

1.45020/1/2014-Pers-II
Government of India
Ministry of Home Affairs
Police.II Division

North Block, New Delhi
Dated the 7th August, 2014

ORDER

Subject:- **Appeal under Right to Information Act, 2005 – regarding.**

Reference is invited to appeal dated 20.06.2014 (Registration number 60211) filed by Shri Naresh Kadyan for providing information of his RTI application dated 12.06.2014.

2. The undersigned has gone through the case and it has been noted that a reply of said dated RTI application has already been sent to the applicant by the CPIO vide this Ministry's letter of even No.I-45020/1/2014-Pers.II dated 17.06.2014 (Copy enclosed). The applicant has now appealed that the RTI application may be forwarded to BSF & CPIOs of all State Police for giving information.

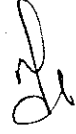
3. In this regard kind attention is drawn to Para 3(iii) & 3(iv) of DoP&T's OM No.10/2/ 2008-IR dated the 12.06.2008 (Copy enclosed) vide which it has been stipulated that "*if the desired information is scattered with more than one other public authorities. In such a case, the PIO of the public authority receiving the application should give information relating to it and advise the applicant to make separate applications to the concerned public authorities for obtaining information from them*". This OM of DoP&T has also been referred to by Central Information Commission in which disposing off an appeal case vide order No.CIC/SM/A/2013/001161-SS dated 21.03.2014 (Copy enclosed). In view of above, you are requested to obtain the requisite information from the CPIOs of States concerned directly.

4. As regards forwarding of application to BSF, it is submitted that said RTI application has already been transferred to CPIO of BSF alongwith other Forces vide this Ministry's letter dated 17.06.2014.

5. Further, it appears that the appeal has been made by the appellant on 20.06.2014 i.e before receiving the reply dated 17.06.2014 from the CPIO, MHA.

6. As such, the appeal is disposed off accordingly.

Encls : As Above



(Dr.Nirmaljeet Singh Kalsi)

Joint Secretary (Police-II) & Appellate Authority

Ph.23092478

To

**Shri Naresh Kadyan,
C-38, Rose Apartment, Prashant Vihar,
Sector-14, Rohini, Delhi -110085**

Copy to:-

1. IT Cell, MHA for uploading the data on MHA's website.
2. Shri V.K.Rajan, Deputy Secretary (E) & CPIO, RTI Cell, MHA, New Delhi with reference to his OM dated 18.07.2014.



(Dr.Nirmaljeet Singh Kalsi)

Joint Secretary (Police-II) & Appellate Authority

Ph.23092478

Copy for info and n/a to:-

1. PS to JS(P.II)
2. PS to Dir(Pers)

1.45020/01/2014-Pers-II
Government of India
Ministry of Home Affairs
Pers-II

North Block, New Delhi
Dated the 17th June 2014

To

Shri Naresh Kadyan,
C-38, Rose Apartment, Prashant Vihar,
Sector-14, Rohini, Delhi -110085

Subject:- Right to Information, Act, 2005 - regarding

Sir,

Please refer to your online RTI application dated 12.06.2014 (Registration number 61409/1) seeking information on the subject cited above.

2. Since the information sought by you pertains to Ministry of Defence and CAPFs & AR as such, your aforesaid RTI application is being transferred under Section 6(3) of the RTI Act, 2005 to the CPIOs concerned (of MoD, CAPFs & AR) for giving the reply directly to you.
3. In case you are not satisfied with the reply, the appeal in the case lies with Dr. Nirmaljeet Singh Kalsi, Joint Secretary (Police-II), MHA. The appeal may be filed within 30 days from the date of receipt of this reply.

Yours faithfully,



(Shantanu)
Director (Pers) & CPIO
J 23092933

Copy along with RTI application dated 12.06.2014 of Shri Naresh Kadyan is transferred under Section 6(3) of RTI Act, 2005 to:-

1. The Under Secretary, RTI Cell, Ministry of Defence, Sena Bhavan , New Delhi for necessary action to give reply/information directly to the applicant.

2. (a) Ms. Anupam Kulshreshtha, DIGP(Adm) & CPIO, CRPF (b) Shri Vikash Chandra, DIG(Pers) & CPIO, BSF (c) Shri S.S.Hartha, DIG (Pers) & CPIO, ITBP (d) Shri Anant Kumar Singh, DIG (Ops) & CPIO, CISF . (e) Shri David Lalrinsanga, DIG(Pers) & CPIO,SSB (f) Maj Gen. Pankaj Sachdeva, IG(HQ) & CPIO, AR (Through LOAR) for giving the reply directly to the applicant.

REC'D
17.6.14

18/6/14

18/6/14

3. IT Cell, MHA for uploading the data on MHA's website.



(Shantanu)
Director (Pers) & CPIO
23092933

Copy to

PS to Dir (Pers) for n/a pls.

IT Cell

2-16/14

20/6/14

O/C
18/6/14

18/6/14

21

No.10/2/2008-IR
Government of India
Ministry of Personnel, Public Grievances & Pensions
Department of Personnel & Training

North Block, New Delhi
Dated: the 12th June, 2008

OFFICE MEMORANDUM

Subject: RTI applications received by a public authority regarding information concerning other public authority/authorities.

It has been brought to the notice of this Department that requests are made to the public authorities under the Right to Information Act for pieces of information which do not concern those public authorities. Some times, such an information is sought, a part or no part of which is available with the public authority to which the application is made and remaining or whole of the information concerns another public authority or many other public authorities. A question has arisen as to how to deal with such cases.

2. Section 6(1) of the RTI Act, 2005 provides that a person who desires to obtain any information shall make a request to the public information officer (PIO) of the concerned public authority. Section 6(3) provides that where an application is made to a public authority requesting for any information which is held by another public authority or 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, shall transfer the application to that other public authority. A careful reading of the provisions of sub-section (1) and sub-section(3) of Section 6, suggests that the Act requires an information seeker to address the application to the PIO of the 'concerned public authority'. However, there may be cases in which a person of ordinary prudence may believe that the piece of information sought by him/her would be available with the public authority to which he/she has addressed the application, but is actually held by some another public authority. In such cases, the applicant makes a bonafide mistake of addressing the application to the PIO of a wrong public authority. On the other hand where an applicant addresses the application to the PIO of a public authority, which to a person of ordinary prudence, would not appear to be the concern of that public authority, the applicant does not fulfill his responsibility of addressing the application to the 'concerned public authority'.

....2/-

3. Given hereinunder are some situations which may arise in the matter and action required to be taken by the public authorities in such cases:

- (i) A person makes an application to a public authority for some information which concerns some another public authority. In such a case, the PIO receiving the application should transfer the application to the concerned public authority under intimation to the applicant. However, if the PIO of the public authority is not able to find out as to which public authority is concerned with the information even after making reasonable efforts to find out the concerned public authority, he should inform the applicant that the information is not available with that public authority and that he is not aware of the particulars of the concerned public authority to which the application could be transferred. It would, however, be the responsibility of the PIO, if an appeal is made against his decision, to establish that he made reasonable efforts to find out the particulars of the concerned public authority.
- (ii) A person makes an application to a public authority for information, only a part of which is available with that public authority and a part of the information concerns some 'another public authority.' In such a case, the PIO should supply the information available with him and a copy of the application should be sent to that another public authority under intimation to the applicant.
- (iii) A person makes an application to a public authority for information, a part of which is available with that public authority and the rest of the information is scattered with more than one other public authorities. In such a case, the PIO of the public authority receiving the application should give information relating to it and advise the applicant to make separate applications to the concerned public authorities for obtaining information from them. If no part of the information sought, is available with it but is scattered with more than one other public authorities, the PIO should inform the applicant that information is not available with the public authority and that the applicant should make separate applications to the concerned public authorities for obtaining information from them. It may be noted that the Act requires the supply of such information only which already exists and is held by the public authority or held under the control of the public authority. It is beyond the scope of the Act for a public authority to create information. Collection of information, parts of which are available with different public authorities, would amount to creation of information which a public authority under the Act is not required to do. At the same time, since the information is not related to any one particular public authority, it is not the case where application should be transferred under sub-section (3) of Section 6 of the Act. It is pertinent to note that sub-section (3) refers to 'another public authority' and not 'other public authorities'. Use of singular form in the Act in this regard is important to note.

- (iv) If a person makes an application to a public authority for some information which is the concern of a public authority under any State Government or the Union Territory Administration, the Central Public Information Officer (CPIO) of the public authority receiving the application should inform the applicant that the information may be had from the concerned State Government/UT Administration. Application, in such a case, need not be transferred to the State Government/UT Administration.

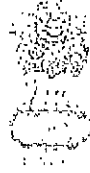
4. Contents of this OM may be brought to the notice of all concerned.



(K.G. Verma)
Director

1. All the Ministries / Departments of the Government of India
2. Union Public Service Commission/ Lok Sabha Sectt./ Rajya Sabha Secretariat/ Cabinet Secretariat/ Central Vigilance Commission/ President's Secretariat/ Vice-President's Secretariat/ Prime Minister's Office/ Planning Commission/Election Commission.
3. Central Information Commission/State Information Commissions.
4. Staff Selection Commission, CGO Complex, New Delhi
5. Office of the Comptroller & Auditor General of India, 10, Bahadur Shah Zafar Marg, New Delhi.
6. All officers/Desks/Sections, Department of Personnel & Training and Department of Pension & Pensioners Welfare.

Copy to: Chief Secretaries of all the States/UTs.



Central Information Commission
Room No. 305, 2nd Floor, 'B' Wing, August Kranti Bhavan,
Bhikaji Cama Place, New Delhi-110066
Web: www.cic.gov.in Tel No: 26167931

Case No. CIC/SM/A/2013/001161-S5
March 21, 2014

Appellant : Shri Gaurav Goyal
Respondents : Department of Personnel & Training
(DoPT)
Date of Hearing : 21.03.2014

ORDER

The present appeal, filed by Shri Gaurav Goyal against Department of Personnel & Training (DoPT), was taken up for hearing on 21.03.2014 when the Respondents were present through Ms. Sarita Nair, US (IR). The Appellant, who wanted to be heard over the phone, did not respond, when tried.

2. The Appellant through an RTI application dated 06.05.2013 sought following information:

"Please inform whether we can file online RTI Applications for getting information from Haryana Government if not then please inform the name, designation and addresses of the officers and authorities of Haryana Government who are competent to start such a portal so that the public can file online RTI Applications for getting information from Haryana Government."



3. The CPIO vide his letter dated 17.05.2013 informed the Appellant that the webportal launched by the DoPT presently facilitates filing of RTI applications online for seeking information from Public Authorities of Central Government and Departments located in Delhi. This facility is not extended to the Public authorities of State Governments including Haryana. The requisite information in respect of Haryana may be obtained from the Financial Commissioner & Secretary, Administrative Reforms, Government of Haryana, Civil Secretariat, Chandigarh.
4. The Appellant thereafter filed an appeal dated 24.05.2013 before the Appellate Authority complaining that the CPIO has not complied with section 6(3) of the RTI Act.
5. The Appellate Authority disposed of this appeal vide order dated 03.06.2013 holding that there is no infirmity in the CPIO's reply, nor is there any violation of section 6(3) of the RTI Act by him. The Appellate Authority also cited the OM dated 12.06.2008 issued by the DoPT which, inter alia, stipulates that if a person makes an application to a public authority for some information which is the concern of a public authority under any State Government or the Union Territory Administration, the CPIO of the public authority receiving the application should inform the applicant that the information may be had from the concerned State Government/UT Administration.
6. The Appellant thereafter filed the instant appeal before the Commission stating that OM dated 12.06.2008 issued by DoPT is contrary to the RTI Act including section 6(3).
7. Having heard the submissions and perused the records, the Commission notes that in terms of section 6(1) of the RTI it is the responsibility of the information-seeker to file his request for information before the "concerned" public authority. It would not be appropriate for

Information seeker to first file his request for information with the public authority which, he knows, is not concerned with the information sought by him, and then expect that public authority to transfer such request of his to the concerned public authority. If this is allowed, it would adversely affect the functioning of the CPICs of the public authority.

8. In view of the above, the present appeal of the Appellant cannot be allowed and is rejected.

Sushma Singh

(Sushma Singh)
Chief Information Commissioner

Authenticated by

(D.C. Singh)

(D.C. Singh)
Deputy Registrar