

## **Central Information Commission**

Room No. 305 B-Wing, August Kranti Bhawan,  
Bhikaji Kama Place, New Delhi – 110066  
Tel No: 26167931

Case No. CIC/SS/A/2012/0001815  
CIC/SS/A/2012/0001816  
CIC/SS/A/2012/0001817

Dated: 21.8.2012

Name of the Appellant : Shri B.D. Gupta  
(The Appellant was Present)

Name of the Public Authority : Ministry of Home Affairs  
Represented by Shri A.K. Szxena,  
Director and Shri Rajeev Kumar, Section  
Officer.

The matter was heard on : 27.6.2012.

### **ORDER**

Shri B.D. Gupta has filed 3 appeals before the Commission against the orders of the FAA in respect of 3 different appeals filed by him before the FAA regarding his RTI application dated 15.2.2011.

The appellant had filed an application dated 15.2.2011 under the provisions of RTI Act, 2005 addressed to Director(Delhi), MHA. Though the RTI application was addressed to Director(Delhi), MHA it was received in the RTI section of the Ministry of Home Affairs which is the nodal section in the Ministry of Home Affairs in respect of matters relating to the RTI Act, 2005. The RTI section forwarded the application to Director(Services)/CPIO to provide information to the appellant. The Director( Services) vide order dated 31.3.2011 replied to point No. 5 - 7 and transferred point No. 1 – 4 of the RTI application to Director(Delhi)/CPIO. The Director(Delhi)/CPIO, vide letter dated 13.4.2011 intimated the appellant about his decision not to give the desired information to the appellant in view of section 8(1)(g) of the RTI Act, 2005. The FAA, Ministry of

Home Affairs has disposed of the three appeals filed before him by the appellant vide his orders dated 18.4.2011, 10.5.2011 and 19.5.2011 respectively.

Appeal No. CIC/SS/A/2012/001817

The appeal dated 29.7.2011 filed before the Commission is against the FAA's order dated 18.4.2011. An appeal was filed by the appellant before the FAA/ MHA before receipt of the reply from Director(Services)/CPIO. The FAA vide his order dated 18.4.2011 has informed the appellant that point-wise reply in respect of application dated 15.2.2011 has been sent to the appellant vide letter dated 31.3.2011. A copy of the same was enclosed with the order of the FAA.

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Appeal No. CIC/SS/A/2012/001816

The second appeals dated 29.7.2011 is directed against the FAA's order dated 10.5.2011. An appeal was filed by the appellant before the FAA/ MHA after getting the reply dated 31.3.2011 from Director(Services)/CPIO. The CPIO/ Director(Services) vide his order dated 31.3.2011 had replied to point Nos. 5 to 7 of the RTI application and had transferred point Nos. 1 to 4 to the Director(Delhi)/ CPIO since these points related to Director(Delhi). The appellant had objected to repeated transfer of his RTI application. The FAA, had vide his aforementioned order dated 10.5.2011 informed the appellant that there are 59 CPIOs in the MHA, reply to any RTI application is given by the CPIO who is concerned with the subject matter of the application. If the information asked for in any application is concerning more than one CPIO, the application is transferred to the concerned CPIO to reply to the points related to work allotted to him. Since the RTI application dated 15.2.2011, point Nos. 1 to 4 related to Director(Delhi)/ CPIO, whereas point Nos. 5 to 7 related to Director(Services)/CPIO, accordingly reply to point Nos. 5 to 7 was given to the appellant by Director(Services)/CPIO and the application was transferred to Director(Delhi)/CPIO for giving reply to

point Nos. 1 to 4. Reply in respect of point Nos. 1 to 4 has also been given by Director(Delhi)/CPIO to the appellant. Thus the FAA held the requisite reply to all the points has been provided to the appellant and delay that occurred was not deliberate.

Appeal No. CIC/SS/A/2012/001815

The third appeal dated 12.6.2011 has been filed by the appellant before the Commission against the order dated 19.5.2011 of the FAA/MHA. In his appeal filed before the FAA, the appellant had alleged that his original RTI application addressed to Director(Delhi) was transferred to another CPIO just to delay supply of information and that the information furnished to him by Director(Delhi)/CPIO was well after 30 days. Moreover, the appellant stated the CPIO had in his reply to point Nos. 1 to 4 of his RTI application has quoted a particular section of RTI Act, 2005 without giving any reason as to why this provision was being involved. According to the appellant, instead of withholding the entire information provision of section 10 of the RTI Act could have been invoked for severing such part of the information that the CPIO had decided not to disclose and to provide the rest of the information to the appellant. The FAA vide his order dated 19.5.2011 held that the Director(Services)/CPIO who provided information to the appellant in respect of certain points but transferred point Nos. 1 to 4 of the RTI application to Director(Delhi)/CPIO vide communication dated 31.3.2011 and Director(Delhi)/CPIO vide letter dated 13.4.2011 had replied to the appellant while intimating his decision not to give the desired information to the appellant in view of section 8(1)(g) of the RTI Act, 2005. Therefore, no intentional delay had occurred. The FAA/MHA also upheld the decision of the CPIO by holding that section 8(1)(g) of the RTI Act exempts disclosure of that information, the disclosure of which would endanger the life and physical safety of any person or identify the service of information or assistance given in confidence for law enforcement or security purposes. The FAA held that since information of disciplinary proceedings have a direct bearing

on a person's service, in the event of any unfavorable noting there is a possibility of the affected person endangering life or physical safety of the officer writing against him. The FAA, therefore, did not find any infirmity in the decision of the CPIO.

During the hearing it was stated that the departmental proceedings against the appellant has been decided sometime in January, 2011. At point Nos. 1 to 4 of the RTI application the appellant had sought to know the point/term of reference with details made to Ministry of Law & Justice, UPSC and DOPT on an appeal filed by the appellant. A copy of advice received on his appeal from DOPT. Copy of correspondence between Ministry of Law & Justice (Deptt. of Legal Affairs) for seeking advice on the appeal and copy of advice received on appellant's appeal from the Ministry of Law & Justice, Deptt. of Legal Affairs. There is merit in the contention of the appellant that the information sought by him can be disclosed while withholding the identity of the officer concerned by applying the provisions of section 10 of the RTI Act and severing the information that is not to be disclosed. The CPIO/Director(Delhi)/MHA is hereby directed to provide the point/terms of reference made to Ministry of Law & Justice, UPSC and DOPT on the appeal of the appellant and the advice received from DOPT and the advise received from the Ministry of Law & Justice on the appeal filed by the appellant without disclosing the identity of the person making noting. This should meet the ends of transparency and request for information by the appellant on the one hand and need to not disclose the identify of the person in view of section 8(1)(g) of RTI Act, 2005. The directions of the Commission are to be complied with by the CPIO within 15 days of receipt of this order.

The matter is disposed of on the part of the Commission with above directions.

Sd/-  
(Sushma Singh)  
Information Commissioner

Authenticated true copy:

**(D.C. Singh)**

Deputy Registrar

**Copy to:**

1. Shri B.D. Gupta,  
X-2056-A, Gali No.,1, Rajgarh Extension,  
Gandhi Nagar, Delhi – 110031.
2. The C.P.I.O.  
Director(Services),  
Ministry of Home Affairs,  
North Block, New Delhi – 110001.
3. The F.A.A.,  
Joint Secretary(UT),  
Ministry of Home Affairs,  
North Block, New Delhi – 110001.