

Central Information Commission
Baba Gang Nath Marg,
Munirka, New Delhi – 110 067

CIC/AA/A/2020/
CICOM/A/E/20/00053
CICOM/R/E/20/00191

Name of the Appellant: Shri Varun Krishna
213 Gobind Appts
B-2 Vasundhara Enclave
Delhi – 110096.

1.	Date of RTI application	19.03.2020
2.	Date of reply of the RTI application	10.04.2020
4.	CPIO (s) who furnished reply	Shri S.C. Sharma CPIO
3.	1 st Appeal Date	17.04.2020
4	First Appeal received in FAA's office	05.05.2020 (through online portal)
5	Date of Decision	18.05.2020

Brief Facts of the case:-

1. Through his RTI Application, the Appellant has asked for following documents of his case File No. CIC/ISPNR/C/2018/626089 which was decided on 12.3.2020:

- A) Documentary proofs proving that the PIO has provided accurate and complete information for my RTI including action taken report and file notings as per S.No. 2 and S.No.3 of my RTI. Note: If no information exists then clearly state the same.
- B) If no information exists for S.no A above then provide Grounds available in records based upon which no action has been taken upon the PIO for violating section 18.1.e.
Section 18.1.e : who believes that he or she has been given incomplete, misleading or false information under this Act;
- C) Documentary evidence available in records based upon which IC has termed my RTI queries from point 1 to 3 as clarification queries thereby passing a nonstanding order in order to harass RTI applicant.
- D) Name and designation of deemed PIO whose assistance is sought u/s 5(4) +5(5) while disposing this current RTI along with Grounds available in records based upon which Ld IC's assistance as a deemed PIO has not been sought (if any).

Reply of CPIO:-

2. In response to the RTI application the CPIO Sh. S. C. Sharma has provided following information to the Appellant:

Point A) - The information sought is of clarificatory nature and does not fall under section 2(f) of RTI Act. However the order No. CIC/ISPNR/C/2018/626089 has been passed on hearing both the parties coupled with the available record. No further information exists in this regard.

Point (B) - As per above at (A), and accordingly no further information exists.

Point (C) - As per above at (A) and no further information exists.

Point (D). - Since the above order is self-explanatory and speaking order, therefore, no assistance was required.

Ground of First Appeal:-

3. Aggrieved with the response provided by the CPIO, the Appellant filed first appeal on following ground:

“Ld IC Shri Neeraj Kumar Gupta is protecting erring and corrupt PIOs of ISP Nashik because he seems to have been influenced after meeting with there officials in the premises of SPMCIL.

It is known from the sources that an informal deal between the PIOs and Ld IC during his visit has happened where that PIOs of ISP Nashik will be allowed to abuse RTI Act and the Ld IC will turn a blind eye upon them. A similar example happened where IC has turned blind eye upon the wrong doings of PIO-ISP Nashik where section 18.1.e was not invoked in spite of the fact that PIO obstructed information from S.no 1 to S.no 3 of my RTI.

As the Ld PIO of CIC is trying to protect the wrong-doings of his commissioner Shri Neeraj Kumar Gupta, hence the information is demanded in larger public interest proving that the CPIO-Nashik had provide the requisite information on the basis of which no action has been called by Information Commissioner.

1. The PIO is obstructing information for S.no A deliberately, knowingly and with the mala-fide intentions by stating that the information sought is not u/s 2(f) which is not correct. The information must be available in the file on the basis of which the Ld IC has decided that the PIO has provided complete and accurate information and hence section 18.1.e is evaded. PIO could either provide the information from the file or state that no information exists.

2. Since the PIO obstructed information for Sno A, hence the information for S.no B is also obstructed being related to S.No A.

3. The PIO is obstructing information for S.No C deliberately, knowingly and with the mala-fide intentions. The information is easily avaiable with the IC Shri Neeraj Kumar Gupta who has termed my RTI queries as clarification queries, hence the reply of Ld IC Shri Neeraj Kumar Gupta is warranted by making him a deemed PIO u/s 5(4) r/w 5(5).

4.Ld PIO in order to cloud the wrong-doings of the IC Shri Neeraj Kumar Gupta is not making him the deemed PIO as evident in reply of S.No D.”

The Appellant has asked for following reliefs in his first appeal.

1. Since the matter pertains to the credibility and honesty of IC Shri Neeraj Kumar Gupta who is accused of favoring erring and corrupt CPIO-ISP Nashik for the reasons best known to him, hence the information is demanded in Larger Public Interest.
2. A vigilance inquiry into the matter must be conducted immediately and the case muse be registered under section of IPC and CRPC as involvement of CIC's officials in the corruption is being sensed and the PIO is charging himself in the abetment of crimes of his IC.
3. Kindly issue the necessary directions to provide point-wise reply without any further delay free of cost u.s 7(6). If no information exists then the same should be provided on an affidavit.
4. Personal hearing in the interest of natural justice must be provided and comments of PIO must be provided in advance of hearing date.

5. I am quoting from judgement dated 05-11-1993 of Hon'ble Supreme Court in LUCKNOW DEVELOPMENT AUTHORITY V/s. M.K. GUPTA:

Decision with reasons:-

4. On perusal of the Appeal, RTI application and reply of the CPIO, it is observed that basically the Appellant has asked for interpretation of the second appeal order passed by the Commission. It is worth mentioning here that under the provisions of the RTI Act only such information as is available and existing and held by the public authority or is under control of the public authority can be provided. The PIO is not supposed to create information that is not a part of the record. He is also not required to interpret information or furnish replies to the hypothetical questions. Similarly, redressal of grievance, reason for non-compliance of rules/contesting the actions of the respondent Public Authority are outside the purview of the Act.

In light of the above the information provided by the CPIO is factual and as per the provision of RTI Act, 2005 and hence, no intervention is required on the part of the FAA.

5. The appeal is being disposed of accordingly.

6. 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 – 110 067 against this order within 90 days.

Dated – 18.05.2020.

MBalimane
18/5/2020
(MeenaBalimane Sharma)
First Appellate Authority
Tel: 26162290

Copy to:-

1. CPIO, RTI Cell, CIC, New Delhi.
2. Sh. S.C.Sharma, CPIO,DO to IC (NG), New Delhi.