

**CENTRAL INFORMATION COMMISSION**  
**Club Building (Near Post Office)**  
**Old JNU Campus, New Delhi - 110067**  
**Tel: +91-11-26161796**

**Decision No. CIC/SG/A/2011/003224/16954**  
**Appeal No. CIC/SG/A/2011/003224**

**Relevant Facts emerging from the Appeal**

**Appellant** : Mr. Tarun Nag  
5/52, Azad Garh,  
Kolkata-700040

**Respondent** : Mr. Dr. M. F. A. Baig  
PIO & Sr. Scientific Officer  
**Central Drugs Laboratory**  
03-KYD Street,  
Kolkata 700016

RTI application filed on : 30/06/2011  
RTI application transferred on : 20/07/2011  
PIO replied : Not mentioned.  
First appeal filed on : 21/09/2011  
First Appellate Authority order : 14/10/2011  
Second Appeal received on : 15/11/2011

**Information Sought:**

1. Details of Proceedings of Departmental Promotional committee of 'Junior Administrative Officer' central Drugs Laboratory, Kolkata. In that DPC Mr. Tarit Kumar Adhikari had been considered for the post.
2. The total corresponding letter send between office of the Director of Central Drugs Laboratory, 3, KYD Street, Kolkata-700016, and DCGI Ministry of Health & Family Welfare, Govt. Of India & Office of The Dte. General of Health Services, Ministry of Health & Family Welfare, Central Drugs Standard Control Organization, FDA Bhawan, ITO, Kotla Road, New Delhi-11002 related to the post of senior scientific Assistance (Bacteriology) & Senior Scientific Assistant (Pharmacology) from the 1994 to till date.

**Transfer of the RTI application by the Public Information Officer (PIO):**

PIO directed the application to the Director, Central Drugs Agency, Kolkata so as to give reply with the information to the applicant and to take necessary action in the matter in accordance with the provisions of RTI Act 2005.

**Grounds for the First Appeal:**

Incomplete and unsatisfactory information provided by the PIO.

**Order of the First Appellate Authority (FAA):**

FAA ordered that the matter being sub-judice the information sought cannot be provided as Director, CDL, Kolkata has informed that the subject matter is pending consideration before Hon'ble Central Administrative Tribunal, Kolkata Bench in OA No.504 of 2011 and WPCT No.265 of 2011 before Hon'ble Calcutta High Court and it attracts provisions of section (8 (1) (b) of RTI Act 2005.

**Grounds for the Second Appeal:**

Incomplete and unsatisfactory information provided by the PIO and unfair disposal of the appeal by the FAA.

**Relevant Facts emerging during Hearing:**

The following were present

**Appellant:** Ms. Leena Jha Representing Mr. Tarun Nag on video conference from NIC-Kolkata Studio;

**Respondent:** Mr. Dr. M. F. A. Baig, PIO & Sr. Scientific Officer on video conference from NIC-Kolkata Studio;

The Respondent has refused to give the information on the ground that a case is pending before CAT, Kolkata Bench and before the Kolkata High Court. Effectively the PIO has stated that since the matter is sub-judice he is claiming exemption under Section 8(1) (b) of the RTI Act. Section 8(1)(b) of the RTI Act exempts, “*information which has been expressly forbidden by any court of law or tribunal or the disclosure of which may constitute contempt of court.*” This clearly does not extend to all matters that are sub-judice. If Parliament wanted to exempt sub-judice matters it would have said so expressly. In this event the PIO has not applied his mind properly and has denied information which is not exempt. The PIO is warned to ensure that denial of information is not done unless there is an express provision in the law.

**Decision:**

The Appeal is allowed.

The PIO is directed to provide the information sought by the Appellant before 10 February 2012.

This decision is announced in open chamber.

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

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

**Shailesh Gandhi**  
**Information Commissioner**  
**19 January 2012**

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