

No.A-43020/67/2014-RTI
Government of India/भारत सरकार
Ministry of Home Affairs/गृह मंत्रालय

RTI MATTER/TIME BOUND

नई दिल्ली, दिनांक 08 जुलाई, 2014

ORDER

Sub: First Appeal filed by Shri R.K. Jain under the RTI Act, 2005- regarding.

Shri R.K. Jain vide his application dated 11/04/2014 had sought information from the Ministry of Home Affairs under the RTI Act, 2005. CPIO vide his letter No. A-42012/09/2014-Ad.II dated 16.05.2014 has already replied to the applicant.

2. Shri R.K. Jain vide his first appeal dated 23/05/2014(received in this Ministry through Department of Post on 03/06/2014) has stated that the information provided by the CPIO, MHA is incorrect and illegal and liable to be set aside and the CPIO be directed to provide the information in time bound frame.

3. The information sought by the appellant, reply of the CPIO and the decision of the Appellate Authority is as under:

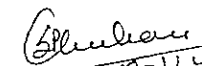
Para No.	Information request for by the applicant	Information provided by the CPIO, MHA	Details of appeal	Decision of Appellate Authority
A.	The proactive disclosure of information by Ministry of Home Affairs on its website is neither complete nor up to date as per the requirement of the Section 4 of the RTI Act, 2005 read with guidelines issue under DoPT OM No. 1/6/2011-IR dated 15/04/2013 and 10/12/2013. Even the Hindi version is not operational and most of the menus & submenus/hyperlinks	The matter has been informed to Director(OL) and US(Coord.II) to rectify the Hindi website. Copy of OM of even No. dated 09/05/2014 is enclosed.	Shri V.K. Rajan, CPIO, Ministry of Home Affairs, has deliberately and malafidely provided incomplete and incorrect information despite pointwise specific information sought by the appellant. Therefore, the order of the CPIO is incorrect and illegal and liable to be set aside and the CPIO be directed to provide the information in time bound frame.	Appellant has not mentioned what incomplete information he has received. Nodal CPIO has provided copy of OM issued to concerned authority for updation of Hindi version of website. Further information can only be obtained from CPIO concerned.

	<p>are without any data though displayed on the home page. The Ministry of Home Affairs is liable for penal action in this regard as per Section 18 of the RTI Act read with Delhi High Court decision in case of DDA V/s CIC. You are advised to comply under section 18 of the RTI against the concerned officials of Ministry of Home Affairs. In this respect, please also provide the following information:</p>			
A(i)	<p>Please provide the file Numbers in which the proactive disclosure by Ministry of Home Affairs under Section 4 of the RTI Act is dealt with. Please provide certified copies of the Note sheets of the said file from 01/01/2013 till the date of providing the information.</p>	<p>The guidelines issued by DOPT was circulated among the CPIOs of this Ministry vide this Section's O.M. A-43020/38/2012-RTI(Part) dated 20th February, 2014 for taking suo motu disclosure under Section 4 of RTI Act, 2005 and to ensure compliance based on these guidelines. Copies of the relevant noting and the O.M. dated 20/02/2014 are enclosed herewith for information. As per letter dated 20.2.2014 "all the CPIOs are required to undertake suo motu disclosure under Section 4 of the RTI Act, 2005 and to ensure compliance based on these guidelines."</p>		<p>CPIO has also provided circulars issued by the Nodal RTI Cell, MHA to all the CPIO in compliance with DoPT's OM dated 15/04/2013. Appellant may obtain further information from each CPIO directly.</p>
A(ii)	<p>Please provide the name of the officers with designations who are responsible for making voluntary disclosure under section 4 of the RTI Act from 01/01/2009 till the date of providing the information and also provide the details of actions taken against them for violation of provisions of section 4 of the RTI Act.</p>		<p>The CPIO has not provided the name and designation of the officials who are responsible for making voluntary disclosure u/s 4 of the RTI Act. This information was sought in point A(ii) of the RTI application. Therefore, the order of the CPIO is incorrect and illegal and liable to be set aside and the CPIO be directed to provide the information in time bound frame.</p>	<p>All the CPIOs are responsible for making voluntary disclosure for the subjects handled by them. Nodal CPIO is further directed to provide the names of all the CPIOs and Appellate Authorities under MHA(P) to the appellant.</p>

		<p>Further, instructions have been issued by RTI Cell vide O.M.No.43020/16/2014/RTI dated 06/05/2014 to all CPIOs to follow DoPT guidelines dated 15/4/2014(Copy enclosed). Name of CPIOs are available in MHA website www.mha.nic.in.</p>		
B	<p>Please provide list of files from which the information as sought above is provided by you.</p>	<p>Your present application is also being forwarded to all CPIOs of this Ministry with the request to provide the action taken by them on proactive disclosure of information as per DOPT guidelines to you directly.</p>	<p>CPIO has not provided any information in relation to point (B) of the RTI application. Therefore, the order of the CPIO is incorrect and illegal and liable to be set aside and the CPIO be directed to provide the information in time bound frame.</p>	<p>Since each CPIO is responsible for making voluntary disclosure for the subjects handled by him, therefore list of files can only be provided by CPIO concerned. Nodal CPIO is directed to forward a copy of this appeal to all the CPIOs for providing relevant information directly to the applicant regarding list of files from which voluntary disclosures were made.</p>
C	<p>Please provide copies of all note sheets and correspondence pages of the RTI file in which this application has been dealt with, till the date of providing the information. In case of correspondence emanating from me, only copy of first page of each document may be provided.</p>		<p>CPIO has provided incorrect and misleading information in relation to point (C) of the RTI application. Therefore, the order of the CPIO is incorrect and illegal and liable to be set aside and the CPIO be directed to provide the information in time bound frame.</p>	<p>Since RTI application was forwarded to all the CPIOs, therefore they can only supply note sheets and correspondence pages of the RTI file in which the RTI application of the appellant dated 11/04/2014 was dealt by them. However, Nodal CPIO is directed to forward a copy of this appeal to all the CPIOs for providing copies of all note sheets and correspondence pages of the RTI file in which this application has been dealt with, till the date of providing information, if already not sent. So far as providing of copies of all note sheets and correspondence pages</p>

				of the RTI file in which this application has been dealt with, till the date of providing information in respect of nodal RTI cell are concerned, nodal CPIO is directed to provide the same to the appellant, if already not sent.
			Ministry of Home Affairs is not complying with the provisions of section 4 of the RTI Act nor they have complied with the DoPT OM dated 15/04/2013 in order to cover up their lapses. The CPIO is providing incomplete, incorrect and misleading information. Therefore, the order of the CPIO is incorrect and illegal and liable to be set aside and the CPIO be directed to provide the information in time bound frame and he is also liable for penalty under section 20(1) of the RTI Act and recommendation for disciplinary action under section 20(2) of the RTI Act, for delaying and obstructing the information in question without any reasonable cause.	Nodal RTI cell, MHA has issued many internal orders to all the CPIOs for compliance of DoPT's OM dated 15/04/2013. The relevant orders dated 20/02/2014, 23/04/2014, 06/05/2014 and 21/05/2014 are enclosed. Further, MHA has many CPIOs and relevant information is only available with them.
			CPIO has erred in not providing the information to the appellant though as per the provisions of the RTI Act, the appellant is entitled to information as sought by him. Therefore, the order of the CPIO is liable to be set aside with direction to provide the information to the appellant within time bound frame.	Nodal RTI Cell is not a repository of information. Nodal RTI Cell has replied to the appellant so far as information relating to it is concerned. Since, the appellant sought information related to all the CPIOs under MHA(P), nodal RTI cell had forwarded the RTI application to all the CPIOs. If any information is not received from any of the CPIO, then appellant may contact.

4. The appeal of Shri R.K. Jain is disposed of accordingly and it is being disposed of after 30 days due to exigency of work but within 45 days in accordance with section 19(6) of the RTI Act, 2005. However, the appellant is at liberty to visit this Office at a mutually convenient time if he likes to put forth his point of view personally, if any.



(Satpal Chouhan)

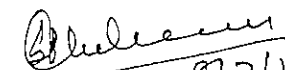
Joint Secretary & Appellate Authority

Ph. No. 23093178

Shri R.K. Jain,
1512-B, Bhishm Pitamah Marg,
Wazir Nagar, New Delhi- 110003

Copy along with a copy of RTI application and appeal of Shri R.K. Jain to:

1. Nodal CPIO with the direction to take necessary action in r/o para A(ii), para B & C above immediately.
- ✓ 2. SO(IT Cell) for uploading of RTI application, appeal and reply under the concerned Appellate Authority with search facility based on key words in the MHA website under the heading RTI Act- Information under 4(1)(b) of the Act.



Joint Secretary & Appellate Authority

First Appeal under Section 19 of the Right to Information Act, 2005

Ref. No. : RTI/P-579/(8056/14)/Appeal/15115

Dated : 23-05-2014

To

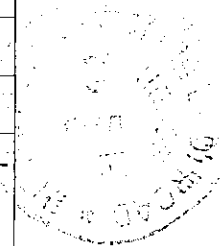
Shri Satpal Chauhan
Joint Secretary (Admn.)
First Appellate Authority Under the RTI Act 2005
Home Minister's Office
Central Secretariat
North Block
New Delhi - 110001

A. Contact Details :

1.	Name of the Appellant	R.K. Jain
2.	Address	1512-B, Bhishm Pitamah Marg Wazir Nagar New Delhi-110003

B. Details About RTI Request :

1.	Particulars of the CPIO against whose order appeal is preferred	(a) Name	Shri V.K. Rajan Dy. Secretary (E) & CPIO
		(b) Address	Ministry of Home Affairs Govt. of India North Block New Delhi - 110001
2.	Date of submission of application (Copy of application attached)	11-04-2014	
3.	Details of the order appealed against	Letter No.A-42012/09/2014-Ad.II dated 16-05-2014	
4.	Prayer or relief sought	See Prayer clause at the end	
5.	Last date for filing the appeal	16-06-2014	
6.	Whether Appeal in Time.	Appeal in time	
7.	Copies of documents relied upon by the applicant	1. Copy of RTI Application dated 11-4-2014. (Annexure-1) 2. Copy of CPIO's letter dated 8-5-2014. (Annexure-2) 3. Copy of Appellant's 2 Reminder letter dated 10-5-2014. (Annexure-3) 4. Copy of CPIO's letter dated 16-5-2014. (Annexure-4)	



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BRIEF FACTS OF THE CASE

(1) That the appellant has filed an application dated 11-04-2014 (**Annexure – 1**) under Section 6 of the RTI Act, 2005 requesting for the following information:

(A) *The proactive disclosure of information by Ministry of Home Affairs on its website is neither complete nor upto date as per the requirement of the Section 4 of the RTI Act, 2005 read with guidelines issue under DoPT O.M. No. 1/6/2011-IR, dated 15-04-2013 and 10-12-2013. Even the Hindi version is not operational and most of the menus & submenus/hyperlinks are without any data though displayed on the home page. The Ministry of Home Affairs is liable for penal action in this regard as per Section 18 of the RTI Act read with Delhi High Court decision in the case of DDA v. CIC. You are advised to comply with the provisions of section 4 within a week failing which the Applicant shall file a complaint under section 18 of the RTI against the concerned officials of Ministry of Home Affairs. In this respect, please also provide the following information : -*

(i) *Please provide the file Numbers in which the proactive disclosure by Ministry of Home Affairs under Section 4 of the RTI Act is dealt with. Please provide the number of Notesheets and number of correspondence pages contained in each file. Please provide certified copies of the Notesheets of the said file form 01-01-2013 till the date of providing the information.*

(ii) *Please provide the name of the officers with designations who are responsible for making voluntary disclosure under section 4 of the RTI Act from 01-01-2009 till the date of providing the information and also provide the details of actions taken against them for violation of provisions of section 4 of the RTI Act,*

(B) *Please provide list of files from which the information as sought above is provided by you*

(C) *Please provide copies of all note sheets and correspondence pages of the RTI file in which this application has been dealt with, till the date of*

providing the information. In case of correspondence emanating from me, only copy of first page of each document may be provided.

- (2) That the appellant vide para 5 of his said application has also made a declaration that the information sought for is not exempted under Section 8 or 9 of the RTI Act, 2005 and also stated that to the best of the knowledge of the appellant, the information pertains to the Office of the CPIO in question.
- (3) That Shri V.K. Rajan, CPIO, Ministry of Home Affairs, has deliberately and malafidely provided incomplete and incorrect information despite point-wise specific information sought by the Appellant. The appellant being aggrieved by the said order of the CPIO is filing the present appeal.

GROUND OF APPEAL

- (1) That the order in question of the CPIO is incorrect and illegal and contrary to the provisions and spirit of the RTI Act, 2005 hence liable to be set aside.
- (2) That the information sought by the appellant is not exempted under Section 8 or 9 or any other provisions of the RTI Act, 2005, therefore, there was no valid cause or reason or ground for not providing the information.
- (3) That Shri V.K. Rajan, CPIO, Ministry of Home Affairs, has deliberately and malafidely provided incomplete and incorrect information despite point-wise specific information sought by the Appellant. Therefore, the order of the CPIO is incorrect and illegal and liable to be set aside and the CPIO be directed to provide the information in time bound frame.
- (4) That the CPIO has not provided the name and designation of the Officials who are responsible for making voluntary disclosure u/s 4 of the RTI Act. This information was sought in point A(ii) of the RTI application. Therefore, the order of the CPIO is incorrect and illegal and liable to be set aside and the CPIO be directed to provide the information in time bound frame.
- (5) That the CPIO has not provided any information in relation to point (B) of the RTI application. Therefore, the order of the CPIO is incorrect and illegal and liable to be set aside and the CPIO be directed to provide the information in time bound frame.

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- (6) That the CPIO has provided incorrect and misleading information in relation to point (C) of the RTI application. Therefore, the order of the CPIO is incorrect and illegal and liable to be set aside and the CPIO be directed to provide the information in time bound frame.
- (7) That the Ministry of Home Affairs is not complying with the provisions of section 4 of the RTI Act nor they have complied with the DOPT OM dated 15-4-2013 in order to cover up their lapses. The CPIO is providing incomplete, incorrect and misleading information. Therefore, the order of the CPIO is incorrect and illegal and liable to be set aside and the CPIO be directed to provide the information in time bound frame and he is also liable for penalty under section 20(1) of the RTI Act and recommendation for disciplinary action under section 20(2) of the RTI Act, for delaying and obstructing the information in question without any reasonable cause.
- (8) That the CPIO has erred in not providing the information to the appellant though as per the provisions of the RTI Act, the appellant is entitled to information as sought by him. Therefore, the order of the CPIO is liable to be set aside with direction to provide the information to the appellant within time bound frame.
- (9) That the information sought is neither voluminous nor relate to older and larger period, thus could have easily been provided by the learned CPIO.
- (10) That as per proviso to Section 8(1) of the RTI Act, 2005, the information which can not be denied to the Parliament or the State Legislatures shall not be denied to any person. The information sought by the appellant in the subject application is the one which cannot be denied to the Parliament or the State Legislatures and hence it cannot be denied or refused to the appellant.
- (11) That a personal hearing may be granted to the appellant before deciding the present appeal.
- (12) This is without prejudice to the right of the appellant to add, alter or modify any of the grounds of this appeal and adduce oral or written evidence at the time of hearing or till the appeal is disposed of.

PRAYER

Under the circumstances, the appellant prays as under:

- (a) That the Original Records may be summoned and perused.

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- (b) That the order of the CPIO may be set aside to the extent it has been appealed against and CPIO/Deemed CPIOs may be directed to provide the information in question within time bound frame.
- (c) That imposition of penalty may also be recommended against the CPIO for not providing the complete and correct information.
- (d) That any other relief as the Appellate Authority deem fit and proper may also be ordered in favour of the appellant.
- (e) That a personal hearing may be granted to the appellant before deciding the appeal.



Signature of Appellant
Telephone No. : 9810077977
24651101
Fax No. 011-24635243

Place : New Delhi
Dated : 23-05-2014

OTC Annexure-1

(6)

Application under Section 6 of the Right to Information Act, 2005

Ref. No. :RTI/P-402/8056/14

Dated : 11-4-2014

To

Central Public Information Officer
Ministry of Home Affairs
Govt. of India
North Block
New Delhi - 110001

1.	Name of the Applicant	R.K. Jain
2.	Address	1512-B, Bhishm Pitamah Marg Wazir Nagar New Delhi-110003
	(b) Phone Nos.	09810077977, 011-24651101, 011-24690707
	(c) Fax No.	011-24635243
3.	Whether a Citizen of India	Yes
4.	Particulars of Information	
	Details of information required	(A) The proactive disclosure of information by Ministry of Home Affairs on its website is neither complete nor upto date as per the requirement of the Section 4 of the RTI Act, 2005 read with guidelines issue under DoPT O.M. No. 1/6/2011-IR, dated 15-04-2013 and 10-12-2013. Even the Hindi version is not operational and most of the menus & submenus/hyperlinks are without any data though displayed on the home page. The Ministry of Home Affairs is liable for penal action in this regard as per Section 18 of the RTI Act read with Delhi High Court decision in the case of DDA v. CIC. You are advised to comply with the provisions of section 4 within a week failing which the Applicant shall file a complaint under section 18 of the RTI against the concerned officials of Ministry of Home Affairs. In this respect, please also provide the following information : - (i) Please provide the file Numbers in which the proactive disclosure by Ministry of Home Affairs under Section 4 of the RTI Act is dealt with. Please provide the number of Notesheets and number of correspondence pages contained in each file. Please provide certified copies of the Notesheets of the said file form 01-01-2013 till the date of providing the information.

		<p>(A) Please provide the name of the officers with designations who are responsible for making voluntary disclosure under section 4 of the RTI Act from 01-01-2009 till the date of providing the information and also provide the details of actions taken against them for violation of provisions of section 4 of the RTI Act.</p> <p>(B) Please provide list of files from which the information as sought above is provided by you</p> <p>(C) Please provide copies of all note sheets and correspondence pages of the RTI file in which this application has been dealt with, till the date of providing the information. In case of correspondence emanating from me, only copy of first page of each document may be provided.</p> <p>Note:-Please provide pointwise information/response for each of above points.</p>
5.	I state that the information sought is covered under RTI Act and does not fall within the exemptions contained in sections 8 or 9 or any other provisions of the Right to Information Act, 2005 and to the best of my knowledge it pertains to your office. Information is being sought in larger public interest.	
6.	A Postal Order No. 21F 990030 for Rs. 10 towards payment of fee is enclosed herewith.	



Signature of Applicant
 Telephone No. : 9810077977
 011-24651101, 24690707
 Fax No. 011-24635243

Place : New Delhi
 Encl. : as above
 Hira/---8056
 asu



No.A-42012/09/2014-Ad.II
Government of India/भारत सरकार
Ministry of Home Affairs/गृह मंत्रालय

North Block, New Delhi
Dated 16 May, 2014.

OFFICE MEMORANDUM

Sub: Information sought under the Right to Information Act, 2005.


Please refer to your application dated 11/4/2014 under the RTI Act, 2005 (received in this Ministry on 17.4.2014) wherein you have sought information about the action taken by this Ministry on proactive disclosure of information as per guidelines issued by DOPT O.M. No.1/6/2011-IR dated 15.4.2013 and 10.12.2013. The point wise reply of the information sought is as under:

Information sought	Reply
(A)	The matter has been informed to Director(OL) and US(Coord.II) to rectify the Hindi website. Copy of O.M. of even No. dated 09.05.2014 is enclosed.
(A) (i) & (ii)	The guidelines issued by DOPT was circulated among the CPIOs of this Ministry vide this Section's O.M. A-43020/38/2012-RTI(Part) dated 20 th February, 2014 for taking suo motu disclosure under Section 4 of RTI Act,2005 and to ensure compliance based on these guidelines. Copies of the relevant noting and the O.M. dated 20.2.2014 are enclosed herewith for information. As per letter dated 20.2.2014 "all the CPIOs are required to undertake suo motu disclosure under Section 4 of the RTI Act, 2005 and to ensure compliance based on these guidelines." Further, instructions have been issued by RTI Cell vide O.M.No.43020/16/2014/RTI dated 06/05/2014 to all CPIOs to follow DoPT guidelines dated 15/4/2014(Copy enclosed). Name of CPIOs are available in MHA website www.mha.nic.in .
(B) & (C)	Your present application is also being forwarded to all CPIOs of this Ministry with the request to provide the action taken by them on proactive disclosure of information as per DOPT guidelines to you directly.

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The Appellate Authority in this regard is Shri Satpal Chauhan, Joint Secretary(Admn.), MHA, North Block, New Delhi.

Encl: As Above

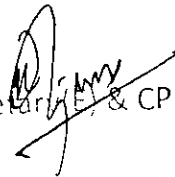

(V.K.Rajan)
Dy.Secretary(E) & CPIO

To

Shri R.K.Jain,
1512-B, Bhishma Pitamah Marg,
Wazir Nagar,
New Delhi-110003.

Copy to:

1. All CPIOs in the Ministry of Home Affairs(P).(As per list attached). They are requested to provide information in respect of "C" of the RTI application dated 11.04.2014 to the applicant directly.
2. SO(IT Cell) for uploading of RTI application, appeal and reply under the concerned Appellate Authority with search facility based on key words in the MHA website under the heading RTI Act- Information under 4(1)(b) of the Act.


Dy.Secretary(E) & CPIO