



By Speed Post

No.14039/27/2014-UTS.II Government of India Ministry of Home Affairs

North Block, New Delhi - 110 001. Dated the 12th March, 2014.

Sub: Information sought by Shri Mahesh Tholia under the RTI Act, 2005 - regarding.

With reference to RTI application dated 31.01.2014 of Shri Mahesh Tholia, Assistant Commissioner of Police, received in UTS-II, Desk on 06.03.2014 through the RTI Cell, MHA, New Delhi, point wise information relevant to UTS-II Section is provided as under:

Point No. 01 to 03: The applicant is informed that these points were mentioned in his carlier application dated 31.01.2014. Reply to the said application has already been sent to him vide this Ministry's letter of even number dated 04.02.2014 (Copy enclosed).

Point No. 04 & 05: The applicant is informed that under the Right to Information Act, 2005, 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 (Section 2(f)). However, the questions regarding why the public authority had not taken certain actions and when if at all, would it take those actions cannot be asked under the Act. We may refer the order passed by the Central Information Commission dated 21.04.2006 in the matter of Dr. D.V. Rao Vs Shri Yashwant Singh and another whereby the aforesaid view was upheld by the Commission. Relevant portion of the said judgment is as below:

"......It is not open to an appellant to ask, in the guise of seeking information, questions to the public authorities about the nature and quality of their actions. The RTI Act does not east on the public authority any obligation to answer queries, as in this case, in which a petitioner attempts to elicit answers to his questions with prefixes, such as, why, what, when and whether. The petitioner's right extends only to seeking information as defined in Section 2 (f) either by pinpointing the file, document, paper or record, etc., or by mentioning the type of information as may be available with the specified public authority."

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- The applicant is, however, informed that the matter regarding implementation of the order passed by the Hon'ble CAT in case of Shri Anand Rai & others is under examination in the Ministry in Consultation with DoP&T and Ministry of Law and Justice.
- The copies of the desired file correspondence/noting, as asked by the applicant are <u>enclosed</u>. The applicant is free to inspect the records.
- 4. The name and address of the First Appellate Authority is as under:

Shri I.S. Chahal, Joint Secretary (UT) Ministry of Home Affairs, North Block, New Delhi – 110001.

(Anui Sharma)

(Anuj Sharma) Director and CPIO Tel: 2309 2436

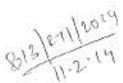
To

Shri Mahesh Tholia,

Asst. Commissioner of Police, Economic Offence Wing, Crime Branch, Mandir Marg, New Delhi.

Issued with Enclosure
Date 13.3.14





Subject:- Information under RTI Act-2005.

Sir,

The following information may be provided to undersign within 30 days as per RTI Act- 2005.

- I had sent a representation to Joint Secretary UT MHA, New Delhi through proper channel vide no. 1441-AF Section/EOW Dt. 29/08/2013.(Photocopy Enclosed)
- What action has been taken on my above representation regarding holding of DPC for the rank of ACP.
- Whether any DPC was held for the promotion of ACP Rank in 2013 as per the Supreme Court Direction in Union Of India Vs N.R. Benerjee 1997 SSC 287 and CAT Delhi Direction in Nem Dutt Bhardwaj and Ors. Vs Union of India.
- In the above two judgments the Hon'ble Supreme Court and CAT New Delhi had held that "DPC must be held for year wise vacancies" but MHA has not complied the directions. The reason of it may be informed.
- 5. On 23/12/2013 CAT New Delhi has allowed the OA No. 1033/2013, MA, 1769/13, MA. 700/2013 titled Anand Rai Vs MHA and Police Head Quarters and directed to effect the promotions only in strict compliance of the Law laid down by the Hon'ble Apex Court in M. Nagraj And Others Vs. Union of India(2006)8 SCC 212 and Suraj Bhan Meena Vs. State of Rajasthan (2011) 1 SCC 467. In view of the judgment in the above OA what action has been taken by the MHA in conducting the DPC for the rank of ACP in Delhi Police. (copy of the judgment and reply filed therein by the PHQ is enclosed herewith)
- 6. In the counter affidavit filed by MHA in OA no. 1033/2013, it has been mentioned at different paras and specially para 5 B(II), (ii), (iii) & (iV) it has been mentioned that promotion are done as per guidelines framed/ circulated by DOP & T, Govt. of India. Whether DOP& T has been asked to clarify the position with regard to holding of DPC in the Rank of ACP in Delhi Police. (copy of such correspondence may be supplied).
- Now there is no stay order on the holding of DPC and position is same as before the stay order of CAT, New Delhi.

Information may be provided on the below mentioned address

Receipt of Rs. 10 is enclosed herewith.

(Mahesh Tholia)

Assistant Commissioner of Police, Economic Offence Wing,

Crime Branch, Mandir Marg,

New Delhi.

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Mr.

S.No. 2 (I)



By Speed Post

No.14039/27/2014-UTS.II Government of India Ministry of Home Affairs

North Block, New Delhi - 110 001. Dated the 04th March, 2014.

Sub: Information sought by Shri Mahesh Tholia under section 6 (3) of the RTI Act, 2005 - regarding.

With reference to RTI application dated 31.01.2014 of Shri Mahesh Tholia, Assistant Commissioner of Police, received in UTS-II, Desk on 21.02.2014 through GNCT of Delhi, point wise information relevant to UTS-II Section is provided as under:

Point No. 1 & 2: The applicant is informed that on perusal of the records, it is revealed that no such representation has been received in the UTS-II Section of this Ministry. This is the first time, when the said representation has been received alongwith RTI application dated 31.01.2014. It is also informed that the holding of DPC for promotion to the rank of ACP (DANIPS) of Inspectors of Delhi Police against the vacancies of 2013 could not be held.

Point No. 3: The applicant is informed that no such DPC could be held for the promotion to the post of ACP Rank in 2013.

The name and address of the First Appellate Authority is as under:

Shri I.S. Chahal, Joint Secretary (UT) Ministry of Home Affairs, North Block, New Delhi - 110001

> (Anuj Sharma) Director and CPIO Tel: 2309 2436

To

Shri Mahesh Tholia,

Aرده. Commissioner of Police; Economic Offence Wing, Crime Branch, Mandir Marg, New Delhi.

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The DCP/HQ, Cum-PIO, Police Headquarters, Dy. 1628 177HQ 1NSP./RTI/PHQ INSP./RTI/PHQ Subject:- Information under RTI Act-2005.

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The following information may be provided to undersign within 30 days as per RTI Act- 2005.

- I had sent a representation to Joint Secretary UT MHA, New Delhi through proper channel vide no. 1441-AF Section/EOW Dt. 29/08/2013.(Photocopy Enclosed)
- What action has been taken on my above representation regarding holding of DPC for the rank of ACP.
- Whether any DPC was held for the promotion of ACP Rank in 2013 as per the Supreme Court Direction in Union Of India Vs N.R. Benerjee 1997 SSC 287.

Information may be provided on the below mentioned address

Receipt of Rs. 10 is enclosed herewith.

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(Mahesh Tholia)

Assistant Commissioner of Police, Economic Offence Wing, Crime Branch, Mandir Marg, New Delhi

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