

कार्यालय : ~~मुख्य~~ निर्वाचन ~~अधिकारी,~~ उत्तराखण्ड  
विश्वकर्मा भवन, प्रथम तल, सचिवालय परिसर 4-सुभाष रोड़, देहरादून- 248001

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संख्या-2526/XXV-12(11)/2018

देहरादून : दिनांक 14 दिसम्बर, 2021

सेवा में,

प्रथम अपीलीय अधिकारी /  
उप जिला निर्वाचन अधिकारी,  
उधमसिंहनगर

विषय- अपीलीय पत्र का हस्तान्तरण।

महोदय,

उपरोक्त विषयक प्रथम अपीलीय अधिकारी/संयुक्त मुख्य निर्वाचन अधिकारी, उत्तर प्रदेश के पत्र संख्या-208RTI(1)/सी0ई0ओ0-4-69/4-2017 दिनांक 17 नवम्बर 2021 के साथ Shri Amal Biswas, 3 Devnagar, Shakthi farm (Post), Sitarganj Tehsil, Udham Singh Nagar, UK का अपीलीय प्रत्यावेदन दिनांक 21-9-2021 इस कार्यालय में दिनांक 30.11.2021 को प्राप्त हुआ है (प्रति संलग्न) का संदर्भ ग्रहण करने का कष्ट करें।

2- लोक सूचना अधिकारी/अनुभाग अधिकारी, कार्यालय मुख्य निर्वाचन अधिकारी, उत्तराखण्ड के पत्र संख्या-1657 दिनांक 30 सितम्बर 2021 द्वारा उक्त अपीलार्थी का अनुरोध पत्र दिनांक 10.9.2020 सूचना का अधिकार अधिनियम-2005 की धारा 6(3) के अन्तर्गत अग्रेत्तर कार्यवाही हेतु आपको हस्तान्तरित किया गया था।

अतः प्रथम अपीलीय अधिकारी/संयुक्त मुख्य निर्वाचन अधिकारी, उत्तर प्रदेश के पत्र संख्या-208RTI(1)/सी0ई0ओ0-4-69/4-2017 दिनांक 17 नवम्बर 2021 के साथ Shri Amal Biswas, 3 Devnagar, Shakthi farm (Post), Sitarganj Tehsil, Udham Singh Nagar, UK का अपीलीय प्रत्यावेदन दिनांक 21-9-2021 की प्रति संलग्न करते हुए अग्रेत्तर कार्यवाही हेतु हस्तान्तरित किया जा रहा है। कृपया आवश्यक कार्यवाही करने का कष्ट करें।

संलग्न-यथोपरि।

भवदीय,



(मस्तू दास)

प्रथम अपीलीय अधिकारी /  
सहायक जिला निर्वाचन अधिकारी,

प०संख्या 2526/XXV-12(11)/2018, तददिनांक।

प्रतिलिपि- Shri Amal Biswas, 3 Devnagar, Shakthi farm (Post), Sitarganj Tehsil, Udham Singh Nagar, UK को सूचनार्थ प्रेषित।



(मस्तू दास)

प्रथम अपीलीय अधिकारी /  
सहायक जिला निर्वाचन अधिकारी,

# कार्यालय मुख्य निर्वाचन अधिकारी, उत्तर प्रदेश।

चतुर्थ तल, विकास भवन, जनपथ मार्केट, हजरतगंज, लखनऊ-226001

संख्या-208RTI(1)/सीईओओ-4-69/4-2017 लखनऊ : दिनांक: 17 नवम्बर, 2021

## सूचना का अधिकार अधिनियम 2005 के अन्तर्गत अपील

अपीलकर्ता का नाम - श्री अमल विश्वास  
जन सूचना अधिकारी का नाम - श्री अरविन्द कुमार पाण्डेय

### पृष्ठभूमि

भारत निर्वाचन आयोग के पत्र संख्या-4/RTI/A/102/2021/80 दिनांक 21.10.2021 के माध्यम से Shri Amal Biswas, 3, Devnagar, Shakthi farm (Post), Sitarganj Tehsil, Udham Singh Ngar, UK का अपीलीय प्रत्यावेदन दिनांक 21.09.2021 प्राप्त हुआ है। आवेदक द्वारा अपने अपीलीय प्रत्यावेदन दिनांक 21.09.2021 में सूचना का अधिकार अधिनियम, 2005 के अन्तर्गत प्रेषित आर0टी0आई0 पोर्टल रजिस्ट्रेशन संख्या 18666 दिनांक 10.09.2021 के सन्दर्भ में सूचना उपलब्ध न कराए जाने के परिप्रेक्ष्य में वांछित सूचनाएं उपलब्ध कराए जाने हेतु प्रथम अपील की गयी है।

### जन सूचना अधिकारी की टिप्पणी

भारत निर्वाचन आयोग आर0टी0आई0 पोर्टल रजिस्ट्रेशन संख्या-18666 दिनांक 10.09.2021 में Shri Amal Biswas, 3, Devnagar, Shakthi farm (Post), Sitarganj Tehsil, Udham Singh Ngar, UK द्वारा जन सूचना अधिकार अधिनियम 2005 के अन्तर्गत मतदाता फोटो पहचान पत्र संख्या UP/04/014/279273, 14-खटीमा, विधान सभा निर्वाचन क्षेत्र, उत्तराखण्ड से सम्बन्धित सूचनाएं चाही गयी है। आवेदक द्वारा मॉगी गयी सूचनाओं का सम्बंध मुख्य निर्वाचन अधिकारी, उत्तराखण्ड से सम्बन्धित होने के कारण उक्त आवेदन को इस कार्यालय के पत्र संख्या-176आर0टी0आई0/सी0ई0ओ0-4 दिनांक 22 सितम्बर, 2021 (छायाप्रति संलग्न) द्वारा सूचना का अधिकार अधिनियम-2005 की धारा 6(3) के अन्तर्गत जन सूचना अधिकारी/कार्यालय मुख्य निर्वाचन अधिकारी, उत्तराखण्ड को अन्तरित किया गया था।

### अपील

Shri Amal Biswas, 3, Devnagar, Shakthi farm (Post), Sitarganj Tehsil, Udham Singh Ngar, UK द्वारा जन सूचना अधिकार अधिनियम, 2005 के अन्तर्गत प्रेषित आवेदन संख्या 18666 दिनांक 10.09.2021 के द्वारा वांछित सूचना उपलब्ध न कराए जाने के कारण प्रथम अपील दिनांक 21.09.2021 प्रस्तुत की गयी है।

### प्रथम अपीलीय अधिकारी का निर्णय

Shri Amal Biswas, 3, Devnagar, Shakthi farm (Post), Sitarganj Tehsil, Udham Singh Ngar, UK से सूचना का अधिकार अधिनियम-2005 के अन्तर्गत प्राप्त प्रत्यावेदन आर0टी0आई0 पोर्टल रजिस्ट्रेशन संख्या 18666 दिनांक 10.09.2021 को सूचना का अधिकार अधिनियम 2005 की धारा 6(3) के अन्तर्गत इस कार्यालय के पत्र दिनांक 22 सितम्बर, 2021 द्वारा जन सूचना अधिकारी/कार्यालय मुख्य निर्वाचन अधिकारी, उत्तराखण्ड को अन्तरित किया गया था।

जन सूचना अधिकारी/कार्यालय मुख्य निर्वाचन अधिकारी, उत्तराखण्ड का कार्यालय सूचना का अधिकार अधिनियम 2005 के अन्तर्गत इस कार्यालय से पृथक लोक प्राधिकारी है। अतः उनकी अपील पर इस कार्यालय के प्रथम अपीलीय प्राधिकारी द्वारा कार्यवाही नहीं की जा सकती, तथापि अपीलार्थी की अपील की एक प्रति प्रथम अपीलीय अधिकारी/कार्यालय मुख्य निर्वाचन अधिकारी, उत्तराखण्ड को उचित कार्यवाही हेतु भेजी जा रही

(मनीष शुक्ल)

संयुक्त मुख्य निर्वाचन अधिकारी/  
प्रथम अपीलीय अधिकारी।

### संख्या-208RTI(1)/सीईओ-4 तद्दिनांक-

प्रतिलिपि निम्नलिखित को सूचनार्थ एवं आवश्यक कार्यवाही हेतु प्रेषित:-

1. प्रथम अपीलीय अधिकारी/कार्यालय मुख्य निर्वाचन अधिकारी, उत्तराखण्ड को Shri Amal Biswas, 3, Devnagar, Shakthi farm (Post), Sitarganj Tehsil, Udham Singh Ngar, UK से प्राप्त अपीलीय प्रत्यावेदन दिनांक 21.09.2021 की छायाप्रति आवश्यक कार्यवाही हेतु प्रेषित।
2. Shri Amal Biswas, 3, Devnagar, Shakthi farm (Post), Sitarganj Tehsil, Udham Singh Ngar, UK को उनके अपीलीय प्रत्यावेदन दिनांक 21.09.2021 के संदर्भ में सूचनार्थ प्रेषित।

(मनीष शुक्ल)

संयुक्त मुख्य निर्वाचन अधिकारी/  
प्रथम अपीलीय अधिकारी।



38/CEO N

02.11.2021

208RTI/CEA

02/11/21

भारत निर्वाचन आयोग सचिवालय  
SECRETARIAT OF THE ELECTION COMMISSION OF INDIA  
निर्वाचन सदन, अशोक रोड, नई दिल्ली-110001  
NirvachanSadan, Ashoka Road, New Delhi-110001.

No.4/RTI/A/102/2021/80

Dated: 21.10.2021

Appeal under Right to Information Act, 2005

Name of the appellant : Sh. Amal Biswas  
Name of the CPIO : Sh. P.N. Lakra, Secretary

BACK GROUND

ACEO (CS)

The applicant Shri Amal Biswas had filed an online RTI application registration no. 18666 dated 10.09.2021 under the RTI Act, 2005. The CPIO has furnished reply to the applicant via RTI online portal dated 15.09.2021

01.11.21 APPEAL  
(अजय कुमार शुक्ला)

मुख्य निर्वाचन अधिकारी एवं सचिव निर्वाचन, उत्तर प्रदेश शासन। The appellant has filed first appeal stating therein that no information has been received requested to supply the desired information and the certified copies of all the records of his

(520) father's voter ID card.

ACEO (M)

COMMENTS OF CPIO

Sh, Amal Biswas has filed First Appeal on Commission's RTI Portal with regard to his RTI Application No. 18666, dated 10-09-2021. In his appeal he has submitted that no information has been furnished to him till date.

(62) In this regard, it may be noted that in the referred RTI application, the applicant had sought the details of application submitted by his father for inclusion of his name in the Electoral Roll.

Since the information was not available in this office and the same might have been

available with the O/o CEO, UP, Sh Biswas's RTI application was transferred to the PIO of the O/o CEO, UP u/s 6(3) of the RTI Act, 2005 through RTI Portal itself. This was also communicated to the applicant on the portal.

So1

11/11/21 (915)

(सुनीता सिंह)  
सहायक मुख्य निर्वाचन अधिकारी,  
उत्तर प्रदेश, लखनऊ।

1.11.21

50-4

7/21, 10:31 AM

Gmail - Fwd: Sub- RTI First appeal



S. NO. 11(R)

RTI Section <rtisection9@gmail.com>

**Fwd: Sub- RTI First appeal**

1 message

**Santosh Dubey** <santoshdubey@eci.gov.in>  
To: rtisection9 <rtisection9@gmail.com>

Fri, Sep 24, 2021 at 12:25 AM

Please put up

**From:** "tckom" <tckom@eci.gov.in>  
**To:** "Santosh Dubey" <santoshdubey@eci.gov.in>  
**Sent:** Thursday, September 23, 2021 11:14:37 AM  
**Subject:** Fwd: Sub- RTI First appeal

**From:** "k n bhar Principal Secretary" <knbhar@eci.gov.in>  
**To:** "tckom" <tckom@eci.gov.in>  
**Sent:** Wednesday, September 22, 2021 10:22:13 PM  
**Subject:** Fwd: Sub- RTI First appeal

**From:** gov ndvishwas@rediffmail.com  
**To:** "k n bhar Principal Secretary" <knbhar@eci.gov.in>  
**Sent:** Wednesday, September 22, 2021 10:21:31 AM  
**Subject:** Sub- RTI First appeal

**To**  
**Shri.K.N.Bhar,**  
**Senior Principal Secretary-cum-First Appellate Authority**  
**Election Commission of India,**  
**Nirvachan Sadan,**  
**New Delhi-110 001.**


**Sir**  
**Kindly refer to the enclosed pdf**

Thanking You  
Warm Regards,  
AMAL BISWAS

Sant  
22/9  
Sant

9/27/21, 10:31 AM

Gmail - Fwd: Sub- RTI First appeal

 21.09.2021.pdf  
785K

2

13

Before Shri.K.N.Bhar,  
Senior Principal Secretary-cum-First Appellate Authority  
Election Commission of India,  
Nirvachan Sadan, New Delhi-110 001.

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First Appeal filed U/S 19 (1) of the RTI Act, 2005

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In the matter of

Amal Biswas, S/o Nagendra Nath Vishwas (late)

Vs

Shri.P.N. Lakra, Under Secretary-cum-CPIO,

O/o the Secretariat of the ECI, Nirvachan Sadan, New Delhi-110 001.

Date of submission: 21.09.2021

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Before Shri.K.N.Bhar, Senior Principal Secretary-cum-First  
Appellate Authority

Election Commission of India,

Nirvachan Sadan, New Delhi-110 001.

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First Appeal filed U/S 19 (1) of the RTI Act

(Quasi-Judicial Matters)

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Date: 21.09.2021

**1. Name and contact details of the Complainant :**

Amal Biswas, S/o Nagendra Nath Vishwas (late)

No.3, Dev Nagar, Shaktifarm (Post)

Sitarganj Tehsil,

Udham Singh Nagar District- 263 151.

Uttarakhand.

Mobile-80775 63263

Email- [govindvishwas@rediffmail.com](mailto:govindvishwas@rediffmail.com)

**2. Name and/or Designation and address of the PIO :**

Shri.P.N. Lakra,

Under Secretary-cum-CPIO,

O/o the Secretariat of the ECI,

Nirvachan Sadan,

New Delhi-110 001.

3. Date of the RTI Application : 10.09.2021

4. Date of reply from the PIO : 18.09.2021

(5)

**5. Information Sought in brief :**

Information was sought through 14 points.

**I. Background Matter of this application is:** My father Shri. Nagendra Bishwas (late) S/o Shri.Jogendra Biswas (late) was issued voter id Card by the Election Commission of India.

I have enclosed (vide Annexure II and II respectively) the copy both sides of my father's Voter's Identity Card issued with the facsimile Signature of Electoral Registration Officer for 14-Khatima A.C. on behalf of the Election Commission of India vide No.UP/04/014/279273 on 01.05.1995 at Khatima.

So as to obtain the Voter's ID card, he should had been submitted the application (as prescribed by the guidelines /Acts concerned) to the officer's concerned.

With the above background matter, I sought the certified copy of my father's application submitted to apply for the Voter's ID Card, if weeded out its records, digitalised records if it is available in the digitalised format. Further, in the forth point, I have requested to transfer the RTI application to the Archives' Department, if the application submitted for obtaining of the voter's iD is already transferred to the Archives' Dept.

**II. Background statement:** Before taking the photo of my father, your official got his signature/thumb impression in a register/application.

With the above background matter, I sought the certified copy of the register/application in which my father's signature or thumb impression was obtained before taking the photo of my father, if weeded out its records, digitalised records if it is available in the digitalised format. Further, in the eighth point, I have requested to transfer the RTI application to the Archives' Department, if the application submitted for obtaining of the voter's iD is already transferred to the Archives' Dept.

**III. Background statement:** While supplying the Voter's ID Card signed acknowledgement in a prescribed formation or in a register is being received from the person to whom it was issued.



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With the above background matter, I sought the certified copy of the register/application in which my father's signature or thumb impression was obtained for issuing the voter's id Card, if weeded out its records, digitalised records if it is available in the digitalised format. Further, in the 12th point, I have requested to transfer the RTI application to the Archives' Department, if the application submitted for obtaining of the voter's iD is already transferred to the Archives' Dept.

Through 13<sup>th</sup> point, I requested to supply the certified copies of all the records re the Voter's ID Card of my father.

Through 14<sup>th</sup> point, I informed to the PIO that I require my father's signature/thumb impressed document copy for some other legal purposes. Hence, I am seeking your assistance in accordance with Section 5 (3) of the RTI Act. Further, I requested to list out the actions taken by PIO to supply the desired-information.

Along with the application, I have attached (vide appendix I and II) my father's Voter iD Card for ready reference and easy clarity of the requirements.

**Through Annexure III**, I have attached the CIC decision dated 09.02.2009 which observes that the RTI act does not state that queries must not be answered, nor does it stipulate that prefixes such as 'why, what, when and whether' cannot be used. As such, I informed that the PIO should not innovate new exemption clauses. In other words, I informed that providing the information is a rule and denial is an exception and no information should be denied without citing relevant exemption clause.

**Through Annexure IV**, I have attached the DoPT OM dated 31.10.2007 which observes and interprets as if anything destroyed/weeded out, either fully or partly, due to any unfortunate events or after its retention period that does not necessarily result into destruction of all the information contained in that record. It is possible that the information generated in a record may be available in the form of an OM, a letter or in any other form. The OM interprets and speaks about these aspects under the subject "Disclosure of information relating to occurrence/event/matter which took place 20 years back". As such, I requested that the information requested should not be denied by citing any lame-excuses like diligent search made to search but..... etc.

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**Through Annexure V**, I enclosed the CIC decision dated 08.08.2018 with a request that its observation has to be taken into account if the requested information is already destroyed. Further, I have informed that when the requested information is already destroyed after completion of its preservation period, then the Copies of Competent Authority's orders to weed out the records concerned and its Register Entry need to be supplied.

**Through Note-1**, I interpreted those exemption clauses which relates to personal information with the proviso under the clauses so as to prove that the information requested by me should not be denied by citing any of those exemption clauses.

**Through the last note**, I reproduced Section 5 (3) of the RTI Act and requested for the reasonable assistance of the PIO. Further, I stated that I require my father's signed/thumb impressed document copy for some other legal purposes and hence, demanded the PIO need to pay attention to this sub-section and to render reasonable assistance to me in the interest of justice.

Finally, I have made necessary declaration also.

**6. Response from the CPIO :**

1. The CPIO transferred the RTI application to another CPIO within the public authority by citing Section 6 (3) of the Act, in spite of the fact that Section 6 (3) deals about the transferred of the RTI application to another public authority. In other words, there is no intra-Public Authority transfer of the RTI applications and the provision of the Act allowed only inter-Public Authority transfer of the RTI applications.

**2. Section 5 (4) of the Act says:**

*The Central Public Information Officer or State Public Information Officer, as the case may be, may seek the assistance of any other officer as he or she considers it necessary for the proper discharge of his or her duties.*

I would like interpret that it is apparent that no PIO could have all the information. The law mandates that he can avail of the assistance of others who have the information.

Hence, as per this section the CPIO should have obtained the information from the CPIO of the Chief Electoral Officer of UP and have supplied the information to me.

**3. Section 6 (3) of the Act says:**

*Where an application is made to a public authority requesting for an information, –*

- (i) which is held by another public authority; or*
- (ii) the subject matter of which is more closely connected with the functions of another public authority, the public authority, to which such application is made, shall transfer the application or such part of it as may be appropriate to that other public authority and inform the applicant immediately about such transfer*

*Provided that the transfer of an application in pursuant to this sub-section shall be made as soon as practicable but in no case later than five days from the date of receipt of the application.*

From the Section 6 (3), it is well clear that if the citizen sends the application to the wrong Public Authority, it is the responsibility of the PIO to send it to the concerned Public authority within a period of five days.

But, I submitted the application to the CPIO of the Election Commission of Indian and it is the correct public authority. Hence, the question of transfer within the same public authority does not arise at all.

**3. Your reference is invited to the Judgement dated 12.09.2014 of the Honourable High Court of Delhi in response to WP (C) 6088/2014. Both Sections 5 (4) and 6 (3) are discussed by the Hon'ble High Court in the judgement.** In the judgement, the HC uphold the penalty of Rs.25000/- imposed by the Commission against the PIO by observing that a PIO cannot escape his responsibilities to provide the information by simply stating that the queries were forwarded to other officials/officers. A copy of the decision is enclosed vide Supporting Document I. The observation of the Hon'ble High Court should be taken into account.

**h. The inherent fundamental right which is guaranteed to me under the Article 19(1) (A) of the Constitution is denied or delayed by the CPIO since**

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whenever any action could be taken as per Section 6 (3) of the RTI Act by a PIO, then the supplying of the desired information could be delayed by a certain period over the stipulated period of 30 days.

### **8. Relief sought/Specific Prayer**

- a. The First Appeal Proceedings is a Quasi-Judicial Nature; the Principles of Natural Justice is to be observed.
- b. The CPIO did not submit any reasons for breach of section 5 (4) of the RTI Act. Hence, submissions/reports and para-wise comments to be made by the PIO to the FAA in response to this appeal under section 19 (5) of the Act should be in writing. A copy of it should be supplied to me so as to enable me to submit further objections if any.
- c. Action should be taken to collect and to supply the certified copies of the desired information within the stipulated period of 30 days from the date of receipt of the RTI application.
- d. Action should be taken to provide an interim reply, if the supplying of the desired information is being delayed for any reasons, with clearly mentioning the tentative date of final reply.
- e. Being you are a Senior Principle Secretary of the Election Commission of India, I am additionally requesting you to take all the steps for early supply of the certified copies of the desired information.
- f. All the reasons mentioned by me those are leading this appeal and the grounds detailed by me for the specific prayer are to be thoroughly considered; and be properly disposed.
- g. In case of denial of my request, all the possibilities, under the RTI Act and other Acts, reviewed by the FAA are to be detailed to me in writing.

**9. Grounds for the specific Prayers:**

a. Your attention is drawn to the contents of the Office Memorandum Number 10/23/2007-IR dated 09<sup>th</sup> July, 2008 issued by DoPT, titled “**Disposal of first appeals under the RTI Act, 2005**”, the relevant excerpts are quoted for your ready reference below: (The DoPT OM is enclosed vide Supportive Document II).

**Guideline-3 of the above OM says:** *Deciding Appeals under the RTI Act is a quasi-judicial function. It is, therefore, necessary that the Appellate Authority should see to it that the justice is not only done but it should also appear to have been done. In order to do so, the orders passed by the Appellate Authority should be a speaking order giving justification for the decision arrived at.*

**Hence, you should decide by considering all the provisions of the RTI Act with also observing the each and every points under the Para 7 and Para 9.**

**Guidelines-4 of the OM says:** *If an Appellate Authority comes to a conclusion that the appellant should be supplied information in addition to what has been supplied to him by the PIO, he may either*

*a. Pass an order directing the PIO to give such information to the Appellant; or*

*b. He himself may give information to the appellant while disposing off the appeal.*

*In the first case, the appellate authority should ensure that the information ordered by him to be supplied is supplied to the appellant immediately.*

*It would, however, be better if the Appellate Authority chooses the second course of action and he himself furnishes the information along with the order passed by him in the matter.*

**Hence, I am requesting you to collect and to supply directly while disposing off this appeal.**

**Guideline-5 of the above OM says:** -- *If, in any case, the PIO does not implement the order passed by the appellate authority and the appellate authority feels that the intervention of higher authority is required to get his orders implemented, he should bring the matter to the notice of the officer in the*

(11)

*public authority competent to take action against the PIO. Such Competent Officer shall take necessary action so as to ensure the implementation of the provisions of the RTI Act.*

This shows that it is your duty to report to the Competent Officer to take necessary action against the PIO so as to ensure the implementation of your order and the provisions of the RTI Act.

**As such, it is the duty of the FAA to take follow-up actions to carry of out his own orders. Hence, I am requesting you to fix the time-limit to supply the requested information, if you decide to cause to supply the information through the CPIO.**

b. All the reasons detailed under the para-7 i.e., Reasons for leading to the First Appeal should be taken into account in conformity with the applicability of those points/reasons.

c. Section 5 (3) of the RTI says that the PIO should render reasonable assistance to the public to obtain the desired information. The analogy of this section is applicable to the FAA also. As per Citizen Charter, a public officer/authority has to provide a reasonable assistance to a member of public whenever the public approach to the office. Hence, I am seeking your assistance to take necessary action to obtain the desired information as expeditiously and to render any other guidance as may appropriate be.

d. **Since I requested the certified copies, the guidelines-2 of the DoPT OM dated 06.10.2015 which is reproduced below, should be adhered to.** The OM is enclosed vide Additional Document III.

**Guideline-2:** It deals about the supplying of the “certified copies”. Whenever an applicant is requesting for the certified copies of the documents or records, then they must be essentially endorsed by the PIO on the document, as enumerated below:

<p>True copy of the document or record is supplied under the RTI Act</p> <p>Signature of the CPIO with date</p> <p>CPIO's full name</p> <p>Name of the public authority</p>
---

**Since I requested for the certified copy, the procedure framed by the Govt to issue the "certified copies" under the RTI should be adhered to.**

e. A PIO can take the observation of the any other Quasi-judicial authorities only when it favours to a member of public, since the Act is framed fully to be citizen-friendly nature. Hence, the transfers of the application i.e., the breach of Section 5 (4) and the wrongly invoking Section 6 (3) should not be justified by citing any precedence in this regard.

f. It is submitted that the casual and callous approach adopted by the CPIO in responding to the RTI applications are to be reviewed, please.

Thanking you,

**Yours faithfully,**

**(Amal Biswas)**

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Through On-line

<b>From:</b> Amal Biswas, No.3, Shaktifarm (Devnagar), Shaktifarm Post Sitarganj Tehsil, Udham SinghNagar- 263151 Uttrakhand Mobile-8077563263 Email- <a href="mailto:govindvishwas@rediffmail.com">govindvishwas@rediffmail.com</a>	<b>To:</b> The CPIO, Election Commission of India, Nirvachan Sadan, Ashoka Road, New Delhi-28.
--	---

Dear CPIO,

Sub: Application u/s 6 (1) of the RTI Act, 2005 -reg

\*\*\*\*\*

This application is registered to provide the following information in a tabular column as given-below **by the reproducing the points as they are**. The authentic interpretation of the Act, the notes and the Information Commission's observation enclosed in this application are to be taken into account.

Sl No	Points	Reply and supply details in English only
	<p><b>I. Background Matter of this application is:</b> My father Shri. Nagendra Bishwas (late) S/o Shri.Jogendra Biswas (late) was issued voter id Card by the Election Commission of India.</p> <p>I have enclosed (vide Annexure II and II respectively) the copy both sides of my father's Voter's Identity Card issued with the facsimile Signature of Electoral Registration Officer for 14-Khatima A.C. on behalf of the Election Commission of India vide No.UP/04/014/279273 on 01.05.1995 at Khatima.</p> <p>So as to obtain the Voter's ID Card, he should had been submitted the application (as prescribed by the guidelines /Acts concerned) to the officer's concerned.</p>	



1	Let be supplied me the certified copy of his application submitted to apply for the Voter's ID Card.	
2	If the records of the above-application are weeded out after its retention period, then let be supplied me the certified copy of the orders of the Competent Authority to weed out the records and its order book/register-entry. It is to be noted that the record destruction Register etc are qualified for permanent-preservation	
3	Let be known me whether digitalised records is being preserved in your department in respect of the application submitted for issuing the Voter's Identity Card.	
4	If the application submitted for issuing the Voter ID CARD is transferred to the Archives' Department let this RTI application be transferred to the department concerned within 5 days by intimating me as per Section 6 (3) of the RTI Act.	
<b>II. Background statement:</b> Before taking the photo of my father, your official got his signature/thumb impression in a register/application.		
5	Let be supplied me the certified copy of the record in which his signature/thumb impression was obtained before taking photo of my father.	
6	If the records of the above are weeded out after its retention period, then let be supplied me the certified copy of the orders of the Competent Authority to weed out the records and its order book/register-entry. It is to be noted that the record destruction Register etc are qualified for permanent-preservation	
7	Let be known me whether digitalised records is being preserved in your department in respect of the application	

	submitted/signature obtained for taking the photo to append in the Voter's ID Card	
8	If the signature/thumb impression obtained records for taking the photo was already transferred to the Archives' Department let this RTI application be transferred to the department concerned within 5 days by intimating me as per Section 6 (3) of the RTI Act.	
<b>II. Background statement:</b> While supplying the Voter's ID Card signed acknowledgement in a prescribed formation or in a register is being received from the person to whom it was issued.		
9	Let be supplied me the certified copy of the acknowledgement or register extract in which he appended signature/thumb impression while receiving the Voter's ID Card.	
10	If the records of the above-application are weeded out after its retention period, then let be supplied me the certified copy of the orders of the Competent Authority to weed out the records and its order book/register-entry. It is to be noted that the record destruction Register etc are qualified for permanent-preservation	
11	Let be known me whether digitalised records is being preserved in your department in respect of the acknowledgement signature/thumb impression received from the Voter concerned.	
12	If the application submitted for issuing the Voter's ID Card is transferred to the Archives' Department, let this RTI application be transferred to the department concerned within 5 days by intimating me as per Section 6 (3) of the RTI Act.	
<b>III.13.</b> Let be supplied me all the available records re the Voter's ID Card of my father.		
<b>IV. 14.</b> I require my father's signature/thumb impressed document copy for some other legal		

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purposes. Hence, I am seeking your assistance in accordance with Section 5 (3) of the RTI Act.	
--	--

Let be listed out me the actions taken by you to supply the desired-information.	
--	--

**Note-1:** My father's personal information is not a third party information to me. In other words, I father's personal information is my own information. Hence, the exemption section 8 (1) (j) will not be applicable. Further, Section 8 (3) of the RTI Act is reproduced below:

*Subject to the provisions of clauses (a), (c) and (i) of sub-section (1), any information relating to any occurrence, event or matter which has taken place, occurred or happened twenty years before the date on which any request is made under section 6, shall be provided to any person making a request under that section:*

This means that clauses (b), (d), (e), (f), (g), (h), and (j) are not applicable if 20 years are over. In other words, if the information is being held by the public authority beyond 20 years, it cannot deny it on the grounds of it being exempt under clauses (b), d),(e), (f), (g), (h), and (j).

**Note-2:** Providing the information is a rule and denial is an exception. No information to be denied without citing relevant exemption clause. A PIO should not supposed be empowered to innovate a new clause for the exemption. Further, the RTI act does not state that queries must not be answered, nor does it stipulate that prefixes such as 'why, what, when and whether' cannot be used. The observation of the Central Information Commission dated 09.02.2009 in this regard (Copy enclosed for the ready reference vide **Annexure III**) is **mutatis mutandis applicable to the points of this application** also.

**Note-3:** If anything destroyed/weeded out, either fully or partly, due to any unfortunate events or after its retention period that does not necessarily result into destruction of all the information contained in that record. It is possible that the information generated in a record may be available in the form of an OM, a letter or in any other form. The Govt OM dated 31.10.2007 interprets and speaks about these aspects under the subject "Disclosure of information relating to occurrence/event/matter which took place 20 years back". The copy of OM 31.10.2007 is enclosed vide **Appendix IV** for your ready reference. As

such, the information requested should not be denied by citing any lame-excuses like diligent search made to search but..... etc.

**Note-4:** When the requested information is already destroyed after completion of its preservation period, then the Copies of Competent Authority's orders to weed out the records concerned and its Register Entry need to be supplied. It is to be noted that records after its preservation can be weeded out only after the orders of the Competent Authority as per the rulings and guidelines framed in your organisation in consonance with Public Records Act, 1993 or other related Acts. It is well known that the Register and the orders to weed out the records after its preservation period do not have any preservation period i.e., they are to be preserved permanently as per the rulings and guidelines framed in your organisation in consonance with The Destruction of Records Act, 1917. The CIC decision dated 08.08.2018 is enclosed vide **Annexure V** and its observation has to be taken into account in this regard.

**Note-5:** Reference is invited to the provisions of the Section 4 (1) (d) issued under the obligation of the Public Authorities which says: *provide reasons for its administrative. or quasi judicial decisions to affected persons*; and Section 7 (8) (i) of the Act. Both the provisions mandate to the Public Authorities to provide cogent and substantial reasons for the denial of information.

**Note-6:** I would like to bring to your kind attention that a PIO must reply as expeditiously as possible though the maximum-time allowed is 30 days (Section 7 (1) of the Act refers). Further, if the information is provided after 30 day period, no further fee has to be paid for the information (section 7 (6) of the Act refers). I would like to pay the additional fee through on-line only and hence, the option available in the portal should be chosen please.

**Note-7:** Section 5 (3) of the RTI Act says: *Every Central Public Information Officer or State Public Information Officer, as the case may be, shall deal with requests from persons seeking information and render reasonable assistance to the persons seeking such information.*

This is an important provision which fixes the responsibility on the PIO to deal with Right to Information applications. It also puts the duty on the PIO to assist the citizen in seeking information. I require my father's signed/thumb impressed document copy for some other legal purposes. Hence, you need to

pay attention to this sub-section and to render reasonable assistance to me in the interest of justice.

**Note-8:** I, Amal Biswas, hereby verified that the aforementioned facts are true to the best of my knowledge. I also declared that I am ready to appear before you, in accordance with your direction,

- a. to show the enclosed documents in original.
- b. for any purposes, as may be decided by you, to render reasonable assistance to me
- c. to submit an affidavit as may otherwise be required to supply the information requested.

**Encl: As above**

Thanking you,

**Date: 10.09.2021**

Yours faithfully,

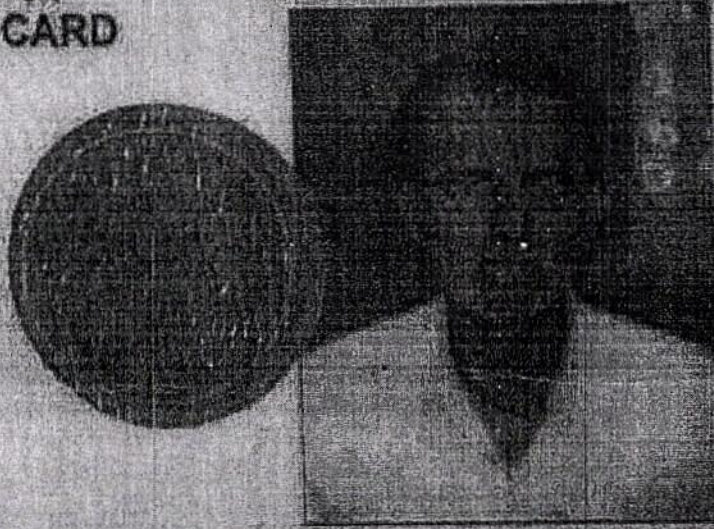
(Amal Biswas)



भारत निर्वाचन आयोग  
ELECTION COMMISSION OF INDIA

पहचान पत्र  
IDENTITY CARD

UP/04/014/279273



निर्वाचक का नाम : मनिन्दर विश्वास  
Elector's Name : Manindar Vishvas  
पिता/माता/पति का नाम : नगेन्द्र  
Father's/Mother's/  
Husband's Name : Nagender  
लिंग / Sex : पुरुष Male  
1.1.1995 को आयु : 40  
Age as on 1.1.1995

पता  
 म.सं. : 194  
 ग्राम/मोहल्ला : देवनागर  
 तहसील : सितारगंज  
 जिला : नैनीताल

Address  
 H.No. : 194  
 Vill/Mohalla : Devnagar  
 Tehsil : Sitarganj  
 Dist. : Nainital



निर्वाचक रजिस्ट्रार अफिसर  
 के हस्ताक्षर की अनुकृति  
 निर्वाचन क्षेत्र 14-खटीमा  
 Facsimile Signature of  
 Electoral Registration Officer  
 for 14-Khatima A.C.

स्थान : खटीमा  
 Place : Khatima

दिनांक : 01/05/85  
 Date : 01/05/85

इस पत्र को विभिन्न सरकारी योजनाओं के अन्तर्गत पहचान  
 पत्र के रूप में प्रयोग किया जा सकता है।  
 This card can be used as an Identity Card under  
 different Government Programmes.

**CENTRAL INFORMATION COMMISSION**

**Room No. 415, 4<sup>th</sup> Floor,  
Block IV, Old JNU Campus,  
New Delhi -110067.  
Tel: + 91 11 26161796**

**Decision No. CIC /SG/A/2008/00347+00277/1554**

**Appeal No. CIC/SG/A/2008/00347+00277**

**Relevant Facts emerging from the Appeal**

Appellant : Mr. T.B.Dhorajiwala,  
232, Maulana Azad Road,  
2<sup>nd</sup> Floor, Room No. 26,  
Mumbai - 400008.

Respondent 1 : Dr. Indu Saxena,  
Deputy Registrar(Admn) & P.I.O,  
Indian Institute of Technology Bombay,  
Powai, Mumbai - 400076.

RTI application filed on : 25/08/2008  
PIO replied : 24/09/2008  
First appeal filed on : 06/10/2008  
First Appellate Authority order : 03/11/2008  
Second Appeal filed on : 01/12/2008

**The appellant had asked in RTI Application regarding Tender for disposal of Unserviceable equipments of Chemical Engineering Department, IIT Powai. Tender No. MD/CD/DISP/001/07/REG/L/ due was on 24/08/2007.**

**Detail of required information:-**

1. What happened of Tender No. MD/CD/DISP/001/07/REG/L/ which was due on 24/08/2007. for disposal of Unserviceable equipments.
2. Let me know why you had not Re-Invite of above tender.
3. Let me know what stage the matter is at present.
4. Let me know what action you had taken against offender.
5. Let me know person name who had involved in this matter.

**The PIO replied.**

"The RTI Act does not cast on the Public Authority any obligation to answer queries, in which a petitioner attempts to elicit answer to the questions with prefixes, such as, why, what, when and whether. The petitioner's right extends only to seeking information as defined in section 2(f) either by pinpointing the file, document, paper or records, etc, or by mentioning the type of information as may be available with the specified public authority.

You may only ask for specific information under RTI Act, 2005 rather than questioning the action of public authority.

Please note that the appellate authority for IIT Bombay, under the Right to Information Act, is Shri B.S. Punalkar, offg. Registrar, IIT Bombay and your appeal, if any, should reach with in 30 days from the receipt of this letter.

**The First Appellate Authority ordered:-**



“With reference to your appeal as mentioned above, it is stated that the CPIO has taken right stand in dealing with your application dt. 25/08/2008.

However, you may mention what exact information as defined under Section 2(f) read with section 2(i) & 2(j) of the RTI Act, which will be provided.

The IPO’s No. 68 E 009314 & 68 E 009315 dt. 05/09/2008 submitted with the appeal is being return..”

**Relevant Facts emerging during Hearing:**

The following were present

Appellant: Absent

Respondent: Absent

The respondent has sent a written submission in which he repeats the grounds for denying the information by the PIO and also adds that the appellant had stated in his appeal that he was seeking ‘clarification of his queries’.

The PIO and the first appellate authority have erred in their interpretation of what constitutes ‘information’ as defined under the RTI act. Section 2 (f) of the act states,

“information” means any material in any form, including records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material held in any electronic form and information relating to any private body which can be accessed by a public authority under any other law for the time being in force;’

**The PIO has states, ‘The RTI Act does not cast on the Public Authority any obligation to answer queries, in which a petitioner attempts to elicit answer to the questions with prefixes, such as, why, what, when and whether. The petitioner’s right extends only to seeking information as defined in section 2(f) either by pinpointing the file, document, paper or records, etc, or by mentioning the type of information as may be available with the specified public authority.**

You may only ask for specific information under RTI Act, 2005 rather than questioning the action of public authority.’

The RTI act does not state that queries must not be answered, nor does it stipulate that prefixes such as ‘why, what, when and whether’ cannot be used. The PIO is right in accepting that what is asked must be a matter of record, but errs in imposing a new set of non-existent exemptions.

The Commission now looks at the queries of the appellant:

1. What happened of Tender No. MD/CD/DISP/001/07/REG/L/ which was due on 24/08/2007. for disposal of Unserviceable equipments.

**Commissions direction: If there was such a tender, it will be on records and the PIO must provide the information.**

2. Let me know why you had not Re-Invite of above tender.

**Commission’s direction: If the tender was there and there are any reasons on record why it was not re-invited, the PIO must provide them.**

3. Let me know what stage the matter is at present.

*Commission’s direction: If there is any record of this it must be given.*

4. Let me know what action you had taken against offender.

5. Let me know person name who had involved in this matter.

**Commission’s direction: If there is any offender identified in the matter details of point 4 and 5 would have to given based on the records.**

On the other hand if there are no records about any of the above points, the PIO must state this categorically.

**Decision:****The Appeal is allowed.**

The PIO will give the information as outlined above to the appellant before 25 February 2009.

This decision is announced in open chamber.

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

**Shailesh Gandhi**  
**Information Commissioner**  
**February 09, 2009.**

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

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## App-IV (Downloaded from DoPT Website)

No.1/14/2007-IR

Government of India

Ministry of Personnel, Public Grievances & Pensions

Department of Personnel & Training

New Delhi, the 31<sup>st</sup> October, 2007

### OFFICE MEMORANDUM

Subject: Disclosure of information relating to occurrence/event/matter which took place 20 years back.

Attention is invited to sub-section (3) of section 8 of the Right to Information Act, 2005 (Act) which, provides that 'subject to the provisions of clauses (a), (c) and (i) of sub-section(1), any information relating to any occurrence, event or matter which has taken place, occurred or happened twenty years before the date on which any request is made under Section 6 shall be provided to any person making a request under that section'. References have been received in this Department seeking clarification whether the above provision of the Act requires all the records to be preserved for more than a. period of 20 years. The Second Administrative Reforms Commission, in its First Report titled the 'Right To Information - Master Key to Good Governance', has also expressed an apprehension about interpretation of the above provision with reference to the retention schedule of the files.

2. The RTI Act does not prescribe a record retention schedule. The records are to be retained by a public authority as per the record retention schedule applicable to that public authority. **It is however, important to note that weeding out of a file or any other record does not necessarily result into destruction of all the information contained in that file or record. It is possible that information generated in a file may be available in the form of an OM or a letter or in any other form even after the file has been weeded out.** The above referred provision of the Act requires-furnishing of information so available after the lapse of 20 years even if such information was exempt from disclosure under sub- section (1) of Section 8. It means that the information which, in normal course, is exempt from disclosure under sub-section (1) of Section 8 of the Act, would cease to be exempted if 20 years have lapsed after occurrence of the incident to which the information relates. However, the following types of information would continue to be exempt and there would be no obligation, even after lapse of 20 years, to give any citizen -

- (i) Information disclosure of which would prejudicially affect the sovereignty and integrity of India, the security, strategic, scientific or economic interest of the State, relation with foreign State or lead to incitement of an offence;
- (ii) Information the disclosure of which would cause a breach of privilege of Parliament or State Legislature; or
- (iii) Cabinet -papers including records of deliberations of the Council of Ministers, Secretaries and other Officers subject to the conditions given in proviso-to clause (i) of sub-section (1) of Section 8 of the Act.

3. Contents of this OM may be brought to the notice of all concerned.

Sd/-  
(K.G. Verma)  
Director

Appendix-V (Downloaded from the Commission's Website)

Central Information Commission

T S Sivakumar vs Department Of Posts on 8 August, 2018

Author: Madabhushanam Sridhar Acharyulu

CENTRAL INFORMATION COMMISSION

(Room No.313, CIC Bhawan, Baba Gangnath Marg, Munirka, New Delhi-110067)

Before Prof. M. SridharAcharyulu (Madabhushi Sridhar), CIC

Second Appeal No.: CIC/POSTS/A/2018/119469

Shri T S Sivakumar

Appellant

Versus

CPIO, Department of Posts

Respondent

Order Sheet: RTI filed on 17.08.2017, CPIO replied on 11.09.2017, FAO on 03.01.2018, Se appeal filed on 26.03.2018, Hearing on 01.08.2018;

Proceedings on 06.06.2018: Appellant absent, Public Authority represented by CPIO. Mr. Raghunathan, SSPO and CPIO. Directions issued and Show-cause issued.

Proceedings on 01.08.2018: Appellant absent, Public Authority represented by CPIO. Mrs. Raghunathan, CPIO from NIC Erode:

Date of Decision - 08.08.2018: Penalty imposed.

ORDER

FACTS:

1. The appellant sought certified copies of delivery receipts of postal articles that were addressed to the applicant's name and address along with 'Delivery receipt', number of the postal articles, date of the respective postal articles delivered to the applicant and the name and/or pincode number of the origin post office from where the respective 37 Postal articles were sent. The CPIO on 11.09.17 replied that in respect of postal articles from Sl.01 to 21, it is intimated that the records relating to the postal articles delivered to the applicant are not available as the preservation period was over. In respect of postal articles from Sl.No.22 to Sl.No.37 the applicant may kindly credit a sum of Rs. 54/- (27X2) for the supply of attested/certified copy of delivery receipt. The appellant, being dissatisfied, filed the first appeal on 19.11.17. The FAA on 03.01.2018 upheld the decision of the CPIO. Being dissatisfied, the applicant approached this Commission.

2. The Commission's order dated 08.06.2018:

2. Mr. S. Raghunathan, SSPO and CPIO, submitted that the delivery slips of the postal articles as referred to by the appellant were available as on date of RTI CIC/POSTS/A/2018/119469 Page 1 application and even on date of first appeal. The records were physically segregated for the process

of weeding-out, but thereafter they were weeded out, because of expiry of preservation period.

3. If the public authority has weeded out the documents/files/letters as per their record retention and removal policy, that amounts to 'not holding' of the documents which were sought under RTI and hence need not be provided. They have to, however, furnish the extract from the Register of removal of records, showing date and time of removal of such record, as proof of their claim. But, if they have not weeded out as on the date of RTI application, though retention scheduled time was exhausted, it means they were holding the record and hence they shall share the same. Removing the papers after RTI has filed for them amounts to breach of RTI of the appellant and necessitates invocation of penalty Section 20 of RTI Act for destroying the papers sought under RTI Act. In this case the public authority has segregated the papers for removal but did not remove. When the CPIO preferred to refuse the information and First Appellate Authority received the first appeal, the papers were lying with the public authority. But they refused to share. Hence, the Commission finds that the CPIO has violated the provision of the RTI Act by not furnishing the delivery slips which had not been weeded out on the date of RTI application. The CPIO had a duty to share the available records which had been merely segregated instead of denying the information sought and weeding out of records during the pendency of application is clearly a violation of the provisions of the RTI Act.

4. The Commission directs the CPIO to provide the documents available at their office and the certified copy of the extract of the weeding out register, in case those documents have been weeded out.

5. The Commission was informed that the Postal Department has a policy not to remove the documents in spite of expiry of retention period, if any complaint is filed regarding the delivery of article concerned. The same policy should be adopted for the retained papers in spite of expiry of retention period, if RTI application is filed. The Commission requires the public authority to announce this policy and inform each of the CPIO not to remove the papers concerned if an RTI application is pending.

6. The Commission directs Mr. S. Raghunathan, CPIO, to show-cause why maximum penalty should not be imposed upon him for illegally denying the information sought. The CPIO is directed to submit his explanation, before 01.08.2018 and the matter is posted for compliance on the aforesaid date.

Decision :

3. Mr. S. Reghunathan, the CPIO and SSP, Erode Division, vide letter dated 24.07.2018, submitted to the Commission as under:-

Shri T.Sivakumar of Anthiyur vide his RTI application dated 17.08.2017 received by this office on 22.08.2017 had sought for copy of delivery slips in respect of 37 registered/ speed post articles that-were delivered to him during the year 2015 and 2016 through AnthiyurSubPostOffice.

The applicant was addressed vide this office vide Lr No. ECCC/RTI/20,21-2017-

18/Dlgs dated 11.09.2017, to credit a sum of Rs.54/- for supply of copy CIC/POSTS/A/2018/119469 Page 2 deliveryslips for the articles under Sl 22 to 37 pertaining to the year 2016 and the same were supplied to theappellant on payment of prescribed fee vide this office letter No. dated 03.10.2017.

In respect of articles under Sl. 01 to 21 it was informed to the applicant that as thepreservation period of the records were over, it could not be supplied.

The applicant had again preferred one RTI application dated 09.10.2017, wherein he had sought for the particulars of disposal of old records citing the reply given by the CPIO vide letter No ECCC/RTI/20,21-18/Dlgs dated 11.09.2017.

The applicant was given reply that as the preservation period of delivery slips of Sl no 1 to 21 of his RTI application dated 17.08.2017 was over, the same was segregated from theoffice records and dumped with the old records. The old records would then be disposed /handled as per the departmental procedure. Hence, the information sought in connection with weeding out of the above mentioned records were not available then.

Aggrieved over the reply of the CPIO, the applicant had preferred appeal vide his application dated 19.11.2017 wherein he had requested that he himself would arrange for searching of the documents sought by him from the pooled and dumped old records under the supervision of postal authorities.

The appellant authority while disposing the appeal vide its memo No.RTI/Appeal/174/2017 dated 03.01.2018 and had upheld the decision of the CPIO.

Then the applicant had approached the CIC forum against the orders of theappellateauthorities' decision.

Now, I wish to submit the following few lines before the Commission for humbleConsideration.

As per the Department rules, the preservation period of inland registered article is 18months and inland speed post articles is 6 months. When the appellant filed his RTIapplication on 11.09.2017, the records corresponding to Sl 1 to 21 were already dumped with the old records. It is submitted that Anthiyur Sub Post Office has huge mail traffic and has 10 Branch Post Offices under its operational control. The records ofboth the SubPost Officeand all the 10 Branch Post Offices which crossed the records retention periodas per prescribed schedule were bundled and dumped in sacks as old" records in a separated from the current records.

Even though the old records were not weeded out at the time of appeal preferred by theapplicant, they were pooled and kept in bundles and not in accessible condition.In the decision of first appeal also, the first appellate authority upheld the decision takenin this case stating that there is no provision in the RTI Act to permit the appellant tosearch the wanting documents from the dumped old records which were alreadysegregated from the current records as the period of

CIC/POSTS/A/2018/119469 Page 3 preservation is over. Also; nodirections have been received from the first appellate author\$ to supply/preserve theold records concerned. As such, adhering to the Departmental Rules the records wereweeded out.

As the appellate authority while disposing the appeal preferred by the applicant had alsoupheld the decision of the CPIO, the process of initiating of segregation of the documentsought for by the applicant from the dumped old records was not taken up. As far as thisDepartment is concerned, the process of weeding out of old records involves lot ofprocedures like assembling of old records of all the offices under one roof, issue of tendernotice, finalizing the tender etc. which is a time consuming and sensitive issue. Henceeven though the old records were dumped and pooled during 2016 they were weeded outonly during March 2018.

In this instant case, the appellant himself provided the date of delivery of the articleswhich implies that all the said articles were delivered to him. As per Section 8 of RTI Act. The RTI Act does not prescribe a record retention schedule. The records are to beretained by a public authority as per the record retention schedule applicable to thatpublic authority. It is possible that information generated in a file may be available in the form of O.M or a letter or in any other form even after the file has been weed out, andas such this Department had complied with the said rule.

Further, apart from the copy of the delivery of requested slip, the only information that could be provided for the appellant in connection with the delivery of the requested article as the "date of delivery" which was already known to the appellant.

Since my joining as CPIO in this Division, 7 number of RTI applications have been received from Shri T.S. Sivakumar and in most of the cases,he has requested for a copy of delivery slips pertaining to the year 2013, 2014 & 2015. However, all the applications were disposed of properly by supplying available information within the prescribed time limit. During the hearing of CIC held on 06.06.2018 also, the applicant had not appeared before the forum which implies that he has not given due weightage and importance for it.

In this case, I have purely adhered to the Departmental Rule and not denied the request for information with malafide intention or knowingly given incorrect or incomplete or misleading information or purposefully destroyed the information.

As records pertaining to Sl. No. 1 to 20.of the appellant's RTI application dated 11.09.2017 were weeded out on 27.03.2018, as per the directions in Para (4) of CIC order no. CIC/POSTS/A/2018/119469 dated 08.06.2018, the records could not be provided. Hence as directed the certified copy of eXtract of weeding out register is submitted herewith.

Also, it is humbly submitted that all offices under this Division have been instructed not to weed out the corresponding records in which a RTI was raised even if their preservation period is over based on the CIC decision CIC/POSTS/A/2018/119469 dated 08.06.2018. I assure that, I will dispose the RTI applications by following the above said decision in future CIC/POSTS/A/2018/119469 Page 4 and take eXtra care to provide information within prescribed rules and timelines to citizens who

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Exercise their Right to Information. However, I request the Commission to show me leniency as it was my only intention to dispose the case as per the Departmental Rules and lack of clarification in handling / supplying information in connection with old records as per RTI Act led to my action and not any mala fide intentions or enmity to the applicant. I also submit that I will continue to carry out my duties as a responsible CPIO.

4. The CPIO Mr. S. Raghunathan, Senior Superintendent of Post Offices, admitted that the records relating to points 1 - 21 were available as on the date of RTI application 17.8.2017 and that they were weeded out only in 2018 after the second appeal was filed. The CPIO tried to justify the weeding out during pendency of second appeal saying there is no provision in RTI in this regard. The Commission has to point out to him the basic tenet of the RTI Act that the public authority was under obligation to give the copies of documents held by the public authority as per section 2(f) definition of 'information' and 2(j) definition of right to information, which both the CPIO and First Appellate Authority ignored.

s2(f) "information" means any material in any form, including records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material held in any electronic form and information relating to any private body which can be accessed by a public authority under any other law for the time being in force;

s2(j) "right to information" means the right to information accessible under this Act which is held by or under the control of any public authority and includes the right to--

By non-weeding out, the public authority was holding those documents relating to 1- 21, in this case, though the weeding out period was exhausted. A set of documents which were actually and physically available cannot be presumed to have been not 'held' because the retention period is exhausted. Even after the expiry of retention period, the public authority has to actually destroy the documents by recording the fact of weeding out. The documents do not become 'non-existing' just because of expiry of weeding out period. The contention of both CPIO and FAA lacks in legal sanctity, logic and even common sense. The authorities also ignored the penal provisions under Section 20, which makes CPIO liable if 'destroyed information which was subject of the request' as one of the grounds mentioned.

CIC/POSTS/A/2018/119469 Page 5 s20(1) Where the Central Information Commission or the State Information Commission, as the case may be, at the time of deciding any complaint or appeal is of the opinion that the Central Public Information Officer or the State Public Information Officer, as the case may be, has, without any reasonable cause, refused to receive an application for information or has not furnished information within the time specified under sub-section (1) of section 7 or malafidely denied the request for information or knowingly given incorrect, incomplete or misleading information or destroyed information which was the subject of the request or obstructed in any manner in furnishing the information, it shall impose a penalty of two hundred and fifty rupees each day till application is received or information is furnished, so however, the total amount of such penalty shall not exceed twenty-five thousand rupees:



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5. The documents held shall be shared subject to exceptions under Section 8 and

9. The CPIO's case is not relating to exceptions. It is proved by their admission that the documents were in existence, and were held during entire year 2017, when the appellant was pursuing with the CPIO and FAA for taking copies of those documents. And admittedly they were removed in 2018, when the matter was pending before the Central Information Commission.

6. The second proviso to Section 20 says Provided further that the burden of proving that he acted reasonably and diligently shall be on the Central Public Information Officer or the State Public Information Officer, as the case may be,

7. Thus it is the burden of CPIO to prove that he acted reasonably. The CPIO failed to prove that he acted reasonably, because he knew that the documents were held by them and he also knew that they were dumped at a particular place and remained dumped for one year, but he choose not to give them to the appellant.

8. Section 20(1) says that if the CPIO malafidely denied or knowingly destroyed information which was the subject of the request shall be recommended for disciplinary action. Though malafides are not proved, the CPIO admittedly knew the existence of the records, hence he is guilty under Section 20(1) and liable to penalty. It is regarding principle of transparency and systematic retention of documents besides providing legal access to those records to individuals seeking under RTI Act. The public authority cannot act against the letter and spirit of RTI Act. It's an issue of governance, record maintenance, retention and removal subject to sharing them under RTI Act. It is not right and proper for the CPIO to say that CIC/POSTS/A/2018/119469 Page 6 there are no such provisions in the Act. They should know to read the law properly and understand its spirit. They cannot use the provisions of law to their convenience and in contradiction with the spirit of transparency. Hence, for the above reasons the Commission holds CPIO guilty under Section 20(1) for imposition of penalty.

9. However, to decide the quantum of penalty, the Commission considers the fact that this is not a case of delay for which the penalty amount should be counted at the rate of Rs 250 per day. Considering all the reasons the CPIO has put forward, imposition of Rs 2500/- (two thousand five hundred only) fine will be appropriate to punish the act of CPIO in defiance of the norms of RTI and transparency for the purpose of establishing a rule that no public authority or CPIO shall weed out or destroy the record which was existing at the time RTI application, First Appeal or Second Appeal, which would amount to disrespect towards the law and authorities constituted under the law. Hence, the Commission imposes a token penalty of Rs. 2500/- on Mr. S. Raghunathen, the then CPIO under Section 20 of the RTI Act. The penalty of Rs. 2500/- (two thousand five hundred only) shall be deducted by the Public Authority from the salary of Mr. S. Raghunathen, the then CPIO by way of demand draft drawn in favor of "PAO CAT", New Delhi in one monthly instalment and forward the demand draft addressed to Deputy Registrar (CR-II), email: dyregcr2-cic@gov.in Room No. 106, First Floor, Central Information Commission, Baba Gangnath Marg, Munirka, New Delhi-110067. The instalment should reach the Commission by 08.10.2018.

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10. The Commission fails to understand why the public authority went ahead with destruction of records when applicant was demanding the papers under points number 1 to 21. It would have been better if the postal department demands actual cost of the copying and hand over the original documents under a proper acknowledgement, instead of weeding them out.

11. The Commission recommends the postal department higher officials to consider the possibility of handing over original documents which are going to be weeded out to the concerned officials/citizen-account-holders or their heirs at cost of posting and other expenses under due acknowledgment in a properly maintained CIC/POSTS/A/2018/119469 Page 7 register, instead of simply destroying them after the expiry of period of retention. The Commission views that this will help not only the owners or persons concerned with the record or their legal representatives to get their original documents, but also prevents RTI requests on this point by any person whatsoever.

SD/-

(M.Sridhar Acharyulu)  
Central Information Commissioner

CIC/POSTS/A/2018/119469

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**SECRETARIAT OF THE  
ELECTION COMMISSION OF INDIA**  
Nirvachan Sadan, Ashoka Road, New Delhi-110001

RTI No. 18666

Dated: 10-09-2021

To,  
Amal Biswas  
3, Devnagar, Shakthi Farm (Post) , Sitarganj Tehsil, Udham Singh Nagar, UK

Subject:- Right to Information Act, 2005-Regarding.

Dear Sir/Madam,  
You are informed that the requisite information is given below.

**RTI CPIO Response:**

With reference to your RTI application you are informed that information sought by you may be available with office of the Chief Electoral Officer, Uttar Pradesh. Therefore, your application has been transferred to the PIO, O/o the Chief Electoral Officer, Uttar Pradesh, Lucknow under Section 6(3) of the Right to Information Act, 2005. You may contact the PIO of the above mentioned office for obtaining the requisite information.

The details of First Appellate Authority are as under :-

Sh. K N Bhar.  
Senior Principal Secretary & FAA.  
Election Commission of India.  
Nirvachan Sadan,  
New Delhi - 110001  
Email: knbhar@eci.gov.in

Yours faithfully,  
(P N Lakra)

Printed Dated and Time. 18.09.2021 09:51:35 AM

**THE HIGH COURT OF DELHI AT NEW DELHI**

% Judgment delivered on: 12.09.2014

+ **W.P.(C) 6088/2014 & CM Nos.14799/2014, 14800/2014  
& 14801/2014**

**MINISTRY OF RAILWAYS THROUGH  
SECRETARY & ANR** ..... Petitioners

versus

**GIRISH MITTAL** ..... Respondent

**Advocates who appeared in this case:**

For the Petitioners : Mr L.K. Passi, Advocate with Mr B.N. Kaithal.

For the Respondent : None.

**CORAM:-**

**HON'BLE MR JUSTICE VIBHU BAKHRU**

**JUDGMENT**

**VIBHU BAKHRU, J (ORAL)**

**CM No.14800/2014 & 14801/2014**

Exemption is allowed subject to all just exceptions. The applications stand disposed of.

**W.P.(C) No.6088/2014 & CM No.14799/2014 (Stay)**

1. The petitioners have filed the present petition impugning orders dated 11.03.2013 and 04.04.2014 (hereinafter referred to as the 'impugned orders') passed by the Central Information Commissioner (CIC). By the impugned order dated 11.03.2013, the CIC held that information sought by the respondent had not been provided and earlier orders of the CIC had also not been complied with. The petitioners sought a review of the order dated

11.03.2013, which was rejected by the CIC by the impugned order dated 04.04.2014, on the ground that the CIC did not have any power to review its decisions.

2. The petitioners have assailed the impugned order dated 11.03.2013 contending that the CIC erred in imposing penalty pursuant to proceedings that had been filed by the respondent directly before the CIC without approaching the First Appellate Authority (FAA). It was submitted that a direct appeal against denial of information by Central Public Information Officer (CPIO) or a grievance with regard to non-supply of information could not be agitated before the CIC without first exhausting the remedies of appeal before the FAA. It was contended that, in these circumstances, the penalty imposed by CIC was without jurisdiction.

3. It was further contended that in the given facts and circumstances of the case, the CPIO could not be held liable or responsible for not providing information since the CPIO had forwarded the request of the respondent to the concerned departments. The learned counsel for the petitioners relied upon Section 6(3) of the Right to Information Act, 2005 (hereinafter referred to as the 'Act') to contend that a CPIO is required to transfer an application for information to the concerned authority and cannot be expected to pursue the matter thereafter. It was, thus, submitted that the CIC had erred in imposing of penalty on petitioner no.2.

4. I have heard the learned counsel for the petitioners.

5. Section 20 of the Act provides for imposing penalty on a Central Public Information Officer or a State Public Information Officer. The

opening sentence of Section 20(1) of the Act clearly indicates that in given cases penalty may be imposed where the CIC *“at the time of deciding any complaint or an appeal is of the opinion that the Central Public Information Officer or the State Public Information Officer”* has without reasonable cause refused to receive an application or failed to furnish the information within the specified time. Section 20(1) of the Act is quoted below:-

*“20. Penalties.—(1) Where the Central Information Commission or the State Information Commission, as the case may be, at the time of deciding any complaint or appeal is of the opinion that the Central Public Information Officer or the State Public Information Officer, as the case may be, has, without any reasonable cause, refused to receive an application for information or has not furnished information within the time specified under sub-section (1) of section 7 or malafidely denied the request for information or knowingly given incorrect, incomplete or misleading information or destroyed information which was the subject of the request or obstructed in any manner in furnishing the information, it shall impose a penalty of two hundred and fifty rupees each day till application is received or information is furnished, so however, the total amount of such penalty shall not exceed twenty-five thousand rupees:*

*Provided that the Central Public Information Officer or the State Public Information Officer, as the case may be, shall be given a reasonable opportunity of being heard before any penalty is imposed on him:*

*Provided further that the burden of proving that he acted reasonably and diligently shall be on the Central Public Information Officer or the State Public Information Officer, as the case may be.”*

6. It is apparent from the language of Section 20(1) of the Act that the CIC can impose a penalty at the time of deciding any appeal or complaint. The functions of the CIC and/or the State Information Commission are specified under Section 18 of the Act. Section 18(1) of the Act is relevant and is quoted below for ready reference:-

*“18. Powers and functions of Information Commission.—(1) Subject to the provisions of this Act, it shall be the duty of the Central Information Commission or State Information Commission as the case may be to receive and inquire into a complaint from any person,—*

- a) who has been unable to submit a request to a Central Public Information Officer, or State Public Information Officer as the case may be, either by reason that no such officer has been appointed under this Act, or because the Central Assistant Public Information Officer or State Assistant Public Information Officer, as the case may be, has refused to accept his or her application for information or appeal under this Act for forwarding the same to the Central Public Information Officer or State Public Information Officer or Senior Officer specified in sub-section (1) of section 19 or the Central Information Commission or the State Information Commission, as the case may be;*
- b) who has been refused access to any information requested under this Act;*
- c) who has not been given a response to a request for information or access to information within the time limits specified under this Act;”*

7. Plainly, Section 18 of the Act enjoins the CIC to *inter alia* inquire into a complaint from any person who has been refused access to any information requested under the Act. In view of the unambiguous language

of the provisions of the Act, the contention that CIC lacks the jurisdiction to impose a penalty on a complaint is *ex facie* without merit. The plain language of Section 20(1) of the Act indicates that it is not necessary that the penalty be imposed by the CIC only while considering an appeal; penalty can also be imposed by the CIC if on inquiry made pursuant to a complaint, it is found that a CPIO has not furnished the information in time or has knowingly given incorrect or incomplete information. Therefore, in my view, the jurisdiction exercised by CIC cannot be faulted.

8. The next question that needs to be addressed is whether petitioner no.2 could escape the penalty by contending that it had forwarded the request to various departments. The facts relevant to consider this contention are that the respondent filed an RTI Application dated 17.01.2011 with the CPIO of Railway Board seeking information on fifteen points including information relating to Garib Rath trains in all zones of the Railways. As no information was received, the respondent on 02.03.2011 filed a complaint (being No. F.No.CIC/AD/C/2011/000621) with the CIC under Section 18 of the Act. Thereafter, on 23.03.2011, the CPIO transferred the RTI Application to RDSO, Lucknow. The respondent filed an appeal before the FAA on 18.04.2011 alleging that Railway Board itself was the custodian of information sought by him with respect of 10 points - listed as points (e) to (o) in his application - and CPIO had transferred his application with a *mala fide* intention. The respondent did not receive any response from the FAA and filed an appeal (being No.CIC/AD/A/2011/001870) before the CIC on 25.07.2011.



9. Subsequently, by an order dated 30.09.2011, the CIC disposed of the complaint of the respondent dated 02.03.2011. The relevant extract of the said order is as below:-

*"2. In order to avoid multiple proceedings under section 18 and 19 of the RTI Act, viz., appeals and complaints, it is directed as follows:*

*i) **Directions to CPIO** Railway Board New Delhi is directed as follows:*

- a) In case no reply has been given by CPIO to the complainant to his RTI request dated 17.1.11 CPIO should furnish a reply to the complainant **within 1 week** of receipt of this order.*
- b) In case CPIO has already given a reply to the complainant in the matter, he should furnish a copy of his reply to the complainant **within 1 week** of receipt of this order.*
- c) CPIO should invariably indicate to the complainant the name and the address of the 1<sup>st</sup> Appellate Authority, before whom the appellant can file first appeal, if any.*

*ii) **Directions to Petitioner:***

- a) If the complainant is aggrieved with the reply received from CPIO, he, under section 19(1) of the RTI Act, may within the time prescribed file his first appeal before the 1<sup>st</sup> AA, who would dispose of the appeal under the relevant provisions of RTI Act.*
- b) If the complainant is still aggrieved with the decision of AA, he may approach the Commission in 2<sup>nd</sup> appeal under section 19(3) along with the complaint u/s 18, if any, within the prescribed time limit.*

*iii) Directions to AA : On receipt of the 1<sup>st</sup> appeal from the petitioner as per the above directions, AA should dispose of the appeal within the period stipulated in the RTI Act."*

10. The appeal filed by the respondent on 25.07.2011 was heard by the CIC, subsequently, on 20.10.2011. During the course of hearing, the officials from the RDSO, Lucknow, produced a copy of the reply dated 01.04.2011 which indicated that information relating to point 3 had been furnished. It was also submitted that the other queries pertained to the Railway Board. Therefore, by an order dated 20.10.2011, the CIC disposed of the appeal and directed petitioner no.2 to provide information to the respondent on the remaining queries.

11. Thereafter, the respondent again filed a complaint (being No.CIC/AD/C/2012/000379) with the CIC on 01.12.2011 alleging that the order of CIC dated 20.10.2011 had not been complied with. The CIC disposed of the said complaint, by an order dated 29.03.2012, directing petitioner no.2 to obtain information from the concerned departments and provide the same to the respondent.

12. On 13.06.2012, the respondent filed another complaint with the CIC and followed it up with a reminder dated 20.08.2012, alleging that the orders of CIC had not been complied with by petitioner no.2. It is in context of the aforesaid facts, that the CIC passed the impugned order dated 11.03.2013, once again directing petitioner no.2 to provide the information sought for by the respondent and also imposed a penalty of ₹25,000/-. By an order dated 04.04.2014, the petition seeking review of the order dated

11.03.2013 was rejected by the CIC holding that the CIC does not have any power to review its decision.

13. In the given facts, it is apparent that the CIC's finding that petitioner no.2 had failed to provide the necessary information and comply with the earlier orders is clearly warranted.

14. It is also not contended by the petitioner that the information sought for by the respondent was provided to him within the prescribed time. The contention that petitioner no. 2 had forwarded the queries of the respondent to other officials and by virtue of Section 6(3) of the Act was required to do no more, has to be considered by referring to Section 6(3) of the Act. The same is reproduced below:-

***"6. Request for obtaining information.—***

xxxx            xxxx            xxxx            xxxx            xxxx

*(3) Where an application is made to a public authority requesting for an information,—*

- (i) which is held by another public authority; or*
- (ii) the subject matter of which is more closely connected with the functions of another public authority,*

*the public authority, to which such application is made, shall transfer the application or such part of it as may be appropriate to that other public authority and inform the applicant immediately about such transfer:*

*Provided that the transfer of an application pursuant to this sub-section shall be made as soon as practicable but in no case later than five days from the date of receipt of the application."*

15. The plain language of Section 6(3) of the Act indicates that the public authority would transfer the application or such part of it to another

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public authority where the information sought is more closely connected with the functions of the other authority. The reliance placed by the learned counsel for the petitioner on the provisions of Section 6(3) of the Act is clearly misplaced in the facts and circumstances of the case. This is not a case where penalty has been imposed with respect to queries which have been referred to another public authority, but with respect to queries that were to be addressed by the public authority of which petitioner no. 2 is a Public Information Officer. Section 6(3) of the Act cannot be read to mean that the responsibility of a CPIO is only limited to forwarding the applications to different departments/offices. Forwarding an application by a public authority to another public authority is not the same as a Public Information Officer of a public authority arranging or sourcing information from within its own organisation. In the present case, undisputedly, certain information which was not provided to respondent would be available with the Railway Board and the CPIO was required to furnish the same. He cannot escape his responsibility to provide the information by simply stating that the queries were forwarded to other officials. Undeniably, the directions of CIC were not complied with.

16. In the given circumstances, the petition is without merit and is dismissed. CM No.14799/2014 is also dismissed. There shall be no order as to costs.

**VIBHU BAKHRU, J**

**SEPTEMBER 12, 2014**  
**RK**

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No.10/23/2007-IR  
Government of India  
Ministry of Personnel, Public Grievances and Pensions  
Department of Personnel and Training  
\*\*\*\*\*

New Delhi, the 9<sup>th</sup> July, 2007

### OFFICE MEMORANDUM

Subject: Disposal of first appeals under the RTI Act, 2005.

The undersigned is directed to say that the Central Information Commission has brought to the notice of this Department that in some cases,

- (i) The first Appellate Authorities under the Right to Information Act do not dispose off the appeals within the time frame prescribed by the Act;
- (ii) The Appellate Authorities do not examine the appeals judiciously and express their agreement with the decision of the Central Public Information Officer mechanically;
- (iii) The Central Public Information Officers do not comply with the directions of the first Appellate Authority to furnish information to the appellant.

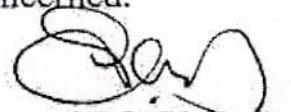
2. Section 19(6) of the RTI Act provides that the first Appellate Authority should dispose off the appeal within thirty days of the receipt of the appeal. In exceptional cases, the appellate authority may take forty five days to dispose off the appeal subject to the condition that he shall record in writing the reasons for delay in deciding the appeal. Therefore, each first appellate authority should ensure that an appeal received by him is disposed off within 30 days of the receipt of the appeal. If, in some exceptional cases, it is not possible to dispose off the appeal within 30 days, its disposal should not take more than 45 days. In such cases, the appellate authority should record, in writing, the reasons for not deciding the appeal within 30 days.

3. Deciding appeals under the RTI Act is a quasi-judicial function. It is, therefore, necessary that the appellate authority should see to it that the justice is not only done but it should also appear to have been done. In order to do so, the order passed by the appellate authority should be a speaking order giving justification for the decision arrived at.

4. If an appellate authority comes to a conclusion that the appellant should be supplied information in addition to what has been supplied to him by the CPIO, he may either (i) pass an order directing the CPIO to give such information to the appellant; or (ii) he himself may give information to the appellant while disposing off the appeal. In the first case the appellate authority should ensure that the information ordered by him to be supplied is supplied to the appellant immediately. It would, however, be better if the appellate authority chooses the second course of action and he himself furnishes the information alongwith the order passed by him in the matter.

5. The Central Information Commission has also pointed out that some of the Ministries/Departments have appointed very junior officers as appellate authorities who are not in a position to enforce their orders. The Act provides that the first appellate authority would be an officer senior in rank to the CPIO. Thus, the appellate authority, as per provisions of the Act, would be an officer in a commanding position vis-à-vis the CPIO. Nevertheless, if, in any case, the CPIO does not implement the order passed by the appellate authority and the appellate authority feels that intervention of higher authority is required to get his order implemented, he should bring the matter to the notice of the officer in the public authority competent to take against the CPIO. Such competent officer shall take necessary action so as to ensure implementation of the provisions of the RTI Act.

6. Contents of this OM may be brought to the notice of all concerned.

  
(K.G. Verma)  
Director

To

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. Staff Selection Commission, CGO Complex, New Delhi
4. Office of the Comptroller & Auditor General of India, 10, Bahadur Shah Zafar Marg, New Delhi.
5. All officers/Desks/Sections, Department of Personnel & Training and Department of Pension & Pensioners Welfare.

Copy to: Chief Secretaries of all the States/UTs for information

North Block, New Delhi  
Dated 6<sup>th</sup> October, 2015

Office Memorandum

Subject: Format for giving information to the applicants under RTI Act- issue of guidelines regarding.

It has been observed that different public authorities provide information to RTI applicants in different formats. Though there cannot be a standard format for providing information, the reply should however essentially contain the following information:

- (i) RTI application number, date and date of its receipt in the public authority.
- (ii) The name, designation, official telephone number and email ID of the CPIO.
- (iii) In case the information requested for is denied, detailed reasons for denial quoting the relevant sections of the RTI Act should be clearly mentioned.
- (iv) In case the information pertains to other public authority and the application is transferred under section 6(3) of the RTI Act, details of the public authority to whom the application is transferred should be given.
- (v) In the concluding para of the reply, it should be clearly mentioned that the First Appeal, if any, against the reply of the CPIO may be made to the First Appellate Authority within 30 days of receipt of reply of CPIO.
- (vi) The name, designation, address, official telephone number and e-mail ID of the First Appellate Authority should also be clearly mentioned.

2. In addition, wherever the applicant has requested for 'certified copies' of the documents or records, the CPIO should endorse on the document "True copy of the document/record supplied under RTI Act", sign the document with date, above a seal containing name of the officer, CPIO and name of public authority; as enumerated below:

True copy of the document/record supplied under RTI Act. Sd/- Date (Name of the Officer) CPIO (Name of the Public Authority)
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Further in case the documents to be certified and supplied is large in number, information on RTI application should be supplied by a designated PIO but the certification of the documents, if need be, could be done by an other junior gazetted officer.

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

@Arora  
(G. S. Arora)  
Deputy Secretary (IR)  
Tel.23092755

1. All the Ministries / Departments of the Government of India.

2. Union Public Service Commission /Lok Sabha Secretariat/ Rajya Sabha Secretariat/ Cabinet Secretariat/ Central Vigilance Commission/ President's Secretariat/ Vice President's Secretariat/ Prime Minister's Office/ NITI Ayog/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.

(45)

Copy to: Chief Secretaries of all the States/UTs



~~RTI~~  
80/09/2021  
(46)

Gmail

S. no. 2 (R)

RTI Section <rtisection9@gmail.com>

**Fwd: Supply the desired information immediately in respect of the RTI**

1 message

**Santosh Dubey** <santoshdubey@eci.gov.in>  
To: rtisection9 <rtisection9@gmail.com>

Thu, Sep 30, 2021 at 1:21 AM

**From:** "tckom" <tckom@eci.gov.in>  
**To:** "Santosh Dubey" <santoshdubey@eci.gov.in>  
**Sent:** Thursday, September 30, 2021 10:44:47 AM  
**Subject:** Fwd: Supply the desired information immediately in respect of the RTI

**From:** "k n bhar Principal Secretary" <knbhar@eci.gov.in>  
**To:** "tckom" <tckom@eci.gov.in>  
**Sent:** Wednesday, September 29, 2021 9:55:22 PM  
**Subject:** Fwd: Supply the desired information immediately in respect of the RTI

**From:** govindvishwas@rediffmail.com  
**To:** "k n bhar Principal Secretary" <knbhar@eci.gov.in>  
**Sent:** Wednesday, September 29, 2021 10:05:32 PM  
**Subject:** Supply the desired information immediately in respect of the RTI

**RTI Matter-Urgent**

**From:**  
Amal Biswas,  
S/o Nagendra Nath Vishwas (late)  
No.3, Shaktifarm (Devnagar),  
Shaktifarm Post  
Sitarganj Tehsil,  
Udham SinghNagar- 263 151  
Uttrakhand  
Mobile-80775 63263  
Email- govindvishwas@rediffmail.com

**To:**  
State Public Information Officer,  
O/o the Chief Electoral Officer,  
Uttar Pradesh.

\*\*\*\*\*

Dear CPIO,

**Sub: 1.** Supply the desired information immediately in respect of the RTI  
Application transferred to your office-reg

Ref: Under Secretary-cum-CPIO, Election Commission of India, Nirvachan Sadan, New Delhi RTI Letter No.18666 dated 10.09.2021 (Copy enclosed)

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\*\*\*\*\*

I registered an RTI application on 10.09.2021. The information should have been collected from you and have been supplied to me as per Section 5 (4) of the RTI Act. But, it was inadvertently transferred to you by the Deemed CPIO (copy enclosed) by citing Section 6 (3) ibid. It is pertinent to mention here that Section 6 (3) ibid is applicable only for transfer from one public authority to another; in other words, there is no such a transfer provision within one public authority. In this regard, I have already made the first appeal to Shri.K.N.Bhar, Senior Principal Secretary-cum-FAA, Election Commission of India, Nirvachan Sadan, New Delhi 110 001 through email.

You are hereby requested to supply the requested information in the tabular column immediately.

Thanking you,

Date: 29.09.2021

Yours faithfully,

(Amal Biswas)

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 Enclosure.pdf  
165K



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**SECRETARIAT OF THE  
ELECTION COMMISSION OF INDIA**  
Nirvachan Sadan, Ashoka Road, New Delhi-110001

**RTI No. 18666**

**Dated: 10-09-2021**

To,  
Amal Biswas  
3, Devnagar, Shakthi Farm (Post) , Sitarganj Tehsil, Udham Singh Nagar, UK

Subject:- Right to Information Act, 2005-Regarding.

Dear Sir/Madam,  
You are informed that the requisite information is given below.

**RTI CPIO Response:**

With reference to your RTI application you are informed that information sought by you may be available with office of the Chief Electoral Officer, Uttar Pradesh. Therefore, your application has been transferred to the PIO, O/o the Chief Electoral Officer, Uttar Pradesh, Lucknow under Section 6(3) of the Right to Information Act, 2005. You may contact the PIO of the above mentioned office for obtaining the requisite information.

The details of First Appellate Authority are as under :-

Sh. K N Bhar. .  
Senior Principal Secretary & FAA.  
Election Commission of India.  
Nirvachan Sadan,  
New Delhi - 110001  
Email: knbhar@eci.gov.in

Yours faithfully,  
(P N Lakra)

Printed Dated and Time. 18.09.2021 09:51:35 AM



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**SECRETARIAT OF THE  
ELECTION COMMISSION OF INDIA**  
Nirvachan Sadan, Ashoka Road, New Delhi-110001

**RTI Details**

**Dated: 05.10.2021 12:55 PM**

RTI Registration No.	18666
RTI Registration Date	10.09.2021 22:12:47 PM
Applicant Name	Amal Biswas
Contact No.	8077563263
Email Id	govindvishwas@rediffmail.com
Address	3,Devnagar,ShakthiFarm(Post),SitarganjTehsil,UdhamsinghNagar,UK - 263151
RTI Question	Kindly refer to the enclosed pdf
Document Uploaded by Applicant(if any)	613b8b071def6Amal Voter ID 10.09.2021.pdf

**Assign To**

Assigned By	Varinder Kumar
CPIO Name	P N Lakra
Division	North- III(Uttar Pradesh)
Assign Date	13.09.2021 10:17:48
Remarks	

**Reply To Applicant**

CPIO Name	P N Lakra
Division	North- III(Uttar Pradesh)
Action Type	Transfer to CEO CPIO
Reply Date	15.09.2021 17:46:15
Remarks	With reference to your RTI+ application you are informed that information sought by you may be available with office of the Chief Electoral Officer, Uttar Pradesh. Therefore, your application has been transferred to the PIO, O/o the Chief Electoral Officer, Uttar Pradesh, Lucknow under Section 6(3) of the Right to Information Act, 2005. You may contact the PIO of the above mentioned office for

SECRETARAT OF THE  
ELECTION COMMISSION OF INDIA  
Nirvachan Sadan, Ashoka Road, New Delhi-110001



<u>New Appeal</u>	
<u>RTI History</u>	
RTI Reg No.	18666
RTI Reg Date	10-09-2021
Applicant Name	Amal Biswas
Applicant Mobile No	8077563263
RTI Question	Kindly refer to the enclosed pdf
Document Uploaded by Applicant(if any)	613b8b071def6Amal Voter ID 10.09.2021.pdf
CPIO Details	P N Lakra 9540838554 North- III(Uttar Pradesh)
CPIO Reply	With reference to your RTI application you are informed that information sought by you may be available with office of the Chief Electoral Officer, Uttar Pradesh. Therefore, your application has been transferred to the PIO, O/o the Chief Electoral Officer, Uttar Pradesh, Lucknow under Section 6(3) of the Right to Information Act, 2005. You may contact the PIO of the above mentioned office for obtaining the requisite information.
Document Uploaded by CPIO(if any)	Nil
Action Date-Time	17:46 pm 15-09-2021 IN

# कार्यालय मुख्य निर्वाचन अधिकारी उत्तर प्रदेश।

चतुर्थ तल विकास भवन, जनपथ मार्केट लखनऊ-226001

संख्या-176 RTI(1)/सी0ई0ओ0-4-69/4-2017 लखनऊ: दिनांक 22 सितम्बर, 2021

सेवा में,

जन सूचना अधिकारी/  
कार्यालय मुख्य निर्वाचन अधिकारी,  
उत्तराखण्ड।

विषय-सूचना का अधिकार, अधिनियम 2005 की धारा-6(3) के अन्तर्गत आवेदन पत्र का अन्तरण।

महोदय,

उपरोक्त विषय पर कृपया भारत निर्वाचन आयोग के आर0टी0आई0 पोर्टल के माध्यम से प्राप्त Shri Amal Biswas, 3, Devnagar, Shakthi farm (Post), Sitarganj Tehsil, Udham Singh Ngar, UK के ऑनलाइन आवेदन पत्र संख्या-18666 दिनांक 10.09.2021 (छायाप्रति संलग्न) का सूचना का अधिकार अधिनियम 2005 के अन्तर्गत चाही गयी सूचना का सन्दर्भ ग्रहण करने का कष्ट करें।

2- इस सम्बन्ध में अवगत कराना है कि उपरोक्त आवेदन पत्र दिनांक 10.09.2021 में उल्लिखित प्रश्नगत मतदाता फोटो पहचान पत्र संख्या UP/04/014/279273, 14-खटीमा, विधान सभा निर्वाचन क्षेत्र, उत्तराखण्ड से सम्बन्धित है।

अतः आवेदक द्वारा मांगी गयी सूचना आपके कार्यालय से होने के कारण उपरोक्त आवेदन को सूचना का अधिकार अधिनियम-2005 की धारा 6(3) के अन्तर्गत अन्तरित किया जा रहा है। कृपया आवेदन पत्र में वांछित सूचना आवेदनकर्ता को नियमानुसार उपलब्ध कराने का कष्ट करें।

संलग्नक-यथोक्त।

भवदीया,

(सुनीता सिंह)

सहायक मुख्य निर्वाचन अधिकारी/  
जन सूचना अधिकारी।

संख्या-176 RTI(1)/सीईओ-4 तददिनांक-

प्रतिलिपि निम्नलिखित को सूचनार्थ एवं आवश्यक कार्यवाही हेतु प्रेषित:-

1. सचिव, भारत निर्वाचन आयोग, निर्वाचन सदन, अशोक मार्ग, नई दिल्ली को सादर सूचनार्थ प्रेषित।
2. Shri Amal Biswas, No.-3, Devnagar, Shakthi farm (Post), Sitarganj Tehsil, Udham Singh Ngar, UK को उनके आवेदन पत्र दिनांक 10.09.2021 के संदर्भ में इस आशय से प्रेषित है कि कृपया वांछित सूचनाएँ उपरोक्त अधिकारी से सम्पर्क/पत्र व्यवहार कर प्राप्त करने का कष्ट करें।

(सुनीता सिंह)

सहायक मुख्य निर्वाचन अधिकारी/  
जन सूचना अधिकारी।