

23-11-2019

To,

The Registrar, First Appellate Authority

N.I.T. Durgapur, M.G.Avenue, PIN-713209, W.B.

Sub.: Information required under RTI Act 2005 (Act No. 22 of 2005).

My Ref.: My Letter dated 10-08-2019 (Annexure-1) seeking information under RTI Act, 2005.

Your Ref.: Nil.

Sir,

I applied to the CPIO for the complete, proper and relevant information as cited in my letter dated 10-08-2019. But till today, no reply / correspondence / information is sent to me.

Please provide me those relevant informations as early as possible.

Thanking you

Yours truly

Annexure - 1

ate 10-08-2019

To,
The Central Public Information Officer(CPIO),
c/o Registrar Office, N.I.T. Durgapur, PIN-713209, W.B.

Sub.: Information required under RTI Act 2005 (Act No. 22 of 2005).
Ref.:The Family Planning Allowance (FPA).

sarakeshp@gmail.com
09-16

EW450738625IN 14R69074507
SP DURGAPUR RE COLLEGE SD 713
Counter No:5,10/08/2019,12:48
To:CPIO,NIT DURGAPUR
PIN:713209, Durgapur Re Colleg
Front: MAJI,NIT DURGAPUR
Wt:10gms
Amt:17.70(Cash)Tax:2.70
<Track on www.indiapost.gov.in

Sir,

I require the following informations:

The following details as mentioned in List No. A of each employee (or spouse) as mentioned in List No. B should be provided to me in tabular form.

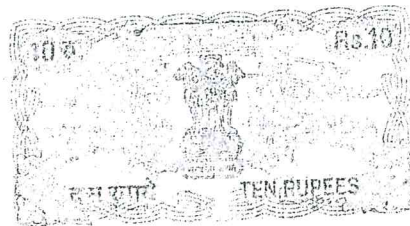
- List No. A : (i) Sterilisation certificate issued by an authorised competent authority.
(ii) Sterilisation certificate countersigned by Chief Medical Officer of Health (CMOH),
Asansol Health District.
(iii) Date of Sterilisation operation undergone (tubectomy for women or vasectomy for men).
(iv) Date of applying for claiming the Family Planning Allowance (FPA) with proper certificates.
(v) Date of despatch of letter sent from the authority inquiring the queries for the reasons of
delayed claim.
(vi) Date of receipt of reply from the incumbent explaining the reasons for delayed claim.
(vii) Date of sanctioned letter or regret letter issued by the authority (N.I.T. Durgapur).

List No. B: 1. Dr. Apurba Layak(ME) 2. Dr. Animesh Dutta(IT) 3. Dr. Rajnarayan Saha(Chem) 4. Mr. Sunil
Kr. Hazra(Personnel Section) 5. Mr. Tapan Samadder(Accounts Section) 6. Mr. Rajat Sarkar
(Phy) 7. Mr. Sushil Kumar Das(MME) 8. Mr. Nirmal Majhi(Library) 9. Mr. Sabitabrata
Maji(CSE) 10. Mr. Goutom Bhattacharya(Cash Section) 11. Prof.(Dr.) Bansibadan Maji.

Please provide me these above mentioned informations in tabular form and also attested xerox copies of those above mentioned documents as early as possible. Requisite application fee is attached herewith.

Thanking you

Yours truly



RTI and Third Party Information: What Constitutes the Private and Public?

The passing of the Right to Information Act, 2005 was seen as giving an empowering tool in the hands of the citizens of India, six years post its implementation, loopholes have surfaced with misuse of the many fundamental concepts, which have yet not been defined to allow for a consistent pattern of decisions. Among many problems that emerge with the Act, a major problem is defining the extent to which an individual has access to other people's information. While most of us tend to think that asking for other people's phone numbers, personal details like passport number or IT returns are private and would be kept so, under the RTI Act and as seen in the Central Information Commission (CIC) decisions, all of these details can be availed of by someone who doesn't know you at all!

According to section 2 (n) of the RTI Act, 2005, 'third party' means a person other than the citizen making a request for information and includes a 'public authority'. This implies that the term 'third party' includes anyone other than the appellant or the respondent. In matters where an appellant is seeking information not regarding his or her own activities, or is asking for details of shared records that list details of several persons other than him or her, information cannot be provided until the 'third party' consents to disclosure and subsequently until the Central Public Information Office (CPIO), after considering the implications of such disclosure allows it. Section 11 (1) the Act provides the procedure to access third party information wherein the appellant needs to request for the third party's consent after which the CPIO will produce a written request to the 'third party' and within a stipulated time period obtain their response. However, it is not the information bearer (third party) who holds the key to disclosure. The power, by the RTI Act, 2005, is vested in the public information officer who will then, either see a 'larger public interest', or otherwise allow disclosure based on the merits of the case.

In such a situation, it is interesting to see who the Central Information Commission (CIC) regards as 'third party'. While going through the judgments delivered by the CIC, one comes across several judgments that tell you who can and who cannot access your information. While a son or daughter naturally inherits his/her father's wealth, land or other possessions, they do not inherit his position for obtaining information. This is just one instance. Similar holds true for access to information of a deceased kin. Unless the public information officer sees a 'larger public interest' in disclosure of such information, it cannot be revealed even to the deceased's wife, husband or children unless they hold a power of attorney specifically to a right to access information.

This brings us to the question of 'larger public interest' and what information can be delved to anyone for this cause. While the RTI Act, 2005, clearly states that the appellant needs not a reason to ask for any information, it is largely based on the public information officer's inference as

to what the appellant may do with the data and hence, maybe deemed as acting in public interest or for personal gains. This also produces positions of potential criminality and the need for State subjects to prove themselves as ideal information seekers, void of malice in order for the public information officer to rule in their favour.

Third party position is a problematic one as it only goes so far as to define the state-mediated interaction between two subjects in relation to each other through legal machinery that holds massive discretionary powers to disclose or withhold information. Hence, while, in relation to 'third party', a subject may need to justify his larger benevolent interests, the State finds no problems revealing or disclosing information for its own good. In *Shri Rajender Kumar Arya vs Dy. Commissioner of Police (DCP)*, (4 March 2009), the commission ruled that they now have the decision of the Madras High Court in the context of right to privacy in light of the RTI Act. The Madras High Court observed that with the advent of the Right to Information Act, section 3 of the Act entitles a citizen to the right of information. Section 4(2) of the said Act obliges a public authority to disclose information to common people. Even personal information or information, which may otherwise amount to an invasion of privacy, may also be disclosed if the larger public interest so warrants. The court in fact came to the conclusion that the right to privacy virtually fades out in front of the 'Right to Information' and 'larger public interest'. This tells us that 'third party' is a mere negotiating position from which the State itself regulates information flow to citizens and can revoke these privileges as and when needed.

Moreover, there is no clear definition to the 'larger public interest' or 'invasion of privacy'. In several judgments, the committee upholds principles of natural justice to justify instance of public good but these cannot be upheld for all decisions. It is also interesting to see what comes under the purview of 'public information'. It's a misconception if you think that you hold the right to revealing your age, birth date, place you belong to, your marks, the rank that you hold, the salary you get, the returns you file or subsequently any of this information regarding your children. As upheld in *Madhulika Rastogi vs Regional Passport Office, New Delhi*, on 4 February 2009, *M. Rajamannar vs PIO, AC Division, Indira Gandhi National Open University* on 18 February 2009 and *A.V.Subrahmanyam vs BSNL, Hyderabad* on 16 February 2009 — the judgments illustrate that information submitted to public authorities at any point in time whether to get admitted to school, to get a license, to pass a public services examination or even file a divorce; all qualify for access to other people because they have been knowingly submitted to the public domain. A lot of sensitive information like passport details, telephone call records and medical records that can map intimate interactions of a person's daily life can also be obtained if larger public interest is proven.

Hence, it becomes important to revise and rethink the commonly accepted notions of privacy, especially when information gains such strategic importance as well as fluidity through fast expanding platforms as well as tools such as RTI. While one may confidently think that information generated by the self, pertaining to one's own business and life rightfully belongs to the private domain, it is very important to realize the constantly looming hold of the State to any information. In such a situation, what you can claim as private data totally depends on how much common interest it garners.

What is Third Party Information under RTI?

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5 Answers



Manoj Kumar Sahu, Lawyer

Answered Jul 9, 2016

Originally Answered: What is Third Party Information under RTI ?

Third Party information is basically Individual's personal information which the concerned Department (from whom information is sought) cannot disclose to an applicant who has sought such information under Right to Information Act, 2005.

Information like any individuals performance report, score card, place of posting, work allotted or any complaints pending against him etc. etc. cannot be disclosed to an RTI applicant.

However the concerned Dept. from may write to an Individual stating that such and such RTI application has been filed. If the Individual gives his consent to disclose such inf..

Date: 06-12-2019

To,

The Registrar, First Appellate Authority
N.I.T. Durgapur, M.G.Avenue, PIN-713209, W.B.

Sub.: Information required under RTI Act 2005 (Act No. 22 of 2005).

My Ref.: My Letter dated 06-06-2019 (Annexure-1) seeking information under RTI Act, 2005.

Your Ref.: Nil.

Sir,

I applied to the CPIO for the complete, proper and relevant information as cited in my letter dated 06-06-2019. But till today, no reply / correspondence / information / communication is sent to me.

Please provide me those relevant informations as early as possible.

Thanking you

Yours truly

Annexure - 1

Date: 06-06-2019

To,
The Central Public Information Officer(CPIO),
c/o Registrar Office, N.I.T. Durgapur, PIN-713209, W.B.

Sub.: Information required under RTI Act 2005 (Act No. 22 of 2005).
Ref.:The Family Planning Allowance (FPA).

Sir,

I require some informations/documents related to the Family Planning Allowance (FPA) from my personal files.
The informations/documents sought may be voluminous and enormous.

So allow me to come up in the Establishment section of the Institute and permit me to scrutinise all the related (sought) documents. And also provide me those informations(attested xerox copies) on payment of fees.

Please provide me those informations/documents sought as early as possible.

Requisite application fee is attached herewith.

Thanking you

Yours truly



REGISTRATION NO: 065702776213
OFFICE OF CPIO (713209)
REGD. NO: 065702776213
N.I.T. DURGAPUR
PIN-713209, W.B.

06-06-2019

06-06-2019