

CAO/1715
5/11/24

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

File No :CIC/NIDHR/A/2023/634903

Akhil Raj K V

.....अपीलकर्ता/Appellant

VERSUS
बनाम

Mr. Vikram
Pl. Upload on website.

PIO,
National Institute of Design,
Haryana, NH 44, Village, Umri,
Kurukshetra, Smana, Haryana – 136131

....प्रतिवादीगण /Respondent

Date of Hearing : 08.10.2024
Date of Decision : 09.10.2024

INFORMATION COMMISSIONER : Vinod Kumar Tiwari

Relevant facts emerging from appeal:

RTI application filed on : 25.04.2023
CPIO replied on : 16.05.2023
First appeal filed on : 20.05.2023
First Appellate Authority's order : 19.06.2023
2nd Appeal/Complaint dated : Not on record

Information sought:

The Appellant filed an RTI application dated 25.04.2023 seeking the following information:

Kindly provide the details with reference to the recruitment advertisement No-NID-H/2020/04 dated 10 December 2020 for the position of Designer/Faculty, Circular Ref No: NIDH/ADM/18/08/21-22/3888 dated 03/11/2022, Old NID statute, and New NID Haryana Statute.

- 1) Was the SL-6 under the title of the teaching position recruitment advertisement dated 10/12/2020 invited against the sanctioned position?
- 2) Did the names of the selected candidate had been reported to the GC as per sub-point number 1/04 under the main point number 30 of the old NID statute? If yes, what was the type of appointment mentioned in the report?
- 3) What is meant by the term Direct recruitment as per the new NID Haryana Statute?
- 4) Was the Designer/Faculty position (SL-06) invited under the direct recruitment category?
- 5) Which statute will be applicable to the faculty/ Designer recruited through the above-mentioned circular dated 03/11/2022 Old or New?
- 6) As per the old NID statute, the candidates recruited as per the circular dated 03/11/2022 are belongs to what type of appointment? Please specify the type of appointment offered at the time of appointment to each candidate and the current nature of the position. Please specify if any changes were made in the nature of the appointment or with the nature of the job.
- 7) As per the New NID Haryana statute, the candidates recruited as per the circular dated 03/11/2022 are belongs to what type of appointment?
- 8) Rules applicable to NID Haryana in service seniority matters. Please share the available guideline/ rule in the service seniority matters. If there are no rules available, what rule is applicable to the employee appointed in 2022 October?
- 9) Institutionally, which document is the most reliable and valid to the candidate in terms of the nature of the job offered at the time of joining? Recruitment advertisement, the offer of appointment, appointment letter, or any letter issued after the appointment?
- 10) The reason for changing the nature of the job offered to any of the employees who have been selected through the above-mentioned circular dated 03/11/2022
- 11) Copies of the NOC, experience letters, and recommendation letters (any such certificate wherever the nature of the job has been mentioned) issued to the teaching employees who have been recruited through the above-mentioned recruitment advertisement to the date.

The CPIO furnished a reply to the Appellant on 16.05.2023 stating as under:

- 1-6 *The request is not for information defined under section 2 (f) of RTI Act, 2005. However, a copy of the statutes which was applicable and new statutes can be made available on payment of Rs. 104 for 52 Pages
The same are available in the following link. <https://www.nidh.ac.in/rti>*
- 7-10 *The request is not for information defined under section 2 (f) of RTI Act, 2005. However, a copy of the statutes which was applicable and new statutes can be made available on payment of Rs. 52 for 26 Pages.
The same are available in the following link.
<https://www.nidh.ac.in/rti>*
11. *As per section 8 (1)(j) of the RTI Act, 2005 the information cannot be disclosed.*

Being dissatisfied, the appellant filed a First Appeal dated 20.05.2023. The FAA vide its order dated 19.06.2023, held as under.

I am of the considered opinion that information/queries sought by the appellant in serial number one (01) to ten (10) does not come under the definition of information in section 2(f) of the RTI Act, 2005. Requests were in the nature of queries which requires interpretations and opinion of the CPIO. The applicant is entitled to seek only information, which is held in material form with the public authority. The queries are in the nature of seeking explanation/opinion/advice/confirmation/clarification from the CPIO and the appellant expects the CPIO to analyse the documents and then provide information. But the CPIO is not supposed to create information: or to interpret information: or to compile information. As per the Section 2(f) of the RTI Act, the reasons/opinions/advices can only be provided 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, cannot do research work to deduce anything from the material therein and then supply it. The request at serial number eleven (11) was for personal information of other employees and therefore exempted under section 8(1)(i) of the Act.

Accordingly, the appeal is disposed off.

Feeling aggrieved and dissatisfied, appellant approached the Commission with the instant Second Appeal.

Relevant Facts emerged during Hearing:

The following were present:-

Appellant: Present through video-conference.

Respondent: Mr. Sunil Kumar, Chief Administrative Officer/CPIO present through video-conference.

Appellant while reiterating the contents of RTI application contended that information has not been provided by the CPIO till date. He further flagged the casual approach of CPIO in randomly typing the incorrect registration No. of RTI application as NIHDR/R/E/23/00012 against actual number being NIHDR/R/E/23/00013, which shows their negligence with regards to RTI matters.

A written submission dated 04.10.2024 filed by the respondent is taken on record, contents of the same are reproduced below, for ready reference:

Sr. No.	Appeal/Complaint	Reply
1	<i>The CPIO and the first appeal authority have not provided the information requested. I have asked 11 questions that must have a proper answer if the NID Haryana is following the official process and rules in recruitment and appointment matters. The NID Haryana doesn't want to share the information because they are hiding something from the public. Kindly note that the NID Haryana is doing the same with other RTI applications also. They are delaying the process without giving a proper response on time.</i>	<i>The application was replied on time. Reply copy 16 may 2023 attached.</i>
2	<i>Kindly note that the actual registration number of my RTI was NIDHR/R/E/23/00013 dated 25.04.2023 but in the 1st response, the registration number and the date were marked as NIDHR/R/23/00012 dated 19.04.2022. This showcases how the CPIO is carelessly approaching the applicants.</i>	<i>The typing mistake is regretted. We would take care in future.</i>
3	<i>CPIO refused to share the information and mentioned that my application is not for information and does not come under the 2 (f) of the RTI Act. The 1st Appeal Authority also quoted that my questions are queries and do not come under 2 (f) of the RTI Act.</i>	<i>The queries could not be replied as such. However, the link for source of information was shared with the</i>

		<i>applicant.</i>
4.	<i>In the RTI Act, Section 2(f) in the Right to Information Act, 2005 elaborates that, (1) "information" means any material in any form, including records, documents, memos, emails, 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;</i>	<i>The information available with the public authority has been shared.</i>

Respondent stated that the queries raised by the appellant do not conform to Section 2(f) of the RTI Act, yet the point-wise reply has been furnished to him as per the wisdom of CPIO. Upon being queried by the Commission, the respondent replied that the appellant has not paid the requisite photocopying RTI fees in compliance of initial reply, however, the relevant rules are available in public domain.

Respondent further tendered his apology for typographic error in mentioning of RTI application registration number with the initial reply which was unintentional.

Decision:

The Commission based on perusal of the facts on record finds that the dissatisfaction of the appellant with the reply provided by the respondent is bereft of merit as on the RTI Application he merely seeks for clarifications and answers to interrogative query which do not qualifies the definition of "information" as per Section 2(f) of the RTI Act. Nonetheless, the respondent as per his wisdom invited attention of the appellant towards the relevant Act by referring to URL, which is in the spirit of RTI Act.

For better understanding of the mandate of the RTI Act, the Appellant shall note that outstretching the interpretation of Section 2(f) of the RTI Act to include deductions and inferences to be drawn by the CPIO is unwarranted as it casts immense pressure on the CPIOs to ensure that they provide the correct deduction/inference to avoid being subject to penal provisions under the RTI Act.

In this regard, the Appellant's attention is drawn towards a judgment of the Hon'ble Supreme Court on the scope and ambit of Section 2(f) of RTI Act in the matter of *CBSE vs. Aditya Bandopadhyay & Ors.*[CIVIL APPEAL NO.6454 of 2011]wherein it was held as under:

"35. At this juncture, it is necessary to clear some misconceptions about the RTI Act. The RTI Act provides access to all information that is available and existing.....A public authority is also not required to furnish information which require drawing of inferences and/or making of 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." (Emphasis Supplied)

Similarly, in the matter of *Khanapuram Gandaiah vs Administrative Officer &Ors.* [SLP (CIVIL) NO.34868 OF 2009], the Hon'ble Supreme Court held as under:

"7....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...." (Emphasis Supplied)

And, in the matter of *Dr. Celsa Pinto, Ex-Officio Joint Secretary,(School Education) vs. The Goa State Information Commission* [2008 (110) Bom L R 1238], the Hon'ble Bombay High Court held as under:

“..... In the first place, the Commission ought to have noticed that the Act confers on the citizen the right to information. Information has been defined by Section 2(f) as follows.

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.” (Emphasis Supplied)

In view of the above, the Commission finds no infirmity in the reply of the CPIO as the same was found to be in consonance with the provisions of RTI Act.

Hence, intervention of the Commission is not required in the matter.

The appeal is disposed of accordingly.

Sd/-

Vinod Kumar Tiwari (विनोद कुमार तिवारी)
Information Commissioner (सूचना आयुक्त)

Authenticated true copy
(अभिप्रमाणित सत्यापित प्रति)

(S. Anantharaman) 23/7

Dy. Registrar
011- 26181927
Date



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