

Central Information Commission
Baba Gang Nath Marg,
Munirka, New Delhi -110067.

File No. CIC/AA/A/2019/331

CICOM/A/2019/60242

CICOM/R/2019/50970

Name of the appellant: Shri R.P.Gupta
780/6, Mehrauli,
New Delhi – 110030.

1.	Date of RTI application	09.12.2019 (Online)
2.	Date of reply of the RTI application	23.12.2019
3.	CPIO(s) who furnished reply	Sh. Krishan Avtar Talwar, CPIO
4.	1 st Appeal Date	17.12.2019 (Online)
5.	Date of Decision	09.01.2020

Brief facts of the case:-

1. In the RTI application, appellant has sought the information:-

"Your public authority, vide Decision No. CIC/DHEDU/A/2019/601273/01688 (File no.: CIC DHEDU/A/2019/601273), decided 2nd appeal filed by me in respect of my RTI application dated 14.11.2018 directing the respondent, CPIO, NBA to provide the requisite information as directed in the subject decision of your public authority.

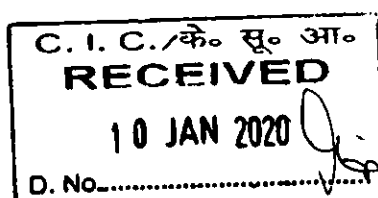
(a). The respondent, vide letter F, No. NBA/RTI/2019/04/03/CIC - /5001 – 5002 dated 03.10.2019, provided misleading & false information in an attempt to hide rampant corruption by Dr A. K. Nasa, Member Secretary (who is the FAA under RTI Act while the respondent is a retired contractual government employee) & the then Chairman, Dr Surendra Prasad.

(b). This information is even contrary to the respondent's submission before your public authority in the hearing held on 20.09.2019.

(c). I, thus, filed an online complaint with Diary No. 656033 dated 06.11.2019 U/s 18(1) (e) of the RTI Act on 06.11.2019 praying before your public authority for initiation of an enquiry U/s 18(2) of the RTI Act, which would facilitate the correct information about the corruption scandal exposed by me coming out in the public domain.

(d) This complaint was returned by your public authority vide, letter diary no. 656033/2019 dated 08.11.2019 with the remarks "The RTI filed in this case is the same as RTI filed by you in case no. CIC/DHEDU/A/2019/601273, which has already been registered by the Commission".

(e). On, 15.11.2019, I again filed this complaint online with Diary No. 656997 dated 15.11.2019, along with a covering letter advising the Deputy Registrar of your public authority of the facts as stated above.



(f). On 04.12.2019, your public authority again returned this complaint vide, facilitation memo no. 656997/2019 dated 03.12.2019, advising me to file a non-compliance petition against case no. CIC/DHEDU/A/2018/601273 while enclosing therewith a copy of this letter.

(g). Similarly, I filed an online complaint, vide, Diary No. 657178 dated 17.11.2019 against CPIO, MHRD, Vigilance Wing, for providing misleading & false information vide their letter

dated 14.10.2019 in response to orders of your public authority in Decision No. CIC/DHEDU/A/2018/634726/01684 (File No. CIC/DHEDU/A/2018/634726) dated 20.09.2019,

(i). This complaint was also filed U/s 18(1) (e) of the RTI Act on 06.11.2019 praying before your public authority for initiation of an enquiry U/s 18(2) of the RTI Act as the 2 decisions of your public authority relates to providing correct information in respect of the same corruption matter as at '1' above.

(ii). However, your public authority, returned this complaint also, vide, facilitation memo no. 657178/2019 dated 03.12.2019 giving the same reason/advise as stated at 1 (g) above. Information Requested:

Kindly provide information as to the procedure/manner of filing the above complaints U/s 18(1) (e) of the RTI Act, as the enquiry, if instituted by your public authority U/s 18(2) of the RTI Act as a result of this complaint U/s 18(1) (e) of the RTI Act will expose this corruption scam.

2. CPIO replied the RTI applicant as under: -

"As far as procedure/manner relating to filing of Second Appeal/complaint in this Commission, under relevant sections is concerned. the appellant may refer to RTI Act-2005 and RTI Rules 2012 framed there under. Futo information provided on the home page of weunder'FAQ'. No other information tn on record.rather information about'FAQs', may refer site of this Commission www.cic.gov.inAs far as cases referred to by the appellant in aforementioned RTI application are concerned, detailed information, with the approval of the competent authority has already been provided vide Facilitation Memo (Diary No 656997t201g) dated 03.12.2019 For ready reference, a system generated copy is enclosed herewith.

3. RTI applicant filled First Appeal as under: -

"The CPIO, in his reply, had stated that my complaint U/s 18(1) (e) referred in my RTI application was not registered as per RTI Act, 2005, RTI Rules 2012 & FAQ on the web site of your public authority, which information is not correct as:a.Section 18(1) (e) of the RTI Act reads as under:18. (1). Subject to the provisions of this Act, it shall be the duty

of the Central Information Commission or the State Information Commission, as the case may be, to receive & inquire into a complaint from any person (e) who believes that he or she has been given incomplete, misleading or false information under this Act. b.FAQ on the web site of your public authority, on the matter reads as under:Yes, a complaint may be filed directly in this Commission under section 18 of the RTI Act, by a person:-

(a) Who has been unable to submit a request to a Central Public Information Officer either by reason that no such officer has been appointed under the Act, or because the Central Assistant Public Information Officer 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 senior officer specified in subsection (1) of section 19 or this Commission.

(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 limit specified under this Act;(d) who has been required to pay an amount of fee which he or she considers unreasonable;(e) who believes that he or she has been given incomplete, misleading or false information under this Act; and(f) in respect of any other matter relating to requesting or obtaining access to records under this Act. Also, FAQ on your web site, in the matter, reads as under: A second appeal under section 19 (3) of the Act is filed against an order of the FAA in a public authority or when the FAA does not make a decision within the specified time. A complaint under section 18 of the Act may be filed directly on the grounds mentioned in sub-section (1) of this section. The main difference between a complaint and a second appeal is that in the case of an appeal, this Commission may pass orders directing the CPIO to provide the requested information to the appellant in appropriate cases whereas such orders cannot be passed while dealing with a complaint".

4. CPIO, Sh. K.A. Talwar replied vide letter No. CICOM/R/2019/50970 dated 23.12.2019 mentioning that :-

With reference to the aforementioned First Appeal filed on RTI application dated 09.12.2019 registered vide no. CICOM/R/2019/50970 on 09.12.2019 and send to undersigned CPIO through RTI-MIS on 16.12.2019 by the CPIO (RTI Cell) was duly responded on 23.12.2019.

(a). Sh. R.P. Gupta, appellant in aforementioned first appeal has under 'grounds of appeal' has alleged that 'provided incomplete, Misleading or False Information' which is not at all correct.

(b). Factual position in this regard, is that the appellant filed a complaint dated 15.11.2019 using online portal vide Dy. No. 656997/2019. On scrutiny, it was observed that on the given RTI application, already a case no. CIC/DHEDU/A/2018/601273 was

registered in this Commission and it was already decided on 20.09.2019. Further, it clearly transpires that presently the appellant was aggrieved with the reply provided by the CPIOs against the directions given by this Commission in said case. Accordingly, it did not appear to be appropriate to register his said complaint under RTI act, 2005. As such, with the approval of the Registrar, undersigned, while acting as DR to CR-1 issued a detailed customized Facilitation Memo dated 03.12.2019. A system generated copy is enclosed for ready reference. The appellant was advised therein to file a non-compliance petition against case no. CIC/DHEDU/A/2018/601273 while enclosing therewith a copy of said FM.

(c). It appears that the appellant is quite unaware of the ground reality. It is rather in his favour, if instead of a fresh complaint, a non-compliance case is registered. Because of the simple reason that a fresh complaint case would come to hearing, as per the current pace, wherein even a few cases pertaining to 2017 are pending for adjudication, would likely to take almost two years, whereas, the non-compliance case would be adjudicated in a couple of months. Moreover, whatever reliefs are admissible against a fresh complaint case; same, rather additional reliefs are admissible in non-compliance case.

The appellant has raised the above issue for registration of his said case as a fresh complaint case at all levels, including at CPGRAM portal and he has every where been apprised suitably on same lines.

In view of the above facts and circumstances, taking up the same issue at multiple forums, compelling the CPIO to divert his time and energy from other important tasks of the registry to respond on them and subjecting him to mental agony while terming his reply as incomplete, Misleading or False Information is most unwarranted for.

Due to the above, the undersigned is unable to discharge his duties assigned to him in the capacity of DR to CR-1 and additionally that of DR to CR-II as valuable time is wasted in undertaking above fruitless exercise on the very same issue. As such, permission may kindly be accorded for registering FIR against the appellant under section 186 of the Indian Penal Code (45 of 1860) for obstructing the public servant in discharge of his public functions.

Accordingly, your kind intervention is humbly prayed for so that undersigned CPIO may be able to discharge his duties in a peaceful and cordial environment and thus can escape from the wrath of such an irresponsible RTI applicant who for the reasons best known to him is so skeptical and is not ready to accept any of the explanations and ground reality explained to him that too in black and white, time and again. However, any directions so accorded shall be duly complied with.

Decision

6. On perusal of the Appeal, CPIO's reply and hearing, it is observed that the reply to RTI application provided by CPIO, Sh. K.A.Talwar is as per RTI Act, 2005 and no intervention is required by FAA, in the matter.

7. The appeal is being disposed of accordingly.

8. In case the appellant is aggrieved by the decision, he is free to file second appeal, if he so desires, before the Central Information Commission, Baba Gang Nath Marg, Munirka, New Delhi-110067 against this order within 90 days.

Dated the 9th January, 2020.



(Y. K. Singhal)

First Appellate Authority

Tel: 26162290

Copy to:

1. CPIO, RTI Cell, CIC, New Delhi.

2. Sh. K.A.Talwar, CPIO, CIC, New Delhi.

Handwritten notes:
10/01/20

Handwritten signature: K.A. Talwar
10/01/20