



सूचना का
अधिकार

(To be issued in Hindi also)

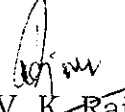
No.A-43020/38/2013-RTI
Government of India / Bharat Sarkar
Ministry of Home Affairs / Grih Mantralaya

New Delhi dated the 14 November, 2013

OFFICE MEMORANDUM

Subject: Right to Information Act, 2005 - compliance of the recommendations made by the CIC in its decision dated 27.08.2013 - regarding.

The undersigned is directed to circulate the copy of the decision dated 27.08.2013 made by the CIC in its hearing on 18.07.2013 in file Nos.CIC/BS/C/2013/000149/LS, CIC/BS/C/2013/000072/LS and CIC/LS/C/2010/000108 and to request all the CPIOs of this Ministry for compliance of the recommendations made by the CIC in the above said decision.


(V. K. Rajan)

Deputy Secretary(E) & CPIO
Tel. No.23094376

Encl.: As above.

To

1. All Appellate authorities and CPIOs in MHA (including DOL/DOJ)
2. Section Officer, IT Cell, MHA, North Block (for uploading in the website).

Ministry of Home Affairs
Judicial Cell

Sub: Order of the full bench of the Central Information Commission-
reg.

The Central Information Commission has sent the order dated 27.08.2013 in the matter of Subhash Chandra Agrawal vs Ministry of Home Affairs, which is self explanatory. The full bench of the Commission has made various recommendations in respect of the RTI Act and Rules therein. The recommendations are very wide and require the attention of all CPIOs and CAPIOs of the Ministry of Home Affairs as well as attached and subordinate offices. The RTI Section of the Administrative Division is the nodal section of RTI Act. Therefore, the said order is enclosed herewith for further necessary action.

Defile
29/10/13

Rakesh Jhingra
29/10/13

(Rakesh Jhingra)

Under Secretary (J-II)

Joint Secretary (Judl.)

Jdgm
29/10/13

Joint Secretary (Admn)

*Pl take necessary
action as outlined
in the order of CIC.*

Chandrasekhar
31/10/13

~~DS(E)~~

2
17/11/13

Sd(RTI)
CS
1/11

~~NS RTI~~

C-189659/JSCA/2013

31-10-2013

41-50(7-2)

29/8/13

06/26/2013/222244

29/10/2013

CENTRAL INFORMATION COMMISSION

Room No. 308, B-Wing, August Kranti Bhawan, Bhikaji Cama Place, New Delhi-110066

File No.CIC/BS/C/2013/000149/LS

File No.CIC/BS/C/2013/000072/LS

File No.CIC/LS/C/2010/000108

Complainant : Shri Subhash Chandra Agrawal
Public Authority : Ministry of Home Affairs.
Date of hearing : 18.07.2013
Date of decision : 27.08.2013

29/10/13
US J-II
20/10/13

Shri No

Facts :-

In the RTI application dated 30.4.2011, the appellant had sought information on 11 paras from the Ministry of Law & Justice regarding the 187th Report of the Law Commission of India and the matters related there-with. The CPIO of the Ministry of Law & Justice had transferred the said RTI application to the Ministry of Home Affairs for action as per law. Thereupon, Shri Rakesh Jhingan, Section Officer, J(II), M.H.A., had responded to it vide letter dated 22.6.2011. His letter is reproduced below :-

"I am directed to refer to your letter dated 03.06.2011 furnishing therewith the additional fee of Rs. 27/- by way of IPOs. You may aware that the validity of IPO is only six months from date of issue. While furnishing the same to the CPIO, a sufficient period of time i.e. one to two months, should be given to CPIO/Accounts Officer for encashment of IPO(s). One of the IPO No. ID 132843 (OF Rs.7/-) has already been expired and issued date of another IPO No. 55F 324367 (Rs.20/-) is not clear. Therefore, Accounts Officer of this Ministry has refused to accept the same.

2. In view of above, your letter dated 03.06.2011 along with IPOs No. 55F 324367 (of Rs. 20/-) & ID 132843 (of Rs.7/-) are returned herewith. You are also requested that in future validity of IPOs may be checked before sending it to this Ministry.

3. This issues with the approval of Joint Secretary(Judl.) & CPIO."

2. Thereupon, the complainant had visited the M.H.A. office at Jaisalmer House for deposition of fee of Rs. 27/- in cash but the Receptionist did not allow him to enter the office and told him that the fee in cash was not accepted in the said office and directed him to visit the North Block office of MHA for

the above purpose. The complainant then visited the North Block of MHA and deposited the fee of Rs.27/-.

3. The complainant has filed the present complaint before the Commission alleging therein that non-acceptance of fee in cash by the Jaisalmer House office of MHA caused him avoidable harassment and also resulted in delayed supply of information. The present complaint arises out of the issues stated herein above.

4. In view of the complex legal issues involved in the matter, the Chief Information Commissioner constituted a Full Bench comprising of :-

- Shri Satyananda Mishra, CIC;
- Shri M.L. Sharma, IC; and
- Shri Basant Seth, IC.

5. The Bench heard the matter on 18.7.2013. The appellant was present. The Commission permitted Shri R.K. Jain, Advocate, to intervene in the matter. The following officers from various Ministries Departments were present before the Commission :-

MHA

- Shri J.P. Aggarwal, Joint Secretary(Judicial)
- Shri Rakesh Jhingan, Under Secretary(J-II)

DoPT

- Shri R.K. Girdhar, Under Secretary

Department of Posts

- Shri T. Neelakrishnan, Assistant Director General

DoT :-

- Shri G. Baskaran, Director
- Shri P.C. Sharma, Director

6. The parties were heard at length. The submissions made by the complainant herein are summarized here below :-

- (i) The CPIOs do not accept the requisite fee in cash. They ask the information seekers to deposit the fee with the Cashier who, generally, is not located in the same office. It results not only in harassment but also wastage of time and resources of the information seekers.
- (ii) The fee is payable through the IPOs. However, the public authorities often refuse to accept the IPOs if they are not stamped or not properly stamped by the Postal authorities. Stamping is to be done by the Postal authorities; it is not the concern of the information seekers. Non-stamping or improper stamping of the IPOs cannot be a ground for their non-acceptance by the concerned public authorities;
- (iii) The Postal authorities issue IPOs in blank form. The information seekers generally mention the names of the Accounts Officers of the Public Authority as payee as per DoPT Circular No. F. 10/9/2008/IR dated 5.12.2008. Notwithstanding the above, the postal orders payable to the Accounts Officers are not being accepted by some of the public authorities thereby causing harassment to the information seekers.
- (iv) More importantly, the operational cost of an IPO of Rs. 10/- is more than Rs. 22/- as per costing exercise undertaken in 2006-07. Thus, the Central Government, instead of being a gainer, is, in fact, a loser in insisting on deposition of application fee and copying fee through IPOs.

7. In order to streamline the system, the complainant suggests that this Commission may make the following recommendations u/s 25(5) of the RTI Act :-

- (i) To direct all public authorities to mention complete names and addresses of the officers who may accept fees and copying charges in cash along with the timings for depositing the fee;
- (ii) To direct all public authorities to make entire correspondence relating to RTI matters through Speed Post or Registered Post;
- (iii) To issue instructions to all public authorities to waive off copying charges upto Rs. 20/-.
- (iv) To recommend to the Department of Posts to issue RTI stamps of the denomination of Rs. 10/-, to facilitate deposition of fee and copying charges.

- (v) To recommend to the Department of Posts to direct all Post Offices to accept RTI applications and the requisite fee. This is essential as designation of only 4700 Post Offices, as of now, is grossly inadequate, considering the size of the country and the number of information seekers.

8. Shri R.K. Jain, Intervener, has made the following submissions in this regard :-

- (i) The CPIOs insist on IPOs of the value of exact amount of fee. The IPOs of the higher values are not being accepted by the CPIOs. The DoPT may be asked to advise all public authorities to accept IPOs of higher values, when the depositors do not insist on refund.
- (ii) The IPOs not containing names of payees are not being accepted by the public authorities even when they contain the names of the senders. The information seekers are finding it difficult to mention the names of the payees in the IPOs as this information has not been put in public domain by most of the public authorities. Hence, DoPT may be advised to issue directions to all the public authorities to accept IPOs of all denominations and to fill up the names of the payees, so long as the IPOs contain the names of the senders. He buttresses his argument by referring to sub section (3) of section 5 of the RTI Act which casts a burden on the CPIO to render 'reasonable' assistance to the information seeker.
- (iii) The designated Post Offices, numbering about 4700, do not display at conspicuous places in their premises that they shall accept RTI applications. Besides, some designated Post Offices are refusing to accept the RTI applications. They may be directed to comply with the guidelines issued by the Department of Posts in this regard.
- (iv) This Commission must make a strong recommendation to the Department of Posts to issue RTI stamps of Rs. 10/- denomination for facilitation of deposition of application fee and copying charges by the information seekers.
- (v) The remittance of fee by the money order may be accepted cash payment by the public authorities.

- (vi) The CPIOs and AAs must disclose their names, designations, postal addresses and their telephone and fax numbers in the RTI related correspondence.
- (vii) All public authorities in the country may be directed to display the names and designations of the officers who are responsible for accepting RTI fee in cash or through any other mode of payment.

9. The real issue is to evolve an effective mechanism for depositing the fee and copying charges for expeditious provisioning of information. In this context, it would be pertinent to mention that Rule 6 of the Right to Information Rules, 2012, provides for three modes of deposition of fee. Rule 6 is extracted below:-

“6. Mode of Payment of fee.-- Fees under these rules may be paid in any of the following manner, namely :-

(a) in cash, to the public authority or to the Central Assistant Public Information Officer of the public authority as the case may be, against a proper receipt; or

(b) by demand draft or bankers cheque or Indian Postal Order payable to the Accounts Officer of the public authority; or

(c) by electronic means to the Accounts Officer of the public authority, if facility for receiving fees through electronic means is available with the public authority.”

10. It may also be pertinent to extract the relevant part of the OM No. F. 10/9/2008-IR dated 5.12.2008 issued by DoPT in this connection :-

“The undersigned is directed to say that the Right to Information (Regulation of Fee and Cost) Rules, 2005 provide that a person seeking information under the RTI Act, 2005 can make payment of fee for obtaining information by cash or demand draft or banker's cheque /IPO should be payable to the Accounts Officer of the concerned public authority. It was brought to the notice of this Department that some public authorities did not accept demand drafts/banker's cheques/Indian postal Orders drawn in the name of their Accounts Officer and insisted that these should be drawn in the name of Drawing and Disbursing Officer or the Under Secretary or the Section Officer etc. This Department vide OM No.1/2/2007-IR dated 23rd March, 2007 issued instructions that the demand

drafts/banker's cheques/IPOs made payable to the Accounts Officers of the public authority should not be denied. In spite of the provisions in the rules and instructions of this Department, some public authorities still refuse to accept demand drafts/banker's cheques/IPOs drawn in the name of the Accounts officer of the public authority.

2. 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."

11. It needs to be underlined that preamble of the RTI Act provides for setting out the practical regime of right to information for the citizenry in order to promote transparency and accountability in the working of every public authority. This word connotes a pragmatic approach on the part of all concerned in implementing the provisions of this law. The Commission is aware that difficulties are being experienced by the information seekers in depositing the fee and copying charges and consequential delay in provisioning of information. On a thoughtful consideration of the matter, the Commission makes the following recommendations to the Ministries/Departments/Public Authorities of the Central Government u/s 25 (5) of the RTI Act:-

- (i) All public authorities shall direct the officers under their command to accept demand drafts or banker cheques or IPOs payable to their Accounts Officers of the public authority. This is in line with clause (b) of Rule 6 of the RTI Rules, 2012. In other words, no instrument shall be returned by any officer of the public authority on the ground that it has not been drawn in the name of a particular officer. So long as the instrument has been drawn in favour of the Accounts Officer, it shall be accepted in all circumstances.
- (ii) All public authorities are required to direct the concerned officers to accept IPOs of the denomination of higher values vis-à-vis the fee / copying charges when the senders do not ask for refund of the excess amount. To illustrate, if fee of Rs. 18/- is payable by the information seeker and if he sends IPO of Rs. 20/-, this should be

accepted by the concerned officer rather than returning the same, for practical reasons. The entire amount will be treated as RTI fee.

- (iii) All public authorities shall direct the CPIOs and ACPIOs under their command to accept application fee and copying charges in cash from the information seekers in line with Rule 06 (a) of the RTI Rules. It is made clear that the CPIOs and APIOs will not direct the information seekers to deposit the fee with the officers located in other buildings / offices.
- (iv) DoPT shall direct all the CPIOs / APIOs / Accounts Officers to accept money orders towards the deposition of fee / copying charges. This is in line with the order dated 19.9.2007 passed by the Karnataka Information Commission in **B. V. Gautma vs. Dy. Commissioner of Stamps & Registration, Bangalore.** (KIC 2038 CoM 2007).
- (v) The Department of Posts has issued a detailed Circular No. 103-I/2007-RTI dated 12.10.2007 for streamlining the procedure of handling applications by various CAPIOs which, interalia contains the following directions:-

“(1) Display of the signboard “RTI APPLICATIONS ARE ACCEPTED HERE” should be made on the notice board / prominent place in the post office. In addition, the names / addresses of the CPIO and appropriate authorities of the Post office should also be displayed.

- (9) **The fee alongwith application should be accepted at the same counter and in no case the applicant should be made to visit another counter for depositing the requisite fee.”**

The Department of Posts is required to ensure that the above directions are complied with by all concerned.

- (vi) As noted herein above, as of now, the RTI applications and the requisite fee are being accepted by the designated Post Offices, numbering above 4700. Considering the size of the country and the number of RTI applicants/applications, the number of designated Post Offices appears to be too small. It has been brought to the notice of the Commission that there are 25,464 Departmental Post Offices and 1,29,402 Extra Departmental Branch Post Offices. The Commission, therefore, advises the Secretary, Department of Posts, to consider

designating all 25,464 Departmental Post Offices to accept RTI applications and the requisite fee.

- (vii) The best solution to the fee related problems appears to be to issue RTI stamps of the denomination of Rs. 10/- by the Deptt. of Posts. It would be a time and cost effective step. The Commission would urge Department of Posts/DoPT to consider the viability of this suggestion with utmost dispatch.
- (viii) The Commission also directs the CPIOs and the Appellate Authorities to mention their names, designations and telephone and fax numbers in the RTI related correspondence.
12. The Commission expects all Ministries/Departments/Public Authorities of the Central Government to give urgent consideration to the above recommendations.

Order reserved and pronounced on the 27th day of August, 2013.

Sd/-

(M.L. Sharma)
Information Commissioner

Sd/-

(Basant Seth)
Information Commissioner

Sd/-

(Satyananda Mishra)
Chief Information Commissioner

Authenticated true copy. Additional copies of orders shall be supplied against application and payment of the charges, prescribed under the Act, to the CPIO of this Commission.

(K.L. Das)
Deputy Registrar

Address of parties :-

1. Shri Madan Chaurasia(SO-AS-I), Department of Telecom
(Access Services-1 Section), 1203, Sanchar Bhawan,
Ashok Road, New Delhi-110001.
2. Department of Telecom, o/o Administration, USO Fund,
Sanchar Bhawan, Ashoka Road,
New Delhi-110001.
3. The CPIO, Department of Personnel and Training,
North Block, New Delhi-110001.
4. The CPIO, Department of Post,
Dak Bhawan, Sansad Marg,
New Delhi-110001
5. ✓ The CPIO, Ministry of Home Affairs,
~~Jaisalmer House, 26 - Man Singh Road,~~
New Delhi-110011. 110001
6. Shri Subhash Chandra Agrawal,
1775 Kucha Latushah, Dariba, Chandni Chowk,
Delhi-110006.
7. Shri R.K. Jain,
1512-B, Bhishm Pitamah Marg, Wazir Nagar,
New Delhi-110003.