

By Speed Post

File No MoES/29/68/2014 RTI
Government of India
Ministry of Earth Sciences

Prithvi Bhawan, IMD Campus,
Lodhi Road, New Delhi
Dated 16th September, 2014.

To

Dr. S. Manjusha,
Dream Habitat Flat N.S1,
DH Green Scapes, BMC P.O Kakkanadu,
Thrikkakara-21

Subject:-Appeal under RTI Act filed by Dr. S. Manjusha, Dream Habitat Flat N.S1, DH Green Scapes, BMC P.O Kakkanadu, Thrikkakara-21 regarding recruitment and appointment of Scientist and Scientist D in the MoES.

Sir,

Kindly refer to your RTI appeal 11/08/2014 on the above mentioned subject.

2. The reply provided by the concerned officer vide ID Note No. MoES/29/18/2014-Estt. Dated 16/09/2014 of Ministry Earths Sciences, New Delhi is enclosed for necessary action.
3. An appeal, if any, against this reply may be made to the Appellate Authority of the Ministry, at the following address within 30 days of the receipt of the letter:-

Shri A. K. Madan, Director,
Ministry of Earth Sciences,
Prithvi Bhawan, IMD Campus,
Lodhi Road, New Delhi-110003.

Encl. As above.

Yours faithfully,



((B. K. Thakur)

Central Public Information Officer & Scientist 'C'
Tel. No. 24669535.

Copy for information to:-

1. Director, (RTI), MoES, New Delhi.
2. Dr. M. Sudhakar, Transparency Officer, MoES, New Delhi.
3. PPS to JS, MoES, New Delhi.
4. In Charge IT Section (Sh. Krishnan is requested to upload this reply on website www.moes.gov.in).

Ministry of Earth Sciences
(Establishment Section)

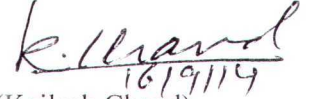
Sub.: Appeal under RTI Act, 2005 filed by Dr. Manjusha S, Dream Habitat Flat N. S1, DH Green Scapes, BMC P.O., Kakkanadu, Thrikkakara-21 regarding recruitment and appointment of Scientist and Scientist D in the MoES.

CPIO may please refer to communication dated 10th September, 2014 on the subject mentioned above requesting to provide copies of documents vide Serial No. 6 to 11 and Serial No. 12 of RTI Application.

2. CPIO may please note that the information exists and held by the public authority has already been provided to the applicant (Serial No. 6 to 11 & 12).

3. The attention of CPIO is invited to DoPT's OM No. 1/18/2011-IR dated 16/9/2011 (copy enclosed) which provides that "Only such information can be supplied under the Act which already exists and is held by the public authority or held under the control of the public authority. The Public Information Officer is not supposed to create information; or to interpret information; or to solve the problems raised by the applicants; or to furnish replies to hypothetical questions." Copy of relevant DoPT's OM dated 16/9/2011 and 20/05/2011 are enclosed for kind reference.

4. This issues with the approval of Dir.(Estt.),



(Kailash Chand)

Under Secretary to the Govt. of India
Tel: 24669529

Central Public Information Officer (Shri B.K. Thakur, Scientist C, MoES)
ID Note No. MoES/29/18/2014-Estt., dated 15.09.2014



No.1/18/2011-IR
Government of India
Ministry of Personnel, Public Grievances & Pensions
Department of Personnel & Training

North Block, New Delhi
Dated: the 16th September, 2011

Subject: Observation of Hon'ble Supreme Court on Right to Information Act, 2005 in Civil Appeal no.6454 of 2011, arising out of SLP [C] No.7526/2009 in the case of Central Board of Secondary Education & Anr. Vs. Aditya Bandopadhyay & Ors.

The undersigned is directed to invite attention to this Department's O.M. No.1/4/2009-IR dated 05.10.2009 whereby a Guide on the Right to Information Act, 2005 was circulated. Para 10 of Part I of the Guide, inter alia, stated that 'only such information can be supplied under the Act which already exists and is held by the public authority or held under the control of the public authority. The Public Information Officer is not supposed to create information; or to interpret information; or to solve the problems raised by the applicants; or to furnish replies to hypothetical questions.' The same issue has been elaborated by the Supreme Court in the matter of Central Board of Secondary Education & Anr. Vs. Aditya Bandopadhyay & Ors. (Civil Appeal No.6454 of 2011) as follows:

"At this juncture, it is necessary to clear some misconceptions about the RTI Act. The RTI Act provides access to all information *that is available and existing*. This is clear from a combined reading of section 3 and the definitions of 'information' and 'right to information' under clauses (f) and (j) of section 2 of the Act. If a public authority has any information in the form of data or analysed data, or abstracts, or statistics, an applicant may access such information, subject to the exemptions in section 8 of the Act. But where the information sought is not a part of the record of a public authority, and where such information is not required to be maintained under any law or the rules or regulations of the public authority, the Act does not cast an obligation upon the public authority, to collect or collate such non available information and then furnish it to an applicant. A public authority is also not required to furnish information which require drawing of inferences and/or making of assumptions. It is also not required to provide 'advice' or 'opinion' to an applicant, nor required to obtain and

public authorities have, as a public relation exercise, provide advice, guidance and opinion to the citizens. But that is purely voluntary and should not be confused with any obligation under the RTI Act."

This may be brought to the notice of all concerned.



(K.G. Verma)

Joint Secretary(RTI)

Tel: 23092158

1. All the Ministries / Departments of the Government of India
2. Union Public Service Commission/Lok Sabha Sectt./Rajya Sabha Secretariat/ Cabinet Secretariat/ Central Vigilance Commission/ President's Secretariat/ Vice-President's Secretariat/ Prime Minister's Office/ Planning Commission/Election Commission.
3. Central Information Commission/State Information Commissions.
4. Staff Selection Commission, CGO Complex, New Delhi
5. O/o the Comptroller&Auditor General of India, 10, Bahadur Shah Zafar Marg, New Delhi.
6. All officers/Desks/Sections, DOP&T and Department of Pension & Pensioners Welfare.

Copy to: Chief Secretaries of all the States/UTs.

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of India
Grievances & Pensions,
Ministry of Personnel & Training
Department of Personnel & Training

North Block, New Delhi,
Dated the 30th May, 2011.

OFFICE MEMORANDUM

Subject : Decision dated 03.04.2008 of the High Court of Bombay at Goa in Writ Petition No.419 of 2007 in the case of Dr. Caisa Pinto Vs. Goa State Information Commission regarding information under the Right to Information Act, 2005.

The undersigned is directed to invite attention to this Department's Office Memorandum of even number dated 1st June, 2009 on the subject mentioned above (copy enclosed) and to say that some persons have observed that the High Court of Bombay at Goa in the above referred case did not use the word 'like' in the judgement and that inclusion of this word in the O.M. before the word 'why' is creating confusion. It is hereby stated that the word 'like' used before the word 'why' in line 3 of the O.M. may be treated as deleted. The relevant part of the judgement is again being quoted below :

"The definition of information cannot include within its fold answers to the question "why" which would be same thing as asking the reason for a justification for a particular thing. The public information authorities cannot expect to communicate to the citizen the reason why a certain thing was done or not done in the sense of a justification because the citizen makes a requisition about information. Justifications are matter within the domain of adjudicating authorities and cannot properly be classified as information."

2. This may be brought to the notice of all concerned.



(K.G. Verma)

Director

Tele : 23092158

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2. Union Public Service Commission/Lok Sabha Secretariat/Rajys Sabha Secretariat/Cabinet Secretariat/Central Vigilance Commission/ President's Secretariat/Vice-President's Secretariat/Prime Minister's Office/Planning Commission/Election Commission.
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5. Office of the Comptroller & Auditor General of India, 10 Bahadur Shah Zafar Marg, New Delhi.
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