

## **Observations of the Hon'ble Supreme Court on the Right to Information Act:-**

*“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 (d) and (i) of section 2 of the Act. If a public authority has any information in the form of data or analyzed data, or abstracts, or statistics, an applicant may access such information, subject to the exemptions of 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 connect 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 (d) 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, provided advice, guidance and opinion to the citizens. But that is purely voluntary and should not be confused with any obligation under the RTI Act”.*



**Government of Jammu and Kashmir**  
**General Administration Department**  
(Administration Section)  
Civil Secretariat, Srinagar/Jammu.

GAD(Adm)110/2009-V(iii)  
Dated: 14-12-2011

**Subject:** Observations 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 forward herewith a copy of Communication No.1/18/2011-IR, dated:16-09-2011 received from Ministry of Personnel, Public Grievances and Pensions Department of Personnel & Training, Government of India, regarding the subject cited above, to the Principal Secretary/Commissioner/ Secretary to Government, \_\_\_\_\_ and request him to kindly have the contents of the communication brought into the notice of all APIOs/PIOs and Ist Appellate Authorities.

  
(Tahir Mustafa Malik)

Under Secretary to Government  
General Administration Department.

Principal/Commissioner/Secretary  
Department.

Copy along with the aforesaid communication for similar necessary action to the:-

1. Divisional Commissioner, Srinagar/Jammu.
2. All Deputy Commissioners.
3. Secretary, Public Service Commission.
4. Secretary, State Information Commission.
5. Secretary, Service Selection Board.
6. Joint Director, IMFA.

No.1/18/2011-IR  
Government of India  
Ministry of Personnel, Public Grievances & Pensions  
Department of Personnel & Training

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North Block, New Delhi  
Dated: the 16<sup>th</sup> September, 2011

18/10/11  
6846/2009-IR  
18-10-2011  
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.

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91 (GM)  
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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:

6846/2009-IR  
19-10-11  
"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.
3. Central Information Commission/State Information Commissions.
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.