No. RTI/3(2)/11-12/  

The Executive Directors( ), The General Manager(Region),  
Food Corporation of India, Food Corporation of India,  
Zonal Office( ), Regional Office  

Sub: - Observation of Hon’ble Supreme Court on Right to Information Act, 2005 in Civil appeal no. 6454 of 2011, arising out of SLP {C} No. 7526/2009 in the case of Central Board of Secondary Education & Anr. Vs. Aditya Bandopadhyay & others.

Sir,

Please find enclosed an copy of Office Memorandum No.3-1/2011-ICT dated 10/10/2011 received from Shri Sanjay Kumar, Under Secretary(ICT), Govt. of India, Ministry of Consumer Affairs, Food & Public Distribution, Department of Food & Public Distribution, Krishi Bhawan, New Delhi alongwith copy of letter No. 1/18/2011-IR dated 16th September, 2011 from the Ministry of Personnel, P.G. and Pensions, Department of Personnel & Training, New Delhi on the subject cited above.

You are requested to advise the concerned Officers/ Officials working under your jurisdiction to keep in mind the contents of the aforesaid enclosed OM/letter while dealing with the RTI applications in true spirit.

Yours faithfully,

Encl : As above.

(RAHUL K SRIVASTAVA)  
DY.GENERAL MANAGER (RTI)

Copy to:  
1. Executive Director (IT), FCI, Hqrs. New Delhi....with the request to upload the aforesaid OM on the FCI website for vides circulation in Public domain.  
2. General Manager( ), FCI, Hqrs. New Delhi. } alongwith the copy of aforesaid  
3. DGM( )/ CPIO, FCI, Hqrs. New Delhi } for similar action please.  
4. Director( IFS), FCI, Hqrs. New Delhi. }  
5. Shri Sanjay Kumar, Under Secretary (ICT), Govt. of India, Ministry of Consumer Affairs, Food & Public Distribution, Department of Food & Public Distribution, Krishi Bhawan, New Delhi.....with reference to his above referred Office Memorandum.  

(RV)  
DY.GENERAL MANAGER (RTI)
No.3-1/2011-ICT  
Government of India  
Ministry of Consumer Affairs, Food & Public Distribution  
Department of Food & Public Distribution  

Krishi Bhawan, New Delhi  
Dated the 10th October, 2011

OFFICE MEMORANDUM

Subject: Observation of Hon'ble Supreme Court on Right to Information Act, 2005 in Civil Appeal No.6454 of 2011, arising of SLP (C) No.7526/2009 in the case of Central Board of Secondary Education & Anr. Vs. Aditya Bandopadhay & Ors.

The undersigned is directed to enclose herewith a copy of letter No.1/18/2011-IR dated 16th September, 2011 received from the Ministry of Personnel, P.G. and Pensions, Department of Personnel & Training on the subject mentioned above for information and necessary action.

Encl.: As above.

(Sanjay Kumar)  
Under Secretary (ICT)

To

1. All Appellate Authority / CPIOs
2. CPIOs of all attached/ Subordinate offices/ PSUs
No.1/18/2011-IR  
Government of India  
Ministry of Personnel, Public Grievances & Pensions  
Department of Personnel & Training  

North Block, New Delhi  
Dated: the 16th September, 2011

Subject: Observation of Hon'ble Supreme Court on Right to Information Act, 2005 in Civil Appeal no.6454 of 2011, arising out of SLP [C] No.7526/2009 in the case of Central Board of Secondary Education & Anr. Vs. Aditya Bandopadhyay & Ors.

The undersigned is directed to invite attention to this Department’s O.M. No.1/4/2009-IR dated 05.10.2009 whereby a Guide on the Right to Information Act, 2005 was circulated. Para 10 of Part I of the Guide, inter alia, stated that ‘only such information can be supplied under the Act which already exists and is held by the public authority or held under the control of the public authority. The Public Information Officer is not supposed to create information; or to interpret information; or to solve the problems raised by the applicants; or to furnish replies to hypothetical questions.’ The same issue has been elaborated by the Supreme Court in the matter of Central Board of Secondary Education & Anr. Vs. Aditya Bandopadhyay & Ors. (Civil Appeal No.6454 of 2011) as follows:

"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.”

3. This may be brought to the notice of all concerned.

(K.G. Verma)
Joint Secretary(RTI)
Tel: 23092158

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.
4. Staff Selection Commission, CGO Complex, New Delhi
5. O/o the Comptroller & Auditor General of India, 10, Bahadur Shah Zafar Marg, New Delhi.
6. All officers/Desks/Sections, DOP&T and Department of Pension & Pensioners Welfare.

Copy to: Chief Secretaries of all the States/UTs.