

RTI APPEAL DETAILS (आरटीआई अपील विवरण)			
Appeal Registration Number (अपील पंजीकरण संख्या) :	GSTJP/A/E/23/00033	RTI Appeal Received Date (आरटीआई अपील प्राप्त की तिथि) :	08/09/2023
RTI Request Registration No. (आरटीआई अनुरोध पंजीकरण संख्या):	GSTJP/R/E/23/00159	RTI Request Registration Date (आरटीआई अनुरोध पंजीकरण की तारीख) :	17/08/2023
Name (नाम) :	Dayanand Rahar	Gender (लिंग) :	Male
Address (पता) :	121 Lions lane, Hanuman nagar extensionSirsi RoadJaipur		
Pin code (पिन कोड) :	302012		
State (राज्य) :	Rajasthan	Country (देश) :	India
Phone Number (फोन नंबर) :	+91-9414507053	Mobile Number (मोबाईल नंबर) :	+91-9414507053
Email-ID (ईमेल-आईडी) :	dayanandrahar@gmail.com		
Status (स्थिति) :	Urban	Educational Status (शैक्षणिक स्थिति) :	Above Graduate
Citizenship Status (नागरिकता) :	Indian	Is Appellant Bellow Poverty Line ? (क्या अपील करनेवाला गरीबी रेखा से नीचे का है?) :	No
CPIO Approached (संपर्क सीपीआईओ) :	39087	Date of Receipt of CPIO's Order/Decision(सीपीआईओ के आदेश / निर्णय के रसीद की तारीख) :	Details not provided
CPIO's Order/Decision No.(सीपीआईओ का आदेश / निर्णय संख्या) :	Details not provided		
Ground for Appeal(अपील का आधार) :	Refused access to Information Requested		
Text of RTI First Appeal (आरटीआई प्रथम अपील का पाठ) :	<p>I had requested to provide information relating to me in respect of copy of Vigilance Clearance Certificate and Report / comments thereon with a copy of letter under which the same has been forwarded to the D.G., H.R.D., New Delhi in relation to DPC conducted in the month of January. 2023 & July, 2023 for the promotion to the post of Assistant Commissioner from the cadre of Superintendent Central Excise.</p> <p>It is submitted that the CPIO, CGST Zone, Jaipur vide their letter F No GCCO/RTI/APP/1651/2023-Legal dated 06.09.2023 has denied the said information saying that such information cannot be disclosed as per provisions of Section 8(1)(J) of the RTI Act 2005.</p> <p>As the information required under the said application exclusively pertains to me, therefore, the CPIO has wrongly denied to provide information. Section 8(1)(J) of the RTI Act 2005 provides that :-</p>		

(j) information which relates to personal information the disclosure of which has no 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:

In this case information has been sought in respect of the applicant himself, therefore, you are requested to allow the appeal and issue necessary directions to provide requisite information at the earliest.



कार्यालय मुख्य आयुक्त
Office of the Chief Commissioner
सीजीएसटी एवं केन्द्रीय उत्पाद शुल्क (जयपुर परिक्षेत्र), जयपुर
CGST & Central Excise (Jaipur Zone), Jaipur

फा. सं. GCCO/RTI/FAAA/51/2023-LEGAL

दिनांक : .10.2023

अपील आदेश

यह आदेश सुश्री बबनीत तुली, प्रथम अपीलीय अधिकारी एवं अपर आयुक्त, मुख्य आयुक्त कार्यालय, केन्द्रीय वस्तु एवं सेवा कर (जयपुर परिक्षेत्र), जयपुर द्वारा सूचना के अधिकार अधिनियम, 2005 के अंतर्गत पारित किया गया है :

1. यह आदेश सूचना के अधिकार अधिनियम, 2005 की धारा 19 के अंतर्गत जारी किया गया है और जिस व्यक्ति के लिए यह जारी किया गया है उसे उपयोग हेतु यह प्रति निःशुल्क प्रदान की जाती है |
2. इस आदेश के विरुद्ध अपील सूचना के अधिकार अधिनियम, 2005 की धारा 19(3) के अंतर्गत सूचना आयुक्त, नई दिल्ली के पास की जा सकती है | जिसका कार्यालय केन्द्रीय सूचना आयोग, अगस्त क्रांति भवन, भीकाजी कामा पैलेस, नई दिल्ली – 110066 और ओल्ड जे. एन. यू. कैम्पस, नई दिल्ली – 110067 में है | यह अपील इस आदेश की प्राप्ति की तिथि से नब्बे (90) दिनों के अन्दर दायर की जानी चाहिए|
3. अपील पर उस व्यक्ति के हस्ताक्षर होने चाहिए जिसके सन्दर्भ में यह आदेश जारी किया गया है | इस आदेश के विरुद्ध अपील के साथ इस आदेश की सत्यापित प्रति तथ अपीलकर्ता द्वारा की जाने वाली अपील के समर्थन में सभी दस्तावेज संलग्न किये जाने चाहिए | यह अपील उपरोक्त पैरा 2 में वर्णित अपीलीय प्राधिकारी के प्राधिकृत कार्यालय में व्यक्तिगत रूप से प्रस्तुत की जानी चाहिए या उक्त अपीलीय प्राधिकारी को रजिस्टर्ड पोस्ट द्वारा भेजी जानी चाहिए |

विषय: श्री दयानंद राहर, 121, लायंस लेन, हनुमान नगर विस्तार, सिरसी रोड, जयपुर – 302012 द्वारा सूचना के अधिकार अधिनियम, 2005 के अंतर्गत दायर की गयी अपील संख्या GSTJP/A/E/23/00033 दिनांक 08.09.2023 के सम्बन्ध में |

New Central Revenue Building, Statue Circle, C-Scheme, Jaipur – 302005 (Raj.)

Phone: 0141-2385155; Fax: 0141-2385130, E-Mail: ccu-cexjpr@nic.in,

Website: www.cgstjaipur.gov.in, Twitter Handle : @CGSTJAIPURZONE

Sh. Dayanand Rahar, 121 Lions lane, Hanuman Nagar Extension, Sirsi Road, Jaipur, Pin: 302012 (herein after also referred to as “the appellant”) has filed RTI Appeal bearing Reg. No. GSTJP/A/E/23/00033 dated 08.09.2023, on being not satisfied with the reply dated 06.09.2023 provided to him through online RTI-MIS portal on 08.09.2023 by the CPIO & Assistant Commissioner, Office of the Chief Commissioner, CGST & C. Excise Zone, Jaipur (herein after also referred to as “the CPIO”).

2. The appellant had sought information under the RTI Act, 2005 (herein after also referred as “the Act”) vide his above said RTI application dated 17.08.2023, received online through RTI portal as under-

I am an Indian citizen and have filed this application under RTI Act2005 with request to provide following information relating to me.

Copy of vigilance clearance certificate & report/ comments thereof with copy of letter under which the same has been forwarded to the Director General Human Resources & Development, New Delhi, in relation to D P C conducted in the month of January 2023 and July2023 for promotion to the post of Assistant Commissioner from the cadre of Superintendent Central Excise.

3. The above RTI application dated 17.08.2023 of the appellant was received online in the CGST & Central Excise Zone, Jaipur and was forwarded to the CPIO by the Nodal Officer. The reply was sent to the appellant by the CPIO through RTI portal on 08.09.2023 as under:-

“the documents/information sought by the applicant contain personal information in respect of other officers also, disclosure thereof has no relationship to any public activity or interest and therefore, in view of provisions of Section 8(1)(j) of the RTI Act, 2005, the said information cannot be disclosed to the applicant”.

4. On being aggrieved, the appellant has filed this appeal dated 08.09.2023 mainly on the following grounds-

“I had requested to provide information relating to me in respect of copy of Vigilance Clearance Certificate and Report / comments thereon with a copy of letter under which the same has been forwarded to the D.G., H.RD., New Delhi in relation to DPC conducted in the month of January. 2023 & July, 2023 for the promotion to the post of Assistant Commissioner from the cadre of Superintendent Central Excise.

It is submitted that the CPIO, CGST Zone, Jaipur vide their letter F NoGCCO/RTI/APP/1651/2023-Legal dated 06.09.2023 has denied the said information saying that such information cannot be disclosed as per provisions of Section 8(1)(J) of the RTI Act 2005.

As the information required under the said application exclusively pertains to me, therefore, the CPIO has wrongly denied to provide information. Section 8(1)(J) of the RTI Act 2005 provides that :-

(j) information which relates to personal information the disclosure of which has no 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:

In this case information has been sought in respect of the applicant himself, therefore, you are requested to allow the appeal and issue necessary directions to provide requisite information at the earliest. ”

5. I have carefully gone through the original RTI application Reg. No. GSTJP/R/E/23/00159 dated 17.08.2023 which was received by the CPIO for supplying the information sought by the appellant and the impugned appeal dated 08.09.2023 filed by the appellant and all the other facts available on record.

6. Personal hearing was fixed on 22.09.2023 in the matter to provide natural justice to the appellant and the appellant has submitted that the CPIO has wrongly denied the information under section 8(1)(j) of the RTI Act, 2005. He has also requested to disclose the desired information as the same relates to him and the furtherance of his carrier.

7. In order to analyse the issue & arrive at the factual position, comments on the appeal filed by the appellant were called for from the CPIO and on going through the same, it is observed that CPIO in the comments vide letter GCCO/RTI/APP/1651/2023-LEGAL dated 29.09.2023 has submitted as under:-

“Not admitted. It is submitted that the appellant vide RTI Application dated 17.08.2023 sought following information:-

“Copy of vigilance clearance certificate & report/ comments thereof with copy of letter under which the same has been forwarded to the Director General Human Resources & Development, New Delhi, in relation to D P C conducted in the month of January 2023 and July 2023 for promotion to the post of Assistant Commissioner from the cadre of Superintendent Central Excise.”

The Vigilance Branch of this office has forwarded Vigilance Clearance Certificate/Vigilance Status, BBM Certificate, Penalty Statements, APARs and other requisite records/information in respect of various Officers including the appellant i.e. Sh. Dayanand Rahar to DGHRD, New Delhi. Hence, the contention of the appellant that the information sought by him vide the said RTI application dated 17.08.2023 exclusively pertains to him, is not tenable.

Further, regarding denial of document/information sought by the appellant, attention is invited to the provisions of Section 8(1)(j) of the RTI Act, 2005 which states as under:-

“8. Exemption from disclosure of information.—(1) Notwithstanding anything contained in this Act, there shall be no obligation to give any citizen,—

.....

(j) information which relates to personal information the disclosure of which has no 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:

Provided that the information which cannot be denied to the Parliament or a State Legislature shall not be denied to any person.”

In the instant matter, the documents/information sought by the appellant contains personal information viz. Vigilance Clearance Certificate/Vigilance Status, BBM Certificate, Penalty Statements, APARs etc. in respect of other officers also, and the appellant did not disclose any larger public interest in supplying such information to him. Therefore, in view of the above said provisions of Section 8(1)(j) of the RTI Act, 2005, the said information is exempted from disclosure to the applicant and thus the same has correctly been denied to the appellant.

*In this regard, ratio laid down by the Hon'ble Supreme Court in the matter of **Canara Bank Vs. C.S. Shyam in Civil Appeal No.22 of 2009** may please be noted, wherein the scope of Section 8(1)(j) of RTI Act with respect to service matters of government employees has been further exemplified. The relevant portion of the said judgment dated 31.08.2017 is as under:*

“...5) The information was sought on 15 parameters with regard to various aspects of transfers of clerical staff and staff of the Bank with regard to individual employees. This information was in relation to the personal details of individual employee such as the date of his/her joining, designation, details of promotion earned, date of his/her joining to the Branch where he/she is posted, the authorities who issued the transfer orders etc. etc.

.....

*12) In our considered opinion, the issue involved herein remains no more res integra and stands settled by two decisions of this Court in **Girish Ramchandra Deshpande vs. Central Information Commissioner &Ors., (2013) 1 SCC 212** and **R.K. Jain vs. Union of India &Anr., (2013) 14 SCC 794**, it may not be necessary to re-examine any legal issue urged in this appeal.*

13) In Girish Ramchandra Deshpande's case (supra), the petitioner therein (Girish) had sought some personal information of one employee working in Sub Regional Office (provident fund) Akola. All the authorities, exercising their respective powers under the Act, declined the prayer for furnishing the information sought by the petitioner. The High Court in writ petition filed by the petitioner upheld the orders. Aggrieved by all the order, he filed special leave to appeal in this Court. Their Lordships dismissed the appeal and upholding the orders passed by the High Court held as under:-

‘12. We are in agreement with the CIC and the courts below that the details called for by the petitioner i.e. 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 performance of an employee/officer in an organisation is primarily a matter between the employee and the employer and normally those aspects are governed by the service rules which fall under the expression “personal information”, the disclosure of which has no relationship to any public activity or public interest. On the other hand, the disclosure of which would cause unwarranted invasion of privacy of that individual. Of course, in a given case, if the Central Public Information Officer or the State Public Information Officer or the appellate authority is satisfied that the larger public interest justifies the disclosure of such information, appropriate orders could be passed but the petitioner cannot claim those details as a matter of right.

13. 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 and the Central Public Information Officer or the State Public Information Officer or the appellate authority is satisfied that the larger public interest justifies the disclosure of such information.’

14) ***In our considered opinion, the aforementioned principle of law applies to the facts of this case on all force. It is for the reasons that, firstly, the information sought by respondent No.1 of individual employees working in the Bank was personal in nature; secondly, it was exempted from being disclosed under Section 8(j) of the Act and lastly, neither respondent No.1 disclosed any public interest much less larger public interest involved in seeking such information of the individual employee and nor any finding was recorded by the Central Information Commission and the High Court as to the involvement of any larger public interest in supplying such information to respondent No.1...***

Further, reliance may also be placed upon observations of Hon’ble Supreme Court, in the matter of Central Public Information Officer, Supreme Court of India Vs. Subhash Chandra Agarwal in Civil Appeal No. 10044 of 2010 with Civil Appeal No. 10045 of 2010 and Civil Appeal No. 2683 of 2010 regarding scope of personal information in respect of government employees. The relevant portion of the said judgment dated 13.11.2019 is as under:

“...59. Reading of the aforesaid judicial precedents, in our opinion, would indicate that **personal records, including name, address, physical, mental and psychological status, marks obtained, grades and answer sheets, are all treated as personal information. Similarly, professional records, including qualification, performance, evaluation reports, ACRs, disciplinary proceedings, etc. are all personal information. Medical records, treatment, choice of medicine, list of hospitals and doctors visited, findings recorded, including that of the family members, information relating to assets, liabilities, income tax returns, details of investments, lending and borrowing, etc. are personal information.** Such personal information is entitled to protection from unwarranted invasion of privacy and conditional access is available when stipulation of larger public interest is satisfied. This list is indicative and not exhaustive...”

In light of observations of Hon’ble Supreme Court in both the aforementioned cases, it is clear that the information/documents sought by the appellant vide RTI

Application dated 17.08.2023 comes under the purview of “personal information” which are exempt from disclosure under Section 8(1)(j) of the RTI Act, 2005. Hence, the information/document was rightly denied to the appellant and the instant appeal is liable to be rejected accordingly.”

8. I find that the appellant vide his RTI application dated 17.08.2023 has sought information as mentioned in Para 2 of this order. I observe that information sought by the appellant relates to Vigilance clearance certificate & report/comments in relation to the DPC conducted for promotion to the post of Assistant Commissioner from the cadre of Superintendent Central Excise. Such information comes under the purview of “Personal information”, as also accepted by the CPIO in her comments dated 29.09.2023. I observe that the CPIO has failed to interpret that the appellant sought information relating to himself only. “Personal information” relating to the information seeker is not exempted under Section 8(i)(j) of the Act. Section 8(i)(j) is applicable only in respect of third party information.

I would like to rely on following decisions:

- (i) Appeal No. 97/ICPB/2006 & F. No. PBA/06/128 dated 11.09.2006, in the matter of **Shri M. L Meena Vs Ministry of Health & Family Welfare**, wherein the Hon’ble CIC mentioned that *“This Section 8(i)(j) has to be read as a whole. If done so, it would be apparent that that “personal information” does not mean information relating to the information seeker, but about a third party. That is why, in the Section, it is stated “unwarranted invasion of the privacy of the individual”. If one were to seek information about himself or his own case, the question of invasion of privacy of his own self does not arise. If one were to ask information about a third party and if it were to invade the privacy of the individual, the information seeker can be denied the information on the ground that disclosure would invade the privacy of a third party. Therefore, when a citizen seeks information about his own case and as long as the information sought is not exempt in terms of other provisions of Section 8 of RTI Act, this Section cannot be applied to deny the information.”*
- (ii) Appeal No. 463 /ICPB/2007 & F. No. PBA/07/117 dated 18.05.2007, in the matter of **Mr. Rahul Aggarwal Vs Syndicate Bank**, wherein the Hon’ble CIC mentioned that *“The appellant is also requesting information about his own case, hence citing section 8.1(j) is not relevant. The Commission has given a number of decisions in this regard and recently in the case of Appeal No CIC/WB/C 2006/233- dated 23.4.2007 - Shri Rakesh Kumar Singh Vs Lok Sabha Secretariat, the full Bench of the Commission has also decided this matter by indicating section 8.1(j) is applicable only in respect of third party information since it is going to interfere with the privacy of the individual. There is no way section 8.1(j) can be applied in this case when the appellant is seeking information about his own case.”*

9. I observe that the CPIO in her comments mentioned the judgement in the cases *Canara Bank Vs. C.S. Shyam* in Civil Appeal No.22 of 2009, *Girish Ramchandra Deshpande vs. Central Information Commissioner &Ors.*, (2013) 1 SCC 212 and *R.K. Jain vs. Union of India &Anr.*, (2013) 14 SCC 794.

On going through the cases mentioned by the CPIO, I observe that

- (i) In case, **Canara Bank Vs. C.S. Shyam in Civil Appeal No.22 of 2009**, the respondent no. 1, C. S. Shyam had asked the information relating to regarding transfer and posting of the entire clerical staff from 01.01.2002 to 31.07.2006 in all the branches of the appellant-Bank,
- (ii) In case, **Girish Ramchandra Deshpande vs. Central Information Commissioner &Ors., (2013) 1 SCC 212**, the petitioner Girish Ramchandra Deshpande filed RTI calling for various details relating to third respondent Shri A.B. Lute, who was employed as an Enforcement Officer in Sub-Regional Office, Akola and
- (iii) In case **R.K. Jain vs. Union of India &Anr., (2013) 14 SCC 794**, the appellant Sh. R.K. Jain filed RTI seeking the copies of all note sheets and correspondence pages of file relating to one Ms. Jyoti Balasundram, Member/CESTAT.

In all the above cases, the judgements are related to a third party. Thus, the ratio of decision laid by these cases does not find any merit in the instant case as appellant Sh. Dayanand Rahar had filed RTI seeking information related to him.

10. I would like to rely on following decisions also:

- (i) Decision No. CIC/CC/A/2015/002585/SB dated 04.10.2016, in the matter of **Shri Aseem Takyar Vs CPIO, CVC, New Delhi**, wherein Hon'ble CIC decided that "*.....The Commission, therefore, directs the CPIO, CVC to provide information regarding grant of vigilance clearances from 01.04.2013 to 01.12.2014, to the extent available, to the appellant within a period of three weeks from the date of receipt of a copy of this order.*"
- (ii) Appeal No. CIC/WB/A/2007/01090 dated 16.11.2007, in the matter of **Shri D.B. Makwana vs Central Vigilance Commission (CVC)**, wherein Hon'ble CIC decided that "*1. A copy of the vigilance clearance certificate issued by the CVC in respect of both the officers may be provided to appellant Shri Makwana within ten*

working days of the date of receipt of this notice applying the principle of severability u/s 10(1). Deleting that portion, the remainder of the certificate may be provided to appellant.....”

11. Further, I observe that the CPIO has mentioned in her comments that *“In the instant matter, the documents/information sought by the appellant contains personal information viz. Vigilance Clearance Certificate/Vigilance Status, BBM Certificate, Penalty Statements, APARs etc. in respect of other officers also”*. In this context, I would like to draw attention to Section 10 of the Act, which is reproduced as under:

“Severability —

(1) Where a request for access to information is rejected on the ground that it is in relation to information which is exempt from disclosure, then, notwithstanding anything contained in this Act, access may be provided to that part of the record which does not contain any information which is exempt from disclosure under this Act and which can reasonably be severed from any part that contains exempt information.

(2) Where access is granted to a part of the record under sub-section (1), the Central Public Information Officer or State Public Information Officer, as the case may be, shall give a notice to the applicant, informing—

- (a) that only part of the record requested, after severance of the record containing information which is exempt from disclosure, is being provided;*
- (b) the reasons for the decision, including any findings on any material question of fact, referring to the material on which those findings were based;*
- (c) the name and designation of the person giving the decision;*
- (d) the details of the fees calculated by him or her and the amount of fee which the applicant is required to deposit; and*
- (e) his or her rights with respect to review of the decision regarding non-disclosure of part of the information, the amount of fee charged or the form of access provided, including the particulars of the senior officer specified under sub-section (1) of section 19 or the Central Information Commission or the State Information Commission, as the case may be, time limit, process and any other form of access.”*

Thus, in view of Section 10 of the Act, I observe that information can be given to the appellant after application of Severability clause in relation to information pertaining to other officers.

12. In view of the above discussions, having heard the appellant and perused the comments and documents, I disagree with the decision of the CPIO and allow the appeal of the appellant.

Accordingly, I pass the following order in term of Section 19(6) of the RTI Act, 2005.

ORDER

I direct the CPIO & Assistant Commissioner, Office of the Chief Commissioner, CGST & C. Excise Zone, Jaipur to provide the information to the appellant within ten working days of the date of receipt of this order applying the principle of severability u/s 10 of the RTI Act 2005.

Signed by Babneet Tuli

Date: 06-10-2023 17:10:50

Reason: Approved

(Babneet Tuli)

(First Appellate Authority
& Additional Commissioner)

Speed Post

Sh. Dayanand Rahar,
121 Lions lane, Hanuman Nagar Extension,
Sirsi Road, Jaipur, Pin:302012.

Copy to:

1. The CPIO & Assistant Commissioner, CGST & Central Excise (Jaipur Zone) Jaipur for information and necessary action.
2. Superintendent (Computer), CGST & Central Excise, Jaipur to upload on Zonal website

(First Appellate Authority
& Additional Commissioner)