

RTI REQUEST DETAILS (आरटीआई अनुरोध विवरण)				
Registration Number (पंजीकरण संख्या) :	CECVZ/R/T/23/00310/1		Date of Receipt (प्राप्ति की तारीख) :	28/11/2023
Transferred From (से स्थानांतरित):	Chief Commissioner of Central Excise & Customs (Visakhapatnam Zone) on 30/11/2023 With Reference Number : CECVZ/R/T/23/00310			
Remarks(टिप्पणी) :	Pertains to you.			
Type of Receipt (रसीद का प्रकार) :	Electronically Transferred from Other Public Authority		Language of Request (अनुरोध की भाषा) :	English
Name (नाम) :	MANOJ BALKRISHNA PATIL		Gender (लिंग) :	Male
Address (पता) :	Bungalow Number 10, East Street Camp, Next to Lashkar Police Quarters, Pune 411001, Pin:411001			
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Email-ID (ईमेल-आईडी) :	patilmanojpm12@gmail.com			
Status (स्थिति) (Rural/Urban) :	Urban		Education Status :	
Requester Letter Number(निवेदक पत्र संख्या) :	Details not provided		Letter Date :	Details not provided
Is Requester Below Poverty Line ? (क्या आवेदक गरीबी रेखा से नीचे का है?) :	No		Citizenship Status (नागरिकता)	Indian
Amount Paid (राशि का भुगतान) :	0 (Received by Central Board of Excise and Customs - Central Excise) (original recipient)		Mode of Payment (भुगतान का प्रकार)	Payment Gateway
Does it concern the life or Liberty of a Person? (क्या यह किसी व्यक्ति के जीवन अथवा स्वतंत्रता से संबंधित है?) :	No(Normal)		Request Pertains to (अनुरोध निम्नलिखित संबंधित है) :	F.A Cooper(CCO)
Information Sought (जानकारी मांगी):	As a Indian citizen I AM ALSO AN INDIRECT TAXPAYER . Every nations expenses like salaries of government servants , office equipments, instruments provided to govt. offices depend entirely on the nations taxpayers. THE RTI ACT 2005 is a big step towards making the citizens informed about the activities of the Government.In transparent governance it is to ensure that RTI APPLICATIONS are handled effectively which is an integral feature of good governance . Lapses of officers exercising quasi-judicial authority /power in RTI matters are also covered under Vigilance Angle. It is to state that the role of an CPIO is quasi-judicial by nature and power has been vested in him through an Act passed by Parliament and hence the CPIO is not required to obtain approval and he becomes responsible for the content of the reply furnished in response to an RTI application. AS PER Citation: Rao Mohd. Nadeem v. WAPCOS Limited in Complaint No. CIC/WPCSL/C/2019/635310 : Date of decision: 01.09.2020 Multiple RTI Applications - CIC: Even if the complainant had filed 47 RTI applications, it is the duty of the PIO under the provisions of the RTI Act to dealt each application separately & give reply to the RTI applicants after proper application of mind. Therefore please provide me the following information under section 3 0f the RTI Act 2005 in respect of ALL THE ZONAL DGGI OFFICES /ALL NACIN ZTI OFFICES / ZONAL CHIEF COMMISSIONERS OFFICES OF CBIC LOCATED ALL OVER INDIA from 1/4/2023 to 26/11/2023 which is required by me in the larger public interest. If the said information is not available with you my application may be forwarded to the respective CPIO under section6(3)0f RTI Act 2005 providing the information (A) NAME & PLACE OF THE DGGI/OFFICE (B) NAME & PLACE OF THE NACIN ZTI (C) NAME & PLACE OF THE CHIEF COMMISSIONERATE OF CENTAL EXCISE & CGST (D) NAME & PLACE OF THE COMMISSIONERATE OF CENTAL EXCISE & CGST (EXECUTIVE/AUDIT/APPEALS/) WHICHEVER IS APPLICABLE(E)			

NAME & PLACE OF THE DIVISION OF CENTAL EXCISE & CGST OR NAME & PLACE OF THE CIRCLE UNDER CGST OR NAME & PLACE OF THE DIVISION WHICHEVER IS APPLICABLE (F) NAME AND PLACE OF THE RANGE UNDER DIVN OF CENTRAL EXCISE & CGST OR AUDIT PARTY UNDER CGST AUDIT WHICHEVER IS APPLICABLE (G) PLEASE PROVIDE ME COPY OF ALL RTI REPLIES WHEREIN A COMMON REPLY WAS GIVEN TO MULTIPLE RTI APPLICATIONS WHEN IT IS THE DUTY OF THE CPIO UNDER THE PROVISIONS OF THE RTI ACT TO DEALT EACH APPLICATION SEPARATELY AND GIVE REPLY/INFORMATION TO THE RTI APPLICANTS AFTER PROPER APPLICATION OF MIND (PLEASE REFER Citation: Rao Mohd. Nadeem v. WAPCOS Limited in Complaint No. CIC/WPCSL/C/2019/635310: Date of decision: 01.09.2020) (H) PLEASE PROVIDE ME COPY OF ALL APPEALS FILED BY RTI APPLICANTS TO FAA AGAINST CPIO ORDER WHEREIN A COMMON REPLY WAS GIVEN BY CPIO TO MULTIPLE RTI APPLICATIONS Please provide me the information for point (G) & (H) from 1/4/2023 to 26/11/2023 by e mail for offices mentioned at (A) to (F)

Original RTI Text (मूल आरटीआई पाठ):

As a Indian citizen I AM ALSO AN INDIRECT TAXPAYER . Every nations expenses like salaries of government servants , office equipments, instruments provided to govt. offices depend entirely on the nations taxpayers. THE RTI ACT 2005 is a big step towards making the citizens informed about the activities of the Government. In transparent governance it is to ensure that RTI APPLICATIONS are handled effectively which is an integral feature of good governance . Lapses of officers exercising quasi-judicial authority /power in RTI matters are also covered under Vigilance Angle. It is to state that the role of an CPIO is quasi-judicial by nature and power has been vested in him through an Act passed by Parliament and hence the CPIO is not required to obtain approval and he becomes responsible for the content of the reply furnished in response to an RTI application. AS PER Citation: Rao Mohd. Nadeem v. WAPCOS Limited in Complaint No. CIC/WPCSL/C/2019/635310 : Date of decision: 01.09.2020 Multiple RTI Applications - CIC: Even if the complainant had filed 47 RTI applications, it is the duty of the PIO under the provisions of the RTI Act to dealt each application separately & give reply to the RTI applicants after proper application of mind. Therefore please provide me the following information under section 3 Of the RTI Act 2005 in respect of ALL THE ZONAL DGGI OFFICES /ALL NACIN ZTI OFFICES / ZONAL CHIEF COMMISSIONERS OFFICES OF CBIC LOCATED ALL OVER INDIA from 1/4/2023 to 26/11/2023 which is required by me in the larger public interest. If the said information is not available with you my application may be forwarded to the respective CPIO under section 6(3) of RTI Act 2005 providing the information (A) NAME & PLACE OF THE DGGI/OFFICE (B) NAME & PLACE OF THE NACIN ZTI (C) NAME & PLACE OF THE CHIEF COMMISSIONERATE OF CENTAL EXCISE & CGST (D) NAME & PLACE OF THE COMMISSIONERATE OF CENTAL EXCISE & CGST (EXECUTIVE/AUDIT/APPEALS/) WHICHEVER IS APPLICABLE (E) NAME & PLACE OF THE DIVISION OF CENTAL EXCISE & CGST OR NAME & PLACE OF THE CIRCLE UNDER CGST OR NAME & PLACE OF THE DIVISION WHICHEVER IS APPLICABLE (F) NAME AND PLACE OF THE RANGE UNDER DIVN OF CENTRAL EXCISE & CGST OR AUDIT PARTY UNDER CGST AUDIT WHICHEVER IS APPLICABLE (G) PLEASE PROVIDE ME COPY OF ALL RTI REPLIES WHEREIN A COMMON REPLY WAS GIVEN TO MULTIPLE RTI APPLICATIONS WHEN IT IS THE DUTY OF THE CPIO UNDER THE PROVISIONS OF THE RTI ACT TO DEALT EACH APPLICATION SEPARATELY AND GIVE REPLY/INFORMATION TO THE RTI APPLICANTS AFTER PROPER APPLICATION OF MIND (PLEASE REFER Citation: Rao Mohd. Nadeem v. WAPCOS Limited in Complaint No. CIC/WPCSL/C/2019/635310: Date of decision: 01.09.2020) (H) PLEASE PROVIDE ME COPY OF ALL APPEALS FILED BY RTI APPLICANTS TO FAA AGAINST CPIO ORDER WHEREIN A COMMON REPLY WAS GIVEN BY CPIO TO MULTIPLE RTI APPLICATIONS Please provide me the information for point (G) & (H) from 1/4/2023 to 26/11/2023 by e mail for offices mentioned at (A) to (F)

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Central Information Commission

Rao Mohd. Nadeem vs Wapcos Limited on 7 September, 2020

Author: Neeraj Kumar Gupta

ॐ ॐ ॐ ॐ ॐ
Central Information Commission
ॐ ॐ ॐ ॐ ॐ, ॐ ॐ ॐ ॐ
Baba Gangnath Marg, Munirka
ॐ ॐ ॐ, New Delhi - 110067

ॐ ॐ ॐ ॐ / Complaint No. CIC/WPCSL/C/2019/635310

Rao Mohd. Nadeem

...ॐ ॐ ॐ ॐ ॐ ॐ /Complainant

VERSUS

ॐ ॐ ॐ ॐ

The CPIO, WAPCOS Limited, Dy.
Chief Manager, 76-C, Institutional
Area, Sector - 18, Gurugram,
Haryana.

... ॐ ॐ ॐ ॐ /Respondent

Relevant dates emerging from the complaint:

RTI : 08.01.2019

FA : 19.02.2019

Complaint: 05.03.2019

CPIO : 22.02.2019

FAO : Not on record

Hearing: 01.09.2020

ORDER

1. The complainant filed an application under the Right to Information Act, 2005 (RTI Act) before the Central Public Information Officer (CPIO), WAPCOS Limited, Dy. Chief Manager, 76-C, Institutional Area, Sector - 18, Gurugram, Haryana seeking information on six points, including, inter-alia:-

(i) Whether negotiation meetings of detailed project report of In-Principle National Highway being executed by Business Development Rail and Road Department of WAPCOS Ltd. in the state of Rajasthan with PWD Rajasthan. (a.) If yes, provide the details of meetings dates, name of the key persons who attended the meeting and those who did not attend the meetings; (b.) If no, provide the documents/undertaking/certificate submitted by WAPCOS Ltd. in the process of signing the contract agreement and for the period between the date of issue of LOI and date of signing the contract agreement;

(ii) Whether any document/undertaking/ certificate about the availability of key persons for the project submitted by WAPCOS Ltd. If yes, name of the key persons along with position for whom such certificate was submitted, etc.

2. Being aggrieved with the response given by the respondent, he filed a complaint u/Section 18 of the RTI Act before the Commission requesting to take appropriate legal action against the CPIO u/Section 20 of the RTI Act.

Hearing:

3. The complainant attended the hearing through audio-conferencing along with his representative Shri Luvkesh Sahni. The respondent, Shri Sumir Chawla, Dy. Chief Manager (HR) & CPIO attended the hearing through audio-conferencing.

4. The respondent submitted their written submissions dated 20.08.2020 and the same has been taken on record.

5. The representative of the complainant submitted that the respondent has given evasive and misleading reply to the complainant on his RTI application dated 08.01.2019. The representative of the complainant further submitted that specific information has been sought by him in his RTI application. Further, there is a delay in giving reply by the respondent. The respondent has wrongly submitted that the RTI application of the complainant is repetitive and slightly altered. The complainant further objected that the respondent has given same reply on his 18 RTI application despite the fact that the queries in all his RTI applications are different. The complainant further submitted that he has not received written submissions of the respondent.

6. The respondent submitted that vide their common reply dated 22.02.2019, they have informed the complainant that the information sought by him is related to commercial in nature and related to trade secrets of the company. The respondent further apprised that the complainant has filed 47 RTI applications till date and one common reply was given on 18 RTI applications being the subject-matter is similar in nature. The respondent further submitted that the complainant has not filed first appeal before the FAA. On this, the representative of the complainant submitted that the complainant has duly filed the first appeal before the FAA. On query from the Commission that as to why same reply was given to the applicant on all his RTI application. On this, the respondent was apologetic for not giving meticulous reply to the applicant. The respondent submitted that in his written submissions he has submitted that the queries of the complainant are commercial in nature and related to trade secrets of the company.

Decision:

7. The Commission, after hearing the submissions of both the parties and after perusal of records, observes that the complainant was aggrieved with the response given by the respondent on his RTI application dated 08.01.2019. The respondent contended that the complainant had filed 47 RTI applications and out of those 47 applications 18 RTIs are of similar nature and therefore a common reply dated 22.02.2019 was sent to the complainant.

8. The Commission observed that the complainant has sought information on six points and the query of the complainant is in the nature of seeking explanation/opinion/advice from the CPIO viz.

"Whether negotiation meetings of detailed project report of In-Principle National Highway being executed by Business Development Rail and Road Department of WAPCOS Ltd. in the state of Rajasthan with PWD Rajasthan. (a.) If yes, provide the details of meetings dates, name of the key persons who attended the meeting and those who did not attend the meetings; (b.) If no, provide the documents/undertaking/certificate submitted by WAPCOS Ltd. in the process of signing the contract agreement and for the period between the date of issue of LOI and date of signing the contract agreement, etc." and the CPIO is not supposed to create information; or to interpret information; or or to furnish clarification to the appellant under the ambit of the RTI Act. As per Section 2(f) of the RTI Act, the reasons/opinions/advice can only be provided to the applicants if it is available on record of the public authority. The CPIO cannot create information in the manner as sought by the appellant. The CPIO is only a communicator of information based on the records held in the office and hence, he cannot be expected to do research work to deduce anything from the material therein and then supply it to him.

9. In this regard, the Commission referred to the definition of information u/s Section 2(f) of the RTI Act, 2005 which is reproduced below:

"information" means any material in any form, including records, documents, memos, e-mails, opinions, advice, press releases, circulars, orders, logbooks, contracts, report, papers, samples, models, data material held in any electronic form and information relating to any private body which can be accessed by a public authority under any other law for the time being in force."

In this context a reference was made to the Hon'ble Supreme Court decision in 2011 (8) SCC 497 (CBSE and Anr. Vs. Aditya Bandopadhyay and Ors), wherein it was held as under:

35 "A Public Authority is also not required to furnish information which require drawing of inferences and/or making assumptions. It is also not required to provide 'advice' or 'opinion' to an applicant, nor required to obtain and furnish any 'opinion' or 'advice' to an applicant. The reference to 'opinion' or 'advice' in the definition of 'information' in section 2(f) of the Act, only refers to such material available in the records of the public authority. Many public authorities have, as a public relation exercise, provide advice, guidance and opinion to the citizens. But that is purely voluntary and should not be confused with any obligation under the RTI Act."

Furthermore, the Hon'ble Supreme Court of India in Khanapuram Gandaiah Vs. Administrative Officer and Ors. Special Leave Petition (Civil) No.34868 OF 2009 (Decided on January 4, 2010) had held as under:

6. "....Under the RTI Act "information" is defined under Section 2(f) which provides:

"information" means any material in any form, including records, documents, memos, e-mails, opinions, advice, press releases, circulars, orders, logbooks, contracts, report, papers, samples, models, data material held in any electronic form

and information relating to any private body which can be accessed by a public authority under any other law for the time being in force." This definition shows that an applicant under Section 6 of the RTI Act can get any information which is already in existence and accessible to the public authority under law. Of course, under the RTI Act an applicant is entitled to get copy of the opinions, advices, circulars, orders, etc., but he cannot ask for any information as to why such opinions, advices, circulars, orders, etc. have been passed."

7. "...the Public Information Officer is not supposed to have any material which is not before him; or any information he could have obtained under law. Under Section 6 of the RTI Act, an applicant is entitled to get only such information which can be accessed by the "public authority" under any other law for the time being in force. The answers sought by the petitioner in the application could not have been with the public authority nor could he have had access to this information and Respondent No. 4 was not obliged to give any reasons as to why he had taken such a decision in the matter which was before him."

Similarly, the High Court of Bombay in *Dr. Celsa Pinto, Ex-Officio Joint Secretary (School Education) vs The Goa State Information Commission* on 3 April, 2008 (2008 (110) Bom L R 1238) had held as under:

"Section 2(f) -Information means any material in any form, including records, documents, memos e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material held in any electronic form and information relating to any private body which can be accessed by a public authority under any other law for the time being in force; The definition cannot include within its fold answers to the question why which would be the same thing as asking the reason for a justification for a particular thing. The Public Information Authorities cannot expect to communicate to the citizen the reason why a certain thing was done or not done in the sense of a justification because the citizen makes a requisition about information. Justifications are matter within the domain of adjudicating authorities and cannot properly be classified as information." The definition cannot include within its fold answers to the question why which would be the same thing as asking the reason for a justification for a particular thing. The Public Information Authorities cannot expect to communicate to the citizen the reason why a certain thing was done or not done in the sense of a justification because the citizen makes a requisition about information. Justifications are matter within the domain of adjudicating authorities and cannot properly be classified as information."

10. The Commission is of the view that even if the complainant had filed 47 RTI applications but it is the duty of the CPIO under the provisions of the RTI Act to deal each application separately and give reply/information to the RTI applicants after proper application of mind. The Commission has perused the reply given by the CPIO vide letter dated 22.02.2019 wherein a common reply was given

to the applicant which covered his 18 RTI requests. Out of those 18 RTI requests, only 4 complaints are listed today for hearing before the Commission and the queries in all the 4 cases are different. Further, the reply dated 22.02.2019 of the CPIO and the written submissions filed by him, they have informed the complainant that the information sought by him is commercial in nature and related to trade secrets of the company. But the respondent has not invoked any specific exemption clause in denying the information to the complainant. Further, the respondent during the hearing was apologetic for not being meticulous in giving replies to the applicant.

11. The Commission observed that the respondent has not dealt the RTI applications of the complainant properly at the said period of time and has given replies without application of mind, therefore, the Commission is constrained to issue a strict warning to the CPIO to be more meticulous in future in giving replies/information to the RTI applicants and should give replies within stipulated period of time as per the provisions of the RTI Act. Since, there is no malafide intention of the respondent is observed, no case of penalty has been made out. The Commission further relies upon the ruling of Hon'ble Delhi High Court in W.P.(C) 11271/2009 Registrar of Companies & Ors v. Dharmendra Kumar Garg & Anr. (delivered on: 01.06.2012) wherein it was held:

" 61. Even if it were to be assumed for the sake of argument, that the view taken by the learned Central Information Commissioner in the impugned order was correct, and that the PIOs were obliged to provide the information, which was otherwise retrievable by the querist by resort to Section 610 of the Companies Act, it could not be said that the information had been withheld malafide or deliberately without any reasonable cause. It can happen that the PIO may genuinely and bonafidely entertain the belief and hold the view that the information sought by the querist cannot be provided for one or the other reasons. Merely because the CIC eventually finds that the view taken by the PIO was not correct, it cannot automatically lead to issuance of a showcause notice under Section 20 of the RTI Act and the imposition of penalty. The legislature has cautiously provided that only in cases of malafides or unreasonable conduct, i.e., where the PIO, without reasonable cause refuses to receive the application, or provide the information, or knowingly gives incorrect, incomplete or misleading information or destroys the information, that the personal penalty on the PIO can be imposed. This was certainly not one such case. If the CIC starts imposing penalty on the PIOs in every other case, without any justification, it would instill a sense of constant apprehension in those functioning as PIOs in the public authorities, and would put undue pressure on them. They would not be able to fulfil their statutory duties under the RTI Act with an independent mind and with objectivity. Such consequences would not auger well for the future development and growth of the regime that the RTI Act seeks to bring in, and may lead to skewed and imbalanced decisions by the PIOs Appellate Authorities and the CIC. It may even lead to unreasonable and absurd orders and bring the institutions created by the RTI Act in disrepute."

12. Further, the Commission cannot give direction for disclosure of information at this stage because the complainant has filed a complaint under Section 18 of the RTI Act. If the complainant wishes to

get the information then he could have filed second appeal before the Commission.

13. The respondent is advised to share their written submissions dated 20.08.2020 with the complainant. No further intervention of the Commission is required in the matter.

14. With the above observations, the complaint is disposed of.

15. Copy of the decision be provided free of cost to the parties.

Neeraj Kumar Gupta (██████████) Information Commissioner (██████████) ████████/ Date: 01.09.2020 Authenticated true copy (██████████ ████████) S. C. Sharma (██ ██ ███), Dy. Registrar (██ ████████), (011-26105682) Addresses of the parties:

1. The CPIO, WAPCOS Limited, Dy. Chief Manager, 76-C, Institutional Area, Sector - 18, Gurugram, Haryana-122015.

2. Rao Mohd. Nadeem,

I/1588441/2023



सीमा शुल्क एवं केन्द्रीय कर के
मुख्य आयुक्त का कार्यालय, विशाखापट्टणम क्षेत्र
प्रथम तल, जीएसटी भवन, पत्तन क्षेत्र,
विशाखापट्टणम - 530035

Office of the Chief Commissioner,
Customs & Central Tax, Visakhapatnam Zone
1st Floor, GST Bhavan, Port Area,
Visakhapatnam - 530035

(P): 0891-2568837 (F) 0891-2561942

ccu-cexvzg@nic.in

सेवा में/To

//आर.टी.आई. मामला/RTI MATTER//

Shri Manoj Balkrishna Patil,
Bungalow Number 10, East Street Camp,
Next to Lashkar Police Quarters,
Pune - 411001.

//Through email//

महोदय/ Sir,

Sub: Information sought under RTI Act 2005- Application filed by
Shri Manoj Balkrishna Patil - Regarding

Please refer to your RTI application which was registered vide Registration No.
CECVZ/R/T/23/00310/1 dated 28.11.2023.

2. In this regard, point wise reply to your queries (pertaining to this office) is
furnished hereunder:

-Point (A) & (B): Not Applicable.

-Point (C): Office of the Chief Commissioner of Customs & Central Tax,
Visakhapatnam Zone, 1st Floor, GST Bhavan, Port Area, Visakhapatnam-
530035.

-Point (D), (E) & (F): Not Applicable.

-Point (G) & (H): Nil.

3. If you are not satisfied with this reply, you may file an appeal before the
Appellate Authority within 30 days of receipt of this letter. The details of the
Appellate Authority are furnished hereunder:

Shri M. Sreekanth, Additional Commissioner,
Office of the Chief Commissioner of Central Tax & Customs,
GST Bhavan, Port Area, Visakhapatnam-530035

Signed by Fredrick

Anthony Cooper

Date: 06-12-2023 20:53:04

Reason: Approved

(एफ.ए. कूपर /F.A. Cooper)

केन्द्रीय लोक सूचना अधिकारी /CPIO

0891-2560793/2853124