

**GOVT. OF NCT OF DELHI**  
**OFFICE OF THE MEDICAL SUPERINTENDENT**  
**RAO TULA RAM MEMORIAL HOSPITAL**  
**JAFFARPUR, NEW DELHI-110073**

**F.No.RTRMH-I/6/RTI Appeal No.11/2013-14/1179**

**Dated: 31-1-14**

**ORDER**

The appeal filed by Shri Harinder Kumar, Advocate, under Section 19 of the RTI Act, 2005 regarding his RTI Application (ID No.86) had been fixed earlier for hearing on 24/01/2014 but due to exigency it was re-fixed for 28/01/2014 at 12:30 PM vide order of even No. dated 21/01/2014 and notified to the appellant. The appeal was heard on 28-1-14 at 12:30 PM. The PIO and APIO were present but the appellant did not turn up to the hearing.

2. The PIO presented a letter dated 21/1/2014 from the appellant that was received in hospital on 24/01/2014 addressed to the FAA wherein he had declined to attend the appeal due to some alleged humiliation of some other appellant but without naming him and without specifying as to how he had come to know about it and without confirming the details of this from the PIO. Taking cognizance of the letter in the name of the undersigned, the contents of which were found to be incorrect, offensive, unreasonable and derogatory. The provocative partition of the letter stands ignored notwithstanding the fact that RTI Act 2005 does not spell out any model code of conduct for the appellants. However it is the considered view of the undersigned as FAA that appellant being a member of the legal profession could have acted differently and shown some respect and faith in the public authority to which he had submitted his appeal and attended the proceedings.

3. In view of the decision of the appellant not to appear before the FAA the appeal was heard in his absence and in presence of PIO and the APIO based on the material evidence placed before the undersigned by the PIO and submissions of the appellant.

4. The PIO clarified that there was no delay on her part in giving the reply within the stipulated time of 30 days. The RTI was received in office of PIO on 3/12/2013 and replied on 24/12/2013. The PIO further stated that all replies given to the appellant and the information given to him were factual and correct. The appellant being an advocate was deliberately wanting to seek information about a sensitive subject i.e. death of a patient that are covered under various sub-section 8 (1) of the RTI Act as replied to him. The PIO further sought permission of the FAA to respond to the comments of the appellant stated incorrectly as 'Replies' as no such reply was asked. The permission was granted to the PIO to respond to the said comments of the appellant as in the letter (Annexure-1) as relevant to this appeal. The response of the PIO is recorded as under:

i) Reg. Answer 1: It is correct that hospital does not keep information in the format sought unless if due to some reason such data is available due some other reason, then it is provided to the RTI applicants as was the case when it was made available to the applicant. Further the applicant has not specified any public interest not is for PIO to create information as per decision of the CIC dated 14/06/2007 in the case of B. G. Thamhankar Vs Ministry of Communication & IT.

Decision of FAA: The contention of PIO was found reasonable and accepted.

ii) Reply to Answer 2 to 4: The PIO stated that norms of practice of Forensic Medicine are not government decisions and not covered under section 4(1)(b)(v). The applicant has also not stated the purpose and public interest involved in his application. Regarding question no. 4 in his RTI, PIO stated that the Forensic specialist does not need permission to conduct post mortem and timings are also decided by the experts as per the practice of forensic medicine and Post mortems are not to be done after sunset even though sometimes that may extend beyond 4 p.m. due to operational reasons.

Decision of FAA: The contention of PIO was found reasonable and accepted.

iii) Reply to Answer 5 : PIO stated that this comment of appellant was hypothetical and does not require a response ignored.

Decision of FAA: The contention of PIO was found reasonable and accepted.

iv) Reply to Answer 6 & 7 : The PIO justified her response as correct as the information cannot be provided under Section 8 (1) (e) and 8 (1) (j) of RTI Act, 2005 and public interest was not stated by the applicant. Since it was a case of death the PIO did not feel it necessary to refer to section 11.

Decision of FAA: The contention of PIO was found reasonable and accepted.

v) Reply to Answer 8: The PIO argued that the appellant had been informed that the information sought was not covered under Section 2 (f) of RTI Act, 2005 and the appellant had not stated any reason that it was not so. It is correct that the appellant was given required information to his earlier RTI no. as deemed fit by the PIO. If he does not want that he is free to ignore. The PIO stated that the appellant being an advocate was deliberately trying to create confusion and by adding meanings that were not intended and she requested the contention of the appellant to be rejected.

Decision of FAA: The contention of PIO was found reasonable and accepted.

vi) Reply to Answer 9 : The PIO informed that this was the first case in this hospital to hold a Medical Autopsy after consent of relatives as the request for the same was made for the first time by the department under who this case was admitted. It is incorrect that that PIO was misusing the authority vested in her.

Decision of FAA: The contention of PIO was found reasonable and accepted.

vii) Reply to Answer 10 : It is correct that the hospital does not keep information in the format sought but as it was the first medical autopsy the PIO submitted that this may be informed to the appellant.

Decision of FAA: The contention of PIO was found reasonable and accepted.

viii) Reply to Answer 11 : The PIO defended her reply as the information could not be provided under Section 8 (1) (e) and 8 (1) (j) of RTI Act, 2005 as information pertained to a third party. Since it was a case of death the PIO did not feel it necessary to refer to section 11.

Decision of FAA: The contention of PIO was found reasonable and accepted.

Contd..3.

ix) Reply to Answer 12 : The PIO informed that the hospital did not keep information in the format sought and the appellant was seeking it to make some case for which the PIO was not obliged to give information as no public interest was specified by the appellant.

Decision of FAA: The contention of PIO was found reasonable and accepted.

x) Reply to Answer 13 : PIO denied the allegation of the appellant that the information given to him was incorrect. Besides the appellant had not given valid reason in making such an accusation. She clarified that the board was constituted by the MS as the Head of Institution using the expertise available in the department using the resources available which falls under his jurisdiction especially it was done on request of a technical officer and with consent of patient's relatives. It is necessary to certify the cause of death in the death certificate as per Birth and Death Registration Act about which the appellant is aware being a member of legal profession. She alleged that the appellant was deliberately misusing his rights under RTI Act to waste the time and scare resources of the hospital and the office of PIO for some undisclosed motives.

Decision of FAA: The contention of PIO was found reasonable but if was not felt necessary to cause any aspersion on the motive of the RTI applicant. However the reply of PIO to the said RTI question was considered reasonable and correct.

xi) Reply to Answer 14: The PIO agreed that the reply from Mortuary department was inadequate as the duty roster of only specialists was considered while replying to the question.

Decision: The PIO is directed to obtain requisite information from the DMS (A)/HOO and provide the same to the applicant within two weeks of issue of this order.

In case, the appellant is not satisfied with decision, he may file a Second Appeal under RTI Act, 2005 within 90 days from the issue of this order before the Information Commissioner, Central Information Commissioner, Room No.326, II<sup>nd</sup> Floor, August Kranti Bhawan, Bhikaji Cama Place, New Delhi-110066.

Encl. as above.

**(Dr. Vijay Rai)**  
**First Appellate Authority/  
Medical Supdt., RTRM Hospital**

**F.No.RTRMH-I/6/RTI Appeal No.11/2013-14/**

**Dated: 31-1-14**

Copy to :

1. Shri Harinder Kumar, Advocate, R/o 1843, Udai Chand Marg, Kotla Mubarak Pur, New Delhi-110003
2. PIO, RTRM Hospital.
3. PA to FAA/MS, RTRM Hospital.

**(Dr. Vijay Rai)**  
**First Appellate Authority/  
Medical Supdt., RTRM Hospital**

Dated : 21.01.14

To,

Dr. Vijay Rai,  
First Appellate Authority,  
Medical Superintendent,  
Rao Tula Ram Hospital, Jaffapur, N.D.

**Ref. :** F.No.RTRMH-1/6/RTI Appeal No.11/2013-14.

**Subject :** Written reply on behalf of the Applicant against reply given by the PIO, Dr. Sangeeta Basu having ref. no. RTRM-I/6/RTI/05/2013-14/ID No.86/21768 dated 24.12.13.

Dr. Vijay Rai,

I received a Hearing Notice dated 15.01.2014 to appear for hearing on 24.01.2014 at 12:30pm vis-à-vis an appeal under Sec 19 of RTI Act.

In the past I was called up for hearing. In the last hearing of First Appeal having ref no. RTRM-I/6/RTI Appeal/05/212-13/1424 your behavior was highly rude and unprofessional. Further your behavior was biased and favoring the reply given by PIO, Dr. Sangeeta Basu. The PIO was not present in the hearing but you on your own were defending her reply. After very much persuasion when you did not inclined to listen me I tried to give my written reply. But your refused to take it on record. On your refusal to accept my written reply and I tried to gave it through Daily Dak. But due to your directions the staff refused to accept it by hand and I was forced to send that reply through speed post. Despite receiving the said reply you passed a biased order without considering my written reply.

I also came to know that recently you called one Applicant for First Hearing and thereafter you misbehaved and humiliated him.

Further in your hearing notice you have used the word "Directed". RTI Act nowhere authorize you to "direct" applicant for hearing. In November 2012 I pointed out to you that First Appellate Authority is not empowered to issue direction to the applicant. But again you are using the same.

For your knowledge regarding the language to be used in the hearing notices, I am enclosing a copy of hearing notices issued by First Appellate Authority/Special Secretary (H&FW) under whose subordination you are working. Even your **Senior Officer** do not the word "direct" in the hearing notice.

The applicant is an officer and not a subordinate working in your hospital. Therefore in the future restrain yourself in using such words.

In these circumstances I am not inclined to appear in person for hearing. And therefore I am giving my present written reply with the hope that this time you will not act with a biased attitude and pass a fair order.

**Reply to answer no.1 :** The PIO in her reply has said that hospital does not keep information in the format sought. The said reply is **incorrect and misleading**. In the past the PIO in reply dated 24.09.12 having ref no. RTRM-I/6/RTI/05/2012-13/ID No.126/11319 has given the doctor wise information. The PIO has disclosed that which doctor has performed how many Post Mortem.

**Reply to answer no.2 to 4 :** The PIO in her reply has said that hospital follows the norms as per standard practice of Forensic Medicine. The applicant has not asked from the PIO about what norms or standard practice of Forensic Medicine the hospital is following. The applicant has asked specific things which must be defined. The said department is having a significant value in the criminal legal system and therefore the same cannot function on the basis of norms as per standard practice. There must be some written and defined rules and regulations given by the appropriate authorities and therefore the same must be provided to the applicant as per Sec. 4(1)(b)(v). Hence the said reply given by the PIO is **incorrect and misleading**.

**Reply to answer no.5 :** The PIO has said that the information is not covered under Sec 2(f) of RTI Act 2005 but has not mentioned that how it is not covered under the said section. The said question is relating to the functioning of the Department of a Govt. Hospital and therefore it's an information which can be given under RTI Act as per Sec.4(1)(b)(v). Hence the said reply given by the PIO is **incorrect and misleading and PIO is misusing the provision in order to hide the information due to reason best known to her**.

**Reply to answer no.6 & 7 :** The PIO has said that the information cannot be provided under Sec 8(1)(e) and 8(1)(j) of RTI Act 2005 as the information pertains to a third party. The said information is relating to the working of the Govt. Hospital and not relating to any third party as per Sec.4(1)(b)(v). further the provision mentioned does not apply to third party information. And even if there is a third party information, the Sec 11 of the RTI Act has to be followed.

**Reply to answer no.8 :** The PIO has said that the information is not covered under Sec 2(f) of RTI Act 2005. Here the PIO is not giving the information citing the above mentioned Section but in reply dated 07.01.14 without asking for the said information the PIO has said that post mortem was conducted to find out the cause of death. **PIO is misusing the provision in order to hide the information due to reason best known to her**.

**Reply to answer no.9 :** The PIO has said refer to Answer to Question no.8. The said reply is **incorrect, misleading and PIO is misusing the provision in order to hide the information due to reason best known to her**. The said question is relating to the functioning of the Department of Govt. Hospital and therefore it's information which can be given under RTI Act.

**Reply to answer no.10 :** The PIO has said that the hospital does not keep information in the format sought. RTI Act nowhere authorized to deny to give information if the information is not kept in the format in which the applicant has sought the information.

The PIO has to provide the information as per the provisions of RTI Act in whatever format she has because it is not possible for the applicant to know about the format maintained by the hospital. Again **PIO is misusing the provision in order to hide the information due to reason best known to her**.

**Reply to answer no.11 :** The PIO has said that the information cannot be provided under Sec 8(1)(e) and 8(1)(j) of RTI Act 2005 as the information pertains to a third party. The provision mentioned does not apply to a third party information. The applicant is not a third party. And even if there is a third party information, the Sec 11 of the RTI Act has to be followed. **PIO is misusing the provision in order to hide the information due to reason best known to her**.

**Reply to answer no.12 :** The PIO has said that the hospital does not keep information in the format sought. RTI Act nowhere authorized to deny to give information if the information is not kept in the format in which the applicant has

sought the information. Further RTI Act nowhere provides such exemptions from disclosure of information. The said reply is **incorrect and misleading**.

**Reply to answer no.13 :** The PIO has given the **wrong** information that the Head of Institution is competent to constitute such boards. That further no document has been provided by the PIO which shows that Head of Institution is competent to constitute such board. If there is such competency then provide the document as per Sec. 4(1)(b)(v) of RTI Act.

**Reply to answer no.14 :** The PIO has not given the information asked by the Applicant. Rather the PIO has given a vague reply.

Sd/-  
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