

FA No. CICOM/A/E/22/00165

I. Brief of the case:

The details of information sought vide RTI application No. CICOM/R/E/22/00518 dated 06.06.2022. The details of and reply dated 10.06.2022 given by CPIO (DR to CIC-YS) of CIC are mentioned hereunder.

Sl.	Information sought	Reply of CPIO
1.	<p>This RTI request is filed in larger public interest for exposing corruption in the Registry of Central Information Commission and for establishing mental infirmity of certain Central Information Commissioners. Information requested.</p> <p>1. Information of reasons on record that 2nd Appeal file number CIC/CABST/A/2020/139627 received on 29.07.2020 was taken up for hearing on 07.02.2022 and before 2nd Appeal file number CIC/CABST/A/2020/111865 received on 12.03.2020 which was taken up for hearing on 07.03.2022.</p>	<p>With reference to your online RTI application dated 06.06.2022, point wise reply/information is as under:-</p> <p>Points (1), (2), (4), (5) &amp; (7):- Explanation or clarification or reasons sought on any point does not constitute information as defined under section 2(f) of the RTI Act, 2005. Point</p>
	<p>2. The basis in law for Commission repeatedly referring to and incorporating portions from its prior decisions in its orders when the array of parties, factual matrix and cause titles are different, and usually without discussion in the public hearings, as seems to have been done in File no. CIC/CABST/A/2020/111865 by interpolation from file number CIC/CABST/A/2020/139627</p>	<p>Points (1), (2), (4), (5) &amp; (7):- Explanation or clarification or reasons sought on any point does not constitute information as defined under section 2(f) of the RTI Act, 2005. Point</p>
	<p>3. The complete information created by the legal consultants attached to Shri Y.K. Sinhas office for file numbers CIC/CABST/A/2020/139627 and CIC/CABST/A/2020/111865 as I desire to evaluate the quality of their work and utility to the Commission.</p>	<p>(3):- No information is created by the legal consultants. As such, information sought in this regard is not covered under section 2(f) of RTI Act, 2005. The information sought regarding evaluation of work of legal consultants is exempt under section 8(1) (e) and section 8(1) (j) of the RTI Act, 2005, since it is personal information related to third parties, which is held in fiduciary capacity.</p>

29/07/2022  
FAA

<p>4. Because Shri Y.K Sinha had avoided taking action on these file numbers as they admittedly touch on questions of laws and seemingly due to his mental incapacity or infirmity to decide such matters, I desire to have information concerning the non-allocation of these matters instead to, say, IC Suresh Chandra ji who is apparently an eminent law expert, unlike Shri YK Sinha, as was specifically directed to be done by Supreme Court in the Namit Sharma review judgment. Accordingly, I and the whole world have cause to believe, that not only is Shri YK Sinha mentally infirm for his job but he is also refusing to pass on such matters to the qualified and competent law experts in the Commission.</p> <p>5. Since the above 2 file matters concerning the Cabinet Sectt were evaded by Shri YK Sinha, for the reason recorded -such information cannot be disclosed, because the question of disclosure is currently sub judice- kindly provide me the copy of the basis in law whereby the Commission avoided deciding matters of different parties. NB- I have perused the concerned judgments and stay order of Delhi High Court for LPA No. 347/2010 and its underlying judgment and do not find any stay or prohibition against hearing and disposing similar matters by the Commission.</p>	<p>Points (1), (2), (4), (5) &amp; (7):- Explanation or clarification or reasons sought on any point does not constitute information as defined under section 2(f) of the RTI Act, 2005. Point</p>
<p>6. Information that the Commission, and its law officers and legal consultants etc are sufficiently qualified in the law, by being provided all their Bar Council enrollment numbers and especially that of Shri YK Sinha.</p>	<p>Point (6):- The information sought is exempt under section 8(1) (e) and section 8(1) (j) of the RTI Act, 2005, since it is personal information related to third parties, which is held in fiduciary capacity.</p>
<p>7. Concerning the 2 aforementioned file numbers, the complete information of the reasons on record for the doctrine of -res sub judice- of section 10 CPC 1908 not being strictly followed by the Commission by ignoring that the array of parties in both matters must be the same for it to be invoked.</p>	<p>Points (1), (2), (4), (5) &amp; (7):- Explanation or clarification or reasons sought on any point does not constitute information as defined under section 2(f) of the RTI Act, 2005. Point</p>

## II. GROUNDS FOR FIRST APPEAL:

The Appellant submitted first appeal stating that:

This INTERIM FIRST APPEAL is filed against the reply of the CPIO Shri Suresh Kumar Chitkara, Consultant S.O., in request no. CICOM/R/E/22/00518 on the grounds following, which grounds are set out distinctly and without prejudice to each other.

**REQUEST FOR PERSONAL HEARING** Considering the numerous evasions manifest in the impugned reply, which betrays a complete lack of adherence to the suo-moto disclosure obligations of this Commission as mandated u/s 4 of the RTI Act 2005, and also the deliberate obstruction thereafter by the CPIO to provide specific information I applied for, I am requesting for a personal hearing in this matter before any order is passed in my cause. I am also requesting for a personal hearing because the present First Appellate Officer is

29/07/2022 Page 2  
FAA



regularly disposing of first appeals behind the back of appellants and in a formulaic manner by ignoring the grounds and objections of the appeal, which reeks of corruption.

#### PRELIMINARY OBJECTIONS:

1. My request No. CICOM/R/E/22/00518 is for 7 points of information. CPIO has decided it with online Reply that starts by saying that point-wise reply / information is as under but provides combined response for 5 points and no information at all.
2. I object that the purported CPIO is not a regular and permanent officer of the Commission provided by the Central Government vide section 13(6) of the RTI Act, but is a retired officer category consultant. As such consultancy is a temporary (non-official) contractual appointment which can be cancelled at any time without any reason, Shri S.K.Chitkara was not eligible to be appointed as a CPIO and his reply is invalid.
3. I protest that it has become a practice in the Commission, to designate the temporary short term contractual staff as CPIOs and to compel them to obstruct and evade information disclosure which shall expose the general incompetence and corruption in Commission. Such temporary appointees will go to any length to mindlessly deny information simply to keep and renew their contracts. Accordingly, the Commission, as nodal authority for RTI, may kindly strictly follow the recommendations of the 2nd ARC that CPIO may be of at least Deputy Secretary / Director level rank, so that the information I requested may be properly accessed and provided to me.
4. I object that this Commission, which is entrusted the responsibility for proper RTI implementation over all public authorities of India, compels the citizens to resort to use the RTI Act because this Commission has completely ignored its own mandatory obligations under section 4(2) of the RTI Act which states as follows:- (2) It shall be a constant endeavour of every public authority to take steps in accordance with the requirements of clause (b) of sub-section (1) to provide as much information suo motu to the public at regular intervals through various means of communications, including internet, so that the public have minimum resort to the use of this Act to obtain information.

**GROUND A.** The combined denial of points (1), (2), (4), (5) & (7) by invoking section 2(f) is misconceived. The section relevant to these points cannot be 2(f) because **it is 4(1) of the RTI Act 2005 for the mandatory information to be published within 120 of the RTI Act coming into force** and updated regularly thereafter. In particular:

- (i) Point (1): Reasons on record for decisions to take up matters out of turn are part of the procedures followed in the decision-making process, liable to be published as u/s 4(1)(b)(ii). They are also to be disclosed u/s 4(1)(d) to all whose matters are overtaken or are awaiting hearing at the Commission. Your appellant is such a person.
- (ii) Points (2), (5) & (7): Basis in law / reasons on record apropos practices of referring to prior orders and to sub judice matters in orders, are liable to be published u/s 4(1)(b)(iii) (the norms set by it for discharge of its functions). They are also to be disclosed u/s 4(1)(d) to those affected by such orders. Your appellant is such a person.
- (iii) Point (4): Basis of allocation of matters of involving points of law is - following the direction of the Supreme Court in this regard - a matter requiring policy formulation and all relevant facts of it are liable to be published u/s 4(1)(c) of the RTI Act 2005. Conversely if the specific directions of the Supreme Court to the Commission concerning the allocation of matters involving points of law are not being followed, the affected public, including your appellant, is equally to be informed of all facts in this regard.

**B. Point (6)** - i.e., Bar Council enrolment numbers of law officers, consultants and Shri Y K Sinha - has been denied by invoking section 8(1)(e) & (j) with the justification that it is personal information related to third parties, which is held in fiduciary capacity. Mere mention of third party, personal and fiduciary does not justify the denial. In particular:

- (i) Requests for information related to third party are to be processed u/s 11 of the Act.
- (ii) Exemption of personal information u/s 8(1)(j) is not sweeping. It applies only if disclosure either (a) is unrelated to public activity / interest or (b) would cause unwarranted invasion of privacy unless CPIO is satisfied of larger public interest. I have stated at the outset in my request that it is filed in larger public interest and disclosure of Bar Council enrolment



numbers does not even involve unwarranted invasion of privacy. Section 8(1)(j) does not apply to my point (6).

(iii) The exemption u/s 8(1)(e) is for information available to a person in his fiduciary relationship. The CPIO has not identified the person/s having fiduciary relationships with law officers, legal consultants and Shri Y K Sinha, the basis of those fiduciary relationships and how they prevent disclosure by CIC of Bar Council enrolment numbers.

C. The denial of point (3) - i.e., information created by legal consultants that I desire to evaluate - is illogical, as CPIO has simultaneously invoked section 2(f) by claiming no information is created and section 8(1) to claim that the information is exempt. Both claims are separately untenable:

(i) Duties of legal consultants, set out in para-5 of Commission's advertisement dated 08.08.2017 issued in File No. 5/1/2012/Admn/CIC/Vol-III, involve creation of several items of information as defined u/s 2(f) including draft orders.

(ii) The exemption claimed is by way of exact same vague phrase as for point (6) and does not say how the information created by legal consultants is third party or personal or fiduciary. On the other hand, it can readily be argued that legal consultants, not being public authorities or even duly incorporated part of CIC, are members of the public for purpose of RTI Act and, as such, particulars of arrangements for consultations with them are liable to be published u/s 4(1)(b)(vii) and all relevant facts thereof are liable to be published u/s 4(1)(c) & (d) along with the orders resulting therefrom.

REQUEST: I request for an **opportunity of personal hearing** so that the decision dated 28.06.2022 on my request No. CICOM/R/E/22/00518 be set aside and that CPIO be directed to take all necessary assistance u/s 5(4) to decide each of its specific points afresh in light of the foregoing and that fresh opportunity be afforded to me for appeal u/s 19(1), if needed, in respect of his fresh decision.

### III. DECISION OF THE FIRST APPELLATE AUTHORITY:

The opportunity of written submission, for the first appeal, provided to the appellant is found to be reasonable opportunity of hearing. The written submissions made by the appellant in his first appeal application are found to be sufficient for consideration by the FAA to arrive at a decision under the RTI Act, 2005. Accordingly, it was felt that the personal hearing as requested by appellant was not necessary.

The appellant in the grounds of first appeal has mentioned, "The combined denial of points (1), (2), (4), (5) & (7) by invoking section 2(f) is misconceived. The section relevant to these points cannot be 2(f) because **it is 4(1) of the RTI Act 2005 for the mandatory information to be published within 120 of the RTI Act coming into force** and updated regularly thereafter."

It is pertinent to mention here that the content of suo-motu disclosure is already available on CIC website. The grounds mentioned above are the opinion of the appellant. CPIO would be able to provide the information sought, only if it would have been held by the CPIO. Accordingly, CPIO is not supposed to provide the information which is not under his/her custody.

The point-wise disposal of the First Appeal is as follows:-

#### For Point 1

The appellant has sought for the information of reasons on record.

However, CPIO in the RTI reply had applied Section 2(f) and opined that explanation or clarification or reasons were sought.

Here the appellant has sought for the reasons on record and not sought any reasons or clarification from the CPIO. Accordingly, CPIO is directed to revisit the RTI application and



provide the information sought, if any such reasons as sought by the appellant are available on record, by 08.08.2022.

In case, no such reasons are available on records, CPIO may communicate the same to the appellant.

### **For Point 2**

The appellant has sought for the basis in law with regard to certain orders of the Central Information Commission. CPIO is not supposed to analyse or substantiate or issue clarification on the orders of the Commission. Hence, such information sought does not come under the definition of information as per Section 2(f) of the RTI Act, 2005.

Accordingly, the reply given by the CPIO is appropriate and as per the provisions of the RTI Act, 2005. Hence, no intervention is required on behalf of the FAA in this matter.

### **For Point 3**

Here, the appellant has sought for the complete information created by the Legal Consultants for File Nos. CIC/CABST/A/2020/139627 and CIC/CABST/A/2020/111865. However, CPIO had misunderstood the same as the information regarding evaluation of work of legal consultants.

Since, CPIO in its reply had clearly stated that no information was created by the legal consultants and, as such, information sought in this regard was not covered under section 2(f) of the RTI Act, 2005.

As per Section 2(f) of the 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 CPIO.

Accordingly, the reply given by the CPIO is appropriate and as per the provisions of the RTI Act, 2005. Hence, no intervention is required on behalf of the FAA in this matter.

### **For Point 4**

The appellant has sought for the following information "Because Shri Y.K Sinha had avoided taking action on these file numbers as they admittedly touch on questions of laws and seemingly due to his mental incapacity or infirmity to decide such matters, I desire to have information concerning the non-allocation of these matters instead to, say, IC Suresh Chandra ji who is apparently an eminent law expert, unlike Shri YK Sinha, as was specifically directed to be done by Supreme Court in the Namit Sharma review judgment. Accordingly, I and the whole world have cause to believe, that not only is Shri YK Sinha mentally infirm for his job but he is also refusing to pass on such matters to the qualified and competent law experts in the Commission."

CPIO in the RTI reply had applied Section 2(f) and opined that explanation or clarification or reasons were sought.

Here, the appellant has sought for the reasons.

Accordingly, the reply given by the CPIO is appropriate and as per the provisions of the RTI Act, 2005. Hence, no intervention is required on behalf of the FAA in this matter.

### **For Point 5**

The appellant has sought for the copy of basis in law with regard to certain orders of the Central Information Commission. CPIO is not supposed to analyse or substantiate or issue clarification on the orders of the Commission. Hence, such information sought does not come under the definition of information as per Section 2(f) of the RTI Act, 2005.

Accordingly, the reply given by the CPIO is appropriate and as per the provisions of the RTI Act, 2005. Hence, no intervention is required on behalf of the FAA in this matter.

Q  
29/03/2022  
FAA

#### For Point 6

The appellant has sought for the Bar Council enrolment nos. of Law Officers, Legal Consultants and Shri Y.K. Sinha.

CPIO has denied the information on the basis of Section 8(1)(e) and Section 8(1)(j) of the RTI Act, 2005.

Since, any such information if held by the public authority in the capacity of an employer shall come under the fiduciary relationship of employee with the employer. In addition to this, the Bar Council Enrolment numbers are definitely the personal information of the individuals.

Accordingly, the reply given by the CPIO is appropriate and as per the provisions of the RTI Act, 2005. Hence, no intervention is required on behalf of the FAA in this matter.

#### For Point 7

The appellant has sought for the complete information of the reasons on record for the doctrine of -res sub judice- of section 10 CPC 1908.

However, CPIO in the RTI reply had applied Section 2(f) and opined that explanation or clarification or reasons were sought.

Here the appellant has sought for the complete information of the reasons on record for the doctrine of -res sub judice- of section 10 CPC 1908 and not sought any reasons or clarification from the CPIO. Accordingly, CPIO is directed to revisit the RTI application and provide the information sought, if any such information of the reasons on record for the doctrine of -res sub judice- of section 10 CPC 1908 is available on records, by 08.08.2022.

In case, no such information is available on records, CPIO may communicate the same to the appellant

IV. The appeal is disposed of accordingly.

*CA*  
29/07/2022

(Ajitkumar Vasantrao Sontakke)  
First Appellate Authority



75  
Azadi Ka  
Amrit Mahotsav

Copy to 1) CPIO(DR to CIC-YS)(for compliance)  
2) Nodal Officer and CPIO (RTI Cell) (for information)