File No. 19/2/2013-O&M/1248
Government of India
Central Water Commission
O&M Section
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Room No. 326(S), Sewa Bhawan,
R.K.Puram, New Delhi-110066,
Dated: 06 /09/ 2016

OFFICE MEMORANDUM

Subject: Disclosure of personal information under the RTI Act, 2005.

A copy of decision taken by Central Information Commission on Disclosure of personal information under the RTI Act, 2005 dated 29.03.2016 downloaded from Central Information Commission's web-site is circulated for information.

This may be further brought to the notice of all concerned.

Encls: as above.

6.9.2016
(S.K. Nanda)
Under Secretary (O&M)
Tel. No. 26105803

Copy to :-

1. All FAAs in, CWC (HQ)
2. All CPIOs in, CWC (HQ)
3. All FAAs and CPIOs in Field Office, CWC
4. DD (SMD), CWC. It is requested to upload on CWC's web-site.

12/9/16
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CENTRAL INFORMATION COMMISSION

(Room No.315, B-Wing, August Kranti Bhawan, Bhikaji Cama Place, New Delhi 110 066)

Prof. M. Sridhar Acharyulu (Madabhushi Sridhar)

Information Commissioner

CIC/SA/A/2015/002028

Mohd. Shakeel Saifi v. PIO, Bhai Parmanand Institute of Business Studies, Delhi.

Important Dates and time taken:

RTI: 22.09.2015	**Reply**: 23.10.2015	**FAO:** 02.11.2015
SA: 08.12.2015	**Hearing**: 29.03.2016	Decision: 29-03-2016
Result: Appeal rejected and direction issued to concerned authorities.		

Parties Present:

1. Appellant is present. Dr. Girish Kumar Sharma, BPIBS, Mr. Ramersh Chander, PIO, Ambedkar Institute of Technology, Mr. S. P. Ajit Kumar and Ms. Tarika, AIT (third Party) represent Public authority.

Background:

2. It is a case of blatant misuse of RTI, Social Media and Grievance Redressal mechanism by Appellant, who is an employee of Ambedkar Polytechnic. After misuse of other systems he filed RTI application for action taken report on his complaint dated 12.02.2015, demanded copy of complaint submitted by another teacher Ms. Tarika against him, and copies of committee's finding/report against the complaint submitted by Ms. Tarika in Ambedkar Polytechnic. The audacity of appellant can be understood as he wanted the **copies of integrity certificate of committee members those were involved in the inquiry** of the

complaint submitted by Ms. Tarika, copies about procedure followed in the finding/trial/recorded statement of both the parties against complaint submitted by Ms. Tarika, copy of Form of medical bills and amount claimed from PAO-24 by Principal, Amita Dev of Bhai Parmanand Institute of Business Studies from 01.08.2012 to 31.03.2014, copy of conveyance and cartage claimed by Shri R L Pubby and Shri Pani Ram of Ambedkar Polytechnic in Financial Year 2014-15, copy of TA claimed by Shri. Vipul Jain etc. The amount of harassment he is causing can be visualised by his demand for wide range of information about colleagues and Principal and even of the officers who are supposed inquire into complaints filed against him. Around five staff members attended hearing to counter the menace of RTI demands presented by this appellant. Ms Tarika appears to be the worst victim as appellant has videographed her lecture in the class room without permission and put it on social media with reckless allegations.

3. The public authority is scared of appellant as he has already filed number of complaints, grievance representations, RTI applications, almost chocking entire administration. They either gave information that could not have been given or transferred to other authorities. Deputy Director (E-I) by his letter dated 07.10.2015 transferred the RTI application for point no. 1,2,3,4,5,7,8,9 & 10 to PIO, Ambedkar Institute of Technology.

4. Claiming non-furnishing of information, appellant filed First Appeal. Deputy Director (E-I) informed the PIO, DTTE on 12.10.2015 that for point no. 1, 2,3,4,5,7,8,9 & 10 the application was transferred to PIO, Ambedkar Institute of Technology, for point no. 6 stated that it was transferred to BPIBS, for point no. 11 and 12, requested the appellant to come for inspection and for point no. 13 stated that no such record is available in the branch.

5. The PIO, BPIBS by his letter dated 23.10.2015 replied stating that information for point no. 6 cannot be furnished because it was third party information. It appears to be impossible to satisfy this appellant. Even after taking huge information he is claiming non-furnishing of information, and filed this Commission.

Proceedings Before the Commission:

6. Officer from the respondent authority stated that they did not have copies of such complaints. Ms. Tarika, the third party, about whom appellant was seeking information, stated that the appellant nourished a grudge against employer for his promotion and targeted colleagues of Delhi Polytechnic. To harass, she said, he has video recorded her class in Ambedkar Institute of Technology and it was put on social media under the title 'Jhola Chap' teacher (mentioning Teaching Corruption in Ambedkar Polytechnic, Sting Operation : "Jhola Chap" teachers in Delhi Polytechnic). The print-out copy submitted by Ms. Tarika shows that it was shared by Shakeel Saifi on April 15 at 10:57 pm. It also contained appellant's photograph. Appellant admitted video recording. This caused lot of embarrassment from friends, relatives, colleagues and family members as video was widely circulated by WhatsApp, Facebook and other social media.

7. She complained against him before Delhi Commission for Women, which was dismissed saying that the Principal should have given a memo. She was upset with invasion of her privacy and reputation by wide circulation of abusive comments with video giving an impression there was some scandal.

8. Appellant has also asked some information about other colleagues and even about Principal. Apprehensions of Tarika are confirmed by another complaint filed by Principal Dr. Amita Dev dated 29.03.2016, which says:

> ..... the applicant has sought information by name (i.e. Dr. (Mrs.) Amita Dev) regarding the details of Medical Bills claimed by the undersigned. I would like to submit that though I have furnished the information and supplied the relevant records to Shri Mohd. Shakeel Saifi, at the same time, it puts me into a mental torture or mental trauma, as he may misutilize the information on social media, you tube, face book etc., as in the past after receiving the information through RTI, he had distorted, fabricated and published the same on Total TV, You Tube, Facebook etc.... It is further humbly submitted that, me – being a lady and my grown-up daughter (aged 22 years) may suffer from any physical problems (being privacy in nature) which I do not want to disclose to the Third Party, as I am afraid that he may misutilize the same.....it is requested that necessary action, as deemed fit, may kindly be taken against him and he should be refrained from filing further RTI Applications in future.

9. In spite of her objection against disclosure her medical bills, apprehending misuse and propaganda in social media, the institution has given all those to appellant without giving any justification or public interest. The officers also submitted a PGMS (public grievance monitoring system) generated report which shows that within four months he filed 36 complaints against his colleagues and public authority, most are not grievances at all.

10. Ms. Tarika wrote a letter to PIO Ambedkar Polytechnic on 28.03.2016 saying that the appellant was releasing fabricated video into the social media in collusion with another person who claimed himself to be RTI activist causing her serious mental agony and depression. He has also filed unlimited number of complaints with defamatory allegations against Principal, staff members of the institute. She said that appellant has a case against the department on the issue of promotion where she is working on contract with a small salary. She also alleged that the appellant has gender bias and troubling group of ladies who are working in the institute. Officers stated that others also presented similar petitions alleging that he was misusing RTI Act and PGC mechanism and prayed for relief from torture by appellant by taking suitable action.

11. After presenting his case for more than quarter hour, when the Commission was hearing the others about his misuse, appellant alleged bias against Commission with a deliberate intention to stall proceedings which are being concluded. He left the Commission insulting the chair and others even as the Commission pronounced rejection of his second appeal being without public interest. After hearing and decision was completed, he sent a written submission expressing no faith in the hearing before this Commission which was already concluded. After rejecting second appeal, the Commission considers it necessary that public authority should have enough training regarding not giving information about third parties to misusers like this appellant.

12. Material before Commission, submissions of college staff and Appellant himself, supported by his misbehaviour shows that he is undoubtedly a misuser of every mechanism

and bent upon harassing everyone who does not yield to his wishes. He is a potential threat to peace in the institution and also privacy of colleagues. Whole college is scared of him. He asked for certified copies of 'integrity certificate' of officers who are asked to inquire into allegations against him. This shows that he is not capable of working with other staff in public authority like this.

Decision:

13. Appellant came with unclean hands and does not deserve any more information. The Commission observes that information from point No. 1 to 5 and 10 is concerned with Ms. Tarika (third party), for point No. 6 the information has been furnished in compliance with FAA order vide letter dated 07.12.2015 by PIO, BPIBS, point No. 7, 8 and 9 information was provided by PIO (Ambedkar Institute of Technology), for point No. 11 & 12 inspection was already offered by the PIO and subsequently information on point no. 12 was furnished and for Point No. 13 it was stated that no such record was available with public authority. In view of the above stated facts, Commission finds that information has been furnished to the appellant except those concerning the third party. Knowing full well that appellant was misusing social media, grievance redressal mechanism, RTI and filing frivolous complaints, the public authority should not have given any information to this misuser.

14. There is nothing to suspect the representation of colleagues of appellant saying that he does not require any information; because his whole purpose is to harass the others, and stated that the behaviour of the appellant would amount to defamation and invasion of privacy which constitute offences under Indian Penal Code, 1860 and Information Technology Act, 2000. The Commission is surprised by the inaction of the college authorities and staff, which is facilitating the appellant to continue harassment.

15. The Supreme Court in ***ICAI vs. Shaunak H. Satya***, (2011) 8 SCC 781 has held: "*This Court is also of the view that misuse of the RTI Act has to be appropriately dealt with otherwise the public would lose faith and confidence in this "sunshine Act". A beneficent Statute, when made a tool for mischief and abuse must be checked in accordance with law*".

16. In HK Bansal v Department of Telegraph, New Delhi, CIC/BS/A/2014/002319-SA, this Commission concluded:

> Whether serving/retired employees are having any right to behave in such a **manner to torture his colleagues and employer**? The Commission opines that such a conduct deserves to be considered as **mis-conduct.** There should be a system within the Public Authority to tackle such misconduct of any serving employee/retired employee or by any other staff member/out-sourced or similar nature, because they are becoming potential hazards of RTI misuse. Public authority should have **evolved a mechanism** and **service rules or include in conduct rules**, to initiate departmental action against existing/retired employees for such misbehavior or misconduct and impose penalty in the nature of cutting increments or pension emoluments for serving or retiring employees accordingly. If the RTI application from its own employee reflects a grievance or compliant, the public authority **should address grievance** immediately and inform him within one month. If the RTI application is repeated, frivolous or useless one and only meant for harassing other employees or public authority as a whole, then the disciplinary action should be initiated for such alleged misconduct, leading to appropriate action. If they do not act at all against such characters (retired or not retired employees) in indulging in such misconduct of filing frivolous and entertain these repeated RTI applications it will cause huge wasting of public money. The public authority is answerable to public **why they are facilitating the misconduct** causing damage to public exchequer. Each department has to address the issue of misusing RTI by employee, after thoroughly examining each individual case separately.
> Targeting the witnesses, complainants, superior officers who were members of inquiry committee or DPC who did not favour them and seeking whole lot of information about them under RTI Act is **irresponsible misuse of the right.** It will not only interfere with the independent inter-departmental decision making process, but also instill fear in inquiry officers and dissuade others from lodging complaints against wrongdoers. This increases the already existing space for wrongdoing ultimately affecting the governance. The RTI is not meant for granting such immunity or impunity to wrongdoing employees to misuse RTI to demoralize the complainants and inquiry officers.

Appellant is demanding the information about some employees/officers who gave assistance in confidence for law enforcement, which can be denied under this exception under Section 8(1).

> *(h) information, which would **impede the process of investigation or apprehension or prosecution of offenders;***

Appellant's targeted demand for details of officers who decided or opined or complained or deposed against him will impede the process of collecting evidence of misconduct of accused public servant, impede process of inquiry for taking disciplinary action, hence need not be given under this clause of 8(1).

> *(j) information which relates to personal information the disclosure of which has not relationship to any public activity or interest, or which would cause unwarranted*

invasion of the privacy of the individual unless the Central Public Information Officer or the State Public Information Officer or the appellate authority, as the case may be, is satisfied that the larger public interest justifies the disclosure of such information

17. Thus the Commission holds that such a misuse by employee will amount to misconduct and, acting under Section 19(8)(a) of RTI Act, require the public authority to take following steps to address the misuse of RTI by its own employees like appellant:

a) The public authority should proceed with disciplinary action against the appellant for his misuse of RTI which amounted to misconduct, before April 25, 2016. Every misuse of system like, misuse of PGMS, RTI and Social media shall be considered as an item of misconduct that invite disciplinary action.

b) If the mis-users of RTI involved in invading privacy by video recording and spreading false allegations through social media network, the head of the institute need to examine if it amounts to any offence under IPC or IT Act, and shall report to appropriate authorities including police.

c) The public authority should inform the individual officers, if their rights are breached by misuse, they have a every right to complain as per law and public authority shall facilitate such action, if the misuse obstructs the normal course of functioning of the institute.

d) The concerned authorities to take immediate action if the information given to appellant in this case is abused or spread in social media or elsewhere, and they shall not give any information to this appellant if files similar RTI requests. The public authority should take note that employees or colleagues like Ms. Tarika, Ms. Amita Dev have a right to seek compensation from public authorities if they ignore or neglect their privacy rights by indiscriminately giving information in the absence of public interest. It is pathetic to note that the PIO could not ascertain that there was no public interest in this case but appellant has malicious interests in harassing others or building pressure on authorities in self interest. The authorities have a duty to protect other employees from such misusers. This kind of misuse to

build up pressure against taking action on misconduct or to secure promotion should be treated as disqualification.

e) The public authority should provide necessary training to the PIOs and other staff members to verify the nature of appellant and if they found him to be misuser, tell them not to give information like medical claims of third parties.

18. The Commission also directs the officers of public authority to inform Ms. Tarika and Principal, Amita Dev as to what action was taken on their complaints against the appellant, and file a compliance report explaining the implementation of directives in this order, before April 25, 2016. If not, Ms. Tarika and others will be entitled to file non-compliance complaint before this Commission under this case number.

19. The Commission recommends the Delhi Commission for Women, to take necessary action on complaints of Ms Tarika and others to protect women in this public authority from the invaders of privacy and misusers of social media, and report the compliance to this Commission before 25th April, 2016. (Public authority and Deputy Registrar of this Commission are directed to send copies of their complaints to the Delhi Commission for Women along with this order).

20. The Commission holds appellant as misuser of social media, RTI and warn him to stop the harassment of colleagues and ruining the institution.

(M. Sridhar Acharyulu)
Information Commissioner

Authenticated true copy

(Babu Lal)
Deputy Registrar

Addresses of the parties:

1. The CPIO under RTI,

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Shakarpur Extn., Delhi-110092.

2. Mohd. Shakeel Saifi,

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Maujpur, Delhi-110053.

3. The PIO, Delhi Commission for Women
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