

## Important CIC Decisions

- ✚ CPIO of the Supreme Court pulled up for delayed information and not passing a speaking order.
- ✚ Appeal cannot be filed directly with the CIC bypassing the DAA.
- ✚ While no department is proscribed from designing an application form; not applying in the prescribed form cannot be the ground for rejection.
- ✚ Note sheets containing file notings are an integral part of a file.
- ✚ It is true that there is no provision in section 8 of the Act, specifically exempting disclosure of information relating to examination papers;
- ✚ When answer papers are evaluated, the authority conducting the exam. And the examiners evaluating the answer papers stand in a fiduciary relationship between each other.
- ✚ Such relationship warrants maintenance of confidentiality by both, of the manner and method of evaluation
- ✚ Reasons for rejecting the tender has to be made known.
- ✚ Income tax return is in the nature personal information, the disclosure of which may cause unwarranted invasion of privacy of an individual.
- ✚ The applicant is performing his normal duties and is not prevented from leading a normal life.
- ✚ Request for information under section 7(1) not justified.
- ✚ In a single public authority no transfer of application.
- ✚ Where the information is not available in the particular form requested, the applicant may be allowed if he desires to inspect the documents.
- ✚ The following
  - ✚ Copy of the notification for recruitment
  - ✚ Recruitment & Promotion policy
  - ✚ Panel of names of interviewees and merit list
  - ✚ Copy of recommendations of selection committee and its approval be given.
- ✚ PAN no. is a personal information and may not be given.
- ✚ The following
  - ✚ Certified copy of TE statement (paid copy)
  - ✚ Certified copy of completed tour itinerary
  - ✚ Details of meetings attended during the tour be given
- ✚ There is no question of denial of information if a public authority is prepared to provide the documents, in the form in which it is available with them.
- ✚ Noting in the despatch register showing the despatch of reply / intimation is not enough.
- ✚ There has to be actual receipt.
- ✚ Bank account details are not to be disclosed to others.

- ✚ RTI Act cannot be confused with an instrument for grievance redressal, although the information obtained can be used for this purpose.
- ✚ If information is not available in electronic form, it need not be created.
- ✚ The assessment reports by the superior officers are personal and confidential information and therefore exempt under section 8(1)(j).
- ✚ If the information seeker asks several questions expecting the CPIO to reply in yes or no, the CPIO ought not to do so.
- ✚ If there is already a provision for seeking information, the applicant can be advised to obtain the information accordingly. There is no question of denial of information in this case.
- ✚ Income tax returns are confidential information, relate to third party and are submitted in fiduciary capacity. However, tax assessment is a public action and there is no reason why such orders should not be disclosed.
- ✚ Bio-data submitted in the application for appointment is a public document and can be made available. However, medical reports are purely personal to the individuals and can be denied.
- ✚ At the appeal stage, an applicant cannot ask for additional information.
- ✚ The appellate authority is right in advising the appellant to give specific details about the information / documents sought from the CPIO.
- ✚ The cost effectiveness aspect of disclosure of information ought to be kept in mind.
- ✚ Information relating to donations, expenditure on transport and salary drawn by the staff can be disclosed.
- ✚ Misuse of RTI Act ought to be discouraged.
- ✚ As an enlightened citizen, every information seeker should resort to RTI Act responsibly as most people are doing and reaping the benefit of this powerful act.
- ✚ Information relating to future course of action which is not in any material form is not information within the definition of information in section 2(f).
- ✚ Inspection of records when the process of recruitment is at the interim stage cannot be entertained.
- ✚ The Personal Assessment Forms submitted by the staff to the employer in fiduciary relationship cannot be shared.
- ✚ The views recorded in confidence by the peers on the matter of performance appraisal may not be disclosed, since it may lead to personal acrimony.
- ✚ Applicant's entitlement for information is only in respect of categories of information mentioned in section 2(f).

- ✚ It is not open to an applicant to ask, in the guise of seeking information, question to the public authority about the nature and quality of their action.
- ✚ The RTI Act does not cast on the public authority any obligation to answer queries with prefixes ,such as why,when,what and whether.
- ✚ CSIR case: the applicant asked for the followings;
  - Information on marks awarded to him by each interview committee member, without disclosing their names;
  - The threshold mark fixed by the board for promotion;
  - Permission to inspect the records related to his assessment;
  - Non-appearance and non-filing of written comments by the respondents led the CIC to issue show cause notice to the CPIO for imposition of fine and instruction to DG CSIR to consider disciplinary action the appellate authority; and instructed to provide the requested information
  - On being tendered unconditional apology the CIC reviewed the case and withdrew the notice for the imposition of fine on the CPIO and the recommendation for disciplinary action against the appellate authority.
  - On review, the CIC upheld its earlier decision of providing the information to the applicant.
- ✚ The applicant asked for status report on complaints stated to have been made in 499 cases to the Deputy Commissioner and SDM
  - The CPIO replied that all complaints have been ordered to be filed.
  - The decision was upheld by the DAA
  - The reply of the CPIO satisfies the requirement of the act, as the CPIO has only passed on the information available with him regarding the status of the complaints.
  - It is not for the CIC to decide on the propriety of any action taken on applications.
  - The marks awarded by the panel experts to each candidate under different parameters are of confidential nature and this act has been carried out by them in fiduciary capacity, which is exempt u/s 8(1)(e).
  - Disclosure of information i.e agreed list would defeat the very purpose of surveillance which is conducted through the established procedure of preparation of Agreed List.
  - Keeping some body's name in the agreed list and rewarding him with promotion and higher postings,albeit to non-sensitive post ,on the other are contradictory.
  - There is no reason why the names of officers who were promoted or placed in sensitive positions while they were concurrently under discreet watch i.e "Agreed List" should not be disclosed.

- Conduct of examinations and for identifying and short listing the candidates in terms of technical competence right attitude, etc is a highly confidential activity. Therefore, answer-sheets should not be disclosed .
  - The award of marks need not be kept secret.
  - True copies of the mark sheets of the successful candidates may be supplied.
  - The onus for timely despatch of replies to the applicant lies on the CPIO alone under section 7(1) of the Act.
  - If found disproportionately diverting resources of a public authority, information can be denied in the form requested but has nevertheless to be made available in any other convenient form.
- ✚ Appellant Shri S.C.Sharma requested for a copy of the order, in which the Union Home Secretary had authorised the special Secretary Home to take action under section 5(2) of the Telegraph Act.
- The information was denied on the ground of being harmful to the security, integrity and sovereignty of India section 8(1) (a).
  - CIC- Authorisation by the Union Home Secretary to specific agencies to intercept telephones would not qualify to attract the exemption under section 8(1)(a)
  - From the stand-point of technicality of the RTI Act, the role of APIO is limited to only to receiving applications for information and appeals and transmitting the same to the proper CPIO.
- ✚ The CIC does not see any legal difficulty in the CPIO using the services of an APIO to transmit the former's decision;
- ✚ This would not lead to any miscarriage of justice or place any undue restriction on an information seeker's rights under RTI Act.
- ✚ It is, however, cautioned that any order issued by the APIO on behalf of CPIO must clearly state that the former was only transmitting the orders of the latter, and should also state the name and the designation of the PIO on whose behalf the APIO might be acting;
- ✚ The appellant sought for specific reasons for denial of promotion and benefits of ACP;
- ✚ CIC- CPIO was directed to ascertain from the minutes of the DPC as well as the Screening Committee whether any specific reason has been indicated in the minutes regarding the appellant and communicate the same to him within 15 days.
- ✚ The appellant sought for the details of the academic and technical qualifications mentioned in the service book, of certain working and retired employees;
- ✚ It was denied on the ground of being personal information;

- ✚ CIC- it is rather surprising that CPIO and the appellate authority should have taken the view that details of the qualification of govt. officials is personal in nature and as such cannot be supplied;
- ✚ It is the right of every citizen to know about the qualifications of public servants and posts held by them,
- ✚ Further even the format in which the appellant has sought for the information is so simple that he same would not attract the provisions of section 7(9) of the RTI Act.
- ✚ The appellant sought for various information like the address, the dates of and posts from which postal officials had retired, the amount of pension paid for more than 10 years,
- ✚ CPIO rejected the information applying the provisions of section 8(1)(i) .
- ✚ Upheld by the CIC
- ✚ The appellant sought information regarding the income tax return of certain firm;
- ✚ The CPIO informed the appellant that the information relates to third party and the documents could be given after the necessary concurrence of third party as per the act;
- ✚ Third party objected to the disclosure which was not accepted by the CPIO and the third party was accordingly informed and advised to appeal;
- ✚ The DAA agreed with the contention of the third party that the information sought was a personal information and the disclosure of which has no relationship to any public activity or interest;
- ✚ CIC- income tax returns relates to personal information ,submitted in fiduciary capacity, and cannot be disclosed without the concurrence of third party.