

**CENTRAL INFORMATION COMMISSION**  
**Club Building (Near Post Office)**  
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**Decision No. CIC/SG/A/2011/001711/BS/0133**  
**Appeal No. CIC/SG/A/2011/001711/BS**

**Relevant Facts emerging from the Appeal**

**Appellant** : Mr. Paritosh Kumar  
Flat no. 203B,  
Aditya Vikash Complex, Budha Marg,  
Patna – 800001

**Respondent** : **(1)** Mr. Amit Vashist  
CPIO & RPFC-II  
**EPFO**  
Head – Office, 14, Bhikaiji Cama Place,  
New Delhi – 110066.

**(2)** Ms. Uma Mandal  
CPIO & RPFC-II (Vigilance),  
**EPFO**  
Head – Office, 14, Bhikaiji Cama Place,  
New Delhi – 110066.

**(3)** Mr. P.K. Agarwal  
CPIO & RPFC-I(HRM),  
**EPFO**  
Head – Office, 14, Bhikaiji Cama Place,  
New Delhi – 110066.

**RTI application filed on** : 03/02/2011  
**PIO replied** : 29/03/2011  
**First appeal filed on** : 28/04/2011  
**FAA order** : No order  
**Second Appeal received on** : 27/06/2011

**Information Sought:**

The appellant sought the following information vide RTI application dated 3.2.2011:

- (i) Details (names, place of posting, designation) of Group A officers in EPFO who are included in “Agreed List” and also posted in sensitive charge for the year after 6.10. till date.

- (ii) Details (names, designation, place of posting) of Group A officers in EPFO against whom CVC recommendations for RDA/CBI recommendation for RDA/CBI recommendation for prosecution/prosecution case for corruption in competent court are going on and still posted in sensitive charge.
- (iii) Details (names, place of posting, designation) of Group A officers in EPFO against whom there is no CVC/CBI recommendation for RDA/CBI recommendation for prosecution/prosecution case for corruption in competent Court but still advised by Vigilance Wing to be posted in non-sensitive charge.
- (iv) Provide copies of all advices tendered by Vig. Wing to HRM from January 2006 onward for placement of Group A officers in non-sensitive charge.

**Reply of the CPIO:**

CPIO vide his letter dated 29.3.2011 advised the appellant that transfer/posting of Group A officers included in "Agreed List" is done by HRM Wing and hence he may seek specific information from them. [Query (i)]. As regards query No. (ii) to (iv) it was informed by the PIO that the said information was not readily available and if an attempt is made to provide information it would lead to creation of information which the public authority is not supposed to do. The PIO further added that supply of information in the form sought by the appellant would disproportionately divert the resources of the public authority or may cause harm to the safety or preservation of records and accordingly denied the information,

**Grounds for the First Appeal:**

The PIO has wrongly denied information.

**Order of the FAA:**

FAA did not pass any order on the First Appeal.

**Grounds for the Second Appeal:**

Information has been wrongly denied.

**Relevant Facts emerging during Hearing:**

The following were present

**Appellant:** Mr. M P Srivastava representing appellant through videoconferencing

**Respondent:** Mr. Amit Vashist, CPIO & RPFC-II, Ms. Uma Mandal, CPIO & RPFC-I(Vigilance) and Mr. P.K. Agrawal, CPIO RC-I(HRM)

The appellant's representative has alleged that there is wide scale corruption in EPFO and Government guidelines regarding *non-posting of tainted officers in sensitive positions* are being blatantly flouted and that the information sought in RTI application dated 3.2.1011 has been wrongly denied as the matter was squarely covered vide this Commission's division bench ruling in Appeal No. CIA/AT/A/2007/00229, dated 21.9.2007. The CPIO Mr. Amit Vashist stated that the information requested in query (i) of RTI application would be available with HRM wing and the same fact had already been communicated to the appellant. As regards information sought in query (ii) to (iv) the CPIO(Vigilance) Ms. Uma Mandal stated that the same was not readily available and if any attempt is made to provide the information it would amount to creation of information. It was further contended by the CPIO(Vigilance) that supply of information in the form sought by the appellant would disproportionately divert the resources of the public authority. On

being asked to specify the approximate number(s) of group A officers whose name would be figuring in the "Agreed List" and/or against whom CVC/CBI had recommended RDA/prosecution and/or who are being prosecuted for corruption in competent court and/or vigilance wing has advised non-sensitive postings, the CPIO(Vigilance) stated that there may be about 50 such files.

### **Decision Notice:**

The Commission is surprised that the CPIO(Vigilance) instead of seeking assistance from the appropriate officer of the HRM Department for providing the information has instead advised the appellant to approach HRM wing there by violating provisions under Section 5(4) of RTI Act. The Commission similarly finds the PIO's contention that providing the information requested by the appellant in query (ii) to (iv) would lead to creation of information and/or disproportionately divert the resources of the public authority totally untenable as the relevant files/records (numbering about 50) are very much available and the said information can easily be compiled/extracted by putting some efforts which are expected of all PIOs in the proper discharge of their duties. The Commission also notes that none of the exemption Sections within the RTI Act are attracted to support the non-disclosure of the information sought by the Appellant.

The Commission is in agreement with the appellant's contention that the matter is squarely covered by this Commission's division bench order No CIA/AT/A/2007/00229, dated 21.9.2007 which had inter-alia held that a principal function of the RTI Act is to bring into open acts of mal-governance, malfeasance and norm violations by public authorities and therefore, it is imperative that names of officers who are beneficiaries of such derogation are brought out in the open.

*The Commission directs the CPIO(Vigilance) to go through the list of group A officers whose name(s) appear in the "Agreed List" and/or against whom CVC/CBI has recommended RDA/prosecution and/or who are being prosecuted for corruption in competent court(s) and/or vigilance wing has advised non-sensitive postings and identify such officers from the aforesaid lists(in consultation with HRM department, if necessary) who are holding sensitive positions **in violation of laid down guidelines** and to furnish their names and designations to the Appellant.*

The Commission advises the CPIO to exercise care in future to ensure that access to information is not denied on flimsy grounds and that complete and timely information is available to RTI applicants.

A compliance report should be furnished to the Commission on or before 8.6.2012.

### **The appeal is allowed.**

This decision is announced in open chamber.

Notice of this decision be given free of cost to the parties.

Any information in compliance with this Order will be provided free of cost as per Section 7(6) of RTI Act.

**BASANT SETH**

**Information Commissioner**  
May 8, 2012

(In any correspondence on this decision, mention the complete decision number.) (AJ)