O/o Director (Services)/MHA
Dy. No. 2208
Date 6.6.2013

Dt. 31st May, 2013

FROM: NARESH KUMAR

(DANIPS-1977 BATCH, IPS SELECT LIST 2000)

H.No. 535, Sector-III,
R.K. Puram, New Delhi
Pin-110022

To:

The Joint Secretary (UT) & Appellate Authority,
Govt. of India,
Ministry of Home Affairs,
North Block, New Delhi.

Subject: First appeal under the RTI Act-2005.

With reference to the reply furnished by the Director (S) and CPIO vide file No.14039/58/2012-UTS.I dated 3rd May,2013, the following paras are stated below for deciding the same as First Appeal on the subject cited above:

1. The information sought vide application dated 18.3.2013 (received in UTS-I on 8.4.2013 through IPS.I Sec MHA) is an *'information'* under the Sec 2(f) of the RTI Act-2005 which is required to be furnished by the CPIO as well as the first Appellate authority. The same has been deliberately denied by the CPIO to cover up illegalities in the matter of rejection in promotion of the applicant to IPS and further promotions therein to DIG and IGP Grades.

2. The aforesaid letter dated 8.4.2013 of the IPS.I Sec MHA categorically states that this particular Section/Division is the *'Central Government'* for the purpose of promotion of State Police Service/DANIPS Officers to IPS. Therefore, the aforesaid rejection of promotion to IPS by the Joint Secretary (UT) Division, MHA by usurping the powers of Police Division/MHA and the Hon'ble Home Minister of India/concerned Home Minister as circulated vide office order No. 14033/13/08-Delhi-II, Government of India, Ministry of Home Affairs, New Delhi dated the 15th June, 2009 is a matter of grave violation and gravest illegality.

3. The First Appellate authority cannot deny the information on the baseless plea that the matter is sub-judice as he is already aware that even in sub-judice matters, unless the Court forbids the disclosure of the particular information under its specific orders as per the binding decision of the CIC in **case No. CIC/OK/A/2006/00536 dated 5.3.2007 in the matter of Rajnikant Chaturvedi (Appellant) Vs. Rashtriya Sanskrit Sansthan, Lucknow (Public Authority) by the Bench of Dr. O.P. Kejaariwal**. The decision is also available on the website of CIC (www.cic.nic.in), and has also been communicated to the aforesaid officials In the appeals dated 1.3.2013 and 6.5.2013 filed before the CIC.

4. The First Appellant authority is also aware that access to the 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. **(CASE DETAILS: Appeal No. CIC/WB/A/2007/000436 dated 23.3.2007 decided on 26.4.2010, Bench: Shri Wajahat Habibullah, Appelant: S.Kumar, Public Authority: Central Bureau of Investigation (CBI).** This particular decision of the CIC is already in the knowledge of the aforesaid CPIO and the Appellate Authority in appeals dated 10.12.2012, 1.3.2013, and 6.5.2013 filed by the applicant to the CIC.

All the aforesaid case details of the CIC are also available on the CIC's website (www.cic.nic.in)

31/5/13

(NARESH KUMAR)
(DANIPS-1977 BATCH, IPS SELECT LIST 2000)
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File No.14039/58/2012-UTS.I
Government of India
Ministry of Home Affairs

North Block, New Delhi-110001
Dated the 19th June 2013

ORDER

Shri Naresh Kumar has preferred 1st appeal dated 31.05.2013

2 The RTI application dated 18.03.2013 of Shri Naresh Kumar was received in UTS-I desk on 08.04.2013 through IPS.I section, MHA and was replied vide this ministry's letter dated 01/03rd May, 2013. The appellant may note that as per the definition of information the queries like "why", "what", "**whether**", are not covered under the domain of information under the RTI Act, 2005. The order dated 21.04.2006 may be referred passed by the Central Information Commission in the matter of Dr. D.V. Rao Vs Shri Yashwant Singh and another whereby the aforesaid view was upheld by the Commission.

3. The appeal filed by Sh. Naresh Kumar has been carefully considered and it is found that the aforesaid reply/decision of the CPIO with reference to his application dated 18.03.2013 is in conformity with the Right to Information Act, 2005

4. The appeal is accordingly disposed of.

19/6

(K.K.Pathak)
Joint Secretary (UT) &
Appellate Authority

To

Shri Naresh Kumar,
House No. 535, Sector No. 3
R. K. Puram, New Delhi-110022

C/C