

तार : 'फूडकोर्प' Gram : 'FOODCORP' फैक्स नं. : एकएकसीआई एनडी ०६९९९२३४९३२४९ ००६९९९२३४९३९०३ Fax No. : HFCI ND 00911123413241 00911123413103	भारतीय खाद्य निगम  FOOD CORPORATION OF INDIA आओएसओ 9001 2000 प्रमाणित ISO 9001: 2000 CERTIFIED १६-२०, बाराखम्बा लेन, नई दिल्ली-११०००९, दूरभाष-२३४९३८७९-२३४९४८७२-२३४९४८८० 16-20, BARAKHAMBHA LANE, NEW DELHI-110001, PHONE : 23413871-23414872-23414880	मुख्यालय नई दिल्ली Head Quarters New Delhi
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No. EP.49 (1)/2003.

Dated: 05/12/2007

(CIRCULAR NO.EP-25-2007-28)

Sub: Disposal of first appeals under the Right to Information Act, 2005 –

A reference is invited to Circular No.EP-25-2005-23 dated 18/08/2005 regarding the implementation of Right to Information Act, 2005.

2. The Department of Personnel and Training vide letter No.10/23/2007-IR dated 9th July, 2007 has conveyed the observations of Central Information Commission (CIC) made while dealing with second stage appeals, as under:-

- (i) the First Appellate Authorities under the Right to Information Act do not dispose off the appeals within the time frame prescribed by the Act.
- (ii) the appellate authorities under the Right to Information Act do not examine the appeals judiciously and express their agreement with the decision of the Central Public Information Officer mechanically.
- (iii) the Central Public Information Officers do not comply with directions of the first Appellate Authority to furnish information to the appellant.
- (iv) some of the departments have appointed junior officers as Appellate Authorities.

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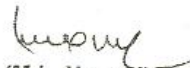
तार : 'फूडकोर्प' Gram : 'FOODCORP' फैक्स नं. : एचएफसीआई एनडी 00699923893289 00699923893903 Fax No. : HFCI ND 00911123413241 00911123413103	भारतीय खाद्य निगम आयएसओ 9001 2000 प्रमाणित ISO 9001: 2000 CERTIFIED १६-२०, बाराखम्बा लेन, नई दिल्ली-११०००१, दूरभाष-२३४१३८७१-२३४१४८७२-२३४१४८८० 16-20, BARAKHAMBHA LANE, NEW DELHI-110001, PHONE : 23413871-23414872-23414880	FOOD CORPORATION OF INDIA मुख्यालय नई दिल्ली Head Quarters New Delhi
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3. In this regard, Section 19(6) of the RTI Act, 2005 provides that the appeals should be disposed off within thirty days from the date of receipt by the appellate authorities and in exceptional cases within forty five days, provided reasons for delay are recorded in writing. Therefore, all the Appellate authorities designated under the Act are requested to ensure that the appeals received by them against the orders of CPIOs are disposed off within the stipulated period. Further, the functions of the appellate authorities being quasi-judicial nature, speaking orders should be passed while disposing off the appeals. If an Appellate Authority, while disposing off appeals, directs CPIO concerned to provide the information to the appellant, in addition to the information already provided, he must ensure that the information is supplied by the CPIO. It would be better if the Appellate Authority himself furnishes the information alongwith the order passed by him in the matter.

4. It is requested to bring the observations of CIC to the notice of all concerned including CPIOs/Appellate Authorities designated under the RTI Act. A copy of DOPT OM No.10/23/2007-IR dated 9th July, 2007 under reference is enclosed for guidance.

Encl: As above:

Distribution:
As per mailing list.


(M.L. Nagpal)
General Manager (P&IR)
dt

SAD (CR)

ICT

2/12/2007

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No.10/23/2007-IR
 Government of India
 Ministry of Personnel, Public Grievances and Pensions
 Department of Personnel and Training

New Delhi, the 9th July, 2007

OFFICE MEMORANDUM

Subject: Disposal of first appeals under the RTI Act, 2005.

The undersigned is directed to say that the Central Information Commission has brought to the notice of this Department that in some cases,

- (i) The first Appellate Authorities under the Right to Information Act do not dispose off the appeals within the time frame prescribed by the Act;
- (ii) The Appellate Authorities do not examine the appeals judiciously and express their agreement with the decision of the Central Public Information Officer mechanically;
- (iii) The Central Public Information Officers do not comply with the directions of the first Appellate Authority to furnish information to the appellant.

2. Section 19(6) of the RTI Act provides that the first Appellate Authority should dispose off the appeal within thirty days of the receipt of the appeal. In exceptional cases, the appellate authority may take forty five days to dispose off the appeal subject to the condition that he shall record in writing the reasons for delay in deciding the appeal. Therefore, each first appellate authority should ensure that an appeal received by him is disposed off within 30 days of the receipt of the appeal. If, in some exceptional cases, it is not possible to dispose off the appeal within 30 days, its disposal should not take more than 45 days. In such cases, the appellate authority should record, in writing, the reasons for not deciding the appeal within 30 days.

3. Deciding appeals under the RTI Act is a quasi-judicial function. It is, therefore, necessary that the appellate authority should see to it that the justice is not only done but it should also appear to have been done. In order to do so, the order passed by the appellate authority should be a speaking order giving justification for the decision arrived at.

Received by
 V.B. (LT)
 on date

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4. If an appellate authority comes to a conclusion that the appellant should be supplied information in addition to what has been supplied to him by the CPIO, he may either (i) pass an order directing the CPIO to give such information to the appellant; or (ii) he himself may give information to the appellant while disposing off the appeal. In the first case the appellate authority should ensure that the information ordered by him to be supplied is supplied to the appellant immediately. It would, however, be better if the appellate authority chooses the second course of action and he himself furnishes the information alongwith the order passed by him in the matter.

5. The Central Information Commission has also pointed out that some of the Ministries/Departments have appointed very junior officers as appellate authorities who are not in a position to enforce their orders. The Act provides that the first appellate authority would be an officer senior in rank to the CPIO. Thus, the appellate authority, as per provisions of the Act, would be an officer in a commanding position vis-à-vis the CPIO. Nevertheless, if, in any case, the CPIO does not implement the order passed by the appellate authority and the appellate authority feels that intervention of higher authority is required to get his order implemented, he should bring the matter to the notice of the officer in the public authority competent to take against the CPIO. Such competent officer shall take necessary action so as to ensure implementation of the provisions of the RTI Act.

6. Contents of this OM may be brought to the notice of all concerned.


(K.G. Verma)
Director

To

1. All the Ministries / Departments of the Government of India
2. Union Public Service Commission/ Lok Sabha Sectt./ Rajya Sabha Secretariat/ Cabinet Secretariat/ Central Vigilance Commission / President's Secretariat/ Vice-President's Secretariat/ Prime Minister's Office/ Planning Commission / Election Commission
3. Staff Selection Commission, CGO Complex, New Delhi
4. Office of the Comptroller & Auditor General of India, 10, Bahadur Shah Zafar Marg, New Delhi.
5. All officers/Desks/Sections, Department of Personnel & Training and Department of Pension & Pensioners Welfare.

Copy to: Chief Secretaries of all the States/UTs for information