

Reply of RTI applications sought by

1. Sh. G.S. Brar- [YEAR-2014](#), [YEAR-2015](#)
2. Sh. Padamjit Singh -[YEAR-2014](#), [YEAR-2015](#)

## RTI BBMB (PUBLIC AUTHORITY)

**Note:- Non-entertaining of RTI applications on same similar subjects from the following applicants seeking same/similar information repeatedly on RTI relating to Public Authority BBMB**

Sr. No.	Name and Address
1.	Sh. Gurnek Singh Brar, r/o # 1, Ranjit Bagh, Opposite Modi Mandir, Patiala.
2.	Sh. Rajesh Behl, r/o # 45, Ranjit Bagh, Opposite Modi Mandir, Patiala (now changed to # 118, Gurdarshan Nagar, Near 24 No.Phatak, Patiala).
3.	Sh. Padamjit Singh, r/o # 45, Ranjit Bagh, Opposite Modi Mandir, Patiala.
4.	Sh. Sanjeev Kumar, r/o # 45, Ranjit Bagh, Opposite Modi Mandir, Patiala.
5.	Sh.Ashok Kumar Jain, #147-B, EVA (Super MIG), Sector 93, Noida (UP)

It is brought on record that the above 5 no. applicants have given **233** applications under RTI from the period 23.05.2014 till date i.e. 24<sup>th</sup> June, 2015. The list, and details of the applications received (scanned) are placed as [Annexure-1](#) & [2](#). *8 more applications under RTI have been received from these 5 applicants during the intervening period from 24.05.2015 till date 03.07.2015.*

On perusal of the application(s), it has been found that in many of the applications the same / similar information is being asked again by suppressing of the facts of earlier applications and receipt of the answer from the Public Authority. This repetitive action of seeking the same / similar information is an abuse of the Act and harassment of the Public Authority especially the PIO. Besides this, the same is also loading the limited infrastructure facility in terms of manpower to cope-up with the increased work load due to numerous RTI applications thereby diverting the resources of the office of PIO to provide such information. **This action falls under the scope of Section 7 (9) of the RTI Act.** It is also resulting in de-focus of attention towards other applicants seeking information under RTI, who are otherwise now being put to a disadvantage for providing the information within the stipulated time period as mandated under the Act.

This matter has been brought to the knowledge of the applicants earlier vide this office memo No. Bd. Sectt./PIO/RTI/July'2014/1260-63 dt. 10.07.14 and no. /Bd. Sectt./PIO/RTI/August'2014/1589-92, dt. 12.08.14 along with the details (copy enclosed) placed at [Annexure-3](#).

### ◆ Recent decision of CIC

In a recent decision of Chief Information Commissioner (CIC) in case of Sh. Sudhir Kumar V/s Director of Education, Delhi, it has been ruled by the CIC that to address the problems of harassing and repeated questions, the commission recommends the respondent authority to analyze all RTI applications filed by such appellants, compile all the questions contained therein and indicate the information provided against them. **This consolidated information should be placed on the website besides sending the copy to the applicant and the concerned Information Commission.** The information in the website will also serve as a response to the repeated RTI question so that the people do not resort to filing repeated vexatious RTI

applications leading to the clogging of the public authority and depriving them of their valuable time that could have been spent on performance of their regular duties.

In the RTI Act, when an applicant intends to avail opportunity of obtaining information on a particular subject, he is expected to seek all the related information in that opportunity itself. He cannot file another application for a piece of information which he forgot to ask or for any other reason. He should ask all possible aspects of information about that subject matter, once and for all. If does not, it is assumed that he has asked for that and was refused properly. This is incorporated in the principles of civil procedural justice- “constructive res judicata” and in public interest to further the objectives of RTI Act, such repeated or unending streams of questions being sought from the same or different public authorities is to be stopped.

**There is no provision under RTI Act, 2005 to penalize the applicant for abusing his Right to Information or clogging public office. It has been recommended by the CIC that if any applicant resorts to three such repeated RTI applications, then the public authority may not entertain the same applicant anymore, and duly notifying the same.**

#### ◆ Legal Advice

The provisions of RTI Act should be enforced strictly and all efforts should be made to bring to light the necessary information under Clause (b) of Section 4(1) of the Act which relates to securing transparency and accountability in the working of public authorities and in discouraging corruption. But in regard to other information, (that is information other than those enumerated in Section 4(1) (b) and (c) of the Act), equal importance and emphasis are given to other public interests (like confidentiality of sensitive information, fidelity and fiduciary relationships, efficient operation of governments, etc.). Indiscriminate and impractical demands or directions under RTI Act for disclosure of all and sundry information (unrelated to transparency and accountability in functioning of public authorities and eradication of corruption) would be counter-productive as it will adversely affect the efficiency of the administration and result in the executive getting bogged down with the non-productive work of collecting and furnishing information.

**The nation does not want a scenario where 75% of the staff of public authorities spends 75% of their time in collecting and furnishing information to applicants instead of discharging their regular duties. The threat of penalties under the RTI Act and the pressure of the authorities under the RTI Act should not lead to employees of a public authorities prioritizing ‘information furnishing’, at the cost of their normal and regular duties.**

#### ◆ CLA Advice

Four applicants are seeking same/similar information repeatedly and are thereby abusing the process of RTI. By filing large number of applications on the same subject, these persons are causing criminal wastage of time and resources of the Public Authority. Thus they are not only harassing the Public Authority but also overloading the limited infrastructure of the Public Authority.

In view of the law laid down in various judgments rendered by Chief Information Commission, High Courts and the Supreme Court, I am of the opinion that PIO is justified in not entertaining the applications from these applicants/persons when they seek same/similar information. However, the consolidated information should be placed on the website of the Board and intimation in this regard be also sent to the concerned Chief Information Commissioners.

#### ◆ Proactive Disclosure by BBMB

In order to reduce the no. of RTI applications received from these 5 applicants, BBMB had identified certain subjects where repeated applications were being filed as listed below and hoisted the status report under Proactive Disclosure on the website of BBMB in October and December, 2014. The subjects are detailed as under:-

##### ◆ October, 2014

- i) Status of Zero Base Budgeting in BBMB and distribution list of Budget Sub-Committee 2011-2012.

##### ◆ December, 2014

- ii) Restoration of Unit-3 of Kotla and Unit-2 of Ganguwal Power House.
- iii) Restoration of Unit-6 of Dehar Power House, BBMB.
- iv) Schedule of generation from Power-houses.
- v) Re-conductoring of 220KV D/C Bhakra (Right)-Jamalpur Line.
- vi) Re-conductoring of 220KV D/C Rohtak Road Narela Line.

**May, 2015**

i) Operational parameters of Balancing Reservoir, BSL, BBMB, Sundernagar.

**Please Note** that the above Proactive Disclosure shall be updated on a regular 6-monthly basis in case of any change in the status.

In view of the above, it has been decided that in the present case, the list and details of applications filed by these 5 applicant (s) on same/similar matter amongst themselves from Public Authority BBMB as per **Annexure-1 & 2** and various interim references sent to them by way of letter dated 10.07.2014 and dated 12.08.2014 and remarks made on the acknowledgement sent by this office w.r.t. the applications received from them (**Annexure-3**) may be uploaded on the website of BBMB, by giving reference of the CIC decision, Sudhir Kumar v/s DTE dated 22.08.2014 regarding abuse of RTI.

The process for uploading the reply to the RTI applications filed by these 5 applicants has been taken in hand. It being a voluminous and time-consuming process, the same shall be put up on the website shortly after completing the work.

◆ **Summarized Reasons for non-entertaining of RTI applications on same/similar subjects from 5 no. applicants as listed above**

- i) Flooding of applications under RTI thereby diverting the resources of the o/o PIOs in BBMB to provide such information under Section 7 (9) of the Act.
- ii) Creating a scenario where 75% of the critical staff of Public Authority involved in the O&M/repair & restoration of power generation units so as to maintain continuity of electric supply is spending 75% of their time in collecting and furnishing information to these applicants instead of discharging their regular duties.
- iii) Over-loading of limited infrastructure in terms of manpower of the o/o PIOs of Public Authority BBMB.
- iv) No public interest being served by disclosure of information relating to 3<sup>rd</sup> party/personal information of officers/officials of BBMB under Section 8(1)(j) of the Act.
- v) Asking non-specific information, such as, copy of all records (minutes of meetings, etc.) to cull-out information/parallel investigation relating to period ranging from month to years.
- vi) Mixing of RTI with the Grievances Redressal Mechanism.
- vii) Abuse/misuse of RTI due to repetitive asking of same/similar information in contravention of some of the standing decisions of CIC.
- viii) De-focus of attention of PIOs in BBMB towards other applicants seeking information under RTI who are sometimes otherwise now being put to disadvantage for providing the information within the stipulated time period.
- ix) Generating questions out of information put on Proactive Disclosure on the website thereby having an unending stream of questions seeking of information inspite of the best efforts of the Public Authority by going in for Proactive Disclosure on subjects where repeated applications are being received.
- x) Applicants having the same contact address and possibly working in connivance with each other for seeking same/similar information on various subjects.

**Please Note:** The above 5 applicants shall not be debarred from seeking information other than which is already covered in earlier requests, for which concerned PIO shall take action as per the provisions of RTI Act.

◆ **Reference to decision of CIC/Hon'ble Supreme Court of India in case of 5 applicants.**

The passing of the Right to Information Act, 2005 was seen as giving an empowering tool in the hands of the citizens of India, ten years post its implementation, loopholes have surfaced with misuse of the many fundamental concepts, which have yet not been defined to allow for a consistent pattern of decisions.

◆ **(Hon'ble Supreme Court in CBSE vs. Aditya Bandopadhyay, (2011) 8 SCC 497, has held as under)**

The Act should not be allowed to be misused or abused, to become a tool to obstruct the national development and integration, or to destroy the peace, tranquillity and harmony among its citizens. Nor should it be converted into a tool of oppression or intimidation of honest officials striving to do their duty. The nation does not want a scenario where 75% of the staff of public authorities spends 75% of their time in collecting and furnishing information to applicants instead of discharging their regular duties

(order No.CIC/AD/A/2013/001326SA delivered on 25.6.2014 in the case of R.C.Jain Vs. DTC)

**Repetitive use of RTI an ABUSE**

**RTI: Not a rendezvous of disgruntled elements**

**Commission shall record ABUSE, admonish ABUSER**

**Waste of public time and obstructing RTI**

**Citizen has no Right to Repeat**

**Repetition shall be ground of refusal**

**Appeals can be rejected**

**CIC/SA/A/2014/000775**

The Commission, exercising its power under 19(8)(a) requires the Public Authority to initiate inquiry against Mr. Vijay Kumar Garg and Mr. Kuldeep Singh Yadav for their alleged misuse/repetitive use of RTI motivated by private interest or intention to harass so that appropriate action is initiated as per law.

The Commission directs the respondent authority to prepare a list of the RTI application filed by the appellants and the reply of the department on this regard and place the reply in their official website. This would help the citizens to have information without resorting to RTI applications besides curbing the misuse.

**(No.CIC/SG/C/2011/000760,CIC/SM/A/2011/000926/SG,CIC/SM/A/2011/001111/SG,CIC/**

**SG/A/2011/002909 Dated 17th January, 2012 in a second appeal)**

- ♦ **The Commission has explained to the complainant that under RTI Act only the information as per records can be made available; multiple RTI applications and appeals would not provide him any information beyond the records that exists**
- ♦ **( In Prem Prakash Kumar v NFL, Panipat, (Decision no. 246/IC/(A)/2006, F.No. CIC/MA/A/2006/00374 & 375 dated 28 August 2006) the appellant sought documents and specific comments of CPIO on 89 queries. )**

The Learned Commissioner Shri M M Ansari observed that in fact, the nature of queries and the information sought are such that the information seeker would never be satisfied because the promotion of self interest, rather than public interest, was dominant, as the appellant had sought Redressal of grievances.

- ♦ **(In the case of Shri Jai Kishan Vs. Reserve Bank of India, Mumbai, (F. No. 216/IC/(A)/2006-F. No. CIC/MA/A/2006/00608 dated 31.08.2006)**

The CPIO should be responsible to furnish information only that is available in his office.

- ♦ **(Kamal C. Tiwari Vs. Ministry of Defence; Appeal No.CIC/AT/A/2006/00360; Date of Decision: 23.11.2006 and Subhash Chandra Vs. Income Tax Department; Appeal Nos.CIC/AT/A/2007/00190 & F.No.CIC/AT/A/2007/00291; Date of Decision: 8.6.2007).**

Public authorities were not obliged to create information to generate data for a petitioner's convenience. This has been endorsed in several decisions of the Commission

Several queries of the appellant are in the nature of seeking explanations from the respondents about why they acted in a certain manner and not the other and why they never acted when according to the appellant they ought to have.

- ♦ **(Special Leave Petition (Civil) No. 27734 of 2012(@ CC 14781/2012)**

Copies of all memos issued to the third respondent, show cause notices and orders of censure/punishment etc. are qualified to be personal information as defined in clause (j) of Section 8(1) of the RTI Act.

The details disclosed by a person in his income tax returns are "personal information" which stand exempted from disclosure under clause (j) of Section 8(1) of the RTI Act, unless involves a larger public interest.

- ♦ **(In the case of Shri Vibhor Dileep Barla Vs. Brig. S.C. Nair, DDGPI & CPIO & Lt. Gen. I.J. Koshy) Disclosure of personal information of employee are exempt under Section 8(1)(j) of the RTI Act, 2005.**

**(Appeal No. 12/IC(A)/2006, dated 14.3.2006)**

information (Section 8(1)(j) of the RTI No disclosure of third-party confidential Act)

♦ **(Appeal No. CIC /OK /A / 2006 /00268-272, dt: 29.12.2006)**

Frivolous applications not to be entertained

♦ **(Decision No. 92/IC(A)/2007 F. No.CIC/PB/A/2007/00405 dated, 20.06.2007)**

In the process of Disciplinary Proceedings, which is a quasi-judicial function. The denial of information sought under Section 8(1)(h) of the RTI Act, 2005 is therefore justified.

♦ **(Case of Shri Milap Choraria V/s CBDT(No.CIC/AT/C/2008/00025 dated 27-7-2009)**

Public authority cannot be obligated to explain its process of investigation and decision making to the litigant with whom it is engaged in a legal matter.

♦ **(Appeal No.CIC/AT/A/2010/000969/SS Shri Vinod Kumar Jain V/s Directorate General of Central Excise Intelligence, New Delhi)**

Information cannot be disclosed till the investigations are over.

♦ **Case No. CIC/SS/A/2011/000684 (Shri L.S. Chandalia V/s Directorate General of Central Excise Intelligence, New Delhi.)**

Information can not be disclosed to an offender against whom prosecution under Cr PC is lodged in the court of law.

♦ **(In the case of Sarvesh Kaushal Vs. F.C.I and others (Appeal Nos. 243 /ICPB /2006 and 244 / ICPB /2006, dated 27.12.2006)**

No Disclosure in case of pending departmental enquiry (Section 8(1)(h) of the RTI Act)

♦ **In the case of Shri R.B. Sharma Vs. DGCEI, New Delhi, (No. CIC/AT/A/2007/00949 dated 09.10.2007)**

The information contained in the file which is unconnected with the applicant can be withheld from disclosure by applying the severability clause under Section 10(1) of the RTI Act, 2005.

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