Central Information Commission

Baba Gang Nath Marg,
Munirka, New Delhi - 110067

011-26182598
http://dsscic.nic.in/online-link-paper-compliance/add

Email ID Kl.das@nic.in
Phone No. 011-26182598

File No. CIC/MH&FW/A/2017/184359 **DATE : 22-04-2019**

NOTICE OF HEARING FOR APPEAL/COMPLAINT

Appellant(s)/Complainant(s):	Respondent(s):
LALIT KUMAR JAIN 6-A, AJMAL KHAN PARK, KAROL BAGH, NEW DELHI 110005 Delhi,New Delhi	**CPIO :** 1. THE CPIO DIRECTOR & CPIO, REGIONAL DRUGS TESTING LABORATORY, CENTRAL DRUGS STANDARD CONTROL ORGANISATION (DIRECTORATE GENERAL OF HEALTH SERVICES), MINISTRY OF HEALTH & FAMILY WELFARE, SECTOR - 39-C, CHANDIGARH - 160036 (REF. NO. 1-18/2017-18/ADMIN/RTI/2331/17 dt.

Date of RTI	Date of reply, if any, of CPIO	Date of 1st Appeal made, if any	Date of order, if any, of First AA
28-08-2017	25-09-2017	30-10-2017	27-11-2017

1. Take notice that the above appeal/complaint in respect of RTI application dated 28-08-2017 filed by the appellant/complainant has been listed for hearing before **Hon'ble Information Commissioner Mr. Bimal Julka** on **14-05-2019** ***at 12:00*** **PM** .

2. The appellant/complainant may present his/her case(s) in person or through his/her duly authorized representative.

3. (a) CPIO/PIO should personally attend the hearing; if for a compelling reason(s) he/she is unable to be present, he/she has to give reasons for the same and shall authorise an officer not below the rank of CPIO.PIO, fully acquainted with the facts of the case **and bring complete file/file(s) with him**.

(b) If the CPIO attending the hearing before the Commission does not happen to be the concerned CPIO, it shall still be his/her responsibility to ensure that the CPIO(s) concerned must attend **with complete file concerning the RTI request,** the hearing along with him.

4. All the parties may submit their written submission, if any, to the Commission at least 7 days before the date of hearing. A copy of the same **shall** be served upon opposite party. If any party wishes to make online submission, the same may be sent to the Commission's link only viz., **http://dsscic.nic.in/online-link-paper-compliance/add**

5. CPIO is also directed to inform the third party, if any, so as to enable it to defend or present its case before the Commission. Third Party may choose to be present before the Commission either in person or through its duly authorized representative for hearing, or they may also file a written submission to the Commission before the hearing.

6. The authorised representative or the officer of the public authority and the appellant/complainant/third party is advised to carry a "proof of identity" **along with the authorization letter**.

7. Take notice that in default of your appearance on the time and date mentioned aforesaid, the case shall be heard and decided in your absence **and that there will be no adjournment and review**.

8. The parties concerned should reach the venue at least 30 minutes before the scheduled time of hearing. They are also requested to intimate their telephone/mobile numbers and email address to the undersigned.

Venue for the Appellant/Complainant
Venue : Room No. 305, Central Information Commission, Baba Gang Nath Marg, Munirka, New Delhi – 110067
Venue for CPIO 1
NIC Studio : N.I.C. Video Conferencing Studio, UT Chandigarh Unit, Room No.-222, 2nd Floor, Deluxe Building, UT Secretariat, Sector - 9-D, Chandigarh-160009 (**Contact officer :** Shri Anuradha Kaushal **Contact No.** : 0172-2740705)

By order of the Commission.

K L Das
Dy. Registrar

Reference number of CPIO Reply(if any) : -

To

1. CPIO, Public Authority
2. Appellant/Complainant.

Copy for information/necessary action to: NIC.

Copy To :
THE FAA, DIRECTORATE GENERAL OF HEALTH SERVICES, OFFICE OF THE DCG(I) (RTI CELL), FDA BHAWAN, KOTLA ROAD, NEW DELHI - 110002

भारत सरकार
क्षेत्रीय औषध परीक्षण प्रयोगशाला

केन्द्रीय औषध मानक नियन्त्रण संगठन
(स्वास्थ्य सेवाओं का महानिदेशालय)
स्वास्थ्य एवं परिवार कल्याण मंत्रालय
सैक्टर–39 सी, चन्डीगढ–160036
फोन नं: 0172–2688239, फैक्स नं: 0172–2636316

सत्यमेव जयते

GOVERNMENT OF INDIA
REGIONAL DRUGS TESTING LABORATORY

CENTRAL DRUGS STANDARD CONTROL ORGANISATION
(Directorate General of Health services)
Ministry of Health & Family Welfare
SECTOR-39 C, CHANDIGARH – 160036
Tel. No: -0172-2688239, Fax- No: 0172-2636316
E-mail id: rdtlchd@cdsco.nic.in

No 1-18/2019-20/Admin/RTI/ 1444 /19 Dated 08.05.2019

Before

The Hon'ble Information Commissioner,
Central Information Commission,
Baba gang Nath Marg,
Munirka, New Delhi – 110067.

SUBJECT: NOTICE OF HEARING FOR APPEAL/COMPLAINT

FILE NO. CIC/MH&FW/A/2017/184359 dated: 22.04.2019

The receipt of the above mentioned Notice of Hearing for Appeal/Complaint is hereby acknowledged.

The Regional Drugs Testing Laboratory, Chandigarh, is a National Statutory Laboratory of the Government of India for quality control of Drugs and Cosmetic and is established under Indian Drugs & Cosmetic Act, 1940 and Rules 1945, there under. Each and Every process from the manner of Receipt of Samples, testing and submission of test report to the concerned senders of the samples, has been stipulated under Drugs and Cosmetics Act, 1940 and Rules there under.

The Regional Drugs Testing Laboratory, Chandigarh is a sub-ordinate Office of Central Drugs Standard Control Organisation, Directorate General of Health Services, Ministry of Health and Family welfare, Government of India. This Laboratory analyses Drugs, Cosmetics and Medical Devices. This is a NABL Accrediated Laboratory (ISO 17025 : 2005).

Submission of RTI queries of the Appellant before the Hon'ble CIC and reason stated there under have been reviewed scrupulously. In this connection the following factual position is hereby placed before the Hon'ble Information Commissioner as liberty bestowed to all the parties to submit their **written submission** at Para-4 of the above notice under reference for kind perusal.

Information demanded in point- A.

"Please provide me the Flow Charts, Standard Operating Procedures, validation plan, IQ, OQ & PQ, followed by RDTL Chandigarh to analyse each & every sample of Drugs received by it for testing as per pharmacopeias and as per label details."

Justification for point A:

1. As desired, copy of Flow chart has been provided by the 1st appellate authority (AA). (Annexure – 1 with the reply letter from AA).

2. The applicant has asked information on standard operating procedure (SOP) and validation plan to analyse each & every sample of Drugs.

Analysis of pharmacopoeial product (drugs and pharmaceutical) is done according to Indian pharmacopeia (IP) and pharmacopeia of other countries such as United States pharmacopeia (USP), British Pharmacopeia (BP), Japanese pharmacopeia (JP), European Pharmacopoeia (EP), and so on as per the label details. Pharmacopeia provides individual monographs for analysis of various drugs and pharmaceuticals which are validated and need not require to be revalidated. The Standards of these pharmacopeias are Authoritative & legally enforceable as per Drugs & Cosmetic Act, 1940 and Rules 1945, there under. No separate SOPs and validation plans are required for such analytical methods and are also not available in this institute.

The photocopy of pharmacopoeia cannot be provided as these are protected by copyright act according to under section 9 of the RTI act 2005 and all pharmacopoeias are easily available in the open market.

The Appellant, Sh. Lalit Kumar Jain agreed and stated in his 2nd appeal that "It is true that various Pharmacopoeias lay down the standard of the analysis of the particulars medicines". Yes, it is fact that to test or analysis of (Pharmacopoeial) drug samples, applicable monograph of different Pharmacopeias are required to be followed by the Scientist of the Laboratory and there is no pharmacopoeial requirement to make separate flow charts or SOPs for analysis of such samples. Still the demand for SOP to analyse each & every sample of Drugs by the Appellant is meaningless.

In case of non-pharmacopoeial product (patent & proprietary products), the manufacturers' methods of analysis are asked from the respective manufacturer through the senders i.e., from the concerned

Drugs Inspectors who has drawn the sample. These methods of analysis are assumed to be validated from the Manufacturers' sides. No separate SOPs and validation plans are required for such analytical methods.

These methods of analysis cannot be provided due to the reasons as follows:

i. Such types methods of analysis are developed by the manufacturer and are "patent & proprietary articles" and discloser of such information (which is 3rd party information) would harm the competitive position of a third party (manufacturer) and hence the information is denied under section 8(1) (d).

ii. Near about 1600 methods of analysis have been received from the manufacturer and are being maintained and used in this institution. Each method contains about 25 pages or more. Hence, the appellant desired voluminous and ambiguous information.

The Hon'ble Supreme Court in the matter of Central Board of Secondary Education & Anr. Vr. Aditya Bandopadhyay & Ors (2011) held that,"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. 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. But in regard to other information,(that is information other than those enumerated in section 4(1)(b) and (c) of the Act), equal importance and emphasis are given to other public interests (like confidentiality of sensitive information, fidelity and fiduciary relationships, efficient operation of governments, etc.).

Indiscriminate and impractical demands or directions under RTI Act for disclosure of all and sundry information (unrelated to transparency and accountability in the functioning of public authorities and eradication of corruption) would be counter-productive as it will adversely affect the efficiency of the administration and result in the executive getting bogged down with the non-productive work of collecting and furnishing information.

The Act should not be allowed to be misused or abused, to become a tool to obstruct the national development and integration, or to destroy the peace, tranquility and harmony among its citizens. Nor should it be converted into a tool of oppression or intimidation of honest officials striving to do their duty. The nation does not want a scenario where 75% of the staff of public authorities spends 75% of their time in collecting and furnishing information to applicants instead of discharging their

regular duties. The threat of penalties under the RTI Act and the pressure of the authorities under the RTI Act should not lead to employees of a public authorities prioritising `information furnishing', at the cost of their normal and regular duties.

Copying of the such amount of analytical methods is a huge daunting task and voluminous work and discloser of information of this amplitude will not only lead to diversion of resources in compiling the same but will also lead to unproductive man hours and hence information is denied u/s 7(9) of RTI Act 2005.

3. The applicant has asked information on Installation Qualification" (IQ),"Operational Qualification" (OQ) and "Performance Qualification" (PQ) to analyse each & every sample of Drugs.

These are instruments related documents and are provided by the respective vendors/manufacturers.

The Installation Qualification" (IQ),"Operational Qualification" (OQ) and "Performance Qualification" (PQ) cannot be provided due to the reasons as follows:

i. IQ, OQ and PQ are developed and standardized by the respective vendors/manufacturers of the instruments to serve the maximum performance and best utility of the instruments to their customers. These are "patent & proprietary articles" and discloser of such information (which is 3rd party information) would harm the competitive position of a third party (manufacturer) and hence the information is denied under section 8(1) (d).

Still the Appellant in his 2nd appeal has claimed that the IQ, OQ and PQ are not confidential document without showing any reason. So the claim is meaningless and vague in nature.

ii. There are hundreds of sophisticated analytical instruments in this laboratory and bears a huge number of IQ, OQ and PQ.

Copying and compiling of the such amount of bulk information is a huge daunting task and voluminous work and discloser of information of this amplitude will not only lead to diversion of resources and will also lead to unproductive man hours and hence information is denied u/s 7(9) of RTI Act 2005.

Here the judgment of the Hon'ble Supreme Court in the matter of Central Board of Secondary Education & Anr. Vr. Aditya Bandopadhyay & Ors (2011) as stated under A/2/ii can be cited again.

Information demanded in point -B.

"Please provide me the details of purchases of Laboratory equipment, impurities, reference standards alongwith their validation, stability data and operational records of each reference standard and impurities, equipment year wise during last three years."

Justification for point B:

1. As desired, copy of major laboratory equipments purchased during the last three years has been provided by the 1st appellate authority (AA). (Annexure – 2 with the reply letter from AA)

2. As desired, copies of the reference standard and impurities purchased during the last three years has been provided by the 1st appellate authority (AA). (Annexure – 3(A) and 3(B) with the reply letter from AA)

3. Reference and Impurities standards, need not required to validate by the users up to its expiry date. The validity of Reference and Impurities standards is traceable from the batch no. or lot no., mentioned on the vial and from the official website of the concerned Pharmacopoeia Commission and respective vendors/manufacturer. The list of Reference and Impurities standards is already provided. For its traceability, list of Reference and Impurities standards with their respective batch no. /Lot no. can be provided again if desired by the appellant. After expiry, these are not used in this laboratory.

So, no validation and stability data for reference standards are available in this institute.

4. The Appellant has sought operational records of each reference standards, operational records of each impurities and operational records of each equipment year wise during last three years.

All the operational records with their uses, as desired by the appellant are available in this institute. The uses of the hundreds of instruments, reference standards and impurities are being recorded and maintained day by day in log book formats. Each instrument has separate log book and some instruments have multiple log books. Copying these huge numbers of log books for last three years would be a daunting task and practically would not be feasible. Trying to do this impractical job would disproportionately divert the resources, would lead to unproductive man hours, and our main concern of testing and submitting of reports within time period according to Drug & Cosmetic Act. 1940 and Drug & Cosmetics Rule, 1945 will be affected greatly, **that can lead to the life threatening incidents in mass population for the common people**. So these bulk amount of information was denied u/s 7 (9) of RTI Act, 2005.

Again, the judgment of the Hon'ble Supreme Court in the matter of Central Board of Secondary Education & Anr. Vr. Aditya Bandopadhyay & Ors (2011) as stated under A/2/ii can be cited here.

Information demanded in point -C.

Please provide me the copy of audit reports of inspections of RDTL carried out under GLP (Good Laboratory Practices) by CDSCO Officers year wise during last three year along with the CAPA Reports.

Justification for point C:

1. Audits are carried out by NABL and copy of the continuation of accreditation mailed by NABL has been provided by the 1st appellate authority (AA). (Annexure - 4).

2. No inspections are carried out under GLP (Good Laboratory Practices) by CDSCO officer's as mentioned by the applicant and no such audit reports are available in this institute.

Information demanded in point -D.

Please provide me the list of equipment installed for water used for test analysis by RDTL as per requirements of different pharmacopeia's for conducting dissolution test along with the details of the samples where required quality of water has not been used in analysis and the samples have been declared not of standard quality due to dissolution requirement of various pharmacopeias.

Justification for point D:

i. As desired, the list of equipment installed for water used for test analysis by RDTL has been provided by the 1st appellate authority (AA). (Annexure – 5 with the reply letter from AA)

ii. The quality of water used in the testing of drugs samples is as per Pharmacopoeial requirements.

iii. Regarding information sought by the applicant with respect to samples declared not of standard quality due to dissolution requirements of various pharmacopeias, it may please be informed that the information sought is vague in nature, as no specific sample details has been pinpoint by the appellant. Under the RTI act 2005, the information can be sought by pinpointing file, document,

paper or record etc. and hence CPIO is not in position to provide the information sought by applicant.

However it may please be informed that all the detail of drug samples declared not of standard quality are displayed month wise in CDSCO website (www.cdsco.gov.in) under caption "Drug Alerts" apart from disclosing pharmaceutical dosage form it is also mentioned in which parameter the particular drug sample has been declared as not of standard quality including dissolution.

The Appellant has stated that ".....in public interest it is essential that analysis of medicines both at Govt.Testing Laboratory and Manufactures are synchronized, identical, transparent and are procedural only and are not confidential and should be on the public domain of the website of the Govt. Laboratory." in his 2nd appeal. This would be achieved if the Manufactures follow the testing procedures according to the applicable pharmacopeia like the normal practices of this institute for Pharmacopoeial formulations and for patent and proprietary formulations, this institute used to follow the manufacturers' method. This practice produces the synchronized and identical analytical procedures. The references of methods are not maintained as confidential by this institute. In each and every test report (Form-13) of drugs and cosmetics act 1940 and rules 1945, the used analytical testing procedure is being referred.

The Appellant Sh. Lalit Kumar Jain has demanded that the sought information by him is a matter of record and is not covered under section 7, 8 & 9 of the RTI act in his 2nd appeal, **though the Section 7 and 9 of RTI Act were not mentioned in previous replies.** It indicates that the Appellant has not carefully read the reply of the CPIO and 1st AA as it should be, before going for the next appeal. The appellant has also clubbed multiple points in a single query and repeatedly mentioned in 4 points, which have unnecessarily increase the complexity of the matter. It togetherly proves that the appeal and desire for information of the Appellant is vague in nature and he was intentionally trying to divert the public resources to impede the normal and regular workings of the public institute.

CPIO
RDTL, Chandigarh

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.(s):- CIC/CDLKO/A/2017/182875-BJ+
CIC/CDSCH/A/2017/182771-BJ+
CIC/CDTTM/A/2017/184337-BJ+
CIC/MH&FW/A/2017/184359-BJ

Mr. Lalit Kumar Jain

....अपीलकर्ता/Appellant

VERSUS
बनाम

1. CPIO
   Central Drugs Laboratory
   3, KYD Street, Kolkata – 700016

2. CPIO
   Sr. Scientific Officer, Grade I
   M/o Health & Family Welfare
   Central Drugs Standard Control Organization
   Central Drugs Testing Laboratory
   NABL Accreditated Laboratory, G. M. S. D. Campus No. 37
   Naval Hospital Road, Periamet
   Chennai – 600003

3. CPIO
   Director I/C, CDTL, Central Drugs Testing Laboratory
   NABL Accredited Laboratory, CDSCO Bhawan
   Ministry of Health & Family Welfare
   Directorate General of Health Services
   Beside A P T. B Demonstration & Training Centre
   S. R. Nagar, Hyderabad – 500038

4. CPIO
   Dy. Director, Admn. (D), Drugs Section
   Central Drugs Standard Control Organisation
   Dte. General of Health Services, FDA Bhawan
   Kotla Road, New Delhi – 110002

5. CPIO
Dy. Director, Admn., RTI Section
Directorate General of Health Services
Nirman Bhawan, New Delhi – 110108

6. CPIO & Director
Regional Drugs Testing Laboratory
Central Drugs Standard Control Organisation
Directorate General of Health Services
Ministry of Health & Family Welfare
Sector – 39 – C, Chandigarh – 160036

...प्रतिवादीगण /Respondent

Date of Hearing : 14.05.2019
Date of Decision : 15.05.2019

ORDER

RTI –1 File No. CIC/CDLKO/A/2017/182875-BJ

Date of RTI application	28.08.2017
CPIO's response	26.09.2017
Date of the First Appeal	16.10.2017
First Appellate Authority's response	17.11.2017
Date of diarised receipt of Appeal by the Commission	13.12.2017

FACTS:

The Appellant vide his RTI application sought information on 04 points regarding the Flow Charts, Standard Operating procedures, Validation Plan, IQ, OQ, PQ, followed by CDTL, Kolkata to analyse each & every sample of Drugs received by it for testing as per pharmacopeias and as per label details, and other related issues.

The CPIO, vide its letter dated 26.09.2017 rejected the application stating that the queries raised in the application was vague and not specific. Dissatisfied by the response, the Appellant approached the FAA. The FAA, vide its order dated 17.11.2017 while referring to the decision of the Hon'ble Supreme Court of India in the case of Central Board of Secondary Education & Anothers Vs. Aditya Bandopadhyay & others, provided a point-wise response to the Appellant.

RTI – 2 File No. CIC/CDSCH/A/2017/182771-BJ

Date of RTI application	28.08.2017
CPIO's response	25.09.2017
Date of the First Appeal	30.10.2017
First Appellate Authority's response	Not on record
Date of diarised receipt of Appeal by the Commission	13.12.2017

FACTS:

The Appellant vide his RTI application sought information on 04 points regarding the Flow Charts, Standard Operating procedures, Validation Plan, IQ, OQ, PQ, followed by CDTL, Chennai to analyse each & every sample of Drugs received by it for testing as per pharmacopeias and as per label details, and other related issues.

The CPIO, vide its letter dated 25.09.2017 provided a point-wise response to the Appellant. Dissatisfied by the response, the Appellant approached the FAA. The order of the FAA, if any, is not on the record of the Commission. However, the First Appellate Authority had responded the First Appeal on 31.10.2017.

RTI – 3 File No. CIC/CDTTM/A/2017/184337-BJ

Date of RTI application	28.08.2017
CPIO's response	10.10.2017
Date of the First Appeal	16.10.2017
First Appellate Authority's response	Not on record
Date of diarised receipt of Appeal by the Commission	21.12.2017

FACTS:

The Appellant vide his RTI application sought information on 04 points regarding the Flow Charts, Standard Operating procedures, Validation Plan, IQ, OQ, PQ, followed by CDTL, Hyderabad to analyse each & every sample of Drugs received by it for testing as per pharmacopeias and as per label details, and other related issues.

The CPIO, vide its letter dated 10.10.2017 provided a point-wise response to the Appellant. Dissatisfied by the response, the Appellant approached the FAA. The order of the FAA, if any, is not on the record of the Commission. However, the First Appellate Authority had responded the First Appeal on 17.11.2017.

RTI – 4 File No. CIC/MH&FW/A/2017/184359-BJ

Date of RTI application	28.08.2017
CPIO's response	25.09.2017
Date of the First Appeal	30.10.2017
First Appellate Authority's response	27.11.2017
Date of diarised receipt of Appeal by the Commission	21.12.2017

FACTS:

The Appellant vide his RTI application sought information on 04 points regarding the Flow Charts, Standard Operating procedures, Validation Plan, IQ, OQ, PQ, followed by RDTL, Chandigarh to analyse each & every sample of Drugs received by it for testing as per pharmacopeias and as per label details, and other related issues.

The CPIO, vide its letter dated 25.09.2017 provided a point-wise response to the Appellant. Dissatisfied by the response, the Appellant approached the FAA. The FAA, vide its order dated 27.11.2017, enclosed the revised reply of the CPIO.

HEARING:

Facts emerging during the hearing:

The following were present:

Appellant: Mr. Lalit Kumar Jain;

Respondent: Mr. Jayant Kumar, CPIO & DDC, (I), New Delhi and Mr. D. Vijay, Drugs Inspector, New Delhi in person; and Mr. Anjan Pal, SSO, Microbiology, Kolkata, Dr. Dipak Shivaji Harel, CPIO, Kolkata, Dr. R. K. Rishi, CPIO, Kolkata, Ms. C. Vijayalakshmi, Sr. Scientific Officer Gr. I & CPIO, Chennai, Dr. N. Murugesan, Dir. & FAA, CDTL, Chennai holding additional charge as CPIO at CDTL, Hyderabad and Dr. R. A. Singh, Dir. & CPIO, Chandigarh through VC;

The Appellant reiterated the contents of the RTI application and stated that the complete and satisfactory information had not been received by him, till date. It was further articulated that various pharmacopoeias laid down the standards of analysis of a particular medicines but SOPs/Flow Charts, Validations, Impurities, Reference Standards, Stability data and operational records, etc. were the instructions to ensure the accuracy and correctness under the Drugs and Cosmetic Act, 1940. Furthermore, it was submitted that the SOPs and other information were denied by the Respondents citing large and voluminous information in contravention to the provisions of the RTI Act, 2005. He further suggested that all these information should be suo-motu disclosed in the larger public interest as per the provisions of the RTI Act, 2005. While referring to the response given by the Office of the Regional Drugs Testing Laboratory, Guwahati in a similar subject-matter, it was submitted that the other Respondents had denied similar information. In its reply, the Respondents present at the hearing clarified that the available information had already been supplied to the Appellant and only large and voluminous information had been denied on account of gathering of data with meager human resources. It was articulated that approximately 250 plus instruments were available that carried information of varying nature. The SOPs for each of these instruments was different and therefore generic information was already provided to the Appellant and in case any specific queries were raised, the same could be addressed appropriately. Inspection was also being offered by the Respondents, but the Appellant did not turn up. On being queried by the Commission, whether he would like to inspect the voluminous documents as solicited in the RTI applications, the Appellant cited his physical inability. It was further articulated that the Laboratory is analyzing more than 5000 samples per year and the Appellant had asked for the flow charts, standard operating procedures and other validation procedures of each and every sample which was large and voluminous as also not specific in nature disclosure of which would disproportionally divert the resources of the public authority. As regards the information impressed upon by the Appellant pertaining to Guwahati, the Respondent stated that the contextual framework of the queries and the reply received thereto needs to be examined and analyzed rather than giving a spontaneous reply. The Respondents further relied on their written submissions.

The Commission was in receipt of a written submission from the Respondent dated 06.05.2019 (Appeal No. CIC/CDLKO/A/2017/182875-BJ) wherein while narrating a detailed point-wise response to the queries raised in the RTI application, it was submitted that the Central Drugs Laboratory, Kolkata is National Statutory Laboratory of the Government of India for quality

control of Drugs and Cosmetic and is established under Indian Drug & Cosmetic Act, 1940. Moreover, it is the oldest quality control laboratory of the Drugs Control Authorities in India. Furthermore, the Central Drugs Laboratory, Kolkata is also National Appellate Laboratory of the Government of India. Each and every process right from the manner of the receipt of drug samples from State/Central Drug Inspector and also from Hon'ble Court throughout the Country has been stipulated under the Drug & Cosmetic Act, 1940 and Drug & Cosmetic Rules, 1945. Even various Forms have been specified under Drug & Cosmetics Act, 1940 and Drug Cosmetic Rules, 1945 to issue test/analysis result to the concerned authority under different circumstances. It was further informed that all the details of drug samples declared not of standard quality were displayed month-wise in CDSCO's website (www.cdsco.gov.in) under caption "Drug Alerts" apart from disclosing pharmaceutical dosage form. It was also mentioned in which parameter the particular drug sample has been declared as not of standard quality including dissolution.

The Commission was in receipt of a written submission from the Respondent dated 07.05.2019 (Appeal No.CIC/CDSCH/A/2017/182771-BJ +CIC/CDTTM/A/2017/184337-BJ) wherein while narrating a detailed point-wise response to the queries raised in the RTI application, it was submitted that the Central Drugs Testing Laboratory, Hyderabad is National Statutory Laboratory of the Government of India for quality control of Drugs and Cosmetic and is established under Indian Drugs & Cosmetic Act, 1940 and Rules there under. Moreover, each and every process from the manner of receipt of samples from the Drugs Inspector has been stipulated under Drugs & Cosmetics Act, 1940 and Rules there under. It was further submitted that the Appellant had clubbed multiple points in a single query and the similar case had been endorsed in several decisions of the Commission (Kamal C. Tiwari Vs. Ministry of Defense in Appeal No. CIC/AT/A/2007/00190 & File No. CIC/AT/A/2007/00291 dated 08.06.2007). Moreover, the Laboratory has disclosed (Suo-motto) the necessary details as per Section 4 of the RTI Act in the CDSCO's website. The Central Drugs Testing Laboratory, Hyderabad has participated in the Transparency Audit conducted by the Central Information Commission & scored good grade.

The Commission was in receipt of a written submission from the Respondent dated 08.05.2019 (Appeal No. CIC/MH&FW/A/2017/184359-BJ) wherein while narrating a detailed point-wise response to the queries raised in the RTI application, it was submitted that the Regional Drugs Testing Laboratory, Chandigarh is National Statutory Laboratory of the Government of India for quality control of Drugs and Cosmetic and is established under Indian Drugs & Cosmetic Act, 1940 and Rules 1945, there under. Moreover, each and every process from the manner of Receipt of Samples and submission of test report to the concerned senders of the samples has been stipulated under Drugs & Cosmetics Act, 1940 and Rules there under. It was further informed that all the detail of drug samples declared not of standard quality were displayed month-wise in CDSCO's website (www.cdsco.gov.in) under caption "Drug Alerts" apart from disclosing pharmaceutical dosage form. Moreover, the parameters of the particular drug samples which had been declared as not of standard quality including dissolution were also mentioned. The Appellant had also clubbed multiple points in a single query and repeatedly mentioned in 4 points, which have unnecessarily increased the complexity of the matter. It togetherly proved that the Appeal and the desired information were vague in nature and he was intentionally trying to divert the public resources to impede the normal and regular working of the public institute.

The Commission was also in receipt of a written submission from the Dy. Director, DGHS (RTI Cell), New Delhi addressed to the ADC (I) & CPIO, CDSCO, dated 02.05.2019 (Appeal No. CIC/CDTTM/A/2017/184337-BJ) wherein it was informed that the RTI application of the

Appellant was not received in the RTI Cell, Dte. GHS, Nirman Bhawan, New Delhi and further requested to take necessary action in terms of CIC notice dated 22.04.2019.

The Respondent at New Delhi, while endorsing the above submissions of the Respondents, submitted that the details of drug samples declared not of standard quality were already notified in the official website under caption "Drug Alerts" apart from disclosing pharmaceutical dosage. While agreeing with the viewpoints expressed by all the CPIOs of different Laboratories, it was articulated that periodic assessment / review is under taken by them to verify the processes followed by each of the laboratories and harmonize the information collated by them. This was a dynamic and a continuous exercise.

The Commission referred to the definition of information u/s 2(f) of the RTI Act, 2005 which is reproduced below:

> *"information" means any material in any form, including records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, report, papers, samples, models, data material held in any electronic form and information relating to any private body which can be accessed by a public authority under any other law for the time being in force."*

Furthermore, a reference can also be made to the relevant extract of Section 2 (j) of the RTI Act, 2005 which reads as under:

> *"(j) right to information" means the right to information accessible under this Act which is held by or under the control of any public authority and includes ....."*

In this context a reference was made to the Hon'ble Supreme Court decision in 2011 (8) SCC 497 (CBSE and Anr. Vs. Aditya Bandopadhyay and Ors), wherein it was held as under:

> *35..... "It is also not required to provide 'advice' or 'opinion' to an applicant, nor required to obtain and furnish any 'opinion' or 'advice' to an applicant. The reference to 'opinion' or 'advice' in the definition of 'information' in section 2(f) of the Act, only refers to such material available in the records of the public authority. Many public authorities have, as a public relation exercise, provide advice, guidance and opinion to the citizens. But that is purely voluntary and should not be confused with any obligation under the RTI Act."*

Furthermore, the Hon'ble Supreme Court of India in Khanapuram Gandaiah Vs. Administrative Officer and Ors. Special Leave Petition (Civil) No.34868 OF 2009 (Decided on January 4, 2010) had held as under:

> *6. "....Under the RTI Act "information" is defined under Section 2(f) which provides:*
>
> *"information" means any material in any form, including records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, report, papers, samples, models, data material held in any electronic form and information relating to any private body which can be accessed by a public authority under any other law for the time being in force."*
>
> *This definition shows that an applicant under Section 6 of the RTI Act can get any information which is already in existence and accessible to the public authority under law. Of course, under the RTI Act an applicant is entitled to get copy of the opinions,*

advices, circulars, orders, etc., but he cannot ask for any information as to why such opinions, advices, circulars, orders, etc. have been passed."

7. *"....the Public Information Officer is not supposed to have any material which is not before him; or any information he could have obtained under law. Under Section 6 of the RTI Act, an applicant is entitled to get only such information which can be accessed by the "public authority" under any other law for the time being in force. The answers sought by the petitioner in the application could not have been with the public authority nor could he have had access to this information and Respondent No. 4 was not obliged to give any reasons as to why he had taken such a decision in the matter which was before him."*

The Commission observed that a voluntary disclosure of all information that ought to be displayed in the public domain should be the rule and members of public who *having to seek* information should be an exception. An open government, which is the cherished objective of the RTI Act, can be realised only if all public offices comply with proactive disclosure norms. Section 4(2) of the RTI Act mandates every public authority to provide as much information *suo-motu* to the public at regular intervals through various means of communications, including the Internet, so that the public need not resort to the use of RTI Act.

The Hon'ble Supreme Court of India in the matter of CBSE and Anr. Vs. Aditya Bandopadhyay and Ors 2011 (8) SCC 497 held as under:

"37. 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. 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."

The Commission also observes the Hon'ble Delhi High Court ruling in WP (C) 12714/2009 Delhi Development Authority v. Central Information Commission and Another (delivered on: 21.05.2010), wherein it was held as under:

"16.It also provides that the information should be easily accessible and to the extent possible should be in electronic format with the Central Public Information Officer or the State Public Information Officer, as the case may be. The word disseminate has also been defined in the explanation to mean - making the information known or communicating the information to the public through notice boards, newspapers, public announcements, media broadcasts, the internet, etc. It is, therefore, clear from a plain reading of Section 4 of the RTI Act that the information, which a public authority is obliged to publish under the said section should be made available to the public and specifically through the internet. There is no denying that the petitioner is duty bound by virtue of the provisions of Section 4 of the RTI Act to publish the information indicated in Section 4(1)(b) and 4(1)(c) on its website so that the public have minimum resort to the use of the RTI Act to obtain the information."

Furthermore, High Court of Delhi in the decision of General Manager Finance Air India Ltd & Anr v. Virender Singh, LPA No. 205/2012, Decided On: 16.07.2012 had held as under:

"8. The RTI Act, as per its preamble was enacted to enable the citizens to secure access to information under the control of public authorities, in order to promote transparency and accountability in the working of every public authority. An informed citizenry and transparency of information have been spelled out as vital to democracy and to contain corruption and to hold Governments and their instrumentalities accountable to the governed. The said legislation is undoubtedly one of the most significant enactments of independent India and a landmark in governance. The spirit of the legislation is further evident from various provisions thereof which require public authorities to:

A. Publish inter alia:

i) the procedure followed in the decision making process;

ii) the norms for the discharge of its functions;

iii) rules, regulations, instructions manuals and records used by its employees in discharging of its functions;

iv) the manner and execution of subsidy programmes including the amounts allocated and the details of beneficiaries of such programmes;

v) the particulars of recipients of concessions, permits or authorizations granted. [see Section 4(1) (b), (iii), (iv), (v); (xii) & (xiii)].

B. Suo moto provide to the public at regular intervals as much information as possible [see Section 4(2)]."

The Commission also referred to the decision of the Hon'ble Supreme Court of India in Central Board of Secondary Education and Anr. Vs. Aditya Bandopadhyay and Ors, SLP(C) NO. 7526/2009 wherein it was held as under:

"Indiscriminate and impractical demands or directions under RTI Act for disclosure of all and sundry information (unrelated to transparency and accountability in the functioning of public authorities and eradication of corruption) would be counter-productive as it will adversely affect the efficiency of the administration and result in the executive getting bogged down with the non-productive work of collecting and furnishing information. The Act should not be allowed to be misused or abused, to become a tool to obstruct the national development and integration, or to destroy the peace, tranquility and harmony among its citizens. Nor should it be converted into a tool of oppression or intimidation of honest officials striving to do their duty. The nation does not want a scenario where 75% of the staff of public authorities spends 75% of their time in collecting and furnishing information to applicants instead of discharging their regular duties. The threat of penalties under the RTI Act and the pressure of the authorities under the RTI Act should not lead to employees of public authorities prioritising 'information furnishing' at the cost of their normal and regular duties."

Furthermore, the Hon'ble Supreme Court in the matter of ICAI vs. Shaunak H. Satya (2011) 8 SCC 781 dated 02.09.2011 had held as under:

"26. We however agree that it is necessary to make a distinction in regard to information intended to bring transparency, to improve accountability and to reduce corruption, falling under Section 4(1)(b) and (c) and other information which may not have a bearing

on accountability or reducing corruption. The competent authorities under the RTI Act will have to maintain a proper balance so that while achieving transparency, the demand for information does not reach unmanageable proportions affecting other public interests, which include efficient operation of public authorities and government, preservation of confidentiality of sensitive information and optimum use of limited fiscal resources"

On perusal of the available records, the Commission also observed that in several queries raised in the RTI application, the Appellant did not seek any specific information but desired all information which was vague and ambiguous. In this context, the Commission referred to the following observations made by the High Court of Bombay (Nagpur Bench) in the matter of State Information Commission vs. Tushar Dhananjay Mandlekar, LPA No. 276/ 2012 in Writ Petition No. 3818/2010 (D) dated 30.07.2012 which is relevant to the present matter:

"It is apparent from a reading of what is stated above that instead of seeking information on some specific issues, the respondent sought general information on scores of matters. The application is vague and the application does not make it clear to the Information Officer as to what information is actually sought by the respondent from the Officer. It was literally impossible for the appellants, as pointed by the learned Assistant Government Pleader, to supply the entire information sought by the respondent to the respondent within a period of 30 days. The documents ran into 3419 pages. We had asked the respondent while hearing of this letters patent appeal as to what action did the respondent take in pursuance of the information sought by the respondent after the information was supplied and it was replied by the respondent appearing in person that nothing was done on the basis of the information supplied by the appellants as there was some delay in supplying the information. It is really surprising that thousands of documents are being sought by the respondent from the authorities and none of the documents is admittedly brought into use. We are clearly of the view in the aforesaid backdrop that the application was filed with a mala fide intention and with a view to abuse the process of law.

In the aforesaid set of facts, we feel that there is no justification for imposing the costs of Rs.2,000/- on the appellant no.2. The principle of lex non cogit ad impossibilia is clearly applicable to the facts of the case. Law does not compel a person to do that what is impossible. In the facts of the present case, we feel that it was impossible for the appellant no.2 to supply the information which ran into thousands of pages to the respondent within a period of 30 days, as those pages were not readily available with the respondent on the day the application was filed and the Officers were required to search and collect the information, which was required to be supplied to the applicant."

Furthermore, the High Court of Delhi in the matter of Shyam Kunwar vs. CIC and Ors., W.P. (C) 5099/ 2016 dated 30.05.2016 had held as under:

"Upon perusal of the RTI application filed by the petitioner in which information of attendance of all teachers have been asked for between the years 1993 and 2001, this Court is of the opinion that the information asked for is stale and no element of public interest is involved. It seems to this Court that the petitioner's queries are at best a fishing and roving enquiry to challenge 'Mr.Arun Arya's meteoric rise from UDC to youngest ever Principal'"

The Commission observed that the framework of the RTI Act, 2005 restricts the jurisdiction of the Commission to provide a ruling on the issues pertaining to access/ right to information and to venture into the merits of a case or redressal of grievance. The Commission in a plethora of decisions including Shri Vikram Singh v. Delhi Police, North East District, CIC/SS/A/2011/001615 dated 17.02.2012 Sh. Triveni Prasad Bahuguna vs. LIC of India, Lucknow CIC/DS/A/2012/000906 dated 06.09.2012, Mr. H. K. Bansal vs. CPIO & GM (OP), MTNL CIC/LS/A/2011/000982/BS/1786 dated 29.01.2013 had held that RTI Act was not the proper law for redressal of grievances/disputes.

The Hon'ble Supreme Court of India in the matter of Union of India v. Namit Sharma in REVIEW PETITION [C] No.2309 OF 2012 IN Writ Petition [C] No.210 OF 2012 with State of Rajasthan and Anr. vs. Namit Sharma Review Petition [C] No.2675 OF 2012 In Writ Petition [C] No.210 OF 2012 had held as under:

> *"While deciding whether a citizen should or should not get a particular information "which is held by or under the control of any public authority", the Information Commission does not decide a dispute between two or more parties concerning their legal rights other than their right to get information in possession of a public authority. This function obviously is not a judicial function, but an administrative function conferred by the Act on the Information Commissions."*

Furthermore, the High Court of Delhi in the matter of Hansi Rawat and Anr. vs. Punjab National Bank and Ors. LPA No.785/2012 dated 11.01.2013 held as under:

> "6. *The proceedings under the RTI Act do not entail detailed adjudication of the said aspects. The dispute relating to dismissal of the appellant No.2 LPA No.785/2012 from the employment of the respondent Bank is admittedly pending consideration before the appropriate forum. The purport of the RTI Act is to enable the appellants to effectively pursue the said dispute. The question, as to what inference if any is to be drawn from the response of the PIO of the respondent Bank to the RTI application of the appellants,* ***is to be drawn in the said proceedings and as aforesaid the proceedings under the RTI Act cannot be converted into proceedings for adjudication of disputes as to the correctness of the information furnished."***

Moreover, in a recent decision in Govt. of NCT vs. Rajendra Prasad WP (C) 10676/2016 dated 30.11.2017, the Hon'ble High Court of Delhi had held as under:

> *6. The CIC has been constituted under Section 12 of the Act and the powers of CIC are delineated under the Act. The CIC being a statutory body has to act strictly within the confines of the Act and is neither required to nor has the jurisdiction to examine any other controversy or disputes.*
>
> *7. In the present case, it is apparent that CIC had decided issues which were plainly outside the scope of the jurisdiction of CIC under the Act. The limited scope of examination by the CIC was: (i) whether the information sought for by the respondent was provided to him; (ii) if the same was denied, whether such denial was justified; (iii) whether any punitive action was required to be taken against the concerned PIO; and (iv) whether any directions under Section 19(8) were warranted. In addition, the CIC also exercises powers under Section 18 of the Act and also performs certain other functions as*

expressly provided under various provisions of the Act including Section 25 of the Act. It is plainly not within the jurisdiction of the CIC to examine the dispute as to whether respondent no.2 was entitled to and was allotted a plot of land under the 20-Point Programme.

A similar view delineating the scope of the Commission's jurisdiction was also taken by the Hon'ble High Court of Delhi in Sher Singh Rawat vs. Chief Information Commissioner and Ors., W.P. (C) 5220/2017 and CM No. 22184/2017 dated 29.08.2017 and in the matter of Shobha Vijender vs. Chief Information Commissioner W.P. (C) No. 8289/2016 and CM 34297/2016 dated 29.11.2017.

DECISION:

Keeping in view the facts of the case and the submissions made by all the parties, and in the light of replies furnished by the Respondents, no further intervention of the Commission is required in the matter. However, the Respondents are advised to place generic information in the public domain for the benefit of public at large. For redressal of his grievance, the Appellant is advised to approach an appropriate forum.

The Appeals stand disposed accordingly.

Bimal Julka (बिमल जुल्का)
Information Commissioner (सूचना आयुक्त)

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