Commission severely admonishes the Appellant for going beyond the stipulated word limit, which has not only troubled the Respondent to ascertain what information has been sought and pertains to which Department. In this regard, the Bench refers to Rule 3 of the RTI Rules, 2012, which says:

***3. Application Fee.*— An application under sub-section (1) of section 6 of the Act shall be accompanied by a fee of rupees ten and shall ordinarily not contain more than five hundred words, excluding annexures, containing address of the Central Public Information Officer and that of the applicant:**

Provided that no application shall be rejected only on the ground that it contains more than five hundred words.

The Commission, therefore, opines that the Appellant instead of seeking information in a reasonable and comprehensible way; has resorted to adopt a tortuous method containing quite a lot of issues/queries in a disorganized/indecipherable manner, resulting in unfathomable hurdles on the part of the Respondent. The Appellant being a responsible citizen who poses to be concerned about the functionality of the Respondent public authority must impliedly know his limitations while filing an RTI query before **any** Respondent public authority. The Commission strictly cautions him that in future, he shall holistically adhere to the relevant provisions of the RTI Rules, 2012 while filing any RTI Application before **any** public authority.

Further, the Commission finds it pivotal to aver at this juncture, that the Appellant in the instant RTI Application, First Appeal, Second Appeal followed by never ending written submissions and counter submissions has time and again avowed that the information sought is not just in public interest but in national interest (without substantiating/justifying the same) and has questioned as to how certain

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information is available in public domain. It is pertinent to state herein that the Appellant's contention is rather preposterous because mere statements such as 'involving larger public interest' and 'national interest' do not suffice and the onus to prove the same lies with the Appellant. In fact, the Appellant in the present First Appeal has also relied upon a judgment of the Hon'ble High Court of Delhi in the matter of *B.S. Mathur v. Public Information Officer of Delhi High Court* vide *W.P.(C) 295 and 608 of 2011*. The Appellant has made a statement in his First Appeal that *"In any appeal proceedings, the onus to prove that a denial of a request was justified shall be on the Central Public Information Officer..."*. The Commission without denying the said fact draws the Appellant's attention that the Appellant has sought information regarding Iron Ore exports in the last five years (the preceding five years from the date of filing the instant RTI Application). He has specifically sought the Respondent to provide the name of the CEO/Promoter, IEC data, legal entity registration data and the legal entity status of 15 shippers as maintained in the records of MPT. The Commission points out that though it is not mandatory to provide reasons for seeking information under the RTI Act, but the same does not mean that an applicant can seek all/any information under the sky. The Commission will not be incorrect in saying that the Appellant has relatively misinterpreted the term *"information"*. It has been clearly defined at Section 2(f) of the RTI Act as under:

2. Definitions.— *In this Act, unless the context otherwise requires, –*

(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;

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In view of the above, it is clearly evident that the information which is available in record or accessible by a public authority can only be provided under the RTI Act. In the instant case, the Appellant has not only included the queries pertaining to different Departments but has also sought voluminous information in a single RTI Application, which invariably counteracts the letter and spirit of the RTI Act and the said attempt is erratic in nature.

In this regard, the Commission finds it **RELEVANT** and **JUST** to rely upon the following judgments:

- a. The fact that the onus to establish *mala fide* or unreasonable conduct of the CPIO is on the Appellant is no longer *res integra*. The Hon'ble Delhi High Court in *W.P.(C) 11271/2009* in the matter of **Registrar of Companies & Ors. v. Dharmendra Kumar Garg & Anr. (delivered on 01.06.2012)** held as under:

“61. Even if it were to be assumed for the sake of argument, that the view taken by the learned Central Information Commissioner in the impugned order was correct, and that the PIOs were obliged to provide the information, which was otherwise retrievable by the querist by resort to Section 610 of the Companies Act, it could not be said that the information had been withheld malafide or deliberately without any reasonable cause. It can happen that the PIO may genuinely and bonafidely entertain the belief and hold the view that the information sought by the querist cannot be provided for one or the other reasons. Merely because the CIC eventually finds that the view taken by the PIO was not correct, it cannot automatically lead to issuance of a showcause notice under Section 20 of the RTI Act and the imposition of penalty. The legislature has cautiously provided that only in cases of malafides or unreasonable conduct i.e., where the PIO, without reasonable cause refuses to receive the application, or provide the information, or knowingly gives incorrect, incomplete or misleading information or destroys the information, that the personal penalty on the PIO can be imposed. This was certainly not one such case. If the CIC starts imposing penalty on the PIOs in every other case, without any justification, it would instill a sense of constant apprehension in those functioning as PIOs in the public authorities, and would put undue pressure

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on them. They would not be able to fulfill their statutory duties under the RTI Act with an independent mind and with objectivity. Such consequences would not auger well for the future development and growth of the regime that the RTI Act seeks to bring in, and may lead to skewed and imbalanced decisions by the PIOs Appellate Authorities and the CIC. It may even lead to unreasonable and absurd orders and bring the institutions created by the RTI Act in disrepute.

It is important to mention herein that the Appellant in the instant Second Appeal has prayed as under:

- ***Penalty on the PIO (under Section 19(8)(c), of the RTI Act, 2005);***
- ***Dismissal of the PIO/FAA on account of illegal, deliberate, malafide and baseless rejection of RTI Applications (and violation of CCS Rules, as stated in Para 2.4.2);***
- ***Administrative action and/strictures, against the PIO (under Section 20(2), of the RTI Act, 2005);***
- ***Impose Maximum Penalty, on the PIO under Section 20(1), of the RTI Act, 2005;***
- ***Direct the Respondent to refund the Application fee paid by Complainant while submitted RTI Application, as per section (7)(6) of the RTI Act;***
- ***Provide the information free of cost, as per section (7)(6) of the RTI Act;***
- ***Invoke its powers under the RTI Act to issue any other direction or recommendation as it may deem appropriate;***
- ***Direct the public authority to make entry in Service Book/Annual Performance Appraisal Report of the Respondent for defying the provisions of the Act***
- ***Compensation for the Appellant for pecuniary and other loss***

[Reproduced verbatim]

Upon a plain reading of the foregoing, the Commission is left with no other alternative to infer that the Appellant is not seeking the information from the Respondent in public/national interest; instead, it appears that he is on a mission to seek vengeance or has some personal vendetta against the Respondent public authority.

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- b. Similarly, the following observation of the Hon'ble High Court of Delhi in ***Bhagat Singh v. CIC & Ors., W.P.(C) 3114/2007***, is also pertinent, wherein the Hon'ble Court stated as under:

"17. This Court takes a serious note of the two year delay in releasing information, the lack of adequate reasoning in the orders of the Public Information Officer and the Appellate Authority and the lack of application of mind in relation to the nature of information sought. The materials on record clearly show the lackadaisical approach of the second and third respondent in releasing the information sought. However, the Petitioner has not been able to demonstrate that they malafidely denied the information sought. Therefore, a direction to the Central Information Commission to initiate action under Section 20 of the Act, cannot be issued."

In the instant Second Appeal, the Appellant has stated the *infra* as critical facts:

- *"PIO has not replied to some information";*
- *"the PIO has provided misleading information and outright lies and fraud";*
- *"the PIO has made an illegal rejection u/s 8(1)(d) of the RTI Act without basis and reasoning and its applicability to the information sought";*
- *the PIO has not transferred the RTI Application to other PIOs of the public authority who have the information or have additional information or have the complete information"*

The aforesaid statements of the Appellant are very much unclear as to which information has not been provided to him and which information is misleading. The Commission also notes that even during the hearing, the Appellant rather makes an attempt to mystify both the Commission as well as the Respondent by taking refuge on unconnected events or mentioning certain things without any proof. The Commission is self-assured that the Appellant during the hearing is always beating around the bush instead of specifying as to what information he has sought or what information he wishes to seek. The *modus operandi* adopted by the Appellant is nothing but a classic example of systematic persecution as well as wasting precious time of the public authority as well as the Commission.

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- c. Further, the Hon'ble High Court of Delhi in the matter of **Col. Rajendra Singh v. Central Information Commission and Anr., W.P.(C) 5469 of 2008** dated **20.03.2009**, stated as under:

"Section 20, no doubt empowers the CIC to take penal action and direct payment of such compensation or penalty as is warranted. Yet the Commission has to be satisfied that the delay occurred was without reasonable cause or the request was denied mala fide."

...
The preceding discussion shows that at least in the opinion of this Court, there are no allegations to establish that the information was withheld mala fide or unduly delayed so as to lead to an inference that petitioner was responsible for unreasonably withholding it."

Upon going through the reply dated 19.09.2018, the Commission finds that the Respondent has provided available and relevant information to the Appellant not only RTI Application no. 2, but also on RTI Application no. 1 and 4, though the same is not a subject-matter of discussion herein.

- d. Furthermore, the Hon'ble Supreme Court of India in the matter of **Advocate General, Bihar vs. M.P. Khair Industries, [AIR 1980 SC 1946]** has stated as under:

"... filing of frivolous and vexatious petitions as abuse of the RTI process. Some of such abuses specifically mentioned by the Apex Court include initiating or carrying on proceedings which are wanting in bona-fides or which are frivolous, vexatious or oppressive. The Apex Court also observed that in such cases the Court has extensive alternative powers to prevent an abuse of its process by striking out or staying proceedings or by prohibiting taking up further proceedings..."

It is candidly clear that by reading the Appellant's RTI Application, First Appeal/Complaint, Second Appeal followed by the never ending written submissions and counter submissions are nothing but vexatious for the reason that the Appellant's every statement/averment is supported with a document such as

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screenshots of some private sector websites has been provided. The Appellant has captioned every screenshot by questioning the Respondent public authority as to how the said portal is in possession with the EXIM (export-import) data for 200 ports. The Commission is rather baffled to note that the Appellant, who researches comprehensively, has relatively not appreciated the fact that a PIO/CPIO is not supposed to provide clarification, not supposed to answers to questions/queries etc. In the instant case, the Appellant has referred to a decision of the National Green Tribunal, which had questioned the actions of the Respondent regarding granting Environmental Clearance. The Appellant has neither apprised the Commission regarding how the said reliance of the National Green Tribunal's decision/order causes an impact in deciding the instant matter. In addition, the Appellant has placed reliance on European Convention of Human Rights, American Convention of Human Rights, International Covenant on Civil and Political Rights, International Convention on Economic, Social and Cultural Rights, without even ascertaining the fact as to whether India has ratified them or not. It seems that the Appellant has failed to comprehend the fact that whenever there is a conflict between two statutes, the *lex loci* is the shorthand version of the choice of law rules that determine the *lex causae*. Even so, he has not even substantiated as to how the Articles of the aforesaid instruments/multi-national treaty is applicable in the instant case. In addition, he has also used words viz., non-sensical, foolish etc, if truth be told, such words are not just improper; they are inappropriate and indecent as well. Hence, the Commission cautions him to desist from using such intemperate language.

- e. It is pertinent to mention herein that the Hon'ble Supreme Court of India has discussed the issue in great detail in the matter of *Ashok Kumar Pandey v. The State of West Bengal [AIR 2003 SC 280, para 11]*, wherein J.Pasayat has held as under:

"... It is depressing to note that on account of such trumpety proceedings initiated before the Courts, innumerable days are wasted, which time otherwise could have been spent for the disposal of cases of the genuine litigants. Though we spare no efforts in fostering and developing the laudable concept of PIL and extending our long arm of sympathy to the poor, the ignorant, the oppresses and the needy whose fundamental rights are infringed and violated and whose grievances go unnoticed, unrepresented and unheard; yet we cannot avoid but expressing our opinion that while genuine litigants with legitimate grievances relating to civil matters involving properties worth hundreds of millions of rupees and criminal cases in which persons sentenced to death facing gallows under untold agony and persons sentenced to life imprisonment and kept in incarceration for long years, persons suffering from undue delay in service matters, Government or private, persons awaiting the disposal of case... ... etc. etc. are all standing in a long serpentine queue for years with the fond hope of getting into the Courts and having their grievances redressed, the busybodies, meddlesome interlopers, wayfarers or officious interveners having absolutely no public interest except for personal gain or private profit either of themselves or as proxy of others or for any other extraneous motivation or for glare of publicity break the queue muffing their faces by wearing the mask of public interest litigation and get into the Courts by filing vexatious and frivolous petitions and thus criminally waste the valuable time of the Courts, as a result of which the queue standing outside the doors of the Courts never moves, which piquant situation creates frustration in the minds of the genuine litigants and resultantly they lose faith in the administration of our judicial system..." [Emphasis supplied]

In the instant case, the Appellant is not just pressurizing the Respondent public authority by seeking all and sundry information, but also harassing them by filing multiple queries followed by reminders, e-mail communications etc. Not to forget to mention the fact that the Respondent has even relied upon several orders of this Commission. In this regard, the Appellant is being educated that a Commission

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passes an order after ascertaining the facts and circumstances of a particular case and the orders are passed on case-to-case basis. It is pertinent to mention herein that the Appellant has repeatedly cited that he has not been provided a fair hearing by the First Appellate Authority. The Commission is well aware of the fact that the Latin phrase '*Audi Alteram Partem*' is an essential principle of law, which means that no person should be judged without providing a fair hearing. The Commission would like to draw the Appellant's attention that a fair hearing can be provided if the representation is made in a just and fair manner. The Commission unavoidably has to mention the fact that the Appellant is in a habit of filing RTI Applications in a numbered manner i.e., '*RTI Application No. 1, ... No. 2, ... No. 3 and No. 4*'. Further, the Appellant has a set pattern of enclosing all or more than one RTI Application, which is not just confusing but irksome as well. In this regard, the Commission counsels the Appellant that Section 6(1) of the RTI Act, defines as under:

*6.(1) A person, who desires to obtain any information under this Act, **shall make a request in writing or through electronic** means in English or Hindi or in the official language of the area in which the application is being made, accompanying such fee as may be prescribed, to-*

...
...

[Emphasis supplied]

A plain reading of the aforesaid Section makes it amply clear that the Parliament of India, while enacting the Act has categorically provided a right to an Indian citizen that he/she shall make a request and not requests. Adding on to it, the Appellant has made it a practice that he sends e-mail reminders with subject-line "*Awaiting FAA Hearing Notice – w.r.t 8 (Eight) 1st Appeals*" ; "*Awaiting FAA Hearing Notice – w.r.t 9 (Nine) 1st Appeals*."

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- f. It is further pertinent to mention herein that the Hon'ble High Court of Madras in the matter of ***Public Information Officer, Registrar (Administration) vs. B. Bharathi, W.P. No. 26781/2013*** dated 17.09.2014 has also given its opinion about such vexatious litigation crippling the public authorities and held as follows:

"... The action of the second respondent in sending numerous complaints and representations and then following the same with the RTI applications; that it cannot be the way to redress his grievance; that he cannot overload a public authority and divert its resources disproportionately while seeking information and that the dispensation of information should not occupy the majority of time and resource of any public authority, as it would be against the larger public interest..." [Emphasis supplied]

- g. It is furthermore pertinent to mention herein that the Hon'ble High Court in the matter of ***Shail Sahni v. Sanjeev Kumar & Ors., W.P.(C) 845/2014*** has stated as under:

"... Consequently, this Court deems it appropriate to refuse to exercise its writ jurisdiction. Accordingly, present petition is dismissed. This Court is also of the view that misuse of the RTI Act has to be appropriately dealt with, otherwise the public would lose faith and confidence in this "sunshine Act". A beneficial Statute, when made a tool for mischief and abuse must be checked in accordance with law..." [Emphasis supplied]

- h. In the matter of ***Rajni Mendiratta v. Dte. of Education (North West-B), W.P.(C) no. 7911/2015***, the Hon'ble High Court of Delhi vide its order dated 08.10.2015 stated as under:

"8. ... Though undoubtedly, the reason for seeking the information is not required to be disclosed but when it is found that the process of the law is being abused, the same become relevant. Neither the authorities created under the RTI Act nor the Courts are helpless if witness the provisions of law being abused and owe a duty to immediately put a stop thereto..."

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The Commission considers that the Appellant's move to seek voluminous information followed by his counter to every reply/letter of the Respondent and filing constant written submissions and counter submissions does not make him a citizen who fights for exposing corruption/arbitrariness and to improve/correct the governance. Instead, it proves that the Appellant wants to correct a wrong that has been perceivably done and the only intention is to get justice for himself. The Appellant rather appears to have converted the provisions of the RTI Act as a tool of oppression/intimidation, which the Commission discourages outrightly.

- i. In the matter of *The Institute of Chartered Accountants of India vs. Shaunak H. Satya and Ors.*, AIR 2011 SC 3336, the Hon'ble Supreme Court of India has held as under:

*"... The RTI Act provides access to all information that is available and existing. This is clear from a combined reading of Section 3 and the definitions of 'information' and 'right to information' under Clauses (f) and (j) of Section 2 of the Act. If a public authority has any information in the form of data or analysed data, or abstracts, or statistics, an applicant may access such information, subject to the exemptions in Section 8 of the Act. But where the information sought is not a part of the record of a public authority, and where such information is not required to be maintained under any law or the rules or regulations of the public authority, the Act does not cast an obligation upon the public authority, to collect or collate such non-available information and then furnish it to an applicant. The right to information is a fundamental right as enshrined in Article 10 of the Constitution of India. The Hon'ble Supreme Court has declared in a plethora of cases that the most important value for the functioning of a healthy and well-informed democracy is transparency. However it is necessary to make a distinction in regard to information intended to bring transparency, to improve accountability and to reduce corruption, falling under Section 4(1)(b) and (c) and other information which may not have a bearing on accountability or reducing corruption. The competent authorities under the RTI Act will have to maintain a proper balance so that while achieving transparency, **the demand for information does not reach unmanageable proportions affecting other public interests, which***

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include efficient operation of public authorities and government, preservation of confidentiality of sensitive information and optimum use..."

- j. In the matter of *Central Board of Secondary Education & Anr. V. Aditya Bandopadhyay & Ors.*, the Hon'ble Supreme Court of India has held as under:

"33. ... The Act seeks to bring about a balance between two conflicting interests, as harmony between them is essential for preserving democracy. One is to bring about transparency and accountability by providing access to information under the control of public authorities. The other is to ensure that the revelation of information, in actual practice, does not conflict with other public interests which include efficient operation of the governments, optimum use of limited fiscal resources and preservation of confidentiality of sensitive information. The preamble to the Act specifically states that the object of the Act is to harmonise these two conflicting interests...

...
37. The right to information is a cherished right. Information and right to information are intended to be formidable tools in the hands of responsible citizens to fight corruption and to bring in transparency and accountability... ... Indiscriminate and impractical demands or directions under RTI Act for disclosure of all and sundry information (unrelated to transparency and accountability in the functioning of public authorities and eradication of corruption) would be counter-productive as it will adversely affect the efficiency of the administration and result in the executive getting bogged down with the non-productive work of collecting and furnishing information. The Act should not be allowed to be misused or abused, to become a tool to obstruct the national development and integration, or to destroy the peace, tranquility and harmony among its citizens. Nor should it be converted into a tool of oppression or intimidation of honest officials striving to do their duty. The nation does not want a scenario where 75% of the staff of public authorities spends 75% of their time in collecting and furnishing information to applicants instead of discharging their regular duties. The threat of penalties under the RTI Act and the pressure of the authorities under the RTI Act should not lead to employees of a public authorities prioritizing 'information furnishing', at the cost of their normal and regular duties... [Emphasis supplied]

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- k. In the matter of **Mr. Amit Pande vs. CPIO & General Manager (Legal), Small Industries Development Bank of India, Lucknow** vide **File No. CIC/SM/A/2010/001398/SG**, a coordinate Bench of this Commission vide order dated 07.09.2011 has held as under:

It is relevant to mention that the Supreme Court of India in Gurudev datta VKSSS Maryadit & Ors. v. State of Maharashtra & Ors. Appeal (Civil) No. 2298/2001 (judgment dated 22/03/2001) has clarified as follows:

“... it is a cardinal principle of interpretation of statute that the words of a statute must be understood in their natural, ordinary or popular sense and construed according to their grammatical meaning, unless such construction leads to some absurdity or unless there is something in the context or in the object of the statute to suggest to the contrary. The golden rule is that the words of a statute must prima facie be given their ordinary meaning. It is yet another rule of construction that when the words of the statute are clear, plain and unambiguous, then the Courts are bound to give effect to that meaning, irrespective of the consequences. It is said that the words themselves best declare the intention of the law giver. The Courts have adhered to the principle that efforts should be made to give meaning to each and every word used by the legislature and it is not a sound principle of construction to brush aside words in a statute as being inapposite surpluses, if they can have a proper application in circumstances conceivable within the contemplation of the statute.”

The principle laid down above has been reiterated time and again by the Hon'ble Supreme Court of India. The golden rule of statutory interpretation, as laid down by the Supreme Court of India, has the force of law. If the said rule is to be applied, then the term 'a request' must be given its natural and ordinary meaning, which certainly does not appear to mean 'one category of information'. If at all a meaning is ascribed to the term 'a request', it would mean 'an application' seeking information under the RTI Act. Even from a plain reading of Section 6(1) and 7(1) of the RTI Act, there does not appear to be any embargo on the scope of such request or application. In other words, this Bench rules that there is no legal requirement on an applicant's part to restrict the scope of her RTI application only one subject matter.

...

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At this juncture, it would be pertinent to mention that what constitutes a 'single subject matter' has neither been defined in the RTI Act, the rules and regulations framed thereunder and not even by the then Chief/Information Commissioners in the said decisions. No parameters have been laid down by the then Chief/Information Commissioner by which an applicant and the PIO can determine whether the information sought pertains to one-subject matter. In the absence of any means to determine what tantamount to 'one subject matter', the PIO can, at his discretion, furnish part information claiming that the remaining information sought in the RTI application pertains to a different subject matter for which a separate RTI application is required to be filed. The exercise of such discretion by the PIO is likely to be subjective resulting in arbitrary curtailment of the fundamental right to information of citizens and unnecessary expenditure of money. In the absence of any clear definition of what 'one category of request' means it would only lead to arbitrary refusals of information under the RTI Act, leading to clogging of the appellate mechanisms. However, rules framed by the competent authority could put some reasonable restrictions on the length of the RTI application."

In view of the foregoing, the Commission is of the considered opinion that the Respondent has provided available and relevant information to the Appellant in the instant case and the same is being upheld. Further, the Commission finds no illegality on the part of the Respondent for seeking proof of citizenship because considering the importance and sensitivity of the information sought in the instant RTI Application as well as the alleged antecedents of the Appellant, the Respondent public authority has on a selective basis and as a matter of abundant caution sought proof of citizenship from the Appellant. The Commission after going through the letters/replies sent by the Respondent to the Appellant, does not find any *mala fide* on the Respondent's part in seeking the proof of citizenship. There is absolutely no doubt that information under Section 3 of the RTI Act can be sought only by an Indian citizen. However, it is to be noted that the public authority has the liberty to seek proof of citizenship from an applicant, when he/she is seeking information, which is not just barred/exempted from disclosure,

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because the said information, at times may be sensitive from security perspective and this concern can never be disregarded. The Commission is sentient that under the provisions of the RTI Act, disclosure of information is a rule and non-disclosure is an exception. Hence, the Commission is of a considered opinion that the proof of citizenship is not required from an information seeker as a matter of principle but there are certain exceptional circumstances, as in the case of the Appellant, in which the PIO/CPIO is at liberty to seek proof of citizenship.

In view of the detailed observations and analysis, the instant Second Appeal is dismissed.

Copy of the decision be provided free of cost to the parties.

The Appeal, hereby, stands disposed of.

Amita Pandove (अमिता पांडव)

Information Commissioner (सूचना आयुक्त)

दिनांक / Date: 01.03.2021

Authenticated true copy

(अभिप्रमाणित सत्यापित प्रति)

B. S. Kasana (बी. एस. कसाना)

Dy. Registrar (उप-पंजीयक)

011-26105027

CIC/MPOTR/A/2018/637412

Addresses of the parties:

1. The First Appellate Authority,
Mormugao Port Trust,
Administrative Office, Headland,
Sada, Goa - 403804
2. The Central Public Information Officer,
Mormugao Port Trust,
Administrative Office, Headland,
Sada, Goa - 403804
3. Shri Samir Sardana
D-113, Sector 4, Defense Colony,
Dehradun, Uttarakhand -248001

केन्द्रीय सूचना आयोग
Central Information Commission
बाबा गंगनाथ मार्ग, मुनिरका
Baba Gangnath Marg, Munirka
नई दिल्ली, New Delhi – 110067

द्वितीय अपील संख्या / Second Appeal No. CIC/WECRL/A/2018/173314

In the matter of:

Akhilesh Bhargav

... अपीलकर्ता/Appellant

VERSUS

बनाम

CPIO,
Sr. Divisional Personnel Officer,
West Central Railway,
Bhopal, Madhya Pradesh

...प्रतिवादीगण /Respondent

Relevant dates emerging from the appeal:

RTI : 15.05.2018	FA : 14.07.2018	SA : 20.12.2018
CPIO : 20.06.2018	FAO : 28.08.2018	Hearing : 11.11.2020

The following were present:

Appellant: Shri Akhilesh Bhargav, heard through video conferencing.

Respondent: Shri R.K.Prashar, Sr. DCM, West Central Railway, Bhopal, Madhya Pradesh, heard through video conferencing.

ORDER

Information Sought:

The appellant filed an RTI application on 15.05.2018 seeking information as under:

“दिनांक 01.04.2013 से दिनांक 30.04.2018 तक की अवधि में श्री सिंगाजी ताप विद्युत परियोजना ग्राम दोंगलिया, (बीड) जिला खण्डवा में कोयले के रैक निर्धारित समयावधि में खाली नहीं होने के कारण भोपाल मंडल के द्वारा लगायी गयी पेनल्टी से सम्बंधित सभी दस्तावेजों की सत्यापित छायाप्रतियां एवं श्री सिंगाजी ताप विद्युत परियोजना के द्वारा जमा की गई पेनल्टी की राशी से सम्बंधित सभी दस्तावेजों की सत्यापित छायाप्रतियां।”

The CPIO, vide letter dated 20.06.2018, denied information under section 8(1)(d) of the RTI Act, 2005. Being dissatisfied, the appellant filed **first appeal** dated 14.07.2018. FAA, vide order dated 28.08.2018, upheld the CPIO's reply.

Grounds for Second Appeal:

The appellant filed second appeal u/s 19 of the RTI Act on the ground of unsatisfactory reply furnished by the respondent. He requested the Commission to direct the CPIO to provide the information sought for and also take necessary action.

Submissions made by Appellant and Respondent during Hearing:

The appellant submitted that due information has been malafidely denied by the respondent by wrongly invoking Section 8(1)(d) of the RTI Act. He further submitted that the information sought for does not fall within the purview of 'third party information' and requested the Commission to direct the CPIO to provide the information sought for.

The respondent submitted that since the information sought for pertains to Shri Singaji Thermal Power Project, the party concerned was asked to provide their assent to furnish the requisite information. However, the same was denied by the concerned organization. Hence, the appellant was informed accordingly. On being queried regarding invoking Section 8(1)(d), the respondent submitted that Shri Singaji Thermal Power in its denial letter stated that the desired information shall be denied under Section 8(1)(d). He further submitted that the appellant has also not specified the details of the penalty regarding which the information is sought for. In its reply, the appellant stated that the information sought is regarding the damages imposed on Shri Singaji Thermal Power by Bhopal division. The appellant was further queried regarding the larger public interest involved therein to which the appellant raised the allegation of corruption and stated that the damages imposed have not been collected from the concerned contractor.

The written submissions dated 06.11.2020 filed by the respondent were taken on record.

Decision:

The Commission, after hearing the submissions of both the parties and perusing the records, refers to Section 8(1)(d) of the RTI Act and notes that the said provision exempts information which includes commercial confidence, trade secrets or intellectual property, the disclosure of which would harm the competitive position of a third party. CPIO, in its reply dated 20.06.2018, denied information under section 8(1)(d). However, no cogent justification could be offered from the respondent on being queried regarding the commercial confidence involved in disclosure of the penalties imposed on an entity by the government authority and the amount of penalty deposited by the said entity with a public authority. The only plea afforded by the respondent for denial of information is that the same pertains to a third party. It is very much apparent from the facts of the case that the respondent has, without application of mind, invoked Section 8(1)(d) as neither the respondent could establish the commercial confidence involved nor could the respondent identify the correct provision for denying third party information. The Commission is severely vexed by the obliviousness of the respondent regarding the provisions of RTI Act.

With regards to non disclosure of information under Section 8(1)(d) of the RTI Act, 2005, the Commission refers to the decision dated 24.11.2014 passed by the Hon'ble High Court of Delhi in the matter of ***Naresh Trehan vs. Rakesh Kumar Gupta*** (W.P(C) 85/2010) wherein it was held as under:

14. “....Such information would clearly disclose the pricing policy of the assessee and public disclosure of this information may clearly jeopardise the bargaining power available to the assessee since the data as to costs would be available to all agencies dealing with the assessee. It is, thus, essential

that information relating to business affairs, which is considered to be confidential by an assessee must remain so, unless it is necessary in larger public interest to disclose the same. If the nature of information is such that disclosure of which may have the propensity of harming one's competitive interests, it would not be necessary to specifically show as to how disclosure of such information would, in fact, harm the competitive interest of a third party. In order to test the applicability of Section 8(1)(d) of the Act it is necessary to first and foremost determine the nature of information and if the nature of information is confidential information relating to the affairs of a private entity that is not obliged to be placed in public domain, then it is necessary to consider whether its disclosure can possibly have an adverse effect on third parties."

Further, the Hon'ble High Court Of Bombay in **Writ Petition Nos. 2912 and 3137 of 2011**, decided on 01.07.2011 held that:

"12.The RTI Act is an Act to provide for setting out the practical regime of right to information for citizens to secure access to information under the control of public authorities, in order to promote transparency and accountability in the working of every public authority. The preamble of the RTI Act itself refers to this aspect and the constitutional principles enshrined in several articles of the Constitution. It is very clearly postulated that democracy requires an informed citizenry and transparency of information which are vital to its functioning and also to contain corruption and to hold the Governments and their instrumentalities accountable to the governed. The revelation of information in actual practice is likely to conflict with other public interests including efficient operations of the Governments,

optimum use of limited fiscal resources and the preservation of confidentiality of sensitive information. Therefore, the RTI Act seeks to harmonize these conflicting interests while preserving the paramount nature of democratic ideals.

14. On the own showing of the Petitioner, Clause (d) provides that the information can be disclosed if the competent authority is satisfied that larger public interest warrants such disclosure. Therefore, that clause as admitted by Mr. Manohar is not absolute. It does not say that the information including commercial confidence, trade secrets or intellectual property, the disclosure of which, would harm the competitive position of a third party; cannot be demanded or if demanded, cannot be disclosed even if larger public interest warrants the same."

In view of the above noted judgements, the Commission observes that deposition of penalty by any entity with a public authority would entail involvement of public funds and every citizen has a right to know that. The Commission, therefore, directs the respondent to furnish due information to the appellant within a period of 15 days from the date of receipt of a copy of this order under intimation the Commission.

The Commission also instructs the Respondent Public Authority to convene periodic conferences/seminars to sensitize, familiarize and educate the concerned officials about the relevant provisions of the RTI Act, 2005 for effective discharge of its duties and responsibilities.

With the above observations, the appeal is disposed of.

Copy of the decision be provided free of cost to the parties.

The appeal, hereby, stands disposed of.

Amita Pandove (अमिता पांडव)

Information Commissioner (सूचना आयुक्त)

दिनांक / Date: 11.11.2020

Authenticated true copy

(अभिप्रमाणितसत्यापितप्रति)

B. S. Kasana (बी. एस. कसाना)

Dy. Registrar (उप-पंजीयक)

011-26105027

Addresses of the parties:

1. The First Appellate Authority (FAA),
West Central Railway,
Office of the Divisional
Railway Manager (P),
Bhopal Division, Bhopal,
Madhya Pradesh-462024
2. The Central Public Information Officer (CPIO)
Sr. Divisional Personnel Officer,
West Central Railway,
Office of the Divisional
Railway Manager (P),
Bhopal Division, Bhopal,
Madhya Pradesh-462024
3. Shri Akhilesh Bhargav
Near N C C Office,
Anand Nagar, Khandwa,
Madhya Pradesh-450001

CIC/SWRLY/C/2019/600256

केन्द्रीय सूचना आयोग
Central Information Commission
बाबागंगनाथमार्ग, मुनिरका
Baba Gangnath Marg, Munirka
नईदिल्ली, New Delhi – 110067

शिकायत संख्या / Complaint No. CIC/SWRLY/C/2019/600256

In the matter of:

Samir Sardana

... शिकायतकर्ता/Complainant

VERSUS

बनाम

CPIO,
/SR. Divisional Commercial
Manager. South Western Railway,
Divisional Office, Commercial
Branch, Gadag Road, Hubballi,
Karnataka – 580020

...प्रतिवादीगण /Respondent

Relevant dates emerging from the Complaint:

RTI Application filed on	:	Undated
CPIO replied on	:	02.09.2016
First Appeal filed on	:	01.04.2017
First Appellate Authority order	:	Not on record
Complaint received on	:	07.01.2019
Date of hearing	:	20.05.2021

The following were present:

Complainant: Shri Samir Sardana participated in the hearing upon being contacted on his telephone.

Respondent: Shri Syed Imtiaz Ahmed, Sr. Divisional Commercial Manager, South Western Railway, Hubli participated in the hearing upon being contacted on his telephone.

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ORDER

Information Sought:

The Complainant filed an RTI application nil, seeking information as under:

1.Generic Disclosure Sought

1.1.As per Section 4(1)(v) "the rules, regulations, instructions, manuals and records, held by it or under its control or used by its employees for discharging its functions", are to be "disclosed and prominently displayed" to the public.

1.2.A copy of the abovesaid information is required - at "no cost" to the applicant. - with respect to the records maintained at the Vasco Railway Station, that is "under the jurisdiction", of the South Western Railways.

2.Inspection u/s 2(j) of the RTI Act,2005

2.1.Notice is hereby served for inspection of records/documents/registers/documents etc., maintained at the Vasco Railway Station, u/s 2(j) of the RTI Act,2005, on the name and subject of Samir Sardana

3.Details of Inspection Sought

3.1.The Inspection is sought with respect to the following :

- The IR Accomodation Booking Registers maintained at the Vasco Railway Station, for the month of January 2016
- The "system and records" that maintains the IR Dormitory and Room Booking Tickets ,as well as, related PNR, for the month of January 2016
- The "system and records" that maintains the ID proof of the persons,who use the IR Dormitory and Room Accomodation, for the month of January 2016
- The "Operating Rules and Policies", to be followed by IR Staff at Vasco, for IR Dormitory and Room Accomodations
- The Applicant wishes to inspect the tapes of the CCTV footage, from the 11 th to the 13 th of January,2016, and from the 29 th to the 31st of January,2016, which capture the entry and exit from the Vasco TC Office and the Vasco Railway Station

4.Date of Inspection

4.1.The Date of Inspection is sought for the 19 th or 20 th of July,2016.

4.2.You are requested to confirm the date of the proposed inspection at the earliest

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The CPIO, vide letter dated 02.09.2016, informed to Complainant as under:

With reference to your above cited application following is the requisite information as sought.

It is to advise that you are hereby authorized to inspect the following records at Station superintendent of Vasco-da-Gama.

Information sought	Remarks
(a) The Accommodation Booking Registers maintained at the Vasco Railway station, for the month of January 2016.	You are hereby authorized to inspect the required records at Station superintendent office of Vasco
(b) The System and "records" that maintains the IR Dormitory and Room Booking tickets, as well as related PNR for the month of January 2016.	Same as above, records register is available with Chief Ticket Inspector of Vasco For verification.
(c) The System and "records" that maintains the ID proof of the persons, who use the IR Dormitory and Room Accommodations for the month of Jan 2016.	As per Railway board Circular No. 2209/TGIV/15/RR/1 dt 06.06.2013. 2.17. passenger booking the retiring room needs to carry one of the approved 5 photo ID cards namely Voter Identity card, passport, PAN card, Driving License. Photo Identity card issued by central/ state Govt, student Identity card with photograph issued by recognized school/ college for their students, nationalized bank passbook with photograph and credit card by banks with laminated photograph. At the time of booking Xerox copy of identity card was not mandatory. It is only for verification.

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(d) The operating Rules and policies, to be followed by IR staff At Vasco , for IR dormitory and Room Accommodation.	As per circular of Railway board 1) No. 2009/TGIV/15/RR/1 dt.06.06.2013. 2) No. 2009/TGIV/15/RR/1 dt.26.05.2014. 3) No.22009/TG-IV/15/RR/1 dated 29.12.2010. 4) No.2002/TGIV/20/P/IRCTC /INTERNET commercial circular No.41/2002. 5)) No.2009/TGIV/15/RR/1 commercial circular No. 42/2002.
(e) The applicant wished to inspect the tapes of the CCTV footage from the 11 th to the 13 th of January 2016 and the 29 th to the 31 st of January 2016 which capture the entry and exit from the Vasco TC office and the Vasco Railway station.	It does not comes under commercial department purview. Your application is forwarded to Sr.DSC/Hubballi

Before inspecting the records , you should call on No.09096066928 . Station superintendent of Vasco and only on working days from 10.00 to 18.00hrs.

As regards inspection of records and documents, no fees for the first hour, for every subsequent half an hour fraction there of, Rs 20/- shall be charged from person making application with initial payment as prescribe under rule 4(1) above. For inspection of works a reasonable fee shall be fixed by state public information officer in each case depending upon the cost of labour and material required to be employed a part from initial fees a prescribe under rule 4(1).

You are required to produce the original ID Card to prove your identification before Station superintendent of Vasco before inspecting of the records shown in (a) & (b).

Being dissatisfied, the complainant filed a **first appeal** dated 01.04.2017, which has not been adjudicated by the First Appellate Authority.

Grounds for Complaint:

The Complainant filed a complaint u/s 18 of the RTI Act on the ground of unsatisfactory reply furnished by the Respondent. The Complainant requested the Commission to direct the CPIO to provide the information sought for and take appropriate legal action against the Respondent. He also requested the bench to grant an award of compensation.

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Submissions made by Complainant and Respondent during Hearing:

In order to ensure social distancing and prevent the spread of the pandemic, COVID-19, the instant hearing is being scheduled through audio conference after informing both the parties.

The Complainant stated that he is not satisfied with the reply provided by the Respondent. He further He reiterated the contents of the written submission dated 03.05.2021. He pressed for an award of compensation in the instant matter.

The Respondent submitted that available and relevant information has been provided to the Complainant. He further submitted that the information sought pertains to Vasco Railway Station, which is more than 200 kms away from Hubli.

A written submission has been received by the Commission from the Appellant vide letter dated 03.05.2021, wherein he has narrated the facts and circumstances of the instant case.

Decision:

The Commission, after hearing the submissions of both the parties and perusing the records, observes that the instant matter is a complaint filed under Section 18 of the RTI Act. Hence, the only adjudication required to be made by the Commission is to determine if the information has been denied with a *mala fide* intention or unreasonable cause to the information seeker. In this regard, the Commission relies upon the judgment of Hon'ble Supreme Court in the matter of **Chief Information Commissioner and another vs. State of Manipur and another**, dated 12.12.2011 wherein it was held as under:

"28. The question which falls for decision in this case is the jurisdiction, if any, of the Information Commissioner under Section 18 in directing disclosure of information. In the impugned judgment of the Division Bench, the High Court held that the Chief Information Commissioner acted beyond his jurisdiction by passing

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the impugned decision dated 30th May, 2007 and 14th August, 2007. The Division Bench also held that under Section 18 of the Act the State Information Commissioner is not empowered to pass a direction to the State Information Officer for furnishing the information sought for by the complainant.

...

30. It has been contended before us by the Respondent that under Section 18 of the Act the Central Information Commission or the State Information Commission has no power to provide access to the information which has been requested for by any person but which has been denied to him. The only order which can be passed by the Central Information Commission or the State Information Commission, as the case may be, under Section 18 is an order of penalty provided under Section 20. However, before such order is passed the Commissioner must be satisfied that the conduct of the Information Officer was not bona fide.

31. We uphold the said contention and do not find any error in the impugned judgment of the High court whereby it has been held that the Commissioner while entertaining a complaint under Section 18 of the said Act has no jurisdiction to pass an order providing for access to the information.

...

...

35. ... Therefore, the procedure contemplated under Section 18 and Section 19 of the said Act is substantially different. The nature of the power and Section 18 is supervisory in character whereas the procedure under Section 19 is an appellate procedure and a person who is aggrieved by refusal in receiving the information which he has sought for can only seek redress in the manner provided in the statute, namely, by following the procedure under Section 19. This Court is, therefore, of the opinion that Section 7 read with Section 19 provides a complete statutory mechanism to a person who is aggrieved by refusal to receive information. Such person has to get the information by following the aforesaid statutory provisions. The contention of the appellant that information can be accessed through Section 18 is contrary to the express provision of Section 19 of the Act. It is well known when a procedure is laid down statutorily and there is no challenge to the said statutory procedure the Court should not, in the name of interpretation, lay down a procedure which is contrary to the express statutory provision. ...

...

37. We are of the view that Sections 18 and 19 of the Act serve two different purposes and lay down two different procedures and they provide two different remedies. One cannot be a Substitute for the other.

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38. It may be that sometime in statute words are used by way of abundant caution. The same is not the position here. Here a completely different procedure has been enacted under Section 19. If the interpretation advanced by the learned counsel for the respondent is accepted in that case Section 19 will become unworkable and especially Section 19(8) will be rendered a surplusage. Such an interpretation is totally opposed to the fundamental canons of construction..."

Consequently, the Complainant has filed the instant Complaint after a delay of nearly 2 years. Though there is no time limit for filing a Complaint before the Commission but the same should be filed within a reasonable period i.e., as soon as a cause of action arises. In the instant matter, the Complainant has filed a First Appeal 01.04.2017, whereas the Commission has received the Complaint on 07.01.2019, which is nearly two years. The Commission is at a loss to decipher the factum that though the Complainant in every document i.e., RTI Application and written submissions has categorically mentioned that the information sought is in public interest, then what took the Complainant to file the instant Complaint after a delay of nearly two years. Despite the Bench remarked this during the hearing, the Complainant had the impudence to say that his comprehension of RTI Act is different. The Commission also observes that the Complainant during the entire proceedings has displayed aggressive nature in making his submissions and has vitiated the proceedings by not allowing/permitting either the Respondent or the Bench to make any kind of remark pertaining to the subject-matter. The Commission admonishes the Complainant for such kind of intemperate behavior and he is accordingly warned to mellow-down his tone and tenor while appearing before the Commission in future.

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The Commission finds it pertinent to mention herein that the Complainant after the conclusion of the hearing has sent a written representation with a subject-line "Letter for CONDONATION OF DELAY in filing Complaint as instructed by the IC". The Bench clarifies that it never insisted the Complainant to file a condonation of delay request; instead, the Bench remarked that whether the Complainant has filed any request for condonation of delay. Be it as it may, the Complainant in the aforesaid letter/written representation has referred to Section 468 to 473 of the Criminal Procedure Code, 1963, which is preposterous. It appears that the Complainant has failed to appreciate the fact that the reliance of the aforesaid Sections of Criminal Procedure Code, 1963 is irrelevant to the present case. Regard shall be had of Section 22 of the RTI Act, which provides that:

"...The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in the Official Secrets Act, 1923 (19 of 1923), and any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act."

The Commission yet again cautions the Complainant to be mindful while making any sort of submissions before the Commission. In addition, the Complainant apart from uploading his written submissions on the Commission's web-portal has also resorted to send a copy of the same to the official e-mail addresses of the Information Commissioner and the Deputy Registrar, which is not only irksome but also clogging up the routine system of working. Despite several polite as well as strict reminders, it appears that the Complainant has not mended his ways. This is nothing but a classic example of systematic persecution. Therefore, the Commission sternly warns the Complainant to desist from such practices. In the event if such avalanche of submissions is received on multiple portals, the

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Commission will be compelled to dismiss the same on the grounds of vexatious, repetitive and with an ulterior motive.

Further, the Complainant in his written submission has requested the Bench to convert the instant Complaint into a Second Appeal. In addition, he has mentioned that *“to save time and ensure that a case was not missed out, a complaint was filed as soon as the 1st appeal was made, and was uploaded, in the hope that later on, the FAA order will ALSO BE UPLOADED”*. The request of the Complainant to convert the instant matter to a Second Appeal was perhaps an afterthought to circumvent the procedural requirements. Moreover, it does not appear that the Complainant is unaware about the procedure requirements, since the Complainant in various other cases has satisfied the legal criteria for filing Second Appeals. Nonetheless, the Commission is of a considered opinion that *‘ignorantia juris non excusat* or *ignorantia legis neminem excusat’*. Further, in the matter of ***Chief Information Commissioner and another vs. State of Manipur and another***, the Hon’ble Supreme Court while elaborating on the distinction between the procedure under Section 18 and Section 19, also ruled that it is one of the well known canons of interpretation that no statute should be interpreted in such a manner as to render a part of it redundant or surplusage. Misusing the mechanism of Section 18 to file complaints with a request to subsequently convert the same into Second Appeals will indeed render the mechanism of Section 19 redundant.

Moreover, the Complainant has stated that the information sought in the instant RTI Application is in public interest. In this regard, the Commission relies upon the judgment of Hon’ble Supreme Court in the matter of ***Central Public Information Officer, Supreme Court of India Vs. Subhash Chandra Agarwal in***

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Civil Appeal No. 10044 of 2010 with Civil Appeal No. 10045 of 2010 and Civil Appeal No. 2683 of 2010, has held as under:

“43. It must be kept in mind that the transparency cannot be allowed to run to its absolute, considering the fact that efficiency is equally important principle to be taken into fold. We may note that right to information should not be allowed to be used as a tool of surveillance to scuttle effective functioning of judiciary. While applying the second step the concerned authority needs to balance these considerations as well.

44. In line with the aforesaid discussion, we need to note that following non-exhaustive considerations needs to be considered while assessing the ‘public interest’ under Section 8 of the RTI Act-

- a. Nature and content of the information*
- b. Consequences of non-disclosure; dangers and benefits to public*
- c. Type of confidential obligation*
- d. Beliefs of the confidant; reasonable suspicion*
- e. Party to whom information is disclosed*
- f. Manner in which information is required*
- g. Public and private interests*
- h. Freedom of expression and proportionality”*

[In addition, the Complainant has also sought compensation and the amount of compensation has also been mentioned in the instant Complaint as Rs. 50,00,000/- (Rupees Fifty Lakhs only). The Commission is stumped to note the fact that the Complainant’s claim to seek compensation is not only unjust, unreasonable and exorbitant but the same is without any basis. It appears that the Complainant’s motive is to cause irreparable loss to the Respondent and the public exchequer and gain in an undue manner. Such kind of misuse cannot be encouraged by the Commission. Hence, the Complainant’s plea to grant an award of compensation is also rejected because the same is unjust, unreasonable, exorbitant and without any basis.]

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Nonetheless, the Commission is satisfied with the reply provided by the Respondent. Hence, the Commission finds no infirmity in the reply provided by the Respondent.

Keeping in view the aforesaid detailed analysis and observations, the instant Complaint is dismissed.

Copy of the decision be provided free of cost to the parties.

The complaint, hereby, stands dismissed.

Amita Pandove (अमिता पांडव)

Information Commissioner (सूचना आयुक्त)

दिनांक / Date 09.06.2021

Authenticated true copy

(अभिप्रमाणित सत्यापित प्रति)

B. S. Kasana (बी. एस. कसाना)

Dy. Registrar (उप-पंजीयक)

011-26105027

CIC/SWRLY/C/2019/600256

Addresses of the parties:

1. The First Appellate Authority (FAA)
ADRM, South Western Railway,
Divisional office Commercial Branch,
Gadag Road, Hubballi,
Karnataka - 580020
2. The Central Public Information Officer (CPIO)
/SR. Divisional Commercial Manager.
South Western Railway, Divisional Office,
Commercial Branch, Gadag Road,
Hubballi, Karnataka – 580020
3. Mr. Sameer Sardana
D-113, Sector 4, Defence Colony,
Dehradun, Uttarakhand-248001

केन्द्रीय सूचना आयोग
Central Information Commission
 बाबागंगनाथमार्ग, मुनिरका
 Baba Gangnath Marg, Munirka
 नई दिल्ली, New Delhi – 110067

द्वितीय अपील संख्या / Second Appeal No.: **CIC/DELJB/A/2019/104620**

Om Prakash Gaud

.....अपीलकर्ता / Appellant

VERSUS/बनाम

PIO,

Nodal Officer-(Vigilance), Delhi Jal Board
 (Government of NCT of Delhi), Vigilance
 Department, Varunalaya Building, Phase-II,
 Karol Bagh, New Delhi-110005.

2. Nodal Public Information Officer-HQ,
 Director-(Enforcement)-(RTI), Delhi Jal Board
 (Government of NCT of Delhi), Room No.-315-B,
 RTI Cell, Varunalaya Building, Phase-2, Karol Bagh,
 New Delhi-110005.

....प्रतिवादी गण / Respondent

Relevant facts emerging from appeal:

RTI application filed on	:	27-09-2018
CPIO replied on	:	26-10-2018
First appeal filed on	:	12-10-2018
First Appellate Authority order	:	16-01-2019
Second Appeal received at CIC	:	30-01-2019
Date of Interim Hearing	:	22-03-2021
Date of Interim Decision	:	22-03-2021
Date of Final Decision	:	13-07-2021

सूचना आयुक्त : श्री हीरालाल सामरिया
Information Commissioner : Shri Heeralal Samariya

Information sought:

The Appellant sought following 02 points information regarding of Department proceedings in the case of Charge-Memo no. DJB/Vig./Major/CS-(B)-106/(11)/2013/9685 dated 04.09.2013 against him wherein the major penalty is

dismissal from service and another charge memo dated 25.02.2014 wherein he had finally dismissed from services:

1. kindly allow the inspection of case file of both the above cases and provide the certified copies of the selected documents.
2. Provide the certified copy of order of appointment of IO/PO (undersigned copy provided during proceedings by competent authority has been lost) and the noting sheet of case file of charge memo dated 04.09.2013 containing the decision recorded by Sh. Hozer Lollen, then Member (A) in the year 2013 after considering the written defence statement of the CO to this charge sheet.

^

Having not received any response from the PIO, the Appellant filed a First Appeal dated 12.10.2018. The FAA, vide order dated 16.01.2019, directed the PIO to provide the information to the appellant if it is not covered under any other exemption clauses of the Act within stipulated time period. The order is as under:

The appellant stated that he has not received reply to his RTI application dated 27.09.2018. During the course of hearing, the reply sent by the PIO (Vig.) was shown to the appellant. The copy of the same may also be provided. The appellant also stated that the exemption clause 8(1)h has wrongly been applied and wants information about the final stage of the matter as the investigation and the inquiry proceedings reportedly are over. PIO(Vig) is directed to provide the information to the appellant if it is not covered under any other exemption clauses of the Act within the period of 15 days to the applicant.

The appellant has refused to sign on attendance sheet during the hearing.

In the light of above the appeal is accordingly disposed off.

Grounds for Second Appeal:

The PIO has not provided correct information to the Appellant.

Relevant Facts emerging during Hearing:

The following were present: -

Appellant: Present in person

Respondent: Mr. N.K. Sharma, PIO (Vigilance), Delhi Jal Board, GNCTD

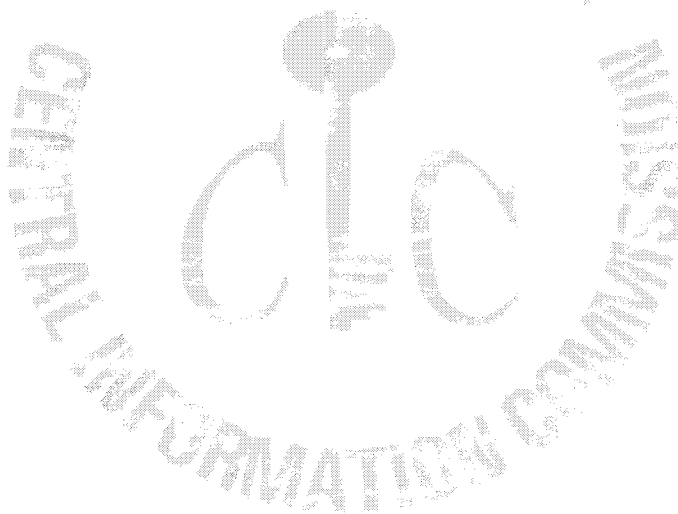
Appellant stated that relevant information sought has been wrongly denied under the garb of Section 8(1)(h) of the RTI Act, 2005.

PIO submitted that the averred Disciplinary proceedings has not been concluded yet and thus, relevant information was not provided.

Appellant interjected to state that PIO has still not justified how disclosure of information would impede the process of investigation.

Interim Decision:

Commission on the basis of proceedings during hearing, directs the PIO to file a written submission justifying his denial of information under Section 8(1)(h) and how disclosure of the same would impede the process of investigation. The written submission of PIO justifying the denial of information under Section 8(1)(h) of RTI Act as directed above shall reach the Commission within 7 days from the date of receipt of this order with a copy duly endorsed to the Appellant. Further, if the Appellant desires to counter the submission of PIO, he may submit the same to the Commission within 7 days of receipt of the CPIO's submission.



ADJUNCT DECISION PROCEEDINGS

In furtherance of the interim decision wherein PIO was directed to justify the invocation of Section 8(1)(h) of the RTI Act, 2005. Commission is in receipt of the written submission of PIO dated 13.04.2021 and counter submission of Appellant dated 20.04.2021.

Written Submission of PIO dated 13.04.2021:

Sub.: Written submission in compliance with order dated 22.03.2021 in Appeal No. CIC/DEJUB/A/2019/104620.

Sir,

Kind reference is invited to Commission's interim decision dated 22.03.2021 on the above cited subject. The Hon'ble Commission vide the said order has passed the following decision:

"Commission on the basis of proceedings during hearing, directs the PIO to file a written submission justifying his denial of information under Section 8(1)(h) and how disclosure of the same would impede the process of investigation. The written submission of PIO justifying the denial of information under 8(1)(h) of RTI Act as directed above shall reach the Commission within 7 days from the date of receipt of this order with a copy duly endorsed to the Appellant. Further, if the Appellant desires to counter the submission of PIO, he may submit the same to the Commission within 7 days of receipt of the CPIO's submission."

Submission

- (i) The Appellant had requested to provide certified copies of the documents related to the charge sheet dated 04.09.2013 issued to him by the competent Disciplinary Authority. The same was denied being covered under Section 8(1)(h) of the RTI Act, 2005 vide this office letter no. 9429 dated 26.10.2018(copy enclosed as Annexure-I).
- (ii) Not satisfied with the information provided, the applicant filed an appeal before FAA. During the course of hearing, the Appellant stated that the exemption clause had wrongly been applied and wanted information about the final stage of the matter, as the investigation and the enquiry proceedings

were over. The FAA vide his orders dated 16.01.2019 (copy enclosed as Annexure-II) directed the PIO(Vig.) to provide the information to the appellant if it was not covered under any other exemption clauses of the Act.

In view of the above, the Appellant was informed vide letter dated 01.02.2019 that-

"Regarding final stage of the matter i.e. charge-sheet dated 04.09.2013, it is to inform that after completion of Inquiry proceedings in the matter, a report was submitted to the Disciplinary Authority by the Inquiry Officer, wherein he held the charges as 'Proved' against Sh. O.P. Gaud, AE(C). The findings of the Inquiry Officer were placed before the Disciplinary Authority, who accepted the inquiry report. Accordingly, the same was served to Sh. O.P. Gaud for his comments, if he so desired.

"Meanwhile, in another departmental case against Sh. O.P. Gaud, the competent authority imposed the penalty of 'Dismissal from service which shall ordinarily be a disqualification for future employment under the Government'. As such, on account of his dismissal from the services of DJB, in the instant case i.e. charge sheet dated 04.09.2013, the competent authority has taken a view to keep the disciplinary proceedings suspended and may be revived, if and when the Appellate Authority or Court of law amend, the said penalty (of dismissal from service) at later stage."

It is to submit before Hon'ble CIC that the requested information about the grounds on which final decision of the competent Disciplinary Authority to keep the disciplinary proceedings suspended and may be revived, if and when the Appellate Authority or Court of law amend, the said penalty (of dismissal from service) at later stage, were duly communicated to the Appellant vide this office letter dated 01.02.2019 (Annexure-III), though the documents related to the case were denied since the matter had not attained the finality and, therefore, the same were not provided under Section 8(1)(h) of the RTI Act, 2005 as per which "Notwithstanding anything contained in this Act, there shall be no obligation to give any citizen, - information which would impede the process of investigation or apprehension or prosecution of offenders."

In this regard, kind reference is invited to Hon'ble Commission's Orders dated 13.01.2017 which was taken into consideration since as per the said order-

"Hon'ble Commission observes that a full bench of this Commission in its order dated 28/11/2014 in File No.CIC/SM/A/2012/001020 – A K Agrawal V/S SEBI and RIL, had held as under: -

14. This Commission in its decision dated 10.07.2007 in Appeal No. CIC/AT/A/2007/0007, 10 & 11 (Shankar Sharma & Others Vs. DGIT) observed that the term 'investigation' used in section 8(1)(h) of the Act should be interpreted broadly and liberally and that no investigation could be said to be complete unless it has reached a point where the final decision on the basis of that decision is taken. This Commission in CIC/AT/A/2007/007/00234 – K.S. Prasad vs SEBI, observed that "...as soon as an investigation or an enquiry by a subordinate Enquiry Officer in Civil and Administrative matters comes to an end and, the investigation report is submitted to a higher authority, it cannot be said to be the end of investigation. ... which can be truly said to be concluded only with the decision by the competent authority." This Commission in CIC/DS/A/2013/000138/MP – Narender Bansal vs Oriental Insurance Co. Ltd., has held that the investigation in the matter was complete but further action was under process, and hence it attracted section 8(1)(h) of the Act" (copy enclosed as Annexure-IV for kind reference).

Appellant Counter submission dated 20.04.2021 is taken on record:

Written Counter submission by Appellant in compliance with Interim order dated 22.03.2021 of the CIC.

The Appellant, above named, most respectfully begs to submit That -

The Honourable Sh. Hiralal Samariya, Information Commissioner (CIC) vide his above-mentioned Interim order dated 23.03.2021, has directed the respondent/PIO, DJB Vigilance that *"The written submission of PIO justifying his denial of information under Section 8(1)h and how disclosure of the same would impede the process of investigation as directed above shall reach the commission within 7 days from the date of receipt of this order with a copy duly endorsed to the Appellant. Further, if the Appellant desires to counter the submission of the PIO, he may submit the same to the commission within 7 days of receipt of the PIO's submission."* Subsequently the written submission of PIO dated 13.04.2021 has been received by Appellant by post on 16.04.2021 wherein PIO has completely failed to explain/justify how disclosure of the information would impede the process of investigation as directed by CIC, most probably because there is no any possible justification as the impediment of a paused/suspended proceeding is not possible just like that the impediment of the paused/stopped vehicle is not possible.

call

The said proceedings/investigation was paused/suspended five years back in August-2016 by Disciplinary Authority himself which has also been explained by the PIO/Respondent in his letter dated 01.02.2019 and written submission dated 13.04.2021 and as such the proceeding/investigation is already laying completely stopped for last five years (Copy of PIO's letter dated 01.02.2019 and submission dated 13.04.2021 are annexed as **Annexure-1**colly).

In this regard it is pertinent to mention here that the law under S 8 (1)h has already been clarified by Honourable CIC in case of Institute of Chartered Accountants of India Vs. Shaunak H. Satya and Ors) in Civil Appeal NO. 7571 of 2011- dated 02/09/2011 and held that "Moreover, the Commission observed that as per the provisions of Section 19 (5) of the RTI Act, 2005, in an Appeal proceeding, the onus to prove that a denial of a request was justified shall be on the CPIO. While observing that in order to deny information under any of the exemption mentioned under Section 8 (1) of the RTI Act, 2005, the Respondent is required to provide justification or establish the reason why such exemption was claimed.

Similarly, in Director of Income Tax (Investigation) and Anr. v. Bhagat Singh & Anr., 17 December, 2007, a Division Bench of Delhi High Court had observed as under: -

"8. Information Assessing officer. Under Section 8(1) (h) information can be withheld if it would impede investigation, apprehension or prosecution of offenders. It is for the appellant to show how and why investigation will be impeded by disclosing information to the appellant. General statements are not enough. Apprehension should be based on some ground or reason." (Copy of said Court order dated 17.12.2007 is annexed as **Annexure-2**)

Moreover, the PIO, in his RTI reply and during the proceeding before FAA had got failed to prove how the proceeding would impede if the information is provided to appellant and consequently FAA has issued an order dated 16.01.2019 which reads as follows-

"PIO (Vig.) is directed to provide the information to appellant if it is not covered under any other exemption clauses of the Act within the period of 15 days to the applicant."
(Copy of FAA's order dated 16.01.2019 is annexed as **Annexure-3**)

In spite of that no sought information was provided by the PIO till date from the date of receipt of the FAA's order except a letter dated 01.02.2019 and from the perusal of this letter, it is clearly appearing that PIO neither claimed any exemption under any section [including 8(1)(h)] of RTI Act-2005 as no such section/clause of RTI is mentioned to that effect, nor he filed a second Appeal to challenge the order of FAA and therefore the order of FAA reached to its finality. Non providing of information in such circumstances without any reasonable cause caused injury to Appellant (mental, reputational and financial), the DJB (financial and reputational) and also Appellant could not be able to approach to the CAT or honourable Delhi High Court for implementation of order of

exoneration recorded by Disciplinary Authority in 2013 in the case File of Charge memo dated 04.09.2013, the case due to which Appellant's promotion from the post of AE to EE contained in sealed cover since 2012 has not been implemented by DJB authority, in absence of such sought information and as such the act of non-providing of information of Sh. Vineet Kumar, PIO(Vig.), DJB with an intention to cause injury to Appellant & malafidely avoiding his statutory duty under RTI Act makes him liable to be punished under provision of section 20 (1) & (2) of the RTI Act.

Prayer/relief sought for:

The Appellant, therefore, prays that,

- (1) your honour be pleased to pass an order directing the PIO to provide the following information sought by the appellant vide RTI application dated 27.09.2019 at free of cost under section 7 (6) of RTI Act -
 - a. Kindly allow the inspection of case file of Charge memo 04.09.2013 and provide the certified copies of the selected documents.
 - b. Provide the certified copy of the noting sheet of case file of charge memo dated 04.09.2013 containing the decision recorded by Shri Hozer Lollen, then Member (A) in the year 2013 after considering the written defence statement of the CO to this charge sheet."
- (2) PIO may kindly be punished under Section 20 (1) & (2) of RTI Act 2005.

Final Decision:

The current milieu of the pandemic COVID-19 has necessitated the Commission to take some extraordinary steps in the disposal of cases to avoid further backlog and delays subverting the very purpose of RTI Act which includes *inter alia* disposing the referred case on the basis of the written submissions of the both the parties.

In doing so, Commission has gone through the written submissions of both the parties and observes from the perusal of facts on record that the PIO(Vigilance) has relied on the rationale that case has not reached its logical conclusion due to suspension of the averred disciplinary proceedings (DP) in respect of which appellant had sought information. Even if said argument of the respondent authority is conceded with, the question of its impeding the process of investigation is still not justified by the PIO(Vigilance). Further, PIO(Vigilance) in the written submission has admitted the fact that inquiry proceedings were completed, and a report was submitted to the Disciplinary Authority and since

then the said proceedings is kept in abeyance. Now, commission is aghast by the fact that Respondent Authority has kept the averred D.P in abeyance solely based on the conclusion of some other proceedings for such a long time, Nevertheless, Commission is not empowered to interfere in the administrative function of the Respondent Authority. However, the indefinite abeyance of the said proceedings despite attaining finality as averred by the PIO(Vigilance)in the Written submission dated 13.04.2021 cannot be considered as an impediment towards the process of investigation or the proceedings.

Further, Commission observes that the PIO has neither justified as to which aspect of Section 8(1)(h) of RTI Act is attracted in the facts of the instant case nor mentioned as to what part of investigation or proceedings will be impeded from the disclosure of said information. Moreover, FAA vide its order dated 16.01.2019 directed the PIO to provide the relevant information to the appellant. In the facts and circumstances of the case, Commission places reliance on certain judgments of superior courts, some of which have been cited by the Appellant also in the grounds of Second Appeal, wherein, Courts have stressed on the fact that mere claim of Section 8(1)(h) is not enough.

Here, reference shall be had of a judgment of Hon'ble Delhi High Court in the matter of *Bhagat Singh vs. CIC* dated 03.12.2007 wherein the following was observed:

“13. Access to information, under Section 3 of the Act, is the rule and exemptions under Section 8, the exception. Section 8 being a restriction on this fundamental right, must therefore is to be strictly construed. It should not be interpreted in manner as to shadow the very right itself. Under Section 8, exemption from releasing information is granted if it would impede the process of investigation or the prosecution of the offenders. It is apparent that the mere existence of an investigation process cannot be a ground for refusal of the information; the authority withholding information must show satisfactory reasons as to why the release of such information would hamper the investigation process. Such reasons should be germane, and the opinion of the process being hampered should be reasonable and based on some material. Sans this consideration, Section 8(1)(h) and other such provisions would become the haven for dodging demands for information...”

Similarly, the Hon'ble High Court of Delhi in the matter of *B.S. Mathur v. PIO, Delhi High Court* in W.P. (C) 295 of 2011 dated 03.06.2011 has held as under:

"19. The question that arises for consideration has already been formulated in the Court's order dated 21st April 2011: Whether the disclosure of the information sought by the Petitioner to the extent not supplied to him yet would "impede the investigation" in terms of Section 8(1)(h) RTI Act" The scheme of the RTI Act, its objects and reasons indicate that disclosure of information is the rule and non-disclosure the exception. A public authority which seeks to withhold information available with it has to show that the information sought is of the nature specified in Section 8 RTI Act. As regards Section 8(1)(h) RTI Act, which is the only provision invoked by the Respondent to deny the Petitioner the information sought by him, it will have to be shown by the public authority that the information sought "would impede the process of investigation." The mere reproducing of the wording of the statute would not be sufficient when recourse is had to Section 8(1)(h) RTI Act. The burden is on the public authority to show in what manner the disclosure of such information would 'impede' the investigation..."

22. ...The mere pendency of an investigation or inquiry is by itself not a sufficient justification for withholding information. It must be shown that the disclosure of the information sought would "impede" or even on a lesser threshold "hamper" or "interfere with" the investigation. This burden the Respondent has failed to discharge."

(Emphasis Supplied)

Further, Hon'ble Delhi High Court in the matter of *Adesh Kumar vs. Union of India & Ors.* dated 16.12.2014 held as under:

*"6. A plain reading of the aforesaid provision indicates that information which would impede the process of investigation or apprehension, or prosecution of offenders could be denied. In order to deny information, the public authority must form an affirmative opinion that the disclosure of information would impede investigation, apprehension or prosecution of offenders; **a mere perception or an assumption that disclosure of information may impede prosecution of offenders is not sufficient.** In the present case, neither the FAA nor the CIC has considered as to how the information as sought for would impede the process of investigation or apprehension or prosecution of the petitioner and other accused."* **(Emphasis Supplied)**

(...)

“10. A bare perusal of the order passed by the FAA also indicates that the aspect as to how the disclosure of information would impede prosecution has not been considered. Merely, citing that the information is exempted under Section 8(1)(h) of the Act would not absolve the public authority from discharging its onus as required to claim such exemption. Thus, neither the FAA nor the CIC has questioned the Public Authority as to how the disclosure of information would impede the prosecution.” (Emphasis Supplied)

Adverting to the aforesaid ratios, the denial of information under Section 8(1)(h) in the instant matter is rejected. Commission directs the PIO to provide relevant information to the appellant as sought in the instant RTI Application, free of cost via speed/registered post, within 30 days from the date of receipt of this order and accordingly compliance report to this effect be duly sent to the Commission by the PIO. However, PIO must not provide information which is exempted from disclosure under any other provisions of the RTI Act, 2005.

The appeal is disposed of accordingly.

Heeralal Samariya (हीरालालसामरिया)

Information Commissioner (सूचना आयुक्त)

Authenticated true copy
(अभिप्रमाणित सत्यापित प्रति)

Ram Parkash Grover (राम प्रकाश ग्रोवर)

Dy. Registrar (उप-पंजीयक)

011-26180514

Om Prakash Gaud

S/o. Late Gopal Gaud, House

No.-47, Type-3, Jal Vihar

Colony, Lajpat Nagar-I, New

Delhi-110024.

केन्द्रीय सूचना आयोग
Central Information Commission
 बाबागंगनाथमार्ग, मुनिरका
 Baba Gangnath Marg, Munirka
 नई दिल्ली, New Delhi – 110067

याचिकासंख्या /PetitionNo.: **CIC/DPREL/A/2019/113594**

CIC/DPREL/A/2019/117227

CIC/DPREL/A/2019/117228

Andy Sehgal

/याचिकाकर्ता.....Petitioner

VERSUS/बनाम

1. Public Information Officer,
 O/o PIO, Addl. Public Prosecutor,
 Directorate of Prosecution, Room No. 176,
 First Floor, Tis Hazari Courts Complex,
 Delhi – 110054.

...प्रतिवादीगण/Respondent

Relevant facts emerging from Petition(s):

Date of Hearing : 07.09.2021

Date of Decision : 07.09.2021

CIC/DPREL/A/2019/		113594	117227
RTI application filed on	:	15.11.2018	05.12.2018
CPIO replied on	:	05.01.2019	05.01.2019
First appeal filed on	:	24.12.2018	28.01.2019
First Appellate Authority order	:	10.01.2019	Not on record
Petition received at CIC	:	26.03.2019	12.04.2019

CIC/		DPREL/A/2019/117228	
RTI application filed on	:	07.01.2019	
CPIO replied on	:	22.01.2019	
First appeal filed on	:	06.03.2019	
First Appellate Authority order	:	Not on record	

Petition received at CIC	:	12.04.2019
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सूचनाआयुक्त: श्री हीरालाल सामरिया
Information Commissioner: Shri Heeralal Samariya

Note: Since the referred cases pertains to the same parties and the issues involved are similar in nature, therefore, the Commission proposes to adjudicate them jointly through the present order.

CIC/DPREL/A/2019/113594

Information sought:

The Petitioner sought information as under:

INFORMATION REQUIRED UNDER THE RTI ACT, 2005.

The undersigned hereby requires the following information as follows under various heads:-

1. Certified copy of complaint moved by Ld MM Sonam Singh against my wife Ld. APP Preeti Mishra before the office of Ld Directorate of Prosecution, Delhi and all the other documents pertaining to the inquiry initiated by the department to this regard in the year 2017(This information is necessary to establish her DSM 5 syndrome symptoms and the self- infliction of injuries and creating false MLC which is an enclosure in the representation of Ld. APP copy of which is already annexed as Annexure A)
2. Certified copy of coloured photographs attached by my wife Ld. APP Preeti Mishra in her representation copy of which is Annexure A (This information is necessary to establish the contradictions in her representation copy of which is Annexure A and the MLC which is an enclosure in the representation of Ld. APP copy of which is already annexed as Annexure A)
3. Certified copy of any report submitted by my wife Ld. APP Preeti Mishra under CCS conduct rules ,Rule 13(2)(ii) as to any gift she had received above the value of Rs 15,000 or any other value as per latest notification from any of her personal friends or relatives during the period from her date of joining till date.(This information is necessary regarding the dowry allegations hurled by my wife Ld. APP Preeti Mishra)

Etc.

Dissatisfied that no information received, Appellant filed First Appeal, vide letter dated 24.12.2018.

PIO furnished reply, vide letter dated 05.01.2019, as under:

With reference to your RTI applications ID No. 135 dated 15.11.2018 on the subject cited above. The point-wise reply are as under;

Question No.	Reply
1, 5 to 7	The information sought by the applicant is appear to be third party /personal in nature and furthermore the officer concerned to whom the information belong has also denied to share the information to the applicant and revealing the said will not serve any public interest. Hence, the same cannot be provided.
2.	The question itself reveals that the applicant is already having the copy of document i.e., photographs as well as the MLC which is attached by the applicant as Annexure in his application. Therefore as requested, the coloured photocopy of the photographs and the copy of the MLC received from the C.P. (N/W) is enclosed.
8.	The Noting Sheet and other documents as requested by the applicant are the part of the fact finding proceedings file and the same cannot be shared to the applicant under RTI Act, As the matter is pending before the Ld. CP (N/W) and the information is also cannot be parted being exempted w/s 8(1)(h) of RTI Act, 2005 in the light of the judgement of CIC vide judgement CIC/CBECE/A/2017/182212-BJ titled as "Prabhu Dayal Beniwal Vs. CPIO, O/o the Commissioner of Central Excise, Customs & Service Tax, Jaipur, Rajasthan dated 11.08.2017.
9.	The information sought is not covered under the purview of the RTI Act.
10 & 11	As per the correspondence record of the CP (N/W), the representation of the applicant as annexure F and D of his RTI application were went to the officer concerned and her comments were also received. But the comments received from the officer cannot be parted to the applicant as they are also part of the fact finding proceeding file. In view of the reasoning given in reply of Para/Question No.8

Yours(sincerely,

The FAA, vide order dated 10.01.2019, held as under:

Four appeals on the similar facts and grounds were filed by the appellant under RTI Act, wherein it has been prayed that he has not received any reply from the P.I.O. of this Directorate.

The appeals were received on 26/12/2018 vide Dy. No.2495/DOP/18 to 2498/DOP/18 in this Directorate. Thereafter, notice of hearing was issued to the appellant on 27/12/2018 with the direction to appear on 10/01/2019 at 3:00 p.m.

On 10/01/2019, the Appellant along with his father has appeared and put forth his part and he argued that the information supplied to him is not complete and the grounds mentioned for declining most of the information are not justified and he prayed that P.I.O. be directed to supply all the information forthwith.

The P.I.O. has submitted that the information asked by the appellant has already been provided to him vide reply bearing No.135/DOP/2018/04 dated 05.01.2019.

I have gone through the appeal, reply furnished by the PIO and the relevant records.

It is clear from the record that the information asked by the appellant on Question No.1, 3 to 7 were declined by the P.I.O. on the ground that it is a third party information/personal in nature and similarly, the question No.8, 10 & 11 were replied that the information cannot be provided since the fact finding proceedings are pending.

The information asked at Question No.2 has already been supplied and Question No.9 was found not covered under the purview of RTI Act.

Hence, the reply of the PIO appears to be proper. In this regard, the law is very clear in the case titled as 'Canara Bank Vs C.S. Shyam' dated 30.08.2017 of Hon'ble Supreme Court of India that the information pertaining to an employee which is personal in nature and third party, cannot be supplied under RTI Act and similarly, order passed by Hon'ble C.I.C. in the case of Prabhu Dayal Beniwal Vs C.P.I.O., Office of the Commissioner of Central Excise dated 11.08.2017 that if there is any inquiry pending against a person, the document of the file cannot be supplied to him/her under RTI Act and the same are exempted u/s 8(1)(h) of RTI Act.

Hence, I do not find any merit in the appeals filed by the appellant. Hence, all the four appeals filed by the appellant are dismissed by this single order.

The appeals are disposed of accordingly.



^ /

Written submission has been received from PIO, vide letter dated 31.08.2021, as under:

Ref : File No. CIC/DPREL/A/2019/ 113594 dated 18.08.2021.

Date of hearing listed on 07.09.2021 at 11.40 AM at Room No. 415.

Respected Sir,

It is submitted that notice for hearing of above referred appeal has been received in the office. It is further submitted a notice for this appeal has also been issued to PIO / Dy. Secretary (Home/ DOP), Govt. of NCT of Delhi and the said notice has been forwarded to this office (copy enclosed).

In this connection, it is respectfully submitted that the copies of Annexure B dated 24.12.2018, Annexure C dated 27.12.2018, Annexure D, Annexure E dated 08.01.2019, Annexure F dated 09.01.2019, Annexure G dated 11.01.2019, Annexure H dated 14.01.2019, Annexure I-1, Annexure I-2, Annexure I-3, Annexure I-4 dated 27.04.2018, Annexure I-5, Annexure I-6 dated 10.05.2018, Annexure I-7 dated 28.05.2018, Annexure I-8 dated 05.06.2018, Annexure I-9 dated 06.07.2018, Annexure I-10, Annexure I-11, Annexure I-12 dated 22.12.2018, Annexure I-13 dated 04.01.2019, Annexure I-14 dated 07.01.2019, Annexure I-15 dated 08.01.2019, Annexure J-1 dated 27.12.2018, Annexure J-2, Annexure J-3 dated 14.01.2019, Annexure J-4 dated 15.01.2019, Annexure J-5 dated 16.01.2019, Annexure J-6, Annexure J-7 dated 11.02.2019, Annexure J-8 dated

13.02.2019, Annexure K-1, Annexure K-2, Annexure K-3, Annexure L-1 dated 05.03.2019, Annexure L-2 dated 05.03.2019 and Annexure L-3 have not been supplied to the office of PIO, Directorate of Prosecution, Govt. of NCT of Delhi. In this regard, it is humbly requested that the appellant may kindly be directed to supply the said documents. Upon the supply of said documents, the respondent is at liberty to file additional reply, if any.

It is respectfully submitted that upon the receipt of RTI application, reply / information dated 05.01.2019, by the-then PIO has given to the appellant wherein the-then PIO has given information to the appellant on all the counts i.e. information sought vide question no. 1 to 11. The then PIO has given specific information to the appellant which is as under:

In reply to information sought vide question No. 1, 3 to 7 - the-then PIO has denied the information sought by the appellant on the ground that information pertains to third party / personal in nature and further more concerned officer has also denied to share the information with the appellant.

In reply to information sought vide question No. 8 - the-then PIO has informed that the noting sheets and other documents as sought by the appellant were part of facts finding proceedings and same cannot be shared with the appellant under. Ld. PIO has also informed that the said documents being exempted under Section 8 (1) (h) of RTI Act in the light of judgment titled Prabhu Dayal Beniwal Vs. CPIO dated 11.08.2017.

In reply to information sought vide question No. 9 - the-then PIO has mentioned that the since the information does not cover under the purview of RTI Act, the same cannot be supplied.

In reply to information sought vide question No. 10 - 11 - the-then PIO has replied that the desired comments cannot be parted with the appellant as they were also part of fact finding inquiry and were covered under the above cited judgment dated 11.08.2017.

It is not the case of the appellant that the-then office of PIO has not provided the information sought for or had given any wrong information. It is therefore requested that the appeal preferred by the appellant may be dismissed.

Grounds for petition:

The PIO has not provided correct information to the Appellant.

CIC/DPREL/A/2019/117227

Information sought:

The Petitioner sought information as under:

The undersigned hereby requires the following information as follows under various heads:-

1. Certified copies of all details as to file notings made by the Ld. Officials with regard to representation moved by my wife Ld. APP Preeti Mishra copy of which is Annexure B.(Kindly refer to Paras Nath vs. UOI)
2. Separately the daily progress made in case of above said representation copy of which is Annexure B till date i.e. when did it reach which officer/functionary, how long did it stay with that officer/functionary and what did that officer/functionary, do during that period on the said representation together with file noting and name and designation of each officer/functionary.(Kindly refer to Paras Nath vs. UOI)
3. List of the officers with their designation to whom before the said representation(Annexure B) is placed. Also provide me the noting made by them on the said file.
4. Does Rule 13 A of CCS conduct rules apply to a female government servant ?
5. Does Rule 13 A of CCS conduct rules apply to a male government servant ?
6. Does Rule 13 A of CCS conduct rules apply to a transgender government servant ?

Etc.

PIO furnished reply, vide letter dated 05.01.2019, as under:

With reference to your RTI applications ID No. 2330 dated 06.12.2018 on the subject cited above. The point-wise reply are as under;

Question No.	Reply
1 to 3	The Noting Sheet and other documents as requested by the applicant are the part of the fact finding proceedings file and the same cannot be shared to the applicant under RTI Act, As the matter is pending before the Ld. CP (N/W) and the information is also cannot be parted being exempted u/s 8(1)(h) of RTI Act, 2005 in the light of the judgement of CIC vide judgement CIC/CBECE/A/2017/182212-BJ titled as "Prabhu Dayal Beniwal Vs. CPIO, O/o the Commissioner of Central Excise, Customs & Service Tax, Jaipur, Rajasthan dated 11.08.2017.
4 to 10	The information sought does not covered under the purview of the RTI Act.
11	The information sought by the applicant is appear to be third party /personal in nature and furthermore the officer concerned to whom the information belong has also denied to share the information to the applicant and revealing the said will not serve any public interest. Hence, the same cannot be provided.
12 & 13	The information sought does not covered under the purview of the RTI Act.
14	As per the record of the office of CP/North West, it is a fact finding proceedings and rest of the information does not covered under RTI Act.
15 to 16	The information sought does not covered under the purview of the RTI Act.

Yours sincerely,

Dissatisfied with the response received from PIO, Appellant filed First Appeal, vide letter dated 28.01.2019.

Written submission has been received from PIO, vide letter dated 31.08.2021, as under:

Ref: File No. CIC/DPREL/A/2019/117227 dated 18.08.2021.

Date of hearing listed on 07.09.2021 at 11.40 AM at Room No. 415.

Respected Sir,

It is submitted that notice for hearing of above referred appeal has been received in the office. In this connection, it is respectfully submitted that the copies of Annexure C dated 28.01.2019 (75-100) has not been supplied to the office of PIO, Directorate of Prosecution, Govt. of NCT of Delhi. In this regard, it is humbly requested that the appellant may kindly be directed to supply the said documents. Upon the supply of said documents, the respondent is at liberty to file additional reply, if any.

It is respectfully submitted that upon the receipt of RTI application, reply / information dated 05.01.2019, by the-then PIO was given to the appellant wherein the-then PIO has given information to the appellant on all the counts i.e. information sought vide question no. 1 to 16. The then PIO has given specific information to the appellant which is as under :

In reply to information sought vide question No. 1 – 3 - the information was provided to the appellant.

In reply to information sought vide question No. 4 – 10 - the-then PIO has mentioned that the since the information does not cover under the purview of RTI Act, the same cannot be supplied.

In reply to information sought vide question No. 11 - the information was provided to the appellant.

In reply to information sought vide question No. 12 – 13 - the-then PIO has mentioned that the since the information does not cover under the purview of RTI Act, the same cannot be supplied.

In reply to information sought vide question No. 14 - the-then PIO has replied that as per the record of the office CP (N/W), it is a fact finding proceedings and rest of the information does not cover under the RTI Act.

In reply to information sought vide question No. 15 – 16 - the-then PIO has mentioned that the since the information does not cover under the purview of RTI Act, the same cannot be supplied.

It is not the case of the appellant that the-then office of PIO has not provided the information sought for or had given any wrong information. It is therefore requested that the appeal preferred by the appellant may be dismissed.

Grounds for petition:

The PIO has not provided correct information to the petitioner.

CIC/DPREL/A/2019/117228

Information sought:

The Petitioner sought information as under:

The undersigned hereby requires the following information as follows under various heads:-

1. Kindly provide any rule under THE CENTRAL CIVIL SERVICES (CLASSIFICATION, CONTROL & APPEAL) RULES, 1965/any other guideline/circular/official handbook which was referred to by Ld. Chief Prosecutor Alka Goel to decline my request for extension sought by me to answer the false representation by my beloved wife Ld. APP Preeti Mishra in my application copy of which is already **Annexure C** in alternative Ld. PIO to provide me any rule/circular which gives justification to declining my request for extension. The Ld. PIO may direct the query to Ld. Chief Prosecutor in his own judgment if he thinks it's necessary.
2. Has not Ld. Chief Prosecutor Alka Goel not violated CCS conduct rules in reference to pt. no 1 ?
3. If the answer to pt. no 2 is yes then should not a notice be issued to Ld. Chief Prosecutor Alka Goel for violating CCS conduct rules ?
4. If the answer to pt.2 is no then kindly provide a speaking order.
5. Kindly provide me any rule/circular/guideline etc. which can clarify as to calculation of notice period issued to a public servant (**KINDLY REFER THIS PARA REPRODUCED FROM THE MAIN PETITION: It is further pertinent to note that the Ld. Chief Prosecutor had already decided as per the application that the expiry of the notice will be on 11.05.2018 by 05:00 pm. As per established norms the period of notice starts on the day when it is received by the concerned officer but the Ld. Chief Prosecutor who has "super natural powers" to predict future had decided the date when I shall receive the notice and the timing as to the deadline, the million dollar question is what was the hurry ?**)
6. Kindly provide the exact process how notice period is decided in reference to pt.2 **Kindly provide detailed paragraph wise explanation with relevant case laws as section 4(1)(d) of the RTI Act envisages the principle of a speaking order.** (Ld. DOP may call me for discussion I can resolve this basic legal issue or the Ld. DOP may refer to Transfer of Property Act as an example and Ld. DOP is free to seek explanation from the most Ld. Chief Prosecutor Alka Goel as she has brought bad name to the department by violating the CCS conduct rules in wholesale and I'll be filing more RTI's to bring her true colours in front of the whole world.)
7. Kindly provide any written communication made by Ld. Chief Prosecutor Alka Goel to Ld. DOP in relation to my request to mediate the matter vide my application copy of which is already Annexure G.

Etc.

PIO furnished reply, vide letter dated 22.01.2019, as under:

Sir,

Refer to your Petition under the RTI Act cum complaint Ld. Chief Prosecutor, Alka Goel which is undated and unsigned and received in this office through the office of Ld. CP (NW) vide their diary No. 11/CP/NW/Rohini dated 07.01.2019.

Since the above cited application is unsigned hence the same cannot be considered under RTI Act.

Dissatisfied with the reply received from the PIO, Appellant filed First Appeal, vide letter dated 06.03.2019.

FAA, vide order dated 29.03.2019, held as under:

An appeal was filed by the appellant under RTI Act on the ground that his Application under RTI Act has not been answered by Shri. Balbir Singh PIO, Directorate of Prosecution, Govt. of NCT of Delhi, and he failed to provide the requisite information.

The appeal dated 06/03/2019 was received vide Dy. No.2185/DOP dated 11/03/2019. Thereafter, notice of hearing was issued to the appellant on 20/03/2019 with the direction to appear on 29/03/2019 at 3:00 p.m. in the office of the undersigned in Room No.173, Tis Hazari Courts, Delhi.

On 29/03/2019, neither Shri Andy Sehgal Appellant nor any representative of Appellant appeared on his behalf. Shri Balbir Singh, P.I.O. is present who put forth his part. Heard.

I have gone through the appeal, reply furnished by PIO and relevant records. It is submitted by Shri. Balbir Singh PIO that the RTI application of the appellant which was received vide Dy. No. 243/DOP/Dated. 08/01/2019 was not answered as the same was undated and unsigned and therefore the same was not considered under RTI Act. It is further submitted by Shri. Balbir Singh P.I.O. that the appellant was duly informed about the same by him vide reply No. 254/DOP/2019/174 Dated. 22/01/2019.

Hence, I do not find any merit in the appeal filed by the appellant and the same is dismissed.

The appeal is disposed of accordingly.

Written submission has been received from PIO, vide letter dated 31.08.2019, as under:

Ref: File No. CIC/DPREL/A/2019/117228 dated 18.08.2021.

Date of hearing listed on 07.09.2021 at 11.40 AM at Room No. 415.

Respected Sir,

It is submitted that notice for hearing of above referred appeal has been received in the office. In this connection, it is respectfully submitted that the copies of annexure C dated 08.02.2019, Annexure D dated 06.03.2019, Annexure E dated 20.03.2019, Annexure F dated 26.03.2019 and Annexure G dated 29.03.2019 have not been supplied to the office of PIO, Directorate of Prosecution, Govt. of NCT of Delhi. In this regard, it is humbly requested that the appellant may kindly be directed to supply the said documents. Upon the supply of said documents, the respondent is at liberty to file additional reply, if any.

It is respectfully submitted that upon the receipt of RTI application, our reply dated 22.01.2019, by the-then PIO was given to the appellant wherein the-then PIO has categorically mentioned "Refer to your Petition under the RTI Act cum complainant *Ld. Chief Prosecutor, Alka Goel* which is undated and unsigned and received in this office through the office of *Ld. CP (NW)* vide their diary No. 11/CP/NW/Rohini dated 07.01.2019.

RTI INFORMATION

Since the above cited application is unsigned hence the same cannot be considered under RTI Act."

It is further respectfully submitted that the procedure for handling of application received under RTI is well established which is as under :

- RTI applications received along with fees in cash or unsigned applications are summarily rejected and are not even registered under RTI Act. If application is not accompanied by the prescribed fee or the BPL certificate, it cannot be treated as a valid application and will not be registered under RTI.

It is respectfully submitted that since the RTI application was an unsigned one, accordingly no information was provided to the appellant under RTI Act which do not permit for giving of any information on unsigned application.

It is therefore prayed that the appeal may kindly be dismissed, however the undersigned is duty bound to furnish the information once a signed RTI application shall be filed by the appellant.

Grounds for Petition:

The PIO has not provided correct information to the Petitioner.

Relevant Facts emerging during Hearing:

The following were present: -

Petitioner: Not present despite notice.

Respondent: (1) Mr. Pankaj Bhatia, Additional Public Prosecutor & PIO, Directorate of Prosecution,

PIO (Directorate of Prosecution) explained the factual matrix of the case and submitted that relevant and available information has already been provided to the appellant. He further submitted that a detailed written submission has already been submitted for the perusal of the Commission.

Decision:

At the outset Commission observes that Mr. Andy Sehgal in all the referred cases had invoked Section 18(1), 19(3), 19(8)(b), 20(1), 20(2) of the RTI Act, 2005 and further, in the prayer clause has requested this bench of Commission, including inter alia, as under:

- Kindly admit this Complaint cum appeal and inquire into the same by invoking its powers under section (18) and 19(3) of the RTI Act and simultaneously provide me the information sought;
- Kindly while inquiring into the matter, invoke its power under section (18) (3) of RTI Act to.....
- Kindly impose PENALTY on Respondents 1,2 and 4 and as per Section (20(1) of RTI Act and to recommend Disciplinary Action against Respondents 1, 2 and 4 as per section 20(2) of RTI Act; and at the same time call for explanation from respondent no. 5, 6 and 7 as to what steps were taken to implement the RTI Act as to the first appeal (Annexure D) filed by me and accordingly provide me any other relief your good self deems fit.
- Kindly provide me all the file noting made upon each and every document related to the Illegal Fact Finding Proceedings initiated against me including the applications/complaints I have moved till date which pertain to the illegal Fact Finding Proceedings carried out against me and which is still going on till date.
- Kindly pass necessary directions under section 19(8) of the RTI, Act to the Respondents to provide me information sought in the interest of justice.

- Kindly pass necessary directions to the Delhi Government to compensate me with Rs. 1 crore under the Section 19 (8Xb) of the RTI Act. Please note I have done all the typing myself. I had to utilize my time for this RTI litigation which has hampered my preparations for the Higher Judiciary exams causing great loss to me which is not measurable in terms of monetary value. I have even suffered emotionally. I have been harassed at each level of administration. Kindly note that nothing in this present complaint shall prejudice my rights under the civil and criminal jurisdictions which I shall pursue at my discretion before the Honble Judicial Courts against any of the 7 respondents and the other officers like Ld. Chief Prosecutor Alka Goel and Ld. Addl. Prosecutor Ghanshyam Srivastava.

Etc.

In view of the above, Commission observes that Mr. Andy Sehgal had filed petitions in composite nature whereby, he has sought compensation under Section 19(8) (b) of the RTI Act 2005 along with disclosure of information and also the penal action against the respondents under Section 20(1) & 20(2) of the RTI Act 2005.

Adverting to the supra, Commission observes that the composite petitions of such nature are not legally tenable. The said observation is in line with the ratio laid down by this Commission in the matter of **Dr. Deepal Juneja v. DDA** in case no. CIC/KY/C/2015/000152 wherein it was held that :

“ 3. In view of the nature of the prayer clause (supra), the Commissioner feels that Dr. Deepak Juneja, filed petitions in composite nature whereby, the petitioner has sought compensation under Section 19(8) (b) of the RTI Act 2005 and also the penal action against the respondents under Section 20(1) & 20(2) of the RTI Act 2005. Thus, these petitions may be legally construed as composite petitions in the light of provisions of RTI Act 2005.

4. By virtue of above, the Commission feels that the composite petitions of such nature are not legally tenable, simply because, if the penal action is allowed on such composite petition, the incorporation of Section 20(1) of the RTI Act 2005 would be rendered as redundant and meaningless.

5. Further, in other words, it may be stated here that the relief provided under section 19(8)(b) of the RTI Act 2005, is legally permissible to be provided to the petitioner, if he wishes to file the petition u/s 19(3) of the RTI Act 2005 i.e. second appeal only before this Commission. Similarly, the reliefs provided under Sub Clause (1) & Sub Clause (2) of Section 20 of the RTI Act 2005, are legally permissible to be provided to the petitioner, in case, he wishes to file the petition u/s 18 of the RTI Act

2005 i.e. a complaint before this Commission and, however, not in otherwise.

6. In view of the position above and in the circumstances of the case, the Commissioner feels that in the absence of expressed & enabling provisions under the RTI Act 2005 to file the composite petitions, the instant composite petitions are devoid of merit and deserve to be dismissed."

[Emphasis Supplied]

Further, ratio laid down by the Hon'ble Delhi High Court in the matter of **Dr. Deepak Juneja vs Central Information Commission, W.P.(C) 11489/2016, CM No. 2470/2018**, dated 29 April, 2019 may be noted, wherein similar observation has been further exemplified. The relevant portion of the said judgment is as under:

"13. From the perusal of the prayers made in the complaints by the petitioner it is clear that the petitioner had sought imposition of penalty under Section 20(1) of the RTI Act; recommendation of disciplinary action against the CPIO under Section 20 (2) of the RTI Act; recommendation of disciplinary action against First Appellate Authority / Director; for providing compensation by the DDA under Section 19(8)(b) and for providing training under Section 19(8)(a)(v) of the RTI Act.

14. In other words, it is noted that the petitioner apart from seeking action under Section 20(1) and (2) of the RTI Act has also prayed for grant of compensation in his favour under Section 19(8)(b) and providing training to officials under Section 19(8)(a)(v). On perusal of Section 20 of the RTI Act, it is clear that the penalty under Section 20 can be sought in a complaint as well as in an appeal. But when a prayer for action under Section 19(8)(b) or 19(8)(a)(v) is made it can be sought only in an appeal, as the said provisions are part of section 19 which relates to appeal. The Supreme Court has in its judgment in the case of Chief Information Commissioner and Ors. v. State of Manipur and Ors., MANU/SC/1484/2011 culled out the difference between Sections 18 and 19 of the Act. It was concerned with facts where appellant No.2 filed an application dated February 09, 2007 under Section 6 of the Right to Information Act for obtaining information from the State Information Officer relating to magisterial enquiries initiated by the Government of Manipur from 1980-2006. As the application under Section 6 received no response, appellant No. 2 filed a complaint under Section 18 of the Act before the State Chief Information Commissioner, who by an order dated May 30, 2007 directed respondent No. 2 to furnish the information within 15 days. The said direction was challenged by the State by filing a writ petition. The second complaint dated May 19, 2007 was filed by the appellant No. 2 for obtaining similar information for the period between 1980 – March 2007. As no response was received this time also, appellant No. 2 again filed a complaint under Section 18 and the same was disposed of by an order dated August 14, 2007 directing disclosure of the information sought for within 15 days. That order was also challenged by way of a writ petition by the respondent State of Manipur. Both the writ petitions were heard together and were dismissed by a common order dated November 16, 2007 by learned Single Judge of the High Court by inter alia upholding the order of the Commissioner. The writ appeal was disposed of by the order dated July 29, 2010 wherein the Division Bench has held that under Section 18 of the Act the Commissioner has no power to direct the respondent to furnish the information and further held that such a power has already been conferred under Section

19(8) of the Act on the basis of an exercise under Section 19 only. The Division Bench further held that the direction to furnish information is without jurisdiction and directed the Commissioner to dispose of the complaints in accordance with law. **The Supreme Court in an appeal by the Chief Information Commissioner, by referring to Sections 18 and 19 of the Act has in paras 37, 41, 42 and 44 held as under:**

"37. We are of the view that Sections 18 and 19 of the Act serve two different purposes and lay down two different procedures and they provide two different remedies. One cannot be a substitute for the other.

41. It is well-known that the legislature does not waste words or say anything in vain or for no purpose. Thus a construction which leads to redundancy of a portion of the statute cannot be accepted in the absence of compelling reasons. In the instant case there is no compelling reason to accept the construction put forward by the respondents.

42. Apart from that the procedure under Section 19 of the Act, when compared to Section 18, has several safeguards for protecting the interest of the person who has been refused the information he has sought. Section 19(5), in this connection, may be referred to. Section 19(5) puts the onus to justify the denial of request on the information officer. Therefore, it is for the officer to justify the denial. There is no such safeguard in Section 18. Apart from that the procedure under Section 19 is a time bound one but no limit is prescribed under Section 18. So out of the two procedures, between Section 18 and Section 19, the one under Section 19 is more beneficial to a person who has been denied access to information.

44. This Court, therefore, directs the appellants to file appeals under Section 19 of the Act in respect of two requests by them for obtaining information vide applications dated 9.2.2007 and 19.5.2007 within a period of four weeks from today. If such an appeal is filed following the statutory procedure by the appellants, the same should be considered on merits by the appellate authority without insisting on the period of limitation."

15. Having noted the position of law as laid down by the Supreme Court, it is clear that Sections 18 and 19 serve two different purposes; lays down two different procedures; and provide two different remedies.

16. So, in the case in hand, it must be held the prayer of the petitioner relating to grant of compensation (19 (8)(b)) / providing training (19 (8)(a)(v)) to the officials of the DDA, could have been prayed for only in an appeal under Section 19 of the RTI Act.

17. Insofar as the prayer for penalties under Section 20(1) and 20 (2) of the Act are concerned, the same could have been claimed in a complaint under Section 18 provided the case is made out on the grounds stipulated.

18. The aforesaid being the legal position, the petitioner could not have sought a prayer for compensation / for providing training stipulated in Section 19 by making a complaint under Section 18 read with Section 20 of the Act. To that extent surely the CIC was justified in holding that the petitions are composite. The CIC having dismissed the composite petitions being without merit, suffice it to state the petitioner is required to file an appeal under Section 19 with a prayer for grant of compensation under Section 19 (8)(b) and for a direction to provide training to the officials of the DDA under Section 19(8)(a)(v). So, it is for the petitioner to file a complaint under Section 18 and appeal under Section 19 incorporating the prayers as referred to above separately and distinctly.

If such a complaint and appeal are filed, the same shall be considered by the CIC in accordance with law. This position has also been held by the Coordinate Bench of this court in the case of Kripa Shanker v. LD Central Information Commission and Ors. W.P(C) 8315/2017, Para 12 whereof reads as under:

"12. An information seeker can also file a complaint under Section 18 of the Act, in respect of matters set out in clauses (a) to (f) of section 18 (1) of the Act, which includes a case where access to any information has been refused. In terms of Section 18(2) of the Act, if the CIC is satisfied that there is a reasonable ground to enquire into the matter, the CIC may initiate an inquiry with respect thereof. There is no provision in Section 18 of the Act, which enables the CIC to direct disclosure of information. However, the CIC has the power to commence proceedings for imposition of penalty in case of proceedings under Section 19(3) of the Act as is apparent from the plain language of Section 20(1) of the Act."

[Emphasis Supplied]

In view of the position above and in the circumstances of the case, this bench of Commission observes that the instant composite petitions are devoid of merit. Also, Petitioner has not availed the opportunity to appear before the Commission to plead his case. Hence, the referred petition(s) deserves to be dismissed.

All the referred petitions are dismissed accordingly.

Heeralal Samariya (हीरालाल सामरिया)
Information Commissioner (सूचना आयुक्त)

Authenticated true copy
(अभिप्रमाणित सत्यापित प्रतीति)

Ram Parkash Grover (रामप्रकाश ग्रोवर)
Dy. Registrar (उप-पंजीयक)
011-26180514

Andy Sehgal,
Assistant Public Prosecutor,
Home Department, GNCTD, Currently Posted at
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केन्द्रीय सूचना आयोग
Central Information Commission
बाबागंगनाथमार्ग, मुनिरका
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नई दिल्ली, New Delhi - 110067

द्वितीय अपील संख्या / Second Appeal No.: - CIC/MLABE/A/2020/110437 -UM

Mr. Prabhat C Chaturvedi

....अपीलकर्ता / Appellant

VERSUS

बनाम

CPIO,
 Nodal Officer (RTI Cell)
 Ministry Of Labour & Employment
 Shram Shakti Bhawan, Rafi Marg
 New Delhi 110001

...प्रतिवादीगण / Respondent

Date of Hearing : 13.09.2021
 Date of Decision : 14.09.2021

Date of RTI application	31.12.2019
CPIO's response	29.01.2020
Date of the First Appeal	31.01.2020
First Appellate Authority's response	27.02.2020
Date of diarized receipt of Appeal by the Commission	03.03.2020

ORDER

FACTS

The Appellant vide his RTI application sought information on 04 points, as under:-

1. Copy of letter written by the then member of parliament, Mr Tapan Sen to Shri Bandaru Dattatreya the then Hon'ble Minister of State (Independent Charge) of Labour & Employment, Government of India, relating to corruption in the appointment of Dr. R.K. Kataria as Medical Commissioner of ESIC.
2. Copy of reply sent by Ministry of Labour & Employment to Shri Tapan Sen with reference to his above letter mentioned in para 1 above.
3. Copy of letter written by the then member of parliament Dr P.K. Patasani to Shri Bandaru Dattatreya the then Hon'ble Minister of State (Independent Charge) of Labour & Employment relating to corruption and irregularity in Rate Contract (RC) for Drugs in ESIC.
4. Copy of reply sent by Ministry of Labour & Employment to Dr P.K. Patasani with reference to his letter mentioned in Para 3 above.

The CPIO vide letter dated 29.01.2020, furnished a reply to the Appellant. Dissatisfied with the reply received from the PIO, the Appellant filed a First Appeal. The FAA vide order dated 27.02.2020, dispose off the First Appeal. Thereafter, the Appellant filed a Second Appeal before the Commission with a request to provide the information.

HEARING:

Facts emerging during the hearing:

The following were present:

Appellant: The appellant Shri Prabhat C. Chaturvedi attended the hearing.

Respondent: The respondent Shri Sourabh, Under Secretary, M/o Labour & Employment attended the hearing.

The Appellant reiterated the contents of the RTI application and submitted that wrong and misleading information has been furnished by the CPIO. The appellant further stated that he only sought copies of the letter written by MPs and the reply given by Minister and that there is no personal information being asked about any officer or about any individual. The Respondent present during the hearing submitted that a suitable reply in accordance with the provisions of the RTI Act, 2005, had already been furnished to the Appellant. The respondent further informed that the information sought by the appellant constitutes third party information. The respondent stated that in the concerned correspondence neither the appellant is Complainant nor a Complaint has been filed against him and hence it pertains to third party.

DECISION:

Keeping in view the facts of the case and the submissions made by both the parties and documents available on record, the Commission noted that the information sought is related to the alleged corruption in the appointment of Dr. R.K. Kataria, Medical Commissioner, ESIC and irregularities in Rate Contracts of Drugs in ESIC, and the disclosure of such information would enhance transparency, objectivity, and fairness in system, which is in the larger public interest. Moreover, the information sought in the present case falls within the ambit of the provisions of the RTI Act as the issue is whether such posts have been filled up in a proper manner and whether a correct prescribed procedure has been followed while fixing the Rate Contract of Drugs by the public authority. If such information is disclosed, it will lead to transparent administration and will close the avenues for possible corruption in future. Further, the information sought will help in controlling favoritism, nepotism, or arbitrariness in the system. Therefore, the Commission directs the CPIO, Ministry of Labour & Employment, to provide the information to the appellant in respect of point no. 01 to 04 of the RTI Application in accordance with the spirit of transparency and accountability as enshrined in the RTI Act, 2005 within a period of 21 days from the date of receipt of this order under the intimation to the Commission.

The Appeal stands disposed accordingly.

(Uday Mahurkar) (उदयमाहूरकर)

(Information Commissioner) (सूचनाआयुक्त)

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(R. K. Rao) (आर.के. राव)

(Dy. Registrar) (उप-पंजीयक)

011-26182598

दिनांक / Date: 14.09.2021

केन्द्रीय सूचना आयोग
Central Information Commission
बाबागंगनाथमार्ग, मुनिरका
Baba Gangnath Marg, Munirka
नई दिल्ली, New Delhi - 110067

द्वितीय अपील संख्या / Second Appeal No.:- CIC/MCULT/A/2020/116107-UM
CIC/MCULT/A/2020/116106 - UM
CIC/MCULT/A/2020/116109 - UM
CIC/MCULT/A/2020/116112 - UM

Mr. Dhavalkumar Kirtikumar Patel

....अपीलकर्ता/Appellant

VERSUS

बनाम

CPIO,
National Mission for Manuscripts (NMM),
Indira Gandhi National Centre for the Art,
Janpath Building, Opp. BSNL Office,
New Delhi - 110001

CPIO
Bhogilal Leherchand Institute of Indology
Vijay Vallabh Smarak Jain Temple Complex,
20th KM, G.T Karnal Road, P.O Alipur
Delhi-110036

CPIO,
Bharat Itihas Sanshodhak Mandal
1321, Vishrambag Wada Sadashiv Peth Rd,
Perugate Sadashiv Peth, Pune
Maharashtra-411030

CPIO,
O/O The Director Intach
Intach Conservation Institute
B-42, Nirala Nagar, Lucknow-226020

CPIO,
Vrindavan Research Institute
Raman Reti, Vrindavan
Pin-281121

....प्रतिवादीगण /Respondent..

Date of Hearing : 04.10.2021/28.10.2021/29.10.2021
 Date of Decision : 05.10.2021/28.10.2021/29.10.2021

File No.	RTI	CPIO	FA	FAO
CIC/MCULT/A/2020/116107	01.11.2019	Not on Record	08.02.2020	Not on Record
CIC/MCULT/A/2020/116106	01.11.2019	Not on Record	08.02.2020	Not on Record
CIC/MCULT/A/2020/116109	01.11.2019	Not on Record	08.02.2020	Not on Record
CIC/MCULT/A/2020/116112	01.11.2019	Not on Record	08.02.2020	Not on Record

ORDER

FACTS

The Appellant vide his RTI application sought information on 07 points, as under:-

- A. Total number of manuscripts of institute catalogued by National Manuscript Mission (NMM).
- B. List of Manuscripts catalogued by NMM with the information on the following fields for each manuscript in a single Microsoft Excel / PDF / access / database file (or whatever format institute stores its database in) in DVD.
 1. State
 2. District
 3. Repository
 4. Title
 5. Other Title
 6. Author
 7. Commentary
 8. Commentator
 9. Scribe
 10. Language1
 11. Language2
 12. Language3
 13. Script
 14. Script 2
 15. Script 3
 16. Complete / Incomplete
 17. Subject
 18. Bundle number
 19. Manus number
 20. Folios

etc.

Dissatisfied due to non-receipt of any response from the CPIO, the Appellant approached the FAA. The order of the FAA, if any, is not on the record of the Commission. Thereafter, the Appellant filed a Second Appeal before the Commission with a request to provide correct and complete information.

HEARING:

Facts emerging during the hearing:

The following were present:

Appellant: The appellant attended the hearing.

Respondent: The respondent Shri Wachspati Pandey, BLII attended the hearing.

The Appellant reiterated the contents of the RTI application and submitted that the reply from the Department was not received to him. The appellant further informed that the digitization of Manuscripts of National Mission for Manuscripts (NMM) was a fully Government funded project to Institute. Further, the respondent stated that the report of NMM for the year 2017-18 pp (55-56) is categorically stated that the NMM has digitized the required information. The appellant also submitted that the information asked for is held by a non-government organization but substantially financed by the funds for a project by the Government.

The Respondent present during the hearing informed the Commission that the BLII is a Private Institute and it's a non-governmental organization and not funded either directly or indirectly by the Government. The respondent further submitted that BLII is not a Public Authority as per RTI Act. Hence, it is not covered by the RTI Act.

INTERIM DECISION:

Keeping in view the facts of the case and the submissions made by the appellant, and the documents available on record, the Commission observes that the Notice of Hearing was not sent to the CPIO, National Mission for Manuscripts by the Registry. Therefore, in the interest of justice, **the matter is adjourned to 28.10.2021 at 12.10 pm.** The Commission further directs the Registry of this Bench to issue a fresh notice to all the parties in the matter.

HEARING on 28.10.2021:

Facts emerging during the hearing:

The following were present:

Appellant: The appellant attended the hearing.

Respondent: The respondent Shri Wachspati Pandey, BLII attended the hearing. The respondent from NMM was not present despite notice.

The Respondent present during the hearing reiterated the submissions of the last hearing and informed that the CPIO, NMM presence is mandatory in these matters. However, the respondent from NMM was not present despite notice.

INTERIM DECISION:

Keeping in view the facts of the case and the submissions made by both the parties, and the documents available on record, the Commission observes that the respondent from National Mission for Manuscripts (NMM) was not present despite notice. The Commission, therefore, in the interest of justice, grants one last opportunity to the CPIO, NMM, to enable him to make his submissions in the matter. **Therefore, the matter is adjourned to 29.10.2021 at 01.45 PM.**

HEARING on 29.10.2021:**Facts emerging during the hearing:**

The following were present:

Appellant: The appellant attended the hearing.

Respondent: The respondents Shri Pratapanand Jha, Director, NMM, Shri Sanjay Monga, CPIO, NMM and Shri Wachspati Pandey, BLII attended the hearing. The respondent from VRI, IICI and BISM were not present despite notice.

The Appellant reiterated the contents of the RTI application and submissions, he said he had earlier applied for getting the same information from the National Manuscript Mission (NMM) via an earlier RTI application but the Honorable Commission in its order denied him the information on the ground that the NMM and private institutes were under a contractual agreement that though the NMM had digitized the manuscripts owned by the institutes they won't be able to share those manuscripts in public domain without the institute's permission.

While deposing in the hearing the Respondent, NMM, submitted that the Institutions work independently under their respective management, as per their rules and regulations. Further, NMM informed that it only helped these institutions in Conservation, Cataloguing and Digitization of their collection of manuscripts and so had no role in the decision-making process of these Institutions. The NMM also informed that the Institutions are free to disseminate copies of digital manuscripts as per their rules and regulations.

The Appellant countered the agreement saying that since the manuscripts were digitized by the NMM at the expense of Government exchequer it was bound to share

them in public domain for manuscript and heritage researchers like him in national interest under the RTI law.

In response the NMM submitted that they had digitized around three lakh manuscripts so far which was only three per cent of the total manuscripts belonging to the private institutions and if they break the agreement between them and the private repositories and share the manuscripts without their permission then the NMM would invite their opposition and digitization work would suffer.

However, the NMM said that by persuading the institutions they had been able to put 30,000 of the total three lakh manuscripts on their website so far and were persuading the repositories to allow them to share more. When queried by the commission that the digitized manuscripts were a national property and when the NMM would be able to put all the three lakh manuscripts in public domains for the benefit of the researchers the respondent said it would take a long time and appealed to the commission not pass an order that could obstruct the digitization work in future.

The Appellant stuck to his argument that as an Indology researcher he had the right to access the manuscripts which had been digitized with government funds. He also said that he had been trying to get access to the manuscripts since 2014 and had approached the Commission only after all his efforts failed.

DECISION:

Keeping in view the facts of the case and the submissions made by both the parties and also after perusing the documents available on record, the Commission observes that these manuscripts, though belonging to Private Institutes, were digitized by the NMM at the expense of the Public Exchequer. Moreover, the Commission also observes that the said manuscripts are national property and the appellant is a Sanskrit Scholar who wants the information for reasons of research and in the larger public interest. The Commission further observes that the objective of the NMM's digitization project for which the Government is spending funds is to bring these centuries-old manuscripts into the public domain for preserving the great heritage of our country. The

Commission strongly observes that the manuscripts owned by the private institutes were also a national property because the promoters of these institutes had started the work of collecting and preserving the manuscripts for protecting the cultural heritage of the nation. The Commission therefore appeals to the institutes to allow the NMM to digitise not just all the manuscripts owned by them but also allow the NMM to put them all in public domain.

The NMM is therefore directed to put in the public domain the three lakhs manuscripts (according to the respondent) which it has digitized so far within a period of one year from the date of receipt of this order. The NMM will file a progress report on the matter to the commission after the completion of one year from the date of receipt of this order.

Further, the commission directs the NMM to allow the appellant official access (including downloading) of 30,000 manuscripts it has already put in public domain out of the total 3 lakhs manuscript digitized so far. The second part of the order involving the appellant may be executed in a span of 45 days from the date of receipt of this order. The appellant will bear downloading cost which he had offered to bear during the course of the hearing.

The Commission further observes the work of digitisation of private manuscripts is going on at a slow speed and therefore directs the NMM to speed up the work of digitisation in the larger interest of preservation of national heritage.

(Uday Mahurkar) (उदयमाहूरकर)
(Information Commissioner) (सूचनाआयुक्त)

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