

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

CICOM/A/P/20/00103
CICOM/R/P/20/00417

Name of the Appellant: Shri Omprakash Kashiram
3/16, Amol Apartment, Waldhuni,
Kalyan - 421301

1.	Date of RTI application	09.09.2020
2.	Date of receipt of RTI application in RTI Cell of CIC	23.09.2020
3.	Date of reply of the RTI application	01.10.2020
4.	CPIO (s) who furnished reply	Sh. Krishan Avtar Talwar
5.	Date of First Appeal application received in FAA office	17.11.2020
6.	Date of Decision	14.12.2020

1. Brief Facts of the case:-

The Appellant through his RTI Application dated 09.09.2020 has sought the information related to letter No. 125086/2020 dated 31.08.2020 issued by Deputy Registrar (CR-1), Duties allotted to Dy. Registrar, Central Registry of CIC and officers of some other Public Authorities in 8 points: -

1. Please provide documents duly attested by PIO with name and designation under section 5(1) and 20 of RTI Act, 2005 regarding the demand information as per enclosed Appendix A is coming under duties allocation allotted in Allocation of Business rule 1961 for Ministry of Home Affairs so second appeal rejected by Dy. Registrar, Central Registry of Central Information Commission. In other words, copies of duties allocation under the Allocation of Business Rule 1961 under which demand information as per Appendix A, is allotted to MHA, New Delhi.
2. Please provide the documents under section 5 (1) and 20 of RTI Act, 2005 regarding the duties allocation for Shri Krishan Avtar Talwar under which he had rejected Second appeal dated 21.08.2020 against PIO, MEA and directed to remove deficiencies for not submitted first appeal to FAA, MHA, New Delhi against reply received from PIO, MEA.
3. Please provide documents duly attested by PIO with name and designation under section 5(1) and 20 of RTI Act 2005 regarding the duties allocation under the Allocation of Business Rule 1961 for the demand information on Appendix 'A' are not coming in MEA, New Delhi.
4. Please provide documents duly attested by PIO with name and designation under section 5(1) and 20 of RTI Act 2005 regarding the copies of approval from the Chief Information Commissioner, Central Information Commission for rejection of second appeal dated 21.08.2020 against PIO, MEA.
5. Please provide the documents under section 5(1) and Section 20 of RTI Act 2005 regarding the copies of duties allocation in respect of Sushil Kumar Jha, DS (Admin), MHA and his First Appellate Authority of Ministry of Home for demand information as per the Appendix A.
6. Please provide the documents under section 5(1) and Section 20 of RTI Act 2005 regarding duties allocation under the Allocation of Business Rule 1961 for Smt. Archana Monga, SO (RTI) and FAA, Shri Devesh Uttam, Director with related to Appendix A of this RTI Application.
7. Please provide the documents under Section 5(1) and Section 20 of RTI Act 2005, regarding the rules/Act of Parliaments under which second appeal has been rejected by Shri Krishan Avtar Talwar, Dy Registrar or second appeal returned

under the Rule/Act of Parliaments by Dy. Registrar may be provided OR removing of deficiencies for first appeal against reply of PIO.

8. Please provide the documents under Section 5(1) and Section 20 of RTI Act 2005 regarding the names of all commissioner and Chief Information Commissioners who are responsible for rejection of second appeal dated 21.08.2020 due to non - submitted first appeal to FAA, MHA and all commissioners and chief Information Commissioner, Central Information Commission, New Delhi have rejected second appeal due to they all are part of commission.

2. Reply of CPIO:-

CPIO, Sh. Krishan Avtar Talwar has given the reply:-

i) At the outset, it is stated that the appellant has not provided the documents relating to Second Appeal filed vide diary no. 125086/2020. Furthermore, no document of any Second Appeal/Complaint which is returned, for resubmission, after removal of deficiencies indicated in the memo, is retained in this commission.

ii) The content mentioned by the appellant is not understood whatever is understood, on its basis the response is being furnished.

On the basis of copy of FM (diary no.125086/2020) and another document dated 24.01.2020 attached by the appellant with instant RTI and whatever understood available information point wise is being provided hereunder :-

- (1) It is wrong to say that Second Appeal filed vide diary no. 12586/2020 was rejected by undersigned while he was discharging duties as DS/DR to CR. In this regard kindly refer to Preface i) above. As far as sought for information is concerned, the same is not the record of this public authority.
- (2) There is no person with the name indicated by the appellant. However, as far as work allocated to undersigned is concerned, a certified copy of each of office order (file no AS/PS/2014/CIC/Admn) and no. Nil dated 17.01.2017 and 28/29.03.2017 respectively is enclosed herewith. As far as rejection is concerned, please refer to assertion made under Preface – (i) above. Further reasoning is being sought which de hors section 2(f) of RTI Act, 2005.
- (3) No such information is available with this public authority.
- (4) Please refer to Preface – (i) and reply to (3) above.
- (5) Please refer reply to (3) above.
- (6) Please refer reply to (3) above.
- (7) Please refer to reply to (4) above.
- (8) Please refer to Preface (ii) above. Appellant may like to visit Rule 8 & 9 of RTI Rules, 2012 (available in public domain).

3. Ground of First Appeal:-

Aggrieved with the reply of CPIO, the Appellant has filed First Appeal and stated that: -

- (a) Information not provided by PIO, Central Information Commissioner, Central Information Commission, New Delhi on appendix 'A'. The information may be provided as per the provision in RTI Act 2005 for point No.1 and 8.
- (b) The Chief Information Commissioner and 11 commissioners of Central Information Commission, New Delhi is not coming under the Section 2(h) of RTI Act 2005 and last 15 years the Chief Information Commissioner has not appointed PIO/FAA in office of the Chief information Commissioner including 11 Commissioners.
- (c) The Chief Information Commissioner and 11 commissioners is autonomous body under Section 2(h) of RTI Act 2005 and since form 2005 to till date they have not nominated PIO and FAA under the RTI Act 2005.
- (d) PIO/FAA may be appointed for the Chief Information Commissioner and 11 commissioners, Central Information Commission, New Delhi and there are two separate authorities one is Central Registry of CIC and other is the Chief Information Commissioner and 11 commissioners.
- (e) PIO has worked as author of book in his reply.

- (f) Information for point No. 1 to 8 not found as per the Para 5 to 6 of CIC, New Delhi decision Second appeal no CIC/MOFINA/A/2018/174463/DOEAF dated 24.09.2020 and he has issued story narrated by his mind. No any order received from PIO, office of the Chief Information Commissioner, Central Information Commission.
- (g) All Registrar and Deputy Registrars are central government employees not part of autonomous body of the Chief Information Commissioner including 11 commissioners.
- (h) Those have been issued duties allocation of Registrars and Deputy Registrars are the Central Government Employees not part of autonomous body of 11 commissioners including Chief Information Commissioner.
- (i) Removal of deficiencies is coming under the Section of RTI Act 2005 and Rules made under Section 27 of RTI Act 2005. Rules/Section of RTI Act is to be mentioned for deficiencies and removal for deficiencies of second appeals. There is no such provision for open facilitation memo in RTI Act 2005.

4. Decision with reasons:-

On perusal of Appeal, RTI Application and the reply sent by the CPIO, it is observed that the information provided by Sh. Krishan Avtar Talwar, CPIO vide his letter No. CICOM/R/P/20/00417 dated 01.10.2020 against RTI application dated 09 September, 2020 is as per provisions of the RTI Act, 2005. It is worth mentioning that under the provisions of Section 2(f) 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 by a PIO. The PIO is not supposed to create information that is not a part of the record. Hence the reply given by the CPIO is as per the provision of the RTI Act. Therefore, no further intervention is required on behalf of the FAA in this matter.

Fresh matters raised in First Appeal petition, which is not the part of RTI application, hence it can not be considered in the First Appeal under RTI Act, 2005.

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 – 14th December, 2020.

MP Balimane
14/12/2020
(Meena Balimane Sharma)
First Appellate Authority
Tel: 26162290

Copy to:-

1. CPIO, RTI Cell, CIC, New Delhi.
2. Sh. Krishan Avtar Talwar, CPIO & DR (CR-1), CIC, New Delhi.

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