

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

द्वितीय अपील संख्या / Second Appeal No. **CIC/MOHFW/A/2021/625994**
CIC/MOHFW/A/2021/625995
CIC/MOHFW/A/2021/625996
CIC/MOHFW/C/2021/620415
CIC/MOHFW/C/2021/621399
CIC/MOHFW/A/2021/622522
CIC/MOHFW/A/2021/622519

Shri Saurav Das

... अपीलकर्ता / Appellant

VERSUS/बनाम

1. CPIO, Under Secretary, Department of Health & Family Welfare, Drugs Regulation Section ... प्रतिवादीगण / Respondent

Through: Shri Satyendra Singh – Under Secretary, COVID Vaccine Admn. Cell and Smt. Sunita Dhaundiyal, Dr. Sidhartha Satpathy-CPIO, Dr. Raghuram Rao -PIO, Shri DNK Kutumba Rao, Dr. A R Singh

2. PIO, Dept. of Industrial Policy & Promotion
Through: Shri Dharampal – DPIIT

3. PIO, North Eastern Indira Gandhi Regional Ins. of Health and Medical Sciences
Through: Shri Kaikam Dungal

4. PIO, Jawaharlal Institute of Postgraduate Medical Education and Research (JIPMER)
Through: Shri S Veeraputhirin, Shri C S Bahuguna – CPIO

Date of Hearing : 09.08.2021

Date of Decision : 16.08.2021

Chief Information Commissioner : Shri Y. K. Sinha

Relevant facts emerging from appeal:

In view of the similarity of subject matter of the cases filed by the same Applicant, the above mentioned cases are clubbed together for hearing and disposal.

Case No.	RTI Filed on	CPIO reply	First appeal	FAO	2nd Appeal received on
625994	07.06.2021	17.06.2021	17.06.2021	21.06.2021	23.06.2021
625995	01.06.2021	16.06.2021	17.06.2021	21.06.2021	23.06.2021
625996	21.05.2021	14.06.2021	17.06.2021	21.06.2021	23.06.2021
620415	08.05.2021	25.05.2021	-	-	28.05.2021
621399	04.05.2021	21.05.2021	-	-	02.06.2021
622522	16.04.2021	-	22.04.2021	-	24.04.2021
622519	16.04.2021	-	22.04.2021	-	24.04.2021

Information sought and background of the case:

(1) CIC/MOHFW/A/2021/625994

The Appellant filed an RTI application dated 07.06.2021 seeking the following information:

In relation to the Centralised procurement of vaccines for all states as announced by the PM on 07 June 2021, kindly furnish

- 1. A certified true copy of the file sent with this proposal to the Prime Minister for approval.*
- 2. A certified true copy of the file noting, and copy of the approval as granted, if any, by the PM.*
- 3. A clear copy of the date when the file was sent with this proposal and the date when the assent of the PM was received, if any.*
- 4. Furnish the date when the proposal was created and the entire file noting relating to this.*

The PIO vide online reply dated 17.06.2021 stated as under:-

“The documents (certified true copy/file noting etc) as sought is exempted under Section 8 (1) (a) of RTI Act, 2005 as it would prejudicially affect the strategic, scientific or economic interests of the State. Further, seeking documents as mentioned does not serve any larger public interest, when the information/guidelines/Standard Operating Procedure (SoP)/Frequently Asked Questions (FAQs)/data/statistics etc for the General Public is proactively disclosed by the Ministry of Health & Family Welfare on the various Platforms. Regarding “Revised Guidelines for implementation of National COVID Vaccination Program” 08.06.2021), you may refer link <https://www.mohfw.gov.in/pdf/RevisedVaccinationGuidelines.pdf>”.....

Dissatisfied with the response received from the CPIO, the Appellant filed a First Appeal dated 17.06.2021. The FAA vide online order dated 21.06.2021 stated that there is no further information apart from what has already been furnished by the CPIO of COVID vaccination cell.

Aggrieved and dissatisfied, the Appellant approached the Commission with the instant Second Appeal dated 23.06.2020.

Written submissions dated 08.07.2021 have been received from the Respondent-PIO/US, CVAC, MoHFW reiterating the above facts and adding the following:

3. It is observed that 19 RTI applications of Sh. Saurav Das have been received online in this office and in the every RTI applications being received from the month of April 2021, the applicant has being mentioned "RTI has been filed under the threat to life and liberty clause u/s 7(1) of the RTI Act and the same is required to be answered within 48 hours". It is the applicant's self declaration in almost every RTI application.

However, as far as this CPIO i.e. Under Secretary, COVID-19 Vaccine Administration Cell (CVAC) is concerned, it is kind to inform that since the crux of the information/guidelines/Standard Operating Procedure (SoP) etc has being communicated to the States/UTs and also explained by the experts on various media forums (both print and electronic), therefore, the issue of imminent impact on life and liberty of Indian citizen does not arise.

It is kind to bring into the notice of Hon'ble CIC that COVID-19 Vaccination related information/guidelines/Standard Operating Procedure (SoP)/Frequently Asked Questions (FAQs)/data/statistics etc is proactively disclosed by the Ministry of Health & Family Welfare on the various Platforms for the General Public.

4. The National Expert Group on Vaccine Administration for COVID 19 ("NEGVAC" for short) has been guiding on all aspects of COVID-19 vaccination drive for the Country. This body has representation of relevant ministries, State Governments and Technical Experts. It provides guidance on all aspects of vaccine introduction including prioritization of beneficiaries, procurement, vaccine selection and its delivery.

This office i.e. COVID-19 Vaccine Administration Cell (CVAC) was created under the Immunization Division in Sept, 2020. All policy matter's files in respect of COVID-19 vaccination/vaccine are initiated by the technical consultants and put up to the Technical Officer (mostly Doctors) of Immunization Division and further to competent authority. These files regarding policy matter/supply/distribution in respect of COVID-19 vaccination/vaccine are not put up to the undersigned means the undersigned is not in the channel of submission of decision making process regarding COVID-19 vaccine/vaccination. Even the next higher authority i.e. Smt. Sarita Nair, Deputy Secretary & First Appeal Authority is also not in the channel of submission for the same.

As informed by the Immunization Division, MoHFW, the Members of NEGVAC sign Non-disclosure Agreements and documents such file noting/minutes etc is exempted under Section 8 (1) (a) of RTI Act, 2005 as it would prejudicially affect the strategic, scientific or economic interests of the State. However, decision/guidelines/SoPs/FAQs etc are proactively disclosed on the various Platforms in the large public interest.

As the policy matter's files in respect of COVID-19 vaccination/vaccine have not been submitted to the undersigned at any point of time, therefore information is not available with the undersigned. However, in this regard, any clarification required or any instruction to be issued, same may be addressed to Dr. M K Aggarwal, Additional Commissioner, (Universal Immunization Programme), Room No. ~~105-D~~, Ministry of Health & Family Welfare, Nirman Bhawan, New Delhi. 105-D

(2) CIC/MOHFW/A/2021/625995

The Appellant filed an RTI application dated 01.06.2021 seeking information about Non-Disclosure Agreement submitted by the members of NEGVAC, the

period it covers, and the scope of the NDA. The queries raised by him are as follows:

- 1. Whether the Members of the NEGVAC are required to sign Non-Disclosure Agreements. If so, the period for which the NDA is covered by furnished. Kindly remember, RTI Act requires that if anything is on record, the same should be furnished.*
- 2. Furnish the scope of such NDA and the details of what it covers.*
- 3. Furnish a copy of the order/rule/any agreement which requires Members of NEGVAC to not disclose contents of discussions held in the meetings of NEGVAC. If anything is on record, the same is liable to be furnished.*

The PIO vide online reply dated 16.06.2021 stated as under:-

“Members of NEGVAC sign Non-disclosure Agreements and rest of information/documents is exempted under Section 8 (1) (a) of RTI Act, 2005 as it would prejudicially affect the strategic, scientific or economic interests of the State. Further, seeking documents as mentioned does not serve any larger public interest, when the information/guidelines/Standard Operating Procedure (SoP)/Frequently Asked Questions (FAQs)/data/statistics etc for the General Public is proactively disclosed by the Ministry of Health & Family Welfare on the various Platforms.”

The Respondent further added the following:

“ However, for COVID-19 Vaccination related information/ guidelines/ Standard Operating Procedure (SoP)/Frequently Asked Questions (FAQs)/ data/statistics etc, you may visit the Ministry of Health & Family Welfare's website “mohfw.gov.in” or “Aarogya Setu App”, CoWIN portal (<https://www.cowin.gov.in>) (refer link <https://dashboard.cowin.gov.in>) or “mygov.in/COVID-19” or “My Gov App”, Press Information Bureau, Government of India's website www.pib.gov.in then go to Home All Press Release then Select Ministry (Ministry of Health & Family Welfare) select Date, Month, Year for date wise release/information, which is being updated from time to time.

You may also get lots of information regarding COVID-19 Vaccination in Media Conferences addressed by the highest level Officers of MoHFW regularly...”

Dissatisfied with the response received from the CPIO, the Appellant filed a First Appeal dated 17.06.2021. The FAA vide online order dated 21.06.2021 stated that there is no information to furnish in the COVID vaccination cell.

Aggrieved and dissatisfied, the Appellant approached the Commission with the instant Second Appeal.

Written submissions dated 08.07.2021 have been received from the Respondent PIO/US, CVAC, MoHFW reiterating the above facts.

(3) CIC/MOHFW/A/2021/625996

The Appellant filed an RTI application dated 21.05.2021 on the following lines:

Whereas recently the MoHFW announced that the gap between two doses of COVAXIN could be increased by 3 months, and later said 6 months, etc. In relation to this

- 1. Furnish the advice/report/evidence/research based on which this decision was taken.*
- 2. Furnish the minutes of the meeting in which this decision was taken.*
- 3. Furnish the file notings relating to this announcement.*

The PIO vide online reply dated 14.06.2021 stated as under:-

“The documents sought is exempted under Section 8 (1) (a) of RTI Act, 2005 as it would prejudicially affect the strategic, scientific or economic interests of the State. Further, seeking documents as mentioned does not serve any larger public interest, when the information/guidelines/Standard Operating Procedure (SoP)/Frequently Asked Questions (FAQs)/data/statistics etc for the General Public is proactively disclosed by the Ministry of Health & Family Welfare on the various Platforms.”

The Respondent further stated the following:

“..You may visit Press Information Bureau, Government of India’s website www.pib.gov.in then go to Home All Press Release then Select Ministry (Ministry of Health & Family Welfare) select Date, Month, Year for date wise release/information (13.05.2021). (refer link [https://pib.gov.in/Press Release Detail m.aspx?PRID=1718308](https://pib.gov.in/Press%20Release%20Detail.aspx?PRID=1718308))

However, for COVID-19 Vaccination related information/ guidelines/ Standard Operating Procedure (SoP)/Frequently Asked Questions (FAQs)/ data/statistics etc, you may visit the Ministry of Health & Family Welfare's website “mohfw.gov.in” or “AarogyaSetu App”, CoWIN portal (<https://www.cowin.gov.in>) (refer link <https://dashboard.cowin.gov.in>) or “mygov.in/COVID-19” or “MyGov App”, Press Information Bureau, Government of India’s website www.pib.gov.in then go to Home All Press Release then Select Ministry (Ministry of Health & Family Welfare) select Date, Month, Year for date wise release/information, which is being updated from time to time.

You may also get lots of information regarding COVID-19 Vaccination in Media Conferences addressed by the highest level Officers of MoHFW regularly.

Dissatisfied with the response received from the CPIO, the Appellant filed a First Appeal dated 17.06.2021. The FAA vide online order dated 21.06.2021 stated that *the emerging scientific evidences, the interval between two doses of covishield was revisited by the Covid Working Group of the National Technical Advisory Group on Immunisation and subsequently by NEGVAC in its meeting held on 12.05.2021. NEGVAC recommended revision in schedule of covishield to*

administer second dose at interval of 12-16 weeks after first does. This recommendation was accepted by the Govt. of India.

Still dissatisfied, the Appellant approached the Commission with the instant Second Appeal.

Written submissions dated 08.07.2021 have been received from the Respondent PIO/US, CVAC, MoHFW reiterating the above facts and adding that:

3. In this regard, it is kind to inform that the National Expert Group on Vaccine Administration for COVID 19 ("NEGVAC" for short) has been guiding on all aspects of COVID-19 vaccination drive for the Country. This body has representation of relevant ministries, State Governments and Technical Experts. It provides guidance on all aspects of vaccine introduction including prioritization of beneficiaries, procurement, vaccine selection and its delivery.

This office i.e. COVID-19 Vaccine Administration Cell (CVAC) was created under the Immunization Division in Sept, 2020. All policy matter's files in respect of COVID-19 vaccination/vaccine are initiated by the technical consultants and put up to the Technical Officer (mostly Doctors) of Immunization Division and further to competent authority. These files regarding policy matter/supply/distribution in respect of COVID-19 vaccination/vaccine are not put up to the undersigned means the undersigned is not in the channel of submission of decision making process regarding COVID-19 vaccine/vaccination. Even the next higher authority i.e. Smt. Sarita Nair, Deputy Secretary & First Appeal Authority is also not in the channel of submission for the same.

As informed by the Immunization Division, MoHFW, the Members of NEGVAC sign Non-disclosure Agreements and documents such file noting/minutes etc is exempted under Section 8 (1) (a) of RTI Act, 2005 as it would prejudicially affect the strategic, scientific or economic interests of the State. *However, decision/guidelines/SoPs/FAQs etc are proactively disclosed on the various Platforms in the large public interest. (Refer Ministry of Health & Family Welfare's website "mohfw.gov.in" or "AarogyaSetu App" (refer link <https://dashboard.cowin.gov.in>) or "mygov.in/COVID-19" or "MyGov App" and may also refer Press Information Bureau, Government of India's website www.pib.gov.in then go to Home All Press Release then Select Ministry (Ministry of Health & Family Welfare) select Date, Month, Year for date wise release/information.*

In this matter, refer Press Information Bureau, Government of India's website www.pib.gov.in then go to Home All Press Release then Select Ministry (Ministry of Health & Family Welfare) select Date, Month, Year for date wise release/information (Please see 13.05.2021). (refer link <https://pib.gov.in/PressReleseDetailm.aspx?PRID=1718308>) and see heading "Gap between two doses of Covishield Vaccine extended from 6-8 weeks to 12-16 weeks based on recommendation of COVID Working Group". (Annexure - 4)

As the policy matter's files in respect of COVID-19 vaccination/vaccine have not been submitted to the undersigned at any point of time, therefore information is not available with the undersigned. However, in this regard, any clarification required or any instruction to be issued, same may please be addressed to Dr. M. K. Agarwal, Additional Commissioner, (Universal Immunization Programme), Ministry of Health & Family Welfare, Nirman Bhawan, New Delhi.

4. The aforesaid RTI application dated 21.05.2021 received to the undersigned on 22.05.2021 has been replied on 14.06.2021 by the undersigned and FAA also upheld the reply provided by the undersigned and disposed off appeal on 21.06.2021.

(4) CIC/MOHFW/C/2021/620415

The Complainant filed an RTI application dated 08.05.2021 seeking information on following 04 points:-

1. Kindly furnish details of all the funding that the MoHFW has received from various sources or allocated by the MoHFW, for ALL pandemic related purchases and related work. Sources could be own budget, PM-CARES funds, grants, loans, etc. **Kindly keep in mind all the announcements and purchase orders placed by the MoHFW since March 2020 while furnishing the information.**
2. Kindly mention the source alongside the amount received/allocated.
3. Kindly furnish the remaining balance amount left as of date for each such allocation.
4. Kindly furnish all the allocations or purchase/construction orders placed by the MoHFW on procuring pandemic related purchases or constructing any facilities that were announced since March 2020.

The CPIO/Under Secretary, Department of Health & Family Welfare (Drugs Regulation Section) vide letter dated 25.05.2021 replied as under:

Reference is invited to your online RTI application bearing registration No.MOHFW/R/E/21/02372 dated 08.05.2021 (received on 08.05.2021 after being electronically transferred by RTI Cell of this Ministry). It is informed that no such information, as sought by you, is available in Drugs Regulation Section.

Dissatisfied with the response received from the CPIO, the Complainant approached the Commission with the instant Complaint.

Written submissions dated 08.07.2021 have been received from the Respondent reiterating the PIO's response dated 25.05.2021.

Another response dated 09.07.2021 has been received from CPIO, Accounts, JIPMER is found on record stating that information sought is not held by them.

Another response dated 02.08.2021 has been received from CPIO, Dept. for Promotion of Industry and Internal Trade is found on record stating that information sought is not held by them.

It is also noted that CPIO, Purchase Section, JIPMER has sent a reply dated 06.08.2021 providing the details of purchase of equipment drugs/consumables/oxygen for COVID purpose w.e.f. March 2020.

The Prof. and Head of Department for Hospital Administration/CPIO-Dr. S Satpathy from AIIMS, New Delhi responded to queries number 1 and 4, vide a communication dated 06.07.2021 enclosing the reply dated 01.07.2021 received from Stores Officer(Hospital), AIIMS.

(5) CIC/MOHFW/C/2021/621399

The Complainant filed an RTI application dated 04.05.2021 seeking information details of all the foreign aid being received by India and state-wise breakup of the distribution, amongst other things. The specific queries raised by him are as follows:

- 1. Furnish the details, including the items, its quantity and money, of the foreign aid received by India for battling Corona pandemic.*
- 2. Furnish the dates when each such aid was received by India.*
- 3. Furnish the states where each such aid was sent to for use. Furnish the dates alongside with quantity.*
- 4. Furnish how much money, received from foreign countries, has been released to States and on which dates.*

The CPIO/Under Secretary, Department of Health & Family Welfare (Budget Division) vide letter dated 05.05.2021 replied as under:

2. In this connection, it is informed that the requisite information do not relates to this division and no such information is available in the Budget Division. Hence the same is treated as 'Nil.'

Dissatisfied with the response received from the CPIO, the Complainant approached the Commission with the instant Complaint.

Written submissions dated 08.07.2021 have been received from the Respondent reiterating the PIO's response dated 05.05.2021 that the information sought by the Complainant is not available with the Budget Division of MoHFW.

A communication has been received from Shri C S Bahuguna – US/CPIO stating information sought by the Complainant was available in 256 pages and duly furnished to him by his predecessor on 15.07.2021 upon receipt of the requisite photocopy charges on 14.07.2021. The relevant documents relied upon by the Respondent have been enclosed with the submission.

(6) CIC/MOHFW/A/2021/622522

The Appellant filed an RTI application dated 16.04.2021 seeking information on following 06 points in relation to the National Technical Advisory Group on Immunization(NTAGI):-

1. The list of exact dates on which the NTAGI has met till date to discuss on matters relating to the Coronavirus.
2. The minutes of **ALL** the meetings convened on the coronavirus situation and vaccination till date. All information, details of members, their designations, **EACH AND EVERY MEMBERS' inputs be provided** as well.
3. The agenda of each of the meetings be furnished as well.

4. Furnish the certified true copies of all the inputs, advise provided to the NEGVAC and the Ministry of Health till date on the Coronavirus and vaccination process.
5. Furnish whether the use of Facial Recognition Technology with vaccination, Aadhaar linking with Vaccination and National Digital Health ID with Vaccination was discussed in the meetings of NTAGI. If so, furnish the minutes of such meetings, file notings, email communications, any form of communication, memos, etc. in relation to the above referred matters.
6. Furnish all the details, including minutes of the meetings, internal communications, memos, file notings in relation to the task of providing digital infrastructure for Coronavirus vaccination and procurement. Complete details be provided.

The CPIO vide online reply dated 23.04.2021 informed the Appellant that the RTI application had been transferred to the concerned CPIOs, Ministry of Health & Family Welfare. Having not received any information from the CPIO, the Appellant filed a First Appeal dated 22.04.2021 and the same remained unadjudicated.

Aggrieved over non-receipt of the information, the Appellant approached the Commission with the instant Second Appeal.

Written submissions dated 08.07.2021 have been received from the Respondent PIO/US, CVAC, MoHFW reiterating the above facts about having transferred the RTI application to the relevant custodian of information.

A reply dated 08.07.2021 from the PIO/US, Immunization Section, MoHFW is also found on record, which indicates that the website contains the details of all important meetings of NTAGI and link thereof has been shared with the Appellant vide reply dated 13.05.2021. The answering Respondent further pointed out that information against queries 4 to 6 do not pertain to Immunization Section, hence the same could not be answered. But copy of the RTI application was forwarded to the PIO/CVAC to reply to the Appellant directly, if any information was available against the remaining queries. In fact, minutes of meeting of the National Technical Advisory Group on Immunization – NTAGI, held on 28.05.2021 under the chairmanship of Secretary, Health & Family Welfare has been placed on record, as obtained from the website recommended by the PIO.

The same submission has once again been sent by the PIO vide letter dated 05.08.2021 and forms part of the record.

(7) CIC/MOHFW/A/2021/622519

The Appellant filed an RTI application dated 16.04.2021 seeking information on 11 points in relation to the National Expert Group of Vaccine Administration for Covid-19:-

1. The list of exact dates on which the expert group has met till date.
2. Certified true copies of detailed agenda of all the meetings till date.
3. Certified true copies of presentations made before the group and detailed information about each of them.
4. The certified true copies of minutes of meeting of each and every meeting that has been held till date, along with all annexures, notes, etc. that were put up before the Committee members for consideration.
5. The certified true copies of all the file notings, email communication between members and any other entity, any form of communication in relation to the working of Committee.
6. A certified true copy of the list of name and designation of every person currently in the group.

Etc.

The CPIO vide online reply dated 23.04.2021 informed the Appellant that the RTI application had been transferred to the concerned CPIOs, Ministry of Health & Family Welfare. Having not received any information thereafter, from the CPIO, the Appellant filed a First Appeal dated 22.04.2021 and the same remained unheard.

Aggrieved over non-receipt of the information, the Appellant approached the Commission with the instant Second Appeal.

Facts emerging in Course of Hearing:

Written submissions dated 08.07.2021 have been received from the Respondent-PIO/US, CVAC, MoHFW reiterating the above facts and further added that:

3. It is observed that 19 RTI applications of Sh. Saurav Das have been received online in this office and in the every RTI applications being received from the month of April 2021, the applicant has being mentioned "RTI has been filed under the threat to life and liberty clause u/s 7(1) of the RTI Act and the same is required to be answered within 48 hours". It is the applicant's self declaration in almost every RTI application.

However, as far as this CPIO i.e. Under Secretary, COVID-19 Vaccine Administration Cell (CVAC) is concerned, it is kind to inform that since the crux of the information/guidelines/Standard Operating Procedure (SoP) etc has being communicated to the States/UTs and also explained by the experts on various media forums (both print and electronic), therefore, the issue of imminent impact on life and liberty of Indian citizen does not arise.

The Respondent has added in the submissions that:

5. It is pertinent to mention herewith that the undersigned was allocated COVID-19 Vaccine Administration Cell (CVAC) w.e.f 01.04.2021 (Annexure-6). The files regarding policy matter/supply/distribution in respect of COVID-19 vaccination/vaccine are not put up to the undersigned means the undersigned is not in the

channel of submission of decision making process regarding COVID-19 vaccine/vaccination. Even the next higher authority i.e. Smt. Sarita Nair, Deputy Secretary & First Appeal Authority is also not in the channel of submission.

This office i.e. COVID-19 Vaccine Administration Cell (CVAC) was created under the Immunization Division in Sept, 2020 (Annexure-7). All policy matter's files are initiated by the technical consultants and put up to the Technical Officer (mostly Doctors) of Immunization Division and further to competent authority. The undersigned was not made aware, who was the custodian of files/information. Therefore aforesaid RTI application was transferred to CPIO & Under Secretary (Immunization), MoHFW at that time.

While providing information on the basis of available records, the answering Respondent has stated as follows:

The reply/information as sought by the applicant vide its RTI application dated 16.04.2021 is as under:

The National Expert Group on Vaccine Administration for COVID 19("NEGVAC" for short) has been guiding on all aspects of COVID-19 vaccination drive for the Country. This body has representation of relevant ministries, State Governments and Technical Experts. It provides guidance on all aspects of vaccine introduction including prioritization of beneficiaries, procurement, vaccine selection and its delivery.

Sl. No. 6 - The copy of composition of National Expert Group on Vaccine Administration for COVID 19 ("NEGVAC" for short) is attached herewith(Annexure-8)

Sl. No. 11 (details only) - The details of procurement of COVID-19 Vaccine (Covishield & Covaxin) is as attached herewith. (Annexure-9)

Members of NEGVAC sign Non-disclosure Agreements and rest of information is exempted under Section 8 (1) (a) of RTI Act, 2005 as it would prejudicially affect the strategic, scientific or economic interests of the State.

7. As the files, minutes etc related with NEGVAC has not been submitted to the undersigned at any point of time, therefore information is not available with the undersigned. However, in this regard, any clarification required or any instruction to be issued, same may please be addressed to Dr. M K Agarwal, Additional Commissioner,(Universal Immunization Programme), Ministry of Health & Family Welfare, Nirman Bhawan, New Delhi.

A reply dated 08.07.2021 from the Immunization Section is also found on record, which refers to replies dated 06.05.2021 and 13.05.2021 already sent to the Appellant.

Appellant has filed a common rejoinder to CPIOs' submissions and drawn reference to a decision dated 29.07.2021 passed by a co ordinate Bench of the Commission in the case number *CIC/DOIPP/A/2021/625997*.

Facts arising during the course of hearing:

Considering the nature of queries which relate to information regarding Covid-19, early hearing application with respect to the cases has been allowed.

In order to ensure social distancing and prevent the spread of the pandemic, COVID-19, hearing through video conference was scheduled after giving prior notice to both the parties and both parties are heard at length through video conference.

During the course of hearing of the above cases, the Applicant has referred to his submissions placed on record including the common rejoinder filed by him. He contended that he had sought the above mentioned information, invoking the life and liberty clause as provided under proviso to Section 7(1) of the RTI Act, in the larger public interest because disclosure of the information would have helped save lives with appropriate and accurate data. It is his case that a proper and healthy interaction between the public and the Government machinery would have ensured better preparation to combat the pandemic crisis, which requires a well informed citizenry and alertness about the factual data. He has stated that unfortunately the Respondent in most of the cases denied information on various pretexts including that it is not the custodian of information. It is also pointed out by the Applicant that even when the Respondent denied being the custodian of information, no attempt was made by them to transfer the RTI applications to the actual and relevant custodian of information, in violation of the provisions of Section 6(3) of the RTI Act.

The Applicant further contended that no justification has been provided by the Respondent while outrightly denying information and even declaring that no larger public interest will be served by disclosure of the information sought by the Applicant.

The Applicant emphasised that though he had filed the cases stating that information sought is of paramount importance and relates to “life and liberty” of the public at large, but the Respondent did not provide information within the stipulated time frame of 48 hours as provided under the RTI Act for dealing with such specific cases. He specified that while the CPIO could have refused to admit the cases under the “life and liberty”, but no response at all was provided to him in this regard by the PIO as to whether the matters will be treated under the specific proviso of Section 7(1) of the RTI Act or not.

It has been submitted by the Applicant that the DoPT has itself devised a specific mechanism to expedite the cases which raise questions affecting the “life and liberty” of an individual. He requested that the Commission should initiate necessary steps and issue another recommendation u/S 25(5) of the RTI Act to ensure that a mechanism is devised for filing and prioritising adjudication of such cases related to “life and liberty” particularly in view of the pandemic situation.

Respondent contended that all the relevant information which can aid or assist the citizens in combating the pandemic and save lives of the people, is regularly being uploaded on the websites of the relevant Ministries. Information about the relevant websites has not only been provided to the Applicant in this case, but such information is being disseminated in larger public interest to create public awareness about measures being taken to cope with the emergency arising out of this pandemic. Moreover, the Respondent referred to the information provided to the Applicant in the various cases, in the form of the written submissions submitted in each of the cases mentioned above. It has been contended by the Respondent that all possible information has been furnished to the Applicant, but the claim of the Applicant of invoking the “life and liberty” clause was not found appropriate and hence the reply was provided in normal course in terms of the provisions of the RTI Act and not within 48 hours of the receipt of RTI application.

Decision:

Upon perusal of records of the cases at hand and hearing the averments of all the relevant and necessary parties at length, the following aspects have emerged, which are being dealt with as under:

I. Applicability of the Life and Liberty clause to the above matters:

The Applicant has consistently contended that the Respondent has failed to answer his queries within 48 hours, though he had pleaded that the RTI applications raise queries affecting “life and liberty” of the public at large. The proviso to Section 7(1) of the RTI Act stipulates that in cases where information concerns the “life and liberty” of a person, the same shall be provided within forty eight hours of receipt of the RTI application. The question of applicability of this clause has been adjudicated many times by the Commission, some of the pertinent decisions of the Commission being:

i) Pratap Kumar Jena vs. PIO, Central Institute of Psychiatry, Ranchi
in Appeal No. CIC/SG/A/2012/000814 whereby it was held:

"Proviso of Section 7(1) states that where the information sought concerns the life or liberty of a person, the same shall be provided within forty- eight hours of the receipt of the request. This provision has to be applied only in exceptional cases and the norm is that information should be provided within thirty days from the receiving date. Whether the information sought concerns the life or liberty of a person has to be carefully scrutinized and only in a very limited number of cases this ground can be relied upon. The government machinery is not designed in a way that responses to all RTI Applications can be given within fortyeight hours. A broad interpretation of 'life or liberty' would result in a substantial diversion of manpower and resources towards replying to RTI Applications which would be unjustified. Parliament has made a very special exception for cases involving 'life or liberty' so that it would be used only when an imminent threat to life or liberty is involved.

Thus it is evident that the imminent danger has to be demonstrably proven by the information seeker. In other words, if an applicant seeks information pertaining to incarceration of a person or medical incapacitation of a person without any *bonafide* interest in the preservation and maintenance of life and liberty of such person, rather for purposes such as research, academic discourses or such information is accessed by journalists in the capacity of being citizens for the purpose of reporting and sensationalism, surely the purpose of the Act will not be served in insisting that such information be supplied within 48 hours by the CPIO. Allowing such a proposition of allowing the applicability of the proviso to Section 7(1) of RTI Act without any consideration of locus standi or outcome of disclosure will absolve the legislative intent behind inserting a proviso which carves a specific supplemental right to information within 48 hours of filing a RTI Application.

ii) Mr. Satish Kumar Gupta v. PIO & AR, University of Delhi in its decision in CIC/SG/A/2009/001781/4807 dated 15/09/2009, observed as follows:

"Proviso of Section 7(1) states that 'where the information sought concerns the life or liberty of a person, the same shall be provided within forty-eight hours of the receipt of the request.' This provision has to be applied only in exceptional cases and the norm is that information should be provided within thirty days from the receiving date. Whether the information sought concerns the life or liberty of a person has to be carefully scrutinized and only in a very limited number of cases this ground can be relied upon. The government machinery is not designed in a way that responses to all RTI Applications can be given within forty eight hours. A broad interpretation of 'life or liberty' would result in a substantial diversion of manpower and resources towards replying to RTI Applications which would be unjustified. Parliament has made a very special exception for cases involving 'life or liberty' so that it would be used only when an imminent threat to life or liberty is involved."

It is noted that a co-ordinate bench of this Commission while deciding the Appeal number CIC/DOIPP/A/2021/625997 filed by the same Applicant had also considered the above aspects and after a detailed analysis concluded that the "life and liberty" clause as set out in the Proviso to Section 7(1) of the RTI Act is not applicable considering the nature of queries raised by the Applicant. This Bench upholds the view of the co-ordinate bench and is of the considered opinion that no review is required of this aspect, which already stands decided by a reasoned speaking order.

II. Justification of denial of information under Section 8(1)(a) of the RTI Act

It is noted that on more than occasion, the RTI applications have been rejected by the Respondent invoking the Section 8(1)(a) of the RTI Act, which states:

8. *Exemption from disclosure of information.—*

(1) Notwithstanding anything contained in this Act, there shall be no obligation to give any citizen,—

(a) information, disclosure of which would prejudicially affect the sovereignty and integrity of India, the security, strategic, scientific or economic interests of the State, relation with foreign State or lead to incitement of an offence;

Interestingly, it is noted that the Respondent has not explained or justified the denial of information. The queries which have been denied on this ground include file notings pertaining to procurement of COVID vaccines or about Non Disclosure Agreement signed by members of NEGVAC or information/advice/report which led to increase of the gap between doses of the vaccine. The Respondent has denied access to information without justifying how disclosure of such information could have any detrimental impact on the sovereignty and integrity of the country or compromise national security, or adversely impact strategic, scientific or economic interests of the country or international relations of the country or lead to incitement of an offence, as envisaged under Section 8(1)(a) of the RTI Act. The Commission finds denial of information invoking such exemptions under section 8(1)(a) without proper justification untenable. The Respondent is directed to submit a suitable explanation, before the Commission, justifying denial of information under Section 8(1)(a) of the RTI Act.

Notwithstanding the above misinterpretation or inaccurate application of the provisions of the RTI Act in the interim responses, it cannot be overlooked that the same Respondent has within the stipulated period of 30 days, sent subsequent responses containing appropriate information, to the Applicant's queries. The responses dated 08.07.2021 sent by the Respondents contain substantial amount of information which addresses the queries raised in the RTI applications, which in turn indicates absence of deliberate denial or willful concealment of information on the part of the Respondent.

That brings us to the last limb of the adjudication emphatically argued by the Applicant about *suo motu* disclosure of information by the Respondent. Material available on the websites mentioned by the Respondents in their responses and submissions indicate that there is no dearth of information about facilities which are made available by the various public authorities to citizens to combat the pandemic. Dissemination of information regarding the COVID-19 pandemic and the arrangements made to combat it is certainly essential and is of great value to the people thereby serving the larger public interest. Hence, there can be no doubt that the Respondent ought to and as facts indicate, has been updating all relevant information which can be of use to the citizens and serve the interests of all sections of the society. At this juncture, it is important to note that the Applicant repeatedly contended during the course of hearing that information about the minutes of meetings held, the non disclosure agreement

signed by members of NEGVAC, meetings held by NEGVAC, presentations made before expert groups should be published by the Respondent, as an indicator of whether accurate and enough steps were taken by the Government or not. As has been observed from the submissions put forth by the Respondent, enough data is already available in public domain to assess the functioning of public officials and various public offices in handling the pandemic, which has been acknowledged by the Courts and has drawn attention worldwide. In so far as the Central Information Commission is concerned, the scope of jurisdiction is as per the mandate of the RTI Act - to ensure transparency and accountability of public officials, by dissemination of complete and accurate information. But in ensuring transparency in functioning of the public authority, the Commission has to be careful in order to strike a balance between transparency and efficiency of public authorities. The Apex Court has described this balance in their decision in the case of Central Board of Secondary Education and Anr. Vs. Aditya Bandopadhyay and Ors, SLP(C) NO. 7526/2009 wherein it was held as under:

"Indiscriminate and impractical demands or directions under RTI Act for disclosure of all and sundry information (unrelated to transparency and accountability in the functioning of public authorities and eradication of corruption) would be counter-productive as it will adversely affect the efficiency of the administration and result in the executive getting bogged down with the non-productive work of collecting and furnishing information. The Act should not be allowed to be misused or abused, to become a tool to obstruct the national development and integration, or to destroy the peace, tranquility and harmony among its citizens. Nor should it be converted into a tool of oppression or intimidation of honest officials striving to do their duty. The nation does not want a scenario where 75% of the staff of public authorities spends 75% of their time in collecting and furnishing information to applicants instead of discharging their regular duties. The threat of penalties under the RTI Act and the pressure of the authorities under the RTI Act should not lead to employees of public authorities prioritising 'information furnishing' at the cost of their normal and regular duties."

Furthermore, the Hon'ble Supreme Court in the matter of ICAI vs. Shaunak H. Satya (2011) 8 SCC 781 dated 02.09.2011 had held as under:

"26. We however agree that it is necessary to make a distinction in regard to information intended to bring transparency, to improve accountability and to reduce corruption, falling under Section 4(1)(b) and (c) and other information which may not have a bearing on accountability or reducing corruption. The competent authorities under the RTI Act will have to maintain a proper balance so that while achieving transparency, the demand for information does not reach unmanageable proportions affecting other public interests, which include efficient operation of public

authorities and government, preservation of confidentiality of sensitive information and optimum use of limited fiscal resources"

After detailed analysis of the facts of the cases, the Commission is convinced that information as defined under Section 2(f) of the RTI Act, 2005, has been provided by the Respondent. However, in view of the extraordinary predicament the world finds itself in, it is of vital importance that all relevant updates, notifications and information which are likely to serve larger public interest, and address concerns and worries should be widely disseminated to create awareness among the public. The Respondent must note that dissemination of vital information is as much a national duty as proper and effective discharge of their onerous responsibilities.

The cases stand disposed off with these observations.

Y. K. Sinha (वाई. के. सिन्हा)
Chief Information Commissioner (मुख्य सूचना आयुक्त)

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