

**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, Institutional Area, Sector-62,**  
**Noida - 201 309 (U.P.)**

**Appeal No. 15/2021**

IN THE MATTER OF:

Mr. Vivek Meena  
160 Vishvakarma Nagar First,  
Maharani farm,  
Durgapura, Jaipur

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: 26<sup>th</sup> March, 2021

**ORDER**

1. The appellant has filed 1<sup>st</sup> appeal on 27<sup>th</sup> February, 2021 under Section 19(1) of the Right to Information Act, 2005 in connection with RTI reply vide letter number RTI 2005/4975/(20) dated 28.01.2021 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 30.12.2020 has requested to provide information through RTI Act, 2005.
3. The appellant has informed in the instant appeal that he was provided incomplete, misleading or false information.
4. The reply of the Respondent against the instant appeal is as under:-

**“Regarding reply to the query no. 2(IV):-**

**Regarding reply to the query nos. 2 (VII), 2 (VIII), 2 (X), 2 (XI), 2 (XII), 2 (XIII), 2(XIV):-**

**Regarding reply to the query nos. 12 to 15:-**

**Regarding reply to the query nos. 18 (III to VII):-**

**Regarding reply to the query nos. 18 (XVII, XVIII, XIX, XX, XXI, XXII, IX):-**

**Regarding reply to the query no. 18 (XI) (F):-**

**Regarding reply to the query no. 28:-**

The contents made in the RTI reply stands as it is as the RTI Act, 2005 does not make it obligatory on the part of the Public Authority to create information or to interpret the information for the purpose of its extraction/dissemination. Such information cannot be provided which is not maintained in the form/manner as desired by the RTI applicant (RTI appellant herein) and the reply to the query cannot be created and designed in the manner and wish of the appellant.

**Regarding reply to the query no. 5 and 6:-**

The contents made in the RTI reply stands as it is as the RTI Act, 2005 does not make it obligatory on the part of the Public Authority to create information or to interpret the information for the purpose of its extraction/dissemination. Such information cannot be provided which is not maintained in the form/manner as desired by the RTI applicant (appellant herein) and the reply to the query cannot be created and designed in the manner and wish of the appellant.

Further, it is necessary to mention that he is seeking information afresh in the first appeal by providing / mentioning the manner for information which he had not asked in the RTI application earlier; for which he may seek the information, anew by mentioning the specific manner for the information.

**Regarding reply to the query no. 10:-**

It is pertinent to mention that the RTI Act, 2005 have been asked to provide the recorded opinions and advices. Therefore, the RTI Act, 2005 does not make it obligatory on the part of the Public Authority to create information. The information which is not in existence cannot be created and designed, therefore, the reply to the query cannot be provided in the manner and wish of the appellant. The CPIO can only reply, if the query satisfies the parameters of the definition of "information" as given in Section 2(f) of the RTI Act, 2005.

Further, the RTI case mentioned by the RTI appellant is in the favour of Public Authority.

**Regarding reply to the query no. 20:-**

The contents made in the RTI reply stands as it is as the RTI Act, 2005 does not make it obligatory on the part of the Public Authority to create information or to interpret the information for the purpose of its extraction/dissemination. Such information cannot be provided which is not maintained in the form/manner as desired by the RTI applicant (appellant herein) and the reply to the query cannot be created and designed in the manner and wish of the appellant.

Further, it is necessary to mention that he is seeking information afresh in the first appeal by providing / mentioning the afresh information which is still unspecific and which he had not asked in the RTI application earlier; for which he may seek the information, anew by mentioning the specific manner for the information.

**Regarding reply to the query nos. 23 and 24:-**

The contents made in the RTI reply stands as it is as the RTI Act, 2005 does not make it obligatory on the part of the Public Authority to create information or to interpret the information for the purpose of its extraction/dissemination. Such information cannot be provided which is not maintained in the form/manner as desired by the RTI applicant (appellant herein) and the reply to the query cannot be created and designed in the manner and wish of the appellant.

Further, it is necessary to mention that he is seeking information afresh in the first appeal by providing / mentioning the afresh information and manner which is still unspecific and which he had not asked in the RTI application earlier; for which he may seek the information, anew by mentioning the specific manner for the information.

**Regarding reply to the query no. 29:-**

It is necessary to mentioned that the requisite information is available in public domain, therefore, the contents made in the RTI reply stands as it is as the RTI Act, 2005 does not make it obligatory on the part of the Public Authority to create information or to interpret the information for the purpose of its extraction/dissemination. Such information cannot be provided which is not maintained in the form/manner as desired by the RTI applicant (RTI appellant herein) and the reply to the query cannot be created and designed in the manner and wish of the appellant.

**Reference case w.r.t. all the above-mentioned replies:**

**Please refer the para number 35 of CIVIL APPEAL NO.6454 OF 2011 [Arising out of SLP [C] No.7526/2009] in the matter of Central Board of Secondary Education &Anr. ... Appellants Vs. Aditya Bandopadhyay & Ors. ... Respondents:-**

"35. At this juncture, it is necessary to clear some misconceptions about the RTI Act. The RTI Act provides access to all information that is available and existing. This is clear from a combined reading of section 3 and the definitions of 'information' and 'right to information' under clauses (f) and (j) of section 2 of the Act. If a public authority has any information in the form of data or analysed data, or abstracts, or statistics, an applicant may access such information, subject to the exemptions in section 8 of the Act. But where the information sought is not a part of the record of a public authority, and where such information is not required to be maintained under any law or the rules or regulations of the public authority, the Act does not cast an obligation upon the public authority, to collect or collate such non-available information and then furnish it to an applicant. A public authority is also not required to

furnish information which require drawing of inferences and/or making of assumptions. It is also not required to provide 'advice' or 'opinion' to an applicant, nor required to obtain and furnish any 'opinion' or 'advice' to an applicant. The reference to 'opinion' or 'advice' in the definition of 'information' in section 2(f) of the Act, only refers to such material available in the records of the public authority. Many public authorities have, as a public relation exercise, provide advice, guidance and opinion to the citizens. But that is purely voluntary and should not be confused with any obligation under the RTI Act. The content made in the RTI reply stands as it is and are candid."

**Regarding reply to the query no. 8:-**

It is necessary to mention that the said decision has been taken by the Council of the ICSI in the Council Meeting and it is submitted that the Council has decided that its agenda and minutes and those of the committees and boards of the Council and the Institute shall not be provided under the RTI Act, 2005. Therefore, the said information is not available under the RTI Act, 2005.

**Regarding reply to the query no. 21:-**

It is necessary to mention that the Council has decided that its agenda and minutes and those of the committees and boards of the Council and the Institute shall not be provided under the RTI Act, 2005."

It is further stated that most of the extracts of minutes of the meetings of the ICSI contains information which are relating to the sensitive matters i.e. students' and members' information/data, examinations, academics, Company Secretaries Act, 1980, etc. This information included commercial confidence, trade secrets or intellectual property, the disclosure of which would harm the competitive position of a third party and the disclosure of such information is not in larger public interest. Therefore, It is strongly urged that all this information squarely falls within the ambit of Section 8(1)(d) of the RTI Act and there are such information which contains the fiduciary relationship; the disclosure of such information is also not in larger public interest as per the Section 8(1)(e) of the RTI Act, 2005.

However, as decided by the higher authorities of the ICSI, there are some of the extracts of the minutes of the meetings the ICSI which have already been uploaded on the website of the ICSI for which there were no issue to upload for public.

Please refer the para number 20 and 21 of the judgement dated 18.08.2020 of Hon'ble High Court of Delhi in the matter of W.P.(C) 11399/2016

20. In that case also, the CIC had passed a decision to give the Minutes of the Board Meeting directing expunction of information which was exempt under Section 8(1)(d) of the Act. Hence, as noted by the aforementioned judgment, the CIC left the whole thing at the discretion of the petitioner which was held not to be the correct approach.

21. A perusal of the reply given by the CPIO dated 17.09.2014 to respondent No. 2's application shows that there were in all 10 Board Meetings that had been held. Further details are not on record. In the facts of this case, it would be for the CIC to go into the minutes of the Board Meetings and of the AGMs and to determine as to which of the information which is contained in the minutes attracts the provision of Section 8(1)(d) of the Act, namely, are exempt from disclosure and which portion of the minutes can be given to respondent No. 2 in response to his application under the RTI Act. The CIC while looking at the aforesaid matter afresh may keep into account the above observations of the Supreme Court to determine as to whether the demand of respondent No. 2 for minutes of all the Board Meetings for the stated period would fall in the category of being counterproductive and a misuse/abuse of the RTI Act that was frowned upon by the Supreme Court.

**Regarding reply to the query no. 11:-**

We reiterate our earlier reply as it is not required to maintain the requisite information relating to honorary fellow membership as per the provisions of Company Secretaries Act, 1980.

Therefore, the appeal deserves to be dismissed *in-limine*."

4. 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.
5. This Office concurs with the submission of the Respondent.

The appeal is accordingly disposed of.

Sd/-  
(Ankur Yadav)  
First Appellate Authority

Copy to:

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