

F. No. 14039/41/2014-UTS.I
Government of India
Ministry of Home Affairs
(UTS-I Desk)

North Block, New Delhi
New Delhi, 29 April, 2014

ORDER

Shri K.S. Mehra has preferred 1st Appeal dated 15.2.2014.

2. The RTI application dated nil and 1st Appeal dated 14.1.2014 filed by Shri K.S. Mehra was received in UTS-I Desk, MHA from IPS-II Section on 23.4.2014. The original RTI application seeking certain information about Ms. Vimla Mehra, DG(Prisons), Tihar Jail was received in Ministry of Home Affairs, RTI Section and was transferred under RTI Act, 2005 to the Jail Superintendent, Tihar Jail, New Delhi vide this Ministry's letter No. A-43020/01/2014-RTI dated 22.1.2014. In the first appeal filed by Shri Mehra it has been intimated that the information about an IPS officer should be available with the Ministry of Home Affairs.

3. The personal files and service books of the IPS officers of AGMU Cadre are being maintained by Government of NCT of Delhi. The records of information sought is closely connected with Government of NCT of Delhi. RTI application and 1st Appeal filed by Shri K.S. Mehra is being transferred to CPIO/Government of NCT of Delhi under section 6(3) of the RTI Act, 2005, as the subject matter is being dealt by them.


(I.S. Chahal)
Joint Secretary (UT) and
Appellate Authority,
Tel: 2309 2680

To,
Shri K.S. Mehra,
14/3, Delhi Administration Officers Flat,
Tilak Marg,
New Delhi-110 001.

o/c

Copy to:

1. The CPIO/Government of NCT of Delhi, Secretariat, I.P. Estate, New Delhi-110 001. The applicant has deposited the requisite application fee of Rs. 10/- in this office. The requisite reply may be sent directly to the applicant at the earliest.
2. RTI Cell, MHA w.r.t. their letter No. A-43020/01/2014-RTI dated 25.3.2014, for information.
3. Director (Police) and CPIO, MHA, w.r.t. their O.M. No. 42020//2/2014-IPS.II dated 17.4.2014 for information.

01/05/2014

1/5/14

ISSUED
Date 30/4/14

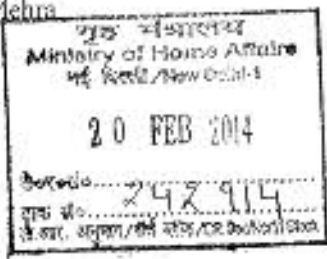
o/c

APPEAL U/S 19 OF THE RIGHT TO INFORMATION ACT,
2005

To : The First Appellate Authority,
Ministry of Home Affairs
Government of India, North Block,
New Delhi-1.

(1) Full name of the Appellant: Mr. K S Mehra

(2) Address of the Appellant:
14/3, Tilak Marg,
Delhi Administration Officers Flats,
New Delhi-110001



(3) Particulars of the Central Public Information Officer (CPIO):

The CPIO, Ministry of Home Affairs

J.S. (RTI)

(4) Reason for Appeal: Aggrieved by the reply of the CPIO

21/2

(5) Is the appeal filed within the prescribed time limit? Yes

D.S. (LE)

(6) Particulars of information:

21/2/14

(i) Nature and subject matter of the information required:

Kindly furnish me the following information:

*US (RTI)
23-01-14*

i) Kindly intimate whether a Government Servant is required to intimate changes in his/her marital status with the Competent Authority after getting legally divorced?

ii) Kindly intimate whether Ms. Vimla Mehra DG (Prisons), Tihar Jail has updated her marital status with the Competent Authority?

*1st Annual
Pl. trace/verify*

iii) Kindly furnish a copy of the document/affidavit furnished by Ms. Vimla Mehra DG (Prisons) whereby she has updated/changed her marital status with the competent authority after giving divorce to the Applicant.

*an. cl.
Tihar Jail
Tihar Jail
Haram Nagar
New Delhi*

Sho

- iv) Kindly intimate whether Ms. Vimla Mehra is using the Applicant's name in her passport and Election ID (Voter Card) etc. as the name of her husband?
- v) Kindly intimate whether Ms. Vimla Mehra has travelled to any other country using a passport with the name of the Applicant as her husband after 15.10.2007 i.e. the date on which the Applicant and Ms. Vimla Mehra got divorced?
- vi) Kindly furnish details of foreign visits (Official/Private) made by Ms. Vimla Mehra between 2007 to 2012 with the passport in which the Applicant's name is shown as her husband?

ii) Name of the Office or Department to which the information relates:

The CPIO, Ministry of Home Affairs.

(7) The grounds for Appeal:

1. That the CPIO has failed to supply the information to the Application filed under Section 6 of the Right to Information Act, 2005 (herein after referred to as the "Act").
2. That on 30.12.2013, an Application under Section 6 of the Act was filed before the Central Public Information Officer (CPIO), seeking information and details as mentioned above in clause 6 (a) of the present appeal. Copy of the Section 6 Application along with the receipt is enclosed herewith the Appeal as **Annexure-A**.
3. That vide reply dated 22.01.2014, the CPIO has sent a one page intimation to the Applicant/Appellant. However, the said reply does not answer the queries made by the Appellant/Applicant in its RTI Application. Instead of sending the information as sought for by the Appellant, the CPIO has sent only a one page reply stating

that the information sought by the Applicant does not fall within the jurisdiction of MHA. A copy of the said Reply is hereby marked and enclosed as **Annexure-B**.

4. That MHA is the custodian of all service records of the Government Servants. Hence, the plea taken by the MHA that the requested information does not fall within its jurisdiction is per se wrong and unsustainable.

5. That the information sought for by the Appellant pertains to an IPS officer who is the Director General (Prisons) and as such being a Government Officer, MHA becomes the custodian of all the relevant documents pertaining to the subject matter of the Appellant's RTI Application.

6. That under Sec 5 (3) of the Act, every Central Public Information Officer or State Public Information Officer, is bound to deal with requests from persons seeking information and render reasonable assistance to the persons seeking such information. However, the CPIO has not furnished complete nor any specific information and details as requested and sought for in the Application with respect to the subject matter of the information asked for.

7. That as per Section 8(1)(d) & (j) of RTI Act, following information is exempted under the Act:

(d) information including commercial confidence, trade secrets or intellectual property, the disclosure of which would harm the competitive position of third party, unless the competent authority is satisfied that larger public interest warrants the disclosure of such information.

(j) information which relates to personal information the disclosure of which has not relationship to any public activity or interest, or which would cause unwarranted invasion of the privacy

(F)

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."

8. It is further the duty of the CPIO under Section 7 to provide information to the applicant under Section 6 on receipt of a request within 30 days of the receipt of the request or reject the same for any reason specified under Section 8 and 9 of the Act. The relevant extract of Section 7 is reproduced hereunder:

"7. (1) Subject to the proviso to sub-section (2) of section 5 or the proviso to subsection (3) of section 6, the Central Public Information Officer or State Public Information Officer, as the case may be, on receipt of a request under section 6 shall, as expeditiously as possible, and in any case within thirty days of the receipt of the request, either provide the information on payment of such fee as may be prescribed or reject the request for any of the reasons specified in sections 8 and 9."

Provided that where the information sought for concerns the life or liberty of a person, the same shall be provided within forty-eight hours of the receipt of the request.

However, the CPIO has not provided the required information as sought for by the Appellant as against the provisions of Section 7 of the RTI Act, 2005. It has been more than 30 days and the requisite information has not been furnished to the Appellant.

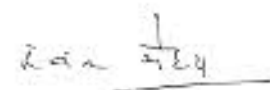
9. It must be noted that as far as the information asked for is concerned, there is no creation of information involved and the CPIO is only to provide the already existing information from the records. And even if some part of information asked for is exempted under the Act, then it shall be severed from the non-exempted part of the information and it shall be specifically mentioned under what provisions of the Act it is exempted and a valid reason for the refusal to provide the same shall be given.

6

10. Being aggrieved by failure of the CPIO to provide information to provide the same under the Act, the Appellant herein is filing the present Appeal.

In the aforesaid facts and circumstances, it is hereby requested that the CPIO be directed to immediately furnish the required information.

Place : Delhi
Date : 15/2/14


Signature of Appellant

Enclosures:

- 1) Annexure-A -Copy of my RTI Application along with the receipt.
- 2) Annexure-B- Copy of the Reply furnished by the CPIO.