

S.No. 321

321/DL/CS-I/
2-4-14

By Speed Post

No. II/20034/35/2014
Government of India
Ministry of Home Affairs
North Block, New Delhi-110001

Dated: 28-03-2014

ORDER

Reference of RTI First Appeal No. RTI/MHA/2013/Snoopgate/431 dated 20.03.2014 preferred by Shri Vivek Garg, Advocate.

2. The appellant has contended that CPIO has not furnished the reply to his RTI application No. RTI/MHA/2013/Snoopgate/1492 dated 28.12.2013. CPIO has informed that the said application has not been received in the IS-II Desk. It has been observed that the RTI application was inadvertently forwarded by the Nodal Office to Director (IS-II) instead of Director (IS-I), who deals with the subject.

3. The CPIO and Director (IS-I) is directed to send the response, as per rules, to the applicant within 7 days of receipt of this order.

Handwritten signature/initials

Handwritten signature
(Rakesh Singh) 28/03
Joint Secretary (IS-I) &
First Appellate Authority

To

1. Shri R.K. Suman, Director(IS-II), M/o Home Affairs, North Block, New Delhi.
2. Shri Rakesh Mittal, Director(IS-I), M/o Home Affairs, North Block, New Delhi.

Copy to:
Shri Vivek Garg (Advocate)
18/1, Shakti Nagar,
Delhi - 110007.

*He furnish a copy of
RTI application, so that further
action may be taken.*

PS to JS (IS-I)

Handwritten signature
2/4/14

Vivek Garg

(Advocate & RTI Activist)

18/1, Shakti Nagar, Delhi - 110 007

email: expose.corruption@hotmail.com (Cell - 9810043679) (D-780/5) 24 MAR 2014

Appeal under Section-19 of Right to Information Act - 2005
r/w other Legal Provisions/ Judgements

Ministry of Home Affairs
New Delhi

Appeal-RTI//MHA/2014/ Snoopgate/ 431

Joint Secretary (Internal Security-I),
1st Appellate Authority - RTI, Ministry of Home Affairs,
Room No. 197-B, North Block,
New Delhi - 110 001

Appeal I.D. _____
(For Official use)

- | | |
|--------------------------------------|---|
| 1. Name of the Applicant | Vivek Garg, Advocate, Appellant |
| 2. Address | 18/1, GF,, Shakti Nagar, Delhi - 110 007 |
| 3. Particulars of the PIO | Dy Sec (Admn)/PIO & Director (IS-II), MHA |
| 4. PIO's Reply number & date | No True Information was sent by the PIO |
| 5. ID number | N/A as no information came from PIO |
| 6. Reason of Appeal | No information was sent by PIO as yet |
| 7. <u>Particulars of Information</u> | As per the RTI Application |

The appellants filed an RTI Application on dated 08.01.2014 vide MHA's receipt number-27889 dated 8.1.2014, to the Dy Secretary-Admn (copy enclosed). But the Ld PIO did not send any true information till now.

So the following, point wise Appeal is being filed before the Hon'ble 1st Appellate Authority:

1. Ld PIO did not sent demanded information as per the RTI Application.
So 1st Appellate Authority is requested to direct to send certified copies of the same.
2. Ld PIO was legally bound to send the complete information, as demanded.
So 1st Appellate Authority is requested to direct to send certified copies of the same, free of cost.

It is further submitted:-

- (i). That as per the judgement of Hon'ble Delhi High Court in LPA 501/ 2009 dated 12.1.2010, learned PIO is bound to supply the information.
- (ii). That as per the judgement dated 07.1.2010 of Hon'ble Madras High Court in WP No. 20372 of 2009 and MP No. 1 of 2009 ,learned PIO is bound to supply the information.
- (iii). That as per the judgement of Hon'ble Supreme Court of India in case of K Satwant Singh Vs State of Punjab 1960 SCR (2) 89, learned PIO is bound to supply the information.
- (iv). That as per the judgement of Hon'ble Supreme Court of India in case of Narashimaha Murthy Vs Susheelabai & Ors AIR 1996 SC 1826, learned PIO is bound to supply the information.

RTI Sec Director
18/1

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- 62 -
- (v). That as per the judgement of Hon'ble Supreme Court of India in case of J Jayalalitha Vs Union of India & Ors AIR 1999 SC 1912, learned PIO is bound to supply the information.
 - (vi). That the CPIO has failed to act according to the provision of Section 4(3) of RTI Act for the purposes of sub-section (1) since every information shall be disseminated widely and in such form and manner which is easily accessible to the public. If concerned PIO would have followed this section, the desired information could easily be made available to the appellant.
 - (vii). Learned PIO has also failed to act as per Section 5(3) & (4), read with Section 2(f), 4(1)d & 5. of RTI Act 2005.
 - (viii). That as per the Section 13 of General Clauses Act 1897, learned PIO is bound to supply the information as well as legally bound to transfer the application to all concerned PIOs from where, information can be supplied, but the learned PIO failed in such duty and did not act accordingly.
 - (ix). That in its judgement in case of Daljit Singh Vs Indian Institute of Technology, Delhi dated 17.12.2009 CIC Digest (Vol II) 2710 (2065), Hon'ble Central Information Commission has clearly directed that 'All commercial transactions of Public authorities are meant to be available to citizens under the RTI Act. The demanded information are the commercial transaction of Govt, at the hard earned public money. Citizens have right to obtain the complete information.
 - (x). That in many judgements like Vineet Narayan Vs Union of India (AIR 1998 SC 889); Peoples Union for Civil Liberty Vs Union of India (AIR 2002, SC 2112) and in its judgement, in case of LK Kotwal Vs State of Rajasthan, AIR 1988 Raj 2, Hon'ble Court has clearly decided that 'Freedom of Speech is based on the foundation of freedom of Right to Know'. Every citizen has right to know about the activities, instrumentalities, the departments and the agencies of the state. Here, the appellant has right to get the demanded information.
 - (xi). That as per Section 8(1)(j), the information, which cannot be denied to the Parliament or a State Legislature, shall not be denied to any person.
 - (xii). That in its judgement in case of Harikrishan Das Nijhawan Vs MCD-SZ (CIC/SG/A/2009/000820, Hon'ble CIC has clearly directed to provide the complete information.
 - (xiii). That in case of Shamsher Singh Vs Distt Food & Supplies Controller, Haryana, Hon'ble Punjab & Haryana High Court has clearly directed that all Public Interest Information are covered under RTI and must be supplied to the applicant.
 - (xiv). That as per the judgement of Hon'ble Supreme Court in case of Indian Express Newspapers Bombay Pvt Ltd Vs Union of India, court has withheld the citizen's right to information.
 - (xv). That as per the judgement of Hon'ble Supreme Court in case of Union of India Vs Association for Democratic Reforms, court has withheld the citizen's right to information.

As the Ld PIO did not supply the true information within prescribed time limit of 30 days, so as per the Section 7 (6) of RTI Act, Ld PIO/ is now bound to provide informations free of cost as the prescribed time limit of 30 days have already expired.

So, the Hon'ble 1st Appellate Authority is requested to kindly issue instructions to PIO to supply the complete information, free of cost, as per the provision of Section 7(6) of RTI Act.

Date: 20/03/2014


(Vivek Garg), Appellant

Vivek Garg

(Advocate & RTI Activist)

18/1, Shakti Nagar, Delhi - 110 007

email: expose.corruption@hotmail.com (Cell - 9810043679) (D-780/5)

Application for seeking information under Section 6(1)/ 7(1)/ 7(5) etc. of the Right to Information Act, 2005

Read with/ as well as Judgement of Hon'ble Supreme Court of India in State of UP Vs Raj Narain AIR-

1975(SC); LK Kotwal Vs State of Rajasthan, AIR 1988 Raj 2; Article 19 Constitution of India,

Section 76/ 74 Indian Evidence Act

No.: RTI/MHA/ 2013/ Snoopgate/1492

ID No. _____

Dy Secretary (Admn)/ CPIO-RTI,
Ministry of Home Affairs (MHA), Govt of India,
Room No.-93-A, North Block,
New Delhi-110 001 (Ph: 23094790)

- | | | | |
|----|-----------------------|---|-------------------------------------|
| a. | Name of the Applicant | : | Vivek Garg, Advocate, Applicant |
| b. | Address | : | 18/1, Shakti Nagar, Delhi - 110 007 |
| c. | Concerned departments | : | MHA |

Following upto date & duly typed on computer, information are required regarding the set up of a Commission of Inquiry into the alleged illegal snooping on a Woman by Gujarat Police and other related issues, as per the directions issued in December 2013 by Union Cabinet/ MHAAs well as other Commissions, Inquiries on phone tapping, Snoopings etc etc:-


1. Kindly send certified copy of the notification of the appointment of the Commission showing the Terms of Reference (ToR) of Inquiry, in case of set up of a Commission of Inquiry into the alleged illegal snooping on a Woman by Gujarat Police.
2. Kindly send certified copies of all kinds of Minutes of Meetings of various Ministers, Officials of MHA as well as of Union Cabinet.
3. Kindly send certified copies of the all kinds of Representations, Complaints etc received by the MHA as well as Cabinet Secretariat, Govt of India regarding the incidents of telephone interceptions of various individuals, organizations etc, from 01/01/1994 to till the date you provide final information. In case, you have any problem, the applicant is ready to inspect all the relevant files, to obtain the desired information.
4. Kindly send certified copies of all kinds of Notifications issued by MHA, Union Cabinet for Constituting the various Commissions of Inquiries on the issues of violation of Telegraph Act by any individual, organisation or any government department/ ministry, from 01/01/1994 to till the date you provide final information.

In case no such information is available, inform the reason behind it.

5. Any other information in the matter may also be sent.

RTI Fees of Rs 20/- is being sent via vide Postal Order Number 05G 194140

Date: 28/12/2013


(VIVEK GARG), Applicant
Advocate & RTI Activist

No.A-43020/01/2014-RTI
Government of India/Bharat Sarkar
Ministry of Home Affairs/Grih Mantralaya

New Delhi, Dated the 16/01/2014.

OFFICE MEMORANDUM

Subject: Application of Shri/Smt/Kum. Vivek Garg
..... under the Right to
Information Act, 2005.

This Ministry has received an application dated 28.11.2013 under the RTI Act, 2005 from Shri/Smt/Kum. Vivek Garg (received on 08.01.2014) by way of transfer from). As the requested information pertains to/is more closely related to the functions of IS-I Division, the application is being forwarded to that Division for providing information. It is requested that if the subject matter pertains to any other CPIO/Public Authority, the application may be further transferred to that Authority directly, under intimation to the applicant.

3. The applicant has paid the requisite fee of Rs.10/- vide Receipt No. 27889 dated 08.01.2014 (copy enclosed) / not paid the fee since he claims to belong to the Below Poverty Line (BPL) Category.

Encl: As above.

(S. Samanta)

Under Secretary to the Govt. of India.

To

Director (IS-I)
M/o Home Affairs
North Block, New Delhi

Copy for information to:

Shri/Smt/Kum. Vivek Garg (Advocate)
18/1, Shakti Nagar
Delhi-110007

(He/She is requested to contact the above-mentioned CPIO/Public Authority for further information in the matter).

Vivek Garg

(Advocate & RTI Activist)

18/1, Shakti Nagar, Delhi - 110 007

email: expose.corruption@hotmail.com (Cell - 9810043679) (D-780/5)

Application for seeking information under Section 6(1)/7(1)/7(5) etc. of the Right to Information Act, 2005

Read with/ as well as Judgement of Hon'ble Supreme Court of India in State of UP Vs Raj Narain AIR-1975(SC); LK Kotwal Vs State of Rajasthan, AIR 1988 Raj 2; Article 19 Constitution of India, Section 76/74 Indian Evidence Act

No.: RTI/MHA/2013/Snoopgate/1492

Dy Secretary (Admn)/ CPIO-RTI,
Ministry of Home Affairs (MHA), Govt of India,
Room No.-93-A, North Block,
New Delhi-110 001 (Ph: 23094790)

ID No. _____

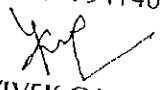
- a. Name of the Applicant : Vivek Garg, Advocate, Applicant
b. Address : 18/1, Shakti Nagar, Delhi - 110 007
c. Concerned departments : MHA

Following upto date & duly typed on computer, information are required regarding the set up of a Commission of Inquiry into the alleged illegal snooping on a Woman by Gujarat Police and other related issues, as per the directions issued in December 2013 by Union Cabinet/ MHA as well as other Commissions, Inquiries on phone tapping, Snoopings etc etc:-

1. Kindly send certified copy of the notification of the appointment of the Commission showing the Terms of Reference (ToR) of Inquiry, in case of set up of a Commission of Inquiry into the alleged illegal snooping on a Woman by Gujarat Police.
2. Kindly send certified copies of all kinds of Minutes of Meetings of various Ministers, Officials of MHA as well as of Union Cabinet.
3. Kindly send certified copies of the all kinds of Representations, Complaints etc received by the MHA as well as Cabinet Secretariat, Govt of India regarding the incidents of telephone interceptions of various individuals, organizations etc, from 01/01/1994 to till the date you provide final information. In case, you have any problem, the applicant is ready to inspect all the relevant files, to obtain the desired information.
4. Kindly send certified copies of all kinds of Notifications issued by MHA, Union Cabinet for Constituting the various Commissions of Inquiries on the issues of violation of Telegraph Act by any individual, organisation or any government department/ ministry, from 01/01/1994 to till the date you provide final information.
In case no such information is available, inform the reason behind it.
5. Any other information in the matter may also be sent.

RTI Fees of Rs 20/- is being sent via vide Postal Order Number 05G 194140

Date: 28/12/2013


(VIVEK GARG), Applicant
Advocate & RTI Activist

Reply of Sl No. 321

RTI Matter
By Speed Post

No. II.20034/35/2014-IS.II/M (Pt-II)
Government of India
Ministry of Home Affairs
(IS.I Division/IS.II Desk)

North Block, New Delhi,
Dated: 07 April, 2014

To

Shri Vivek Garg (Advocate & RTI Activist)
18/1, Shakti Nagar
Delhi-110007.

Sub: First appeal No RTI/MHA/2013/snoopgate/431 of Shri Vivek Garg under Right to Information Act, 2005.

Sir,

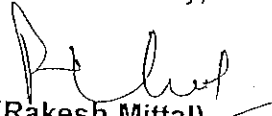
Please refer to your appeal No RTI/MHA/2013/snoopgate/431, RTI application No RTI/MHA/2014/snoopgate/1492 and order of first appellate authority No II/20034/35/2004 dated 28.03.2014.

2. Para wise reply of information requested by you vide RTI application RTI/MHA/2013/snoopgate/1492 is as under:

- (i) Notification of the appointment of Commission in case of set up of Commission of inquiry into the alleged illegal snooping on a woman by Gujarat Police is still not issued.
- (ii) Keeping in view that the inquiry/investigation has not yet commenced and further that action on the cabinet decision is still in hand and matter is not over, the desired information is exempted from disclosure under Section 8 (1) (h), and 8 (1) (i) of the RTI Act, 2005.
- (iii) Complaints from individuals, organisations have been received from time and time and action is taken accordingly. Since such information, as sought, is not compiled in the division, same is regretted. However, in case information on specific case is desired, same will be considered as per rules.
- (iv) As per information available in the records held in IS-II desk, no Commission of Inquiry under Commission of Inquiry Act, 1952 has been constituted on issue of violation of Telegraph Act, however your application is being transferred to Shri J.P Agarwal, JS and CPIO, Judicial, MHA for furnishing desired information, if available in their records.

3. It is informed that in case you are not satisfied with the reply, you can prefer an appeal within 30 days from the receipt of this communication to Shri Rakesh Singh, Joint Secretary (Internal Security-I), Room No 197-B, North Block, Ministry of Home Affairs, New Delhi, who is the Appellate Authority in this case.

Yours faithfully,


(Rakesh Mittal)

Director (Internal Security-I) & CPIO

c/c

Copy:

1. JS (IS-I), MHA.

✓ 2. Shri J.P Agarwal, JS and CPIO, Judicial, MHA for providing information as per para 2 (iv) above. Copy of RTI application is enclosed.

ds
17/7/13