

iii. Request of Furnishing information inter alia regarding various general administration and establishment matter in D/o F&PD under Rule

F. No. D-21012/1/2005-Gen.
Government of India
Ministry of Consumer Affairs, Food and Public Distribution
Department of Food & Public Distribution

Krishi Bhawan, New Delhi - 110 001.
dated September 24, 2007

ORDER-in-ORIGINAL

1. This Order has been issued under Section 7(1) of the RTI Act, 2005.
2. Appeal against the said Order under Section 19(1), RTI, 2005 may be made by any aggrieved person within 30 days of the date of this Order, free of charge, to Senior Central Public Information Officer.
3. The details of Senior Central Public Information Officer in the said case are as follows:

Name : Shri S.K. Srivastava (Dr. Bhagwan Sahai till Oct. 01, 2007)
Designation : Joint Secretary (A & St) [Joint Secretary (BP & PD...Link Off. till 1.10.07)
Address : Department of Food & Public Distribution
Ministry of Consumer Affairs, Food & Public Distribution
199-C[165 for BP & PD), Krishi Bhawan, New Delhi – 110 001.
Phone : 011-23382529/23384308 (for BP & PD)
Fax : 011-23097033/23070239 (for BP & PD)
e-mail : sanjayias1980@yahoo.co.in

Subject: Request of furnishing information, inter alia, regarding various General Administration and Establishment matters in D/FPD under RTI Act.

1. Briefly stated, the facts of the case are that one Shri Rajeev Kumar , Press Reporter , India Gaps Today Newspaper, Address : H-9, B.K. Dutt Colony, New Delhi -110 003, (hereinafter also referred to as the Requestor) has desired the

following information u/Sec. 5, RTI Act, 2005 vide letter dated 23.08.2007 (also referred to as Application) , inter alia, related to renovation being done in senior officers' room, expenses thereof, the job work related thereto, car expenses during the tenure of Sh. Rajiva Ranjan as Chief Director (Sugar) who was also DS(C&G), deputation particulars of Sh. Rajiva Ranjan, besides Establishment matters related to posting transfers in the Department, posting of caretaker, amount of fixed deposit and details of bank, and whether AC should not be provided in Sections/Rooms where computers are installed. The details for tenders for computer AMC have also been solicited.

2. The limited issue involved herein is whether information can be furnished to the Applicant, solicited in the capacity of a Press Reporter of India Gaps Today newspaper. First and foremost, would be the question as to who are entitled to information under RTI Act, 2005. Under Section 3 of the RTI Act, 2005 the information can only be furnished to a 'citizen' and not to any non-citizen. I draw sustenance for this considered view from a catena of case laws settled by the Hon'ble Central Information Commission and for the sake of brevity of which mentioning only two of them:

- (i) Order dated 27.6.2006 in Appeal No. CIC/OK/A/2006/00121 in the matter of Shri Inder Grover Vs. Ministry of Railways.
- (ii) Order dated 27.9.2006 in Decision No. 307/IC(A)/2006 in file No. CIC/MA/A/2006/00621 in the matter of M D N Panicker Vs. Rourkela Steel Plant, SAIL.

This is pertinent since the said Shri Rajeev Kumar has solicited information not as a 'citizen' but as an officer of India Gapes Today, a fortnightly Hindi newspaper.

2.1 In the matter related to Shri Inder Grover, the facts of the case were that said Shri Grover was a Managing Director of Aashi Private Limited Okhla Industrial

Area and had applied to CPIO, Railway Board for some information under the RTI Act, 2005. Some information was furnished to him, while some were not. Aggrieved, he made first appeal under Section 19 of the RTI, 2005, which was rejected. Dissatisfied, he made second appeal before CIC, where the matter was heard. The Hon'ble CIC after following the principles of natural justice observed that it would have been in order if the CPIO had declined information under Section 3 of the Act as the applicant had applied as the Managing Director of a company and not as a citizen of India. In the impugned case, I find that said Shri Rajeev Kumar had applied for information under Section 3 of the Act as the Press Reporter of India Gapes Today newspaper and not as a citizen. Hence, the said RTI request is liable to be disallowed.

2.2 In another matter, related to Shri M.D.N. Panicker, the brief facts of the case were that Shri Panicker was a requester as General Secretary of a Trade Union called Rourkela Shramik Sangh, functioning in Rourkela Steel Plant, who had sought information from the CPIO relating to copies of notesheets regarding coke subsidy, canteen expenses etc. Aggrieved with the orders of CPIO, and concerned Senior CPIO thereto, Shri Panicker had preferred an appeal before the Hon'ble CIC. After following principles of natural justice Hon'ble CIC passed the following order:

'The appellant has asked for information in the capacity of the General Secretary of the Employees association, which, as an organization is barred under Section 3 of the Act, since all citizens shall have the Right to Information'

In the impugned matter as well it cannot be disputed and/or denied that said Shri Rajeev Kumar has solicited information as a Press Reporter of India Gapes Today newspaper, which is an organization and therefore, barred under Section 3 of the RTI Act, 2005, since all citizens have the right to information.

3. I would further like to discuss the issue of eligibility as to who might use RTI, 2005 to get information from public authority in terms of Section 3 of the Act., *ibid.* I have examined the matter and I find that in view of that as per Section 3 of RTI Act, 2005, it is explicitly mentioned that only 'Citizens' shall have the Right to Information. The moot point here, therefore is, whether a Company can avail the advantage of RTI Act by being treated as 'Citizen' or not? In this regard, since 'Citizen' has not been defined under RTI Act 2005, we have to seek solace from the Citizenship Act, 1955 as per the General Clauses Act, 1897. Under the Citizenship Act 1955, which governs the provisions of citizenship, it has been specifically set out under Section 2(f) of the Act *ibid.* that ' 'person' does not include any company or association or body of individuals, whether incorporated or not'. Under the scheme of Citizenship Act, 1955 and the Citizenship Rules, 1956, 'citizenship' is vested only in a 'person'. In fact, the subtle distinction has also been declared by Hon'ble Supreme Court in *State Trading Corporation vs. CTO*, (AIR 1963, SC 1811) wherein it was stated that Citizenship has nothing to do with juristic person. Further, it has been also held that 'person' means a 'natural person' and not a 'legal entity'. A perusal of the Citizenship Act, 1955 also reveals that 'citizenship' is a right vested in a 'natural person' as per the law of the land. It cannot be conferred on a legal creature even though having a 'distinct juristic personality' like Company(ies) incorporated under Companies Act, 1956. Therefore, notwithstanding the fact that a company or any entity which is a juristic legal personality, I am of the view that it may not be possible for a company with all its agnates and cognate expression, to avail the advantage of RTI, 2005 in terms of the case ratio of the Hon'ble Supreme Court [*STC vs. CTO* (AIR, 1963 SC 1811)] and Citizenship Act, 1955 and Rules, 1956, NOT BEING A CITIZEN. In the impugned matter, information has been solicited purportedly by Shri Rajeev Kumar as a Press Reporter of India Gapes Today newspaper and therefore, not entitled to avail benefit of the RTI Act 2005, *inter alia*, in terms of the case ratio of the

Hon'ble Supreme Court [STC vs. CTO (AIR, 1963 SC 1811)] and Citizenship Act, 1955 and Rules, 1956.

4. It is also a matter of record that the purported Applicant was invited to the office vide letters dated 31.08.2007 and 06.09.2007 to, inter alia, facilitate this office to help, to help the Applicant. However, though the purported Applicant who agreed initially, subsequently denied and sought query from the office as to under what provisions he had been asked to come to the office and whether it was a must for all those seeking information. The purported Applicant was informed not to have any misgivings since this request was for only facilitating of furnishing information as per law. In this regard, I draw sustenance from Order dated 13.7.2006 in Appeal No. CIC/AT/A/2006/00069 in the matter of Shri Gopal Kumar Vs. Major General Gautam Dutt, New Delhi. In the case of Shri Gopal Kumar, where several information were solicited from the Establishment CPIO and AAs had been, inter alia, advised in by the Hon'ble CIC that for clarity of information in its entirety helps if the applicant is called for a meeting/hearing where he may be advised accordingly. These may be listed by the AA/CPIO and the concurrent of the requester obtained for their wording and scope. This could then form the basis for the Order of the CPIO as well of the AA and will limit the scope for any confusion regarding what requester wanted and what he was given. In the impugned case as aforesaid, the purported Applicant refused to come to the office and solicited to know as to under which provisions of RTI, 2005 , a requestor had to come to the office to seek information. Thus, as much comprehensible to a common reasonable man, exercising due diligence , the impugned Application has been proceeded upon to be decided as per the extant law.

5. I may also mention that information was furnished against earlier Request dated 14.5.2007 purportedly of the same Applicant which I hold was improper in terms of Section 3 ,RTI,2005 as may be seen from the foregoing. Now

the aforesaid view is being taken, contrary to the earlier view since it is an established obiter dicta that two wrongs do not make a right.

6. However, I would now like to mention that the information solicited by the press reporter are all available on the website of this Ministry/Department (<http://www.fcamin.nic.in>) under proactive disclosure as stipulated in Section 4(2) of the RTI, 2005. Regarding deputation particulars, the information is available in public domain on the website of Department of Personnel & Training (<http://www.persmin.nic.in>) which anybody can peruse for information. In the public domain, of this Department, I find that almost all possible information related to major activities of General Administration has been hosted under Section 4 (2) of the RTI, 2005 (PRO-ACTIVE DISCLOSURE) , viz; Computer Hardware Resources, Facsimiles machine deployment , Xerox copiers installation, Air-Conditioners details and installations, Outsourcing particulars of horticulture and cleanliness facilities ,All contracts related to civil works undertaken in 2006-07 & 2007-08 and purchase of Vehicles (Car Expense) in 2005-006 , Vehicle (Taxi) Outsourcing on regular basis, Electrical Work Contracts , Miscellaneous Wood & Furniture Work Contract, Hotline Intercom outsourcing details, Foreign Visit Expenses details , Fixed Deposit details of on a/c Canteen , Details of Vendor/s outsourcing related to the library etc. It may be mentioned that the disclosure list is as exhaustive as possible, yet any suggestion to widen the same would be most welcome. I also observe that the balance information except those already available in the public domain in terms of Section 4(2) of the RTI, 2005 or related website as aforesaid, have been furnished to purported requester (in violation of Section 3 of RTI, 2005, though !-para 5 , supra ,refers) when the first request dated 14.5.2007 was received . It would also in the fitness of things to again emphasise the case ratio of Hon'ble CIC in the matter of Nita Arya [Appeal No. 34/I/ICPB/2006 dated 19.6.2006], wherein it has been held that 'why, how and in what manner a decision was taken or to direct how and in what manner the affairs of a public authority are to be conducted ' are not in the domain of RTI Act, 2005

and may not read as a 'mandamus' qua such issues as decided by the public authority in dispensation of administration.

7. In passing, I hasten to acknowledge appreciation for the officers/staffs, namely, S/Sh. H.C. Azad , US(G), Vinod Kumar (Asstt.) Vinod Rai, (Asstt.), Mahendra Singh (Asstt.) , Dharam Singh (Asstt.) ,Mahabir Singh (UDC), Vinod Gopal , SO(IC), Amarjeet Singh (US-Lib. & Welfare), who have undertaken suo moto declaration of information under Section 4 (2) of the RTI ,2005 in order to ensure that a 'citizen' may resort to minimal use of RTI, 2005 for eliciting 'information' as defined under Section 4 of the Act, *ibid.* in respect of issues related to General Administration, International Co-operation, Library & Welfare issues to advance the cause of transparency and efficiency in administration, *ipso facto.*

8. Having decided the impugned Application, I deem it fit to mention that in the course of processing of the impugned Application, finding/s evidencing alleged security breach in the Department has been reported wherein allegedly a computer on fourth floor had been found to conceal the first Request dated 14.5.2007 filed by the purported Applicant in a personal computer folder of an officer which is being separately inquired into as per law.

9. I find that the impugned application was received on 23.8.2007, and therefore as per Section 7(1) had to be disposed off by 22.09.2007, the limitation of 30 days as mandated therein. However, I find that 22.09.2007 is a Saturday and the following 23rd. September is Sunday. Hence as per Section 10 of the General Clauses Act, 1897, Order is being passed today, the 24th. of September,2007

10. In view of the foregoing, therefore, I pass the following orders:

ORDER

1. The Request Application is disposed off in terms of Section 7(1) & (8) of the RTI, 2005 r/w Section 10 of the General Clauses Act, 1897 as per case ratio of the Hon'ble Supreme Court [STC vs. CTO (AIR, 1963 SC 1811)] and Citizenship Act, 1955 and Rules, 1956, Order dated 27.6.2006 in Appeal No.CIC/OK/A/2006/00121 of the Hon'ble CIC in the matter of Shri Inder Grover Vs. Ministry of Railways, Order dated 13.7.2006 in Appeal No. CIC/AT/A/2006/00069 of the Hon'ble CIC in the matter of Shri Gopal Kumar Vs. Major General Gautam Dutt, New Delhi, Order dated 27.9.2006 in Decision No. 307/IC(A)/2006 in file No. CIC/MA/A/2006/00621 of the Hon'ble CIC in the matter of M. D. N . Panicker Vs. Rourkela Steel Plant, SAIL, Nita Arya [Appeal No. 34/I/ICPB/2006 dated 19.6.2006] and on the grounds of availability of the desired information in the public domain of this Department (<http://www.fcamin.nic.in>) under pro-active disclosure made in terms of Section 4(2) of the RTI, 2005 and that of Department of Personnel & Training. (<http://www.persmin.nic.in>)

2. It is suggested that the concerned section stated at para 7, supra , may exercise due diligence to upkeep the status of pro-active disclosure of 'information' , and in the process of so doing at opportune time as warranted, ensure that the disclosures are off the site only for as minimal time period as practically allowable to update the 'information'.

(Rajiva Ranjan)
Central Public Information Officer

To

**Shri Rajeev Kumar , Press Reporter ,
India Gaps Today Newspaper ,
Off. Add: 25/50, Shakti Nagar ,
New Delhi**

Copy to :

1. JS(A &S) / J.S. (BP & PD...Link Officer till 1/10/2007)– Appellate Authority
2. DS(Admn) , D/FPD- CPIO – Estb.

for favour of kind Information,
please

(Rajiva Ranjan)
Central Public Information Officer