

RTI REQUEST DETAILS (आरटीआई अनुरोध विवरण)			
Registration Number (पंजीकरण संख्या) :	IITGW/R/2019/90003	Date of Receipt (प्राप्ति की तारीख) :	29/11/2019
Transferred From (से स्थानांतरित):	Department of Higher Education, M/o Human Resource Development on 29/11/2019 With Reference Number : DOHED/R/2019/52991/2		
Type of Receipt (रसीद का प्रकार) :	Electronically Transferred from Other Public Authority	Language of Request (अनुरोध की भाषा) :	English
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Status (स्थिति) (Rural/Urban) :	Rural	Education Status :	
Requester Letter Number (निवेदक पत्र संख्या) :	Details not provided	Letter Date :	Details not provided
Is Requester Below Poverty Line ? (क्या आवेदक गरीबी रेखा से नीचे का है?) :	No	Citizenship Status (नागरिकता)	Indian
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Request Pertains to (अनुरोध निम्नलिखित संबंधित है) :	Dilip Boro		
Information Sought (जानकारी मांगी):	part B		
Original RTI Text (मूल आरटीआई पाठ):	<p>Sir, This has reference to my earlier request for information No. DOHED/R/2019/51702 seeking information regarding some educational institutions of our country.</p> <p>The CPIOs, in replies to my said request for information, had refused to forward my said RTI Application to concerned authorities under Section 6(3) of RTI Act, 2005 on the ground that the CPIO is not required to forward an application under Section 6(3) to more than one authority. A circular of the DOP&T was also quoted as justification for the said argument.</p>		

However, this is a very wrong interpretation and understanding of the law.

Section 13 of the General Clauses Act, 1897 states that:

In all Central Acts and Regulations, unless there is anything repugnant in the subject or context-

(1) words importing the masculine gender shall be taken to include females, and

(2) words in the singular shall include the plural, and vice versa.

Therefore, the term -other public authority- in Section 6(3) of the RTI Act, 2005 includes -other public authorities-.

Thus the CPIO(s) erred in not transferring the said application for information to requisite number of public authorities as may have been appropriate for providing the information.

Also, the Central Information Commission, vide Decision No.CIC/SM/A/2011/000278/SG/12906 in Appeal No. CIC/SM/A/2011/000278/SG ruled that DOPT office memorandum no. 10/02/2008-IR dated 12/06/2008 is not consistent with the law. The said Decision of the Central Information Commission also directed the PIO to transfer the RTI application to various public authorities.

In view of the aforesaid, I am again seeking the following information:

- A. Total amount of money/funds spent by/for the institution during the Financial Year 2018-2019.
- B. Total amount of funds received by the institution from students as various fees and charges during the Financial Year 2018-2019.
- C. Total number of students studying in the institution during the Financial Year 2018-2019.

separately for each of the following institutions:

1. IIT Kharagpur
2. IIT Bombay
3. IIT Madras
4. IIT Kanpur
5. IIT Delhi
6. IIT Guwahati
7. IIT Roorkee
8. IIT Ropar
9. IIT Bhubaneswar
10. IIT Gandhinagar
11. IIT Hyderabad
12. IIT Jodhpur
13. IIT Patna
14. IIT Indore
15. IIT Mandi
16. IIT BHU (Varanasi)
17. IIT Palakkad
18. IIT Tirupati
19. IIT Dhanbad
20. IIT Bhlai
21. IIT Goa
22. IIT Jammu
23. IIT Dharwad

24. NIT Agartala
25. NIT Patna
26. Motilal Nehru NIT Allahabad
27. Maulana Azad NIT Bhopal
28. NIT Calicut
29. NIT Durgapur
30. NIT Hamirpur
31. Malaviya NIT Jaipur
32. Dr. B. R. Ambedkar NIT Jalandhar
33. NIT Jamshedpur
34. NIT Kurukshetra
35. Visvesvaraya NIT Nagpur
36. NIT Raipur
37. NIT Rourkela
38. NIT Silchar
39. NIT Srinagar
40. S V NIT Surat
41. NIT Surathkal
42. NIT Trichy
43. NIT Tadepalligudem
44. NIT Warangal
45. NIT Yupia
46. NIT Sikkim
47. NIT Goa
48. NIT Meghalaya
49. NIT Nagaland
50. NIT Manipur
51. NIT

ENTRAL INFORMATION COMMISSION
Club Building (Near Post Office)
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Tel: +91-11-26161796

Decision No. CIC/SM/A/2011/000278/SG/12906
Appeal No. CIC/SM/A/2011/000278/SG

Relevant Facts emerging from the Appeal:

Appellant: : Mr. Chetan Kothari
52, Oceanic Apartment, Dr. Rajabali Patel Lane,
Off B. Desai Road, Mumbai 400 026

Respondent: : Mr. K. J. Sibichan
Under Secretary & CPIO
Cabinet Secretariat,
Rashtrapati Bhawan,
New Delhi

RTI application: 21/09/2010; 27/9/2010 transferred
PIO reply: 12/10/2010
First appeal 22/10/2010
FAA order 16/11/2010
Second appeal 30/11/2010

Information sought:

The appellants had filed the RTI application with PIO of the Lok Sabha Secretariat asking:

- a) Please provide the details. Name wise break up of state ministers and cabinet ministers of central government petrol & diesel consumption & amount with opp party leader.
- (b) Please provide the details of each state ministers & cabinet ministers of central government (Name wise break up) how many cars.
- (c) Please provide the details of each state ministers & cabinet ministers of central government each of them how many staff provided. (Give name wise ministers break up)

PIO's reply:

On 27/09/2010 PIO of Lok Sabha Secretariat transferred the RTI application to PIO, Cabinet Secretariat and PIO, Leader of Opposition.

On October 4 Office of the Leader of Opposition provided this information:

“The staff car to Hon’ble Leader of Opposition in Lok Sabha is provided by Lok Sabha Secretariat and accordingly, all matters/records relating to the maintenance/ running, including the expenditure on petrol/diesel, etc. of the car are being dealt/maintained by the concerned branch of Lok Sabha Secretariat. The information required by the applicant is not available in the office of Leader of Opposition in Lok Sabha and hence the CPIO is not in a position to give the required information to the applicant.

4. It is, therefore, requested that the CPIO, Lok Sabha Secretariat may be requested to give the information directly to the applicant. The application forwarded with the OM dated 27.9.2010 is returned herewith.”

On 12 October 2010 PIO, Cabinet Secretariat provided this information:

“2. The information sought is scattered among a large number of public authorities, including Central Government Ministries/ Departments. Therefore, in terms of the provisions contained in O.M. No. 1012/2008-IR dated 12.6.2008 issued by Ministry of Personnel, Public Grievances & Pensions

(Department of Personnel & Training), you are required to file separate applications with the CPIOs of each of the Ministries/Departments concerned individually, for obtaining the required information.

3. In so far as the Cabinet Secretariat is concerned, the information may be treated as NIL.”

On 29/10/2010 PIO of the Lok Sabha Secretariat gave information that no information was available.

Grounds for First appeal:

Information not provided.

FAA order:

After carefully considering all the relevant documents, the Appellate Authority upholds the decision of CPIO as referred in para 2 above and direct the CPIO to provide a copy of list of Ministries/Departments which contains the office addresses of the public authority, within 10 working days.

Grounds for Second appeal:

Information not provided. Section 4 of the RTI Act not properly implemented.

Submissions dated 04/06/2011 of appellant received by email :

- (1) CPIOs not transfer application within the stipulated period as per provision under Section 6 (3) & delay inform to applicant.
- (2) Applicant unable to send same application to 85 department of Central Govt. Which is waste of time & money.
- (3) Applicant sent RTI application to nodal CPIOs of ‘Loksabha Secretariat’ because that department provide car, staff etc to opposite party leader.
- (4) CPIOs violate the RTI Act & holding the information but misleads to applicant & wasting the public money & time & increasing the work load for higher authority.
- (5) CPIOs failure to Act according to under provision of Section 4(3) for the purposes of sub-section (1), every information shall be disseminated widely and in such form and manner which is easily accessible to the public. Also CPIOs failure to Act according to under provision of Section 5(3) & (4).
- (6) PIO’s failure to Act according to under provision of Section 2(f), 4(1)d & 5.

Appellant quoted two orders for support of his written submission.

(1) It will be in context to quote the observation made by the Division Bench of the Hon’ble Delhi High Court in LPA 501/2009, pronounced on 12.1.2010 (matter relating to Asset Declaration of Judges of the Apex Court):

The Act does not merely oblige the public authority to give information on being asked for it by a citizen but requires it to suo moto make the information accessible. Section 4(1)(a) of the Act requires every public authority to maintain all its records duly catalogued and indexed in a manner and the form which facilitates the right to information under the Act and ensure that all records that are appropriate to be computerized are, within a reasonable time and subject to availability of resources, computerized and connected through a network all over the country on different systems so that access to such records is facilitated. Section 4 spells out various obligations of public authorities and Sections 6 and 7 lay down the procedure to deal with request for obtaining information.

(2) In fact the Hon’ble High Court of Madras even went a step further and stated that administrative difficulties and shortage of manpower cannot be cited as reasons for denying information. While dismissing WP No. 20372 of 2009 and MP No. 1 of 2009, in a Judgment dated 7.1.2010, the Hon’ble court ruled:

The other objections that they are maintaining a large number of documents in respect of 45 departments and they are short of human resources cannot be raised to whittle down the citizens’ right to seek information. It is for them to write to the Government to provide for additional staff depending upon the volume of requests that may be forthcoming pursuant to the RTI Act. It is

purely an internal matter between the petitioner archives and the State Government. The right to information having been guaranteed by the law of Parliament, the administrative difficulties in producing information cannot be raised. Such pleas will defeat the very right of citizens to have access to information. Hence the objections raised by the petitioner cannot be countenanced by this court. The writ petition lacks in merit.”

Relevant Facts emerging during Hearing:

The following were present:

Appellant: Mr. Chetan Kothari on video conference from NIC-Mumbai-Studio;

Respondent: Mr. K. J. Sibichan, Under Secretary & CPIO;

The RTI application had been filed by the Appellant to the Lok Sabha Secretariat seeking information about consumption of Petrol and Diesel by State Ministers and Cabinet Ministers including the leader of the opposition and staff. The appellant has sought this information for a period of 10 years which appears excessive, since it is unlikely that information would be maintained in this format for 10 years. The PIO of the Lok Sabha Secretariat transferred the RTI application to the Cabinet Secretariat and to the PIO of the office of Leader of Opposition. No information has been provided by both the PIOs since they said they do not have the information. The PIO of the Cabinet Secretariat has taken the position that he cannot transfer the RTI application to PIOs of various ministries and is depending on an office memorandum issued by DOPT no. 10/02/2008-IR dated 12/06/2008 which states that Section 6(3) of the RTI Act mentions public authority in the singular and therefore the RTI application can only be transferred to one public authority as per the RTI Act. The Appellant disputes this and states that the RTI application should have been transferred wherever required and he also quotes a Madras High Court Judgment in support of his contention.

Section 6(3) of the RTI Act states,

“Where an application is made to a public authority requesting for an information,-

- (i) which is held by another public authority; or*
- (ii) 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 or such part of it as may be appropriate to that other public authority and inform the applicant immediately about such transfer:

Provided that the transfer of an application pursuant to this sub-section shall be made as soon as practicable but in no case later than five days from the date of receipt of the application.”

The point to be determined is whether Section 6(3) means that the transfer should only be made to one public authority or to multiple public authorities, if required. Section 13 of the General Clauses Act, 1897 stipulates *inter alia* that in all central legislations and regulations, unless there is anything repugnant in the subject or context, words in the singular shall include the plural, and vice versa. Section 13 of the General Clauses Act, 1897 enacts a general rule of construction that words in the singular shall include the plural and vice versa but the rule is subject to the proviso that there shall be nothing repugnant to such a construction in the subject or context of the legislation which is to be construed. This principle of law has been well-established and applied by the Supreme Court of India from time to time viz. in K. Satwant Singh v. State of Punjab 1960 SCR (2) 89, Narashimaha Murthy v. Susheelabai & Ors. AIR 1996 SC 1826 and J. Jayalalitha v. UOI & Anr. AIR 1999 SC 1912, as well as by several High Courts while interpreting various statutory provisions.

There is nothing in the Act which would show that Parliament intended that the transfer should only be to one public authority. It also appears that DOPT’s office memorandum is in contravention of the General Clauses Act 1987 and interpreted Section 6(3) of the RTI Act wrongly. The whole purpose of the RTI Act

has been to facilitate flow of information to the Citizens. In the instant case it has been shown that whereas the Appellant applied to the Lok Sabha Secretariat, the Lok Sabha Secretariat itself believed that the information would be available with the Office of the Leader of the Opposition and with the Cabinet Secretariat. Both these offices have admitted that they have no information in this matter. Thus even in this case, the Lok Sabha Secretariat was not aware who would hold the information being sought by the Appellant. The law does not put any restriction on the public authorities to which the RTI application could be transferred. The Commission does believe that an appellant should seek information from a public authority which he can reasonably believe may have the information. In the instant case the Appellant appears to have exercised reasonable care and applied to a public authority which an average citizen may believe will hold the information.

There are numerous instances where RTI applications have been transferred by one public authority to another and none of them appears to know where the information is. In this scenario for public authorities to take a position that they will only transfer to one public authority is unreasonable and the law certainly does not state this. Public Authorities claim that it would be difficult to transfer RTI applications to multiple authorities since it would mean putting a lot of resource. Section 4(1)(a) of the RTI Act has talked of computerization of records and functions in various public authorities. Various Prime Ministers since 1985 have been promising to computerize operations in Government. This is a promise and commitment which is not being followed by various public authorities. If the records and operations were computerized, transferring an RTI application to even 50 or 100 public authorities could be done with a click of mouse by email. If public authorities do not meet commitments implied in the RTI Act, the citizen cannot be denied his fundamental right.

The Commission rules that DOPT's office memorandum no. 10/02/2008-IR dated 12/06/2008 is not consistent with the law. The Commission explained to the Appellant that seeking information for 10 years would definitely disproportionately divert the resources of the public authorities. He has agreed that information could be furnished to him for the last two years.

Decision:

The Appeal is allowed.

The PIO is directed to transfer the RTI application to various public authorities before 25 June 2011, who must provide information for the last two years to the Appellant as per the provisions of the RTI Act.

This decision is announced in open chamber.

Notice of this decision be given free of cost to the parties.

Any information in compliance with this Order will be provided free of cost as per Section 7(6) of RTI Act.

Shailesh Gandhi
Information Commissioner
16 June 2011

(In any correspondence on this decision, mention the complete decision number. (DW))