

केन्द्रीय सूचना आयोग
Central Information Commission
बाबागंगनाथमार्ग, मुनिरका
Baba Gangnath Marg, Munirka
नईदिल्ली, New Delhi – 110067

File No : CIC/DOP&T/C/2018/613597/SD

Commodore Lokesh K. Batra (Retd.)

.... शिकायतकर्ता /Complainant

VERSUS

बनाम

CPIO,

Department of Personnel & Training,
Room No. 215,
A/II, North Block,
New Delhi- 110001

.... प्रतिवादीगण /Respondent

RTI application filed on	:	08/02/2018
CPIO replied on	:	27/02/2018
First appeal filed on	:	N.A.
First Appellate Authority order	:	N.A.
Complaint dated	:	07/03/2018
Date of Hearing	:	02/07/2019
Date of Decision	:	02/07/2019

सूचना आयुक्त : दिव्य प्रकाश सिन्हा
INFORMATION COMMISSIONER : DIVYA PRAKASH SINHA

Information sought:

The Appellant sought certified copies of all communication(s) between DoPT and PMO seeking approval from PMO, prior to the issue of DoPT references F.No.4/3/2016-IR dated 02.09.2016 and on the 'Appointment of Information Commissioners in CIC'.

Grounds for the Complaint:

The CPIO has provided incomplete, misleading and false information.

Relevant Facts emerging during Hearing:

The following were present: -

Complainant: Present in person.

Respondent: Mahender Pal Singh, SO & APIO, Department of Personnel and Training, North Block, New Delhi present in person.

Complainant stated at the outset that he wants to highlight a significant fact emanating from the manner in which the CPIO of DoPT has dealt with the instant RTI Application, that despite being the nodal agency for implementing the provisions of RTI Act, the blatant application of exemptions of Section 8 by its CPIOs is akin to stonewalling the RTI Applications. He further stated that while information sought in the instant RTI Application has been denied under Section 8(1)(i) of RTI Act, the approval taken from PMO for issue of DoPT reference F.No.4/3/2016-IR dated 02.09.2016 has been received by him from CPIO, PMO after the intervention of a coordinate bench of the Commission. He furthermore expressed his anguish with the alleged regressive approach adopted by DoPT over the years with respect to disclosure of information and that he believes DoPT has been departing from the principle of ensuring probity and transparency in its functioning by arbitrarily denying even such information which is certainly meant for public consumption.

Commission asked the Rep. of CPIO to justify the denial of information under Section 8(1)(i) of RTI Act, however, no explanation was forthcoming. In this regard, written submission dated 25.06.2019 sent by Sanjay Kumar, Under Secretary & CPIO states that the information was denied by the then CPIO (Preeti Khanna, Under Secretary & CPIO) as the process of appointment of Chief Information Commissioner & Information Commissioner was going on at the time. That, the documents sought by the Appellant were to be submitted to the Search Committee (Committee of Secretaries) and subsequently, it was to be submitted to the Committee chaired by Hon'ble Prime Minister consisting of Leader of Opposition and a Union Cabinet Minister. It is also submitted that the '*plea of the department that it would not be conducive to publish such details in the manner sought. No such practice is followed in any other equivalent high level appointments of Government, has been accepted by the Hon'ble Supreme Court in W.P No. 436 of 2018.*'

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APIO submitted that as on date files relating to appointment of Chief Information Commissioner & Information Commissioner in CIC are available on DoPT's website.

Complainant objected to the submission of the APIO and argued that it is completely irrelevant that the files have been uploaded on the website now and argued that DoPT has uploaded the files on the website only after the intervention of the Hon'ble Supreme Court.

Decision

Commission based on the perusal of facts on record, concedes with the averments of the Complainant that the denial of information under Section 8(1)(i) of RTI Act was completely inappropriate. The then CPIO has invoked the said exemption clause on the mere premise that the process of appointment is '*under process*', while the present CPIO has endorsed the reason cited by the then CPIO, further submissions of the CPIO reproduced verbatim above appear incoherent and does not convey any substantial justification for invoking Section 8(1)(i) of RTI Act.

The conduct of the then CPIO as well as the present CPIO reflects on their sheer evasiveness and non-application of mind in dealing with the instant RTI Application. Complainant has rightly pointed out that such mindless application of exemptions of RTI Act to deny information by the CPIO(s) of DoPT casts serious aspersions on the commitment of the nodal agency of RTI to the tenets of probity and transparency. It is ironic even further that the information that has been denied in the instant case pertained to the appointment of Information Commissioners under the RTI Act, who are ordained with the statutory authority of securing the regime of transparency. Although, the strength of material on record does not warrant ascribing a malafide intention on the part of the then CPIO for having denied the information but the allegation of the Complainant that this kind of conduct amounts to stonewalling RTI Applications and stifling the very letter and spirit of RTI Act weighs in. By resorting to such unwarranted opacity, DoPT is setting a bad example for other public authorities and at the same time is discrediting its own footing as the nodal agency for implementation of RTI Act.

Commission admonishes the then CPIO for invoking Section 8(1)(i) of the RTI Act without assessing its applicability and the present CPIO is also warned against

mindlessly endorsing the reply of the then CPIO. The present CPIO is directed to serve a copy of this order to the then CPIO.

A copy of this order is also marked to Secretary, DoPT to take note of the adverse findings of the Commission.

The Complaint is disposed of accordingly.

Divya Prakash Sinha (दिव्यप्रकाशसिन्हा)
Information Commissioner (सूचनाआयुक्त)

Authenticated true copy
(अभिप्रमाणितसत्यापितप्रति)

Haro Prasad Sen
Dy. Registrar
011-26106140/ haro.sen@nic.in
हरोप्रसादसेन, उप-पंजीयक
दिनांक / Date

Copy to be served through present CPIO to:

Preeti Khanna
Then CPIO & Under Secretary
DoPT
--(For taking note of the severe admonition of the Commission)

Copy to:

Secretary
Department of Personnel & Training,
North Block, Central Secretariat,
New Delhi- 110001
--(For taking note of the adverse observations of the Commission)