

By Speed Post.

BEFORE SMT. ZOYA HADKE, JOINT SECRETARY & LEGAL ADVISER & FIRST  
APPELLATE AUTHORITY( Notary)

(Under Section 19 of RTI Act, 2005)

MINISTRY OF LAW & JUSTICE, DEPARTMENT OF LEGAL AFFAIRS  
ROOM NO. 422, 'A' WING, SHASTRI BHAWAN, NEW DELHI 110001

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Appeal No.4/JS&LA(ZH)/JUDL/2014

**IN THE MATTER OF:**

Shri R.K. Jain,  
1512-B, Bhishm Pitamah Marg,  
Wazir Nagar,  
New Delhi-110003.

Appellant

Versus

Central Public Information Officer ( N )  
Ministry of Law & Justice  
Department of Legal Affairs  
Shastri Bhawan  
New Delhi – 110001

Respondent

**ORDER**

**28.01.2015**

The instant appeal dated 27.12.2014 received on 31.12.2014 has arisen out of RTI application dated 14.11.2014 by which the applicant has sought the following information:-

- “(A) *The Economic Times dated 13.11.2014 has carried a news about Government instructions regarding taking up of private cases by the Attorney General, Solicitor General etc. (copy enclosed). In this respect, please provide the following information:*
- (i) *Please provide a copy of letter dated 24.10.2014 from the Ministry of Law & Justice to the Attorney Generals and other Law Officers and relating to private practice by Law Officers.*
  - (ii) *Please provide a copy of letter dated 26.08.2011 from the Ministry of Law & Justice to the Attorney Generals and other Law Officers and relating to private practice by Law Officers.*
  - (iii) *Please provide details of the number of requests received from the Attorney General, Solicitor General and other Law Officers for permission to take private cases from 01.01.2011 till the date of providing the information. Separate information may be provided for AG, SG and each Law Officer.*

- (iv) Please provide details of the number of permissions granted to the Attorney General, Solicitor General and other Law Officers for undertaking private cases from 01.01.2011 till the date of providing the information. Separate information may be provided for AG, SG and each Law Officer.
- (v) Please provide copies of the request received from AG, SG and other Law Officer for appearing arbitration cases. Separate information may be provided for AG, SG and each Law Officer.
- (vi) Please provide copies of the requests received from AG, SG and other Law Officers for grant of permission for taking up private cases from 01.01.2013 till the date of providing the information.

(B) Please provide year-wise information about the fees received by AG, SG and each of the Law Officer for the year 2012, 2013 & 2014.

*Note:- Please provide point-wise information/response for each of above points."*

2. In his appeal, the applicant/appellant has stated that no information has been provided by the CPIO therefore it is deemed refusal and delay in providing information within period of 30 days as stipulated u/s 7(1) of the RTI Act, 2005. He has also stated number of grounds of appeal for seeking the above information. He has stated that the information sought is not exempted u/s 8 or 9 or any other provisions of the RTI Act and not providing the information is illegal and contrary to the provisions and spirit of the RTI Act.

3. The appellant has sought exemption from personal appearance vide letter dated 19.01.2015 received on 22.01.2015 and stated that the appeal may be disposed of on merits on the basis of available record and material. The CPIO has not filed any reply, however, has appeared before me and stated that reply to the RTI application was made on 01.01.2015. It is also stated that inadvertently there was some delay in furnishing the information due to the reason that the concerned file got mixed up with other files and it took some time to trace it. The CPIO has also stated that the delay is unintentional and same is regretted. A copy of the reply dated 01.01.2015 has also been provided.

4. The matter has been examined. The appeal has been filed on 27.12.2014 and received on 31.12.2014 whereas the reply has been made by the CPIO on 01.01.2015 and, therefore, it has not been received by the applicant/appellant at the time of making the appeal.

5. The CPIO is, therefore, directed to provide the information as asked for by the applicant/appellant within 30 days. The appeal is disposed of accordingly.

6. In case, the Appellant is aggrieved with this order, he may file a second appeal before Hon'ble CIC, 2<sup>nd</sup> Floor, August Kranti Bhawan, Bhikaji Cama Palace, New Delhi-110066, within the time period as prescribed under the provisions of RTI Act, 2005.

The parties be informed accordingly.

*Zoya Hadke.*  
(Zoya Hadke)

Joint Secretary & Legal Adviser &  
First Appellate Authority  
Date: 28.01.2015

1. Shri R.K. Jain, 1512-B, Bhishm Pitamah Marg, Wazir Nagar, New Delhi-110003.
2. DLA & CPIO (Judicial), D/o Legal Affairs, Shastri Bhawan, New Delhi-110001.
3. RTI Cell, Department of Legal Affairs, Shastri Bhawan, New Delhi.

**First Appeal under Section 19 of the Right to Information Act, 2005  
against Deemed Refusal**

Ref. No. : RTI/P-298/(8820/14)/Appeal/15578

Dated : 27-12-2014

4/JSXLA (24) / Judd. / 2014  
31/12/2014

To

1st Appellate Authority  
Ministry of Law & Justice Department of Legal Affairs  
Implementation Cell  
Shastri Bhawan  
New Delhi - 110001

**A. Contact Details :**

1.	Name of the Appellant	R.K. Jain
2.	Address	1512-B, Bhishm Pitamah Marg Wazir Nagar New Delhi-110003

**B. Details About RTI Request :**

1.	Particulars of the CPIO against whose order appeal is preferred	(a) Name	CPIO
		(b) Address	Ministry of Law & Justice Department of Legal Affairs Implementation Cell Shastri Bhawan New Delhi - 110001
2.	Date of submission of application (Copy of application attached)	14-11-2014	
3.	Details of the order appealed against	Deemed Refusal	
4.	Prayer or relief sought	See Prayer clause at the end	
5.	Last date for filing the appeal	14-1-2015	
6.	If appeal is being filed after 30 days, the reasons which prevented from filing appeal in time	Appeal in time	
7.	Copies of documents relied upon by the applicant	1. Copy of RTI Application dated 14-11-2014. (Annexure-1)	

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### BRIEF FACTS OF THE CASE

- (1) That the appellant has filed an application dated 14-11-2014 (**Annexure – 1**) under Section 6 of the RTI Act, 2005 requesting for the following information:
- (A) *The Economic Times dated 13.11.2014 has carried a news about Government instructions regarding taking up of private cases by the Attorney General, Solicitor General etc. (copy enclosed). In this respect, please provide the following information:*
- (i) *Please provide a copy of letter dated 24.10.2014 from the Ministry of Law & Justice to the Attorney Generals and other Law Officers and relating to private practice by Law Officers.*
  - (ii) *Please provide a copy of letter dated 26.08.2011 from the Ministry of Law & Justice to the Attorney Generals and other Law Officers and relating to private practice by Law Officers.*
  - (iii) *Please provide details of the number of requests received from the Attorney General, Solicitor General and other Law Officers for permission to take private cases from 01.01.2011 till the date of providing the information. Separate information may be provided for AG, SG and each Law Officer.*
  - (iv) *Please provide details of the number of permissions granted to the Attorney General, Solicitor General and other Law Officers for undertaking private cases from 01.01.2011 till the date of providing the information. Separate information may be provided for AG, SG and each Law Officer.*
  - (v) *Please provide copies of the request received from AG, SG and other Law officer for appearing arbitration cases. Separate information may be provided for AG, SG and each Law Officer.*
  - (vi) *Please provide copies of the requests received from AG, SG and other Law Officers for grant of permission for taking up private cases from 01.01.2013 till the date of providing the information.*
- (B) *Please provide year-wise information about the fees received by AG, SG and each of the Law Officer for the year 2012, 2013 & 2014.*

- (2) That the appellant vide para 5 of his said application has also made a declaration that the information sought for is not exempted under Section 8 or 9 of the RTI Act, 2005 and also stated that to the best of the knowledge of the appellant, the information pertains to the Office of the CPIO in question.
- (3) That the appellant has not received the information as sought by him in the aforesaid RTI Application, within the period of 30 days as stipulated under Section 7(1) of the RTI Act, 2005, therefore, as per Section 7(2) of the RTI Act, 2005, the request for information is deemed to have been refused. Thus being aggrieved by said refusal, the appellant is filing the present appeal.

#### **GROUND OFS OF APPEAL**

- (1) That the action of the learned CPIO and the deemed CPIO in not providing the information to the appellant is illegal and contrary to the provisions and spirit of the RTI Act, 2005.
- (2) That the information sought by the appellant is not exempted under Section 8 or 9 or any other provisions of the RTI Act, 2005 and therefore, there was no valid cause or reason or ground for not providing the information.
- (3) That the inaction of CPIO is in violation of Sections 7(1) and 7(2) of the RTI Act, 2005 and is therefore, illegal. Such inaction is deemed to be a refusal to the request of the appellant without any reasonable cause or ground hence is illegal.
- (4) That the information sought is neither voluminous nor relate to older and larger period, thus could have easily been provided by the learned CPIO.
- (5) That the appellant is citizen of India and fulfilled all other requirements of the RTI Act and the Rules made thereunder and is entitled to the information in question.
- (6) That as per proviso to Section 8(1) of the RTI Act, 2005, the information which can not be denied to the Parliament or the State Legislatures shall not be denied to any person. The information sought by the appellant in the subject application is the one which cannot be denied to the

Parliament or the State Legislatures and hence it cannot be denied or refused to the appellant.

- (7) This is without prejudice to the right of the appellant to add, alter or modify any of the grounds of this appeal and adduce oral or written evidence at the time of hearing.
- (8) That a personal hearing may be granted to the appellant before deciding the present appeal.
- (9) This is without prejudice to the right of the appellant to add, alter or modify any of the grounds of this appeal and adduce oral or written evidence at the time of hearing or till the appeal is disposed of.

**PRAYER**

Under the circumstances, the appellant prays as under:

- (a) That the Original Records may be summoned and perused.
- (b) That the CPIO may be directed to provide the information in question within a time bound frame.
- (c) That any other relief as the Appellate Authority deem fit and proper may also be ordered in favour of the appellant.
- (d) That a personal hearing may be granted to the appellant before deciding the appeal.



Signature of Appellant  
Telephone No. : 9810077977  
24651101  
Fax No. 011-24635243

Place : New Delhi  
Dated : 27-12-2014

Application under Section 6 of the Right to Information Act, 2005

Ref. No. :RTI/P-298/8820/14

Dated : 14-11-2014


To

CPIO  
Ministry of Law & Justice Department of Legal Affairs  
Implementation Cell  
Shastri Bhawan  
New Delhi - 110001

1.	Name of the Applicant	R.K. Jain
2.	Address	1512-B, Bhishm Pitamah Marg Wazir Nagar New Delhi-110003
	(b) Phone Nos.	09810077977, 011-24651101, 011-24690707
	(c) Fax No.	011-24635243
3.	Whether a Citizen of India	Yes
4.	Particulars of Information	
	Details of information required	(A) The Economic Times dated 13.11.2014 has carried a news about Government instructions regarding taking up of private cases by the Attorney General, Solicitor General etc. <b>(copy enclosed)</b> . In this respect, please provide the following information:  (i) Please provide a copy of letter dated 24.10.2014 from the Ministry of Law & Justice to the Attorney Generals and other Law Officers and relating to private practice by Law Officers.  (ii) Please provide a copy of letter dated 26.08.2011 from the Ministry of Law & Justice to the Attorney Generals and other Law Officers and relating to private practice by Law Officers.  (iii) Please provide details of the number of requests received from the Attorney General, Solicitor General and other Law Officers for permission to take private cases from 01.01.2011 till the date of providing the information. Separate information may be provided for AG, SG and each Law Officer.  (iv) Please provide details of the number of permissions granted to the Attorney General, Solicitor General and other Law Officers for undertaking private cases from 01.01.2011 till the date of providing the information. Separate information may be provided for AG, SG and each Law Officer.

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	<p>(v) Please provide copies of the request received from AG, SG and other Law officer for appearing arbitration cases. Separate information may be provided for AG, SG and each Law Officer.</p> <p>(vi) Please provide copies of the requests received from AG, SG and other Law Officers for grant of permission for taking up private cases from 01.01.2013 till the date of providing the information.</p> <p>(B) Please provide year-wise information about the fees received by AG, SG and each of the Law Officer for the year 2012, 2013 &amp; 2014.</p> <p><b>Note:- Please provide point-wise information/ response for each of above points.</b></p>
5.	I state that the information sought is covered under RTI Act and does not fall within the exemptions contained in sections 8 or 9 or any other provisions of the Right to Information Act, 2005 and to the best of my knowledge it pertains to your office. Information is being sought in larger public interest.
6.	A Postal Order No. 27F 667758 for Rs. 10 towards payment of fee is enclosed herewith. You are requested to filling the name in which the Postal Order is payable.
7.	As per Section 7 of the RTI Act, 2005 information is to be provided <b>within 30 days of the Application.</b>

  
Signature of Applicant  
Telephone No. : 9810077977  
011-24651101, 24690707  
Fax No. 011-24635243

Place : New Delhi  
Encl. : as above  
Hira/---  
HR

ced by Indian pr...  
Australia and vice versa but also...  
help reduce costs of Australian...  
and movies have emerged as big hits...  
in the country down under



Sena...  
rush to well of...  
the House

Oppn leader... NCP will be in govt and...  
enjoy Oppn leader's post" A SENAMLA

NUMBER OF SUCH CASES IS TOO LARGE

# Barring a Few Exceptions, Govt Bans Law Officers From Taking up Private Cases

**Without Any Doubt**

"...some of the law officers are leaving headquarters without prior permission of govt. They are, therefore, requested to take permission of govt before leaving their headquarters"

Gangadhar.Patil@timesgroup.com

**New Delhi:** In view of the increasing number of requests from law officers to appear in private cases, the government has barred them from taking up such assignments unless there are compelling reasons.

In a letter dated October 24 to all 13 law officers — the attorney general, the solicitor general and 11 additional solicitors general — the law ministry said that the "number of private cases taken up by law officers is so large that it tends to take away a sizeable amount of their time and in the process, government cases suffer".

The ministry said the officers are requested to restrain from seeking permission to appear in private cases and such submissions in future

should be made only for compelling reasons and in exceptional circumstances. The matter was brought to the notice of law minister as well.

**IT'S PLAIN AND SIMPLE**



**Ministry said officers are requested to restrain from seeking permission to appear in private cases**

said a senior ministry official. As per the conditions of service rules 1987, a law officer shall not hold briefs in any court for any party ex-

cept the government, advice any party against the government, defend an accused person in a criminal prosecution, accept appointment to any office in any company or corporation and advice any ministry without the reference of the law ministry. The rule was later relaxed allowing the officers to take up cases with prior permission.

As per the letter, it appears that the practice of seeking permission for appearing in private cases has been going on since 2011. In a letter dated August 26, 2011, marked confidential, the ministry told its law officers that appearances in private cases will be granted in the "rarest of the rare" occasions. However, the officers continued to seek permission in a "routine manner" according to the letter.