



**RIGHT TO
INFORMATION**

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**STATE INFORMATION COMMISSION, HARYANA
SCO 70-71 and 114-115, SECTOR 8-C,
Chandigarh.
Website: cicharyana.gov.in**

**Appeal Case No. 3565 of 2015
Appeal Case No. 3831 of 2015**

Sh. Shiv Shankar Tiwari,
C/o Dr. Brahm Dutt, H.No. 621,
Sector 21 A, Faridabad.

.....Appellant

Versus

1. SPIO O/o Additional Chief Secretary to Govt., Haryana, Department of Revenue & Disaster Management and Department of Consolidation.
2. SPIO O/o Additional Chief Secretary to Govt., Haryana, Public works Department (B&R).
3. SPIO O/o Additional Chief Secretary to Govt., Haryana, Department of Architecture.
4. SPIO O/o Chief Secretary to Govt., Haryana, Personnel, Training, Vigilance, Parliamentary Affairs.
5. SPIO-cum-Superintendent O/o Chief Secretary in General Administration Department, Haryana, Chandigarh.
6. SPIO-cum-Superintendent O/o Administrative Reforms Department, Haryana, Chandigarh.
7. SPIO O/o Additional Chief Secretary to Govt., Haryana, Excise & Taxation Department.
8. SPIO O/o Additional Chief Secretary to Govt., Haryana, Industries, Mines & Geology Department.
9. SPIO O/o Principal Secretary to Govt., Haryana, Tourism Department.
10. SPIO O/o Principal Secretary to Govt., Haryana, Archaeology and Museum Department.
11. SPIO O/o Principal Secretary to Govt., Haryana, Women & Child Development Department.
12. SPIO O/o Principal Secretary to Govt., Haryana, Medical Education & Research Department.
13. SPIO O/o Principal Secretary to Govt., Haryana, Food & Supplies Department.
14. SPIO O/o Principal Secretary to Govt., Haryana, Industrial Training Department.
15. SPIO O/o Additional Chief Secretary to Govt., Haryana, Social Justice & Empowerment Department.
16. SPIO O/o Additional Chief Secretary to Govt., Haryana, Welfare of Scheduled Caste and Backward Classes Department.

17. SPIO O/o Principal Secretary to Govt., Haryana, Power & Renewable Energy Department.

.....Respondent(s)

This matter came up before the Commission on the ground that the information sought vide RTI applications dated 23.12.2014 from the aforesaid respondent SPIOs was not furnished. The applications were filed by Sh. Shiv Shankar Tiwari, appellant resident of Delhi and belonging to below poverty line category on the address of Dr. Brahm Dutt, Advocate, #621, Sector 21-A, Faridabad. The appellant vide these applications sought similar information on eight points plus any other information the respondent may like to furnish to the appellant. The sought information primarily relates to the status of the discharge of mandated obligations of the public authorities and the appropriate Government as assigned under Section 4 and 26 of the RTI Act, 2005. The State Chief Information Commissioner in exercising the power conferred in sub section 4 of Section 15 of the Act constituted a Division Bench by including Sh. P.R. Meena, State Information Commissioner in the Bench vide order dated 29.05.2015 to consider and adjudicate on the matter. The Division Bench heard these appeals on similar matter on 17.07.2015 at 3.00 PM. The appellant was represented by Shri Vivek Kumar. The respondent public authorities were represented as per list below:

Smt. Amita Ahuja, SPIO-cum-Under Secretary O/o Addl. C.S. to Govt. Haryana Revenue and Disaster, Management, Department.

Sh. Jasbir Singh, SPIO-cum-Superintendent O/o Addl. C.S. to Govt. Haryana, PWD (B&R) Department, Haryana.

Sh. Tilak Raj Gupta, SAPIO O/o Engineering in Chief PWD (B&R).

Sh. Prithvi Singh, SPIO-cum-Superintendent O/o Addl. C.S. to Govt. Haryana, Architecture Department, Haryana.

Sh. Vijay Arora, SPIO-cum-Architect O/o Chief Architect, Haryana.

Sh. Hari Krishan Sharma, SPIO-cum-Superintendent O/o Chief Secy. to Govt. Haryana, General Administration Department.

Sh. Vasudev Yadav, SPIO-cum-Superintendent O/o Administrative Reforms Department, Haryana.

Sh. Kuldip Singh, ASPIO O/o Addl. C.S. to Govt. Haryana, Excise & Taxation Department, Haryana.

Sh. Vir Singh, SPIO-cum-Senior Geologist O/o Mines and Geology Department, Haryana.

Ms. Kaushal Rani, SPIO-cum-Superintendent O/o PS to Govt. Haryana, Archaeology and Museum, Department.

Sh. Dhan Singh, SPIO O/o PS to Govt. Haryana Woman & Child Development Department.

Ms. Manju Sharma, WCDPO O/o Woman & Child Development Department.

Sh. Gajender Singh SPIO-cum-Superintendent O/o PS to Govt. Haryana Medical Education, Department.

Sh. Yoginder Singh, ASPIO-cum- Superintendent O/o P.S. to Govt. Haryana, Food and Supplies.

Sh. Satbir Singh, SPIO O/o DG Food & Supplies, Haryana.

Ms. Madhu Bala Sharma, SPIO-cum-Supdt. O/o PS to Govt. Haryana Industrial Training Department.

Sh. Dhan Singh, SPIO-cum-Superintendent O/o Addl. C.S. to Govt. Haryana, Department of Social Justice and Empowerment, Haryana.

Sh. Joginder Singh, SPIO-cum-Superintendent O/o of Social Justice & Empowerment Department.

Sh. N.K. Saini, SPIO-cum-Deputy Director O/o Department of Welfare of SC/BC.

Ms. Sunita, SPIO-cum-Dy. Superintendent O/o Addl. C.S. to Govt. Haryana Power and Renewal Energy Department.

2. The appellant submitted rejoinder dated 1.7.2015 which was taken on record. The authorized representative of the appellant submitted that Superintendent (RTI Cell), Administrative Reforms Department and the SPIO of the Public Works Department (B&R) transferred the RTI application dated 23.12.2014 to the SPIOs of the Directorates ignoring the fact that the information regarding action taken status in compliance of mandated obligation under Sections 4 and 26 is required to be discharged by the public authorities and the information is to be furnished at the Government

level. Hence, he prayed the Commission to direct the SPIOs of various administrative departments at Government level to furnish the information which had been sought vide RTI applications addressed to various public authorities at Government level.

3. The comments submitted by several public authorities have been taken on record. On perusal of these comments, it was observed that except the SPIO of the office of Additional Chief Secretary (in short ACS), Revenue & Disaster Management, all other SPIOs simply transferred the RTI application under Section 6 (3) of the RTI Act, 2005 to the SPIOs of the Directorates functioning under them with advice to furnish information to the appellant directly.

4. The Bench has carefully considered the matter and heard the submission of the representative of the appellant. The Bench has also perused all the RTI applications addressed to various public authorities seeking details of the action taken for fulfilling the obligations under Section 4 and the steps taken by the appropriate Government under Section 26 of the RTI Act. The Bench observes that the intent of the Act to promote transparency and accountability in the working of every public authority and the mandate under Section 4 (1) (b) (c) is to suo-moto disclose information which may help in containing or discouraging corruption and is extracted in its entirety. Section 4 deals with the suo-moto disclosure of information by public authorities. Sub Section (2), (3)



and (4) of Section 4 relating to dissemination of information enumerated in sections 4(1)(b) & (c) are extracted below:

“(2) It shall be a constant endeavour of every public authority to take steps in accordance with the requirements of clause (b) of sub-section (1) to provide as much information suo-moto to the public at regular intervals through various means of communications, including internet, so that the public have minimum resort to the use of this Act to obtain information.

(3) For the purposes of sub-section (1), every information shall be disseminated widely and in such form and manner which is easily accessible to the public.

(4) All materials shall be disseminated taking into consideration the cost effectiveness, local language and the most effective method of communication in that local area and the information should be easily accessible, to the extent possible in electronic format with the Central Public Information Officer or State Public Information Officer, as the case may be, available free or at such cost of the medium or the print cost price as may be prescribed.

Explanation.--For the purposes of sub-sections (3) and (4), "disseminated" means making known or communicated the information to the public through notice boards, newspapers, public announcements, media broadcasts, the internet or any other means, including inspection of offices of any public authority.”

5. There is a special responsibility upon public authorities to suo-moto publish and disseminate such information so that they will be easily and readily accessible to the public without any need to access them by having recourse to section 6 of the RTI Act. Section 4 of the RTI Act which makes suo-moto disclosure mandatory is one of the most powerful sections of the transparency law. The obligations of the public authorities are basically the obligations of the head of the public authorities like the Chief Secretary to Government and the Additional Chief Secretary to Government, Revenue and Disaster Management Department who should ensure that these are met in right earnest.

6. This mandatory obligation as provided under Section 4 of the Act and as explained above, was to be completed by the public authorities of the Government i.e. the Chief Secretary to Government and the Additional Chief Secretary to Government, Revenue and Disaster Management Department but the Bench notes with concern that the SPIOs of the public authorities tried to shift their responsibility upon the SPIOs of the public authorities of the Departments functioning under them which is not justified.

7. The second query of the RTI application relates to action taken by the appropriate Government as assigned under Section 26 of the RTI Act.

Section 2(a) of the RTI Act defines "appropriate government" to be:

“in relation to a public authority which is established, constituted, owned, controlled or substantially financed by funds provided directly or indirectly-

- (i) By the Central Government or the Union territory administration, the Central Government;
- (ii) By the State Government, the State Government;”

8. The State Government has designated Administrative Reforms department as the Nodal Department. The Department has the responsibility for servicing the RTI Act for the Government of Haryana. The responsibilities of the appropriate Government as listed under Section 26 of the RTI Act are reproduced as under:

26. (1) The appropriate Government may, to the extent of availability of financial and other resources,—

- (a) develop and organise educational programmes to advance the understanding of the public, in particular of disadvantaged communities as to how to exercise the rights contemplated under this Act;
- (b) encourage public authorities to participate in the development and organisation of programmes referred to in clause (a) and to undertake such programmes themselves;
- (c) promote timely and effective dissemination of accurate information by public authorities about their activities; and
- (d) train Central Public Information Officers or State Public Information Officers, as the case may be, of public authorities and produce relevant training



materials for use by the public authorities themselves.

- (2) The appropriate Government shall, within eighteen months from the commencement of this Act, compile in its official language a guide containing such information, in an easily comprehensible form and manner, as may reasonably be required by a person who wishes to exercise any right specified in this Act.
- (3) The appropriate Government shall, if necessary, update and publish the guidelines referred to in sub-section (2) at regular intervals which shall, in particular and without prejudice to the generality of sub-section (2), include—
 - (a) the objects of this Act;
 - (b) the postal and street address, the phone and fax number and, if available, electronic mail address of the Central Public Information Officer or State Public Information Officer, as the case may be, of every public authority appointed under sub-section (1) of section 5;
 - (c) the manner and the form in which request for access to an information shall be made to a Central Public Information Officer or State Public Information Officer, as the case may be;
 - (d) the assistance available from and the duties of the Central Public Information Officer or State Public Information Officer, as the case may be, of a public authority under this Act;
 - (e) the assistance available from the Central Information Commission or State Information Commission, as the case may be;

- (f) all remedies in law available regarding an act or failure to act in respect of a right or duty conferred or imposed by this Act including the manner of filing an appeal to the Commission;
- (g) the provisions providing for the voluntary disclosure of categories of records in accordance with section 4;
- (h) the notices regarding fees to be paid in relation to requests for access to an information; and
- (i) any additional regulations or circulars made or issued in relation to obtaining access to an information in accordance with this Act.

(4) The appropriate Government must, if necessary, update and publish the guidelines at regular intervals.

9. The appropriate Government is charged with the responsibility of advancing the understanding of the public in particular of disadvantage communities as to how to exercise the rights contemplated under the RTI Act. It is to promote timely and effective dissemination of accurate information by public authorities about their activities and train public information officers and produce relevant training materials. The appropriate Government also has the responsibility of bringing out and updating guidelines relating to various matters including the object and process of the Act, the assistance and remedies available under the Act, provisions of voluntary disclosure, fees and any other relevant information. The Bench observed that the Nodal Department has furnished information to the appellant with regard to the steps taken by the

appropriate government in compliance with the obligations stipulated under Section 26 of the RTI Act. However, the point-wise information has not been furnished. The SPIO was required to furnish information point wise as sought at point (v) to (viii) of the application.

10. Regarding ensuring the implementation of Section 4 of the Act, the Bench observed that the public authorities have hosted information on the websites. The public authorities, however, need to take urgent and effective steps to update the information. The Chief Secretary to Government had directed the public authorities to host important information regarding the policies, programmes, budget and other relevant information as stipulated under Section 4 of the Act. The public authorities had carried out the exercise and had submitted reports on the action taken by them. The public authorities have websites which display important information relating to the department. However, it is observed that the information is not being updated uniformly by all the public authorities. It seems that the public authorities do not have an internal mechanism in place for periodic updating of their websites. The internal processes within the public authorities are not defined to take care of the requirement of updating of suo-moto disclosure of information. The bench felt that there is a need for defining the responsibility and processes for periodic updating of information and

training of the designated authorities of the public authorities. The Bench observed that steps need to be taken to organize a workshop for Administrative Secretaries and Heads of the Departments under the leadership of Chief Secretary which will go a long way in securing effective compliance of Section 4 of the RTI Act.

11. The right to information is a cherished right. Information and right to information are intended to be formidable tools in the hands of responsible citizens to fight corruption and to bring in transparency and accountability. 'Public authority' is a critical unit in the architecture of RTI regime. It has an important role and responsibility to oversee implementation of RTI Act in entirety as far as its jurisdiction is concerned. 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.

12. In view of the above findings, all the appeals filed by the appellant with various public authorities detailed above are decided with this order as under:

- (i) The SPIO of the office of the Chief Secretary to Government, Haryana in Administrative Reforms Department (as Nodal Office for discharging responsibilities of the appropriate Government), shall furnish point wise information in response to the RTI application dated 23.12.2014 addressed to several

public authorities within three weeks of the receipt of this order and submit compliance report to the Commission not later than 15.10.2015.

- (ii) The Commission in exercise of the powers conferred in Section 25(5) of the RTI Act, 2005, recommends to the Chief Secretary to ensure that public authorities have an internal mechanism in place for periodic updating of their websites and that a Nodal Officer, Senior to the SPIO, is appointed to coordinate and oversee the compliance of Section 4 of the RTI Act, 2005.

13. The Commission's Secretariat is directed to send a copy of the order to the Chief Secretary to Government, Haryana for information and appropriate action.

Order reserved and pronounced on the 21st day of August, 2015. The Commission's Secretariat shall send copy of the order to each public authority separately addressed to the Administrative Secretary and its SPIO.

Place: Chandigarh

Date: 21.8.2015

**Sd/-
(P.R. Meena)
State Information Commissioner**

**Sd/-
(Naresh Gulati)
State Chief Information Commissioner**