

HT-999  
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Appeal under Section 19 of the Right to Information Act, 2005

To

Shri Lokesh Jha,  
Joint Secretary (PP) & Appellate Authority,  
Ministry of Home Affairs,  
3<sup>rd</sup> Floor, NDCC-II Building,  
Jai Singh Road,  
New Delhi 110001

हस्ताक्षर सं.  
2664 JJS (PP&VS)2011  
दिनांक/Date

14/11

**A. Contact details**

1. Name of the Applicant	Mrs. BAIJAYANTI SAHU
2. Address	FLAT NO 124, DDA LIG FLAT, PH-1, POCKET-13, DWARKA, NEW DELHI 110045

**B. Details about RTI request**

MHOME/R/2013/61228 Dated 25/09/2013 filed online (copy attached)

**C. Details about RTI reply received and appeal**

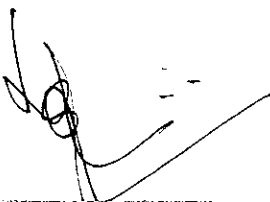
**1. Particulars of the CPIO/Public Authority against whose order appeal is preferred**

Mr. Girish Kumar, Director(VS) & CPIO  
NDCC-II Building, 3<sup>rd</sup> Floor,  
Jai Singh Road, New Delhi- 110001.

**2. Brief facts leading to appeal**

- The RTI application contained 8 queries with sl no. 1-8 and 1 request with sl no. 9 for inspection of the documents addressed to Ministry of Home affairs.
- The application was received by Ministry of Home Affairs on 25<sup>th</sup> September 2013 but replied only on 28<sup>th</sup> October 2013.
- The answer to queries 1,2,5,7 was transferred to Ministry of Civil Aviation under section 6(3) of RTI Act 2005.
- The answer to queries 3, 4 were denied to the applicant under section 24(1) of RTI Act.
- Answer to queries 6, 9 were denied under the exemption clause of 24(1) and 8(1).(j) of RTI Act.

233/271/2013  
18/11/2013



(f) Query No. 8 have not been replied till date.

(g) The reply was not given through online mode although the application was submitted online and a reply through online mode was expected.

### 3. Grounds for appeal

- a) Information as requested by appellant was not replied within 30 days of receiving the application by Ministry of Home as per the provisions of the Act hence is a case of deemed refusal under section 7(2) of RTI Act.
- b) The application was not forwarded to other public authority within 5 days of receiving as was supposed to be done by concerned CPIO under 6(3) of RTI Act.
- c) The RTI application for queries 1,2,5,7 was wrongly transferred to the Ministry of Civil Aviation as the information is rightly available with Ministry of Home as can be readily evident from a blind look on the Ministry of Home Affairs letter No. 23014/26/2012-VS Dated 09/12 Mar 2012 signed by Pranab Biswas, Under Secretary to Government of India addressed to Shri Anup Kumar, Paschime Midnapur, West Bengal. The transfer was ill intentioned, without any basis and to divert the time and resource of applicant and Ministry of Civil Aviation in unnecessary correspondence and appeal.
- d) The application of 24(1) for queries 3,4,6 & 9 is wrongly applied as any communication from Ministry of Home to any organization covered under Second Schedule of RTI Act 2005 is not exempted under RTI Act. Whereas in contrary only information held by security and intelligence organization under Second Schedule and information furnished by such organization to Government is exempted.
- e) Exempting any person from pre-embarkation is a cause of security concern to every fellow co- passenger travelling in Air as well to airport infrastructure and hence is a matter of larger public interest. Hence Section 8(1).(j) has been wrongly applied for taking exemption for queries 6 & 9 by CPIO in the present case without any application of mind.
- f) Query no 8 have not been replied till date contrary to the provisions of the Act.
- g) The reply was not submitted online contrary to the provisions made by DOPT while answering to online queries vide their letter 1/1/2013-IR dated

08/04/2013, 22/04/2013 & 12/08/2013 and related trainings which the CPIO was supposed to undertake.

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**4. Prayer or relief sought**


- a. Point wise information as asked from point 1 to 8 and inspection as requested under point no 9 in the RTI application may be provided immediately by the public authority.
- b. The information as requested may be provided free of cost as the deadline of 30 days under RTI Act has already been crossed.
- c. The reply to the RTI query may be uploaded to the RTI online portal which I can view by logging online.
- d. Concerned CPIO may be given appropriate training as required so as submit the information to the citizen within the time limit prescribed under the Act.
- e. Any other direction or order as the FAA considers best in the interest that the information is expediently made available to the appellant.

**5. Copies of documents attached**

- a. MHOME/R/2013/61228 Dated 25/09/2013
- b. VI.23014/353/2013-VS Dated 28<sup>th</sup> October 2013
- c. 23014/26/2012-VS Dated 09/12 Mar 2012

Place:-New Delhi

Date:- 05/11/2013

  
(Signature of appellant)

*W. J. K.*

By Speed Post  
RTI MATTER

No. VI.23014/353/2013-VS  
Government of India  
Ministry of Home Affairs  
(PP Division)

NDCC-II Building, 3<sup>rd</sup> Floor,  
Jai Singh Road, New Delhi-110001,  
Dated: 2<sup>nd</sup> December, 2013

To

Smt. Baijayanti Sahu,  
Flat No.124, DDA LIG Flat,  
Phase-I, Pocket-13,  
Dwarka,  
New Delhi-110045

**Subject:- First Appeal under the RTI Act-2005-reg.**

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Sir,

Please refer to your First Appeal dated 05.11.2013 received in this Unit on 18.11.2013.

2. It is observed that the following issues have been raised in your appeal:

- (a) The Appellant was not replied within 30 days of receiving the application.
- (b) The application was not forwarded to other public authority within 5 days of receipt.
- (c) The RTI application for queries 1,2,5 and & 7 was wrongly transferred to the MCA as the information is rightly available with MHA.
- (d) Section 24(1) for queries 3,4,6 and 9 is wrongly applied.
- (e) Section 8(1)(j) has been wrongly applied for taking exemption for queries 6 & 9.
- (f) Query No. 8 have not been replied till date.
- (g) The reply was not submitted online.

3. The grounds cited in your appeal have been examined and following observation are made:

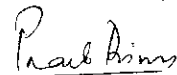
- (a) As regard issues raised in Para 2(a), it may be stated that as mentioned in the reply dated 28.10.2013 sent by CPIO, your RTI application was received by the nodal CPIO on 25.09.2013 and was received in this unit on transfer on 4.10.2013. A reply to your RTI application was sent to you vide letter dated 28.10.2013, hence there has been no delay in sending the reply.
- (b) With regard to point No.2(b), it may be stated that the overall subject matter of your application pertained both to Ministry of Civil Aviation as well as MHA. It had to be properly examined to see whether the issues pertained to MHA or to MCA before

transferring your application for reply to some of your queries which took some time. Hence the application could not be transferred to Ministry of Civil Aviation immediately on receipt.

- (c) As regards to queries at points (1), (2), (5) and (7) of your RTI application referred to in para 2(c) above, relating to exemption from pre-embarkation security check at airports, it is stated the subject matter does not come under the jurisdiction of this Ministry. The list of persons exempted from pre-embarkation security checks at Indian airports is issued by Ministry of Civil Aviation. Hence, the application was correctly transferred to MCA with reference to points (1), (2), (5) and (7) of your application.
- (d) With reference to queries at points 3,4,6 and 9 of your RTI application referred to in para 2(d) and (e) above, it is stated that such proposals may be examined in MHA from security point of view based on inputs received from security agencies. As the security agencies are exempt from the provision of RTI Act-2005, exemption was correctly claimed in respect of such inputs from security agencies, under the provision of Section 24(1) of the RTI Act-2005, while explaining the broad approach followed in examining such proposals. Accordingly copy of letter recommending Shri Robert Vadra's exemption from pre-embarkation security check to Ministry of Civil Aviation, and inspection of related documents being exempt under Section 24(1) and 8(1)(g) of the RTI Act-2005, cannot be allowed.
- (e) With regarding to para 2(f) regarding information on point No.(8), it is stated that the subject matter does not come under the jurisdiction of this unit. This work may be related to Administration Division of MHA; hence, a copy of your RTI application has already been forwarded to Director (A&V), MHA for providing requisite information directly to you.
- (f) As regards para 2(g) above, it is stated that in the RTI application you had clearly specified that information is to be provided to you in 'hard copy', accordingly a written reply was sent to you.

4. Your First Appeal is disposed of accordingly.
5. This issues with the approval of Joint Secretary (PP &VS) & Appellate Authority.

Yours faithfully,



(Pranab Biswas)

Under Secretary to the Govt. of India

Tele:23438086