

No. MoES/29/66/2013/RTI
Ministry of Earth Sciences
Government of India

Prithvi Bhavan, IMD Campus,
Lodhi Road, New Delhi-3
Dated, the 22nd July, 2013

To
Dr. S. Kathirola,
Scientist "G" & former Director
NIOT Chennai, Room No. 310 MoES,
Prithvi Bhavan,
New Delhi 110003

Sub : Information sought under RTI Act, 2005.

Sir,

Kindly refer to your appeal dt. 28.6.2013 on the subject mentioned above.

2. Your application dt. 5th June, 2013 which you earlier addressed to CPIO, Ministry of Earth Sciences has been gone through. It is seen that in your application you have made a mention of 10 documents (Ref.1 to Ref. 10) which are already in your custody and you have sought certain interpretation/opinion on the content of these letters. CPIO vide his reply dt. 26/6/2013 has forwarded you a copy of the reply received from Under Secretary (Estt.) in which he has informed that the relevant information has already been made available to him and he may again peruse the relevant records from the files if he so desires at a mutually convenient date. You were not satisfied with the reply, and as such you have submitted the appeal to the undersigned dated 28/6/2013.

3. Your appeal dt. 28/6/2013 has been gone through by the undersigned.

4. Your kind attention is invited to the DoPT OM No. 1/18/2011-IR dt. 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".

Contd.... P-2/-

5. Your kind attention is also invited to the DoPT OM No.1/7/2009-IR dt. 20/5/2011 (copy enclosed) which provides that the information which is in the nature of why a certain action taken or not taken is not covered under RTI Act, 2005.

6. It is observed that the Appeal dt.28/6/2013 is covered under the DoPT orders mentioned in Para-4&5 above. The reply furnished by CPIO was adequate. Further, it has been brought to my notice that after receipt of the reply from CPIO, you have again inspected the whole record and you have got additional copies of documents by making payment of Rs.102/-. So this appeal stands settled and no additional documents are to be provided to you.

Yours faithfully,

Enelo : As above.



(A.K.Madan)

First Appellate Authority under RTI Act. & Dy. Secretary (Vig.)

Tel : 011-24669509

Copy for information to :-

1. CPIO, MoES, New Delhi.
2. Dr. M.Sudhakar, Transparency Officer, MoES, New Delhi.
3. PPS to Secretary/JS, MoES, New Delhi.
- ✓ 4. In-charge IT (Shri Krishnan), MoES to upload the reply on web.
5. Director (Estt.), MoES.



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

furnish any 'opinion' or 'advice' to an applicant. The reference to 'opinion' or 'advice' in the definition of 'information' in section 2(f) of the Act, only refers to such material available in the records of the public authority. Many 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."

3. 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.

No.1/7/2009-IR
Government of India
Ministry of Personnel, Public Grievances & Pensions,
Department of Personnel & Training

North Block, New Delhi,
Dated the 20th 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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