

**RTI Matter/Top Priority/Most Urgent**



**JAWAHARLAL INSTITUTE OF POSTGRADUATE MEDICAL EDUCATION AND  
RESEARCH, PUDUCHERRY - 605 006.  
An Institution of National Importance  
(Under Ministry of Health & Family Welfare, Government of India)**



No. JIP/CAPIO/RTI/CIR./2019-20

Date: 21 NOV 2019

**CIRCULAR**

The Ministry of Health and Family Welfare, New Delhi vide file No. Z-17025/134/2019-INI-II dated 24/10/2019 forwarded the decision of the Hon'ble Information Commissioner, Central Information Commission(CIC), New Delhi dated 03/10/2019 to streamline the process of dealing with RTI applications strictly in accordance with provisions of the RTI Act, 2005.

Therefore, all the CPIOs in JIPMER are requested to kindly comply with the direction of the Central Information Commission(CIC) in true spirit.

This is issued with approval of the Director. JIPMER.

*H*  
24.11.19

**HAWA SINGH**

**Administrative Officer and Nodal Officer (RTI)  
JIPMER.**

Encls : As above

To :

All the Central Public Information Officers (CPIOs), JIPMER

Copy to :

1. All the First Appellate Authorities - Administrative Matters/Hospital Matters/ Academic Matters/ Purchase Matters/ Finance Matters.
2. The Under Secretary  
Ministry of Health and Family Welfare - INI-II  
Nirman Bhawan, New Delhi.
3. The IT Wing, JIPMER - Request to upload the same in the JIPMER website.

File No.Z-17025/134/2019-INI-II

491-1  
30/10/19

Z-17025/134/2019-INI-II  
Government of India  
Ministry of Health & Family Welfare  
Department of Health & Family Welfare

निर्माण भवन, नई दिल्ली  
Nirman Bhawan, New Delhi,  
Dated 24 October, 2019

To

1. Shri Rajneesh Anand, Nodal CPIO,  
PGIMER, Chandigarh- 160012
2. ✓ Shri Hawa Singh, Nodal CPIO,  
JIPMER, Puducherry- 605006

**Subject:** Directions of the Central Information Commission(CIC) in the RTI matter-  
Shri Mahendra Kumar Vs. CPIO, AIIMS Bhubaneswar- reg.

Sir,

I am directed to forward herewith a copy of O.M. No. A.60011/133/2019/FTS-8032701 dated 15.10.2019 received from RTI Cell, MoHFW along with a CIC decision No.CIC/AIIMS/C/2018/117198-BJ dated 03.10.2019 on the subject mentioned above which is self-explanatory, for information and necessary compliance.

Yours faithfully,

Digitally signed by SUNIL KUMAR  
GUPTA  
Date:Thu Oct 24 15:55:14 IST 2019  
Reason:Approved

(Sunil Kumar Gupta)  
Under Secretary to the Govt. of India/ CPIO  
Tel: 23061986

Encl. As above.

RTI cell  
PD sent mp  
1.10.19

File No.A.60011/133/2019-RTI

File No.A.60011/133/2019/FTS.6032701  
Government of India  
Ministry of Health & Family Welfare  
Department of Health & Family Welfare  
(RTI Cell)  
\*\*\*\*

Nirman Bhawan, New Delhi-110011  
Dated,15th of October 2019

**OFFICE MEMORANDUM**

Subject:- Directions of the Central Information Commission (CIC) in the RTI matter -- Shri Mahendra Kumar Vs CPIO, AIIMS, Bhubaneswar.

The undersigned is directed to forward herewith CIC decision No. CIC/AIIMS/C/2018/117198-BJ, dated 03/10/2019 in the RTI matter between Shri Mahendra Kumar Sahoo, the RTI applicant and the CPIO & Administrative Officer, All India Institute of Medical Sciences, Bhubaneswar, received in this Ministry on 10/10/2019.

2 In its decision, the Commission has passed directions to the Secretary, Ministry of Health & FW, New Delhi to streamline the process of dealing with RTI applications strictly in accordance with the provisions of the Act. The direction of the commission is meant for CPIOs of this Ministry and Autonomous Organizations/Subordinate Offices under this Ministry

3 All CPIOs (including CPIOs dealing with Autonomous Organizations/PSUs) are requested to kindly comply with the directions of the Commission.

(Ashish V Gawai)  
Deputy Secretary to the Govt of India  
Tel. No.011-23062292  
av.gawai@nic.in

All CPIOs under Ministry of Health & Family Welfare, Nirman Bhawan, New Delhi. They are also requested to circulate the directions of the CIC among all the attached/subordinate/autonomous organizations under their control.

Sh. Sumit  
18/10/19

18/10/19  
Secy (HFW) / L-1 (HFW)

File No. A 5001/1/2019-RT.

Copy to

(i) Mrs Sunita Bhatia, Section Officer, Directorate General of Health Services, Nirman Bhawan, New Delhi. A copy of the above decision of the Commission is forwarded herewith for taking necessary action.

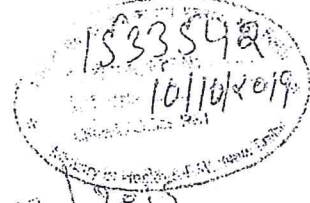
(ii) Shri K.L.Das, Deputy Registrar, Central Information Commission Baba Gang Nath Marg, Munirka New Delhi - 110067 for information.

Digitally signed by ASHISH V GAWAI

Date: Tue Oct 15 15:17:18 IST 2019

Reason: Approved

केन्द्रीय सूचना आयोग  
Central Information Commission  
बाबा गंगनाथ मार्ग, मुनिरका  
Baba Gangnath Marg, Munirka  
नई दिल्ली, New Delhi - 110067



शिकायत संख्या / Complaint No.:- CIC/AIIMS/C/2018/117198-B1

Mr. Mahendra Kumar Sahoo  
A - 25, Sidhi Vihar, Jagamara  
Khandagiri, Bhubaneswar - 751030  
Odisha

A-6001/133  
C 9032/01

... शिकायतकर्ता /Complainant

VERSUS  
बनाम

CPIO & Administrative Officer  
All India Institute of Medical Sciences  
Sijua, Patrapada, Bhubaneswar - 751019

...प्रतिवादीगण /Respondent

Date of Hearing : 01.10.2019  
Date of Decision : 03.10.2019

Date of filing of RTI application	30.12.2017
CPIO's response	Not on Record
Date of filing the First appeal	03.02.2018
First Appellate Authority's response	Not on Record
Date of diarised receipt of Complaint by the Commission	16.03.2018

ORDER

**FACTS:**

The Complainant vide his RTI application sought information on 12 points regarding the date when the AIIMS, Bhubaneswar will be officially declared as a full fledged AIIMS like AIIMS Delhi, present sanction for the post of Professor, Addl. Professors and Associate Professors in various Departments and issues related thereto.

Dissatisfied due to non - receipt of any response from the CPIO, the Complainant approached the FAA. The reply of the CPIO/ order of the FAA, if any, is not on the record of the Commission.

RTI Cell

**HEARING:**

Facts emerging during the hearing:

The following were present:

Complainant: Mr. Mahendra Kumar Sahoo (M: 08984287503) through VC;  
Respondent: Mr. Nishakar Sahoo, AAO & CPIO (M: 09438884296) and Mr. S. K. Pani, Sr. AO (M: 09810115874 / Office, No. 0674 2476255) through VC;

The Complainant reiterated the contents of the RTI application and stated that the information sought by him had been received only after issuance of notice of hearing from the Commission. He remarked that "justice delayed is justice denied". In its reply, the Respondent present at the hearing expressed his unconditional apology to the delay in providing information and attributed it to shortage of staff, poor infrastructure and other logistical handicaps. He, however, assured that in future they would attend to the RTI applications within a time bound manner. The Commission was in receipt of a written submission from the Respondent dated 23.09.2019 wherein a copy of the point wise reply provided to the Complainant dated 23.09.2019 was enclosed.

Having heard both the parties and on perusal of the available records, the Commission at the outset was appalled to learn about the callous and casual approach exhibited by the Respondent Public Authority Officials in replying to the RTI application/ First Appeal. The Commission observed that the RTI Act, 2005 stipulates time limits in its various provisions relating to responding to RTI Applications, transfer of applications, filing and disposing of first appeal to ensure that a culture of information dissemination is strengthened so that a robust functioning of the democracy gets established. This was recognised by the Hon'ble High Court of Delhi in *Mujibur Rehman vs Central Information Commission (W.P. (C) 3845/2007*) (Dated 28 April, 2009) wherein it was held as under:

*"14.....The court cannot be unmindful of the circumstances under which the Act was framed, and brought into force. It seeks to foster an "openness culture" among state agencies, and a wider section of "public authorities" whose actions have a significant or lasting impact on the people and their lives. Information seekers are to be furnished what they ask for, unless the Act prohibits disclosure; they are not to be driven away through sheer inaction or filibustering tactics of the public authorities or their officers. It is to ensure these ends that time limits have been prescribed, in absolute terms, as well as penalty provisions. These are meant to ensure a culture of information disclosure so necessary for a robust and functioning democracy."*

With regard to providing a clear and cogent response to the Appellant, the Commission referred to the decision of the Hon'ble Delhi High Court in *J P Aggarwal v. Union of India (WP (C) no. 7232/2009* wherein it was held that:

*"7"it is the PIO to whom the application is submitted and it is who is responsible for ensuring that the information as sought is provided to the applicant within the statutory requirements of the Act. Section 5(4) is simply to strengthen the authority of the PIO within the department; if the PIO finds a default by those from whom he has sought information. The PIO is expected to recommend a remedial action to be taken".  
The RTI Act makes the PIO the pivot for enforcing the implementation of the Act."*

8.....The PIO is expected to apply his / her mind, duly analyse the material before him / her and then either disclose the information sought or give grounds for non-disclosure."

Furthermore, the Hon'ble High Court of Delhi in the matter of R.K. Jain vs Union of India, LPA No. 369/2018, dated 29.08.2018, held as under:

"9..... That apart, the CPIO being custodian of the information or the documents sought for, is primarily responsible under the scheme of the RTI Act to supply the information and in case of default or dereliction on his part, the penal action is to be invoked against him only."

A reference can also be made to the decision of the Hon'ble High Court of Himachal Pradesh in the matter of Block Development Officer, Paonta Sahib vs. State Information Commission and Anr., CWP No. 6072 of 2012 dated 27.06.2018 held as under:

"9. It is vehemently urged by learned counsel for the petitioner that the impugned order suffers from vice of arbitrariness and, therefore, should be quashed and set aside. It was further argued that the petitioner on receipt of the application had transferred it to the concerned authorities and, therefore, there was no lapse on his part. He would also urge that the petitioner did not know the intricacies of the RTI Act and, therefore, he could not have been penalized.

10. I find no merit in the contention put-forth by the petitioner. It is more than settled that ignorance of law can be no excuse. Once the petitioner is designated as PIO, then all the more he is deemed to have knowledge and even otherwise the least that was required of him was to have acquainted himself thoroughly with the provisions of the RTI Act. Therefore, the explanation as sought to be put-forth by the petitioner at this stage clearly reflects the lackadaisical attitude of the petitioner. The only reasonable explanation for the cause of delay can be accepted and not lame excuses."

Moreover, the Commission observed that it should be the endeavour of the CPIO to ensure that maximum assistance should be provided to the RTI applicants to ensure the flow of information. In this context, the Commission referred to the OM No.4/9/2008-IR dated 24.06.2008 issued by the DoP&T on the Subject "Courteous behavior with the persons seeking information under the RTI Act, 2005" wherein it was stated as under:

*"The undersigned is directed to say that the responsibility of a public authority and its public information officers (PIO) is not confined to furnish information but also to provide necessary help to the information seeker, wherever necessary."*

Furthermore, in OM No. 20/10/23/2007-IR dated 09.07.2009, while elaborating on the duties and responsibilities of the FAA, it was stated that:

*"3. Deciding appeals under the RTI Act is a quasi judicial function. It is, therefore, necessary that the appellate authority should see 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.

5.....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 a 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 RTI Act. "

The Commission also observed that the Hon'ble High Court of Delhi in the matter of R.K. Jain v. CIC and Anr. in W.P.(C) 4152/2017 dated 10.10.2017 had held as under on the issue of power of the Commission to impose penalty :

"4. The petitioner's case is that once having rejected the explanation submitted by the CPIO (respondent no.2), the CIC was left with no discretion except to levy a penalty at the rate of ₹250/- per day, subject to maximum of ₹25,000/-. The petitioner contends that the CIC had grossly erred in restricting the penalty to only ₹5,000/- as the delay in providing the information was quantified for 485 days.

5. The question whether the CIC had the discretion to restrict the penalty or whether penalty as provided under Section 20 of the Act is mandatory, is no longer res integra. The said question was considered by a Division Bench of this Court in Anand Bhushan v. R.A. Haritash: ILR (2012) 4 Delhi 657 and the relevant extract of the said decision is set out below....

6. In view of the above, this Court finds no reason to interfere with the discretion exercised by the CIC. The petition is, accordingly, dismissed."

The Commission thus observed that there is complete negligence and laxity in the public authority in dealing with the RTI applications. It is abundantly clear that such matters are being ignored and set aside without application of mind which reflects disrespect towards the RTI Act, 2005 itself. The Commission expressed its displeasure on the casual and callous approach adopted by the respondent in responding to the RTI application. It was felt that the conduct of Respondent was against the spirit of the RTI Act, 2005 which was enacted to ensure greater transparency and effective access to the information.



**DECISION:**


Keeping in view the facts of the case and the submissions made by both the parties and in light of the decisions cited above, the Commission finds that as per the provisions of Section 20(1) of the RTI Act, 2005, this is a fit case for levying a penalty of Rs. 2,000/- on Mr. Nishakar Sahoo, AAO & CPIO for not providing the information to the Complainant within the stipulated time frame despite payment of the requisite fee as admitted by the incumbent CPIO also during the hearing.

The FAA, AIIMS, Bhubaneswar is directed to recover the amount of Rs 2,000/- from the salary of Mr. Nishakar Sahoo, AAO & CPIO on receipt of this order and remit the same by way of Demand draft drawn in favour of "Pay and Accounts Officer, CAT" payable at New Delhi and send the same to Dy. Registrar, (CR-II) email: [dyreger2-cic@gov.in](mailto:dyreger2-cic@gov.in), Room No. 106, First Floor, Central Information Commission, CIC Bhavan, Baba Gangnath Marg, Munirka, New Delhi-110067 within 30 days from the date of receipt of this order.

The Commission further instructs the Respondent to convene periodic conferences/seminars to sensitize, familiarize and educate the concerned officials about the relevant provisions of the RTI Act, 2005 for effective discharge of its duties and responsibilities.

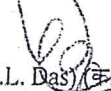
Furthermore, it is appalling to note that the FAA had also not acted in accordance with the provisions of the RTI Act, 2005, and therefore is advised to be alert and cautious in the implementation of the RTI Act, 2005 with due diligence and care.

The Appeal stand disposed with the above directions.

  
(Bimal Julka) (बिमल जुल्का)  
(Information Commissioner) (सूचना आयुक्त)

Authenticated true copy  
(अभिप्रमाणित सत्यापित प्रति)



  
(K.L. Das) (के.एल. दास)  
(Dy. Registrar) (उप-पंजीयक)  
011-26182598/ [kl.das@nic.in](mailto:kl.das@nic.in)  
दिनांक / Date: 03.10.2019

Copy to:

1. The Secretary, Ministry of Health and Family Welfare, 'A' Wing, Nirman Bhawan, New Delhi-110011 (with the direction to streamline the process of dealing with RTI applications strictly in accordance with the provisions of the Act and inform the Commission about the action taken within a period of 30 days from the date of receipt of this order.)
2. Dr. Geetanjali Padmanabhan, Director, AIIMS, Sijua; Patrapada, Bhubaneswar - 751019