

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

द्वितीय अपील संख्या/ Second Appeal No. **CIC/NFCOM/A/2020/105432**
CIC/DOATE/A/2020/661303

Shri Alex Sequeira

... अपीलकर्ता/Appellant

VERSUS/ बनाम

PIO, Department of Atomic Energy
Through: Shri G Naveen Kumar – Administrative
Officer Nuclear Fuel Complex and Shri Vipin Kurup –
US, Secretariat Coordination Section, DAE.

... प्रतिवादीगण/Respondent

Date of Hearing : 31.01.2022

Date of Decision : 31.01.2022

Chief Information Commissioner : Shri Y. K. Sinha

Relevant facts emerging from appeal:

Since both the parties are same, the above mentioned cases are clubbed together for hearing and disposal.

Case No.	RTI Filed on	CPIO reply	First appeal	FAO	2 nd Appeal received on
105432	26.07.2019	24.08.2019	29.08.2019	10.10.2019	31.01.2020
661303	25.07.2019	09.09.2019	23.09.2019	22.10.2019	20.01.2020

Information sought and background of the case:

(1) CIC/NFCOM/A/2020/105432

(2) CIC/DOATE/A/2020/661303

The Appellant filed two RTI applications dated 25.07.2019 and 26.07.2019 before the two Respondents seeking information on following 05 points with reference to Govt. India, DoPT OM No. 21011/1/2005-Estt(A)(Pt-II) dated 14/05/2009 in connection with maintenance and preparation of Annual Performance Appraisal Reports - communication of all entries for fairness and transparency in public administration:-

1. List of establishments under Department of Atomic Energy (DAE) including public sector enterprises and aided institutions under DAE, who have implemented Govt. of India decisions under para 2 of DoPT OM No. 21011/1/2005-Estt(A)(Pt-II) dated 14/05/2009, with effect from the reporting period 2008-09.

2. List of establishments under DAE including public sector enterprises and aided institutions under DAE, who have NOT implemented Govt. of India decisions under para 2 of DoPT OM No. 21011/ 1/ 2005-Estt(A)(Pt-II) dated 14/05/2009, with effect from the reporting period 2008-09.

3. In case of establishments under DAE including public sector enterprises and aided institutions who have NOT implemented the Govt. of India decisions under para 2 of DoPT OM No. 21011/ 1/ 2005-Estt(A)(Pt-II) dated 14/05/2009 with effect from the reporting period 2008-09, please provide a copy of the proposal sent by DAE to DoPT seeking exemption from implementation of said Govt. of India decisions vide DoPT OM No. 21011/ 1/ 2005-Estt(A)(Pt-II) dated 14/05/2009 with effect from the reporting period 2008-09.

4. Kindly provide a copy of Govt. of India, DoPT order exempting DAE establishments including public sector enterprises and aided institutions under DAE from implementation of Govt. of India decisions under para 2 of DoPT OM No. 21011/ 1/ 2005-Estt(A)(Pt-II) dated 14/05/2009 with effect from the reporting period 2008-09.

5. In case of establishments under DAE including public sector enterprises and aided institutions who have NOT implemented the Govt. of India decisions under para 2 of DoPT OM No. 21011/ 1/ 2005-Estt(A)(Pt-II) dated 14/05/2009 with effect from the reporting period 2008-09, please provide a copy of the approval given by DAE to such establishments under DAE, exempting them from implementation of said Govt. of India decisions vide DoPT OM No. 21011/ 1/ 2005-Estt(A)(Pt-II) dated 14/05/2009 with effect from the reporting period 2008-09.

In file no. **CIC/NFCOM/A/2020/105432**, the PIO/Administrative Officer, Department of Atomic Energy, Nuclear Fuel Complex, vide letter dated 24.08.2019 responded as under:-

1. Nuclear Fuel Complex, is a constituent Unit of DAE- Not relevant to NFC.
2. The list of Establishment is not available with NFC.
3. & 4. Not relevant to NFC – No such documents are available.
5. Information is not available.

Dissatisfied with the response received from the CPIO, the Appellant filed a First Appeal dated 29.08.2019. The FAA/Chief Administrative Officer vide order dated 10.10.2019 upheld the reply of the CPIO.

Aggrieved and dissatisfied, the Appellant approached the Commission with the instant Second Appeal.

In file no. In file no. **CIC/DOATE/A/2020/661303**, the PIO /Under Secretary, Secretariat Coordination Section(SCS), Department of Atomic Energy, vide letter dated 14.08.2019 intimated as under:-

Reply to query No.1	The requisite information consists in 116 pages, which can be provided to you on receipt of fees of Rs.232/- (Rupees Two Hundred Thirty Two only @ Rs.2/- per page) . You may make the payment either online or by means of Demand Draft / Indian Postal Order drawn in favour of "Pay and Accounts Officer, DAE" payable at Mumbai."
Reply to query Nos. 2 to 5	Information not available.

Further, the PIO /Under Secretary (SCS), DAE vide letter dated 09.09.2019 intimated as under:-

2. The Department has forwarded an Office Memorandum No. 11/1(6)/2010-SCS(Vol-III)/2480 dated 07.03.2011 to all administrative Heads of Constituents units viz. AERB, AMD, BARC, BRIT, DCSEM, DPS, GSO, HWB, IGCAR, NFC, RRCAT, VECC and DAE Sectt. As requested by you, a certified copy of the same referred to in your query No.1 of RTI application dated 25.07.2019 consisting of 116 pages are **enclosed**.

Dissatisfied with the response received from the CPIO, the Appellant filed a First Appeal dated 23.09.2019. The FAA/Chief Administrative Officer vide order dated 22.10.2019 upheld the replies of the CPIO vide letters dated 14.08.2019 and 09.09.2019.

Aggrieved and dissatisfied, the Appellant approached the Commission with the instant Second Appeal.

Facts emerging in Course of Hearing:

Written submissions dated 25.01.2022 have been received from both the CPIOs in the aforementioned cases. The DAE, Secretariat Coordination Section, DAE has primarily contended as follows:

The PIO, SCS has provided the factual information which establishes that the relevant DoPT OM No. 21011/1/2005-Estt(A)(Pt-II) dated 14.05.2009 was circulated to all the relevant Constituent Units under DAE by Secretariat Coordination Section (The nodal section concerned with circulating Govt. orders in DAE). The Appellant's contention that the information provided by CPIO(SCS) is irrelevant to his query is baseless as the information relevant to his query was provided by the then CPIO,SCS which helps in establishing that the OMs were circulated to all the constituent units of DAE for implementation and needful action.

Further, with regard to allegation of undue delay on part of CPIO, it is stated that the RTI application was received by CPIO(SCS) on 30.07.2019 and the CPIO(SCS) requested the appellant to remit the additional fee of Rs. 232/- vide note dated 14.08.2019 (i.e. within 16 days), and the information regarding payment of Additional fees by the applicant was received by CPIO on 30.08.2019 (after a lapse of 16 days) and the certified copies of the documents consisting of 116 pages mentioning the list of constituent units was furnished vide note dated 09.09.2019 (i.e. within 11 days) (i.e. 16 days plus 11 days = 27 days) which is within prescribed time limit.

The Respondent, CPIO- Nuclear Fuel Complex[NFC] reiterated the above facts and added as under:

Sl. No.	Information sought	Reply
1	List of establishments under DAE including public sector enterprises and aided institutions under DAE, who have implemented Government of India decision under para 2 of DoPT OM No. 21011/1/2005-Estt(A) (Pt-II) dated 14.05.2009, with effect from the reporting period 2008-09	NFC has implemented the Govt. of India decisions detailed in the said DOPT OM dated 14.05.2009 except para 2 (ii) regarding providing full APAR as per the directions of DAE vide its circular No. 33/8/2016-Adm/12474dtd 21.09.2016. [Copy enclosed].
2	List of establishments under DAE including public sector enterprises and aided institutions under DAE, who have not implemented Government of India decisions under para 2 of DoPT OM No. 21011/1/2005-Estt(A) (Pt-II) dated 14.05.2009, with effect from the reporting period 2008-09	

The Respondent-NFC has also referred to a recent decision of the Commission on a second appeal [CIC/DOP&T/A/2020/668707] filed by the same Appellant on the same subject matter, viz. DoPT OM No. 21011/1/2005-Estt(A)(Pt- II) dated 14/05/2009 in connection with maintenance and preparation of Annual Performance Appraisal Reports communication of all entries for fairness and transparency in public administration. The said appeal had been decided by order dated 24.08.2021, passed by another Information Commissioner of this Commission.

In order to ensure social distancing and prevent the spread of the pandemic, COVID-19, hearing was scheduled through audio conference after giving prior notice to both the parties. Both parties are heard through audio conference and they reiterated their respective submissions as noted above.

Decision:

Perusal of the relevant records of the cases at hand reveal that information as defined under Section 2(f) of the RTI Act, has been provided by the Respondent. It is also noted that another appeal on the same subject matter has already been decided by the Commission vide order dated 24.08.2021, in which a reasoned speaking order was passed after dealing with the relevant aspects of the case.

In the given circumstances, no further intervention is deemed necessary with respect to the appeals at hand, under the RTI Act.

The appeals are disposed off accordingly.

Y. K. Sinha (वाई. के. सिन्हा)
Chief Information Commissioner (मुख्य सूचना आयुक्त)

Authenticated true copy
(अभिप्रमाणित सत्यापित प्रति)

S. K. Chitkara (एस. के. चिटकारा)
Dy. Registrar (उप-पंजीयक)
011-26186535