STATE INFORMATION COMMISSION, HARYANA  
SCO NO.70-71, SECTOR 8-C, CHANDIGARH  
Appeal Case No.2963, 2964 of 2017 u/s 19(3) of RTI Act, 2005.

Relevant facts emerging from the appeal:

<table>
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<th>Name of the Appellant</th>
<th>Sh. Harinder Dhingra, D4A/7DLF, Phase 01, Gurugram. M)- 09873929500.</th>
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| Name of the Respondent      | 1. State Public Information officer – cum-Supdt., Chief Minister’s Secretariat, Haryana Chandigarh.  
                                2. First Appellate Authority-cum-Under Secretary, Chief Minister’s Secretariat, Haryana Chandigarh. |
| RTI Application filed on     | 08.11.2016 and 9.11.2016                                               |
| First Appeal decided/response on | Nil and 17.1.2017.                                                      |
| Date of Second Appeal        | 16.02.2017 and 15.2.2017                                              |
| Date of hearing              | 14.06.2017 at 11:00 A.M.                                              |
| State Information Commissioner| Sh. Bhupender Dharmani                                                |

APPELLANT: Sh. Harinder Dhingra, absent.  
PUBLIC AUTHORITY: Sh. Vijender Singh Malik, SPIO-cum-Supdt. office of Chief Minister’s Secretariat, Haryana Chandigarh.

This is in connection with the 2 appeal cases received from the appellant Sh Harinder Dhingra in the following RTI applications:

The appellant, Sh. Harinder Dhingra had sought information from the CM Secretariat vide RTI applications as follows:-

i. RTI application dated 08.11.2016 regarding providing the names of business organizations alongside the amount of investment pledged by them in the investment summit and also the names of business organization alongside the amount of investment which has already been invested by them in Haryana as per record of the Haryana Government.

ii. RTI application dated 9.11.2016 relates to Happening Haryana Global Summit held on 7th-8th March, 2016 in Gurugram at Hotel Leela, Ambience Mall, in which the following groups pledged investment...India Bulls, IKEA, Walmart and Rattan India Power. He further sought the information of total investment committed/pledged by the above-mentioned groups and investment made till date.

As per the SPIO all these were received in the office of the CM Secretariat on 22.11.2016. In all these RTI applications the appellant has cited an order of the Hon'ble
Supreme Court in the transfer petition (civil) No. 707 of 2012 :"........Therefore, wherever public interest to such a large extent is involved and it may become necessary to achieve an object which serves the public purposes, individual rights may have to give way. Public interest has always been considered to be above private interest. Interest of an individual may, to some extent, be affected but it cannot have the potential of taking over the public interest having an impact in the socio-economic drive of the country........"

All the applications of Sh. Harinder Dhingra were replied by SPIO vide CM Office letter dated 24.11.2016 informing the appellant that these RTI applications did not relate to office of the CM Secretariat. The desired information was in the control of different Public Authorities of Haryana, namely Industries, Town and Country Planning and Excise & Taxation Departments etc. The respondent SPIO also returned to the appellant the fee he had submitted.

Sh. Harinder Dhingra while filing his first appeal in all these cases has stated that he was not satisfied with the reply received from the SPIO.

Submission of the SPIO to the first appeal is that the information available with the public authority can be provided under the RTI Act but in all these cases the information is not available in the office of the CM Secretariat; they are with other public authorities information about which had already been given to the appellant in response to his RTI applications vide this office letter dated 24.11.2016. Further, under the provisions of RTI Act one public authority cannot direct another public authority to provide the information to the applicant, he added.

The FAA also upheld that the information desired by the appellant is not available with the CM Secretariat, which maintains no data of the letters received as the same are returned to the concerned administrative departments. Like the SPIO, allowing to Hon’ble CIC’s order dated 01.08.2016 in the case no CIC/SA/A/2016/001483, the FAA accepts and validates the version of the SPIO that “the offices of President, Vice-President, Prime Minister, Governors, Lt. Governors and Chief Ministers are not legally obliged under RTI Act to entertain RTI applications seeking information unrelated to it, or not held or controlled by these high offices". The FAA cites the decision of the larger bench of the CIC in appeal case no CIC/AT/A/2008/01280 dated, 29.9.2008 to inform the appellant the obligation of the petitioner under section 6 (i) of the RTI Act to advise the appellant to seek information from the concerned public authorities. The 1st appeal was disposed of accordingly.

The appellant filed appeals dissatisfied with the aforesaid responses to all of his 2 RTI applications and subsequent decision of the FAA. These appeals have been received by the Commission on different dates. In his appeal(s) he has argued that instead of discharging his duty under section 6(3) of the RTI Act by transferring his application the respondent returned his applications along with IPO while no section of the RTI Act allows this.

Therefore, vide his appeal case no. 2963 and 2964 of 2017 regarding the information related to different public authorities the appellant has prayed the Commission for punitive action against the said SPIO for violation u/s 20(1) and 20(2) of the RTI Act 2005 and 6 (3) of the said Act.

In all the above appeal cases, hearing was fixed on 14-6-17 at Chandigarh.

During the hearing the appellant did not appear. The respondent Sh. Vijender Singh Malik, SPIO-cum-Supdt., office of C.M. Secretariat attended the hearing.

The SPIO-cum-Supdt reiterates his stand and claims that since the office of the CM Secretariat does not have information and that the records of information lie with concerned administrative authority, the appellant was apprised of the situation vide reply dated 24.11.2016. During the hearing, the SPIO O/o CM Secretariat, submits as
The Appellant has sought information about the detail of investment etc vide his 2-RTI applications, but information so demanded is not related to the CM office. He adds that he had not transferred these to the other public authorities in the light of the order of the CIC which exempts the offices of President, Vice-President, Prime Minister, Governors, Lt. Governors and Chief Ministers. He further says that transferring RTI applications unrelated to the CM office adds to the burden and workload requiring more manpower and resources. Besides in this case he had replied to the appellant well within time informing him the public authorities he should approach.

After hearing the respondent and on the perusal of the case file the Commission observes and order the following:

That the information asked for has not been provided to the appellant. In his complaints to the Commission he has prayed for punitive action against the respondent. That the appellant claims himself to be an RTI activist and knows various provisions made in the RTI Act and demands action under section 6 (3) and in the light of the Hon'ble Supreme Court’s observation to ensure the supremacy of public interest over private/individual concerns. Nevertheless he filed the RTI application in the office of the CM Secretariat instead of in the offices of the concerned public authority(ies) in a hope that the said office will either provide him information available with them or procure it for him from other public authorities by transferring his RTI applications under section 6 (3). It is important here to mention that the appellant sought information u/s 2(j)(ii) of RTI Act 2005. One has to understand that a single section read in isolation can be misleading. This section of the RTI Act should be read with section 6(1a) only then section 2(j) (ii) will be used and understood in its true sense in the overall scheme of the Act.

It seems that the appellant is not fully conversant with the functioning of the office of the Chief Minister. The CMO actually does not generate any information pertaining to different departments which happen to get their meetings conducted at the level of Chief Minister.

His overlooking 6(1, a) seems to be based on the ground as the same are in the control of the concerned public authority(ies). The reply of the SPIO to the appellant says the same. Besides, this office cannot be taken as a receiving and transferring centre of the RTI applications pertaining to the other public authorities in different departments of the Govts. Hence it is as obligatory on the part of the appellant to understand the clause 6 (1,a) and 6 (3) judiciously, as it is for the SPIOs to ensure the compliance of the latter. By merely addressing his RTI applications to the office of the Secretariat of Hon'ble CM, the appellant, being an RTI activist and hence to be in the knowledge of the work and mandate of the concerned public authorities, through his numerous RTI applications has, as claimed by the SPIO, would mean extra work which would amount to “disproportionate diversion of resources of the public authority”. It is prohibited u/s 7 (9) of RTI Act and also there are a number of rulings by Hon'ble Apex Court on this. However the appellant’s claim that there is no provision in the RTI Act to return the RTI application in defiance of 6 (3) does hold merit, and on this basis he has prayed to the Commission to take punitive action against the concerned SPIO. Yet, it is also a fact that the SPIO has replied to the RTI applications promptly and also named a few public authorities that controlled the information the appellant had asked for. This also proves that the SPIO has applied his mind and has not disposed these applications in routine.

Therefore the SPIO’s claim that he acted in the light of the order no CIC/SA/A/2016/001483 dated 1-8-2018 of the CIC too holds merit. His claim that firstly this is not an isolated single case and secondly transferring it to the concerned public authority does not relieve them of their future involvement in the case as in that case the office might
have to spend more human power, time and money in attending cases in the SIC courts. That was why the CIC’s order has also exempted these apex offices from entertaining “RTI applications seeking information unrelated to it, or not held or controlled by these high offices supplying information.” The advice of the SPIO and the FAA to the appellant, therefore, is devoid of any mala fide intention.

In the light of the above the Commission appreciates the appellant’s efforts in the public interest but the Commission also expects that the appellant being a literate and intelligent person will also understand the limitations of the office of the CM Secretariat and the spirit of the CIC’s order in this concern, and in future address his RTI application to the concerned administrative public authority(ies). It is not a case of a single RTI application but 2 RTI applications filed in succession addressed to a single office. Taking any high office as a conduit is not in line with the true spirit of section 6(3), which allows transferring an RTI application to a public authority and not to public authorities.

However, in the appeal cases numbering two, the SPIO is advised to transfer these RTI applications to the concerned public authorities. And at the same time the Commission also advises the appellant, to file his RTI applications as provided under section 6 (1) of RTI act. This should not be taken as precedence for future. It is expected of an enlightened activist appellant that he/she uses his/her right to information with responsibility to ensure fairness and public interest and to stamp out any impression of misuse for harassment of any official.

With these directions the Commission dispose of the appeal case no 2963, 2964.

Sd/-
(Bhupender Dharmani)
Dated: 14.06.2017
State Information Commissioner
Haryana.