

केन्द्रीय सूचना आयोग
Central Information Commission
बाबागंगनाथमार्ग, मुनिरका
Baba Gangnath Marg, Munirka
नईदिल्ली, New Delhi – 110067

द्वितीय अपील संख्या / Second Appeal No. **CIC/MH&FW/A/2020/135477**
CIC/MH&FW/A/2021/104122
CIC/MH&FW/A/2021/104126

Dr.Prakash Agrawal

... अपीलकर्ता/Appellant

VERSUS/बनाम

PIO, Ministry of Health and Family Welfare
Through: Sh. Satyendra Singh

...प्रतिवादीगण /Respondent

PIO, PMO
PIO, MHA

PIO, DGHS – EMR
Through: Dr. Mohit Patralekh

PIO, Ministry of Labour and Employment

Date of Hearing : 02.06.2021

Date of Decision : 03.06.2021

Chief Information Commissioner : Shri Y. K. Sinha

Relevant facts emerging from appeal:

Since both the parties are same, the above mentioned cases are clubbed together for hearing and disposal.

Case No.	RTI Filed on	CPIO reply	First appeal	FAO	2 nd Appeal received on
135477	12.06.2020	26.06.2020 & 02.07.2020	22.08.2020	30.09.2020	13.11.2020
104122	17.09.2020	17.10.2020	03.09.2020	26.11.2020	28.01.2021
104126	17.11.2020	14.12.2020	11.01.2021	18.01.2021	28.01.2021

Information sought and background of the case:

(1) CIC/MH&FW/A/2020/135477

The Appellant filed an online RTI application dated 12.06.2020 seeking information on the following 10 points:-

1. *Copy of WORLD HEALTH ORGANIZATION (WHO) Circular/Notification/Correspondence or any other Documents under which Indian Govt Declared Covid-19 as Pandemic Disease.*
2. *Copy of WHO Suggestions/Recommendation/Correspondence about the implementation of Lockdown & Quarantine Process as a tool for Covid-19 management.*
3. *Copy of Indian Govt Authorities Suggestions/Recommendation about Lockdown strategies under which our Hon'ble PM Declared Lockdown in India as a Covid-19 management tool.*
4. *Copy of the PMO/Indian Govt Order in which Covid-19 declared as Pandemic.*
5. *Copy of WHO, Indian Govt Orders & Researchers reference under which Street Sanitization recommended & seems effective in the prevention of Covid-19 spread.*
6. *Copy of the PMO & Central Govt order under which Covid-19 declared as AIRBORNE Disease & use of Face Mask for Public in outdoor became mandate. Bcoz mask compulsion can create other health & security-related problems.*
7. *Copy of list contain Sum Total of Morbidity & Mortality Data for Covid-19 (Survival & Death Figures Comparison with Population) in all Indian States upto till date.*
8. *Copy of list contains Sum Total of Deaths of Migrant Labour Class & Middle-Class Families due to accidents, suicide, poverty, quarantine process etc. in between lockdown for all Indian States upto till date.*
9. *Copy of list contains sum total of Donations received in PM CARE Fund & sum total of expenditures in various heads upto till date.*
10. *Copy of Pointwise list contain sum total of particular expenses beard by PMO & Central Govt in different heads (including on Test Kits, Equipments, various Mobile Apps, Web-Portal & Media Advertisement etc.) for management of Covid-19 from 01.01.20 to till date.*

The CPIO/Under Secretary, Ministry of Health & Family Welfare, SNA Section vide letter dated 26.06.2020 replied as under:-

2. SNA (IEC) Section is partly related to point No. 10 of your RTI application i.e. awareness campaigns. It is informed that SNA Section deals with publicity / awareness campaigns on various health related subjects including COVID-19 from central/HQ level. SNA Division has been releasing awareness campaigns on COVID-19 to TV, Radio, Newspapers, Social Media etc. As per record available in SNA Section a list of campaigns released recently on the subject is attached in Annexure. The information on publicity campaigns on the subject by other Divisions, Departments, States, UTs etc is not maintained by SNA Section.

The CPIO/Under Secretary (e-Health) Section, MoHFW vide letter 02.07.2020 replied as under:-

1 to 9 – No such information is maintained by this section.

10 - So far no funds released for management of Covid-19 by this Section.

Dissatisfied with the response received from the CPIO, the Appellant filed a First Appeal dated 22.08.2020. The FAA/ Director (I.H) vide order dated 30.09.2020 stated as under:-

2. The information sought by you was not available with International Health/ International Cooperation Division of this Ministry, the CPIO forwarded your request to concerned CPIOs and the WHO India Country Office vide letter of even number dated 25th June 2020 (copy enclosed). The undersigned in his capacity as the 1st Appellate Authority for the CPIO concerning International Health and International Cooperation Division looked into the matter and it is informed that WHO have informed that they are an organization under the United Nations, is not a "Public Authority" defined under Section 2(h) of the RTI Act 2005. Hence, WHO does not fall under the purview of the RTI Act 2005.

Aggrieved and dissatisfied, the Appellant approached the Commission with the instant Second Appeal.

A point-wise detailed reply was furnished by the EMR Division, DGHS, MoHFW vide communication dated 10.10.2020, which is self explanatory and included various relevant annexures.

The record of transfer to PMO, submitted with the Second Appeal reveals that the RTI request received on 13.06.2020 from the Ministry of Health and Family Welfare and disposed off on 18.06.2020, transferring the Application to the concerned Division. It was informed by the Respondent that though PM CARES Fund is not a public authority under Section 2(h) of the RTI Act and relevant information regarding the PM CARES Fund is available on the website pmcares.gov.in. Answering the Appellant's queries, it was also stated by the Respondent that the lockdown orders under Section 10(2)(i) of the Disaster

Management Act, 2005 were issued based on the directions of the National Disaster Management Authority-NDMA. Relevant orders in this regard are available on the website www.ndma.gov.in. The FAA/PMO sent a communication dated 01.10.2020 clarifying the reply.

Facts emerging during the course of hearing:

Written submission dated 27.05.2021 has been received from PIO/e-Health Section/MoHFW reiterating the above facts, placing reliance on the replies dated 02.07.2020 and the EMR Division's reply dated 10.10.2020.

In order to ensure social distancing and prevent the spread of the pandemic, COVID-19, hearing through audio conference was scheduled after giving prior notice to both the parties. Relevant parties made their submissions through audio conference, wherein the Appellant averred at great length, pointing out that he was not satisfied with the replies given by the Respondent though he admitted that various information in response to his queries have been pouring in from various public authorities even now. He stated that his primary contention underlying all his queries is that the imposition of lockdown, mask mandate, street/home/work place/vehicle sanitisation in the name of Covid-19 Management strategies reflected misuse of power of the Government.

Respondent from the EMR Division attended the hearing and stated that information held in the custody of their Division has been provided to the Appellant, in the detailed response dated 10.10.2020.

Decision

In the light of the extensive arguments of the Appellant, challenging the information provided by the Respondent, it is essential to mention that the Section 2(f) defines "information" which can be availed by information seekers through the RTI Act, 2005. This aspect has been dealt with by the Hon'ble Supreme Court in the decision dated 04.01.2010 titled Khanapuram Gandaiah vs Administrative Officer & Ors. in the following words:

"...6. Under the RTI Act "information" is defined under Section 2(f) which provides:

"information" means any material in any form, including records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, report, 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."

This definition shows that an applicant under Section 6 of the RTI Act can get any information which is already in existence and accessible to the public authority under law. Of course, under the RTI Act an applicant

is entitled to get copy of the opinions, advices, circulars, orders, etc., but he cannot ask for any information as to why such opinions, advices, circulars, orders, etc. have been passed, If any party feels aggrieved by the order/judgment passed by a judge, the remedy available to such a party is either to challenge the same by way of appeal or by revision or any other legally permissible mode. No litigant can be allowed to seek information as to why and for what reasons the judge had come to a particular decision or conclusion. A judge is not bound to explain later on for what reasons he had come to such a conclusion.

Considering the arguments placed forth by the Appellant, wherein he has sought justification for the information provided by the EMR Division, the Commission finds it worthwhile to place reliance on another decision of the Bombay High Court. In the decision dated 03.04.2008 in the case of Dr. Celsa Pinto vs The Goa State Information[2008 (110) Bom L R 1238]the Bombay High Court upon referring the definition of “information” under the RTI Act, had held that:

“...The definition cannot include within its fold answers to the question why which would be the same thing as asking the reason for a justification for a particular thing. The Public Information Authorities cannot expect to communicate to the citizen the reason why a certain thing was done or not done in the sense of a justification because the citizen makes a requisition about information. Justifications are matter within the domain of adjudicating authorities and cannot properly be classified as information.”

In the light of the judicial pronouncements mentioned hereinabove, and considering the fact that substantial amount of information, has already been shared by the Respondent public authority with the Appellant, the Commission finds no further cause of action exists which can be adjudicated within the ambit of the RTI Act. The instant appeal stands disposed off accordingly.

(2) CIC/MH&FW/A/2021/104122

The Appellant filed an RTI application dated 17.09.2020 seeking information on the following 03 points:-

- 1. Copy of MOHFW & Central govt guidelines/orders under which various Indian state government demand grant (financial support) from Central Ministry on the basis of figures of Mortality & Morbidity data for Covid-19 Patients for their respective state.*
- 2. Copy of MOHFW & MHAs Disaster Management Rules & Financial Benefits declared for deaths due to COVID- 19 (i.e. for the family of*

victims) as quoted in said media story of Rs 4 Lakh Compensation (Copy enclosed in supporting docs).

3. Copy of List (statistical data sheet) contains Sum Total of Claims received & Funds (Grant) released by MOHFW/Central Ministry to all Indian State Govts for the family of such COVID-19 death victims since inception to till date.

The CPIO, Department of Health & Family Welfare vide online reply dated 17.10.2020 stated that no grant/compensation is given by Ministry of Health for death due to Covid-19.

Dissatisfied with the response received from the CPIO, the Appellant filed a First Appeal dated 03.09.2020. The FAA/Dy. Secretary, Department of Health & Family Welfare vide order dated 26.11.2020 noted that information sought by appellant in point no. 1-3 of RTI application is not maintained in the PH Section. Accordingly, in so far as PH Section is concerned there is no information available to provide in the matter.

A response was furnished by the Disaster Management Division of MHA and is found annexed with the Second Appeal, which indicates that Appellant was informed on 12.10.2020 that *ex-gratia payment to families of deceased persons is not covered under the modified list of items and norms of assistance from State Disaster Relief Fund in the wake of Covid-19 virus issued vide Ministry's letter no. 33-4/2020-NDM-I letter dated 14.03.2020.*

Aggrieved and dissatisfied, the Appellant approached the Commission with the instant Second Appeal.

Facts emerging during the course of hearing:

In order to ensure social distancing and prevent the spread of the pandemic, COVID-19, hearing through audio conference was scheduled after giving prior notice to both the parties. Both parties are heard wherein the Appellant stated that he is dissatisfied with the replies provided by the Respondent in this case, since no concrete information has been furnished in response to his queries. The Respondent stated that the information sought by the Appellant is not held by the PH Section of the Ministry of Health, hence an appropriate reply could not be provided by them. However, strengthening health system in rural and urban areas being the prerogative of the National Health Mission, the information sought by the Appellant could be held by the concerned Division.

Decision

Upon perusal of records of this case and hearing the averments of the parties, it is noted that the RTI queries raised by the Appellant in this case have not been addressed appropriately by the Respondent. In the event that the information sought by the information seeker is not held by the public authority concerned, the provision of Section 6(3) of the RTI Act ought to have been invoked and the

RTI Application should have been transferred to the actual custodian of information. Neither the PIO nor the FAA have transferred the RTI application to the appropriate section/Division holding the information.

Under the circumstances, PIO/US. MoHFW -Sh. Rajender Kumar is hereby directed to:

- i) Transfer the RTI application to the relevant custodian of information, within a week of receipt of this order
- ii) Submit a cogent explanation for not taking appropriate steps to ensure that the relevant information is disseminated to the Appellant, thereby violating provisions of the RTI Act.

Compliance of the above directions should be reported before the Commission by 15.07.2021, failing which appropriate proceedings shall be initiated as per law, on the basis of the above facts available on record.

(3) CIC/MH&FW/A/2021/104126

The Appellant filed an RTI application dated 17.11.2020 seeking information on following 05points:-

1. *Copy of the MOHFW & Govt orders under which every Indian citizen can be bounced for Covid-19 vaccination.*
2. *Copy of the MOHFW & Govt orders under which Central or State govt authorities can pressurized or take legal action against those individuals who denied Covid-19 Vaccination for themselves or their family members.*
3. *Copy of the list of diseases for which Vaccination compulsion rules for implemented by Indian Govt after the independence of India i.e. after 15-August-1947.*
4. *Copy of the Section of Indian constitution under which MOHFW or Central/State Govt can forcefully bound any Indian Citizen for Covid-19 Vaccination without his/her will and declared offensive when denied.*
5. *Copy of the list contain name of the companies impaneled by the MOHFW and Central Govt for Covid-19 vaccine manufacturing & govt supply that must contain particulars of govt order & budget allotted for them specifically.*

Queries are reproduced verbatim

The CPIO/Under Secretary, Ministry of Health & Family Welfare vide letter dated 14.12.2020 replied as under:-

Vaccination is done under Universal Immunization Programme of Government of India. There is no information available in respect of any such orders.

Dissatisfied with the response received from the CPIO, the Appellant filed a First Appeal dated 11.01.2021. In response to First Appeal, the Appellant was informed vide online reply dated 18.01.2021 that due to the Appellate Authority not being available, RTI appeal has been physically sent to concerned CPIOs of the Ministry.

Aggrieved and dissatisfied, the Appellant approached the Commission with the instant Second Appeal.

Facts emerging in Course of Hearing:

A written submission has been received from CPIO/US, Ministry of Health & Family Welfare vide letter dated 28.05.2021, stating that nationwide vaccination programme for COVID-19 began on 16.01.2021 and hence relevant information was not available when the PIO reply dated 14.12.2020 was furnished. However, based on the current developments, the PIO has furnished latest information available with the Ministry.

“ Vaccination for COVID-19 is voluntary.

Initially, the Govt. of India through PM Cares Fund procured the COVID-19 vaccines COVISHIELD manufactured by M/s Serum Institute of India (procured 5.6 crores doses) at the unit cost of Rs. 210/- including taxes (Rs. 200+5% GST) and COVAXIN manufactured by M/s Bharat Biotech International Limited (procured 1.0 crores doses) at the unit cost of Rs. 309.75/- including taxes (Rs. 295 + 5% GST).

The Union Budget 2021-22 provides for Rs. 35,000 crore for COVID-19 Vaccination. At present Government of India through Union Budget has procured the COVID-19 vaccines (COVISHIELD 10 crores doses and COVAXIN 2 crores doses) at the unit cost of Rs. 157.50 including taxes (Rs. 150+5% GST).

The COVID-19 vaccination drive entered 3rd phase from 1st May 2021 which is being guided by the Liberalised Pricing and Accelerated National Covid-19 Vaccination Strategy.

The procurement and vaccination is on-going process.

However, the statistics/data/information/FAQ/SoP/guidelines, applicant(s) may visit the Ministry of Health & Family Welfare’s website “mohfw.gov.in” or “AarogyaSetu App” (refer link <https://dashboard.cowin.gov.in>) or “mygov.in/COVID-19” or “MyGov App”, or may visit Press Information Bureau, Government of India’s website www.pib.gov.in then go to Home All Press Release then Select

Ministry(Ministry of Health & Family Welfare) select Date, Month, Year for date wise release/information, which is being updated from time to time.”

A notification dated 01.04.2021 from the Government of Chhattisgarh, General Administration Department is found on record on Standard Operating Procedures during the pandemic.

In order to ensure social distancing and prevent the spread of the pandemic, COVID-19, hearing through audio conference was scheduled after giving prior notice to both the parties. Both parties are heard through audio conference and it is noted that the PIO has provided extensive relevant information vide submissions dated 28.05.2021.

Decision:

Perusal of the submissions sent by the Respondent reveals that at the very beginning, the Respondent has clarified that the vaccination for COVID-19 is voluntary. Hence, a number of the queries raised by the Appellant based on his allegations about “forceful vaccination” or “pressurising citizens” has been rendered infructuous *per se*. The Respondent has clarified in his submission that information about vaccination could not be furnished earlier by the then PIO because the nationwide vaccination programme for COVID-19 began on 16.01.2021.

On examination of the facts of the appeal at hand, it is apparent that the Respondent has acted within the precincts of the RTI Act and disseminated the information held by them. There is no doubt that substantial information, which serves the larger public interest is already available in the public domain, i.e. the website of the Ministry.

However, before concluding the decision at hand, the Commission wishes to advise the Respondent to ensure that maximum information which serves larger public interest, is proactively disclosed, to enhance transparency and dissemination of correct information. This will also obviate the need for filing numerous RTI cases that would only burden the public authorities while they are combating one of the deadliest pandemics in recent history..

Before concluding, the Commission wishes to refer to the decision dated 09.08.2011 passed by the Hon’ble Supreme Court in the case Central Board Of Sec.Education &Anr. vs Aditya Bandopadhyay&Ors. [Civil Appeal No.6454 of 2011]

“...Indiscriminate and impractical demands or directions under RTI Act for disclosure of all and sundry information (unrelated to transparency and accountability in the functioning of public

authorities and eradication of corruption) would be counter-productive as it will adversely affect the efficiency of the administration and result in the executive getting bogged down with the non-productive work of collecting and furnishing information. The Act should not be allowed to be misused or abused, to become a tool to obstruct the national development and integration, or to destroy the peace, tranquility and harmony among its citizens. Nor should it be converted into a tool of oppression or intimidation of honest officials striving to do their duty. The nation does not want a scenario where 75% of the staff of public authorities spends 75% of their time in collecting and furnishing information to applicants instead of discharging their regular duties.”

In the light of the above decision, the Commission is of the considered opinion that no further action is deemed necessary in this appeal.

The appeals are disposed off accordingly, with the above observations.

Y. K. Sinha (वाई. के. सिन्हा)

Chief Information Commissioner (मुख्य सूचना आयुक्त)

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