

केन्द्रीय सूचना आयोग  
Central Information Commission  
बाबा गंगनाथ मार्ग, मुनिरका  
Baba Gangnath Marg, Munirka  
नई दिल्ली, New Delhi – 110067

द्वितीय अपील संख्या / Second Appeal No. **CIC/BARCM/A/2021/125421**  
**CIC/BARCM/A/2021/125420**  
**CIC/BARCM/A/2021/125419**  
**CIC/BARCM/A/2021/125418**  
**CIC/BARCM/A/2021/125417**  
**CIC/BARCM/A/2021/125415**  
**CIC/BARCM/A/2021/125709**

Shri Vikas K Telang

... अपीलकर्ता /Appellant

VERSUS/बनाम

PIO, Bhabha Atomic Research Centre  
Through: Shri B V Balaji – Chief Administrative  
Officer

...प्रतिवादीगण /Respondent

Date of Hearing : 24.08.2022  
Date of Decision : 26.08.2022  
**Chief Information Commissioner : Shri Y. K. Sinha**

**Relevant facts emerging from appeal:**

*Since both the parties are same, the above mentioned cases are clubbed together for hearing and disposal.*

Case No.	RTI Filed on	CPIO reply	First appeal	FAO	2 <sup>nd</sup> Appeal received on
<b>125421</b>	01.03.2021	30.03.2021	06.04.2021	19.05.2021	01.07.2021
<b>125420</b>	19.03.2021	19.04.2021	22.04.2021	27.05.2021	01.07.2021
<b>125419</b>	08.02.2021	08.03.2021	11.03.2021	16.04.2021	01.07.2021
<b>125418</b>	27.01.2021	26.02.2021	04.03.2021	15.04.2021	01.07.2021
<b>125417</b>	27.01.2021	25.02.2021	01.03.2021	09.04.2021	01.07.2021
<b>125415</b>	08.02.2021	05.03.2021	10.03.2021	20.04.2021	01.07.2021
<b>125709</b>	01.04.2021	03.05.2021	15.05.2021	07.06.2021	20.07.2021

**Information sought and background of the case:**

**(1) CIC/BARCM/A/2021/125421**

The Appellant filed RTI application dated 01.03.2021 and the CPIO/Chief Administrative Officer, Bhabha Atomic Research Centre, Trombay, Mumbai vide letter dated 30.03.2021 replied as under:-

Sr. No.	Information Sought	Information Given
1.	Kindly provide names and following details of Engineers from BARC Training School 27 <sup>th</sup> Batch (inclusive) onwards, who are promoted as Outstanding Scientists, Distinguished Scientists. Details of candidates who have acquired additional qualification such as Master's or Doctoral degree are not required. Number of such Outstanding Scientists and number of such Distinguished Scientists.	The information sought is not available. Collection and collation of information for providing the same under RTI would disproportionately divert the resources of public authority. Hence exempt under section 7(9) of the RTI Act, 2005. However, list of officials of BARC are available in public domain <a href="http://www.barc.gov.in">www.barc.gov.in</a>
2.	BARC training school percentage marks and batch number.	
3.	Number of years in which promotions were granted to these officers from Scientific Officer-C to Scientific Officer- D, Scientific Officer-D to Scientific Officer-E, Scientific Officer-E to Scientific Officer F, Scientific Officer – F to Scientific Officer-G. Failure record if any in promotion interviews may clearly be provided.	The information sought is exempt from disclosure under section 8(1)(j) of the RTI Act, 2005.

Dissatisfied with the response received from the CPIO, the Appellant filed a First Appeal dated 06.04.2021. The FAA/Controller, Bhabha Atomic Research Centre, Trombay, Mumbai vide order dated 19.05.2021 upheld the reply of the CPIO citing the decisions of the Hon'ble Supreme Court in the case of *CBSE vs. Aditya Bandopadhyay* and of *Subhash Chandra Agarwal*.

Aggrieved and dissatisfied, the Appellant approached the Commission with the instant Second Appeal.

#### **Facts emerging in Course of Hearing:**

A written submission dated 22.08.2022 has been received from the Respondent reiterating the above facts, copy whereof has been duly marked to the Appellant. Relevant extract of the submission is as under:

- (i) It is observed from the available records that the information sought by the Appellant are that of the Officers pertaining to 27<sup>th</sup> batch of BARC Training School – an old record when these officers were promoted to Outstanding Scientist/Distinguished Scientist which are not readily available at one place. Also the information sought is personal in nature and does not serve any larger public interest. Hence, the PIO has exempted the information under section 7(9) and 8(1) (j) of the RTI Act, 2005. In this connection, the Supreme Court of India in the case of *Aditya*

Bandopadhyay vs CBSE (Case No. 6454/2011) has observed that 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 on obligation upon the public authority to collect or collate such non-available information and then to furnish to the applicant. This is also in consonance with decision dated 13.11.2019 of Hon'ble Supreme Court of India in Civil Appeal No. 10044 of 2010 titled as Supreme Court of India vs Subhash Chandra Agarwal.

(ii) Disclosure personal records, viz., name, marks obtained, etc and professional records, viz., qualification, performance etc., of employees concerned are personal information and exempt from disclosure under Section 8 (1) (j) of RTI Act, 2005. This is in consonance with Hon'ble CIC decision No. CIC/BARCM/A/2018/173726 dated 04.12.2020.

Hearing was scheduled through virtual means after giving prior notice to both the parties. Both parties are heard through video conference and the Appellant contended that in response to the Supreme Court judgments cited by the Respondent to deny disclosure of the information sought by him, he had placed reliance on the Commission's decision dated 09.04.2012 in case no. *CIC/SG/A/2012/000081*. He added that pursuant to the aforementioned decision of the Commission, similar information had been furnished by the Respondent vide reply dated 31.05.2012. The Appellant contended that being an employee of the Respondent public authority, he had sought the aforementioned information because he was aggrieved on being denied service benefits.

### **Decision**

Upon perusal of records of the case at hand, the Commission finds it pertinent to refer to the Apex Court decision dated 13.11.2019 in *Civil Appeal No. 10044/2010 CPIO, Supreme Court vs. Subhash Chandra Agarwal* wherein the Hon'ble Court had mentioned its earlier decision dated 03.10.2012 in the case of *Girish Ramchandra Deshpande vs. Central Information Commissioner & Ors.* and noted that: *"...The performance of an employee/officer in an organisation is primarily a matter between the employee and the employer and normally those aspects are governed by the service rules which fall under the expression "personal information", the disclosure of which has no relationship to any public activity or public interest. On the other hand, the disclosure of which would cause unwarranted invasion of privacy of that individual..."*

*Emphasis supplied*

In the decision dated 13.11.2019, the Hon'ble Supreme Court had categorically held as follows:

*"...59. ... in our opinion, would indicate that personal records, including name, address, physical, mental and psychological status, marks obtained, grades and answer sheets, are all treated as personal information. Similarly, professional records, including qualification, performance, evaluation reports, ACRs, disciplinary proceedings, etc. are all personal*

*information. Medical records, treatment, choice of medicine, list of hospitals and doctors visited, findings recorded, including that of the family members, information relating to assets, liabilities, income tax returns, details of investments, lending and borrowing, etc. are personal information. Such personal information is entitled to protection from unwarranted invasion of privacy and conditional access is available when stipulation of larger public interest is satisfied. This list is indicative and not exhaustive...”*

*Emphasis supplied*

The ratio of the above decisions of the Supreme Court are applicable to the facts of the case at hand. Hence personal information of the employees held by the Respondent public authority in fiduciary capacity as the employer is exempt from disclosure under the RTI Act. The fact that the information sought is old and scattered, collating of which would disproportionately divert the resources is also a valid reason for denial of information by the Respondent. Moreover, the Appellant has not been able to satisfactorily establish any case of public interest which will be served by disclosure of the information. In so far as his personal grievance regarding alleged denial of service benefits is concerned, the Appellant has already approached the appropriate forum seeking redressal of the same.

Under the given circumstances, the Commission finds no reason for intervention in this case. Therefore, the appeal is disposed off without any further adjudication.

**(2) CIC/BARCM/A/2021/125420**

The Appellant filed RTI application dated 19.03.2021 and the CPIO/Chief Administrative Officer, Bhabha Atomic Research Centre, Trombay, Mumbai vide letter dated 19.04.2021 replied as under:-

Sr. No.	Information Sought	Information Given
1.	On or after 5 March 2018, was any committee constituted to look into my APARs 2004-05 to 2008-09 representation ?	As per information received from concerned section, the information sought by the applicant is not available in material form. Hence, regret inability to provide any information.
2.	Orders constituting such a committee on or after 5 March 2018 may kindly be provided.	
3.	Date on which report was submitted by such a committee and copy of report submitted by such committee constituted on or after 5 March 2018 may kindly be provided.	

Dissatisfied with the response received from the CPIO, the Appellant filed a First Appeal dated 22.04.2021. The FAA/Controller, Bhabha Atomic Research Centre, Trombay, Mumbai vide order dated 27.05.2021 upheld the reply of the CPIO on the ground that the information sought by the Appellant is not available in material form with the public authority.

Aggrieved and dissatisfied, the Appellant approached the Commission with the instant Second Appeal.

**Facts emerging in Course of Hearing:**

A written submission dated 22.08.2022 has been received from the Respondent reiterating the above facts, copy whereof has been duly marked to the Appellant.

Hearing was scheduled through video conference after giving prior notice to both the parties. Both parties are heard through video conference and during the course of hearing the Appellant pointed out that the PIO's reply stating that "information is not available in material form" is vague and inconclusive. He further claimed that there had been a delay in disposal of the case. Respondent on the other hand stated that their response was based on factual position and regretted the delay of three days in disposal of the First Appeal.

**Decision:**

Upon perusal of records of the case it is noted that the Respondent has furnished information as available in official records as defined under Section 2(f) of the RTI Act, 2005, to the Appellant. The written submission dated 27.07.2022 provides a comprehensive reply and has also been sent to the Appellant.

In the given circumstances, no fruitful purpose appears to be served on prolonging litigation in this case. Hence the appeal is disposed off as such.

**(3) CIC/BARCM /A/2021/125419**

The Appellant filed RTI application dated 08.02.2021 and the CPIO/Chief Administrative Officer, Bhabha Atomic Research Centre, Trombay, Mumbai vide letter dated 08.03.2021 replied as under:-

Sr No	Information Sought	Information Given
	Kindly provide following details of members of Interview committee formed vide order dated 27.03.2018 Ref : 2/01/Lgl/2017/3096	
1.	BARC training school percentage marks	The information sought relates to personal information of the individual concerned, hence exempt from disclosure under section 8(1)(j) of the RTI Act, 2005
2.	Number of years in which promotions were granted to these officers showing failure record if any, in interviews from Scientific Officer - C to Scientific Officer - D to Scientific Officer-E, Scientific Officer - E to Scientific Officer - F, Scientific Officer - F to scientific Officer - G	

Dissatisfied with the response received from the CPIO, the Appellant filed a First Appeal dated 11.03.2021. The FAA/Controller, Bhabha Atomic Research Centre, Trombay, Mumbai vide order dated 16.04.2021 upheld the reply of the CPIO.

Aggrieved and dissatisfied, the Appellant approached the Commission with the instant Second Appeal.

**Facts emerging in Course of Hearing:**

A written submission dated 22.08.2022 has been received from the Respondent reiterating the above facts, copy whereof has been duly marked to the Appellant.

Hearing was scheduled through virtual means after giving prior notice to both the parties. Both parties are heard through video conference and the Appellant referred to the Commission's decision dated 09.04.2012 in case no. *CIC/SG/A/2012/000081*, justifying disclosure of the information He added that pursuant to the aforementioned decision of the Commission, similar information had been furnished by the Respondent vide reply dated 31.05.2012.

**Decision**

Perusal of the facts of this appeal reveals that the nature of queries and reply of the Respondent are quite akin to the facts as noted in the appeal number *CIC/BARCM/A/2021/125421* above. Hence this appeal is also decided on similar lines.

Since it is a well established legal position that personal information of employees held by the Respondent public authority in fiduciary capacity as the employer is exempt from disclosure under the RTI Act, and the Appellant has not been able to satisfactorily establish any case of public interest which will be served by disclosure of the information, no further adjudication is deemed necessary in this case. In so far as his personal grievance regarding alleged denial of service benefits is concerned, the Appellant has already approached the appropriate forum seeking redressal of the same.

The appeal is disposed off accordingly.

**(4) CIC/BARCM/A/2021/125418**

The Appellant filed RTI application dated 27.01.2021 and the CPIO/Chief Administrative Officer, Bhabha Atomic Research Centre, Trombay, Mumbai vide letter dated 26.02.2021 replied as under:-

Date of RTI Application	:	<b>27.01.2021</b>	Draft/Cash/IPO Receipt No:	<b>Cash H 0147837</b>
<b>Sr. No.</b>	<b>Information Sought</b>		<b>Information Given</b>	
1)	Kindly furnish names of interview core committee members, experts/specialists and divisional/group representative along with their BARC Training school batch number when I was called for promotion interview for Scientific Officer (G) from Scientific Officer (F) on 26.05.2012.		The information sought is exempt from disclosure under section 8(1)(g) of the RTI Act, 2005.	
2)	Kindly provide BARC Training School batch number of interview committee members indicated against their names when I was called for interview for Scientific Officer (G) on 29.05.2018.			

Dissatisfied with the response received from the CPIO, the Appellant filed a First Appeal dated 04.03.2021. The FAA/Controller, Bhabha Atomic Research Centre, Trombay, Mumbai vide order dated 15.04.2021 upheld the reply of the CPIO.

Aggrieved and dissatisfied, the Appellant approached the Commission with the instant Second Appeal.

**Facts emerging in Course of Hearing:**

A written submission dated 22.08.2022 has been received from the Respondent reiterating the above facts, copy whereof has been duly marked to the Appellant.

**(5) CIC/BARCM/A/2021/125417**

The Appellant filed RTI application dated 27.01.2021 and the CPIO/Chief Administrative Officer, Bhabha Atomic Research Centre, Trombay, Mumbai vide letter dated 25.02.2021 replied as under:-

Sr. No.	Information Sought	Information Given
1)	Kindly furnish names of interview core committee members, experts/specialists and divisional representative along with their BARC Training school batch number when I was called for promotion interview for Scientific Officer (F) from Scientific Officer (E) in year 2004. For any reason if expert was changed, name of initially appointed expert along with BARC Training School batch number be also provided.	The information sought is exempt from disclosure under section 8(1)(g) of the RTI Act, 2005.
2)	Kindly provide BARC Training School batch number of interview committee members indicated against their names when I was called for interview for Scientific Officer (F) on 27.03.2018.	

Dissatisfied with the response received from the CPIO, the Appellant filed a First Appeal dated 01.03.2021. The FAA/Controller, Bhabha Atomic Research Centre, Trombay, Mumbai vide order dated 09.04.2021 upheld the reply of the CPIO.

Aggrieved and dissatisfied, the Appellant approached the Commission with the instant Second Appeal.

**Facts emerging in Course of Hearing:**

A written submission dated 22.08.2022 has been received from the Respondent reiterating the above facts, copy whereof has been duly marked to the Appellant.

**(6) CIC/BARCM/A/2021/125415**

The Appellant filed RTI application dated 08.02.2021 and the CPIO/Chief Administrative Officer, Bhabha Atomic Research Centre, Trombay, Mumbai vide letter dated 05.03.2021 replied as under:-

Information Sought	Information Given
Names of officers with designations, who initiated and those who supported decision to challenge Hon. C.A.T. Mumbai Bench order dated 30.10.2015 [ref: OA/649/2011 filed by me] before Hon. H. C. Mumbai.	The decision to challenge the order dated 30.10.2015 passed by the Hon'ble Central Administrative Bench, Mumbai Bench before the Hon'ble High Court of Bombay, Mumbai has been taken by the Competent Authority after following due procedures. However, Names of Officers is exempt from disclosure under section 8(1)(g) of the RTI Act, 2005.

Dissatisfied with the response received from the CPIO, the Appellant filed a First Appeal dated 10.03.2021. The FAA/Controller, Bhabha Atomic Research Centre, Trombay, Mumbai vide order dated 20.04.2021 upheld the reply of the CPIO.

Aggrieved and dissatisfied, the Appellant approached the Commission with the instant Second Appeal.

### **Facts emerging in Course of Hearing:**

A written submission dated 22.08.2022 has been received from the Respondent reiterating the above facts, copy whereof has been duly marked to the Appellant.

Hearing was scheduled through virtual means after giving prior notice to both the parties. Both parties are heard through video conference and reiterated their respective contentions.

### **Decision**

Since facts of the aforementioned three appeals are similar, the cases are decided by a common order. Information regarding names, designations, Batch number etc. of Interview Core Committee members and other related queries has been denied by the Respondent citing Section 8(1)(g) of the RTI Act in the aforementioned three appeals.

In this context it is worthwhile to note the observation of the Hon'ble Supreme Court vide decision dated 13.12.2012 in the case of Bihar Public Service Commn vs Saiyed Hussain Abbas Rizwi & Anr:

*"...30. The above reasoning of the Bench squarely applies to the present case as well. The disclosure of names and addresses of the members of the Interview Board would ex facie endanger their lives or physical safety. The possibility of a failed candidate attempting to take revenge from such persons cannot be ruled out. On the one hand, it is likely to expose the members of the Interview Board to harm and, on the other, such disclosure would serve no fruitful much less any public purpose..... The element of bias can hardly be co-related with the disclosure of the names and addresses of the interviewers. Bias is not a ground which can be considered for or against a party making an application to which exemption under Section 8 is pleaded as a defence. We are unable to accept this reasoning of the High Court. Suffice it to note that the reasoning of the High Court is not in conformity with the principles stated by this Court in the CBSE case (supra). The transparency that is expected to be maintained in such process would not take within its ambit the disclosure of the information called for under query No.1 of the application. Transparency in such cases is relatable to the*

*process where selection is based on collective wisdom and collective marking. Marks are required to be disclosed but disclosure of individual names would hardly hold relevancy either to the concept of transparency or for proper exercise of the right to information within the limitation of the Act.”*

Since the ratio propounded by the Apex Court in the above decision is squarely applicable to the facts of these three appeals, hence, no legal infirmity is found in the replies sent by the PIO in the aforementioned three cases. Thus the Commission finds no reason for intervention in these cases. The appeals are disposed off without any further adjudication.

**(7) CIC/BARCM/A/2021/125709**

The Appellant filed RTI application dated 01.04.2021 and the CPIO/Chief Administrative Officer, Bhabha Atomic Research Centre, Trombay, Mumbai vide letter dated 30.05.2021 replied as under:-

1	I was called for promotion interview to Scientific Officer (F) from Scientific Officer (E) in year 2004. In the interview panel how many members were designated as (a) Chairman (b) members (c) experts/subject specialists, (d) divisional representative?	The information sought is exempt from disclosure under section 8(1)(g) of the RTI Act, 2005.
2.	I was called for promotion interview to Scientific Officer (G) from Scientific Officer (F) on 26.05.2012 wherein due legal procedure of giving a written call letter was followed. In the interview panel how many members were designated as (a) Chairman (b) members (c) experts/subject specialists, (d) divisional/group representative?	
3.	Documentary evidence with regard to query 1 and query 2 above may kindly be furnished. Interview panel members sign a paper indicating outcome of interview. The same may kindly be furnished with regard to query 1 and query 2 above.	

Dissatisfied with the response received from the CPIO, the Appellant filed a First Appeal dated 15.05.2021. The FAA/Controller, Bhabha Atomic Research Centre, Trombay, Mumbai vide order dated 07.06.2021 upheld the reply of the CPIO, with following observation:

5. On perusal of the records it is observed that the information sought cannot be provided as it would endanger the life or physical safety of committee members and invites exemption from disclosure as per section 8(1)(g) of the RTI Act, 2005. This is in line with Hon'ble Supreme Court decision in Civil Appeal No. 9052 of 2012 wherein it was reiterated that the Commission is not bound to disclose the information of the members of the Interview Board as the disclosure would ex-facie endanger their lives or physical safety.

Aggrieved and dissatisfied, the Appellant approached the Commission with the instant Second Appeal.

**Facts emerging in Course of Hearing:**

A written submission dated 22.08.2022 has been received from the Respondent reiterating the above facts, copy whereof has been duly marked to the Appellant.

Hearing was scheduled through virtual means after giving prior notice to both the parties. Both parties are heard through video conference and reiterated their respective contentions.

**Decision:**

Upon perusal of records of the case and hearing averments of the parties, it is noted that information sought by the Appellant vide queries number 1 and 2 pertains to the number of members designated as a) Chairman, b) members, c) subject specialists/experts and d) divisional representative, which constitute statistical data. The number of members in each category does not fall within the purview of personal information since providing statistical information cannot be linked to a specific person jeopardizing privacy, safety or security of the person.

In the light of the aforesaid circumstances, the Commission directs the PIO to revisit the RTI application dated 01.04.2021 and furnish a revised reply with respect to the queries number 1 and 2, supplying information about the statistical data as discussed above and available on record, strictly in terms of the RTI Act, within three weeks of receipt of this order. The Respondent shall positively submit a compliance report before the Commission in this regard by 30.09.2022.

The appeals are thus disposed off on the aforementioned terms.

**Y. K. Sinha** (वाई. के. सिन्हा)

Chief Information Commissioner (मुख्य सूचना आयुक्त)

Authenticated true copy  
(अभिप्रमाणित सत्यापित प्रति)

S. K. Chitkara (एस. के. चिटकारा)

Dy. Registrar (उप-पंजीयक)

011-26186535