

OFFICE OF THE FIRST APPELLATE AUTHORITY
(Appointed under the Right to Information Act, 2005)
The Institute of Company Secretaries of India ICSI House
C-36, Sector-62, Institutional Area
Noida - 201 309 (U.P.)

Appeal No.00032/2024

IN THE MATTER OF:

Mr. Ayush Garg
Garg Furniture and Woolen, Main Road
Muradnagar

Appellant

Vs.

Central Public Information Officer
The Institute of Company Secretaries of India
ICSI House 22, Institutional Area, Lodi Road
New Delhi - 110 003

Respondent

Date of Order: 15th April 2024

ORDER

- (1) The Appellant has filed first Appeal- No. ICSOI/A/E/24/00032 on 16.03.2024 under Section 19(1) of the Right to Information Act, 2005 in connection with Response Ref No. ICSOI/R/E/24/00157 dated 28.02.2024 against the Central Public Information Officer (CPIO) (hereinafter referred to as Respondent) of the Institute of Company Secretaries of India.
- (2) The Appellant vide his application dated 01.02.2024 has requested to provide the following information:
- 1) List/details of CS who were involved in the name lending including the accused or guilty both.
 - 2) List/ details of action taken against such guilty CS including their names.
 - 3) List/details of PCS who were accused or guilty of the name lending.
 - 4) The action/ initiative taken by ICSI to curb name lending and past actions taken. Provide the details of above From F.Y 2021 to 2024 or the maximum period allowed, as per the provisions of RTI Act, 2005.
 - 5) Details of protection if any individual provide ICSI the name of CS who involved in name lending
- (3) The Appellant has informed in the instant appeal that "Provided incomplete, misleading or false information".
- (4) The reply of the Respondent against the instant appeal is as under: -

"Since the RTI application pertains to Directorate of Discipline of the ICSI, therefore, the CPIO has asked for written submission from concerned Directorate for the same. Their submission is mentioned below:

1. The Appellant / Applicant has sought followings information:

- i. List/details of CS who were involved in the name lending including the accused or guilty both.
 - ii. List/ details of action taken against such guilty CS including their names.
 - iii. List/details of PCS who were accused or guilty of the name lending.
2. With reference to queries 1 to 3 of the RTI Application as stated above, no such list/details are maintained in the Disciplinary Directorate.
 3. Orders of Disciplinary committee / Board of Discipline are available on the website of the Institute i.e. www.icsi.edu which the Appellant can peruse.
 4. A complaint of professional or other misconduct against member is dealt in accordance with the Company Secretaries Act, 1980 (the Act) read with the Company Secretaries (Procedure of Investigations of Professional and Other Misconduct and Conduct of Cases) Rules, 2007(the Rules). As per Company Secretaries Act, 1980, any person can file the complaint with Disciplinary Directorate of any alleged misconduct mentioned under Schedule I & II to the Act.
 5. The applicant may refer the Act and the Rules which are available on the website of the Institute i.e., www.icsi.edu.
 6. Reference is drawn to the order of Hon'ble CIC issued on 12.05.2027(copy attached as Annexure A) in Appeal No.: -CIC/MP/A/2015/001980-BJ on 12.05.2027 in which it is stated / held:

“ It was further observed by the Commission that under the provisions of the RTI Act, 2005, only such information as is available and existing and held by the public authority or is under control of the public authority can be provided. The PIO is not supposed to create information that is not a part of the record. He is also not required to interpret information or furnish replies to hypothetical questions. Similarly, redressal of grievance, reasons for non-compliance of rules/contesting the actions of the respondent public authority are outside the purview of the Act.”

7. Written submission to query no. 4: - “

As per Company Secretaries Act, 1980, any person can file complaint with Disciplinary Directorate on any alleged misconduct as mentioned under 1st Schedule and 2nd Schedule of the Company Secretaries Act, 1980. Orders of Disciplinary committee / Board of Discipline are available on the website of the Institute i.e. www.icsi.edu which the Appellant can peruse.

8. Written submission to query no. 5: - The query is not clear.

Further, the Public Authority under the RTI Act, 2005 is not supposed to create information or to interpret information or to solve the problems raised by the applicants.

Therefore, the appeal deserves to be dismissed”.

- (5) This Office has carefully considered the application, the response, the appeal and the records made available and finds that the matter can be decided based on the material available on record.

This Office concurs with the submission of the Respondent.

The appeal is accordingly disposed of.

Sd/-

(Sonia Baijal)
First Appellate Authority

Copy to:

1. **Mr. Ayush Garg**
Garg Furniture and Woolen, Main Road
Muradnagar

2. **Mr. Saidutta Mishra**
Central Public Information Officer
The Institute of Company Secretaries of India
ICSI House, 22, Institutional Area Lodi Road
New Delhi - 110 003

3. **Directorate of IT - For publishing on the website**