

F.NO. LHMC/RTI/Admn.II/2020/876

भारत सरकार

GOVERNMENT OF INDIA

स्वास्थ्य एवं परिवार कल्याण मंत्रालय

MINISTRY OF HEALTH AND FAMILY WELFARE

लेडी हार्डिंग मेडिकल कॉलेज एवं श्रीमती सुचेता कृपलानी अस्पताल, नई दिल्ली
LADY HARDING MEDICAL COLLEGE & SMT. S. K. HOSPITAL, NEW DELHI

दिनांक:- 4-2-2020

OFFICE MEMORANDUM


Sub.:- Directions of Central Information Commission vide its decision dated 05/12/2019 in the RTI matter between Shri Binay Kumar Biswas, the RTI applicant and the CPIO & Joint Secretary, Medical Council of India.

I am directed to forward to email dated 15/01/2020 alongwith MoHFW (RTI Cell) letter No. A.60011/157/2019 (FTS. 8043942) dated 02/01/2020 received from Section Officer, Hospital – I Section, MoHFW on the above mentioned subject, the Central Information Commission has directed to issue directions to all concerned to ensure that reply of the RTI queries should be furnished exercising due diligence in conformity with the provisions of the RTI Act, 2005 and to shed lethargy and laxity in answering such queries.

2. All Appellate Authorities/Public Information Officer, LHMC & Smt. S.K. Hospital, New Delhi are requested to follow the instructions contained in the above said decision, may be seen on the website of LHMC & SSKH i.e. lhmc-hosp.gov.in.

This issues with the approval of Competent Authority.

Encl:- As above.


प्रशासनिक अधिकारी

To,

All Appellate Authorities/Public Information Officers, LHMC & Smt. S.K. Hospital,
New Delhi.

Copy to:-

1. Sh. Sawru Singh, Section Officer, Hospital – I Section, MoHFW, Nirman Bhawan, New Delhi w.r.t. email dated 15/01/2020.
2. PS to Director, LHMC.
3. PA to DDA, LHMC.

15/2020

Gmail - Directions of Central Information Commission vide its decision dated 05/12/2019 in the RTI matter between Shri Binay Kumar Bis...

Gmail

Rajiv Garg <directorlhmc@gmail.com>

Directions of Central Information Commission vide its decision dated 05/12/2019 in the RTI matter between Shri Binay Kumar Biswas, the RTI applicant and the CPIO & Joint Secretary, Medical Council of India.

1 message

Hospital-1 Section <hospital1section@gmail.com>

To: msoffice@vmmc-sjh.nic.in, msofficesjh@gmail.com, Medical Superintendent <med.sup.rmlh@gmail.com>, 15 January 2020 at 10:22

med.sup@rmlh.nic.in, directorlhmc@gmail.com

Cc: nkbup2003@gmail.com

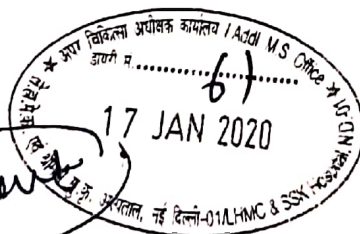
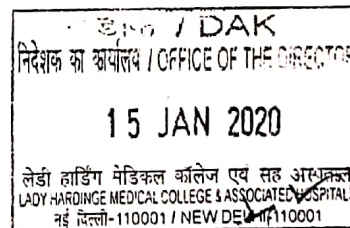
Directions of Central Information Commission vide its decision dated 05/12/2019 in the RTI matter between Shri Binay Kumar Biswas, the RTI applicant and the CPIO & Joint Secretary, Medical Council of India.

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Sawru Singh
Section Officer
Hospital-I Section
MOHFW, Nirman Bhawan
Contact No:- 011-23063006

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Dr. Asha Dams, CMO (SAG) & nodal officer, RTI



अभिज्ञ
20/01/2020

forwarded to DDA for further necessary action since the matter pertains to Dept of Administration.

P1. issue an O.M. on the issue उपनिवेदित

1498

20/1/2020

File No.A.60011/157 /2019 (FTS.8043942)
Government of India
Ministry of Health & Family Welfare
Department of Health & Family Welfare
(RTI Cell)

Nirman Bhawan, New Delhi-110011

Dated: ~~December 2019~~

02 January 2020

OFFICE MEMORANDUM

Subject- Directions of Central Information Commission vide its decision dated 05/12/2019 in the RTI matter between Shri Binay Kumar Biswas, the RTI applicant and the CPIO & Joint Secretary, Medical Council of India

The undersigned is directed to forward herewith decision of Central Information Commission dated 05/12/2019 on the above mentioned subject whereby the Commission has directed to issue directions to all concerned to ensure that reply to the RTI queries should be furnished exercising due diligence in conformity with the provisions of the RTI Act, 2005 and to shed lethargy and laxity in answering such queries.

2 All the concerned are requested to follow the instructions contained in the above said decision

Digitally signed by NEERAJ SACHDEV
Date: Wed Jan 01 10:54:15 IST 2020
Reason: Approved

(Neeraj Sachdeva)
Under Secretary to the Govt of India & CPIO
Telephone No.011-23061778

All CPIOs/AAs under Ministry of Health & FW (As list enclosed)

In Hemant
14/01/2020
P.I. do the needful.
31/1/2020
SJH
Hospital - I Section

For necessary compliance please

15/01/2020

To
M.Ss- SJH & Dr. RMLH
Director - LHM C

केन्द्रीय सूचना आयोग
Central Information Commission
बाबा गंगनाथ मार्ग, मुनिरका
Baba Gangnath Marg, Munirka
नई दिल्ली, New Delhi – 110067

द्वितीय अपील संख्या / Second Appeal No.: - CIC/MEDCI/A/2018/133041-BJ+
CIC/MEDCI/A/2018/133040-BJ+
CIC/MEDCI/A/2018/133231-BJ+
CIC/MEDCI/A/2018/133230-BJ+
CIC/MEDCI/A/2018/133223-BJ+
CIC/MEDCI/A/2018/133229-BJ+
CIC/MEDCI/A/2018/133232-BJ+
CIC/MEDCI/A/2018/133224-BJ+
CIC/MEDCI/A/2018/133225-BJ

Mr. Binay Kumar Biswas

....अपीलकर्ता/Appellant

VERSUS

बनाम

CPIO and Jt. Secretary
Medical Council of India
Pocket – 14, Sector – 8, Dwarka Phase – 1
New Delhi - 110077

...प्रतिवादीगण /Respondent

Date of Hearing : 04.12.2019
Date of Decision : 05.12.2019

ORDER

RTI – 1 File No. CIC/MEDCI/A/2018/133041-BJ

Date of RTI application	02.01.2018
CPIO's response	22.02.2018
Date of the First Appeal	20.03.2018
First Appellate Authority's response	20.04.2018
Date of diarised receipt of Appeal by the Commission	24.05.2018

FACTS:

The Appellant vide his RTI application sought information regarding the modification of TEQ Act-1998/Office Order/Memorandum/Official Procedure or any lawful data as per which Dr. Vinod K Verma, Associate Professor, Anesthesiology, IGIMS, Patna was promoted/recruited to the post of Associate Professor with less than required length of experience as stipulated in TEQ-1998 had been accepted/validated by MCI.

The CPIO vide his letter dated 22.02.2018 stated that the queries sought was in the nature of eliciting opinion, hence were not an information defined u/s 2(f) of the Right to Information Act, 2005. Dissatisfied with the CPIO's response, the Appellant approached the FAA. The FAA, vide its order dated 20.04.2018 concurred with the CPIO's response.

RTI – 2 File No. CIC/MEDCI/A/2018/133040-BJ

Date of RTI application	13.12.2017
CPIO's response	22.02.2018
Date of the First Appeal	20.03.2018
First Appellate Authority's response	24.04.2018
Date of diarised receipt of Appeal by the Commission	24.05.2018

FACTS:

The Appellant vide his RTI application sought information regarding the modification of TEQ Act-1998/Office Order/Memorandum/Official Procedure or any lawful data as per which Dr. A S Singh's promotion/recruitment to the post of Associate and Professor posts in different institutions with un-recognized and inadequate experience from MCOMS-Pokhar-Nepal, BPKIHS, Dharan-Nepal and SIMS-Gangtok had been accepted/validated by MCI.

The CPIO vide his letter dated 22.02.2018 stated that the queries were in the nature of eliciting opinion, hence were not an information defined u/s 2(f) of the Right to Information Act, 2005. Dissatisfied with the CPIO's response, the Appellant approached the FAA. The FAA, vide its order dated 20.04.2018 concurred with the CPIO's response.

RTI – 3 File No. CIC/MEDCI/A/2018/133231-BJ

Date of RTI application	05.01.2018
CPIO's response	22.02.2018
Date of the First Appeal	20.03.2018
First Appellate Authority's response	20.04.2018
Date of diarised receipt of Appeal by the Commission	25.05.2018

FACTS:

The Appellant vide his RTI application sought information regarding the modification of TEQ Act-1998/Office Order/Memorandum/Official Procedure or any lawful data as per which credentials of Mr. Sandip Ghosh, Assistant Professor, Biochemistry, KPC Medical College, Kolkata of only MSc Degree had been validated by the MCI for acceptance of her promotion had been validated by the MCI for acceptance of his promotion to the post of Assistant Professor in Biochemistry without having a Doctoral degree of either MD or PhD

The CPIO vide his letter dated 22.02.2018 stated that the queries were in the nature of eliciting opinion, hence were not an information defined u/s 2(f) of the Right to Information Act, 2005. Dissatisfied with the CPIO's response, the Appellant approached the FAA. The FAA, vide its order dated 20.04.2018 concurred with the CPIO's response.

RTI – 4 File No. CIC/MEDCI/A/2018/133230-BJ

Date of RTI application	23.12.2017
CPIO's response	22.02.2018
Date of the First Appeal	20.03.2018
First Appellate Authority's response	20.04.2018
Date of diarised receipt of Appeal by the Commission	25.05.2018

FACTS:

The Appellant vide his RTI application sought information regarding the modification of TEQ Act-1998/Office Order/Memorandum/Official Procedure/ Executive Committee Meeting / PG Committee Meeting or any lawful data as per which Mr. Swagnik Roy's credentials of only Msc. Degree had been validated by MCI for his promotion as Assistant Professor in Microbiology without having a doctoral degree and benefits of publication rendered to him by MCI assessor and how did such benefit become applicable to an unqualified Tutor for promotion to the position of Assistant Professor

The CPIO vide his letter dated 22.02.2018 stated that the queries were in the nature of eliciting opinion, hence were not an information defined u/s 2(f) of the Right to Information Act, 2005. Dissatisfied with the CPIO's response, the Appellant approached the FAA. The FAA, vide its order dated 20.04.2018 concurred with the CPIO's response.

RTI – 5 File No. CIC/MEDCI/A/2018/133223-BJ

Date of RTI application	01.01.2018
CPIO's response	21.02.2018
Date of the First Appeal	20.03.2018
First Appellate Authority's response	20.04.2018
Date of diarised receipt of Appeal by the Commission	25.05.2018

FACTS:

The Appellant vide his RTI application sought information regarding the modification of TEQ Act-1998/Office Order/Memorandum/Official Procedure/ Executive Committee Meeting// PG Committee Meeting or any lawful data as per which Ms. Priyanka Pahari credentials of only Msc. Degree had been validated by MCI for her promotion as Assistant Professor in Physiology without having a doctoral degree of either MD or PhD

The CPIO vide his letter dated 22.02.2018 stated that the queries were in the nature of eliciting opinion, hence were not an information defined u/s 2(f) of the Right to Information Act, 2005. Dissatisfied with the CPIO's response, the Appellant approached the FAA. The FAA, vide its order dated 20.04.2018 concurred with the CPIO's response.

RTI – 6 File No. CIC/MEDCI/A/2018/133229-BJ

Date of RTI application	05.01.2018
CPIO's response	22.02.2018
Date of the First Appeal	20.03.2018
First Appellate Authority's response	20.04.2018
Date of diarised receipt of Appeal by the Commission	25.05.2018

FACTS:

The Appellant vide his RTI application sought information regarding the modification of TEQ Act-1998/Office Order/Memorandum/Official Procedure or any lawful data as per which recruitment of Dr. A C Phukan, Professor of Microbiology at NEIGRIHMS, Shillong to the post of Associate Professor as well as Professor positions without adequate length of experience as per MCI-TEQ 1998 had been accepted/ validated by MCI.

The CPIO vide his letter dated 22.02.2018 stated that the queries were in the nature of eliciting opinion, hence were not an information defined u/s 2(f) of the Right to Information Act, 2005. Dissatisfied with the CPIO's response, the Appellant approached the FAA. The FAA, vide its order dated 20.04.2018 concurred with the CPIO's response.

RTI – 7 File No. CIC/MEDCI/A/2018/133232-BJ

Date of RTI application	04.01.2018
CPIO's response	22.02.2018
Date of the First Appeal	20.03.2018
First Appellate Authority's response	20.04.2018
Date of diarised receipt of Appeal by the Commission	25.05.2018

FACTS:

The Appellant vide his RTI application sought information regarding the modification of TEQ Act-1998/Office Order/Memorandum/Official Procedure/ Executive Committee Meeting / PG Committee Meeting or any lawful data as per which Dr. Dipa Saha's credentials of full time work at both places simultaneously as Faculty in one place and Residential Post Graduate Trainer at other place had been validated by the MCI and information based on which both of her simultaneously acquiring Diploma in Ophthalmology qualification and experience of Assistant Professor in Physiology had been allowed to be accepted in all future activities by the MCI.

The CPIO vide his letter dated 22.02.2018 stated that the queries were in the nature of eliciting opinion, hence were not an information defined u/s 2(f) of the Right to Information Act, 2005. Dissatisfied with the CPIO's response, the Appellant approached the FAA. The FAA, vide its order dated 20.04.2018 concurred with the CPIO's response.

RTI – 8 File No. CIC/MEDCI/A/2018/133224-BJ

Date of RTI application	05.01.2018
CPIO's response	22.02.2018
Date of the First Appeal	20.03.2018
First Appellate Authority's response	20.04.2018
Date of diarised receipt of Appeal by the Commission	25.05.2018

FACTS:

The Appellant vide his RTI application sought information regarding the modification of TEQ Act-1998/Office Order/Memorandum/Official Procedure/ Executive Committee Meeting/ PG Committee Meeting or any lawful data as per which Dr. Noor Topno's promotion/ recruitment to Associate Professor Post without adequate length of experience as per MCI-TEQ had been accepted/ validated by MCI.

The CPIO vide his letter dated 22.02.2018 stated that the queries were in the nature of eliciting opinion, hence were not an information defined u/s 2(f) of the Right to Information Act, 2005. Dissatisfied with the CPIO's response, the Appellant approached the FAA. The FAA, vide its order dated 20.04.2018 concurred with the CPIO's response.

RTI – 9 File No. CIC/MEDCI/A/2018/133225-BJ

Date of RTI application	05.01.2018
CPIO's response	22.02.2018
Date of the First Appeal	20.03.2018
First Appellate Authority's response	20.04.2018
Date of diarised receipt of Appeal by the Commission	25.05.2018

FACTS:

The Appellant vide his RTI application sought information regarding the modification of TEQ Act-1998/Office Order/Memorandum/Official Procedure/ Executive Committee Meeting/ PG Committee Meeting or any lawful data as per which Dr. Animesh Mishra's promotion/ recruitment to Associate Professor Post without adequate length of experience as per MCI-TEQ had been accepted/ validated by MCI.

The CPIO vide his letter dated 22.02.2018 stated that the queries were in the nature of eliciting opinion, hence were not an information defined u/s 2(f) of the Right to Information Act, 2005. Dissatisfied with the CPIO's response, the Appellant approached the FAA. The FAA, vide its order dated 20.04.2018 concurred with the CPIO's response.

HEARING:

Facts emerging during the hearing:

The following were present:

Appellant: Mr. Binay Kumar Biswas, arrived late, through VC;

Respondent: Mr. Shikhar Ranjan, Law Officer, Mr. Bijender Singh, SO and Mr. Bhagwan Das Jain, Asstt. Secy./ PIO;

The Appellant reiterated the contents of the RTI application and stated that there had been flagrant violation of the minimum eligibility criteria as laid down in the MCI Regulations 1998 viz-a-viz the approval accorded in this specific case. With regard to Appeal No CIC/MEDCI/A/2018/133041, the Appellant stated that Dr. V. K. Verma was recruited as Assistant Professor, Anesthesiology, IGIMS, Patna on 24.03.2006 but was promoted as Associate Professor on 01.07.2009 i.e. after obtaining an experience of 3 years and 03 months against the mandatory requirement of 05 years. It was argued that the reply of the Respondent was far from satisfactory as in all the matters under consideration, the MCI took protection under Section 2 (f) of the RTI Act, 2005, whereas for such violations no cognizance was made thus flouting the norms of transparency and objectivity as enshrined in the Preamble to the RTI Act. The Respondent however defended itself on the pretext that minimum eligibility criteria norms were followed in all such appointments which were carried out at the Local College Level Committee. On being queried as to how the approval was accorded by MCI against the minimum eligibility criteria norms, the Respondent feigned ignorance and agreed to re-examine the matter and furnish a fresh reply.

With regard to Appeal No CIC/MEDCI/A/2018/133040, the Respondent stated that Dr. A.S. Singh, Professor of Gynecology and Obstetrics, NEIGRIHMS, Shillong and I/C Director, RIMS, Manipal was appointed as Professor of Gynaecology in 2001 at Sikkim Manipal Institute of Medical Sciences,

Gangtok (SIMS) after working as Associate Professor in the said institute from 1997 to 2001 (4 years 4 months) despite the fact that SIMS, Gangtok was neither recognized by MCI during the period from 1997 to 2001 nor did it start MBBS with due LoP from MCI at that time. Hence experience gained by Dr Singh from the institute was not recognized for future promotion/ recruitment. Furthermore, BPKINS, Dharan was not recognized by MCI in the year 1997 and MCOMS, Pokhara was also not recognized as an MCI recognized institute and that BPKINS was recognized by MCI since 14.06.2000. Hence the experience gained by Dr Singh between 1995 to 2001 i.e., 6 years was not valid, recognized and appropriate in length and duration for any future recruitment to higher posts/ promotion to higher post. In its reply, the Respondent admitted that an appropriate reply was not sent by the CPIO and agreed to provide an updated response to the Appellant explaining the factual position in the matter.

With regard to Appeal Nos CIC/MEDCI/A/2018/133231, CIC/MEDCI/A/2018/133230 and CIC/MEDCI/A/2018/133223, the Appellant stated that Mr. Sandip Ghosh, Assistant Professor, Biochemistry, KPC Medical College, Kolkata; Mr. Swagnik Roy, Assistant Professor, Microbiology, KPC Medical College, Kolkata and Ms. Priyanka Pahari, Asst. Professor of Physiology, KPC Medical College, Kolkata were appointed as Assistant Professors in contravention to the provisions contained in the TEQ Rules of MCI, 1998 and its modifications and that contrary to the submissions of the Respondent the position of Assistant Professor could not be equated to the position of Lecturer and that promotion beyond the post of Lecturer/ Tutor Post required PhD/ Doctoral Qualification after obtaining M.Sc. In its reply, the Respondent referred to the provisions of the Medical Council of India Minimum Qualifications for Teachers in Medical Institutions Regulations, 1998 and stated that the same applied to the post of Lecturers as well as Assistant Professors. On being queried regarding the reasons why the said reply explaining the factual position in the matter was not provided to the Appellant earlier, the Respondent feigned ignorance and agreed to re-examine the matter and furnish a fresh reply to the Appellant.

With regard to Appeal No CIC/MEDCI/A/2018/133229, the Appellant stated that contrary to the regulations of MCI, Dr. A.C. Phukan, Professor of Microbiology at NEIGRIHMS, Shillong was promoted to the post of Associate Professor despite having experience of only 3 years and 3 months as Assistant Professor when the regulations stipulated a requirement of minimum experience of atleast 04 years. Similarly, the Appellant stated that Dr. Phukan was promoted to the post of Professor with only 02 years of relevant experience as Associate Professor whereas the TEQ Regulations, 1998 prescribed a minimum experience of 04 years for such promotion. Hence, the Appellant alleged arbitrariness in the promotion exercise and alleged that injustice was meted out to him. In its reply, the Respondent stated that as per the decision of the General Body of the MCI dated 26.06.2011, the teachers not possessing requisite teaching experience in terms of governing eligibility for promotion to higher cadres as prescribed by the Council Rules should atleast possess a minimum of total teaching experience of 15 years put in various cadres starting from Lecturer/ Assistant Professor onwards. However the said rule applied exclusively to the appointment of teachers that had been made prior to the promulgation of Teachers Eligibility Qualification Regulations, 1998. On being queried regarding the reasons why the said reply explaining the factual position in the matter was not provided to the Appellant earlier, the Respondent feigned ignorance and agreed to re-examine the matter and furnish a fresh reply to the Appellant.

With regard to Appeal No CIC/MEDCI/A/2018/133232, the Appellant stated that in contravention to the MCI TEQ Regulations, Dr. Dipa Saha, Professor of Physiology, KPC Medical College, Kolkata worked as Assistant Professor in the Department of Physiology in the aforementioned college from 07.05.2007 to 11.10.2010 (3years 5 months) and during the same period i.e. from Session 2007 to 2009, Dr. Saha was also a full time post graduate trainee doing her Diploma in Ophthalmology course

from the Medical College, Kolkata. Therefore he required the information regarding the basis on which the same was allowed by the MCI. In its reply, the Respondent categorically stated that as per the MCI regulations, it was not permissible to be a teacher and student simultaneously. The Respondent also agreed to re-examine the matter and provide a revised reply to the Appellant.

With regard to Appeal No CIC/MEDCI/A/2018/133224, the Appellant stated that Dr. Noor Topno, MS (General Surgery) was working as a Professor of Surgery at NEIGRIHMS had been promoted to the post of Associate Professor from the post of Assistant Professor in the year 2002 after working as an Assistant Professor for a tenure of 2 years 1 month which was in contravention to the MCI TEQ-1998 as per which any candidate with Broad Specialty Degree could be promoted to Associate Professor after working as Assistant Professor for 5 years. In its response, the Respondent re-iterated the reply of the CPIO/FAA and admitted that an appropriate reply was not sent by the CPIO. The Respondent thus agreed to provide an updated response to the Appellant explaining the factual position in the matter.

Regarding Appeal No CIC/MEDCI/A/2018/133224, the Appellant stated that Dr. Animesh Mishra, Professor of Cardiology, NEIGRHIMS, Shillong had been promoted to post of Associate Professor from the post of Assistant Professor after completing a tenure of 1 year 8 months in the year 2006/07 whereas as per TEQ 1998 prevailing in the year 2006/07, any candidate with a Super Specialty Degree could be promoted to Associate Professor after working as an Assistant Professor for 2 years. In its response, the Respondent re-iterated the reply of the CPIO/FAA and admitted that an appropriate reply was not sent by the CPIO. The Respondent thus agreed to provide an updated response to the Appellant explaining the factual position in the matter.

Having heard both the parties and on perusal of the available records, the Commission observed that the CPIO/ FAA did not provide a satisfactory response to the Appellant and answered the queries technically. The provisions of the RTI Act, 2005 and various judgements on the subject matter clearly establishes that it is the duty of the CPIO to provide clear, cogent and precise response to the information seekers. Section 7 (8) (i) of the RTI Act, 2005 also states that where a request for disclosure of information is rejected, the CPIO shall communicate the reasons for such rejection. The Hon'ble Delhi High Court in the matter of J P Aggarwal v. Union of India (WP (C) no. 7232/2009 clearly stated that the PIO acts as the Pivot for enforcing the implementation of the Act. The relevant extracts of the decision are as under:

“ 7 “it is the PIO to whom the application is submitted and it is who is responsible for ensuring that the information as sought is provided to the applicant within the statutory requirements of the Act. Section 5(4) is simply to strengthen the authority of the PIO within the department; if the PIO finds a default by those from whom he has sought information. The PIO is expected to recommend a remedial action to be taken”. [The RTI Act](#) makes the PIO the pivot for enforcing the implementation of the Act.”

8.....The PIO is expected to apply his / her mind, duly analyse the material before him / her and then either disclose the information sought or give grounds for non-disclosure.”

The Commission also observed that as per the provisions of Section 19 (5) of the RTI Act, 2005, in an Appeal proceeding, the onus to prove that a denial of a request was justified shall be on the CPIO. Neither the Respondent present during the hearing nor the CPIO responding to the RTI application, could justify their position as to how the disclosure of information would be in contravention to any of the provisions enshrined under Section 8 of the RTI Act, 2005

While observing that in order to deny information under any of the exemption mentioned under Section 8 (1) of the RTI Act, 2005, the Respondent is required to provide justification or establish the reason why such exemption was claimed, the Commission referred to the decision of the Hon'ble High Court of Delhi in the matter of Dy. Commissioner of Police v. D.K. Sharma, WP (C) No. 12428 of 2009 dated 15.12.2010, wherein it was held as under:

“6. This Court is inclined to concur with the view expressed by the CIC that in order to deny the information under the RTI Act the authority concerned would have to show a justification with reference to one of the specific clauses under Section 8 (1) of the RTI Act. In the instant case, the Petitioner has been unable to discharge that burden. The mere fact that a criminal case is pending may not by itself be sufficient unless there is a specific power to deny disclosure of the information concerning such case.”

Furthermore, the Hon'ble Delhi High Court in the case of Shri Vivek Mittal v. B.P. Srivastava, W.P.(C) 19122/2006 dated 24.08.2009 had upheld the view of the CIC and observed that

“.....The Act as framed, casts obligation upon the CPIOs and fixes responsibility in case there is failure or delay in supply of information. It is the duty of the CPIOs to ensure that the provisions of the Act are fully complied with and in case of default, necessary consequences follow”.

Furthermore, the Hon'ble High Court of Delhi in the matter of R.K. Jain vs Union of India, LPA No. 369/2018, dated 29.08.2018, held as under:

“9..... That apart, the CPIO being custodian of the information or the documents sought for, is primarily responsible under the scheme of the RTI Act to supply the information and in case of default or dereliction on his part, the penal action is to be invoked against him only.”

The Commission also noted that it should be the endeavour of the CPIO to ensure that maximum assistance should be provided to the RTI applicants to ensure the flow of information. In this context, the Commission referred to the OM No.4/9/2008-IR dated 24.06.2008 issued by the DoP&T on the Subject “*Courteous behavior with the persons seeking information under the RTI Act, 2005*” wherein it was stated as under:

“The undersigned is directed to say that the responsibility of a public authority and its public information officers (PIO) is not confined to furnish information but also to provide necessary help to the information seeker, wherever necessary.”

The Commission thus observed that there is complete negligence and laxity in the public authority in dealing with the RTI applications. It is abundantly clear that such matters are being ignored and set aside without application of mind which reflects disrespect towards the RTI Act, 2005 itself. The Commission expressed its displeasure on the casual and callous approach adopted by the respondent in responding to the RTI application. It was felt that the conduct of Respondent was against the spirit of the RTI Act, 2005 which was enacted to ensure greater transparency and effective access to the information.

DECISION:

Keeping in view the facts of the case and the submissions made by both the parties, it was evident that although stereotyped replies were furnished by the Respondent in all these cases but there was lack of application of mind with regard to the pertinent queries raised by the Appellant challenging the methodology adopted by the Respondent Public Authority in grant of its approval in contravention to the established norms. Therefore, the Commission directs the Respondent to re-examine all these Appeals exercising due diligence and keeping in view the spirit of the RTI Act, 2005 as also the directions issued by DOP&T and furnish a fresh reply within a period of 15 days from the date of receipt of this order. However, for redressal of his personal grievance, the Appellant is advised to approach an appropriate forum.

The Commission also instructs the Respondent Public Authority to convene periodic conferences/seminars to sensitize, familiarize and educate the concerned officials about the relevant provisions of the RTI Act, 2005 for effective discharge of its duties and responsibilities.

The Appeals stand disposed accordingly.

(Bimal Julka) (बिमल जुल्का)
(Information Commissioner) (सूचना आयुक्त)

Authenticated true copy
(अभिप्रमाणित सत्यापित प्रति)

(K.L. Das) (के.एल.दास)
(Dy. Registrar) (उप-पंजीयक)
011-26182598/ kl.das@nic.in
दिनांक / Date: 05.12.2019

Copy to:-

1. The Secretary, Ministry of Health and Family Welfare, 'A' Wing, Nirman Bhawan, New Delhi-110011 (With the instruction that directions be issued to all concerned to ensure that reply to the RTI queries should be furnished exercising due diligence in conformity with the provisions of the RTI Act, 2005 and to shed lethargy and laxity in answering such queries.)
2. Secretary General, Medical Council of India, Pocket – 14, Sector – 8, Dwarka, Phase – 1, New Delhi – 110077