


MOST URGENT
CIC REFERENCE

GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF DELHI
(LABOUR DEPARTMENT)
5-SHAM NATH MARG, DELHI-54

CIRCULAR

Please find enclose herewith a copy of office order no. 2073-2139/c dated 31/3/2010 enclosing a copy of Decision No. CIC/SG/2010/000061/7021 dt. 4/3/2010 and letter No. F.13/1/09-AR/2576-2700 dt. 22/4/2010 enclosing a copy of D.O. letter dated 31st March, 2010 of Shri Shailesh Gandhi, Information Commissioner, Central Information Commission, addressed to the Chief Secretary, Delhi wherein directions have been given for correct application of Section 5(4) and 5(5) of RTI Act, 2005 by the Public Information Officers, designated under RTI Act, 2005 received from Secretary (AR) with the request to take necessary action on the directions given in office order dated 31/3/2010 and 22/4/2010. Further, action taken report may be sent directly to Secretary (AR) Administrative Reforms department under intimation to the undersigned.

Encl: As above



(BIJANDRA SINGH)
SPIO (HQ)

No.F.31/616/LC/Estt./Monthly report/2009/ 635

dated: 07/5/10

Copy forwarded to:

- 1 PS to Labour Commissioner, 5, Sham Nath Marg, Delhi 110054, for information.
- 2 PA to Joint Labour Commissioner(Admn.), 5, Sham Nath Marg, Delhi 110054, for information.
- 3 Joint Labour Commissioner – II, 5, Sham Nath Marg, Delhi 110054, for information.
- ✓ 4 Asstt. Programmer of Planning branch, Labour Deptt., 5, Sham Nath Marg, Delhi 110054 - with the direction to upload the above circular on the website of the department.
- 5 All DLCs/Branch Incharges of Labour Deptt. GNCT of Delhi with the request to comply with the above referred orders (Copy enclosed).
- 6 All SPIOs/ASPIOs of Labour Deptt., with the directions to comply with the instructions given in the above mentioned orders (Copy enclosed).
- 7 Administrative Reforms Deptt. Govt. of NCT of Delhi 7th Level, C Wing, Delhi Sectt. New Delhi 110002-with reference to your above referred office order under reference.


(BIJANDRA SINGH)
SPIO (HQ)

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6/4/10
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GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF DELHI
ADMINISTRATIVE REFORMS DEPARTMENT
7th LEVEL, C WING, DELHI SECRETARIAT, NEW DELHI - 110002.

No. F.13/1/09-AR/ 2073-2139/C

Dated: 31.3.10

OFFICE ORDER

The Central Information Commission, on a complaint under RTI Act, 2005 has directed the Public Information Officer of Home Department to evolve a more citizen friendly system so that the PIO gets information about the additional fees paid by the applicants. The copy of Decision No. CIC/SG/C/2010/ 000061/ 7021, dated 04.3.2010 is enclosed.

2. It has been decided that the Cashier (GAD) will continue to collect the prescribed application fee / additional fees (as calculated by the concerned PIO) against proper receipt, from the applicants under RTI Act, 2005 in respect of Departments attached with GAD and DDO (GAD) will inform the concerned Public Information Officer about its receipt, on the same day, in writing. In respect of the Departments not attached with GAD, the Cashier / DDO of the concerned Department will receive the prescribed fees / additional fees against proper receipt and inform the Public Information Officer about its receipt on the same day, in writing. The original receipts should invariably be handed over to the applicants and it may also be ensured that they are not put to any undue burden while depositing fees / additional fees under RTI Act, 2005.

3. Further, it is reiterated that the responsibility of a public authority and its Public Information Officers is not confined to furnish information, but also to provide necessary help to the information seeker, wherever necessary. While providing information or rendering help to a person, it is important to be courteous to the information seeker and to respect his / her dignity.

4. These instructions may be followed in letter and spirit. The DDO / Accounts Officer (GAD) may ensure compliance of these instructions in respect of Departments attached with GAD. For Departments not attached with GAD, the respective DDOs may ensure compliance.

5. It may please be noted that non-compliance of these instructions may attract penalty from Central Information Commission.

Arvind Ray
(ARVIND RAY)
SECRETARY (AR/ GAD)
Tel. No. 23392240

- Please send one photocopy to
AO for compliance 7/4
ASPI/HR
1. All PIOs of Departments located in Delhi Secretariat
 2. Accounts Officer (GAD) / DDO
 3. DDOs of Departments, not attached with GAD

No. F.13/1/09-AR/ 2073-2139/C
Copy for information to:-

Dated: 31.3.10

1. All Principal Secretaries / Secretaries of Departments in Delhi Sectt.
2. Principal Secretary to Hon'ble Chief Minister, Delhi.
3. Secretaries to Hon'ble Ministers.
4. OSD to Chief Secretary.

Arvind Ray
(ARVIND RAY)
SECRETARY (AR/GAD)

36/c (17)
1284/c

CENTRAL INFORMATION COMMISSION
Club Building, Opposite Ber Sarai Market,
Old JNU Campus, New Delhi - 110067.
Tel: +91-11-26161796

Decision No. CIC/SG/C/2010/000061/7021
Complaint No. CIC/SG/C/2010/000061

Complainant

: Ms. S.Shobhana
House No.11A/13, First Floor
West Ext.Area, Karol Bagh
New Delhi-110005

Respondent

: Mr. Mukul Koranga
PIO & Deputy Secretary (Home)
GNCTD, Home III Department
5th Level, C Wing, Delhi Secretariat
I.P.Estate, New Delhi-110002

RTI application filed on	:	27/10/2009
PIO replied	:	20/11/2009
Complaint filed on	:	26/11/2009
Date of Notice of Hearing	:	01/02/2010
Hearing held on	:	04/03/2010

178/H III
5/3/2010

Information sought:

The Complainant had sought inspection of the files and subsequent photocopies of documents to be identified during the inspection of the tentative and finalized seniority lists of Senior Scientific Assistant (Biology) of Forensic Science Laboratory issued by the Home-III department of Government of National Capital Territory of Delhi.

Reply of PIO:

The Complainant was requested to visit the office of the Deputy Secretary on any working day within 10 days from the date of issue of the PIO's reply for inspection of concerned files and to procure copies of desired documents against the payment of Rs.2/-per page.

Grounds for First Appeal:

No first Appeal filed.

Grounds for Complaint:

The Complainant has alleged misbehavior and harassment by the department. The Complainant has stated that the PIO has made 'highly condemnable' and 'offensive remarks' at her while she visited the Home III Department office to inspect the file. Further stating that she identified sixty one pages for photocopying. She deposited Rs. 122/- with the Accounts Officer of the General Administration Department and she was given a receipt in her name. The PIO then took the receipt and the copy of the RTI Application which he had marked to the Accounts Officer from the Complainant and filed it in the RTI file. She has alleged in her Complaint to the Commission that on being asked for her original receipt back, the PIO refused to return the receipt and his subordinate drew a long and thick line across the receipt and wrote that it was issued against ID No. 21. He then returned the tampered receipt to the Complainant.

S.Shobh
5/3

DA

187/c

Relevant Facts emerging during Hearing:

The following were present:

Complainant: Ms. S.Shobhana;

Respondent: Mr. Mukul Koranga, PIO & Deputy Secretary (Home); Mr. Vineet Kumar, OSD;

The Appellant had paid money at the cash counter and Mr. Mukul Koranga states that the practice in the home department is that there is no way for the PIO to know that the money has been paid. Hence the practice has been to take the cash receipt paid as additional fee from the Appellant keep it physically with the Department. The Appellant is expected to physically take the cash receipt and show it to the PIO and deposit the original receipt or a photocopy. Also the receipt as issued tries to conserve the energy of the cahier since it does not mention the detail of the RTI application for which the additional fee has been paid.

It is unfortunate that the department expects the citizen to physically deposit the cash receipt or a photocopy with the PIO. Once a citizen paid the money it is department's responsibility to find the way of communicating this to the PIO. This can be done by either a duplicate receipt being sent to the PIO mentioning the details of the payment and the RTI application or - if the department wants to conserve paper and energy, - simple email could do the job. In the instant case the PIO crossed the receipt and put down the ID number since the appellant rightly wanted the original receipt with herself. It appears that the Department has no proper method of ensuring that the PIO knows that the additional fee has been paid by a RTI applicant. The Commission under the powers given to it under Section 25(5) recommends to the public authority it should evolved an appropriate system for the PIO to be informed about the additional fees without shifting this burden on the RTI applicants.

Decision:

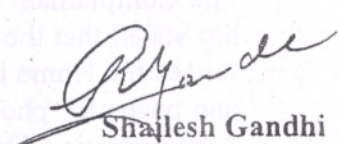
The Complaint is allowed.

The PIO is directed to ensure that a more citizen friendly system is evolved so that the PIO gets information about the additional fees paid by the Applicants. A report will be sent to the Commission and the Complainant about action taken on this recommendation before 15 April 2010.

This decision is announced in open chamber.

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

Any information in compliance with this Order will be provided free of cost as per Section 7(6) of RTI Act.


Shailesh Gandhi
Information Commissioner

04 March 2010

(In any correspondence on this decision, mention the complete decision number.) (SP)



38/c

GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF DELHI
ADMINISTRATIVE REFORMS DEPARTMENT
7TH LEVEL, C-WING, DELHI SECRETARIAT, NEW DELHI - 2.

<http://ar.delhigovt.nic.in>

No.F.13/1/09-AR/ 2576- 2700/c

Dated: 22/4/10

To

All Principal Secretaries / Secretaries / HODs of GNCTD

All Heads of Local Bodies / Autonomous Bodies / Undertakings / PSUs /
Local Bodies under Govt. of Delhi.

Sub: Correct application of Section 5(4) and 5(5) of RTI Act, 2005.

Sir / Madam,

Please find enclosed a copy of D.O. letter dated 31st March, 2010 of Shri Shailesh Gandhi, Information Commissioner, Central Information Commission, addressed to the Chief Secretary, Delhi wherein directions have been given for correct application of Section 5(4) and 5(5) of RTI Act, 2005 by the Public Information Officers, designated under RTI Act, 2005.

The guidelines are brought as under:-

"The RTI Act in Section 5(4) allows the designated CPIO (or SPIO) to seek assistance from any other officer to discharge his duties under the Act - i.e. to provide information. Section 5(4) provides-

Section 5(4) - 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.

Section 5(5) - Any officer, whose assistance has been sought under sub-section (4) shall render all assistance to the Central Public Information Officer or State Public Information Officer, as the case may be, seeking his or her assistance and for the purposes of any contravention of the provisions of this Act, such other officer shall be treated as Central Public Information Officer or State Public Information Officer, as the case may be.

From Section 5(4), it is clear that the power to seek assistance has been given only to the CPIO (or SPIO). Therefore, he/she is the person who would have to decide who is the appropriate officer to respond to the RTI application and provide the information. The person from whom the assistance is sought - the 'second person' - becomes the CPIO (or SPIO) only for the purposes of contravention of the provisions of the act - i.e. Section 20. Section 5(5) considers the second person as the CPIO only for the purpose of Section 20 and not for the

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purpose of Section 5(4). Therefore, the second person does not have the power to seek assistance from any one else. Even if he/she did seek assistance, he would be the person responsible to provide the information on time and would be liable for penalty in case he/she does not give the information within the stipulated time. If the CPIO (or SPIO) has wrongly identified the second person and the second person is not the custodian or the record, it is the responsibility of the second person to return the RTI application to the CPIO (or SPIO).

In view of the current position of law, as stated above, cases in which correct information has not been provided on time, the Information Commissioner, Central Information Commission will be initiating penalty proceedings either against the CPIO (or SPIO) or the 'second person' – as defined above. The Information Commissioner will not accept any explanation in which the responsibility is passed on to other persons by the 'second person'. If there is any clarification required on this issue, you may approach the office of Shri Shailesh Gandhi, Information Commissioner, Central Information Commission, who will look forward to your continued cooperation in implementing the RTI Act in its letter and spirit."

You are, therefore, requested to direct all the Public Information Officers in your Department / organization and ensure strict compliance by all the designated officers under RTI Act, 2005.

Non-compliance of these instructions may attract heavy penalty.

Yours faithfully,

Encl: As above.

Arvind Ray

(ARVIND RAY)
SECRETARY (AR)

Tel: 23392240

Dated: 22/4/10

No.F.13/1/09-AR/2576 - 2700/C
Copy for information to:-

1. Principal Secretary to Lt. Governor, Delhi.
2. Principal Secretary to Chief Minister, Delhi.
3. Secretaries to all Ministers, Govt. of Delhi.
4. OSD to Chief Secretary, Delhi.
5. Shri Dharendra Kumar, Under Secretary and Deputy Registrar, Office of Shri Shailesh Gandhi, Information Commissioner, Club Building, Opposite Ber Sarai Market, Old JNU Campus, New Delhi – 110067.

Arvind Ray

(ARVIND RAY)
SECRETARY (AR)

शैलेश गांधी
सूचना आयुक्त
shailesh gandhi
Information Commissioner

Office of the Chief Secretary
Govt. of NCT of Delhi

06 APR 2010



सत्यमेव जयते

केन्द्रीय सूचना आयोग
क्लब बिल्डिंग (बेर सराय मार्केट के सामने)
पुराना जे. एन. यू. कैम्पस, नई दिल्ली-110067
CENTRAL INFORMATION COMMISSION
CLUB BUILDING (OPPOSITE BER SARAI MARKET)
OLD J. N. U. CAMPUS, NEW DELHI-110067

31 March 2010

To
Mr. Rakesh Mehta
Chief Secretary
Govt. of National Capital Territory
Delhi Sachivalaya, Delhi 110002

GAD/10/1152/

Sub: Correct application of Section 5(4) and 5(5) of the RTI Act

Dear Mr. Mehta

While hearing Appeals and Complaints relating to Right to Information (RTI) Applications filed with the Government of NCT Delhi, I have across several cases in which officers of various departments of the GNCTD are wrongly applying Section 5(4) and Section 5(5) of the RTI Act. I feel it is appropriate to bring this to your notice, so that you may take appropriate steps to ensure that officers of all departments of the GNCTD are made aware of the correct application of these provisions.

The RTI Act in Section 5(4) allows the designated CPIO to seek assistance from any other officer to discharge his duties under the Act- i.e. to provide information. Section 5(4) provides-

Section 5(4)- 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.

Section 5(5) provides-

Section 5(5)- Any officer, whose assistance has been sought under sub-section (4), shall render all assistance to the Central Public Information Officer, or State Public Information Officer, as the case may be, seeking his or her assistance and for the purposes of any contravention of the provisions of this Act, such other officer shall be treated as a Central Public Information Officer or State Public Information Officer, as the case may be.

From Section 5(4) it is clear that the power to seek assistance has been given only to the CPIO (or SPIO). Therefore, he is the person who would have to decide who is the appropriate officer to respond to the RTI Application and provide the information. The person from whom the assistance is sought - the 'second person'- becomes the CPIO only for the purposes of contravention of the provisions of the Act - i.e. Section 20. Section 5(5) considers the second person as the CPIO only for the purpose of Section 20 and not for the purpose of Section 5(4). Therefore, the second person does not have the power to seek

TEL : 91-11-26161796

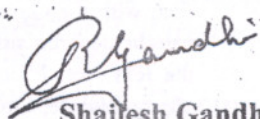
FAX : 91-11-26162662

e-mail: shaileshgandhi@nic.in

Website: <http://www.cic.gov.in>

assistance from anyone else. Even if he did seek assistance, he would be the person responsible to provide the information on time and would be liable for penalty in case he does not give the information within the stipulated time. If the CPIO has wrongly identified the second person and the second person is not the custodian of the record, it is the responsibility of the second person to return the RTI Application to the CPIO.

In view of the current position of law, as stated above, cases in which correct information has not been provided on time, I will be initiating penalty proceedings either against the CPIO or the 'second person' – as defined above. I will not accept any explanation in which the responsibility is passed on to other persons by the 'second person'. If there is any clarification required on this issue, you may approach my office. I look forward to your continued cooperation in implementing the RTI Act in its letter and spirit.



Shailesh Gandhi

Information Commissioner

