



RIGHT TO  
INFORMATION

GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF DELHI  
ADMINISTRATIVE REFORMS DEPARTMENT  
7<sup>TH</sup> LEVEL, C-WING, DELHI SECRETARIAT, I.P. ESTATE, NEW DELHI-02

No. F.13/06/2011-AR/11047-11207/C

Dated: 10/10/2011  
13/10/2011

To

All Principal Secretaries/Secretaries/HODs of Departments under GNCT of Delhi

All Heads of Local Bodies/Autonomous Bodies/Institutions/Organisations under Govt. of NCT of Delhi.

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

Sir/Madam,

I am directed to forward the copy of Office Memorandum No. 1/18/2011-IR dated 16<sup>th</sup> September 2011 issued by the Ministry of Personnel, Public Grievances & Pensions, Department of Personnel & Training, Government of India on the subject mentioned above, vide which it has been stated that the Public Information Officer is not supposed to create information; or to interpret information; or to solve the problems raised by the applicants; or to furnish replies to hypothetical questions. The relevant part of the judgement is being quoted below:

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

All the Heads of Public Authority are requested that the contents of O.M. as issued by DoPT may kindly be brought to the notice of all concerned.

Yours faithfully,

Encls. As above.

  
(SEEMA BAWA)  
DEPUTY DIRECTOR (AR)  
Tel: 011-23392422

No. F.13/06/2011-AR/11047-11207/C

Dated: 10/10/2011

Copy for information to:-

1. The Director, Ministry of Personnel, Public Grievances and Pensions, Department of Personnel and Training, Government of India, North Block, New Delhi-110001 w.r.t. letter No. F.1/18/2011-IR dated 16<sup>th</sup> September 2011 downloaded from the DoPT website. It is requested that copies of O&M and other circulars on the subject of RTI may kindly be sent to this office also for reference and guidance.

  
(SEEMA BAWA)  
DEPUTY DIRECTOR (AR)  
Tel: 011-23392422

No.1/18/2011-IR  
Government of India  
Ministry of Personnel, Public Grievances & Pensions  
Department of Personnel & Training  
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North Block, New Delhi  
Dated: the 16<sup>th</sup> September, 2011

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

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

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

furnish any 'opinion' or 'advice' to an applicant. The reference to 'opinion' or 'advice' in the definition of 'information' in section 2(f) of the Act, only refers to such material available in the records of the public authority. Many public authorities have, as a public relation exercise, provide advice, guidance and opinion to the citizens. But that is purely voluntary and should not be confused with any obligation under the RTI Act."

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



(K.G. Verma)

Joint Secretary(RTI)

Tel: 23092158

1. All the Ministries / Departments of the Government of India
2. Union Public Service Commission/Lok Sabha Sectt./Rajya Sabha Secretariat/ Cabinet Secretariat/ Central Vigilance Commission/ President's Secretariat/ Vice-President's Secretariat/ Prime Minister's Office/ Planning Commission/Election Commission.