

केन्द्रीय सूचना आयोग
Central Information Commission
बाबा गंगनाथ मार्ग, मुनिरका
Baba Gangnath Marg, Munirka
नई दिल्ली, New Delhi – 110067

शिकायत संख्या / Complaint No.:- CIC/MOHFW/C/2020/668909-BJ +
CIC/DTGHS/C/2020/668913-BJ

Mr. Venkatesh Nayak
Email: venkateshnayak.ss@gmail.com

.... शिकायतकर्ता /Complainant

VERSUS

बनाम

1. CPIO & CMO (EMR),
Ministry of Health & Family Welfare,
Directorate General of Health Services
(Emergency Medical Relief),
Nirman Bhawan, New Delhi - 110011
2. CPIO & Professor -Covid 19,
Nodal Officer, Deptt. of TB&CD,
DGHS, Lady Hardinge Medical College
& Smt. Sucheta Kriplani Hospital, New Delhi
3. US & CPIO,
Department of Health & Family Welfare,
MOHFW, Nirman Bhawan,
Maulana Azad Road, New Delhi - 110011
4. CPIO, Nodal Officer,
Indian Council of Medical Research,
V. Ramalingaswami Bhawan,
Ansari Nagar, New Delhi – 110029
5. CPIO & Under Secretary,
Ministry of Health & Family Welfare
(Hospital-I Section), Nirman Bhawan, New Delhi

...प्रतिवादीगण /Respondent

Date of Hearing : 01.06.2020
Date of Decision : 05.06.2020

ORDER

RTI 1: CIC/MOHFW/C/2020/668909-BJ

Date of filing of RTI application	17.04.2020
CPIO's response	18.04.2020/ 21.04.2020
Date of filing the First appeal	Not on record
First Appellate Authority's response	Not on record
Date of diarised receipt of Complaint by the Commission	24.04.2020

FACTS:

The Complainant vide his RTI application sought on 05 points regarding the district-wise number of hospitals and healthcare facilities called by any other name, designated as COVID-19 treatment centers as on date; postal addresses and telephone numbers of the hospitals and healthcare facilities and other issues related thereto.

The CPIO (D/o Health and Family Welfare) transferred the RTI application to the CPIO, ICMR and CPIO, DGHS on 18.04.2020. As per the status report furnished by the Complainant, the RTI application was subsequently transferred by the DGHS to the concerned CPIO (details not available) on 21.04.2020. Dissatisfied by the response of the CPIO, the Complainant approached the Commission.

RTI 2: CIC/DTGHS/C/2020/668913-BJ

Date of filing of RTI application	17.04.2020
CPIO's response	18.04.2020/ 21.04.2020/ 30.04.2020/ 06.05.2020/ 12.05.2020
Date of filing the First appeal	Not on record
First Appellate Authority's response	Not on record
Date of diarised receipt of Complaint by the Commission	24.04.2020

FACTS:

The Complainant vide his RTI application sought on 05 points regarding the district-wise number of hospitals and healthcare facilities called by any other name, designated as COVID-19 treatment centres as on date; postal addresses and telephone numbers of the hospitals and healthcare facilities and other issues related thereto.

The CPIO (D/o Health and Family Welfare) transferred the RTI application to the CPIO, ICMR and CPIO, DGHS on 18.04.2020. As per the status report furnished by the Complainant, the RTI application was subsequently transferred by the DGHS to the concerned CPIO (details not available) on 21.04.2020. The CPIO and CMO, EMR, DGHS vide letter dated 30.04.2020, informed the Complainant that the information is not available in EMR Division and that the questions pertain to National Health Mission (NHM) and Hospital Division of MoHFW. The CPIO and US, Hospital-I Division vide its letter dated 06.05.2020 transferred the RTI application to the CPIO, Safdarjung Hospital, CPIO, Dr. RML Hospital and CPIO, LHMC and Associated Hospital, New Delhi. Thereafter, the CPIO/ Nodal Officer- COVID-19 and Professor, LHMC, Hospital, New Delhi vide its letter dated 12.05.2020 provided a point wise response to the Complainant informing him that the District wise information was not available with the institute and as far as Central Government Hospitals were concerned the same could be seen on www.mohfw.gov.in and that LHMC was one of the COVID 19 Treatment Centre. Dissatisfied by the response of the CPIO, the Complainant approached the Commission. Subsequently, the CPIO, SNA Section, M/o HFW vide letter dated 21.05.2020, informed the Complainant that as per record available in SNA (IEC) Section, none of the points mentioned in the RTI application were dealt in their Section.

Vide email dated 24.04.2020, the Complainant informed the Commission regarding the acknowledgement of the instant Complaint through online facility and requested to place the matter before the CIC for an urgent and out of turn hearing based on the prayers and grounds contained in the Complaint. With the approval of the CIC, the Dy. Registrar (CIC) vide notice of hearing dated 18.05.2020 fixed 01.06.2020 as the date of hearing in the instant matters.

HEARING:

Facts emerging during the hearing:

The following were present:

Complainant: Mr. Venkatesh Nayak through WhatsApp;

Respondent: Dr. Sandeep Sharma, CPIO (SJH), Mr. Mahesh Mangla, CPIO, SJH, Dr. R. Laxmi Narayan, ADG, ICMR, Dr. Ashok Kr. Singh, Prof. Chest Med. LHMC, Dr. U. B. Das, CMO, DGHS in person; Mr. Rajender Kumar, US, PH Division, M/o H&FW and Mr. G. P. Samanta, CPIO & US (Hospital-D) (SJH, RML and LHMC) through WhatsApp / TC;

The Complainant re-iterated the contents of the RTI application and stated that essentially he was seeking the district wise details of the hospitals and healthcare facilities designated as COVID-19 treatment centers; criteria for designating them as COVID-19 treatment centers; hospitals and healthcare facilities whose status as COVID 19 treatment centers was withdrawn, etc which should be available with the M/o Health and Family Welfare (M/oH&FW), Directorate General of Health Services (DGHS) or the Indian Council of Medical Research (ICMR). Explaining that the information sought was in the larger public interest directly pertaining to the COVID-19 pandemic situation, the Complainant submitted that the suo motu disclosure of information would immensely benefit the suspected COVID-19 patients or their relatives to be informed and take timely action to approach the appropriate healthcare facility for treatment. Similarly, a non-COVID-19 patient in the interest of his/ her safety and to receive urgent medical attention could avoid approaching the hospitals/ healthcare centers designated as COVID-19 treatment centers. The Complainant submitted that since the consolidated district wise information of COVID-19 treatment centers was not available in the public domain or the website of the M/oH&FW, DGHS, ICMR, etc he was constrained to file an RTI application and subsequently the instant Complaint since it is a matter pertaining to life and liberty of citizens. During the hearing, the Complainant also made reference to para 8 and 9 of his additional written submission dated 20.05.2020 to submit that in the write up published on the PIB website on 05.05.2020 authored by the Hon'ble Union Minister of Environment, Forest & Climate Change -Information & Broadcasting; & Heavy Industries & Public Enterprises, it was inter alia specifically quoted that "Today, we have nearly 700 dedicated COVID Hospitals". Similarly, the M/oH&FW on 13.05.2020 posted a press note containing the gist of discussions held by the Union Minister for Health and Family Welfare with the Government of Punjab to review its preparedness and containment measures taken for COVID-19 Management wherein it was inter alia mentioned that "The Union Minister stated that as of now 900 dedicated COVID hospitals with 1,79,882 beds (Isolation beds- 1,60,610 and ICU beds- 19,272) and 2,040 dedicated COVID Health Centres with 1,29,689 beds (Isolation beds- 1,19,340 and ICU beds- 10,349) along with 8,708 quarantine centres and 5,577 COVID Care Centres with 4,93,101 beds are now available to combat COVID-19 in the country" . Thus, while referring to the above press releases, the Complainant submitted that a consolidated district wise data ought to have been maintained by the Ministry officials based on which the aforementioned statements were made. He further cited the example of mapping of designated COVID testing centers by the ICMR on Google Maps and stated that similarly information regarding COVID-19 Treatment Centers could also be displayed on Google Maps which would be beneficial to the entire citizenry. Thus, the Complainant prayed for directing the Respondent to suo motu disclose the information sought in his RTI application on their website and widely publicize the same through other modes of communication at the earliest.

In its reply, the Respondent (M/oH&FW, PH Section) re-iterated the response to the RTI application and their written submission and stated that the information sought was not available with them and the application was transferred to the concerned CPIOs which was also communicated to the Complainant vide letter dated 30.04.2020. The Respondent (CPIO and CMO (EMR) DGHS) also stated that the information sought was not available with them and was possibly available with the National Health Mission (NHM) and Hospital Division of M/oH&HW hence the same was transferred to them vide letter dated 30.04.2020. The

Respondent (Hospital-I, Division, M/o H&FW) stated that since they were only dealing with the 03 Central Government Hospitals in Delhi i.e., Lady Hardinge Medical College (LHMC); Dr. Ram Manohar Lohiya (RML) Hospital and Safdarjung Hospital, the application was transferred to the respective hospitals. The representative of LHMC present during the hearing referred to their reply sent to the Complainant dated 12.05.2020 and submitted that the District wise information was not available with the institute and as far as Central Government Hospitals were concerned the same could be seen on www.mohfw.gov.in and that LHMC was one of the COVID 19 Treatment Centres. The representative of Safdarjung Hospital present during the hearing also stated that although the Safdarjung Hospital is one of the COVID 19 Treatment Centres, the district wise information was not available with them. The representative from ICMR stated that they were only mandated to maintain COVID- Testing Centre data with them and information regarding the treatment centers could be obtained from the DGHS hence they had transferred the application to them which was also informed to the Complainant vide email dated 22.05.2020. On being queried by the Commission regarding the concerned Nodal Authority in M/o H&W/ DGHS/ ICMR responsible for maintaining and updating the consolidated district wise data of COVID-19 treatment centers, no satisfactory response was offered by any of the Respondents. It was noted by the Commission that officers from the M/o H&FW/ DGHS/ ICMR who ought to be the concerned Public Authorities having the consolidated data appeared totally clueless and tossed the responsibility of record keeping in the present instance from one Public Authority to another.

The Commission was in receipt of a written submission from the Complainant dated 13.05.2020 wherein it was stated that he was of the firm belief that the PIO, Lady Hardinge Medical College was not likely to have the information hence he did not wish to press for making him or Lady Hardinge Medical College, a party to the instant Complaint Case.

The Commission was in receipt of an additional written submission from the Complainant dated 20.05.2020 wherein at the outset he clarified that the subject matter of both Complaints and the information sought in the related RTI application are one and the same. Therefore he requested that both cases be treated as a Complaint relating to one and the same matter during the hearing. Thereafter, the Complainant while apprising the Commission of the developments subsequent to 20.04.2020 stated that on 30.04.2020 the CPIO of the Directorate General of Health Services to whom the instant RTI application stood transferred, sent a reply stating that it was being transferred to the CPIO, National Health Mission and Hospital Division of the Ministry of Health and Family Welfare (MoHFW) under Section 6(3) of the RTI Act. The said reply was submitted to the Commission as a Link Paper. **The Complainant submitted that it was his belief that the said reply is perfunctory in nature and is designed by DGHS to wash its hands off the instant RTI matter.** Thereafter, on 06/05/2020, the CPIO of Hospital-I Section of the Ministry of Health and Family Welfare, transferred the instant RTI application to the CPIOs of Safdarjung Hospital, Dr. RML Hospital and LHMC and Associated Hospital under Section 6(3) of the RTI Act. The said communication was also submitted to the Commission as a Link Paper. **The Complainant submitted that the said reply was also perfunctory in nature and was intended for MoHFW to wash its hands off the instant RTI matter.** Subsequently, while referring to the reply of the CPIO of LHMC & Associated Hospital dated 12/05/2020 and its receipt by the Commission as also his email communication sent by him to the Commission, the

Complainant submitted that he did not wish to press for making LHMC and Associated Hospital as a party to this Complaint as the said CPIO is not likely to have any of the information sought in the instant RTI application. The Complainant further stated that after the submission of the instant Complaint to the Commission, he came across at least two official press notes regarding the actual number of hospitals and health care facilities that had been designated for the purpose of COVID-19 treatment. **Firstly**, on 05/05/2020, the Press Information Bureau (PIB), published on its website a write-up authored by the Hon'ble Union Minister of Environment, Forest & Climate Change -Information & Broadcasting; & Heavy Industries & Public Enterprises, Shri Prakash Javadekar wherein the following was mentioned in the First Bullet Point: "There was no concept of dedicated COVID hospitals. Today, we have nearly 700 dedicated COVID hospitals with 2 lakh plus isolation beds and 15,000 ICU beds."(emphasis supplied). The extract from the said write-up cited above clearly indicated that not only the Respondent Public Authorities but also other Ministries and departments have access to information about the number of hospitals that have been designated as COVID-19 treatment centres. The number of hospitals cited in the aforementioned extract also pre-supposes the existence of a list of such centres, without which arriving at such aggregate number would not have been possible. So the actions of the Respondent Public Authorities in transferring the instant RTI application were difficult to comprehend. The said Respondent Public Authorities being frontline agencies in the Central Government's campaign to contain COVID-19, ought to have disclosed the information sought in the instant RTI application, suo motu on an official website in the first place. Instead they have tried to wash off their hands of the responsibility of proactive information disclosure by transferring the instant RTI application to multiple public authorities, some of whom are not likely to hold such information in their custody. **Secondly**, on 13/05/2020, the MoHFW posted a Press Note containing the gist of the discussions held by the Hon'ble Union Minister for Health and Family Welfare, Dr. Harsh Vardhan with the Government of Punjab to review its preparedness and containment measures taken for COVID-19 Management. At para #3 of the said Press Note the number of healthcare facilities designated for the purpose of COVID-19 treatment is mentioned. The relevant extract is reproduced ad literatim below: "The Union Minister stated that as of now 900 dedicated COVID hospitals with 1,79,882 beds (Isolation beds- 1,60,610 and ICU beds- 19,272) and 2,040 dedicated COVID Health Centres with 1,29,689 beds (Isolation beds- 1,19,340 and ICU beds- 10,349) along with 8,708 quarantine centres and 5,577 COVID Care Centres with 4,93,101 beds are now available to combat COVID-19 in the country." (emphasis supplied). Given the above extract, it was clear that between 05 May when the Hon'ble Union Minister of Environment, Forest & Climate Change; Information & Broadcasting; & Heavy Industries & Public Enterprises, publicised a figure of 700 COVID-19 hospitals and 13 May, 2020 when the Hon'ble Union Minister for Health and Family Welfare mentioned the much larger figures, the number of such treatment facilities has grown. The statements of both Ministers presuppose the existence of a list of such hospitals and treatments centres in the custody of the M/o Health and Family Welfare. But for such a list, the Hon'ble Ministers would not have been able to mention the aggregate figures in their writings and discussions. There is no reason why the list of such hospitals and treatment centres cannot be made public suo motu under Section 4(1)(b) of the RTI Act. Further, after the submission of the instant Complaint to the Commission, he had been able to locate a unique information resource relating to COVID-19 Testing Centres on the website of ICMR. The ICMR has mapped all designated COVID-19 testing centres on a Google Map and made it accessible to any person

sitting in any corner in the world at the click of a button. The said Google Map based plotting of COVID-19 Testing centres was accessible at: <https://covid.icmr.org.in/index.php/testing-facilities>. Given the degree of transparency about testing centres which have an important role to play prior to the hospitalisation of the infected person, as and when required, there was no reason why a similar list of designated COVID-19 hospitals and treatment centres could not be made public under the RTI Act. As none of the Respondent Public Authorities have taken such action, he felt constrained to seek such information formally, under the RTI Act. Further a perusal of the last para of the instant RTI application clearly indicated that he did not seek the said information for himself. Instead he sought access to such information in a manner that would facilitate access to all citizens and organisations in the country. None of the CPIOs of the Respondent Public Authorities had applied their mind to these matters while acting on the instant RTI application. Their attempts to wash their hands off the matter were clearly evident from their perfunctory replies. **Therefore he felt constrained to approach the Commission with this Complaint to seek a direction for proactive disclosure of all the information sought in the instant RTI application.** Further, he sought the leave of the Commission to submit public interest grounds supporting the demand for making the names of hospitals and healthcare facilities designated for the purpose of COVID-19 treatment available in the public domain. **Firstly**, he was aware of news reports of patients suspected of COVID-19 infection being turned away by hospital after hospital refusing treatment on one pretext or the other, as a result of which deaths occurred. A reference was made to one such news report published in The Hindu in 03/05/2020 accessible at this link: <https://english.manoramaonline.com/news/nation/2020/05/03/keralite-dies-after-5-mumbai-hospitals-refuse-treatment-over-cov.html>. A 55-year old ailing Keralite is said to have died after five hospitals turned him away as they suspected it to be a case of COVID-19 infection. Had a consolidated list of COVID-19 hospitals been made available on the Internet and widely publicised by the Respondent Public Authorities, the family of this victim of medical neglect would have been able to pinpoint the designated COVID-19 treatment hospitals and ferry him to one of them without having to visit other hospitals. **Secondly**, there were also reports of designated COVID-19 hospitals turning away patients ailing from non-COVID illnesses as a result of which they died without receiving urgent medical attention. In this context a reference was made to a media report of the incident published in The Hindu on 25/04/2020 at: <https://www.thehindu.com/news/cities/mumbai/woman-dies-after-shuttling-between-hospitals/article31428548.ece>. Had the district-wise list of COVID-19 treatment centres been made available in a consolidated form with State and district-wise facility on an official website and publicised its existence widely, the family of this victim would have had adequate access to information to visit hospitals that had not been designated as COVID-19 treatment centres promptly instead of wasting time by driving her to one such designated COVID-19 hospital. Thus it was submitted that the disclosure of the information is of immense public interest and that the Respondent Public Authorities do not seem to have paid adequate attention to this dimension and implication of the instant RTI application while transferring it from one public authority to another. Furthermore, media reports indicate that certain healthcare facilities that were designated as COVID-19 treatment centres have subsequently been divested of such a role. He was familiar with at least one media report where a prominent hospital in Delhi was removed from the list of COVID-19 designated treatment centres. This news report published by The New Indian Express on 09/04/2020 may be accessed at: <https://www.newindianexpress.com/cities/delhi/2020/apr/09/gb-pant-hospital-removedfrom- list>

[of-designated-covid-19-facilities-delhi-govt-order-2127863.html](https://www.mca.gov.in/rti/rti-foi-act-2005/rti-foi-act-2005-of-designated-covid-19-facilities-delhi-govt-order-2127863.html). While stating that he had sought access to the names of such hospitals that had been so divested and reasons for the same at paras #4-5 of the instant RTI application the Complainant submitted that there was no reason why such information could not be placed in the public domain officially by the Respondent Public Authorities. As none of the Respondent Public Authorities had voluntarily placed such information in the public domain, he felt constrained to formally seek access to such information. None of the CPIOs of the Respondent Public Authorities have applied their mind to these matters while acting on the instant RTI application. Their perfunctory replies and attempts to wash their hands off the matter are clearly evident. Therefore he felt constrained to move this Hon'ble Commission with this Complaint to seek a direction for proactive disclosure of all the information sought in the instant RTI application. The Complainant inter alia affirmed that he had transmitted a copy of this Complaint along with Annexures to the CPIOs of all the Respondent Public Authorities, by email.

The Commission was also in receipt of a written submission from the Respondent CPIO and US/PH Division, M/o Health and Family Welfare dated 30.04.2020 wherein it was stated that in so far as their division was concerned the information sought was not available with them which was also communicated to the Complainant through the online portal on 30.04.2020. The representatives of the M/o H&FW feigned ignorance of the facts stated by the Ministers in their briefing as mentioned above.

The Commission was also in receipt of a written submission from the Respondent CPIO and CMO (EMR), DGHS dated 05.05.2020 wherein it was inter alia stated that vide letter dated 30.04.2020 they had informed the Complainant that the information sought was not available with the EMR Division hence the application was transferred to the NHM and Hospital Division of MoHFW.

The Commission was also in receipt of a written submission from the Respondent ICMR through email dated 26.05.2020 wherein it was inter alia stated that the reply of ICMR had already been uploaded in the RTI website on 22/5/2020 and that information requested was not pertaining to ICMR, and was closely related to Directorate General of Health Services (DGHS), Deptt. of Health and Family Welfare, Hence, RTI application hence the same is being transferred to DGHS under section 6(3) of RTI to Information Act, 2005.

The Commission was also in receipt of a copy of the written submission of Nodal CPIO, Dr. RML Hospital, New Delhi dated 30.05.2020 wherein it was stated that the reply to the RTI had been given to the Complainant on 14.05.2020 and that as per the CIC notice, Dr RML Hospital was not a party in the said matter.

Having heard all the parties and on perusal of the available records, the Commission at the outset was appalled to learn that basic information pertaining to the District Wise Designated COVID treatment centres could not be provided to the information seeker by any of the Respondents. As per the provisions of the RTI Act, 2005, the CPIO acts as the pivot for enforcing the implementation of the RTI Act, 2005 and it is their responsibility to facilitate flow of information instead of simply shifting the onus of disclosing the same to other Public Authority/ officials. In

the present instance none of the Respondent disclosed the information or made an effort to assist the information seeker in obtaining the information on a very sensitive matter which certainly pertains to the interest of the public at large. In this context, the Commission referred to the decision of the Hon'ble Delhi High Court in J P Aggarwal v. Union of India (WP (C) no. 7232/2009 wherein on the issue of the duties and responsibilities of the CPIO, it was held that:

***“ 7“it is the PIO to whom the application is submitted and it is who is responsible for ensuring that the information as sought is provided to the applicant within the statutory requirements of the Act. Section 5(4) is simply to strengthen the authority of the PIO within the department; if the PIO finds a default by those from whom he has sought information. The PIO is expected to recommend a remedial action to be taken”.
The RTI Act makes the PIO the pivot for enforcing the implementation of the Act.”***

8.....The PIO is expected to apply his / her mind, duly analyse the material before him / her and then either disclose the information sought or give grounds for non-disclosure.”

The Commission further observed that the RTI Act, 2005 stipulates time limits in its various provisions relating to responding to RTI Applications, transfer of applications, filing and disposing of first appeal to ensure that a culture of information dissemination is strengthened so that a robust functioning of the democracy gets established. This was recognised by the Hon'ble High Court of Delhi in Mujibur Rehman vs Central Information Commission (W.P. (C) 3845/2007)(Dated 28 April, 2009) wherein it was held as under:

“14.....The court cannot be unmindful of the circumstances under which the Act was framed, and brought into force. It seeks to foster an “openness culture” among state agencies, and a wider section of “public authorities” whose actions have a significant or lasting impact on the people and their lives. Information seekers are to be furnished what they ask for, unless the Act prohibits disclosure; they are not to be driven away through sheer inaction or filibustering tactics of the public authorities or their officers. It is to ensure these ends that time limits have been prescribed, in absolute terms, as well as penalty provisions. These are meant to ensure a culture of information disclosure so necessary for a robust and functioning democracy.”

Furthermore, the Hon'ble High Court of Delhi in the matter of R.K. Jain vs Union of India, LPA No. 369/2018, dated 29.08.2018, held as under:

“9..... That apart, the CPIO being custodian of the information or the documents sought for, is primarily responsible under the scheme of the RTI Act to supply the information and in case of default or dereliction on his part, the penal action is to be invoked against him only.”

The Commission also noted that it should be the endeavour of the CPIO to ensure that maximum assistance should be provided to the RTI applicants to ensure the flow of information. In this context, the Commission referred to the OM No.4/9/2008-IR dated 24.06.2008 issued by the

DoP&T on the Subject “*Courteous behavior with the persons seeking information under the RTI Act, 2005*” wherein it was stated as under:

“The undersigned is directed to say that the responsibility of a public authority and its public information officers (PIO) is not confined to furnish information but also to provide necessary help to the information seeker, wherever necessary.”

The Commission also referred to the OM No. 1/32/2007-IR dated 14.11.2007 wherein while prescribing for creation of a nodal authority for dealing with RTI applications, it was stated as under:

“It is, therefore, requested that all public authorities with more than one PIO should create a central point within the organisation where all the RTI applications and the appeals addressed to the First Appellate Authorities may be received. An officer should be made responsible to ensure that all the RTI applications/ appeals received at the central point are sent to the concerned Public Information Officers/ Appellate Authorities, on the same day. For instance, the RTI applications/ appeals may be received in the Receipt and Issue Section/ Central Registry Section of the Ministry/ Department/ Organisation/ Agency and distributed to the concerned PIOs/ Appellate Authorities. The R&I/CR Section may maintain a separate register for the purpose. The Officer-in-charge/ Branch Officer of the Section may ensure that the applications/ appeals received are distributed the same day.”

The Commission further observed that the information sought ought to have been suo motu disclosed on the website of the Public Authority at the outset so as to obviate the necessity for an information seeker to obtain the same through an RTI application. In this context, the Commission observed that a voluntary disclosure of all information that ought to be displayed in the public domain should be the rule and members of public who *having to seek* information should be an exception. An open government, which is the cherished objective of the RTI Act, can be realised only if all public offices comply with proactive disclosure norms. Section 4(2) of the RTI Act mandates every public authority to provide as much information *suo-motu* to the public at regular intervals through various means of communications, including the Internet, so that the public need not resort to the use of RTI Act.

The Hon’ble Supreme Court of India in the matter of CBSE and Anr. Vs. Aditya Bandopadhyay and Ors 2011 (8) SCC 497 held as under:

“37. The right to information is a cherished right. Information and right to information are intended to be formidable tools in the hands of responsible citizens to fight corruption and to bring in transparency and accountability. The provisions of RTI Act should be enforced strictly and all efforts should be made to bring to light the necessary information under Clause (b) of Section 4(1) of the Act which relates to securing transparency and accountability in the working of public authorities and in discouraging corruption.”

The Commission also observes the Hon'ble Delhi High Court ruling in WP (C) 12714/2009 Delhi Development Authority v. Central Information Commission and Another (delivered on: 21.05.2010), wherein it was held as under:

“16.It also provides that the information should be easily accessible and to the extent possible should be in electronic format with the Central Public Information Officer or the State Public Information Officer, as the case may be. The word disseminate has also been defined in the explanation to mean - making the information known or communicating the information to the public through notice boards, newspapers, public announcements, media broadcasts, the internet, etc. It is, therefore, clear from a plain reading of Section 4 of the RTI Act that the information, which a public authority is obliged to publish under the said section should be made available to the public and specifically through the internet. There is no denying that the petitioner is duty bound by virtue of the provisions of Section 4 of the RTI Act to publish the information indicated in Section 4(1)(b) and 4(1)(c) on its website so that the public have minimum resort to the use of the RTI Act to obtain the information.”

Furthermore, High Court of Delhi in the decision of General Manager Finance Air India Ltd & Anr v. Virender Singh, LPA No. 205/2012, Decided On: 16.07.2012 had held as under:

“8. The RTI Act, as per its preamble was enacted to enable the citizens to secure access to information under the control of public authorities, in order to promote transparency and accountability in the working of every public authority. An informed citizenry and transparency of information have been spelled out as vital to democracy and to contain corruption and to hold Governments and their instrumentalities accountable to the governed. The said legislation is undoubtedly one of the most significant enactments of independent India and a landmark in governance. The spirit of the legislation is further evident from various provisions thereof which require public authorities to:

A. Publish inter alia:

- i) the procedure followed in the decision making process;*
- ii) the norms for the discharge of its functions;*
- iii) rules, regulations, instructions manuals and records used by its employees in discharging of its functions;*
- iv) the manner and execution of subsidy programmes including the amounts allocated and the details of beneficiaries of such programmes;*
- v) the particulars of recipients of concessions, permits or authorizations granted. [see Section [4\(1\) \(b\)](#), (iii), (iv), (v); (xii) & (xiii)].*

B. Suo moto provide to the public at regular intervals as much information as possible [see Section [4\(2\)](#)].”

It was observed by the Commission that important decisions are being made by the Governments involving huge interventions in the healthcare and daily lives of billions of people as they seek to secure social, economic and cultural wellbeing of its population and

uphold the rule of law. It is essential that the decisions themselves and the senior decision makers involved are thoroughly documented in order for the Governments to remain accountable both during and after the crisis for future generations to be able to learn from these actions.

DECISION

It is well recognized that the impact of COVID-19 pandemic will be far reaching and that all the stakeholders need to be cognizant of the importance of proper data and record management. Such records could also be useful for research and educational institutions involved in tracing the disease, mapping and analyzing the pathogens genome to develop vaccines that requires records and data accuracy. Sound records management is more important than ever before with Governments initiating unprecedented steps to deal with the COVID-19 pandemic.

Keeping in view the facts of the case and the submissions made by all the stakeholders and in the light of the decisions cited above as also the observations made in the previous paragraphs, the Commission observed that very pertinent information pertaining to the COVID-19 pandemic situation was sought by the Complainant which could not be made available by any of the Respondent. The fact that the application shuttled from one Division of the Public Authority to another indicates that there is a very urgent requirement for notifying a Nodal Authority in the M/o H&FW/ DGHS to compile, collate and consolidate the information sought in the RTI application and suo motu upload the same on the website of the Public Authority. There is an immense necessity to evolve a strong, robust and effective documentation mechanism and its continuous updation which will be mutually beneficial not only for the Government but also for the Scientists, Researchers, Academicians, Historians, Law Makers, etc for future.

Therefore, the Commission advises the Secretary, M/o H&FW to designate an officer of an appropriate seniority as a Nodal Officer to examine the matter and suo motu disclose the information sought in the RTI application on the website of the Public Authority within a period of 15 days from the date of receipt of this order in the larger public interest.

The Complaints stand disposed accordingly.

(The Order will be posted on the website of the Commission).

Bimal Julka (बिमल जुल्का)
Chief Information Commissioner (मुख्य सूचना आयुक्त)

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(अभिप्रमाणित सत्यापित प्रति)

K.L. Das (के.एल.दास)
Dy. Registrar (उप-पंजीयक)
011-26186535/ kl.das@nic.in
दिनांक / Date: 05.06.2020

Copy to:

1. The Secretary, Ministry of Health and Family Welfare, 'A' Wing, Nirman Bhawan, New Delhi-110011.
2. The Directorate General of Health Services (DGHS), Room No. 446-A, Nirman Bhawan, Maulana Azad Rd, New Delhi, Delhi 110011

