

**CENTRAL INFORMATION COMMISSION**  
**Baba Gang Nath Marg, Munirka**  
**New Delhi -110067**  
**Tel: +91-11-26186535**

**Complaint No. CIC/VS/C/2015/900167**

Complainant: Hitender

Respondent: Central Public Information Officer,  
Under Secy. M/o. External Affairs, RTI Cell,  
Room No. 1024, Jawahar Lal Nehru Bhawan,  
New Delhi-11.

Date of Hearing: 31.05.2018

Dated of Decision: 31.05.2018

**ORDER**

**Facts:**

1. The present matter is being adjudicated in compliance with the Hon'ble High Court of Delhi judgment dated 09.03.2018 in W.P.(C) No. 2161/2018 & CM No. 8924/2018, wherein, the CIC was directed to dispose of this complaint on merit.
2. The complainant filed RTI application dated 22-02-2015 seeking information regarding the circulars/office orders/rules and regulations in connection with payment of or withholding of the annual bonus to locally engaged staff of Consulate General of India, Sydney, Australia.
3. The CPIO responded on 30-03-2015 which as follows:-

“Our Consulate in Sydney, Australia has informed that you are an Australian national holding passport no. N2223328 and an OCI card (no. A562152). Therefore, you are not entitled to information under RTI Act, 2005 as per extant rules.”
4. The complainant filed first appeal dated 09-04-2015 with First Appellate Authority (FAA). The FAA responded on 09-04-2015 which is as follows:-

“I have gone through the Appellant's RTI application, CPIO's response and First Appeal. CPIO is right in stating that Overseas Citizens of India are not entitled to information under the Right to information Act, 2005.”

5. The complainant filed a complaint on 18-05-2015 before the Commission on the ground that information should be provided to him.

**Hearing:**

6. Both the parties participated in the hearing in person. Ms. K. P. Hemalatha (S.O.) represented the respondent in person. The written submissions are taken on record.

7. The complainant stated that he is an Australian citizen. He also stated that he is a holder of an Overseas Citizenship of India (OCI) card. Therefore, he emphasised that he should be treated as an Indian citizen for the purpose of furnishing information u/Section 3 of the RTI Act. In this regard, he referred to the Hon'ble Supreme Court of India judgment dated 13.12.2017 in Special Leave to Appeal (civil) No(s). 22999/2007 which is titled as Kunal Saha v. Ashok Chowdhury and Ors.

8. Further, the complainant referred to the relevant portion of the notification dated 11.04.2005 of the Ministry of External Affairs, which reads as under:-

“(c) parity with Non-Resident Indians in respect of all facilities to them in economic, financial and educational fields except in matters relating to the acquisition of agricultural or plantation properties.”

9. During the hearing, the complainant stated that as per the Citizenship Act, 1955, he is entitled to be considered as Indian citizen w.r.t. parting with the sought for information.

10. The respondent stated that the complainant is not an Indian citizen which is a necessary requirement u/Section 3 of the RTI Act for furnishing information to the RTI applicant. Therefore, information cannot be provided to him.

**Discussion/ observation:**

11. This Commission observed that the fundamental question pertains to the admissibility of this complaint itself. As per Section 3 of the Right to Information Act, 2005, only Indian citizens shall have the right to information u/the RTI Act, which reads as below:-

“3. Right to information.—Subject to the provisions of this Act, all citizens shall have the right to information.”

12. The complainant has quoted the relevant portion of the Citizenship Act, 1955, which is reproduced below:-

“7B. (1) Notwithstanding anything contained in any other law for the time being in force, an Overseas Citizen of India Cardholder shall be entitled to such rights, other than the rights specified under sub-section (2), as the Central Government may, by notification in the Official Gazette, specify in this behalf.

(2) An Overseas Citizen of India Cardholder shall not be entitled to the rights conferred on a citizen of India—

(a) under article 16 of the Constitution with regard to equality of opportunity in matters of public employment;

(b) under article 58 of the Constitution for election as President;

(c) under article 66 of the Constitution for election as Vice-President;

(d) under article 124 of the Constitution for appointment as a Judge of the Supreme Court;

(e) under article 217 of the Constitution for appointment as a Judge of the High Court;

(f) under section 16 of the Representation of the People Act, 1950 in regard to registration as a voter;

(g) under sections 3 and 4 of the Representation of the People Act, 1951 with regard to the eligibility for being a member of the House of the People or of the Council of States, as the case may be;

(h) under sections 5, 5A and section 6 of the Representation of the People Act, 1951 with regard to the eligibility for being a member of the Legislative Assembly or the Legislative Council, as the case may be, of a State;

(i) for appointment to public services and posts in connection with affairs of the Union or of any State except for appointment in

such services and posts as the Central Government may, by special order in that behalf, specify.

(3) Every notification issued under sub-section (1) shall be laid before each House of Parliament.”

13. However, the complainant has not produced any notification issued by Central Government conferring rights on overseas citizen of India card holder to obtain information under the RTI Act.

14. The complainant cited the judgment of Hon’ble Supreme Court of India dated 13.12.2017 in Special Leave to Appeal (civil) No(s). 22999/2007 which is titled as Kunal Saha v. Ashok Chowdhury and Ors., stating that the Court has given an opinion that an overseas citizen of India is also a citizen of India. This Commission examined the said judgment and observed that the Hon’ble Supreme Court of India has not expressed any view on the status of overseas citizen of India to be treated as Indian citizen. The operative portion of this judgment is reproduced below:-

“We, however, make it clear that we have not applied our minds as to whether the petitioner has acquired the said status or not.”

15. In view of the above, this Commission is of the opinion that the complainant (who is an Australian citizen with the OCI card) cannot be treated as Indian citizen for the purpose of seeking information u/Section 3 of the RTI Act. Moreover, the RTI Act, 2005 does not have any provisions for furnishing information to overseas citizen of India. It is applicable to Indian citizen(s) only.

**Decision:**

16. No further intervention of the Commission is required in the matter.

The complaint is disposed of. Copy of the order be given to the parties free of cost.

**(Radha Krishna Mathur)**  
**Chief Information Commissioner**

**Authenticated true copy**

**(S.C. Sharma)**  
**Dy. Registrar**