

CASE LAW DIGEST
IMPORTANT DECISIONS
OF
CENTRAL INFORMATION
COMMISSION



स्टील अथॉरिटी ऑफ इण्डिया लिमिटेड
STEEL AUTHORITY OF INDIA LIMITED

COMPILED

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PROLOGUE

This is a subject-wise case law digest of the decisions of the Central Information commission (CIC). Important decisions of CIC up to May, 2008 are incorporated in this digest. It may be emphasized that this digest is not an official view of Government of India or Income Tax Department. We hope that the readers will derive benefit from this digest.

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1. ANNUAL CONFIDENTIAL REPORTS:

Judgment of the Supreme Court – In the case of Dev Dutt Vs Union of India - 2008 – TIOL - SC - Service - Dated 12-05-2008 - “Good” entry in ACR - Denial of promotion because only four “very good” out of five years - Every entry in ACR of a government servant must be communicated to him within a reasonable time - whether it is poor, fair, average, good or very good - Otherwise adverse effect on two counts: If he knows: He could improve his performance in future or He can represent against a lower entry - Non-communication is an arbitrary act violating Art 14 of the Constitution

Appeal No. CIC/OK/A/2007/01273 – Decision dated 30-04-2008 – Aparpar Singh Vs Railway Board - The Appellant received an adverse Confidential Report and wanted to know the reasons why certain adverse comments were made against him. The Appellant has approached the Department and the Commission for disclosure of the reasons for the adverse remarks which were made in his CR. The Commission feels that the Appellant has a right to see these. Accordingly, it directs the Respondents to either communicate the reasons for the adverse remarks in writing or show him the concerned file. The Appellant will be authorized to take photocopies of the relevant documents free of cost. However, if, as stated during the hearing, the Respondents maintained that that no specific reasons had been recorded for the adverse remarks which were communicated to the Appellant, they should make a categorical statement to this effect to the Appellant. The Appellant made the point that since the adverse remarks had been expunged; it stood to reason that the grading of the official concerned should also have been changed, and accordingly wanted to know his original grading as well as all the change made, if any. The Commission accepts the submission of this request of the Appellant and directs the Respondents to inform the Appellant of the grading that he had originally received and of the revised grading if it has been so done.

Decision No.2364/IC(A)/2008 - F. Nos.CIC/MA/A/2008/00291, CIC/MA/A/2008/00292, CIC/MA/A/2008/00293 – Decision dated 8-5-08 - Ashok Golas Vs BSNL & DOT - The appellant has grievances relating to service matters, mainly promotion. He has alleged tampering of records for malafide reasons by senior officials of the respondents. In this context, he had asked for information partly in the form of queries and partly in the form of specified documents. The appellant stated that his superior officers, who are identified by him, have manipulated the information and made unfavourable remarks in his ACRs with a view to jeopardizing his career prospects. He has alleged that the respondents have not followed the established practices for writing and maintaining

ACRs. He has alleged that his integrity has been suspected and questioned, and consequently he has been denied of his promotions. In this context, he had sought clarifications through different applications, which have been responded. He is, however, not satisfied as the responses are allegedly evasive. In the course of hearing, it also emerged that certain letters issued by the respondents are not available and even the files are missing. The documents in possession of the appellant duly prove the point that certain documents and files are not traceable with the respondent which was also admitted by the CPIOs. The appellant alleged that some officials, who have superannuated, could have removed the documents, as they were allegedly involved in corrupt practices. The appellant was victimized by his superior officers as he raised objections in the matters of corrupt practices – CIC stated that the appellant is aggrieved owing largely to certain administrative actions taken against him by his employer, particularly the questioning of his integrity, unfavourable entries in his ACRs, including un-timely submission of ACR related documents, denial of promotion, harassment at the place of work, etc. He has already approached the Court for legal remedy in the matter. The concerned CPIOs have furnished the information on the basis of available records. As there is no denial of information by any of the CPIOs, the appellant is advised to seek inspection of the relevant records and files, so as to ascertain the availability of information. Upon inspection, he may also to determine the extent of manipulation in maintenance of records to deprive him of vital information, the access to which could have been of assistance to him in proving his point relating to malafide action by officials of the respondent. The CPIOs are directed to allow inspection of the index of records to enable him to track the relevant files, which may contain the required information as sought for by the appellant. 10. The CPIOs and the appellant should mutually decide a convenient date and time for inspection of relevant files within 15 working days from the date of issue of this decision. The respondents must strengthen the internal mechanisms for redressal of grievances of the staff, in absence of which a large number of the employees of the respondents are using the instrument of RTI to question the action taken. There cannot be smoke without fire. We ought to look into and deal with them professionally lest accountability and performance should suffer.

Appeal No. 18/IC(A)/2006 – Order dated 28-03-2006 – Section 8(1)(j) - Tapas Datta Vs Indian Oil Corporation Ltd - Information in the form of copies of the original DPC minutes for the period 1992 to 2004 for promotions from Grade F to G in Pipelines Division, copies of the review DPC minutes conducted for Employee Bo. 93622 from 1992 under direction of Delhi High Court Judgment in CWP-5201 of 1997 and Copies of complete Annual Performance Appraisal (APA) reports of Employee No.93622 from 1989 to 2003 – CPIO held that the documents are confidential in nature and cannot be shared – Appellate authority upheld the decision – As per the direction of the Delhi High Court, non-confidential parts of the above documents have already been supplied to the appellant – CIC observed that the relevant portions of the documents sought for has been provided to the appellant as per the direction of the Court. The assessment reports by the superior officers are personal and confidential information and therefore exempted under Section 8(1) (j) of the RTI Act. The decision of the appellate authority is therefore upheld.

Appeal No.29/IC(A)/06 – Order dated 20-04-2006 – In the case of Arun Kumar Vs Punjab National Bank, Bihar Zone - asked for certified copies of Personal Assessment Forms (PAFs) submitted by a large number of his colleagues, who are identified in his application. also asked for such details as interview sheets, observations/recommendations of various committees for promotion/non-promotion of staff, and other related matters indicating as to others have been promoted and why he has been discriminated against in the matter of promotion - The appellate authority has contended that the information/documents sought for are available with the Bank in its fiduciary relationship (i.e. employer-employee relationship) and the disclosure of which is exempted u/s 8(1) (e) - Also, the exercise of performance appraisal is treated confidential. CIC held that the Personal Assessment Forms submitted by the staff to the employer in fiduciary relationships cannot be shared, as it also does not relate to any public activity by the Bank. Likewise, the views recorded in confidence by the peers on the matter of performance appraisal may not be disclosed, since it may lead to personal acrimony. Therefore, the exemption from disclosure of information u/s 8(1)(e) is valid - However, the criteria, norms and guidelines, if any, evolved for promotion in higher grade should not be treated as confidential. These ought to be made transparent and accessible to everyone.

Appeal No. 76 /IC(A)/2006 - F.No.CIC/MA/A/2006/00053 - Dated, the 3rd July, 2006 – Anil Kumar Vs DOPT – selection of Shri R.S.P Sinha as CMD of MTNL by ACC – issue of double ACRs – forgery and manipulation – ACRs published in Telecom Line magazine – Matter pending before HC – CIC observed that ACRs copies of which are in possession of appellant are not seen in record but it was clarified that the ACRs are with DOT - On the question of disclosure of cabinet papers, particularly when the action has been taken and the matter is over, the contention of the CPIO and appellate authority that section 8(1) (i) of the Act is applicable as the matter is sub judice, is not tenable. The Act is clear on this issue, which states that: *“The material on the basis of which the decision was taken shall be made public after the decision has been taken, and the matter is complete or over”*. In so far as action taken by the DOT, DOPT and ACC on the appointment of Shri Sinha, the matter is complete and over, the information sought may therefore be disclosed. The communications received from the CVC and the CBI are based on their findings, which ought to be truth, which cannot be misused. A quick glance of these letters, reveal nothing which cannot be made public. These must also be disclosed therefore in the larger interest of the public and to establish credibility of the system.

F.No. CIC/AT/A/2006/00069 - Dated the 13th July, 2006 - Gopal Kumar Vs DGW, E-in-C's Branch, Army HQs – ACRs - In regard to the annual confidential report of any officer, it is our view that what is contained therein is undoubtedly 'personal information' about that employee. The ACRs are protected from disclosure because arguably such disclosure seriously harm interpersonal relationship in a given organization. Further, the ACR notings represent an interaction based on trust and confidence between the officers involved in initiating, reviewing or accepting the ACRs. These officers could be seriously embarrassed and even compromised if their notings are made public. There are, thus, reasonable grounds to protect all such

information through a proper classification under the Official Secrets Act - No public purpose is going to be served by disclosing this information. On the contrary it may lead to harming public interest in terms of compromising objectivity of assessment – which is the core and the substance of the ACR, which may result from the uneasiness of the Reporting, Reviewing and the Accepting officers from the knowledge that their comments were no longer confidential. These ACRs are used by the public authorities for promotions, placement and grading etc. of the officers, which are strictly house-keeping and man management functions of any organization. A certain amount of confidentiality insulates these actions from competing pressures and thereby promotes objectivity. It is also possible that many officers may not like their assessment by their superiors to go into the hands of all and sundry. If the reports are good, these may attract envy and if these are bad, ridicule and derision. Either way it affects the employee as well as the organization he works for. On balance, therefore, confidentiality of this information serves a larger purpose, which far out-strips the argument for its disclosure. The Departmental Promotion Committees (DPCs) prepare their minutes and make recommendations after examining ACRs of the employees due for promotion. Disclosure of the complete proceedings of the DPC and the grades given by various officers to their sub-ordinates may lead to disclosure of the ACRs. As ACRs themselves, according to us, are barred from disclosure, we hold, that by inference the DPC proceedings should be similarly barred. However, in all such cases, the CPIO and the Appellate Authorities should apply the doctrine of severability and should provide him the information, which can be provided under sub-section (2) of Section 10 of the Right to Information Act, 2005.

2. ADVOCATE – REPRESENTATION BY:

Appeal No. CIC/MA/A/2005/00004 – Order dated 02-05-2006 – In the case of Dr. Ganga Agnihotri, Professor in Electrical Engineering, Vs Maulana Azad National Institute of Technology, Bhopal – Representation of appellant case by Advocate – non-furnishing of information even after 100 days – non-publishing of information u/s 4(1)(b) - asked for copy of a communication from the Ministry of Human Resource Development and copy of the notes on the file on the basis of which the Chairman of the Board of Governors of MANIT had called for her views and a copy of application of Mrs. Archana Soni for Commonwealth Scholarship - The Commission observed that the advocate's pleading the matter was avoidable because the scheme of the Right to Information Act does not require complex interpretation of law - So it would have preferred if the Appellant presented the case herself - However, the Commission allowed the advocate to present the case as an exception - The Commission expressed its grave concern at the delay that had already taken place and gave the Respondents 15 working days, from the date of issue of the Order, to supply the full information as requested by the Appellant.

3. AGREED LIST:

Decision No.2183/IC(A)/2008 - F. No.CIC/AT/A/2007/00823 – Decision dated 03-04-2008 - D.N. Kar Vs Office of the Chief Commissioner of Income Tax, Delhi-1 - The

appellant is an aggrieved person on account of inclusion of his name in the Agreed List in 2004. He pleaded that the reasons for inclusion of his name in the List should be provided to him. The CPIO stated that the records pertaining to inclusion of officers' name in the Agreed List are not separately maintained for each official. And, providing access to the entire records pertaining to the Agreed List would not be in public interest. Besides, it would hamper investigation in the matter. Hence, the information sought for have been denied u/s 8(1)(e), (h) & (j) of the Act- CIC held that under section 4(1)(d) of the Act, every public authority is required to indicate the grounds for action or decision taken, at least to the affected person. In the instant case, the appellant's name was included in the Agreed List on the basis of an information to keep a watch on the appellant's conduct and behavior in the matter of discharging his public functions. Even though the inclusion of name in the Agreed List is not considered sufficient basis for initiating disciplinary proceedings, an affected person has a right to know the grounds on the basis of which the competent authority may have recommended the appellant's name for inclusion in the Agreed List and, subsequent, watch on the activities of the appellant. To an extent, integrity of an official is indeed questioned or suspected. Such a list is maintained for only one year. The list of 2004, in which the appellant's name was included, has already served the mandatory purpose, mainly to establish the fact about the integrity of the allegedly corrupt official. There is thus a strong justification for indicating the grounds for recommending the name of the appellant for inclusion in the Agreed List, as he is an affected person u/s 4(1) of the Act. In view of this, the CPIO is directed to furnish the relevant documents pertaining to the inclusion of the appellant's name in the Agreed List, after due application of Section 10(1) of the Act. The CPIO is free to withhold the name of officials, who may have provided critical inputs and recommended the inclusion of the appellant's name in the Agreed List. He may also withhold the name of the complainants, if any, in the matter, while the contents of such inputs should be disclosed to enable the alleged official to prove his innocence.

4. APPLICATION FILED BEFORE THE COMMENCEMENT OF THE ACT:

Complaint No. 15/4/2005-CIC(PT) – Order dated 05-01-2006 – Section 18 - In the case of Major Gen S Sindhu Vs Army Head Quarters – Application was made on August 19 & 24 and on September 16, 2005 – When the applications were made the law was not in force – Therefore, there is no infringement of law – Compliant not acceptable

5. APPOINTMENT DETAILS TO PUBLIC POSTS:

Appeal No. ICPB/A-9/CIC/2006 – Order dated April 3, 2006 – In the case of Bhagwan Chand Saxena Vs Export Inspection Council of India, Ministry of Commerce - Sought for copies of the bio-data submitted by 4 candidates at the time of their appointment as Assistant Directors and also of copies of the medical reports submitted by the medical authorities declaring these candidates as fit/unfit - CIPO declined to furnish the information on the ground that disclosure would not serve any public purpose and also held that the same cannot be disclosed under section 8(f) of RTI Act - Appellate authority confirmed the decision and applied section 8(j) – Appellant states that the reliance of the CPIO on Section 8(f) is misplaced as this section deals with information received in confidence from foreign Government - The information sought by the

appellant is in the public interest as only medically fit persons can be appointed to a public post and as to the knowledge of the appellant, one of the candidates had been declared medically unfit and by appointing such candidates, fraud has been committed in public appointment - He has also sought for taking action against the CPIO and the appellate authority for concealing the information sought – CIC called for information where in it was noticed that section 8(f) was inadvertently used – In the case of one of the candidates (Shri Jaypalan) is subjudice before Delhi High Court - When a candidate submits his application for appointment to a post under a public authority, the same becomes a public document and he cannot object to the disclosure on the ground of invasion of privacy - Every citizen has the right to know whether the candidate fulfils the criteria for the post, which could be checked from the application/biodata - The CPIO is directed to furnish copies of the bio-data submitted by the 4 candidates as requested by the appellant within 15 days of this decision - As far as the medical reports are concerned, they are purely personal to the individuals and furnishing of copies of the same would amount to invasion of privacy of the individuals and therefore need not be furnished - However, the CPIO will disclose to the appellant the information whether all the four candidates had been declared as medically fit or not.

Appeal No.ICPB/A-10/CIC/2006 – Order dated 03-04-2006 – In the case of Bhagwan Chand Saxena Vs CPIO Safdarjang Hospital, New Delhi - Appellant sought for a certified copy of a medical certificate issued in respect of one Shri Jayapalan, who had been allegedly appointed as Assistant Director, Export Inspection Council, Ministry of Commerce, even though he was declared as medically unfit - The CPIO and the appellant authority have denied the information on the ground that the information asked is personal, confidential and fiduciary in nature and as such falls in exempted category - Appellant has filed this appeal on the ground that the information has been denied only to cover up the fraud committed by another department – CIC agreed with the reasons of the appellate authority - Disclosure of the medical report of any citizen would amount to invasion of his privacy - It is to be noted that the appellant had also sought for similar information from Export Inspection Council and the appeal in connection with the same has been disposed off by the Commission vide decision dated 3.4.2006 (appeal No.ICPB/A-9/CIC/2006).

6. APPEAL:

Appeal No: CIC/A/1/2006 – Order dated 18-01-2006 – Section 19 - In the case of Mahadev Ramrao Sabnis Vs CPIO, Central Registrar Cooperative Societies, Department of Agriculture & Cooperation, Ministry of Agriculture, New Delhi - Appeal to CIC cannot be filed directly without filing first appeal before the Appellate Authority

Appeal No: CIC/A/4/2006 – Order dt 20-01-2006 – Section 19 - In the case of Brig. SC Sharma, Army Centre for Electromagnetics, Mhow Vs CPIO, MS Branch, Army Headquarters DHQ PO, South Block, New Delhi - Appeal to CIC cannot be filed directly without filing first appeal before the Appellate Authority.

7. APPEAL BY CPIO/PUBLIC AUTHORITY:

Appeal No. 06/IC(A)/CIC/2006 – Order dated 03-03-2006 – CPIO, CIT, Central Excise Vs Appellate authority, CCIT, Central Excise, Mumbai – CPIO demanded certain cost recovery from an applicant – Appellate authority overruled CPIO – CPIO filed appeal against the decision – Commission held that CPIO is only information provider and not information seeker – There is no provision under the RTI Act to consider such appeals or complaints – Appeal not maintainable.

CIC Full Bench Decision - Appeal No.CIC/AT/A/2006/00074 dated 21.4.06 - Appeal No.CIC/WB/A/07/00679 dated 22.5.'07 - Mrs. Guninder Kaur Gill & another Vs Shri Prabhakar, DCP EOW & others – Decision dated 02-08-07 - Section 19(2) confers a right on a Public Authority of preferring an appeal before the First Appellate Authority against the decision of CPIO - Thus, if the CPIO decides to disclose information that relates to a Public Authority and if the Public Authority has treated the information as confidential, it can submit an appeal before the First Appellate Authority under Section 19(2) of the RTI Act.

8. CABINET NOTE:

CIC/WB/A/2006/1022 – Decision dated 12.11.07 - Aruna Roy & Shekhar Singh Vs Ministry of Personnel, Public Grievance & Pension - It is accepted that a decision on a Cabinet note cannot be treated as complete unless the matter of the decision has been completed, which in this case would mean moving an amendment to the RTI Act, 2005 as per the Cabinet decision. Till such amendment is actually moved, therefore, or a decision taken that no such amendment will be moved, the matter cannot be treated as complete or over.

9. CITIZEN:

ST-CMS Electric Company Pvt Ltd Vs Railway Board, New Delhi - The Commission heard both the sides and noted that the RTI application had been made on behalf of a company and therefore was not covered under Section 3 of the RTI-Act. In fact even at the end of the application there was no name of any individual; only an illegible signature of an “authorized signatory”.

CIC/WB/A/2006/00336 - Dated: 9/5/2006 - D.N.Sahu Vs Land & Development Office, Ministry of Urban Development, New Delhi - application was rejected by the CPIO on the ground that the information has been requested not by an individual citizen but on behalf of Resident Welfare Association, Pushp Vihar - CIC held that the appellant has submitted the application under the Right to Information Act, 2005 in his individual capacity, signing no doubt as President of his association, but not for a separate entity. Although the Act guarantees right to information only to a citizen, in the instant case, the appellant is seeking information on behalf of other members of the Association, or simply a group of citizens, not a body corporate. The basic objective of the Act is to give information, rather than to withhold or deny a right recognized by other CPIOs in the ambit of the same Ministry of Urban Development.

10. COMMERCIAL CONFIDENTIALITY:

Decision No.2200/IC(A)/2008 - F. Nos.CIC/MA/A/2008/00068, CIC/MA/A/2008/00116 CIC/MA/A/2008/00523, CIC/MA/C/2008/00068 – Decision dated 09-04-2008 - Subhash Chandra Agrawal Vs M/o Petroleum & Natural Gas, HPCL and BPCL - The oil companies are commercial and service organizations. They are; therefore, free to conduct businesses in a manner that assure their competitiveness in the free market economy. For convenience, some companies have arrangements with financial institutions like banks for selling petrol through credit cards, which entitles the consumers of specific discounts. The oil companies are free to determine the extent of incentives/concessions that may be given to the consumers in the interest of promotion of business and profit motives. There is, therefore, no justification for disclosing the details of basis for providing incentives to the consumers that are critical for promotion of business. The respondents should, however, provide the information relating to the identified banks with which they have arrangements for selling petrol through the credit cards.

F. No. CIC/AT/A/2007/01363 – Decision dated 24-04-2008 – Rakesh Sanghi Vs International Advanced Centre for Powder Metallurgy and New Materials, Hyderabad - The applicant's right to disclosure of information is conditioned by the respondents' right to invoke exemptions, wherever such exemptions are applicable. No canon of transparency or public interest would justify that Research and Technological Institutions part with their research-data or vital information without expecting to benefit – tangibly or intangibly— from such exchange / disclosure. If allowed to stand such reasoning will mean that no research related information can be commercially exchanged.

Appeal No. 09/IC(A)/2006 – Order Dated 10-03-2006 – Sections 8(d) and 11(1) - In the case of Ramesh Shetty, Impex Statistics Services Vs CPIO, Chief Commissioner of Customs, New Delhi – Request for name of Importer/Exporter in the daily list of Import & Export published by custom houses – Request rejected u/s 8(d) and 11(1) of the RTI Act – Publication of such lists was brought into force from 20034 – Decision of removal of names of importers and names of shippers in case of exports was taken by Government on the ground that publication of such information would violate commercial confidentiality - Notification no. 128/2004-Cus(NT) dated 19-11-2004 forbids publication of names – CIC held that the rules forbidding publication of names are sub-ordinate legislation permitted by legislation of Parliament and hence exemption u/s 8(1)(d) is valid.

Appeal No. 15/IC(A)/2006 – Order dated 22-03-2006 – In the case of R.K Modi Vs CPIO, PNB - request for providing the information about M/s New Timber Store, Bannala (Punjab) and Mr. Ashok Kumar Bansal, Partner. The appellant has sought to know such details as names of the partners, address of the firm, description of mortgaged properties and bank details of Mr. Ashok Bansal. The CPIO regretted to provide the information as it pertains to their constituent and it is the duty of the Bank to maintain secrecy of affairs of its constituents under the provisions of Section 13(1) of Banking Companies Act, 1970. The appellate authority accordingly upheld the decision of the CPIO - CIC held that The appellant has not indicated any bonafide public interest

in seeking the information about the Company or its Partners. Moreover, he has no association or business relationship with the Company.

Appeal No. 19/IC(A)/2006 – Order dated 29-03-2006 – section 8(d) and 8(j) - In the case of Jasvinder Singh Rana Vs Bank of Baroda – Appellant sought details of loans sanctioned and disbursed to a particular company – not indicated the bonafide public interest in seeking the info – CIC upheld the view that details of properties and securities submitted by the borrowers are in the nature of commercial confidence, the disclosure of which is exempted under Section 8(d) of the RTI Act - Also, the information sought relate to collateral and securities taken by the concerned Company and its directors, which are personal information. This has no relationship with any public activity or interest - Disclosure of such information would cause unwarranted invasion of privacy of individual / third party, as per Section 8(1) (j).

Appeal No.ICPB/A-13/CIC/2006 – Order dated 10-04-2006 – Section 8(1)(d) - Pavitar Singh, Chartered Accountant, Jalandhar Vs CPIO, Directorate General Foreign Trade, Jalandhar - appellant sought for a copy of the show cause notice issued to one M/s Alfa International, Jalandhar, in relation to its obtaining DEPB Scripts fraudulently and also details of the proceedings initiated, action taken and the present status of the case - CPIO declined to furnish the information on the ground that disclosure of the information might harm the business interest of the said firm and as such the same cannot be provided in terms of Section 8(1)(d) of RTI Act - The appellate authority, also declined the request of the appellant on the ground that M/s Alfa International had objected to the furnishing of a copy of the show cause notice and since the show cause notice was a part of the adjudication process, only final order can be given to the appellant as soon as the proceedings are concluded. CPIO in his submissions before CIC stated that the appellant was a consultant to M/s Alfa International and he had been arrested by CBI/Customs in connection with a similar case and M/s Alfa International have accused the appellant of committing forgery in their DEPB cases without their knowledge and that M/s Alfa International have objected to furnishing a copy of the show cause notice to the appellant since they fear that the appellant might blackmail them. During the hearing, it transpired that on the basis of the show cause notice, the Regional Joint DG has already passed an order and that said order is on appeal before the appellate authority. Since the decision has already been taken on the show cause notice, CIC directed the CPIO to furnish a copy of the said order to the appellant and also the order of appellate authority as and when the decision of the appellate authority is received.

Appeal: No. CIC/OK/A/2006/00012 – Order dated 02-05-2006 – section 8(1)(d) - In the case of K.B. Singh Vs M/s. HMT Limited, Bangalore – applicant offered more than 100 suggestions under the suggestion scheme – several suggestions implemented but it is alleged that reward undervalued – reward 10% of savings by HMT upon implementation of the suggestions – in one case related to tractors suggestion of a

senior received after ten days after the suggestion of applicant accepted – sought papers relating to the proceedings of the suggestion committee which (i) rejected his suggestions and (ii) accepted the suggestions of his senior – application rejected on grounds of commercial confidence, trade secrets or intellectual property – CIC expressed its concern over the stand taken by HMT to Shri K.B. Singh's appeal - In this case, there was no trade secret involved nor was there a question of a third party involvement - It was obviously a measure to discourage an intelligent official of the Organization who seems to have played a meaningful role in bringing about substantial improvements in technical specifications of the HMT products thereby saving on overall costs. These were, after all, suggestions from an individual which were being considered by the Suggestion Committee and the Commission failed to see any reason why the proceedings of the Suggestion Committee should not be shown to Shri K.B. Singh who had made the suggestions. Shri Singh also requested for certified copies of the relevant documents regarding the suggestions made by him, and the calculations of incentives made thereof -5. The Commission ordered that duly attested copies may be supplied to the Appellant.

Decision No. 227 /IC(A)/2006 - F.Nos.CIC/MA/A/2006/00551 - Dated, the 1st Sep., 2006 - Ganesh Kumar Thevar Vs The Commissionerate of Customs, Mumbai - the CPIO claimed exemption u/s 8(1) (d) of the Act from disclosure of information relating to the details of licenses issued for imports, details of items imported bill of entry wise, and details of items exported shipping bill wise on the ground that the information sought relate to third party, the disclosure of which would affect their competitiveness. Also the information is huge, which can be denied u/s 7(9) of the Act. CIC held that the appellant has not indicated as to what is the overriding public interest in seeking the huge information. In an identical case, the Commission's decision (Appeal No. 9/IC (A)/2006-CIC) is also relevant.

Appeal No.61/ICPB/2006 - F.No.PBA/06/15 - August 3, 2006 - B. Lahiri Vs MTNL, Mumbai - MTNL has taken on lease certain galas to house Sahayog Telephone Exchange, Thane – The appellant, the president of Sahayog Complex Cooperative Housing Society Ltd, sought for attested copies of the lease agreements entered into with lessors of the galas - CPIO said that information has no relationship with any public activity the information cannot be furnished – CIC held that this is a case of wrong application of the provisions of Section 8(1)(j). When a public authority takes accommodation to house one of its offices/establishment, the same is a part of its discharging a public activity and the same should be transparent. In furnishing a copy of the lease agreement, there is no need to get the consent of the lessor as no commercial or technical secrets are involved.

Decision No.160/IC(A)/2006 - F. No.CIC/MA/A/2006/00261 - Dated, the 3rd August 2006 - Shri Rakesh Kumar Gupta Vs RBI – names of buyers and sellers of Securities in 131 specific transactions - The CPIO refused to provide the information u/s 8(1)(d), (e) and (j) of the Act - the appellant was informed that such information was market sensitive, the disclosure of which would prejudicially affect their competitive position and also the market in Government securities. The information sought for was thus furnished to the

appellant without disclosing the names of individual buyers and sellers. CIC held that the exemption claimed u/s 8(1)(d) is therefore justified.

Decision No.85/IC(A)/2006 - F. No.CIC/MA/A/2006/00088 - Dated, the 4th July, 2006 - CHO. S. Ramaswamy Vs Department of Disinvestment, Ministry of Finance – Disinvestment of Centaur Hotels – reference to CBI – information sought to understand the processes followed in decision making – part documents made available – CIC held that reports prepared by Sh. S. Lakshminarayan to scrutinize disinvestments, contain information relating to commercial confidence of the companies. The Reports are also marked confidential/secret. These reports therefore cannot be disclosed, u/s 8(1)(d) of the RTI Act. 'File notings' per se cannot be withheld by any public authorities. The direction given by the DOPT on this particular issue is misleading. CPIO is, therefore, directed to disclose the 'file notings', with due application of exemptions u/s 8(1) and 10(1) of the RTI Act.

11. COPIES OF DOCUMENTS:

Appeal No. CIC/AT/A/2006/00029 – Order dated 07-04-2006 – In the case of Mallu Ram Jakhar Vs Joint Commissioner of Police (Crime Branch), Police Headquarters, M.S.O. Building, ITO, New Delhi-110002 – CIC held that it is quite clear that the appellant has no right under the RTI Act to obtain certified true copies of any document held by a public authority. There are different laws that govern entitlements for certified copies of documents and records. The Jt. Commissioner Crime and the Addl. Commissioner have no objection to giving to the appellant, photocopies of the information requested by him. The appellant too is agreeable to receive the photocopies rather than the certified copies of the document. In view of the above, the appeal is disposed of with the direction that the public authority shall supply to the appellant photocopies of the document mentioned.

12. CONFIDENTIAL MATTERS:

Appeal Nos: CIC/WB/A/2006/00126 - Dated: 1-6-06 - Tilak Mohan Mathur Vs DDA, Delhi – seeking information on action taken on a report on unauthorized construction of seven listed flats encroaching public land by one Maj Kapoor in Basant Gaon, Vasant Vihar, New Delhi – Most of the information provided but some information denied under third party – CIC held that alleged encroacher - For the sake of abundant caution, CIC clarified that data protection u/s 8(1) (j) and 11 cannot be invoked to deny information not held in confidence. This is all the more so in the present case where the information had been sought with regard to an individual held in violation of the law.

Decision No.84/IC(A)/2006 - F. No.CIC/MA/A/2006/00113 - Dated, the 4th July, 2006 - Alok K Gupta Vs CBEC – Derogatory remarks of Shri Jindal against the then FM, Shri Yashwant Sinha for raising duty on Aluminum – Criminal Complaint by Shri Sinha which is sub-judice – appellant seeking files and documents – appellant ex-employee of Shri Jindal – Some documents were provided but four documents were denied u/s 8(1)(h), as these documents were related to the communications between the Ministry and its Counsel. Since the appellant was an employee of Sh. S.R. Jindal, disclosure of

the documents was more in the interest of the appellant than the public at large. It was also felt that it would impede the process of prosecution of the case. CIC held that there was no question of denial of information. The appellant was provided access to the information and copies of some documents sought have also been furnished. There is a dispute, involving Criminal Revision Petition between the parties pending before the court for adjudication and the document sought also relate the third party, mainly the communication between the officials of the CBEC and the Counsel. The CPIO has therefore correctly applied exemption from disclosure u/s 8(1)(d) of the RTI Act.

13. DIRECT APPEAL TO COMMISSION:

Appeal No.ICPB/A-16/CIC/2006 – Order dated 13-04-2006 – In the case of Bhagwan Chand Saxena Vs Export Inspection Council of India, Ministry of Commerce – Corporate credit card details of director – CIC held that appellant has not preferred any appeal before the first appellate authority on the decision of the CPIO after he received the same, he should do so at the first instance before approaching the Commission.

14. DISCLOSURE:

F. No. CIC/AT/C/2007/00421-429 – Decision dated 21-04-2008 – Pritipal Singh Chandok & others Vs Addl Director of Income Tax (Inv), Raipur - What is important for the purpose of the RTI Act is that the information, which the complainants was looking for, has been disclosed to him by the respondents through the Assessing Officers of the public authority. It would be futile to debate whether the disclosure which was eventually made to the complainants ought to have been through the CPIO and not the Assessing Officer of the respondents. The fact that the information stands disclosed through supply of the copies of the documents held by the public authority meets the requirement of the RTI Act and should, therefore, also satisfy the complainants.

15. DISCIPLINARY ACTION:

Appeal No CIC/WB/C/2006/00040 – Order dated 24-04-2006 – In the case of Dr Anand Akhila Vs CSIR - asking for inspection of records related to his assessment promotion – request rejected u/s 8(1) - However, even without an appeal having been filed the Appellate Authority VK Gupta Director, Information Technology Division refused the information attaching a press release purportedly from the Prime Minister's Office - On filing of appeal, same stand reiterated - the appellant seeks 1. Information on marks awarded to him by each committee member, without disclosing their names, 2. The threshold mark fixed by the board for promotion, 3. Permission to inspect the records related to his assessment and 4. Imposition of penalty u/s 20 of the Act for malafide denial of information – CIC held that the case is far removed from any of the exemptions of Sec 8 of the Act. CIC also found fault with perfunctory manner of disposal of the case, including citing an appeal from the appellant by the Appellate authority (as underlined above) when no such appeal was made and said that such conduct shows a contempt for the law and disregard for the decorum worthy of a public authority,

particularly one of the standing of the CSIR – CIC directed that the information sought by the appellant be provided to him within fifteen days from the issue of the decision - PIO Dr DS Bedi seems to have had no reasonable ground for delay in sending the brief and slipshod response to the application of the appellant. The complaint of malafide intent has not been denied. He will thus show cause within ten working days u/s 20(1) of the Act as to why he should not pay the prescribed penalty for delaying his response and not providing the information- CIC also stated that though the Appellate authority is not covered by the penal provisions of the Act, Shri VK Gupta has clearly failed in this case to uphold the law or act in the public interest. Therefore a copy of the decision to be sent to DG CSIR to consider disciplinary action under the CSIR rules.

16. DPC MINUTES:

Appeal No. 18/IC(A)/2006 – Order dated 28-03-2006 – Section 8(1)(j) - Tapas Datta Vs Indian Oil Corporation Ltd - Information in the form of copies of the original DPC minutes for the period 1992 to 2004 for promotions from Grade F to G in Pipelines Division, copies of the review DPC minutes conducted for Employee Bo. 93622 from 1992 under direction of Delhi High Court Judgment in CWP-5201 of 1997 and Copies of complete Annual Performance Appraisal (APA) reports of Employee No.93622 from 1989 to 2003 – CPIO held that the documents are confidential in nature and cannot be shared – Appellate authority upheld the decision – As per the direction of the Delhi High Court, non-confidential parts of the above documents have already been supplied to the appellant – CIC observed that the relevant portions of the documents sought for has been provided to the appellant as per the direction of the Court. The assessment reports by the superior officers are personal and confidential information and therefore exempted under Section 8(1) (j) of the RTI Act. The decision of the appellate authority is therefore upheld.

17. ECONOMIC INTERESTS OF STATE:

CIC Full Bench Decision - No.CIC/AT/A/2007/00617 - Kamal Anand Vs Central Board of Direct Taxes (CBDT) - Date of Decision : 11.2.2008 - Supply of instructions, directions, clarifications relating to Scrutiny Policy for non-corporate sector could be prejudicial to economic interest of the State and hence could be denied under 8(1)(a) of the Right to Information Act, particularly when broad parameters of the scrutiny guidelines have already been provided to the appellant.

18. ENQUIRY REPORT:

Appeal No. ICPB/A-8/CIC/2006 – Order dated 22-03-2006 – Sections 6 & 18 – In the case of Navneet Kaur Vs CPIO, Dept of Information Technology as well as Electronics & Computer Software Export Promotion Council (ESC) - Appellant sought for all the documents and records of the sexual harassment complaint committee on the complaint of the appellant against two officials alleging sexual harassment - CPIO, DIT sought clarification from DOPT & Department of Women & Child Development to ascertain whether a copy of the report can be given before disposal of the same by disciplinary

authority and informed the same to the appellant – CPIO, ESC stated that ESC is a non-governmental organization and not funded by Government and therefore RTI Act is not applicable to ESC – CIC looked into the accounts of ESC and out of Income of Rs 11.8 Crores for the year 2004-05, Rs 6.8 is due to grants from Department of Commerce and Department of Information Technology – ESC is an autonomous body under the DIT – Therefore RTI Act is applicable to ESC – CIC also held that no justifiable explanation is given by DIT for not providing the information – DIT directed to furnish the information i.e copy of enquiry report and copy of minutes of meeting of the committee.

Appeal No. CIC/AT/A/2006/00005 – Order dated 08-03-2006 – In the case of Ravinder Kumar Vs A.K. Sinha, Joint Commissioner of Police (Vigilance), New Delhi - details of the full report along with its annexes I and II and other documents submitted to the Hon'ble High Court by the Joint Commissioner of Police (Vigilance), Shri A.K. Sinha in WP (CRL) 1288-9/2005, along with the complaint made by Shri Vijender Sethi and subsequent endorsements by the officials of the Special Cell – PIO refused to provide the information to the appellant on the grounds that the enquiry report with annexes and other documents mentioned by the appellant were submitted to the Hon'ble High Court of Delhi on 29.9.05 as per the directions of the Court. Since all the records requested to be disclosed to the appellant were now the property of the High Court, the PIO was not at liberty to supply the same to the appellant. The appellant filed an appeal before Shri Y.S. Dadwal against the order of the PIO. The PIO had informed the appellant that Shri Dadwal was the first appellate authority. While the matter was before Mr. Dadwal, the appellant was informed by the Asstt. PIO, Shri Vijay Manchanda on 7.12.2005 that the PIO's order dated 10.11.05 stood withdrawn due to "administrative reasons." - The PIO, Shri R.P. Upadhyay issued a fresh order to the appellant - This time the appellant's request for the above mentioned documents was turned down on the ground that it would impair the process of investigation in the case registered under FIR 370/2005 dated 30.7.2005, PS Kirti Nagar. The request for information of the appellant was construed to attract the bar under Section 8 (h) of the RTI act - With this order, the PIO also mentioned that the appellant could file an appeal before Shri A.K. Sinha, Joint Commissioner of Police (Vig.) who had now become the appellate authority in place of Shri Dadwal - Shri A.K. Sinha dismissed the appeal filed by the appellant stating that he saw no reason to interfere with the order of the PIO and argued before the Commission that the enquiry report which the appellant wanted to have access to was submitted to the Hon'ble High Court of Delhi and that the enquiry was conducted on orders of the Delhi High Court, and a copy of the enquiry report was duly supplied to the parties to the case in WP (CRL) 1288 - The first appellate authority was not at liberty to make these papers available to the appellant since the papers were now court property - On the withdrawal of the PIO's first order, Shri A.K. Sinha has pointed out that it became necessary to withdraw that order as, due to internal changes in Delhi Police, a new appellate authority had taken over – The Commission examined the issues of withdrawal of the order by PIO and issue of fresh order, inability of the PIO to provide information being property of the Court and applicability of exemption u/s 8(h) - The Commission held that It would have been appropriate if the PIO had avoided withdrawing his first order. If there was change in the first appellate authority this could have been communicated to the appellant through a fresh communication rather than

through withdrawal of the order itself – The Commission was unable to appreciate the point that the PIO was debarred in providing the information - If the information was prima facie disclosable and did not attract any prohibition of the RTI Act, it had to be supplied to the appellant regardless of who was its custodian even if this custodian were to be the first appellate authority himself and therefore, there is no violation of propriety or natural justice – The Commission noticed that the reasoning of the appellate authority on exemption is curious because, as per his own statement, the copy of the enquiry report etc., was duly supplied to counsel of the petitioner in the writ petition before the Hon'ble High Court – Therefore, the information was already in public domain – It is, therefore, unclear how its supply to the appellant will interfere with the investigation of the Kirti Nagar PS case - The appellate authority also mentioned that while submitting the enquiry report to the Hon'ble High Court he had retained his copy - In so far as he was in possession of the information which the appellant had requested, the first appellate authority was obliged to provide the same to the appellant. There was a manifest contradiction in the first appellate authority's argument that the enquiry report, its annexes, statements and connected documents were already supplied to the writ petitioner and yet its supply to the appellant would somehow attract the exemption of Section 8(h) of the RTI Act. Such reasoning is unacceptable as it is devoid of merit. The Commission also noted that the Hon'ble High Court did not impose any prohibition on the Joint Commissioner of Police (Vig), Shri Sinha to keep the documents confidential. Therefore, the Commission held that the appellant is entitled to receive the information:

19. EVASIVE REPLY:

Appeal No: CIC/A/3/2006 – Order dt 07-02-2006 – Section 6(3) - In the case of Subhash Chandra Agrawal Vs CPIO, Supreme Court – Evasive reply given by Public Authority – CPIO gave information that the information asked for fell within the jurisdiction of the High Court, a separate public authority - “I am directed to inform you that the aforesaid complaint has been kept on record in the relevant High court file” – CIC held that it is not a speaking order – Application falls under the requirement of section 6(3) - The order does not mention when and under what reference the application was transferred to the High Court making it impossible for the appellant to find ways to seek further information - CPIO of the Supreme Court will now inform the applicant of the Reference and Date of the orders transferring the application to the High Court to enable the applicant to make a suitable application to that public authority to access the information sought - Since this is a case of October 2005, when the Act had only just come into force, and no claim for damages has been made, no penalty is imposed making allowance for the formative structure of the machinery for entertainment of applications under this Act.

20. EXAMINATIONS – ANSWER SHEETS – MARKS:

Appeal No. CIC/OK/A/2007/01484 – Decision dated 11-04-2008 – Mukesh Chaturvedi Vs N.W. Railway, Jaipur - Information/documents regarding the question-wise and sub-question-wise marks secured by him for the examination held for the post of Assistant Personnel Officers in 2007. The Appellant also wanted to inspect answer-sheets of the other candidates who had qualified in the examination. Commission directed the

Respondents to provide: (i) the question-wise and sub-question wise marks to the Appellant of his answer sheet for the examination of the Assistant Personnel Officers held in 2007; (ii) the Appellant may be shown the answer-sheets of the candidates he wants but without providing him with a copy of the same. In case he wants a copy of his own answer-sheets, this may be provided to him.

Decision No.2256/IC(A)/2008 - F. No.CIC/MA/A/2008/00147 – Decision dated 22-04-2008 - P. Kulandaivelu Vs Department of Posts - An examinee is free to ask for copies of his own answer sheets to scrutinize the award of marks and his own performance. There is, however, no justification for disclosure of answer sheets of other candidates or the third party without obtaining their concurrence.

Decision No.2207/IC(A)/2008 - F. No.CIC/MA/A/2008/00263 – Decision dated 10-04-2008 - Pathrose P.D Vs Department of Posts - In a number of cases, this Commission has already directed the public authorities to ensure transparency in conduct of the selection process. Accordingly, it has been decided that in cases of all the departmental examinations for recruitment and promotion of staff, the information relating to answer sheets, mark sheets, cut of marks, merit lists, etc, should be put in public domain soon after the completion of the selection process

Appeal No. ICPB/A-3/CIC/2006 – Order dated 10-02-2006 - Sections 8(1) (e), 8(1)(g) and 11 - In the case of D.S. Meena Vs CPIO, North Western Railways – Departmental examinations - When answer papers are evaluated, the authority conducting the examination and the examiners evaluating the answer papers stand in a fiduciary relationship with each other. Such a relationship warrants maintenance of confidentiality by both of the manner and method of evaluation. That is the reason why while mark sheets are made readily available as a matter of course, copies of the evaluated answer papers are not made available to the candidates – Section 8(1)(e) is applicable - Also Supply of evaluated answer sheets to the applicant would be against public interest but answer key, if any can be supplied within 15 days of the order.

Appeal No. ICPB/A-2/CIC/2006 – Order dated 06-02-2006 - Sections 6, 8(1)(e) and 18 – In the case of Ms Treesa Irish Vs CPIO, Kerala Postal Circle, Trivandrum – Post woman unsuccessful in Departmental Examination – Case filed in CAT - Seeking answer-sheet of an internal examination conducted by postal department for promotion – CPIO rejected request stating that no public interest is involved and as permissible under the Postal Rules, she could apply for retotalling – Applicant seeking damages of Rs 5,000 in appeal - When answer papers are evaluated, the authority conducting the examination and the examiners evaluating the answer papers stand in a fiduciary relationship between each other - Such a relationship warrants maintenance of confidentiality by both of the manner and method of evaluation - Providing information will not serve any public interest u/s 8(1)(j) of the RTI Act rather adversely affect the fairness and impartiality of selection process.

Appeal: No. 11/53/2006-CIC – Order dated 02-05-06 – confidentiality – In the case of Neeraj Kumar Singhal Vs Sr. DGM North West Railway, Jaipur - asked for copies of mark sheets and answer sheets of four candidates who were declared successful in the examination conducted for Traffic Casting Inspector - CPIO intimated that the information could not be supplied under Section 18(1)(d)(c) of the RTI Act and that the

directions in this regard had been sought from the Railway Board – View reiterated by appellate authority- The Commission pursued the available records and concluded the integrity of examination system should not be compromised - Conduct of examinations and for identifying and short-listing the candidates in terms of technical competence right attitude, etc is a highly confidential activity - Therefore, answer-sheets should not be disclosed. However, the award of marks need not be kept secret.

Decision No.231/IC(A)/2006 - F. No.CIC/MA/A/2006/00622 - Dated, the 1st September, 2006 - Rajnish Singh Chaudhary Vs UPSC –Issues (i) marks awarded in interview and written examination, (ii) weightage assigned for interview and written (iii) cut-off marks for selection of General and OBC respectively, (iv) day-wise number of candidates interviewed and (v) name of chairman and members of the interview board – UPSC declined to provide information on (iii) and (v) above being core subjects – CIC held that the process of recruitment of staff for various types and levels of jobs is closely related to right to work. It has therefore significant bearing on life and liberty of citizens. Accordingly, every public authority should adhere to the principle of maximum disclosure and provide a reasonable explanation, u/s 4(1)(d) of the Act, for every action taken by them. In view of this, there is no valid reason for withholding the information. The action relating to determination and application of cut-off point, being an extremely critical factor in life and career of a person, should fall under public domain. In the instant case, the information sought should therefore be furnished, since the matter is complete and over. On the matter of composition of Selection Committee, it is not understandable as to why the composition of the Committee should not be made public, after the selection process is over.

21. EXEMPT ORGANIZATIONS:

CIC/WB/A/2007/00492 – Decision Dated 11-04-2008 - Bishnu Prasad Mishra Vs Director, Ministry of Home Affairs (MHA), New Delhi - The information sought by the appellant was as under:- “Notification of the Govt. of India in the Ministry of Home Affairs, number S.O.2000, dated 02/09/1989 (regarding an extract on appointing authority, disciplinary & appellate authorities in respect of Central Service Group B, C, D posts in IB.” Since this matter is related to a notification of Govt. of India in the Ministry of Home Affairs regarding Central Service Group B, C, Posts in Intelligence Bureau, and therefore is information the subject matter of which is more closely connected to the Ministry of Home Affairs and not to the exempted organization, providing the information sought, merely a copy of a Notification which is by its very nature is a public document, and as contended by appellant, published in the Govt. Gazette of 1989, may not be construed to be either application of the Act to the exempted organization or information furnished by it to the Central Govt.

Appeal no. 16/IC(A)/2006 – Order dated 28-03-2006 – Section 24 - Pratap J Shah Vs Directorate of Enforcement – Information relating to show cause notices issued by Directorate to a particular company, order issued against such notices, details of levy of penalty and name of Special Director who adjudicated the matter – Directorate of Enforcement stated that it is exempt u/s 24 of the RTI Act and the complaint does not

related to allegation of corruption or human rights violation – CIC held that appeal is not maintainable.

Appeal No. CIC/AT/A/2006/00055 – Order dated 27-04-2006 – In the case of Sanjiv Kumar Jain Vs S.K. Bansal, Dy. Director, IB, Ministry of Home Affairs, New Delhi and others - information regarding the immigration for the period 1991 to 2004 of Shri Srivenkateswara Prasad Venkayalapati and Shri Venkayalapati Shri Venkateswara Prasad. The PIO and the Appellate Authority turned down appellant's request for information on ground that the information sought pertained to the Intelligence Bureau (IB), which is an organization listed in the Second Schedule of the RTI Act. The Appellate Authority had further stated that the information sought did not pertain to any allegation relating to charges of corruption or human right violation and, therefore, did not qualify for the exception under proviso to Section 24(1) – the Commission held that the exemption provided to the organizations listed in Second Schedule of the RTI Act is absolute in nature. The appellant, no doubt, has sympathy of the Commission for the trauma he had to endure because of the loss of his new born son allegedly due to medical neglect. There are other laws through which he can seek appropriate relief. However, before parting with the appeal, we would urge the high officers of the Intelligence Bureau, to consider if they could volunteer to supply the information requested by the appellant if it did not in any way compromise the functioning of IB.

22. FEES:

F.No.CIC/AT/C/2006/00052 - Dated, the 4th September, 2006 - Dr. Reeta Jayasankar Vs Deputy Secretary (P) & PIO, Indian Council of Agricultural Research, Krishi Bhawan, Delhi - Applicant paid a fee of Rs 50/- CPIO rejected that exact fee is not paid – CIC held that, the PIO was not right in concluding that the appellant's application for information could be returned at the admission stage itself for her failure to enclose the exact fee amount instead of remitting a larger sum which she apparently did. The PIO interpreted the rules rather narrowly and literally, whereas what was needed was to inform the interpretation with a clearer understanding of the purpose and the intent of the Act, which is to facilitate easy transmission of information to those who seek it. In this context, Section 5(3) is the key to the understanding of the approach to be adopted by the Information Officers. This Section states that the CPIO “..... *shall deal with requests from persons seeking information and render reasonable assistance to the persons seeking such information.*” Thus, the PIO is required to assist the information-seeker to obtain the information sought by him and to help him comply with the procedures. A highly restrictive interpretation of the modalities of fee remittance surely goes counter to the spirit of Section 5(3) of the Act.

23. FORMAT IN WHICH INFORMATION IS TO BE SUPPLIED:

Appeal No. 14/IC(A)/2006 – Order dated 27-03-2006 – In the case of B. H. Veerasha, Brashtachara Nirmoolana Vedike Vs Canara Bank - request for information on expenditure incurred by the Bank for execution of interior work on their Head Office Building Bangalore, during the period 1.4.1991 to 31.9.2006 in the following format - 1. Nomenclature / Particulars of work undertaken - 2. Total amount paid to the Contractor

with Bill Number and Date - 3. Name & address of Contractor with their PAN Number - 4. Particulars of Tax Deducted at Source – both Income Tax & Service Tax - Information in a CD in electronic media. The appellant has alleged that the CPIO has supplied incomplete, misleading and incorrect information – Appellate authority held that the information is to be provided in the form in which it exists with the Bank - Detailed response placed by the Bank before CIC - Appellant was provided with the particulars of expenditure incurred under the repairs and maintenance from the period 1998 to 2005 - Annual Reports for this period also supplied - Information is as per the published balance sheet of the Bank, which were duly audited and accepted by the various regulatory authorities - Bank mentioned that the appellant has sought non-existent information for a period up to 30.9.2006 - Prior to the coming into force of the RTI Act, Banks have been maintaining records as per the RBI guidelines for a period of 8 years - Hence, it is not possible to provide the information for the period sought by the appellant, as it does not exist in the format asked for - The appellant was denied the details such as name and address of the contractors and their PAN Number, treating this information as personal, the disclosure of which has no relationship to public activity or interest and same would also cause unwarranted invasion of the privacy of the individual / third party - CIC held that information is to be provided in the form in which it exists with the public authority and that without disproportionately diverting the resources of the information provider - The information sought by the appellant is available in great detail in the Annual Reports, which have been given to the appellant - If it is not available in electronic form, it does not have to be created for the appellant - There is, thus, no question of denial of information to him - As regards personal information, such as the details of PAN Number, which functions as a unique identification for each tax payer need not be given - Making PAN public can result in misuse of this information by other persons to quote wrong PAN while entering into financial transactions linked with PAN - The Bank has provided the data / information in the form in which they are maintained as per RBI guidelines - The CPIO of the Bank has thus complied within the requirement of the RTI Act in providing the information within the stipulated time.

Appeal No. 20/IC(A)/2006 – Order dated 29-03-2006 – In the case of A X S Jiwan Vs Commissioner, Central Excise & Customs, Surat – II – Information relating to sanction of leave and payment of salaries to one of his colleagues – request rejected on the ground that such information is exempt u/s 8(1)(j) - Appellant has contended that due to non-payment of salary, his colleague is facing financial hardship and therefore it concerns life and liberty of his colleague – CIC held that RTI Act enables every citizen to take charge of his/her life - A citizen can seek relevant information that can be used for betterment of the information seeker - It is not understandable why the affected person has not sought information about the public action affecting her life - Information sought is to be provided in the form in which it exists. It does not have to be created afresh by the public authority to supply the requester - In the present case; information seeker has asked several questions, expecting the CPIO to reply in yes or no, which the CPIO ought not to do. As the information sought does not exist in the form in which it is requested and that it relates to another employee the exemption from disclosure under Section 8(1)(j) has been correctly applied by the appellate authority.

Appeal No.ICPB/A-14/CIC/2006 – Order dated 12-04-2006 - Maj. J.S. Kohli (Rtd), New Delhi Vs CPIO, Telecom Regulatory Authority of India - sought details of the provision of the Act or the authority under which TRAI had sought for comments from M/s ICML on the complaints made by a group of cable operators – also sought details of the time limit fixed by TRAI for receipt of reply, time within which the authority would act if no reply is received, would any reminder be issued for reply prescribing the time limit to reply etc - the appellant desired to know the difference between receiving a complaint with respect to violation of TRAI order and properly documented evidence with reference to the violation of TRAI order and also the procedure followed by TRAI on receipt of properly documented evidence with respect to violation of TRAI order - desired information as to whether the procedure was followed in respect of two cases wherein properly documented evidence was received by TRAI and the present disposal of the same - information relating to hiring of legal counsel in the above case, procedure for the same and whether any instrument of engagement was signed and if so a copy of the same to be supplied – sought information relating to a tariff order dated 15.1.04 issued by TRAI which had been modified by TDSAT to know whether the TRAI order was illegal, null and void and whether TRAI had informed the public about the same - CPIO furnished the information on certain points - CPIO informed the appellant that in terms of Section 12 of TRAI Act, information can be called for from service providers and that no time frame has been fixed for calling for reply, reminder etc. and that the same is decided on a case to case basis. He also answered that the procedure was followed. The appellant was informed that TRAI has not taken any further action as the party concerned had moved TDSAT. The appellant was informed of the name of the counsel engaged with the approval of the Authority and that the relationship between a client and his counsel is treated as confidential and fiduciary. The CPIO informed the appellant that the tariff order of TRAI had not been set aside by TDSAT and that by a notification dated 1.10.2004, all earlier tariff orders and notifications had been repealed and that this notification was not only published in the Gazette but a press release was given and was also put on the web site. CIC held that from the letter of the CPIO, it is found that he has furnished all the information sought for by the appellant. In view of this, the appeal was dismissed being frivolous and devoid of merits.

24. FIDUCIARY RELATION:

Appeal No. CIC/WB/A/2007/00999 – Decision dated 08-05-2008 - Satya Narain Shukla Vs UPSC - For the purpose of clarification it must be clearly stated by us that information held by an examining authority or marks obtained and parentage of candidates for examination can in no way be construed to be a fiduciary relationship since, unless the parentage is a matter of doubt, the information so provided can hardly be expected to be treated as an information provided in trust. Moreover, Section 7 (9) of the RTI Act clearly states that *“information should ordinarily be provided in the form in which it is sought”*. It is therefore, the duty of the CPIO to compile the information and provide it in the manner sought by appellant unless this would disproportionately divert the resources of the public authority or would be detrimental to the safety or preservation of the record in question.

Appeal No. ICPB/A-7/CIC/2006 – Order dated 21-03-2006 – In the case of Madan Lal Vs CPIO, NSSO – Complaint of sexual harassment against the appellant by lady employees of his office – Enquiry conducted by Deputy Director (Admn) as well as Women’s complaint committee – Appellant sought a copy of the enquiry report and statements of witnesses – CPIO rejected the request stating that it has no relationship with public activity or interest – Appellate authority did not spell decision with the given time – Belated decision stating that no formal enquiry was conducted against the appellant, the enquiries were only fact finding missions and no action was taken against them – It was also stated that many of the witnesses gave evidence on the implicit understanding that their names will not be revealed – disclosure of such information may result in invasion of privacy of the witnesses and may also affect their family life – CIC directed that copy of only the part of the report containing the findings and recommendations of both the reports should be provided to the applicant.

F.No.CIC/AT/A/2006/00113 - Dated the 10th July, 2006 - Mukesh Kumar Vs Supreme Court of India - There is no statutory requirement to maintain the data of the castes of the Judges of the Supreme Court and the High Courts, no information about the castes of the Judges, including those belonging to SCs and STs, is maintained. It was rightly pointed out during hearing that Judges may have objection to a caste census limited to the Judges’ fraternity alone. Since no law provides for maintaining information regarding the caste status of the Judges, inferentially it can be argued, that it would have been objectionable even to maintain such information. The information given by the Chief Justice to the President has been shielded from the public gaze over all these years. Coming into force of the RTI Act has raised a question mark over the confidentiality of the process of consultation between the Supreme Court and the President of India. It is to be examined whether the confidentiality of this process contributes to its integrity, which is sensitive enough to merit “preservation of confidentiality” as stated in the preamble of the RTI Act. Arguably, there is merit in the contention that certain processes are best conducted away from the public gaze, for that is what contributes to sober analysis and mature reflection, unaffected by competing pressures and public scrutiny. If there is one process which needs to be so protected, the process of selecting the judges of the High Courts and the Supreme Court must qualify to be one such. It is instructive to examine the consultation process for the selection of the judges in the light of the provisions of section 11 (1) and section 8 (e) of the RTI Act. The type of information which is provided by the persons contending to be judges as well as the information collected from various other sources by the Hon’ble Supreme Court in order to equip the Apex Court to discharge its constitutionally ordained role of advising the President of India regarding who to appoint as Judges in the nation’s highest judicial bodies, is in the nature of personal information provided by the third party and thus attracts section 11 (1). It also attracts the exemptions under section 8(1)(e) being information given to the charge of the Chief Justice of India by those under consideration for selection as judges, in trust and in confidence. It does create a fiduciary relationship between the Apex Court and those submitting the personal information to its charge. Disclosing any such information will be violative of a fiduciary relationship (section 8(1)(e) RTI Act) as well as the confidence and the trust between the candidates and the Supreme Court. Disclosure of the list of

candidates prepared by the Highest Court for the purpose of consultation with the President of India, attracts the exemption of section 8(1)(e) as well as the provision of section 11(1) of the RTI Act.

25. FILE NOTINGS:

Appeal No. CIC/OK/A/2006/0015 - Pyare Lal vs. Ministry of Railways - While, the Act of 2005 incorporates other exemptions provided for in section 8 and 9 of the Act of 2002, it has not incorporated any such provision which will exclude the "file notings" from disclosure. Contrary to what has been submitted before us by the DOPT, it appears that the Parliament, in fact, intended that the "file notings" are no more exempted and, as such, these are to be made available to the people. The reason for deletion of these specific words from the draft of the Act as mentioned by ASG in his arguments is more likely to be because the definitions cited above are clear and comprehensive on the subject and inclusion of the words would be rendered redundant as pointed out by Information Commissioner Prof. MM Ansari during the hearing. Attention here is drawn to the definition of the word 'file' as contained in the 'Manual of Office Procedure' of the DOPT. As will be seen, Section 27 of Chapter II: 'Definitions', clearly states, 'File means a collection of papers on a specific subject matter assigned a file number and consisting of one or more of the following parts:

- (a) Correspondence
- (b) Notes
- (c) Appendix to Correspondence
- (d) Appendix to Notes'

This would imply that 'notings' are an inextricable part of a record as defined u/s 2(f) and further defined u/s 2(i)(a) of the Act unless it had been specifically exempted. Without that, by excluding 'notings' from a file, the DOPT would be going against their own Manual and established procedure mandated by them. This would also mean that if, as the Learned Counsel insists, 'notings' are not to be a part of the file, then first an amendment would have had to be carried out on the definition of a file in the DOPT's own manual. Thus, from whichever angle the provisions of the Right to Information Act are looked into, "file noting" cannot be held to be excluded unless they come in conflict with public interest as aforesaid or are excluded under any of the provisions of the RTI Act, 2005.

Appeal No.ICPB/A-1/CIC/2006 – Date of order 31-01-2006 – Section 2(i) – In the case of Satya Pal Vs CPIO, TCIL – File notings not furnished stating that they are exempt from disclosure u/s 8(1)(d) & (e) – CIC stated that as is evident from the Preamble to the RTI Act, the Act has been enacted to vest with the citizens, the right of access to information under the control of public authorities in order to promote transparency and accountability in the working of any public authority - Conscious of the fact that access to certain information may not be in the public interest, the Act also provides certain exemptions from disclosure - Whether file notings fall within the exempted class is the issue for consideration - In the system of functioning of public authorities, a file is opened for every subject/matter dealt with by the public authority - While the main file would contain all the materials connected with the subject/matter, generally, each file also has what is known as note sheets, separate

from but attached with the main file - Most of the discussions on the subject/matter are recorded in the note sheets and decisions are mostly based on the recording in the note sheets and even the decisions are recorded on the note sheets - These recordings are generally known as "file notings". Therefore, no file would be complete without note sheets having "file notings". In other words, note sheets containing "file notings" are an integral part of a file. Some times, notings are made on the main file also, which obviously would be a part of the file itself. In terms of Section 2(i), a record includes a file and in terms of Section 2(j) right to information extends to accessibility to a record. Thus, a combined reading of Sections 2(f), (i)&(j) would indicate that a citizen has the right of access to a file of which the file notings are an integral part. If the legislature had intended that "file notings" are to be exempted from disclosure, while defining a "record" or "file" it could have specifically provided so. Therefore, we are of the firm view that, in terms of the existing provisions of the RTI Act, a citizen has the right to seek information contained in "file notings" unless the same relates to matters covered under Section 8 of the Act. Thus, the reliance of the CPIO, TCIL on the web site clarification of the Department of Personnel to deny the information on the basis that 'file notings' are exempted, is misplaced - Since we have held that file notings are not, as a matter of law, exempt from disclosure, the CPIO, TCIL is directed to furnish the information contained in the file notings, on or before 15.2.2006 to the appellant. However, if the CPIO, TCIL is still of the opinion that the said file notings are exempt under Section 8(d) & (e), he is at liberty to place the file notings before the Commission on 13.2.2006 at 11 AM to determine whether the same is exempt under these sections and even if so, whether disclosure of the same would be in the public interest or not.

Appeal No.ICPB/A-5/CIC/2006 – Date of order 17-02-2006 – Section 2(i) – In the case of Maj. J.S. Kohli (Retd) Vs CPIO, TRAI - Seeking for inspection/go through/take copies of certain documents including file notings in relation to a certain letter of TRAI. He had also sought for certain other information. By letter dated 14.12.2005, while furnishing various information sought for by the appellant, the CPIO declined the request of the appellant for "file noting" on the ground that as per clarification by the government "file noting" is not included in "information" – On appeal filed before the appellate authority on 29.12.2005 – appellate authority did not decide – appeal before CIC on 13-02-2006 – CIC held that appeal should have been disposed off by the appellate authority within time - Appellate authority directed to dispose off the appeal in view of the decision of CIC in ICPB/A-1/CIC2006 within 10 days of receipt of the order.

26. FUTURE COURSE OF ACTION:

Appeal No.ICPB/A-15/CIC/2006 – Order dated 13-04-06 – In the case of Ravi Kumar Vs Coffee Board, Bangalore - sought details of information relating to the file on repairs carried out to a Board's van in 1997 and the appointment of one Shri T.V. Neelakantan, Hindi Translator, as officiating PRO in 2005 - allegation that while officiating as the PRO earlier in 1997, Shri Neelakantan had cheated the Coffee Board to the tune of Rs.1.26 lakhs on the pretext of repairing a Board's van - CPIO had furnished copies in respect of the reports in relation to the repairs to the van as also the entire note sheet of the relevant file. However, in relation to certain queries in connection with the same, and also on the appointment of Shri Neelakantan as the PRO, the CPIO has informed the

appellant that the information was not available in the file or in any material form – In his present appeal before the Commission, the appellant has submitted that he desired to know whether any disciplinary action was proposed against Shri Neelakantan and the probable time required for any action but the appellant authority has held that if the information the citizen wants to have is not available in any material form with the public authority and the information sought is in the nature of the opinion of the authorities concerned about the future course of action, the same is not under section 2(f) of the Right to Information Act – CIC upheld the view of the appellate authority that that information relating to future course of action which is not in any material form is not “information” within the definition of “information” in Section 2(f).

27. GRIEVANCE REDRESSAL:

Application No CIC/WB/A/2006/00001 – Order dated 17-03-06 – In the case of Pratap Singh Gandas Vs DERC – Appellant sought information on action taken reports/status on a list of 520 complaints – No response within 30 days - Reply from DDA that action is initiated against the complaints on which information is sought and the applicant was advised to contact ‘other departments’ for ‘remaining’ issues – Appellate authority dismissed the appeal that rejection was justified in view of ‘inter office communications’ – CIC held that action of PIO is misplaced – the reply is vague on what is appropriate action and or which other departments have to be contacted. There is no transfer u/s 6(3) in this case – The decision of PIO appears to be dictated by the feeling that the complaints should first be resolved and then information is to be given – As per CIC this is laudable but unjustified – Information is given to be given as available and no future information is to be anticipated – Grievance redressal and providing information are different.

F.No. CIC/AT/A/2006/00065 – Dated 01-06-2006 - Shri Dharampal Saini Vs Central Water Commission, New Delhi-110066 - It can be seen from the request for information made by the appellant that it is not information which the appellant is seeking but what he wants is to make this Commission direct the public authority (Central Water Commission) to do certain things as prayed for by the appellant. We note that the CPIO has voluntarily supplied to the appellant a wide range of information. Appeal dismissed.

28. INCOME TAX RETURNS AND ASSESSMENT ORDERS:

Appeal Nos. CIC/AT/A/2007/01029 CIC/AT/A/2007/01263 CIC/AT/A/2007/01264, CIC/AT/A/2007/01265 CIC/AT/A/2007/01266 CIC/AT/A/2007/01267, CIC/AT/A/2007/01268 CIC/AT/A/2007/01269 CIC/AT/A/2007/01270 – Decision dated 29-04-2008 - Anumeha, C/o Association for Democratic Reforms Vs CCIT-XI, Delhi and others – Copies of Income Tax Returns of various political parties and their PAN numbers – The CPIO transferred the application to the appropriate CPIOs in the office of Chief Commissioners of Income Tax at New Delhi, Delhi, Chennai, Mumbai, Chandigarh, Hyderabad, Guwahati, Jammu & Kashmir and Bhubaneswar – CIC relied on decisions of Apex Court in the cases of T.N. Seshan, CEC of India Vs. Union of India & ors, People’s Union for Civil Liberties (PUCL) and Ors Vs. Union of India and Anr (AIR 2003 SC 2363), Union of India v. Association for Democratic Reforms &

another (AIR 2002 SC 2112), Common Cause (A Registered Society) Vs. Union of India (AIR 1996 SC 3081) and Dr P. Nalla Thampy Terah Vs Union of India and Ors . [1985 Suppl. SCC 189] as well as the reports of the National Commission to Review the Working of the Constitution (submitted in March 2002) and the Law Commission – The CIC held that the laws of the land do not make it mandatory for political parties to disclose the sources of their funding, and even less so the manner of expending those funds. In the absence of such laws, the only way a citizen can gain access to the details of funding of political parties is through their Income Tax Returns filed annually with Income Tax authorities. This is about the closest the political parties get to accounting for the sources and the extent of their funding and their expenditure. There is unmistakable public interest in knowing these funding details which would enable the citizen to make an informed choice about the political parties to vote for. The RTI Act emphasizes that “democracy requires an informed citizenry” and that transparency of information is vital to flawless functioning of constitutional democracy. It is nobody’s case that, while all organs of the State must exhibit maximum transparency, no such obligation attaches to political parties. Given that political parties influence the exercise of political power; transparency in their organization, functions and, more particularly, their means of funding is a democratic imperative, and, therefore, is in public interest. Insofar as the Income Tax Returns of political parties contain funding details these are liable for disclosure. It has been decided not to disclose PAN in view of the fact that there is a possibility that this disclosure could be subjected to fraudulent use, reports of which have lately been appearing. It is, therefore, considered practical that while Income Tax Returns and the Assessment Orders pertaining to political parties are disclosed, there should be no disclosure of the PANs of such parties. It may be noted here that the CIC, in various decisions has taken consistent stand that Income Tax Returns and other details concerning an assessee are not to be disclosed unless warranted by requirements of public purpose. Thus, information which is otherwise exempt can still be disclosed if the public interest so warrants.

F. No. CIC/AT/A/2007/01374 – Decision dated 03-04-2008 – Prashant A Shah Vs Mohinder Singh, CIT, Ahmedabad – IV & CPIO & another - The provisions of RTI Act cannot be allowed to be used as a tool for fishing operations in the hope that someday it would net a fish.

Appeal No.CIC/MA/A/2006/00220 - Decision No.119/IC(A)/2006 - Date of Decision:14.7.2006 - Mrs. Shobha R. Arora Vs. Income Tax, and Appeal Nos.CIC/AT/A/2006/00644 & CIC/AT/A/2006/00646 - Date of Decision 21.2.2007 - Neeru Bajaj Vs. Income Tax - Income Tax Returns and other details concerning an assessee are not to be disclosed unless warranted by requirements of public purpose.

Appeal No. 22/IC(A)/2006 – Order dated 30-03-2006 – 8(1)(e) and 8(1)(j) - In the case of Farida Hoosenally Vs CCIT-IX, Mumbai - Details of the Income Tax Returns submitted by a particular firm and copies of the orders passed by the respondent in the above matter - Appellate authority held that the details of document sought by the appellant pertain to ‘third party’ information and the concerned party has not given its consent for disclosure of the information - As such, there is no public action involved in filing income tax returns by a private party - Such information is personal and submitted

in fiduciary capacity. Therefore, it cannot be disclosed - The appellate authority has also mentioned that there is some financial dispute between the appellant and the Company, and the appellant has sought information for filing cases against the Company – CIC held that Income Tax Returns filed by the assessee are confidential information, which include details of commercial activities and that it relates to third party - These are submitted in fiduciary capacity - There is also no public action involved in the matter - Disclosure of such information is therefore exempted under Section 8(1) (d) & (j) - In the case of suspicion of corruption the matter may be taken up with the appropriate authority - In the spirit of RTI Act, the public authority is required to adopt an open and transparent process of evaluation norms and procedures for assessment of tax liabilities of various categories of assessee - Every action taken by the public authority in question is in public interest and therefore the relevant orders pertaining to the review and revision of tax assessment is a public action - There is therefore no reason why such orders should not be disclosed. The Chief Commissioner of Income Tax is accordingly directed to supply relevant copies of the income tax assessment orders, if any, provided that such documents are not exempted under Section 8(1) of the Act.

Appeal No. CIC/MA/A/2006/0066 – Order dated 04-05-2006 – Sections 8(1)(j) and 8(10)(h) - In the case of Rakesh Agarwal, Secretary, NyayaBhoomi Vs CIT, New Delhi and DIT (Investigation), New Delhi – two separate applications – copy of the tax returns filed by Shri Ramesh Chandra and copy of the investigation report of Tax Evasion Petition (TEP) submitted by Shri P.P. Sharan against Sh. Ramesh Chandra were sought - CPIOs denied information to u/s 8(1)(j) and 8 (1) (h) – It was also contended that information relating to income tax returns filed by Sh. Ramesh Chandra, relates to third party, the appellant being one of his tenants. It is also stated that there is landlord-tenant dispute and therefore the appellant has sought information for personal reasons. There is therefore no public interest involved in the matter. As regards information relating to the progress made on TEP, it is stated that the investigation is in progress and the report is yet to be finalized. Commission held that the authority correctly applied Sections 8 (1)(j) and 8(1)(h) for exemption of information from disclosure.

Decision No.154/IC(A)/2006 - F. Nos.CIC/MA/A/2006/00156 - CIC/MA/A/2006/00429 - Dated, the 1st August, 2006 - Surendra Nath Bhargava, Vs HPCL and BPCL - CPIO has refused to provide the details of IT returns, assessment order passed by the IT department and the amount of recovery under the subsidy scheme on the ground that the disclosure of such information is exempt u/s 8(1)(d) & (j) of the RTI Act - CIC upheld the order

29. INFORMATION ALREADY IN POSSESSION OF APPLICANT:

F. No CIC/AT/A/2006/00503, 506 & 510 – Decision dated 13-01-07 – S.P. Goyal Vs ACIT(Hqrs), Mumbai and Others– Copies of representation for transfer of cases from one ITO to another sought – CIC held that if there is evidence that a citizen who seeks the information from the public authority is already in possession of the same, he can't

simultaneously claim the right to access the same in the hands of the public authority – However, in case the public authority provided copies, it should not have any objection to certify the same.

30. INFORMATION - NOT AVAILABLE OR UNTRACEABLE:

Appeal No.1855/ICPB/2008 - F.No.PBA/07/1096 – Decision dated 21-04-2008 - Mohinder Kaur Vs Bank of Baroda - Since the information sought for by the appellant is non existent, the question of giving any direction to furnish the same does not arise and accordingly the appeal is dismissed.

Complaint No. ICPB/C1/CIC/2006 – Order dated 06-03-2006 – P. Rajan Vs CPIO, Ministry of Company Affairs – The applicant sought information by sending an e-mail seeking copy of the inspection report in respect of Matrubhumi Printing and Publishing Company Ltd submitted to the Government some time in 1995 by Regional Director (SR), Chennai – CPIO informed that since action relating to the report had been completed, the file had been closed and the report was not available – Appellate authority confirmed the decision of CPIO – Before the Commission, the complainant questioned the action of the Ministry as also the decision of the appellate authority – The stand taken by the Ministry that each CPIO is an independent public authority is also contested - Commission held that even though in terms of Section 5(1) & (2) of RTI Act, a public authority could designate as many CPIOs/ACPIOs, the Act does not confer any specific jurisdiction in respect of each such officer either in terms of geographical or subject wise or the like. The Act also does not prescribe that each CPIO is a separate public authority by himself. He is only a part of the public authority which has designated him as such. The object of designation of many CPIOs/ACPIOs is only with the view that the citizens have proximity of approach. Once a citizen applies to a CPIO of a public authority, irrespective of where and with whom the information is available within the same public authority, it is the duty of that CPIO to furnish the information sought for in relation to that public authority, if necessary by obtaining the same from the concerned CPIO with whom the information sought may be available. There is no scope to either ask the citizen to approach another CPIO within the same public authority or send the request for information to another CPIO with in the same public authority. Only in a case, where the information sought is held by another public authority, other than the one which has designated him as CPIO, he can transfer the request to that public authority for furnishing information to the applicant direct (Section 6(3)) - In respect of inspection report, CPIO could have ascertained the fact whether the same is available in the Ministry or not, even though the same may not be available in the regional directorate, before rejecting the request - If the report is available in the Ministry, then the act of CPIO and Appellate authority amounts to misleading information – Commission also held that the complainant can't question the action of the Department in destroying records (it was also noticed that after May 1997, the complainant did not pursue the report though he was pursuing the matter from 1993) – Every department can have its rules for preservation and destruction of records – RTI Act came into effect only in 2005 and the period of 20 years can't be applied retrospectively. CIC held that if the information is available with the Ministry, the same may be supplied.

F.No. CIC/AT/A/2006/00073 - Dated the 4th July, 2006 - V.R. Sharma Vs Director (E) & CPIO, Ministry of Defence - information about “equivalent status of Defence Accounts Staff/Civilian Govt. employees and Army Officers (from General/Head of Army Staff to N.C.O.)” - in spite of diligent search in all relevant sections of the public authorities concerned, it was not possible to locate any Govt. instructions determining the equivalence between the civilian officers and the officers of the Armed Forces. However, CIC was shown the index of an order signed for Cabinet Secretary carrying the date 26th October, 1968 about “warrant of proceeding (sic)/equivalent rank, Defence Accounts Deptt/Army/Navy/Air Force and Central Secretariat (sic).” The respondents were not in a position to certify the authenticity of this paper – CIC noticed that the Ministry of Defence and the Department of Defence Accounts have made a diligent search to trace if any information about Govt. decision on the equivalence between the ranks of the civilian employees and their counterparts in the Armed Forces exists. Their search yielded no result. They were not in a position to confirm or deny that such information existed. Their dilemma is for anyone to see. It would be fair to assume that the information as requested by the complainant is “untraceable” rather than “non-existent.” There is reasonable ground to believe that the delay in supplying the information, if any, was not without a reasonable cause.

Decision No. 236/IC(A)/2006 - F. No. CIC/MA/2006/00636 - Dated, the 11th September, 2006 - A. Santosh Mathew Vs DOPT – State wise number of IAS officers against whom disciplinary proceedings are pending annually from 1997-98 to 2004-05 – Information from 1999-00 to 2004-05 is provided as it is available - Whether the CPIO should collect the information, which is not available in his office, from other public bodies and furnish to the applicant. On this issue the Commission has already observed that (Decision No. 216/IC(A)2006.) *“Transparency in functioning of public authorities is expected to be ensured through the exercise of right to know, so that a citizen can scrutinize the fairness and objectivity of every public action. This objective cannot be achieved unless the information that is created and generated by public bodies is disclosed in the form in which it exists with them. Therefore, information is to be provided in the form in which it is sought, u/s 7(9) of the Act. And, if it does not exist in the form in which it is asked for and provided to the applicant, there is no way that proper scrutiny of public action could be made to determine any deviations from the established practices or accepted policies”*. Thus, a CPIO is expected to provide the information available with him. He is not required to collect and compile the information on the demand of a requester nor is he expected to create a fresh one merely because someone has asked for it. Because, such attempts would not allow for scrutiny of public action to detect and determine the nature and extent of deviation from the accepted policies. In view of this, the order passed by the appellate authority is fully justified.

31. INFORMATION – DESTROYED AND BEYOND TWENTY YEARS:

Appeal CIC/AT/A/2006/20 – Order dated 23-003-2006 – In the case of Ex – Nb/Sub. Gurbachan Singh (JC-32487), Pune Vs Lt Gen M. G. Girish, DG, DC 7 W, Army Headquarters, New Delhi – Ex Nb Sub Gurbachan Singh, the appellant in this case,

was subjected to Court martial proceedings in the year 1971. Appellant has asked for a copy of the order in respect the appointment Maj. Vinay Khanna, Signals (IC 10144) was holding when posted/transferred to 5(1) Support Signal Company Pune, between 8-25 February, 1971 - The PIO Maj. Gen. A.B. Sayyad, ADGPI, rejected the request for information under Section 8(3) of the RTI Act as the information sought by the petitioner pertained to records/occurrence which were more than 20 years old. The appellant's first appeal was rejected on the ground that as per provision of the Army Rule 146, the records of the court martial trial were destroyed after a retention period of 10 years. The second ground was that the information sought by Ex Nb Sub Gurbachan Singh served no public interest and hence need not be supplied to him. Thirdly, it was further pointed out in the order on the first appeal that the information sought by the appellant in regard to Maj. Vinay Khanna was in the nature of personal information, disclosure of which have had no relation to any public activity and hence could not to be disclosed as per provisions contained in Section 8 of the Right to Information Act – The Commission held that it was quite clear that all records in the present case stand destroyed after a specified period of retention under Army Rules – 146. Since the information did not even exist, it was physically impossible to provide it to the Appellant. There is no liability under RTI Act of a public authority to supply non-existent information – However, the Commission held that the PIO was not right in rejecting the request for information on ground that it was over 20 years old. In fact the contrary is true. Section 8(3) is a provision that favours the information seeker. In the present case, however, this is a moot point in so far as the information has been destroyed after following the appropriate rules.

32. INPUTS TO A DECISION:

Appeal No.25/IC(A)/06 - Order dated 17-04-2006 – Section 8(1)(e) and 8(1)(j) - In the case of Dr. D.B. Singh Vs UPSC – criteria proposed by the secretariat of UPSC for selection of Principals in the Government Senior Secondary Schools under the Directorate of Education, NCT, Delhi – Inspection of all related files where applicants are called for interview for such posts – CPIO furnished the criteria approved by UPSC and refused to allow inspection of records because the process is going on - The UPSC has further stated that the recruitment case files/records, which the appellant has requested for inspection, contains personal information having personal bio-data, educational qualifications and experience rendered by the candidates over a long period of time, of all the candidates who have applied for the post. These candidates have given their personal details to the UPSC in a fiduciary relationship with the expectation that this information would not be disclosed to others. Hence, the UPSC is of the view that disclosure of this information held in a fiduciary capacity is exempted from disclosure under Section 8(1)(e) of the RTI Act. Moreover, the files also contain purely personal information, disclosure of which has no relation to any public interest or activity and hence exempted under Section 8(1)(j) of the Act – CIC held that appellant's insistence that he may be provided the criteria suggested by the Secretariat does not seem to be plausible as any exercise undertaken by the officials would merely constitute inputs for the consideration of the UPSC for taking a final decision and approval - As regards his request for inspection of files, papers and other records pertaining to the recruitment of Principal, as the process of

recruitment is at the interim stage and the selection of candidates is yet to be completed, the request for inspection of records cannot be entertained at this stage - The UPSC has therefore correctly applied exemption from disclosure of information under Section 8 (1) (e) and Section 8 (1) (j) of the RTI Act.

33. INSPECTION OF FILES:

Appeal No CIC/WB/C/2006/00036 – Order dated 19-04-2006 – In the case of Milap Choraria Vs Election Commission of India - seeking to inspect documents concerning information with reference to his petition of March 20, 1996 to the three Election Commissioners, together with a specific letter /notification of January 6, 2005 and previous related documents – CPIO asked the appellant to obtain copies of letters asked for on payment – Inspection not allowed stating that file notings are exempt – CIC held that the application was simple and to inspect the file with reference to the original petition of 1996 - However the response of the PIO was circuitous, first asking for a copy of the original petition and then proceeding u/s 7(3) of the Act. The response of the Appellate authority was also to prepare estimates of costs and state that file notings were exempt from disclosure u/s 8 (1) of the Act. The appellant will now be allowed to inspect the requisite file together with related papers in the offices of the Election Commission, immediately on receipt of this decision. In case he requires copies of any specific documents these will be provided to him free of charge as time limits specified in Sec 7 (1) have not been adhered to.

34. INTENTIONS OF THE APPLICANT:

Appeal No: CIC/WB/A/2006/00015 - Dated: 02/06/06 - Kishur J. Agarwal Vs Indian Rare Earths Ltd.(Dept. of Atomic Energy), Mumbai – Details of advertisement expenses sought – Inspection of files – Request denied because the demand being contrary to the intendment of – CIC observed that the findings of the PIO, questioning as they do, the intentions of the applicant in seeking the information, are not sound in light of Sec 6(2) and information should be provided to the appellant. If providing the information is found disproportionately diverting of resources, allowing applicant to inspect the record as requested by him could provide the information.

F.No.CIC/AT/A/2006/00075 - Dated the 2nd June, 2006 - A.S. Lall, I-47 Vs Jt. Commissioner of Police, Police Headquarters, New Delhi – information on licence to some restaurants –CIC held that the CPIO, the AA or the Commission will not, and cannot, explore the motive of a person in seeking information to determine his eligibility to receive it. The principal factors determining, whether disclosure of an information can be authorized, is whether it answers to the definition of “information” and whether it is barred by exemptions provided in the Act.

35. INVESTIGATIONS IN PROGRESS:

Judgment of Delhi High Court (Ravinder Bhat J.) - In WP No. 33114/2007 (Shri Bhagat Singh Vs. Chief Information Commissioner & Ors) - Access to information under Section 3 of the Act, is the rule and exemptions under Section 8, the exception. Section

8 being a restriction on this fundamental right, must therefore be strictly construed. It should not be interpreted in manner as to shadow the very right itself. Under Section 8, exemption from releasing information is granted if it would impede the process of investigation process cannot be a ground for refusal of the information, the authority withholding information must show satisfactory reasons as to why the release of such information would hamper the investigation process. Such reasons should be germane, and the opinion of the process being hampered should be reasonable and based on some material. Sans this consideration, section 8(1) (h) and other such provisions would become the haven for dodging demands for information.

F. No. CIC/AT/A/2007/01455 – Decision dated 25-04-2008 – S.K. Agarwalla Vs Directorate General of Central Excise Intelligence - CIC felt that although speedy investigations in matters of revenue-evasion is a salutary goal, it would be inappropriate and, even injurious, to on-going investigations if informants are allowed to intrude into the investigative process — all in the name of enforcing a Right to Information. Intrusive supervision of investigative work of public authorities — especially by interested parties — has the effect of impeding that process, in the sense it exposes the officers to external pressures and constricts the freedom with which such investigations are to be conducted. Commission also felt that there is no reason why officers of public authorities should space their investigations to benefit informants. Intrusive interference in investigation work is not conducive to such investigations and, in that sense, impedes it.

Decision No.34/IC(A)/06 – Appeal No. CIC/MA/A/2006/0049 – Order dated 04-05-2006 – Section 8(1)(h) – In the case of Ms. Pushpinder Paul Kaur Rana Vs Director General of Income Tax(Investigation), New Delhi - details of the investigations made by the Directorate of Investigation, Income Tax Department, regarding the tax evasion on account of sale transaction of property No.GC-2, Shivaji Enclave, New Delhi – The appellant was one of the parties in the sale transaction of the above mentioned property - She filed a complaint to the Director Income Tax (Investigation) against Mr. Manmeet Singh and Mrs. Surender Kaur (buyers) who had paid much higher amount to the appellant Ms. Pushpinder Paul Kaur Rana (seller) than what was actually revealed by them to the DIT to evade taxes - The appellant sought information relating to the action taken by the IT department on her complaints made in 2001 against the above persons on the matter of under valuation of the said property and consequent tax evasion and loss of revenue to the country. She had also sought a copy of investigation conducted by the IT department. In particular, she asked for the sale price declared by Mr. Manmeet Singh and Mrs. Surender Kaur during the investigation and as per their income tax returns – CPIO informed the appellant that the information sought cannot be made available as it is exempt u/s 8 (1)(j), being personal information, the disclosure of which has no relationship to any public activity or interest - In her appeal to the Appellate Authority, the appellant claimed that she had given the information and complaint to the Income Tax department and therefore she was entitled to know what action the department had taken in investigating the complaint filed by her - Appellate Authority contended that the appellant was one of the parties to the deal and she was involved in personal dispute with the complainees and the complaint made to the Income Tax department is out of a personal grievance. The appellant's interest in the

information sought was purely of a personal nature, the disclosure of which has no relationship to any public activity or interest. The Appellate Authority further stated that “the details of investigation being conducted by the department against any person cannot be disclosed to any other person, be it even the complainant himself, because the same would be covered u/s 8(1)(h) of the RTI Act.” - The representatives of the appellant said that the property was sold for about Rs.87 lakhs whereas the actual amount of transaction revealed to Income Tax Department is only about Rs.40 lakhs. There was thus considerable loss of revenue due to tax evasion. The respondents mentioned that the complaint of tax evasion, received from the appellant was investigated in 2003 and the Report was forwarded to the concerned IT department for assessment of the extent of tax evasion and for necessary action for recovery of taxes. The conduct of investigations on the matter of tax evasion is a part of the process of ascertaining facts and verifying details including personal information, for identifying the offenders and for determining the amount of tax evasion. The report is therefore treated confidential, the disclosure of which is exempted u/s 8 (1) (h) – Commission held that Investigations of the complaint on tax evasion by the IT department is a part of the process of identifying the offenders and assessing the extent of tax evasion by them. Until the nature of offence is duly examined and thoroughly investigated and necessary action is taken under the relevant provisions of tax laws, the disclosure of investigation report on tax evasion is barred u/s 8(1) (h). Needless to say, the Department of Income Tax is expected to conduct investigations fairly and objectively, and that in a transparent manner, so that the relevant investigation report could be made public, soon after the taxes due from the offenders are recovered. In the instant case, the Commission examined the report and observed that it contained personal information like PAN number of the complaine, which cannot be disclosed. DIT (Investigation) is therefore directed to disclose the report as per the provision u/s 10 (1) & (2), after the entire process of investigation and tax recovery is complete in every respect. In the meantime, the DIT (Inv.) is directed to inform the complainant about the completion of investigations by them and the subsequent advice given to the concerned department for initiating appropriate action on the tax evasion and other related matter.

Appeal No.50/IC(A)/2006 - F.No.CIC/MA/A/2006/00118 – 01-06-06 - Rakesh Kumar Gupta Vs Directorate General of Income Tax (Vig) – Information pertaining to Tax Evasion Petition (TEP) filed by appellant - to know the status of investigation carried out by the respondent in a particular case brought to the notice of the DGIT (Vig.) - The CPIO has informed on this issue that the case is still under investigation and, therefore, the records could not be allowed for inspection u/s 8(1)(h) - CIC held that there ought to be a definite time frame for completion of such investigations and the petitioners should be in know of the progress made in this regard. Not only the offenders are to be prosecuted to contain corruption and the revenue due to the Government is to be recovered, but also the expected ‘rewards’ to the petitioners should be provided at the earliest. It is over two and half years that the matter was reported. The amount of tax evasion, as alleged is huge, over Rs. 100 Crores. The investigations should have been completed by now. The DGIT(Vig.) is therefore directed to provide the information relating to the investigation report, soon after this exercise is completed, under intimation to the Commission. Investigation on TEP is in progress, as stated by the CPIO. Therefore, exemption from disclosure of information u/s 8(1)(h) has been

correctly applied by the CPIO. Until the investigation is complete, records in any form cannot be disclosed by the concerned authority.

F.No.CIC/AT/A/2006/00039 – Dated 01-06-06 - Govind Jha, EE(SG), Jt. Dir (POL) E2W (PPC), E-in-C's Branch, Army HQs Vs DGW, E-in-C's Branch Army HQs - On the basis of a complaint filed by the appellant, the competent authority in the E-in-C's office Army HQ had initiated certain investigations on the directions of the CVC (sic). The investigation, apparently, has been completed and the report has been submitted to the Ministry of Defence, who in this case are the competent authority to take a decision. It is the contention of the CPIO and the appellate authority that the matter is still under examination by the Ministry of Defence and has not yet reached fruition. Mere submission of the report by the investigating officer cannot be construed as the completion of investigation. CIC held that while in criminal law, an investigation can be said to be completed with the filing of the charge sheet in an appropriate court by an investigating agency, in cases of vigilance related enquiries, misconduct and disciplinary matters, the investigation can be said to be over only when the competent authority makes a determination about the culpability or otherwise of the person or persons investigated against. The word investigation used in Section 8(1)(h) of the Act should be construed rather broadly and should include all enquiries, verification of records, assessments and so on which may be ordered in specific cases. In all such matters, the enquiry or the investigation should be taken as completed only after the competent authority makes a prima-facie determination about presence or absence of guilt on receipt of the investigation/enquiry report, from the investigation/enquiry officer. If the disciplinary/appointing authority chooses to disagree with the findings of the investigating officer. Early disclosure of the investigation report in such a case, besides being against the norms of equity, would have caused irretrievable injury to the officer/person's (who would have been the subject of investigation) standing and reputation. Premature disclosure of investigation-related information has the potentiality to tar the employee's reputation, permanently, which cannot be undone even by his eventual exoneration. The balance of advantage thus, lies in exempting investigations/enquiries in vigilance, misconduct or disciplinary cases, etc. from disclosure requirements under the Act, till a decision in a given case is reached by the competent authority. There is one other factor that also needs some reflection. Disclosure of an investigation/enquiry report (as demanded in this case by the appellant) even before its acceptance/rejection by a given competent authority will expose that authority to competing pressures which may hamper cool reflection on the report and compromise objectivity of decision-making.

Decision No.157/IC(A)/2006 - F. No.CIC/MA/A/2006/00230 – Dated 01-08-06 – Arun Jaitley, MP Vs CBI – sought documents, manuscripts and files pertaining to freezing and defreezing of accounts of Quattrocchi and his wife – CPIO denied stating that investigative process is on and the matter is sub-judice – Information sought is huge and may disproportionately divert the resources of the authority and not permissible u/s 7(9) - the issue of freezing and de-freezing of the accounts of Mr. Quattrocchi is not a closed matter, as contended by the appellant. In view of this, the exemptions claimed u/s 8(1)(h) by the CBI is justified. The information regarding correspondence exchanged

between the Crown Prosecution Service of the United Kingdom, Interpol and the CBI, advices received from the expert counsels on various issues relating to the case and other on-going investigations are covered under the exemption category of section 8(1)(e) &(h) of the Act. The communications with other external agencies, which are cooperating on the matter, are 'privileged communications', hence, exempt from disclosure u/s 8(1)(f) of the Act. Though the CBI has claimed exemptions from disclosure of information on valid grounds, as mentioned above, these exemptions would not be available after the expiry of twenty years of such public actions under the provisions of the Act. The CBI is, therefore, directed to expedite the investigations in the matter lest its credibility should get unduly tarnished.

36. IDENTITY OF COMPLAINTS:

Appeal No. 20/IC(A)/2006 – Order dated 29-03-2006 – In the case of A X S Jiwan Vs Commissioner, Central Excise & Customs, Surat – II – Information relating to sanction of leave and payment of salaries to one of his colleagues – request rejected on the ground that such information is exempt u/s 8(1)(j) - Appellant has contended that due to non-payment of salary, his colleague is facing financial hardship and therefore it concerns life and liberty of his colleague – CIC held that RTI Act enables every citizen to take change of his/her life - A citizen can seek relevant information that can be used for betterment of the information seeker - It is not understandable why the affected person has not sought information about the public action affecting her life - Information sought is to be provided in the form in which it exists. It does not have to be created afresh by the public authority to supply the requester - In the present case, information seeker has asked several questions, expecting the CPIO to reply in yes or no, which the CPIO ought not to do. As the information sought does not exist in the form in which it is requested and that it relates to another employee the exemption from disclosure under Section 8(1)(j) has been correctly applied by the appellate authority.

Appeal No.52/ICPB/2006 - July 19, 2006 - S.C. Batra Vs Central Warehousing Corporation – In terms of Section 8(1)(g) Information, the disclosure of which would endanger the life or physical safety of any person or identify the source of information or assistance given in confidence for law enforcement or security purpose, could be denied to a citizen. In the present case, charge sheets have been issued to the appellant on the basis of complaints. As the disciplinary authority must have found substance in the complaints. Since the charge sheets have emanated from the complaints, the disclosure of the names of the complainants would not be in the interest of the complainants. If blower policy is to succeed, then non disclosure of the names of complainants is a right step to achieve the same.

37. OPINIONS:

Decision No.86/IC(A)/2006 - F. No.CIC/MA/A/2006/00035 - Dated, the 5th July 2006 - Asis Kumar Panda Vs CBEC - Applicant should not seek 'personal opinion' of the CPIO.

Decision No.239/IC(A)/2006 - F. No.CIC/MA/A/2006/00459 - Dated, the 6th September, 2006 - H.K. Bansal Vs DOPT - The appellant should however avoid seeking 'opinion' of the CPIO in any form. The overall purpose of seeking information should be to scrutinize the public action in the light of accepted policies and established practices, so that appropriate corrective measures could be initiated.

Appeal No. CIC/AT/A/2006/0044 - Date of Decision: 18.12.2006 - Aakash Aggarwal Vs. Debts Recovery Tribuna -; the words "opinions" and "advices" in Section 2(f) only meant that subject to the exemptions of Section 8(1) and Section 9, opinions and advices available on the files and records of a public authority shall be liable for disclosure. It cannot be interpreted to mean that all public authorities shall act as advisors to RTI-petitioners.

38. PARALLEL CHANNELS:

Application No: CIC/WB/A/2006/00052 – Dated 01-06-06 - Shri Rakesh Agarwal Vs MCD - It seems that two parallel channels in MCD were handling the matter. So while one PIO provided the applicant with the information sought, the other rejected the application leading to his first appeal to an AA other than Shri Akola. As the matter is amicably resolved no action is taken u/s 20.

39. PERSONAL HEARING:

Application No. CIC/WB/A/2006/00016-30 – Order dated 31/3/06 – Sections 19/18 – In the case of Shri Rajendra Prasad Jain Vs NDMC – Information regarding features and processes in providing building permission of various structures located in the jurisdiction of NDM - Applicant found the PIO's reply incomplete and evasive - Appellate authority repeatedly postponed hearings and was finally rude and offensive, hence precipitating the appeal – Appellate authority stated that he was always ready to hear the appellant but that the case required to be postponed once because of his preoccupation and once on the appellant's request. The appellant contested the latter - However AA averred that the time limit for the appeal had still not run out when the appellant resorted to a 2nd Appeal before the Commission. He stated that he was prepared to hold a hearing and provide any information asked for within the law - However, he did caution that the appellant was using the law to divert attention from his own illegal activities for which he was liable to criminal action - To this the appellant responded that because of the humiliation to which Secretary Chandra had subjected him, he was not prepared to appear before him for a hearing – CIC felt that this was not an appeal against any final decision taken by the NDMC- Therefore as a complaint u/s 18 (1) (e) & (f) – CIC opined that this to be a case of clash of personalities – Therefore, the matter that cannot be resolved by inquiry under Sec 18 (2) - NDMC is directed to provide the information requested in the form asked for by the appellant latest by April 20, 2006, without insisting on the personal appearance of the appellant before him - It shall be open to the appellant to appeal the final orders of the Appellate Authority if required, before the Commission after that date.

40. PRESCRIBED PROFORMA FOR APPLICATION:

Complaint no CIC/C/I/2006 – Order dated 16-01-06 – section 18 – Madhu Bhaduri Vs CPIO – review application no cic/c/i/2006 – review order dated 30-10-06 - DDA violated section 6(1) & 6(2) by asking the applicant to apply in a prescribed proforma and also inserting a clause in which reasons are sought - "whether applicant is owner of the property or GPA holder or has any other interest in obtaining the information." - CIC held that all applications are to be in writing or through electronic means accompanied by the prescribed fee – however for ease of reference and response this does not preclude a public authority from prescribing a standard format – DDA at its own expenses printed the forms so that all necessary information to be provided is standardized – there is no violation of section 6(1) – but clause 3 of the form seeking reasons is violative of section 6(2) – DDA agreed to amend the form – there after review application filed by the complainant – no department is proscribed from designing an application that facilitates identification and therefore ease of access to information sought – it cannot be treated as a substitute for simple application as laid down in section 6(1) – absence of standard application can't be a ground for rejection of application – but commission did not agree with the view of the applicant that the authority to prescribe formats would inevitably be misused by public authorities – in its statement of object & reasons, the RTI act is to “promote transparency and accountability in the working of every public authority” – hence it is incumbent upon any public authority prescribing a format that it remain simple and comprehensible as well as accessible to common folk

41. PENALTY:

Adjunct to Appeal No. CIC/WB/A/2007/00320 dated 29-3-2007 - Subhash Chandra Vs Dep't of Health & Family Welfare (H&FW), NCT Delhi - Since it is a PIO who is primarily responsible for supplying information and in this case it was in the knowledge of then PIO on 26.10.06 that such an application was pending and indeed already overdue, this routine processing of the application is not acceptable. We, therefore, find that PIO has rendered himself liable to a penalty of Rs. 9,750/- @ Rs.250/- a day from 27.10.06 to 5.12.06.

Appeal No. CIC/AT/A/2006/00040 – Order dated 27-03-2006 – In the case of Mujibur Rehman Vs South Eastern Coalfields Ltd., Chattisgarh - asking for information on seven points pertaining to seniority and promotions, together with promotion rules - This was referred to the Personnel Department of SECL - On receiving no reply applicant appealed to the appellate authority, who the appellant claimed never responded – Appellate authority Gautam Ray has attached a letter written by him to the appellant on 25.2.'06, which he claimed, disposed of the appeal. He asked that the delay in reply be condoned as he was ill and he has produced medical records in support of this. The appellant however states that he never received the letter cited by the Appellate Authority - PIO on the other hand claims that he made every effort and provided the necessary information to the applicant admitting only delay because of the necessity of obtaining information from other Departments from whom the information was delayed and the information was therefore supplied free of charge. Hence PIO Mitra claims protection u/s 5(5) of the Act - The applicant admits that he received a reply, much delayed, after filing his appeal, but that this did not address his requests – Commission

took adverse observation of the manner in which this case has been handled by the public authority. The information asked for should be common knowledge and is suitable for suo moto disclosure u/s 4 (1) of the Act - Had an effort been made to conform to this provision, the public authority, the appellant and this Commission would have been saved much time and expense. The Commission noticed that the applicant has not been given the information that he has sought, not even the promotion rules, except a copy of the seniority list, which was attested and certified by the PIO during the hearing - The Appellate Authority has failed to apply his mind to the appeal and dismissed it having been told that the information and been supplied, without caring to confirm this with the appellant or indeed giving him a chance to be heard which together with there being no evidence of the AA's decision having been received by the appellant arouses the suspicion that this decision was only an afterthought in the apprehension that the applicant might go in appeal. The plea of PIO Mitra that because he was not the principal supplier of the information, the officer whose assistance he has sought under Sec 5 (4) namely GM (P&A) is liable to bear responsibility for the delay and therefore deemed refusal to provide the information sought was accepted. He will therefore show cause by April 20, 2005 as to why a penalty of Rs 25,000 should not be imposed upon him. This appears an egregious case of neglect of responsibility. A copy of this Decision may therefore be sent to the Secretary Coal in the Government of India, and to the Department of Personnel & Training for their record and initiation of remedial action.

42. PUBLIC INTEREST:

Decision No.2359/IC(A)/2008 - F. No.CIC/MA/A/2008/00283 – Decision dated 07-05-2008 - Dr. Bharat Jhunjhunwala Vs National Hydroelectric Power Corporation Ltd - The infrastructure projects such as the one in question have significant bearing on economic well being of the people, including protection of environment. People are hugely benefited by the implementation of such projects as they are expected to get income and employment opportunities as well as the comforts of supply of power. In a short run, some people may be adversely affected because of inconvenience caused due to implementation of the project including dislocation of people in the vicinity of the project. The people of the area are, therefore, a major stakeholder. In view of this, there is no justification for withholding the information relating to the decision making process as well as execution of the project. The appellant who lives in a nearby village is surely concerned about the implementation of the Project. The respondent is, therefore, directed to allow the appellant to observe as to how the decision in respect of the project in question has been taken and to provide access to all the records and files pertaining to the implementation of the project. In view of the fact that such projects are to be implemented in partnership and cooperation of the people who are the ultimate beneficiary of the project, the appellant should have access to information, beginning from its conceptualization to the process followed by the respondent for implementation of the project.

Appeal No.CIC/WB/A/2007/01226, 1356 & CIC/WB/A/2008/00131 – Decision dated 21-04-2008 - Baldev Chander Sehgal Vs DDA - It cannot be claimed that allotment of plots, their cancellation or re- allotment is a private activity; since this is a public activity conducted in the public interest by the concerned public authority, in this case the DDA.

Application No CIC/WB/A/2006/62,65,68-74,76-80,82,83,87,89-101,103-106,108-111 – Order dated 27-03-2006 – In the case of Boby Verma & Others (40 applicants) Vs Directorate of Education, Delhi – information sought on ten issues (of Mayo International Public School), five issues (of National Victor Public School) and similar issues (of eight other public schools) relating to registration and admission of children from the weaker sections in public schools in Delhi. No response from the PIO within the stipulated time - appeals filed and heard but no reply in 14 cases and wrong and irrelevant information in other cases - Before CIC Officers of the Directorate explained that there is a 20% reservation in admission to schools under the free quota schemes for weaker sections. However the public schools do not come under government and are therefore not public authorities. The Department can only direct adherence to the Scheme but not actually implement it. To provide the information asked for the Department would have to await reports from the concerned schools. Hence the delay in providing the information despite every intention so to do. Representatives of the Department also explained that it was their effort to ensure implementation of the scheme and sought the collaboration of appellants in this regard. Hence meetings had been called in which all difficulties had been addressed to the satisfaction of the appellants. Hence there was deemed no further need to provide information and the order of the Appellate authority Dr Mathur says as much on 14/2/'06. The appellants however state that although they were indeed present in the meetings mentioned they were not taken into confidence on the decisions taken and the information asked for remained unanswered or were obfuscated even though delayed replies were sent on 27.1.'06 by the PIO. The appeal mentions the details of questions and answers and claims that these answers were partial and evasive. CIC held that as long as the Department had shared information available to them with the applicant this would meet the requirements of the Act. If the applicant found that action taken on a particular matter was inadequate or that some information should have been held by the Department but was not, the remedy did not lie under the Right to Information Act, but became a case of grievance redress. However, information so obtained could be used to remedy inadequacies in government action and suggest improvements in departmental performance. In this context it was found that since the Directorate of Education is responsible for enforcement of the Scheme, it cannot escape responsibility for monitoring its implementation. It cannot therefore say it has no information on how many children of the weaker sections are admitted to each class, or indeed when, if any drawing of lots was done for any school where weaker sections exceeded 20% of those seeking admission. On the other hand not passing on information which has not been received cannot be construed as evasion of responsibility. Information as available in the public authority is required to be provided. Not giving information which the authority does not hold cannot be construed as evasion of responsibility, it cannot also be construed to mean that it gives an excuse to the authority to avoid providing the information as mandated by the law. But it is also observed that the Department appears to have adopted a lackadaisical approach to the enforcement of a salutary social development programme in this case. The Government of the NCTD will examine if there is any suspicion of venality in admissions warranting an

enquiry by the CBI. A copy of the Decision was sent this purpose therefore be endorsed to the Secretary (Education) Delhi.

Appeal No CIC/ C/1//2006-CIC – Order dated 27-04-2006 – In the case of Ms Madhu Bhaduri Vs DDA - information on survey and resettlement plans together with policy guidelines for resettlement of 'jhuggies' demolished on Sept 30, 2005 in Rajiv Camp in Mayur Vihar Ph I and asking to inspect the files on the subject - In compliance to the hearings before the CIC, Ms Bhaduri had also inspected the relevant files of DDA. Her grievance includes some issues arising as a result of that inspection – When applicant asked for information on resettlement plans, DDA replied that there are no such plans – However, inspection of the files revealed that land had been acquired and commitments had already been made before the Hon'ble High Court that land for the purpose was in fact available – In respect of proof of delivery of demand letters to the residents to which the answer had simply been that several persons had not received the letters, which was not the information asked for – On the question that when the persons affected were required to submit the money asked for, to which the response was that the money was expected to be paid in ten days from the date of delivery of the demand letter, but that nobody had paid by the due date. Appellant's claim on the other hand was that those who went to pay the demand were turned down at the DDA offices. CIC held that it is clear from the papers submitted that the issue of resettlement has come up before the Hon'ble High Court of Delhi in September 2004, when commitments appear to have been given and time sought by DDA. However, that does not substantiate the complaint of the appellant that information has been refused. As stated by CPIO Padhy, the DDA has no such plans for resettlement at present. This information can assist the appellant in seeking redress from the Hon'ble High Court but prescribing a remedy to the grievance claimed is beyond the jurisdiction of the Commission to adjudicate upon - On the issue of proof of delivery of demand letters, it is conceded by DDA representatives that these letters carry proof of delivery. Photostat copies of these letters may therefore be supplied to the appellants - The question asked was simple but the answers given and claims made have confused the issue. No proofs were made available or indeed are possible in matters of this nature. The stand of CPIO that a number of such payments are regularly accepted and that therefore the allegation is untenable is countered by the dates on the DDs copies of which are on file. It is inconceivable that poor *jhuggi* dwellers would execute backdated DDs only to delude authorities. CPIO DDA's stand stands further compromised by the fact that DDA has been unable to supply copies of the demand letters as evidence of delivery to well wishers on their initial application who could have worked to ensure action within the DDA prescribed time frames. Making due allowance that *Jhuggi* dwellers are the economically less advantaged among the residents of Delhi, DDA through its office of Asst Director (LM) EZ will now therefore accept DDs from all those who had presented earlier DDs if the dates of the originals can be verified, since the earlier DDs will by now have expired. The remainder may apply afresh to the Deputy Director (LM) as invited by the CPIO. This order will of course apply to the present appellants, their claim having been specifically considered by the Commission.

F.No.CIC/AT/A/2006/00075 - Dated the 2nd June, 2006 - A.S. Lall, I-47 Vs Jt. Commissioner of Police, Police Headquarters, New Delhi – information on licence to

some restaurants –CIC stated that the question is whether a private business requiring licence from various public authorities, qualifies to be a public activity? In this particular case there is an added dimension as well, i.e. the business activity licenced to be carried out viz. restaurant/eating houses, involves the public, both as clients and as common citizens, whose rights or whose convenience and welfare, may be impacted by such business activity. Licensing of such a business activity is meant to impose conditions which would ensure not only that the activity conforms to pre-determined norms, but also that that citizen's rights, his comfort and welfare are duly safeguarded. In essence, licencing is, therefore, not just a matter between a licensor and a licensee, but is an activity meant to subserve public good. The information solicited here may pertain to a private person, who might be the owner of a restaurant/eating place, yet the activity undertaken by him has a strong public face. A citizen is entitled to know whether the letter of law is followed by the licensing authority in authorizing such a business activity. There is no merit in the argument that a restaurant-business is a private matter of its owner, or that it is a matter between the police as the licensing authority and, the restaurant-owner, in which no citizen will, or can, have any interest. Such an interpretation of the law will only help encourage those who tend to benefit from violating laws rather than complying with them. On the subject of whether the information solicited bore the characteristic of personal information, we are clear in our mind that this information does not answer to the definition of personal information. The CPIO, the AA or the Commission will not, and cannot, explore the motive of a person in seeking information to determine his eligibility to receive it. The principal factors determining, whether disclosure of an information can be authorized, is whether it answers to the definition of "information" and whether it is barred by exemptions provided in the Act.

Appeal: No. CIC/OK/A/2006/00085 - Dated, the 4th July, 2006 - S.S. Bhagod Vs Ministry of HRD – Lack of domicile condition in Rajasthan leading to filling of seats in NIT by others studying in various academies at Kota – Information on seats reserved for Rajasthan – HRD Minister's press interview to review the policy - The Ministry of HRD sent a reply to the Notice of CIC stating that the RTI is for furnishing information and not for explaining public policy. The relief asked for by the applicant under RTI, according to them, falls under the domain of public policy formulation – Appellant explained in detail the public issue involved and the need for changing the present scheme for admission suitably so that the seats do not remain vacant in Rajasthan. Taking suo moto cognizance of the HRD Minister's interview dated 6th September, 2005 and the Times of India Report dated 14th November, 2005 and exercising its powers under clause (d) of sub-section (3) of Section 18 of the RTI Act, 2005, the Commission directed the CPIO, Ministry of HRD to file a report on the status of the Bill and make available their files for inspection to the Commission within 15 days of the issue of this order.

43. PUBLISHED INFORMATION:

Appeal No. 21/IC(A)/2006 – Order dated 29-03-2006 – In the case of Arun Verma Vs Dept of Company Affairs - Information relating to certain Companies - Relates to : registration number, date of incorporation, registered address, share holding pattern, name and address of Directors, etc. Appellate authority informed the appellant that

'Section 610 of the Companies Act, 1956 provide that any person may inspect any document kept by ROC and obtain copy of any document from the ROC concerned on payment of prescribed fee' - The appellant has however insisted that the CPIO of the Ministry should compile and provide the information to him – CIC held that there is already a provision for seeking information under the Companies Act - The appellant may accordingly approach the Registrar of the Companies (ROC), as advised by the appellate authority, to obtain the relevant information. There is no question of denial of information to him.

44. PERSONAL INFORMATION:

CIC Full Bench Decision - Appeal No. CIC/AT/A/2007/00490 – Decision dated 05-03-2008 - G.R. Rawal Vs Director General of Income Tax (Investigation), Ahmedabad - CPIO or the Appellate Authority may order disclosure of such information if they are satisfied that the larger public interest justifies disclosure - This would imply that even a personal information which has some relationship to any public activity or interest may be liable to be disclosed - An invasion of privacy may also be held to be justified if the larger public interest so warrants - It is, therefore, necessary to analyze the ambit and scope of both the expressions “personal information” and “invasion of privacy” - In common parlance, the expression “personal information” is normally used for name, address, occupation, physical and mental status, including medical status, as for instance, whether a person is suffering from disease like diabetes, blood pressure, asthma, TB, Cancer etc. including the financial status of the person, as for instance, his income or assets and liabilities of self and other members of the family. The expression shall also be used with respect to one’s hobbies like painting, music, sports etc. Most of these mentioned above are information personal to one and one may not like to share this with outsider. In this sense of the term, such information may be treated as confidential since one would not like to share it with any other person. However, there are circumstances when it becomes necessary to disclose some of this information if it is in larger public interest. Thus, for example, if there is a doubt about the integrity of any person occupying a public office, it may become necessary to know about one’s financial status and the details of his assets and liabilities not only of the person himself but also of other close members of the family as well. Similarly, if there is an allegation about the appointment of a person to a public office where there are certain rules with regard to qualification and experience of the person who has already been appointed in competition with others, it may become necessary to make inquiries about the person’s qualification and experience and these things may not be kept confidential as such.

Decision No. 2329/IC(A)/2008 - F. No. CIC/MA/C/2008/00093 – Decision dated 06-05-08 - Gunjlata Verma Vs MTNL, Delhi - the grounds for condonation of unauthorized absence of the employee cannot be treated as personal information.

Appeal No. 05/IC (A)/CIC/2006 – Order dated 03-03-2006 – Section 8(1)(j) and section 138 of IT Act – In the case of Arun Verma Vs DGIT (Systems), IT Department – Appellant sought information from CPIO, CBDT regarding details of PAN number, Date of Allotment of PAN number, TAN number and Date of Allotment of TAN number in case of 26 companies – These companies are engaged in sea food and marine product

business – How the appellant is associated to the companies is not known – CPIO held that information related to PAN and TAN is personal information and subject to confidentiality u/s 138 of the I.T Act – The appellant in appeal contended that information which can't be denied to the Parliament or a State Legislature can't be denied to him – Appellate authority held that PAN is a unique identification and required to be disclosed by a person whenever he is required to do so – It is a number which is personal to the holder and its disclosure to any other person would cause unwarranted invasion of privacy of the holder - Further, the appellant failed to prove a case of larger public interest – Commission held that PAN is a statutory number, which functions as a unique identification for each tax payers. Making PAN public can result in misuse of this information by other persons to quote wrong PAN while entering into financial transactions and also could compromise the privacy of the personal financial transactions linked with PAN. This also holds true for TAN. Information relating to PAN and TAN, including the dated of issue of these numbers, are composite and confidential in nature under Section 138 of Income Tax Act. The appellant has not made a case of *bonafide* public interest for disclosure of PAN/TAN Numbers of 26 companies on grounds of submissions of their application for above purposes or filing of tax returns. The appeal is therefore dismissed.

Appeal No. 07/IC(A)/CIC/2006 – Order dated 06-03-2006 – In the case of Dinesh Berry Vs CPIO, Bharat Petroleum Corporation Ltd – Applicant requested for certified copies of traveling expenses statement & tour itinerary for month of September 2002 of Mr Manmohan Singh, the then DGM (Incharge) and also the details of meetings attended by him during 5-9-2002 to 12-9-2002 – Request rejected on the ground that it can impede the process of departmental investigation against the applicant – Also the information was treated as personal information of an employee – The appellant was dismissed from service on 31-1-2006 for unauthorized absence from duty – Commission held that The information sought is required by the appellant to defend his case properly. The information sought by the appellant relates to the tour programme and travel expenses of a public servant, which cannot be treated as personal information. The Commission therefore directed CPIO of BPCL, Mumbai to provide the information sought by the appellant within fifteen days of the issue of the decision.

Appeal No. 10/IC(A)/2006 – Order dated 14-03-2006 – Section 8(1)(j) – In the case of Pankaj Khanna Vs HPCL – Request for information on 89 points from 12 different authorities of HPCL – request rejected on the ground that it is personal information and no relationship to any public activity or public interest – Issues pertaining to assignment, transfer, posting, salary, bonus payment, domestic enquiry of the applicant – CIC held that departmental enquiry is in progress and HPCL assured to provide all the relevant documents to enable the appellant to defend his case – Appellant to specify and ask for relevant documents that are needed for effective defence in the matter – HPCL directed to provide him an effective opportunity to ensure justice

Appeal No. 12/IC(A)/2006 – Order dated 14-03-2006 – In the case of A.P Singh Vs Punjab National Bank, Zonal Office, Ludhiana – Permission sought to inspect the bank account of M/s Prabhat Forgings Pvt Ltd – Applicant stated that information which can't be denied to Parliament can't be denied to him – CPIO stated that Bank is under duty to

keep secrecy of accounts of its constituents – Appellate authority held that such disclosure will cause unwarranted invasion of privacy of customers – CIC upheld the decision and stated that the appellant has not indicated any bonafide public interest in having access to the bank account of the company with which he has no association or business relationship.

Appeal No. 17/ IC(A)/2006 – Order dated 28-03-2006 – Sections 8(1)(d), (e) and (j) – In the case Manoj K. Kamra Vs Punjab National Bank, Jaipur - Appellant seeking all the 'valuation reports of the last two years of immovable assets of borrowers – Request rejected by CPIO and Appellate Authority - Information sought is exempted from disclosure under 8(1)(d),(e) and (j) of RTI Act – Appellant's view that 'loaning is a public activity and the prevailing practice of unduly excessive valuation of substandard assets have led to increase in NPA. So in wider public interest, overvalued loans needs to be exposed' – Bank's view that details of immovable properties mortgaged by individual borrowers to obtain loans are personal information, the disclosure of which is exempt under section 8(j) as it may cause unwarranted invasion of privacy – Parting of such information may affect their economic and commercial interests and competitiveness - Disclosure of such information is therefore exempted under Section 8(1) (d) of RTI Act, 2005 – Also Banks are under obligation to maintain secrecy about the affairs of their clients as per Section 13(1) of the Banking Companies Act, 1970 – CIC held that Disbursement of loans is a public activity and therefore the issue of NPA is a matter of serious concern to the society - However, disclosure of reports of valuation of immovable properties of borrowers is not enough to identify the sources of NPA – The appellant has not asked for the details of bad loans that have contributed to NPA or the action taken by the Bank to recover loans. It therefore cannot be established how the valuation reports of last two years would indicate the extent of NPA attributable to high or low valuation of properties of borrowers. In fact, the appellant has made a mention of NPA in his appeal to the Commission, while he was silent on this issue in his original application for information - The link between valuation of mortgaged properties of borrowers and NPA is not clear - There is therefore no *bonafide* public interest in disclosure of valuation reports submitted to the Bank by the borrowers - The Bank is also required to maintain secrecy of details of loan accounts as it is personal information and is also in the nature of commercial confidence – Therefore, the exemption from disclosure of information under Section 8(1)(d),(e) and (j) has been correctly applied by the Bank.

Appeal No. 18/IC(A)/2006 – Order dated 28-03-2006 – Section 8(1)(j) - Tapas Datta Vs Indian Oil Corporation Ltd - Information in the form of copies of the original DPC minutes for the period 1992 to 2004 for promotions from Grade F to G in Pipelines Division, copies of the review DPC minutes conducted for Employee Bo. 93622 from 1992 under direction of Delhi High Court Judgment in CWP-5201 of 1997 and Copies of complete Annual Performance Appraisal (APA) reports of Employee No.93622 from 1989 to 2003 – CPIO held that the documents are confidential in nature and cannot be shared – Appellate authority upheld the decision – As per the direction of the Delhi High Court, non-confidential parts of the above documents have already been supplied to the appellant – CIC observed that the relevant portions of the documents sought for has been provided to the appellant as per

the direction of the Court. The assessment reports by the superior officers are personal and confidential information and therefore exempted under Section 8(1) (j) of the RTI Act. The decision of the appellate authority is therefore upheld.

Appeal No. 22/IC(A)/2006 – Order dated 30-03-2006 – 8(1)(e) and 8(1)(j) - In the case of Farida Hoosenally Vs CCIT-IX, Mumbai - Details of the Income Tax Returns submitted by a particular firm and copies of the orders passed by the respondent in the above matter - Appellate authority held that the details of document sought by the appellant pertain to 'third party' information and the concerned party has not given its consent for disclosure of the information - As such, there is no public action involved in filing income tax returns by a private party - Such information is personal and submitted in fiduciary capacity. Therefore, it cannot be disclosed - The appellate authority has also mentioned that there is some financial dispute between the appellant and the Company, and the appellant has sought information for filing cases against the Company – CIC held that Income Tax Returns filed by the assessee are confidential information, which include details of commercial activities and that it relates to third party - These are submitted in fiduciary capacity - There is also no public action involved in the matter - Disclosure of such information is therefore exempted under Section 8(1) (d) & (j) - In the case of suspicion of corruption the matter may be taken up with the appropriate authority - In the spirit of RTI Act, the public authority is required to adopt an open and transparent process of evaluation norms and procedures for assessment of tax liabilities of various categories of assessee - Every action taken by the public authority in question is in public interest and therefore the relevant orders pertaining to the review and revision of tax assessment is a public action - There is therefore no reason why such orders should not be disclosed. The Chief Commissioner of Income Tax is accordingly directed to supply relevant copies of the income tax assessment orders, if any, provided that such documents are not exempted under Section 8(1) of the Act.

Appeal No.30/IC(A)/06 – Order dated 20-04-2006 – 8 (1)(d) and 8(1)(j) In the case of Shri Manish Dnyaneshwar Thool, Nagpur Vs HPCL - In response to an advertisement by HPCL, the appellant applied for dealership for retail outlet (Petrol Pump) and appeared for interview along with other candidates. In the overall merit list he was placed at serial number four. In this context, he asked for the i) Copy of application form along with its receipt, certificates, affidavits, project report and any other documents attached with application form by the following candidates: a) Abha Sunil Dongre, b) Abhishek Manohar Wasnik, c) Vishal Krishnakumar Shende, ii) Result sheet declared by H.P.C.L. on 12-11-2005iii) The subject-wise marks allotted by individual Hon'ble member of the Interview Panel Board to above three candidates and to Manish D. Thool - CPIO contended that the information sought under serial no.(i) above, related to the documents submitted by the empanelled candidates which is of commercial confidence, the disclosure of which would harm competitive position of the third party. These documents and information are personal in nature and, therefore, these are exempt u/s 8(1)(d) and 8(1)(j) of the RTI Act. As regards information under serial no.(ii) above, a copy of the merit panel and complete mark list has already been supplied to the requester. As regards information under serial no. (iii) above, which relate to subject-wise mark allotted by the panel of experts to the candidates, the HPCL has mentioned that the experts had awarded the marks to individual candidates in confidence and

hence it cannot be disclosed. The representative of the appellant mentioned that some of the applicants have furnished misleading information and therefore the applications submitted by them are required for scrutiny. She also contended that the panel experts may have also discriminated against the appellant who is listed at serial number four in the merit list. The exercises undertaken by the HPCL in preparing the merit list of successful candidates, which indicate a break-up of marks awarded under different heads like educational qualification, capacity to generate business, experience, business and acumen, personality, etc. have already been provided to him. Thus, the record generated by the public authority (HPCL) has been disclosed – CIC held that The documents submitted by individual applicants contain such information as personal details, income, PAN number, sources of funds, partnership details, plans to run dealership, affidavit, etc., which are personal documents and contain a lot of information of confidential nature, submitted by third parties. The exemption of information u/s 8(1)(d) and 8(1)(j) of the RTI Act has, therefore, been correctly applied by the CPIO. The result sheets declared by HPCL indicating the order of merit list as well as individual scores of marks under different heads have already been provided to the appellant and thus there is no denial of information to him on this account. The marks awarded by the panel experts to each candidate under different parameters are of confidential nature and this act has been carried out by them in fiduciary capacity, which is exempt u/s 8(1)(e).

Appeal No.32/IC(A)/06 - Order dated 02-05-2006 – In the case of Padam Kumar Jain, Vs Dena Bank - to provide details of the Savings Bank A/c No. 1711 & 2017 of Chhattisgarh Housing Board maintained by the Bank - PIO refused to provide the information on the ground that the information relates to the third party, which has serious objection in disclosure of the information (u/s 11(1) of RTI Act). In response to his first appeal, the appellate authority contended that the Bank is under obligation to maintain secrecy in respect of the accounts of its customers. CIC held that the Banks are under obligation to maintain the secrecy of the Bank accounts of its customers, including the accounts of public authorities. There is also no overriding public interest in disclosure of such information.

Appeal: No. CIC/OK/C/2006/00048 - Dated, the 3rd July, 2006 - Sanjiv Kumar Jain Vs Regional Passport Office, Delhi & All India Institute Medical Science- one Dr. Vankayalpati Sri Venkateswar Prasad who had studied in AIIMS and later opened a deluxe hospital at Hyderabad. Dr. Prasad treated Shri Sanjeev Kumar Jain's son who allegedly died at his hands. On enquiries, Jain discovered several discrepancies in the certificates the doctor had earned not only during his term of education, but even later. There were also discrepancies in the details of the passport that he had used to go to America. The couple, Shri Jain and Mrs. Anju Jain delved further into the matter and were convinced that this is a case of a fake doctor. To strengthen their case, as also to procure documents to pursue the matter further, they applied to AIIMS to provide them with photocopies or certified copies of the degrees and certificates that the AIIMS has in possession regarding this doctor. They also applied to the Regional Passport office, New Delhi for details of the passport number as well as the photograph on Dr. Prasad's passport in order to find out whether he was using more than one passport. The Commission heard the case in detail and also examined several documents produced

by the Appellants and came to the conclusion that the case had prima facie evidence of forgery, impersonation and falsification of documents. To establish the truth, therefore, it was necessary that all the documents regarding Dr. Vankayalpati be made available to the Appellants. The Commission ordinarily would not have entertained the request of the Appellant as the information related to the third party and being personal, the third party should be given notice in the interest of equity but this is a case of a Doctor who already allegedly mishandled a case causing loss of life and is also the Director of an entire medical set up. Therefore, the matter is definitely in public interest and is covered by Section 8(2) of the Act and warrants a thorough investigation.

Decision No.245 /IC(A)/2006 - F.No.CIC/MA/A/2006/00603 - Dated, the 6th September, 2006 - Mangal Sen Sharma Vs SBI, Bhopal – assets and liabilities statements of deceased son of the applicant who was employee of the bank – CPIO declined u/s 8(1)(j) being personal information – invasion of privacy even in the case of a deceased person – CIC held that documents sought are submitted by son of the deceased and not created by the Bank – Bank is not obliged to disclose to public but the same is not applicable to his legal heir.

F.No.CIC/AT/A/2006/00134 - Dated, the 10th July, 2006 - Raj Kumar Vs DCP (NE), Delhi – Property statements of a police officer – CIC held that the information is in the nature of personal information given to the Public Authority in confidence by Sub-Inspector. The Government has set in place an elaborate system of dealing with this information while maintaining its confidentiality. Generally, the information in the annual property returns is retained by the public authority in sealed covers / or in some other mode under proper “secrecy” classification and used only when the public servant, whose return it may be, faces a charge or an enquiry. It is not held as a public information, but rather a safety valve – a deterrent to public servants that investments or transactions etc. in properties should not be done without the knowledge of the public authority - While there may be an arguable case for disclosing all such information furnished to the various Public Authorities by the public servants, till such time the nature of this information remains a confidential entrustment by the public servant to the Public Authority, it shall be covered by section 8 (1) (j) and cannot be routinely disclosed. It will also attract the exemption under Section 8 (1) (e) and in certain cases the provisions of Section 11 (1), being an information entrusted to the public authority by a third person, i.e. the public servant filing property return. On the whole, property returns of public servants, which are required to be compulsorily filed by a set date annually by all public servants with their respective public authorities, being an information to be used exceptionally, must be held to serve no general public purpose whose disclosure the RTI Act must compel. However, all public authorities are urged that in order to open the property returns of all public servants to public scrutiny, the public authorities may contemplate a new and open system of filing and retention of such returns. The public servants may be advised in advance that their property returns shall be open and no more confidential. The property return forms may be so designed as to give only such transactions and assets related details, which may not violate civil servants’ right to privacy. These steps may bring the curtain down on the rather vexed question of how

private is the information given in “property returns” or that it is a public information, which is not private at all.

45. PERVERSE ORDER - INFIRMITY:

F.No.CIC/AT/A/2006/00075 - Dated the 2nd June, 2006 - A.S. Lall, I-47 Vs Jt. Commissioner of Police, Police Headquarters, New Delhi – information on licence to some restaurants – CPIO denied information stating that “In this connection I am to inform you that your request has been considered in this office. However, as per provisions of the RTI Act 2005 the same could not be acceded to.” - Order signed on 24.6.2006 on behalf of the CPIO by the Assistant Public Information Officer - does not mention the relevant Section of the Act under which the request for information of the Appellant was rejected nor does it state the Appellate Authority to whom the appellant could move in appeal or the time period within which the appeal had to be filed – CIC held that these are serious omissions in the orders of the CPIO. He is warned to be careful in future.

Appeal No. 42/ICPB/2006 – Dated July 3, 2006 - M.L. Meena Vs Ministry of Health & Family Welfare - The appellant’s grievance that decisions are conveyed by other than the CPIO and the appellate authority is well founded. Under the RTI Act, it is responsibility of the designated CPIO to furnish the information sought for by a citizen. Considering the fact, that CPIO is punishable under Section 20 of the Act with fine, it is necessary that the decision taken by the CPIO is communicated under his signature. Likewise, while disposing of an appeal, the appellate authority discharges a quasi-judicial function and as such his decisions must bear his signature to indicate that he has applied his mind in taking the decision. The usual office procedure has no place in the matters of RTI Act.

46. PRISONER DETAILS:

Appeal No. CIC/WB/A/2006/00120 – Order dated 01-05-2006 – In the case of A.S. Lall Vs AA & Dir. Gen. (Prisons), Prison HQs, Central Jail, Tihar and another - Section 8(j) - details about the lodgment in Delhi jails of Shri Naresh Kumar Sethi s/o Shri Ganesh Dass Sethi. The first appellate authority and, the PIO before him took the view that the information solicited by the appellant was in the category of personal information, the disclosure of which have had no relationship to any public interest and may cause unwarranted invasion of the privacy of the individual concerned – CIC did not agree that the information was barred by the provision under Section 8 (j) of the Act. The lodgment in jail of an accused, whether on conviction by a court of law, or as an under trial, cannot be classified as “personal information” or “invasion of privacy”. The lodgment in jail of an accused or a convict is information which properly belongs to the public domain and every citizen has a right to access it.

47. PROPERTY RETURNS:

Appeal No.CIC/WB/A/2007/00189 - Decision dated 17-05-2008 - Kousthubha Upadhyaya Vs DoPT – In this case CIC relied on decisions of Supreme Court in Writ

Petition (Civil) 294/2001 Union of India vs. Association for Democratic Reforms and in Peoples Union of Civil Liberties Vs. Union of India and decision of CIC in Shri Roshan Lal Vs Kendriya Vidyalaya Sanghathan, Appeal Nos. CIC/OK/A/2007/01493 & CIC/OK/A/2008/00027 dated 20th March, 2008 – It is held that Annual property Returns by government employees are in the public domain and hence there seems to be no reason why they should not be freely disclosed. This should also be considered as a step to contain corruption in government offices since such disclosures may reveal instances where property has been acquired, which is disproportionate to known sources of income. The Commission, therefore, directs the Respondents to provide copies of property returns asked for by the Appellant. However, since the information held is without doubt of concern to a third party in this case, CPIO, Ministry of Personnel, Public Grievances & Pensions shall within five days from the receipt of this order give a written notice to the third party of the request, and of the fact that under the directions of this Commission he intends to disclose the information, and to invite the third party to make a submission in writing or orally regarding whether the information should be disclosed. CPIO will keep in view such submission in disclosing the information sought.

48. PUBLIC AUTHORITY:

Complaint No.CIC/WB/C/2008/00020 - Decision dated 13-05-2008- Hemant Goswami Vs Administrator, U.T., Chandigarh - there can be little doubt that the Administrator is an authority established under Article 239 of the Constitution, occupied by an official with an assignment, and therefore an office. It matters little whether that authority exercises any duty or not. Even if he does not head a particular body or sit in a room or building where people work at desk, he still occupies a formal position of responsibility. Under the circumstances there can be little doubt that the Administrator is a public authority and, under sec. 5(1) was required within 100 days of the enactment of this Act to designate a Public Information Officer.

Appeal No. 11/9/2005-CIC – Order dated 01-03-2006 – In the case of Mukul Mittal Rep: Mittal Contracts Pvt Ltd, Bhopal Vs CPIO, IRCON International Ltd, New Delhi – Applicant seeking inspection of certain files – CPIO stated that decision has to be taken on the issue “Whether IRCON is a public authority or not?” – Even after three months of response, no decision communicated to the assessee – Commission expressed its view that the whole exercise was a crude attempt on the part of the IRCON to mislead the commission – On its own admission, 99.7% of the share capital of the company is owned by Central Government – Even the minority shareholders like UTI and Bank of India are government entities - The grant of “mini-ratna” status does not mean that the Government has disowned its ownership and control – It only gives the company some financial flexibility – IRCON is covered by section 2(h) and hence a public authority – Commission granted time of 15 days to respond to Appellant’s request for inspection of relevant papers from the date of the order, failing which penalties u/s 20 would be invited.

Universities - As per the decision of Karnataka High Court, Universities come under the RTI Act – One, Mr Shivanna Naik applied for the position of Lecturer and his

application was not considered – He sought information under the RTI Act seeking information regarding the selection – The same was rejected on the grounds that there was no such provision under the Bangalore University Regulations – Petition filed before HC – Justice K L Manjunath held that University comes under definition of Article 12 of the Constitution and the University must conform to the principles of fundamental rights – The university is an authority defined u/s 2(c) of the RTI Act – HC held that all offices of State Government, including KPSC, all local authorities, corporation, trust, society or any organization funded by the State Government are public authorities under the Act

Application NO. CIC/WB/A/2006/00011 – Order dated 16-03-06 – Section 19 – In the case of Er Sarabjit Roy Vs DERC – CIC held that DISCOMs are public authorities under the RTI Act because over 40% of share of DISCOMs is vested with the Delhi Government owned holding company, the Delhi Power Company Ltd.

Appeal No. ICPB/A-8/CIC/2006 – Order dated 22-03-2006 – Sections 6 & 18 – In the case of Navneet Kaur Vs CPIO, Dept of Information Technology as well as Electronics & Computer Software Export Promotion Council (ESC) - Appellant sought for all the documents and records of the sexual harassment complaint committee on the complaint of the appellant against two officials alleging sexual harassment - CPIO, DIT sought clarification from DOPT & Department of Women & Child Development to ascertain whether a copy of the report can be given before disposal of the same by disciplinary authority and informed the same to the appellant – CPIO, ESC stated that ESC is a non-governmental organization and not funded by Government and therefore RTI Act is not applicable to ESC – CIC looked into the accounts of ESC and out of Income of Rs 11.8 Crores for the year 2004-05, Rs 6.8 is due to grants from Department of Commerce and Department of Information Technology – ESC is an autonomous body under the DIT – Therefore RTI Act is applicable to ESC – CIC also held that no justifiable explanation is given by DIT for not providing the information – DIT directed to furnish the information i.e copy of enquiry report and copy of minutes of meeting of the committee.

Appeal No.ICPB/A-11/CIC/2006 – Order dated April 3, 2006 - In the case of Shri Kanwal Jit Singh Vs CPIO Quality Council of India, Ministry of Commerce & Industry - Information in relation to grant of clearance to certification bodies – CPIO informed the appellant that Right to Information Act was not applicable to the Council - The appellant complained of the inaction of the Council to the Joint Secretary (Public Grievances) both in person and in writing - Failing to get any response, the appellant had approached CIC – CIC called for comments from the Ministry - The Ministry has annexed a copy of the decision dated 23.1.2006 given by the Joint Secretary (Public Grievances) in his capacity as the appellate authority in respect of Quality Council of India, wherein he has directed the QCI to furnish the information sought for by the appellant – Therefore, the complaint does not survive.

Appeal Nos. CIC/WB/A/2006/00339&340 dated 20/3/'06 & 03/4/'06 - R.K.Gupta Vs BARC, Mumbai – Whether BARC Family Relief Scheme - above. CIC held that this organization falls within the definition of public authority u/s 2(h)(i). Even though this

body is neither owned nor substantially financed by Govt., it is through its Managing Committee controlled by the BARC which itself is a public authority. Its funding comes entirely through Government employees.

Appeal No CIC/AT/A/2006/00015 – Order dated 01-03-2006 – Section 7(2) & 18(b) – Yogesh Sharma Vs CPIO, Survey of India, Dehra Dun – Application forwarded by one CPIO to another – Another CPIO sought fees of Rs 32/- which was paid but CPIO was not informed – case of deemed refusal – Commission held that CPIO could have taken action when copy of receipt was sent to him by CIC seeking his comments on the appeal – CIC following its own decision in the case of Er Sarabjit Roy Vs DDA held that the Survey of India is a single public authority and provisions of section 6(3) are not applicable – This is a matter of adjustments within a single public authority.

Complaint No. 10/1/2005-CIC – Order dated 25-02-2006 – In the case of Er. Sarbajit Roy Vs CPIO, Delhi Development Authority - Numerous grievances concerning the implementation of the Act at DDA where access to information was being denied to him and others, thereby causing him to approach the Commission in the public interest, and had prayed *inter-alia* on various grounds that the information sought by him, including information

concerning ongoing modification of the Master Plan of Delhi till the year 2021 (“MPD-2021”), be provided to him. He also sought directions to DDA to fulfill its mandatory obligations under the Act including proactive disclosures - Appoint a single PIO - Redesign application form - A copy of 17 manuals be provided - Payment of compensation - DDA in its comments stated that it has been making concerted efforts to implement the Act and had made necessary proactive disclosure. The complaint was described as baseless and malafide – DDA also stated that sharing at this stage of documents relating to procedural requirements of MPD-2021 would affect preparation of the Master Plan and also can be misused – Plea of disproportionate diversion of resources also was made - The Commission observed that once a matter was taken cognizance of by the Commission, copies of subsequent pleadings must be duly served on the opposite parties before or along with its being filed in the Registry to encourage a suitable and timely response - The complainant stated that the DDA had appointed about 40 CPIOs who were assigned subject wise “jurisdictions”. Although the complainant commends the Authority for making these appointments in light of the number of public applications expected, assigning them jurisdictions was not in accordance with the Act. This also forced them to file multiple requests or pay excessive fees if the information sought spans the PIO’s “jurisdictions” – Commission held that Sub-section 5(1) of the Act requires every public authority to appoint as many Public Information Officers as may be necessary to provide information to persons requesting information under this Act. A division of responsibilities amongst PIOs is not proscribed for a public authority to ease faster access and dissemination of information. But the law is clear that a request for information may be received at every office or administrative unit or every sub level also. It is not required that only a PIO appointed u/s 5(1) may accept requests for information pertaining to his administrative unit or “jurisdiction” since this would impede access to information - In the present case although DDA has Counselors, available at a front counter, DDA has not designated any APIOs at all as required by section 5(2) of the ACT. DDA may like to appoint APIOs to receive all

applications and have these examined and replied to by the concerned PIO, or direct all CPIOs to receive RTI application irrespective of administrative unit. It appears that the function of the DDA is such that all reporting / decisions of the Authority are made through the Vice Chairman, DDA, to whom all PIOs report in the decision making process. In such circumstances an applicant can justifiably complain that no office of DDA was able to provide him precise information concerning his letter addressed to Vice Chairman, DDA concerning the reported threat to life being caused by polluting industrial units still operating in Dwarka a residential development area of DDA. The Commission did not accept that this is a case where life and liberty were threatened, the matter decidedly concerned the health of persons in DDA's residential development area – The complainant was also aggrieved that the PIO of DDA to whom he had addressed his information request had transferred his request to another PIO of DDA in accordance to "jurisdiction" assigned u/s 6(3) – Commission held that such a transfer is not possible within one public authority – The commission also held that the information requested by the applicant connected with a public activity viz. the formulation of Master Plan by DDA and not exempted u/s 8 of the ACT cannot be denied – In summary, the Commission held that

1. The DDA is a single public authority. Since this is a matter concerning adjustments within the same public authority Sec 6 (3) cannot apply.
2. The information shall be provided to the applicant in the particular form requested to the extent it is available within DDA in such form. Where the information is not available in the particular form requested, the applicant may be allowed if he desires to inspect the original records at DDA and information specifically asked for provided in the form of printouts / copies of original documents or records etc. of DDA duly certified.
3. However, any information requested having being supplied to DDA by a third party, which has been treated as confidential by that third party, shall be dealt with as per Sec 11 of the ACT.
4. Sec 7(9) of the Act does not authorize a public authority to deny information. It simply allows the authority to provide the information in a form easy to access. We agree that providing the information on all responses to the public notice of the Board of Enquiry and Hearings, even if they number only 7000 as claimed by the DDA and more than 10,000 according to the complainant, in the form of certified copies will attract the provisions of Sec 7 (9) as averred by DDA. But this provision does not exempt disclosure of information, only adjustment of the form in which it is provided. And given our findings as per Para 12 above that there was a positive inference that the information had actually been provided or was liable to be provided, we cannot agree with the afterthought that this would impede the preparation of the Master Plan, which in any case does not fall within the exemptions of Sec 8 of the Act.
5. Providing the complainant an opportunity to examine the responses giving him certified copies of those identified by him, will meet the provisions of the Act.
6. The Principal Commissioner cum Secretary, DDA is directed to ensure that acceptance of all applications irrespective of any administrative unit for which PIOs are responsible in routine, is brought into accordance with the requirements of Sec 5 of the Act.

7. He is also directed to provide the Commission a compliance report for the Commission's record, with respect to Section 4 of the Act. The Acts and Rules relevant to the functioning of the public authority may be published on the website as expeditiously as possible and in any case within 30 days.

Complaint No. ICPB/C1/CIC/2006 – Order dated 06-03-2006 – P. Rajan Vs CPIO, Ministry of Company Affairs – The applicant sought information by sending an e-mail seeking copy of the inspection report in respect of Matrubhumi Printing and Publishing Company Ltd submitted to the Government some time in 1995 by Regional Director (SR), Chennai – CPIO informed that since action relating to the report had been completed, the file had been closed and the report was not available – Appellate authority confirmed the decision of CPIO – Before the Commission, the complainant questioned the action of the Ministry as also the decision of the appellate authority – The stand taken by the Ministry that each CPIO is an independent public authority is also contested - Commission held that even though in terms of Section 5(1) & (2) of RTI Act, a public authority could designate as many CPIOs/ACPIOs, the Act does not confer any specific jurisdiction in respect of each such officer either in terms of geographical or subject wise or the like. The Act also does not prescribe that each CPIO is a separate public authority by himself. He is only a part of the public authority which has designated him as such. The object of designation of many CPIOs/ACPIOs is only with the view that the citizens have proximity of approach. Once a citizen applies to a CPIO of a public authority, irrespective of where and with whom the information is available within the same public authority, it is the duty of that CPIO to furnish the information sought for in relation to that public authority, if necessary by obtaining the same from the concerned CPIO with whom the information sought may be available. There is no scope to either ask the citizen to approach another CPIO within the same public authority or send the request for information to another CPIO with in the same public authority. Only in a case, where the information sought is held by another public authority, other than the one which has designated him as CPIO, he can transfer the request to that public authority for furnishing information to the applicant direct (Section 6(3)) - In respect of inspection report, CPIO could have ascertained the fact whether the same is available in the Ministry or not, even though the same may not be available in the regional directorate, before rejecting the request - If the report is available in the Ministry, then the act of CPIO and Appellate authority amounts to misleading information – Commission also held that the complainant can't question the action of the Department in destroying records (it was also noticed that after May 1997, the complainant did not pursue the report though he was pursuing the matter from 1993) – Every department can have its rules for preservation and destruction of records – RTI Act came into effect only in 2005 and the period of 20 years can't be applied retrospectively. CIC held that if the information is available with the Ministry, the same may be supplied.

49. PRIVATE BODY – INFORMATION TO BE CALLED FOR:

Appeal: No. CIC/OK/A/2006/00127 - Dated, the 21st July, 2006 - Jehangir B. Gai Vs Bureau of Secondary Education, Ministry of HRD – status of a school for affiliation - PIO informed the applicant that the Council for the Indian School Certificate Examinations

(CISCE) is an autonomous body, not answerable to the Ministry of HRD - The Commission came to the conclusion that prima facie the CISCE is not covered by the definition of a public body since it is neither funded nor controlled by the Government or any other public body. However, going by the definition of the term information under Section 2(f) of the RTI Act, which includes 'information relating to any private body which can be accessed by a public authority under any other law for the time being in force'. The respondents are thus directed to obtain the information from the CISCE within 15 days and supply it to the Appellant within 21 days of the issue of this order.

50. QUALITY OF INFORMATION:

Appeal No CIC/WB/A/2006/00136 – Order dated 19-04-06 – In the case of Pankaj Bhatnagar Vs DDA – contention of the appellant that information furnished was inaccurate and concealed of facts - The Commission held that it cannot rule on whether the statements made by the appellant are correct under the relevant laws governing municipal administration of Delhi i.e. whether the law has been applied accurately or not – The PIO has given the appellant the information available to him including a statement of DDA policy in this regard. The appeal is regarding the quality of this information, but the authority to whose notice this objection is to be brought is not this Commission. The merits or demerits of DDA policy is beyond the purview of the Right to Information Act and therefore of this Commission, the role of which is to ensure only that information sought is provided within the framework of that Act and rules made there under. Whereas the appellant is free to seek clarifications sought from the DDA and make representation to the requisite authority for perceived violation of relevant DDA laws and rules for redress of grievances as prescribed therein, there is no scope for pursuing this appeal by this Commission.

Appeal No CIC/AT/A/06/16 – Order dated 24-04-2006 – In the case of Pratap Singh Gandas Vs District Administration, South District, Delhi - asking for status reports on complaints stated to have been made in 499 cases cited in the applications-224 cases to Deputy Commissioner and 275 to SDM. SPIO AK Singh ADM south responded on 2/12/05 informing the applicant that all complaints received from him had been filed under orders of the NCT government. The decision of the Govt. of the NCT to ignore the complaints received from Shri Gandas and to examine the need to initiate criminal proceedings against him was conveyed to the law and order authorities in the NCT by a letter dated February 2, 2005 from the Home Secretary to the Commissioner of Police, Delhi. The fact that the information provided is correct i.e. that no action has been taken for reasons specified, has not been challenged. The Commission held that it is not competent to judge whether the directions received by the respondents from the NCT Home Secretary vide his letter No F. PS/Secy (L&B)/200/156 of February 2, 2005 had legal validity. The SPIO has only passed on information available to him regarding the status of the complaints cited by the appellant, which is what he had asked for, satisfying the requirement of the Act. The Appellate Authority has in fact dealt with the appeal under Sec 19 of the Right to Information Act, 2005, upholding the decision of the PIO. The Act does indeed require that information asked for by any citizen of India has to be provided, notwithstanding his or her personal standing or reasons for seeking the information {Sec 6(2)} except in specific cases under which information may be held

exempt from disclosure and can therefore be refused. Moreover, if found disproportionately diverting resources of a public authority, information can be denied in the form requested but has nevertheless to be made available in any other convenient form. It is not however for the Commission to decide on the propriety of any action taken on applications.

51. REASONS FOR CANCELLATION OF TENDER:

Appeal No. ICPB/A-4/CIC/2006 – Order dated 10-02-2006 – In the case of M/s Neptune Equipment Pvt Ltd Vs CPIO, Department of Post – Applicant sought reasons for cancellation of a tender in which it had participated – Even though, in terms of Clause 7 of NIT, the Department has the right to accept or reject any offer without assigning any reason, yet, in terms of the RTI Act, the appellant has the right to seek the reason for rejection of the tender - CPIO declined to furnish the reasons and advised the applicant to prefer an appeal directly to the commission on the ground that the decision was taken at the highest level of the Department – CIC held that though the DG, Post has power to reject a tender but the reasons have to be disclosed for canceling the tender in the interest of transparency – CPIO has not relied on any exemption provided in the Act – CIC directed the Department to give information within 15 days - But, CIC refused to give direction to the Department to place order of supply with the applicant because the same is not within the powers of the Commission .

Appeal No. ICPB/A-6/CIC/2006 – Order dated 27-02-2006 – Precision Testing Machines Pvt Ltd Rep by: Udai K Nath Vs CPIO, Department of Post - Applicant sought reasons for cancellation of a tender in which it had participated – CPIO informed that the decision was taken as per clause 7 of NIT - CPIO declined to furnish the reasons and advised the applicant to prefer an appeal directly to the commission on the ground that the decision was taken at the highest level of the Department – CIC held that though the DG, Post has power to reject a tender but the reasons have to be disclosed for canceling the tender in the interest of transparency – CPIO has not relied on any exemption provided in the Act – CIC directed the Department to give information within 15 days - But, CIC refused to give direction to the Department to place order of supply with the applicant because the same is not within the powers of the Commission.

52. RE-EMPLOYMENT OF STAFF – REASONS:

Appeal: No.CIC/OK/A/2006/00046 – Order dated 02-05-2006 – Sections 8(1)(i) and 8(1)(j) – In the case of Vijay Goswami Vs University of Delhi – asked about the grounds of re-employment of two persons who were reemployed where as others were denied reemployment - also asked for the guidelines for re-employment of Senior Reader/Lecturer and a photocopy of the minutes of the meeting of 27th October, 2005 and the number of cases which have been kept in abeyance till 11th November, 2005. The University denied information asked for quoting that the same falls under Section 8 (i)(d) and (j) of the RTI Act - The Commission was of the view that the information was in no way personal in nature and was in the public domain. It is, in fact, in the larger public interest to disclose the information pertaining to re-employment of staff to make decision-making process of the university transparent and accountable for its decision.

53. RELEVANT INFORMATION – FRIVOLOUS QUERIES:

Appeal No. 08/IC(A)/2006 – Order dated 08-03-2006 – In the case of Kewal Semlani Vs CPIO, New India Assurance Co Ltd – Appellant asked for certified copies of certain documents relating to a complaint lodged by him against a company – Appellant complained that relevant information was not provided to him – Also the letter was signed by a person other than the CPIO - It was found that appellant was given adequate opportunity to inspect the documents on payment of necessary charges of Rs 146/- for 73 pages – The appellant did not collect the documents causing wastage of time and resources of the Company – Copies of the documents were submitted by the Company to the Commission – Commission held that company extended full cooperation in providing documents sought by the applicant – Commission held that there is no denial of information as the company was willing to provide documents in the form available with them.

Decision No.118/IC(A)/2006 - F. No.CIC/MA/A/2006/00221 - Dated, the 14th July 2006 - H.J. Mhatre - Chief Commissioner of Central Excise, Mumbai II – Information of use of vehicles in office etc – Information supplied but applicant not satisfied - The CPIO has contended that the appellant being their own staff, has already access to the information sought and he is in a sense an information provider. He ought not to be an information seeker. He has also mentioned that the appellant has personal interest, rather than public, in seeking the information. Since the appellant was under suspension and suffered a major penalty, he was trying to harass and malign the staff, particularly senior officials. He has therefore been putting up frivolous application under RTI Act. The respondent has submitted the photocopies of the details of documents given to him, which are voluminous. The appellant being an official from within the organization is part of the process of creation and generation of information, which are in his possession. He has also not indicated any bonafide public interest in seeking the information. In view of his dubious credentials as reported to the Commission, which is indeed the matter of evidence, and frivolous nature of information sought, he is undoubtedly seeking information for promotion of personal interest rather than public. A lot of precious resources of the office has been deployed and wasted for furnishing information to him. One is not sure what good use he would make of it.

54. RTI VERSUS OTHER ACTS:

CIC Full Bench decision – F. No CIC/AT/2006/00586 – Decision dated 18-09-2007 - Rakesh Kumar Vs. ITAT - RTI Act does not repeal or substitute any pre-existing law including the provisions of Income Tax Act concerning dissemination of information. But, it does not mean, that since there is a pre-existing law, the provisions of the RTI Act shall be either inapplicable or be rendered redundant. It is true that Section 138 of the Income Tax Act provides for disclosure of certain information but so does the RTI Act. In this case, the appellant has exercised her option and has submitted application under the RTI Act of 2005 and not under the Income Tax Act. Now, Act, 2005 and thus, he has a choice, which once exercised should be recognized and respected. As has been pointed out earlier, there is no inconsistency between the Income Tax Act and the

RTI Act. In the Income Tax Act, information can be disclosed in public interest whereas under the RTI Act, every information held by the Public Authority is disclosable unless it is "exempted" as specified under Sections 8 or 9 of the Act.

55. RUMOURS – INFORMATION SOUGHT ON BASIS OF RUMOURS:

Appeal No.ICPB/A-12/CIC/2006 – Order dated 05-04-2006 – In the case of G. Srinivasan Vs NTPC Limited – Allegation that contract of Rs 5 crores was awarded on a single tender basis in favour of one "Chakriya Vikas Pranali" (CVP) for development of agricultural land around Dadri Plant - sought for various information relating to that project, however, without asking for documents relating to the same - In addition, alleging that one of the directors of the company Shri K.K. Sinha who was involved in the above project has been reportedly asked to resign as he had made hefty amount in the contract, sought for information relating to his case as also documents relating to the same. Alleging further, that the same director, without occupying the company house in Asiad Village, had occupied his own house and had spent a hefty amount out of the funds of the company to renovate the said house, asked for the details of money spent on that house as also houses occupied by other directors – Reply that work was awarded by on the recommendations of a committee through an agreement for a period of 5 years was entered into in 1997 for training the villagers to adopt methods to earn higher income with plantation as well as multi-rooted multi crop system of agriculture at total amount of Rs.45.49 lakhs was distributed as stipend to the project affected families and CVP. The project was completed in May 2002 and CVP left the work place – Allegations against the director are not true – No repairs were conducted at the houses of directors - In the present appeal, the appellant has alleged that information and documents sought for by him have not been provided with a view to shield corrupt officials. According to him it is heavily rumored that Shri Sinha was responsible to award the contract worth Rs. 5 crores to CVP on a single tender basis and asked to resign on the ground that he had made a hefty amount in the deal with CVP. CIC held that information can't be sought on basis of rumors without seeking specific documents - At the appellate stage, an appellant cannot ask for additional information which had not been sought from the CPIO. In case the appellant seeks additional information, he may do so, through a fresh application to the CPIO.

56. SATISFACTION OF QUERIES – QUESTIONING WHY SUCH AND SUCH ACTION IS NOT TAKEN:

Appeal No. CIC/AT/A/2006/00062 – Order dated 01-05-2006 – In the case of P.L. Sanyal Vs Director & CPIO, Deptt. of Agricultural & Cooperation, - sought information on the appointment of Shri Harpal Singh as adhoc Assistant in the Department of Agricultural and Cooperation - summarized queries on the appointment into seven categories - The appellate authority noted that the question 1, 3, 5, 6 and 7 raised by the appellant were more in the nature of allegations rather than seeking information. For the remaining questions, replies have already been furnished to him – CIC held that it is not the appellant's plea that the Department has furnished him incomplete or misleading information. He has come up in appeal to the Commission because the Department found itself unable to satisfy his queries in regard to a large part of the

information sought by him on account of the nature of those queries. A plain reading of the request made by the appellant makes it clear that he is more interested in contesting the actions of the department in giving Shri Harpal Singh certain alleged undue benefits in matters of career progression. The RTI Act may not be the appropriate law for redressal of such grievances.

Appeal No. CIC/AT/A/2006/00045 – Order dated 21-04-2006 – In the case of Dr D.V. Rao Vs APIO & Deputy Secretary (A), Deptt of Legal Affairs, New Delhi and Appellate authority - the appellant had challenged as inadequate and incomplete on the delay in framing and implementation of rules of ILS - The Appellate Authority, Shri K.D. Singh had taken the view that the PIO had supplied to the appellant the latest information available. Since there was no change in the position regarding the amendment to the relevant Recruitment Rules only the latest information could be supplied to the appellant – The Commission observed that a perusal of the type of information requested by the appellant revealed that his was not so much a request for information, but was a set of questions regarding why the public authority had not taken certain actions and when, if at all, would it take those actions. The definition of information, as it occurs in Section 2(f), lays down the scope of the type of information a petitioner can seek. The underlying idea is clearly that the petitioner's entitlement for information is only in respect of the categories of information mentioned in Section 2(f). It is not open to an appellant to ask, in the guise of seeking information, questions to the public authorities about the nature and quality of their actions. The RTI Act does not cast on the public authority any obligation to answer queries, as in this case, in which a petitioner attempts to elicit answers to his questions with prefixes, such as, why, what, when and whether. The petitioner's right extends only to seeking information as defined in Section 2 (f) either by pinpointing the file, document, paper or record, etc., or by mentioning the type of information as may be available with the specified public authority. He can, for example, ask for all records pertaining to decision regarding amendments to and review of ILS rules, but not "why the Department of Legal Affairs did not amend/ review the ILS rules so far?"

57. SECURITY, SOVEREIGNTY AND INTEGRITY:

Appeal CIC/A/12/2006 – Order dated 21-02-2006 – In the case of S.C. Sharma Vs Ministry of Home Affairs - asked for a copy of the order through which the Ministry of Home Affairs had authorized the CBI to intercept telephone calls under the Indian Telegraph Act, 1885 - Both the PIO and the Appellate Authority held that the requested information could not be supplied to Shri Sharma as it attracted the exemptions under Section 8(1)(a)(g) and (h) – The Commission held that quite clearly, the specific cases of interception and surveillance by the authorized agency has to be kept highly confidential because of the very nature of the surveillance operation. Its security implications are undisputed - But to say the same about the authorization of the Union Home Ministry to select intelligence and law enforcement agencies, investing them with general power of surveillance, won't be correct. To say that the matter which is already in common domain should be formally denied to a requester for information on grounds of state security will mean stretching the exemption under Section 8(1)(a) of the RTI Act

a bit too far. It cannot be open to a governmental agency to wrongly classify its document as Secret or Top Secret and, then claim the privilege or the exemption provided under Section 8, especially Section 8(1)(a).

58. STATUS OF COMPLAINT:

Appeal No.CIC/WB/A/2007/00481 - Dharam Prakash Verma Vs Central Vigilance Commission (CVC) - We do find that the practice of the CVC of not informing the complainant of the disposal of his complaint is not in keeping with the spirit of the RTI Act which demands "*transparency and accountability in the working of every public authority*". Under the authority vested in us u/s 25(5), therefore, we recommend to the CVC to bring their practice into the fullest conformity with the spirit of the RTI Act 2005, as encapsulated in the above phrase.

59. SUB-JUDICE MATTERS:

F. No. CIC/AT/A/2006/644 & 646 – Decision dated 21-02-2007 – Neeru Bajaj Vs CIT-II, Lucknow and another – Income Tax returns of another person by name Doly Arora sought –The whole idea was to force IT Department to submit the documents before a Court in legal proceedings – CIC held that there is no justification to resort to the RTI Act to access information which otherwise would be available through recourse to other laws and Acts. In other words, RTI Act is not meant to replace Courts of Law.

Appeal NO 01/IC(A)/2006 – Order dated 16-02-2006 – Sections 8(1)(g), 8(1)(h) and 8(1)(j) - In the case of Ashok Kumar Aggarwal, Joint Commissioner of Income Tax - The appellant asked for certified copies of files relating to sanction of prosecution in his case, review of sanction – Applicant stated that documents asked by him do not have any adverse implication in relation to law enforcement or security purposes – A charge sheet is filed by CBI and the documents would show that sanction is fraudulently obtained by CBI in his case – As charge sheet is filed there would no adverse impact on any investigation process – CPIO, Department of Revenue and the first appellate authority held that whatever documents the applicant is entitled to, as per legal procedure, have already been made available to him through trial court - The information sought now is likely to impede prosecution and would cause breach of confidentiality of assistance given for law enforcement purposes – It was also held by the appellate authority that clause 8(1)(j) is also applicable as information relating to grant of sanction of prosecution bears "no relationship to any public activity or interest" – During the course of hearing, CIC asked the applicant to specify the exact documents needed by him instead of asking for files – The applicant specified the documents – CIC heard both parties and dismissed the appeal – The Commission was of the view that the matter is sub-judice – There is due process of law under which the applicant can obtain documents to defend himself through the trial court – At this stage, the court is seized of the matter – It is held by the Commission that section 8(1)(h) has been correctly applied in this case.

Appeal No. CIC/WB/A/2006/00006 – Order dated 02-03-2006 – Section 8(b), 8(h) and 19 – In the case of P K Rout Vs CPIO, Indian Rare Earths Ltd – The applicant sought certain documents related recruitment – Request refused by CPIO and appellate authority as the matter is sub-judice in WP(C) 26233/2005 pending before the High Court of Kerala – CPIO stated in hearing that the information was not provided by way of “abundant caution” because the matter is sub-judice – Otherwise, there is no objection to supply the information – Commission found that there is nothing in the information which is violative of section 8(b) or 8(h) – The information is public information and can hardly impede investigation, or prosecution – Information to be made available within 10 days of the issue of the order

Appeal No. 04/IC(A)/CIC/2006 – Order dated 03-03-2006 – Section 7(1) & 8 (h) - In the case of R.C. Sankhla, IRS Vs CPIO, CBI – Charges have been framed against the appellant and the case is at prosecution stage before Metropolitan Magistrate – Request for inspection of file No. 2(A)/ACU - VII/2002 of CBI and to take extracts, wherever required which concerns life and liberty – Statements are not placed before Special Judge, CBI, Patiala – CPIO and appellate authority held that the matter is sub-judice – Disclosure of documents would impede the process of investigation and impedes prosecution – Appellate authority held that appellant is not entitled to have a copy of the statement of the co-accused given to the police – copies of all statements of witnesses relied upon by the prosecution have been provided to the appellant - Appellant can apply to the trial court for copies of statements and documents not relied upon by the prosecution – The appellant is feely performing his duties as government servant and not prevented from leading a normal life – Therefore, there is no threat to his life and liberty – Commission held that as the appellant is performing his normal duties as a government official and is leading a normal life, there is no perceived threat to his life and liberty – The proceedings are in progress in the court of law through which the appellant may have access to the details of papers in the said files – Disclosure at this stage would impede process of prosecution – Section 8(h) has been correctly applied

Appeal No. 13/IC(A)/2006 – Order dated 16-03-2006 – In the case of Arvind Mehta Vs CPIO, ROC, Gujarat – Request for information related to action taken by ROC in the matter of appointment of Directors of certain companies – alleged illegalities – allegation that ROC records are tampered by vested interests - ROC enquiring into the matter – pending before High Court also – matter is sub-judice – CIC held that till the time ROC enquiry is pending and the process of prosecution against offenders is completed, 8(1)(h) is applicable – As the matter is sub-judice, appellant can seek the documents through the Court also – Little patience and faith on the part of the appellant in the system of governance are required – On part of ROC, efforts should be made to expedite the decision making process.

Appeal No. 11/IC(A)/2006 – Order dated 14-03-2006 – In the case of Sunil Kumar Pathak Vs Central Bank of India, Zonal Office, Raipur – Request for certified copies of internal correspondence between officials of the bank – CPIO stated that matter is sub-judice and information may be obtained from competent authority/court – CIC upheld the view of CPIO and Appellate Authority.

Appeal No. 80/ICPB/2006 - F.No.PBA/06/169 - August 28, 2006 - Manohar Singh Vs NTPC - Under RTI Act, information cannot be denied on the ground of a matter being sub-judice unless in terms of Section 8(1)(b), a court has expressly forbidden the disclosure. Likewise, in case when a citizen seeks information concerning himself, the same cannot be denied applying the provisions of Section 8(1)(j) stating that disclosure has no relationship to any public interest or activity or would invade the privacy of the individual.

60. SUPPLY OF INFORMATION – DATE OF DISPATCH LATER THAN DATE OF LETTER:

Appeal: No. CIC/OK/A/2006/00049 – Order dated 02-05-2006 – In the case of Mahavir Singhvi Vs Ministry of External Affairs - allegation that the CPIO of the public authority had mischievously back dated the reply to his letter dated 10th January, 2006 sent to him putting the date as 18.1.2006 when it was actually dispatched to him on 7.2.2006 as is borne by the postal stamp affixed on the envelope containing the reply - Appellate Authority held that the CPIO cannot be blamed for the delay caused by dispatch of the letter to the post office. CPIO argued that the letter was sent to the Central Registry of the Ministry on 19.1.2006 and was not liable for delay in the Central Registry. The Commission accepted the Respondent's explanation, but expressed its concern at the mismatch of the date put on the letter and that stamped on the envelope. The Commission cautioned that the public authorities must ensure strict compliance of the provisions of the Right to Information Act relating to time frame within which replies are to be given and the onus for timely dispatch of replies to the petitioner lies on the CPIO alone under section 7(1) of the Act.

61. THREAT TO LIFE AND LIBERTY:

Complaint No.CIC/WB/C/2007/00465 - Decision dated 13-05-2008 - P. L. Shakhwar Vs Registrar General of India - We cannot accept the contention of PIO RGI that disclosing advises submitted by them to Govt. will endanger the life or physical safety of any person in the RGI. Such an argument, if accepted, will strike at the very root of the RTI. Respondents have been unable to cite when the current appellant or his group have posed such a threat.

62. TRANSFER OF APPLICATION:

Decision No.2335/IC(A)/2008 - F. No.CIC/MA/A/2008/00399 – Decision dated 05-05-08 - Radheshyam Saini Vs IOL Ltd - The CPIO has correctly advised that the information seeker should ascertain the availability of information and accordingly submit the application to the concerned CPIO. It appears that the CPIO at the Headquarters is aware as to which official is the custodian of the information. He should have, ideally, transferred his application u/s 6(3) of the Act, and advised the deemed PIO to furnish the information as asked for by the appellant. Had he done so this appeal before the Commission could have been avoided?

Complaint No. ICPB/C1/CIC/2006 – Order dated 06-03-2006 – P. Rajan Vs CPIO, Ministry of Company Affairs –The stand taken by the Ministry that each CPIO is an independent public authority is contested - Commission held that even though in terms of Section 5(1) & (2) of RTI Act, a public authority could designate as many CPIOs/ACPIOs, the Act does not confer any specific jurisdiction in respect of each such officer either in terms of geographical or subject wise or the like. The Act also does not prescribe that each CPIO is a separate public authority by himself. He is only a part of the public authority which has designated him as such. The object of designation of many CPIOs/ACPIOs is only with the view that the citizens have proximity of approach. Once a citizen applies to a CPIO of a public authority, irrespective of where and with whom the information is available within the same public authority, it is the duty of that CPIO to furnish the information sought for in relation to that public authority, if necessary by obtaining the same from the concerned CPIO with whom the information sought may be available. There is no scope to either ask the citizen to approach another CPIO within the same public authority or send the request for information to another CPIO with in the same public authority. Only in a case, where the information sought is held by another public authority, other than the one which has designated him as CPIO, he can transfer the request to that public authority for furnishing information to the applicant directly (Section 6(3)).

Appeal No CIC/WB/C/2006/00066 – Order dated 19-04-2006 – section 6(3) & 7(1) – In the case of Shekhar Singh, Aruna Roy & others Vs Prime Minister's Office - information relating to the recommendations of a Group of Ministers that had recently visited the Narmada valley in connection with resettlement and rehabilitation projects under the Sardar Sarovar Project in Madhya Pradesh at the behest of the Prime Minister. They had invoked proviso to Sec. 7(1) of the Right to Information Act, claiming that the information sought concerned the lives and liberty of 'many Narmada Bachao Andolan activists who are on hunger strike' and the 'thousands of families who are on the verge of losing their homes, their lands and their very means of survival' - This application was transferred by PIO Kamal Dayani of the Prime Minister's Office to the CPIO, Ministry of Water Resources. The complainant has therefore made a complaint u/s 18 of the Act to the Commission asserting that the report having been commissioned under the orders of the Prime Minister, the Prime Minister's Office should have provided the information and in light of the 'emergent circumstances' the Commission direct the concerned Ministry to do so - Some critical issues of interpretation have been raised in the hearing as follows

- a) Was the PMO within the law in transferring the case to Ministry of Water Resources?
- b) When is the question of life and liberty to be considered a matter of concern?
- c) Does the present case cover the definition of 3rd party u/s 11 or protection of commercial confidence u/s 8 1) (d) of the Act?

CIC held that:

- a) The PMO is indeed the repository of much information that concerns every Ministry/Department of the Government of India. But this does not make it the keeper of information as defined in Section 2(j). In the normal course the PMO is authorized under

Sec 6 (3) (ii) to transfer an application to a public authority more closely connected with the subject of the information sought.

b) In its report to the Commission PMO argued that section 7(1) is not relevant as hunger strike is an 'action voluntarily entered into by the individual concerned and cannot be perceived as a threat to his/her life or liberty'. On the question of the affected public the PMO has held in its response that there was no immediate action that could be taken that could endanger liberties and lives, as there could be no submergence before the monsoon. Therefore CIC held that the imminent threat to the public was not immediate and that Proviso to Sec 7(1) will not apply. CIC also held that if medical reports in case of a satyagrahi show that the life is in danger then section 7(1) will apply. Therefore, CIC held that (i) The application be accompanied with substantive evidence that a threat to life exists (e.g. medical report) and (ii) Agitation with the use of *ahimsa* must be recognized as a bonafide means of expressing protest, and therefore even if the claim of concern for life and liberty is not accepted in a particular case by the public authority, the reasons for not doing so must be given in writing in disposing of the application.

c) As a member of the public the intervener, Shri Roy may hold an interest as a citizen of India in the outcome of this case, but it cannot be accepted that he is a third party in the present case for want of substantiation of that interest falling within the defined parameters of Sec 8 (1) (d) and Sec 11(1).

Appeal No CIC/AT/A/2005/00004 – Order dated 27-12-2006 – In the case of Raj Kumar Jhilmill Vs MCD - application requesting action taken on a complaint on ongoing illegal construction in Dilshad Garden Delhi – Not satisfied with the reply received from PIO - appeal to the Appellate Authority-1, MCD who indicated that the property continues to vest with the DDA from whom information had been sought, and not with the MCD – advise to make fresh application to the DDA – Also advice that building bye laws copy can be purchased from market as it is a priced publication - The Commission held that the MCD and DDA are separate public authorities - MCD should have transferred the relevant part of the application to the DDA, with a copy of the forwarding letter to the applicant to enable him to pursue the matter with DDA - It was not necessary for the applicant to apply for this information afresh. MCD admit that they had asked the appellant to

purchase the building bye-laws from the market, since this is a priced publication - MCD could have given the building bye-laws for which, the publication being priced, they could have charged him the cost as per procedure laid down in Sec 7(3) of the Act - They may now do so., but this falls under Para 6 of the original application of the appellant to the PIO and the information was not provided within the time limits specified under Section 7(1), this shall be provided free of charge as per Sec 7(6).

63. VEXATIOUS LITIGANTS:

Appeal No. CIC/OK/C/2007/00567 – Decision dated 09-05-2008 – Shripal Jain Vs North Western Railway - The Respondents stated that this had happened in several cases where in response to the RTI application, they had compiled the information which

sometimes ranged over large period of time, and dealt with several Department, and when they wrote to the Appellant to deposit the money so that they could send the information, there was no response from him. Obviously, the Appellant is taking recourse to the RTI merely to harass the Department and put it under undue pressure. Under the circumstances, the Commission directs the Appellant to first clear all the dues for the information already compiled and receive them before filing another RTI-application and authorizes the Respondents not to respond to any of his applications till such time that the Appellant has paid for the information which has already been compiled.

64. VOLUMINOUS INFORMATION:

Appeal No. 26/IC(A)/06 – Order dated 07-04-2006 – In the case of Kishur J Agarwal, Editor in Chief, Nuurrie Media Ltd, 442, The Ashok, Chanakyapuri, New Delhi –110 021 Vs Syndicate Bank, Bangalore – The applicant sought voluminous information on several issues like details of employees working in Banking Division or other places without any declaration of last 10 years(their names, salaries, OT drawn, place of working, law under which they are allowed to work outside if they are working outside), details of cash counters and cashiers at ITO Branch, Delhi, Details of car and traveling expenses of last 5 years (car numbers, expenses per month, kms per month, private car or hired card, maintenance per month, car make, petrol consumed, beneficiary of the car, year of manf, eligibility of official of to use the car), month wise donations to charitable institutions in last 5 years (names of NGOs, date of donation, addresses, activities, amount given, profit of bank etc), monthly details of VRS and reappointment (names of employees, date of joining, date of VRS, post, period left of service, amount paid, details of employees appointed in the last three years after VRS) – He also wanted to inspect all the relevant files - The appellate authority informed the appellant that the Bank normally allows its employees to work in other organizations on deputation basis, as it is important for professional development of staff and commercial advantage for the bank - Therefore, revealing such information would affect the competitive position and business interest of the bank which comes under Commercial Confidence and Trade Secrets - The appellate authority has also informed that the bank is bound by the rules to retain the records for a maximum period of 8 years only and the information sought by the appellant is for the last 10 years. Collecting of data from various sources would involve disproportional diversion of resources and will affect the normal functioning and customer service of the bank - The appellate authority has contended that the details of Cash Counters and Cashiers pertain to the security item which would affect the security of the Bank and also is a Commercial confidence and trade secret. Therefore, revealing the information about cash is not in the interest of the Bank - the appellate authority has indicated that the bank has a system of providing cars to the selected executives, which is linked to the business dimensions and also part of image building exercise for the bank - The bank fulfills the statutory requirement like calculation of perks for the purpose of deduction of Income Tax etc - Revealing the information sought by the appellant may lead to the divulgence of the confidential information to the competitors and thus may affect the Banks' Trade Secrets and the Commercial Confidence. Moreover, the information called for are not readily available as per

the requirements of the appellant and the appellant is not ready to accept the information in the form it is available with the Bank. The Bank has to generate the information which involves lengthy procedure, time, sparing of staff members etc. and thus the bank is justified in declining the request - the appellate authority has stated that the bank is a commercial organization and in order to canvass business and to retain the existing customers, the bank gives donations. By revealing the information sought by the appellant, it may reach in the hands of the competitors and which will affect the banks business. Therefore, revealing of such information will have to be denied under Commercial Confidence and Trade Secrets - the appellate authority of the Bank has contended that the information sought for cannot be revealed as this would be mis-utilised by the competitors in the market and would affect the business interest and policies on recruitment/retirement of the bank, under Commercial Confidence and Trade Secrets. The collection of information from thousands of VRS employees calls for lengthy time frame and staff strength which is highly impractical, and such information will not advance any public interest.

An information is to be provided in the form in which it is sought or it exist with the information provider, unless it would disproportionately divert the resources of the public authority (u/s 7 (9)). The information sought by the appellant is voluminous. The appellant is therefore directed to minimize and prioritize the requirement of data/information, so that the same could be provided at the least cost. The cost-effectiveness aspect of disclosure of information ought to be kept in mind. The appellant may also indicate the bonafide public interest in disclosure of information sought by him, as considerable amount of resources would have to be deployed by the Bank for providing the information asked for by him. The contentions of the appellate authority of the bank that information relating to donations, expenditure on transport, and salary drawn by the staff cannot be disclosed is not acceptable. Such information should be kept readily available for inspection and disclosure to citizens. The Bank is directed to disclose the details of its various activities, as required u/s 4 (1) of the Act. And while seeking exemptions from disclosure of information u/s 8(1) the reasons of Commercial Confidence, Trade Secret or Competitiveness of the Bank, etc. should be clearly articulated.

Appeal No. 23/IC(A)/2006 – Order dated 10-04-2006 – In the case of Kishur J Aggarwal, Editor in Chief, Nuurrie Media Vs Corporation Bank, Mangladevi Temple Road, P.B. No. 88, Mangalore – 575001 – Like in the above case, the applicant sought voluminous details – CIC held that information is to be provided in the form in which it is sought or it exists with the information provider, unless it would disproportionately divert the resources of the public authority, u/s 7(9). In the above appeals, there is no question of denial of information. The Bank has furnished the information to the requester in the form available with them. As the information sought by the appellant is voluminous, the compilation of which would disproportionately divert the resources of the Bank. The Bank is willing to provide the additional information on payment of further fees as per the fees and cost rules prescribed by the Government. As a public authority, the Bank is required to make pro-active disclosure of all the relevant information as per provisions u/s 4(1), unless the same is

exempt under the provisions of Section 8(1). In fact, an information regime should be created such that citizens would have easy access to information without making any formal request for it. The appellant, while seeking a large quantity of data and information of different types and nature, has not indicated the bonafide public interest in seeking the information. An information seeker ought to keep in mind the cost effectiveness aspects of disclosure of information. The expected benefits from disclosure of information should invariably outweigh the costs of providing it. He is therefore directed to minimize and prioritize his information needs which can be provided without unduly jeopardizing the normal activities of the Bank, as the information is to be provided within the stipulated period of 30 days. The Commission is in possession of letters which the appellant, Mr. Kishur J. Aggarwal, Editor-in-Chief of a number of Daily Papers / Magazines has written to almost all the PSUs for eliciting their support for promotion of his business interests. His Company, named as NUURRIE Media Ltd. has launched thirty nine (39) websites covering the activities of all sections of the society. He has been asking for the favour of carrying out advertisements in his magazines / websites. Clearly, his *modus operandi* is to use RTI for influencing PSUs for promotion of his business, rather than serving the social interests such as ensuring transparency and efficiency in functioning of PSUs. This is indeed a blatant misuse of RTI Act which ought to be discouraged. As an enlightened citizen, every information seeker should resort to RTI Act responsibly, as most people are doing and reaping the benefits of this powerful Act.

Appeal No. 24/IC(A)/2006 – Order dated 10-04-2006 – In the case of Kishur J. Aggarwal, Editor-in-Chief, Nuurri Media Ltd Vs UCO Bank, Head Office, 10, Biplabi Sarani, Brabourne Road, Kolkata-700 001 - Like above cases, the applicant sought voluminous information – The commission reaffirmed its stand as in above case.

Appeal No.27/IC(A)/06 – Order dated 10-04-2006 - In the case of Kishur J Agarwal, Editor in Chief, Nuurrie Media Ltd Vs Indian Renewable nergy Development Agency – Applicant again sought voluminous information on car and traveling expenses – copies of vouchers and bills – CIC held that having already examined a large number of appeals against several public authorities from the appellant for similar information, which he is not utilizing for public purposes, we are convinced that the appellant is mis-using the Act for promotion of his own business as mentioned elsewhere in decision No.23/IC(A)/06. There is no evidence of proper use of information that he has already been provided by several public authorities. As a media person, he could have highlighted if there as any malfunctioning in the organizations, which have supplied information to him. He is, therefore, warned to exercise restraint in seeking information that he is not making any use of it in the public interest. The appellant is seemingly using the tactics of seeking information from PSUs for furtherance of his own business, as mentioned above. The public authorities, including IREDA are directed to: (a) ensure disclosure of information as per Section 4(1) of the Act so that a citizen does not have to necessarily resort to seek information under the Act, and (b) indicate clearly the grounds of seeking exemption from disclosure of information. Exemptions from disclosure of information relating to donations, for instance, under Section 8(1)(d) has been vaguely mentioned, which is not acceptable. Record management system ought to be improved such

that information which are to be disclosed to public could be easily provided, after delineating the information that are confidential or in the nature of trade secret. On the pretext of confidentiality of information, a company should not deprive the citizens of their right to access information that could be utilized for societal benefits.

65. VIGILANCE CASES:

Appeal No.31/IC(A)/06 - F.No.CIC/MA/A/2006/116 – Date 01-05-2006 - Smt. S.R. Sawant, Advocate Vs Directorate General of Vigilance, Customs and Central Excise, New Delhi – The appellant asked for list of Group – A officers of CBEC who were included in the Agreed List during the years 2003-04, 2004-05 & 2005-06 respectively and also the names of Officers from the above list who were promoted/appointed to the higher grade within their cadre or to ex-cadre post while they continued to be in the Agreed List - The CPIO informed that the issue has been examined in this Directorate in consultation with the third party involved in preparation of Agreed List, i.e. CBI. It is observed that the Agreed Lists are confidential documents and as per Section 8 (1)(h) and Section (l)(j) of RTI Act, 2005, the said information pertaining to Agreed List cannot be disclosed to public. Appellate authority took same view. CIC held that 'Agreed List' is prepared in accordance with the guidelines of the Ministry of Home Affairs and that, in consultation with the CBI, an officer's name is included in the list on the basis of complaint, public perception or suspicion of corruption, so as to keep discreet watch on the activities of the suspect official. This is a part of the process of keeping watch to ascertain their alleged involvement in corrupt practices. The List is reviewed annually and kept highly confidential. Disclosure of information i.e. 'Agreed List' would therefore defeat the very purpose of surveillance, which is conducted through the established procedure of preparation of 'Agreed List'. The CPIO has, therefore, correctly applied sections-8 (1)(h) for exemption from disclosure of information. The aspects of rewards such as promotion of officers (or their placements in sensitive positions) and concurrent inclusion of their names in the 'Agreed List' on the basis of suspicion of corruption are very closely associated, though negatively. As these are important public activities having far reaching implications for containing corruption, it is not understandable how the Government simultaneously pursues the contradictory goals of discouraging corrupt officials by way of keeping them under strict surveillance or discreet watch on the one hand, and rewarding them with promotion and higher postings, albeit to non-sensitive posts, on the other. There ought to be a greater degree of objectivity and openness in the procedure of promotions or placements in sensitive positions, particularly of officers who have at any point of time in their career had done wrong. Without taking due cognizance of the integrity of officers in such matters, it is not possible even to think of the creation of a corruption free society. We therefore see no reason why the names of the officers who were promoted or placed in sensitive positions while they were concurrently under discreet watch i.e. 'Agreed List' by the competent authority, should not be disclosed. As the appellant has asked for, as under (II) above, about the names of officers who were under surveillance and were also those who were promoted in the past years 2003, 2004 and 2005 should be disclosed. The information for the current year i.e. 2006, being in the process and incomplete, may be withheld.

66. VERIFICATION BY CIC:

F. No. PBA/06/154 - 4th September 2006 - Appeal No. 88/ICPB/2006 - Nilamadhab Jena Vs Bureau of Energy Efficiency,(BEE) – Marks in examination – allegation of tampering with answer sheets – Answer sheet shown as an exceptional case but marks deleted from sheet – CIC stated that it has taken the view that to maintain the sanctity of examination process, evaluated answer sheets need not be disclosed to the examinees. In the present case, the public authority has shown the photo copy of the answer sheets of the appellant, however, deleting the marks obtained by him in respect of each answer. Directed the CPIO to produce before the Registrar of the Commission, the original answer sheet as well as the photo copy shown to the appellant to verify whether there is any tempering in the original answer sheet and convey his decision directly to the appellant and the public authority.
