

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

CICOM/A/P/20/00078
CICOM/R/P/20/00289

Name of the Appellant: Dr. Himat Chand
H.No. 463 E, Fauji Colony, Sector-15,
Dashmesh Nagar, Kharar, Mohali.
Pin – 140 301

1.	Date of RTI application	02.07.2020
2.	Date of reply of the RTI application	22.07.2020 & 10.08.2020
3.	CPIO (s) who furnished reply	Sh. H. P. Sen, CPIO & DR to IC(DP) & Sh. K. L. Das, Former, CPIO & DR to CIC.
4.	Date of First Appeal application	24.08.2020
5.	Date of receipt of First Appeal Petition in the office of FAA	09.09.2020
6.	Date of Decision	16.09.2020

1. Brief Facts of the case:-

The Appellant, through his RTI Application, asked for following information:

1. Kindly provide a certified copy of the Reply made by the CPIO, CRRID, Sh. Meenal K. Barua to the Show Cause notice served upon him by the Hon'ble Commissioner, Sh. Divya Prakash Sinha vide his decision dated 04.02.2020 in case of my second appeal Ref. File No. CIC/UTOCH/A/2018/144885 (Himal Chand Vs. Centre for Research in Rural and Industrial Development (CRRID), Chandigarh).
2. Whether the Reply made by the CPIO, CRRID, Sh. Meenal K. Barua to the Show Cause Notice has been found satisfactory by the Hon'ble Commissioner. If not, whether any action has been taken as per the RTI Act and Rules. If yes, kindly provide a copy of the action taken if any.
3. Whether a copy of the Reply made by the CPIO to the Show Cause Notice needs to be made available to the Appellant or not. If not, whether this would not forfeit the right of the appellant to know the genuineness of the reply if the past conduct of the CPIO is any indicator. (For instance, in the instant case, the CPIO, CRID in violation of the directions as mentioned in the Notice of Hearing for providing a copy of the submission to the opposite party did not do so. Secondly, the CPIO, CRRID has not complied with the order of the Hon'ble Commissioner dated 04.02.2020.

4. Status of action taken by the Hon'ble Commissioner on my submission dated 20.03.2020 sent by registered post regarding non-compliance to the CIC Decision dated 31.12.2019 by the CPIO, CRRID –Ref. File No. CIC/UTOCH/A/2018/144885.
5. Status of action taken by the Hon'ble Commissioner on my submission dated 11.02.2020 sent by registered post regarding non-compliance to the CIC Decision dated 04.02.2020 by the CPIO, CRRID –Ref. File No. CIC/UTOCH/A/2018/143997.
6. Status of action taken by the Hon'ble Commissioner, Sh. Bimal Julka on my submission dated 22.02.2020 sent registered post regarding non-compliance to the CIC Decision dated 11.10.2019 by the CPIO, CRRID –Ref. File No. CIC/MH&FW/A/2018/119405-BL.

2. Reply of CPIO.

In response to point Nos. 1 to 5 of the above RTI Application, the CPIO, Sh. H. P. Sen, DR to IC(DP), vide his letter dated 22.07.2020, provided following information to the Appellant:

1. Copy of the reply received from the CPIO to Show Cause Notice is enclosed.
2. Since the reply of the CPIO was found to be satisfactory, no further action in the matter was taken.
3. Copy of CPIO's submission/reply is provided to the Appellant on payment of Rs. 2/- per page. However, a copy of the reply as mentioned at Sl. No. (i) is enclosed.
4. No action was taken on your application dated 20.03.2020 as the CPIO complied CIC decision.
5. No action was taken on your application dated 11.02.2020 as the CPIO complied CIC decision.

In response to point No. 6 of the RTI Application, Sh. K. L. Das, former CPIO & DR to CIC, vide his letter dated 10.08.2020, provided following information to the Appellant:

“You have sought action taken on letter dated 22.02.2020 regarding non-compliance of CIC decision dated 11.10.2019. The compliance report/comments of the CPIO have been sought on your aforesaid letter (copy enclosed). The CPIO has been requested to send a copy of the same to you also.”

3. Ground of First Appeal:

Aggrieved with the reply sent by the CPIOs, the Appellant has filed First Appeal complaining that in respect to point No. 1 of the RTI Application, the CPIO has not provided complete set of submission of the CPIO, CRRID, which were five attachments that had been enclosed by the CPIO in support of his reply. In respect to reply furnished against point No. 2, the Appellant has expressed his dissatisfaction with the decision taken by Commission in respect to Show Cause Notice issued to CPIO, CRRID. Likewise, in respect to point No. 4 and 5 the

Appellant is also not satisfied with the Commission's decision, taken on Appellant's non-compliance petitions.

4. Decision with reasons:

On perusal of the Appeal, RTI application and the reply, sent by the CPIOs, it is observed that each point of RTI application has been duly responded by both the CPIOs as per the provision of RTI Act, 2005. It is worth mentioning that under the provision of Section 2(f) of RTI Act, 2005, 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 by a PIO. The PIO is not supposed to create or interpret information and furnish replies to the hypothetical questions. Judgement of the Commission on Show Cause notice or on non-compliance petition is quasi-judicial decision of the Commission and a CPIO is not competent to comment on that and it is not a part of his duties too. Hence, replies furnished against point No. 2 to 6 factual and as per the provision of RTI Act, 2005.

As far as providing incomplete information with respect to point number 1 is concerned, the CPIO, Sh. H. P. Sen, DR to IC(DP) is hereby directed to revisit the information provided against point No. 1 of RTI Application and if there are any attachments with the reply of CPIO, CRRID, send them to Appellant within 15 days after receipt of this order.

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 - 16th September, 2020.

MP Balimane
16/09/2020
(Meena Balimane Sharma)
First Appellate Authority
Tel: 26162290

Copy to:-

- ✓ 1. Sh. Ram Kumar, CPIO, RTI Cell, CIC, New Delhi.
2. Sh. H. P. Sen, CPIO-DR-IC(DP), CIC, New Delhi.

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