

My fellow citizens

It gives me great joy to present you with an index of critical decisions passed by Mr. Shailesh Gandhi during his tenure as a Central Information Commissioner. Mr. Gandhi is a leading RTI activist in India. When earlier this year, Mr. Gandhi presented me with this opportunity, I grabbed it with both my hands. I have perused over 400 orders passed by Mr. Gandhi and selected the ones which I believe have great persuasive value and would be of assistance to anyone who meets a roadblock in accessing information under the Right to Information Act, 2005. The index is a searchable document with key words and references to sections which will allow the reader to quickly locate decisions of interest.

Having perused these decisions as a lawyer, I must note that I have had some disagreements with Mr. Gandhi in relation to a few decisions. However, I earnestly believe that this index is most useful and will assist all of us, not only in becoming more aware of our rights under the RTI, but also to appreciate Mr. Gandhi's vision for our country with respect to information access.

Any typographical / clerical errors in this index are solely attributable to me except insofar as they are reproductions.

Rhythm Buaria

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INDEX AND BRIEFS OF IMPORTANT DECISIONS OF MR. SHAILESH GANDHI AS A CENTRAL INFORMATION COMMISSIONER

Sr. No.	NAME/APPEAL NO.	DATE	SECTION	KEY WORDS	DECISION
1.	Shruti Singh Chauhan v. Assistant Director (Vigilance) CIC/WB/A/2007/00840 Mr. Rakesh Kumar Gupta v. The Public Information Officers C/o Commissioner of Income Tax CIC/LS/A/2009/000647	10.10.2008	8(1)(g), (h) and (j)	Information-officers-sanction of prosecution-names of officers not provided-physical safety-prosecution-privacy-practice of PIO's to deny information under Section 8(1) without reasons disapproved	<p><i>1. This information cannot be considered as an intrusion on privacy.</i></p> <p><i>2. Information about alleged wrongdoing of Public servants,- verified by a process of investigation,- cannot be termed as private information which must be hidden from the Sovereign Masters of this democracy- the Citizens.</i></p> <p><i>3. Section 8 (1) (g) and (h) have used by the PIO without any application of mind.</i></p>
2.	Sunetra Vishal Dass v. PIO, and Dy. Director of Education CIC/WB/A/2007/01258	07.09.2008	2(h)	School-whether public authority-exemption under Section 8(1) not claimed	<p><i>However, if we look at the information sought by the appellant from the PIO of the Education queries 1,2,3 and 5 ask for information which should be with the Education department, and therefore unless any exemption clause of Section 8 (1) applies it should be given. No exemption clause of Section 8 (1) has been claimed by the school or the PIO in denying the information.</i></p>
3.	Sh. Harish Chander Kumar v. Mr. A.K.Ambasht, Public Information Officer under RTI	01.12.2008	2(f)	Duty of PIO-only to provide information	<p><i>However, resolving disputes in different acts and rules cannot be thrust on a PIO. It is neither the PIOs duty nor authority to give</i></p>

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	Act 2005 Land & Building Department CIC/WB/A/2008/00349				<i>interpretations of different rules and acts. He is expected only to give the information as per the record before him.</i>
4.	Mr. Ramesh Chandra v. Dr. D.R. Bains, Public Information Officer & Registrar School of Planning and Architecture CIC/OK/A/2007/00351	16.11.2009	20	PIO-failure to respond to an RTI application-show cause-penalty	<i>Amongst the various pieces of information provided to the Appellant, the information sought vide the impugned RTI Application has also been provided. The Commission finds that there was no malafide intention on part of the PIO in not replying to the RTI Application dated 01/09/2006. When faced with over a hundred applications on almost the same topic a PIO could miss answering one of them. The Commission warns the PIO not to take such liberty of not replying to RTI Applications in future.</i>
5.	Mr. Rakesh Agarwal v. Mr. Vinay Kumar ADM (HQ),and PIO Revenue Department CIC/WB/A/2008/00417	01.12.2008	2(h)	Misuse of RTI	<i>The appellant's queries are really not seeking information but more in the nature of rhetorical queries and sarcastic comments. In spite of this the PIO has made an attempt to provide whatever answers were possible. The appellant was asked what problem he had with the answers, and he claimed that the PIO had not replied to him. When the Commission showed him the PIO's reply which he had attached with his appeal, he claimed he did not know what was being discussed. The appellant appears to be treating RTI as a joke and this would result in denying other RTI users their rights.</i>

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6.	<p>Mr. R.S. Misra v. Mr. Kanhaiya Chaudhary, Asst. Commissioner (Admn & Fin) & CPIO, Kendriya Vidyalaya Sangathan</p> <p>CIC/OK/A/2008/00888</p>	11.12.2008	8(1)(g)	Exemption-service rules cannot override provisions of the RTI Act	<p><i>The rules of the organization cannot take precedence over the Right to Information Act. The respondent has been able to give no plausible reasons under Section 8(1) (g) for denying the 69 pages of the witnesses report. It is too far-fetched to imagine that disclosing the witnesses report would result in 'endangering the life or physical safety of any person'. However, as a matter of caution assuming that some harm could come to the witnesses by disclosure of their names, the PIO shall hide the names of the witnesses in the copy given to the appellant.</i></p>
7.	<p>Mr. Jagvesh Kumar Sharma v. G.L.Meena, Joint Secretary (Home) & PIO, GNCT of Delhi</p> <p>CIC/WB/A/2008/00113/S G</p> <p>Mr. Syed Izhar-ul Hasan v. Mr. Raj Pal Singh, Addl. Dy. Commissioner & PIO</p> <p>CIC /WB/C/2008/00443/SG</p>	01.05.2009	8(1)(j)	Exemption-arms license-privacy-right to information	<p><i>To qualify for this exemption the information must satisfy the following criteria:1. It must be personal information. Words in a law should normally be given the meanings given in common language. In common language we would ascribe the adjective personal to an attribute; to an attribute which applies to an individual and not to an Institution or a Corporate. From this it flows that personal cannot be related to Institutions, organisations or corporates.</i></p> <p><i>We can also look at this from another aspect. The State has no right to invade the privacy of an individual.</i></p>

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	Mr. Radhey Shyam Gupta v. DDE(NW-A) & PIO, Govt. of N.C.T. of Delhi CIC /SG/A/2009/000509 Mr. Rajeev Kumar v. Mr. D. Boro, Public Information Officer & Asst. Registrar (SA) CIC/SG/C/2009/001088				<i>We can also look at this from another aspect. The State has no right to invade the privacy of an individual.</i> <i>Therefore we can accept that disclosure of information which is routinely collected by the Public authority and routinely provided by individuals, would not be an invasion on the privacy of an individual and there will only be a few exceptions to this rule which might relate to information which is obtained by a Public authority while using extraordinary powers such as in the case of a raid or phone-tapping.</i>
8.	Sh. Virender Singh v. CPIO & Deputy Commissioner, Municipal Corporation of Delhi, West Zone CIC/WB/A/2008/00624/S G Mr. Ajay Giri v. Mr. Raj Pal Singh, Public Information Officer, EE-Sh-N-M-III CIC/SG/A/2009/900902	26.12.2008		Information-record not traceable-lost-stolen-seized	<i>The Commission directs the respondent to file a Police complaint about the lost/stolen records and get a certificate from the Additional Commissioner –Engineering about the loss/stealth of these records.</i>
9.	Sh. Ram Kunmar Gupta v. Deputy Commissioner &	31.12.2008	4	Information-to be supplied-cannot be	<i>The respondent was instructed by the Commission that the answers to points to 1, 5,6</i>

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	PIO, (Bldg. Deptt.), Municipal Corporation of Delhi CIC/SG/A/2008/00062/SG Mr. Harpal Singh Rana v. Mr. D. K. Rastogi, Deputy Director (S.C.P./PIO) CIC/SG/A/2009/001198			directed to website maintained by the authority	<i>and 7 saying the appellant should obtain the information from the website are unacceptable. The PIO may offer additional information to an appellant that the information is available on the website, but he must also offer to give the information on hard copy on payment of additional fees of Rs. 2 per page.</i>
10.	Mr. Amit Kumar v. PIO/LAC (NW), Govt. of NCT of Delhi CIC/WB/A/2008/00894	January 1, 2009	7, 8(1)(j), 11, 20	Information not provided- misinterpreting Section 11-delay in providing information- PIO-show cause	<i>First he took 196 days to furnish the first reply denying information without assigning any reasons for applying Section 8 (1) (j). There is requirement to ask the third party to give grounds for non-disclosure. There is no proviso to deny information without the explicit consent of the third party. The PIO appears to be denying the information without reasonable cause. It appears that the PIO's actions attract the penal provisions of Section 20 (1). A show cause notice is being issued to him, and he is directed give his reasons to the Commission to show cause why penalty should not be levied on him.</i>
11.	Mr. Neeraj Kumar v. Mr. Jit Singh, DR (SC/ST Cell)	16.01.2009	8(1)(g) & (h)	Information-process of investigation- endanger life	<i>As per Section 3 of the RTI, citizens right to information, is the rule and exemptions under Section 8, is exception. Section 8 being a</i>

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	<p>& PIO, Jawaharlal Nehru University</p> <p>CIC/OK/A/2008/01303</p> <p>Also see, Mr. Prakash Chandra v. Mr. D. Verma, Dy. Secretary (Vigilance) & PIO, Govt. of NCT of Delhi</p> <p>CIC /SG/A/2009/000015</p> <p>Mr. Prakash Chandra v. Mr. D. Verma</p> <p>CIC /SG/A/2009/000015</p> <p>Mr. S.K. Tiwari v. Mr. S.P. Singh, CIC /SG/A/2009/000512, 519</p> <p>Mr. D.K. Sharma v. Mr. Prem Chand, Public Information Officer</p> <p>CIC/SG/A/2009/002302</p> <p>Mr. S.K. Tyagi v. Mrs. Lalita Das, PIO & Under</p>				<p><i>restriction on this fundamental right, must therefore is to be strictly construed. It should not be interpreted in manner as to take away the substantive right created by the Act.</i></p> <p><i>As a matter of fact since the report was submitted on 21-08-07, there can be no reason to deny this or all the other relevant information. Inquiries into various matters are conducted with Public money and Public has a right to know their findings. Keeping them under wraps for months and years serves no purpose except allowing wrongdoers to be protected. The PIO's use of Section 8 (1) (g) claiming that disclosure of the information would endanger the life or physical safety or identify the source of information appears to a flight of fancy, in the absence of any cogent reasoning.</i></p> <p><i>The Hon'ble High Court of Delhi in the matter of Bhagat Singh vs. Chief Information Commissioner and Ors. dated 03/12/2007, at para 13 has held as follows:</i></p> <p><i>"Under section 8, exemption from releasing information is granted if it would impede the process of investigation or the prosecution of the offenders. It is apparent that the mere existence of an investigation process cannot be aground for refusal of the information; the authority</i></p>

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	<p>Secretary, Ministry of Labour & Employment</p> <p>CIC/DS/A/2010/000415/S G</p> <p>Dr. Partha Pratim Biswas v. Mr. B.D. Sharma, CPIO & Director</p> <p>CIC/SG/A/2010/001440</p> <p>Mr. Saroj Kumar Mishra v. Ms. Jyoti Mehta, Director (Vigilance) & PIO</p> <p>CIC/SM/A/2011/000247/S G</p> <p>Mr. Manoj Kumar Gupta v. Mr. Keshav Rao, Director & CPIO</p> <p>CIC/SM/A/2011/000238/S G</p> <p>Mr. S. Satyanarayana v. Mr. Ashok Joshi, Central Public Information Officer</p>				<p><i>withholding information must show satisfactory reasons as to why the release of such information would hamper the investigation process. Such reasons should be germane, and the opinion of the process being hampered should be reasonable and based on some material. Sans this consideration, Section 8(1) (h) and other such provisions would become the haven for dodging demands for information.”</i></p> <p><i>Thus no reasonable ground exists for denial of the information and the PIO and the First appellate authority have erred in their decision.</i></p>

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	CIC/SM/A/2010/001239/S G				
12.	<p>Mr. P. S. Marwah v. Mr. Feroz Ahmed, Chief Egg. Municipal Corporation of Delhi</p> <p>CIC/SG/A/2008/00190/</p> <p>Mr. R.N. Saraswat v. Mr. Jay Kumar, PIO & Regional PF Commissioner (G-II)</p> <p>CIC/SG/A/2010/001373</p> <p>Mr. Sunil Kumar Sharma v. Mr. R. Prasad</p> <p>CIC/SG/A/2010/002731 (see for Section 19(8)(a) too)</p> <p>Mr. Umesh Chandra Joshi v. Mr. L.D. Singh Uppal, PIO & Assistant Secretary</p> <p>CIC/SG/A/2011/000030 (see for Section 19(8)(a) too)</p>	29.01.2010	2(f), 25(5)	Information-not available-recommendation issued	<p><i>The Commission recognizes that information as defined under Section 2 (f) of the RTI Act has to exist in material form, and if no specific rule or guideline exists, the PIO cannot provide it. Information is not to be created to satisfy an applicant's RTI query. However, in matters where there is an ambiguity in understanding matters such as building byelaws, or different officers of a Public authority are giving different interpretations, it would be desirable if a well defined rule or guideline were issued.</i></p> <p><i>The Commission under its powers under Section 25 (5), recommends to the Municipal Commissioner to evolve clear guidelines,- if possible,- and publish them on its website with respect to the rights of building Barsatees on roof terrace.</i></p>

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13.	<p>Gita Dewan Verma v. Additional Secretary (UD), Govt. of NCT Delhi</p> <p>CIC/WB/A/2007/00830</p> <p>Sh. Rakesh Kumar Sharma v. Dy. Commissioner VAT (PIO), Department of Trades & Taxes</p> <p>CIC/SG/A/2009/001563, CIC/LS/A/2009/000426</p>	27.01.2009	8(1)(d)	Exemption-8(1)(d)	<p><i>Even if we take the argument that some very favourable terms have been obtained by the Public authority, there certainly is a larger Public interest in disclosing these, so that the Public authority could get such favourable terms from others as well. The objective of the RTI act is to promote transparency and accountability and contain corruption. The objectives of the Act would be defeated if Public authorities claim exemption based on a claim that 'terms and condition were much more favourable to the Government', and therefore these must be kept away from the Public. Infact Public feels that quite often the contrary is the case. Citizens own the Government and all information belongs to them. The claim of 'commercial confidence' in denying access to agreements between private parties and the masters of the Public authorities,- Citizens, - runs counter to the principles of the Right to Information.</i></p> <p><i>The second reason for not disclosing the information given by the PIO is that since IL & FS Ecosmart Limited was bound of confidentiality not to disclose the city development plans prepared by it, the Urban development department also felt obliged to reciprocate, has not been justified by any law. The Public authority cannot read exemptions into the RTI act which do not exist.</i></p>

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14.	<p>Mr. N. Venkatesan v. Mr. Raj Kumar Khudania Superintendent Public Information Officer (CPIO)</p> <p>CIC/ SG/A/2008/00064</p> <p>Also see, Mr. Ram Prakash Khurana v. Mr. Ram Kumar Kudaniya, Superintendent & PIO</p> <p>CIC/SG/A/2008/00298</p>	27.01.2009		No exemption-applicant has the right to opt for one route or another to obtain information	<p><i>Since there is no specific order of a Court expressly forbidding the information from being published the PIOs plea that disclosing this information will constitute contempt of court is without any basis. The PIO states that the applicant has not disclosed whether the information belongs to a third party, and that he has not disclosed whether the information is required by him for use in his profession. Neither of these is relevant, since there is no requirement in law for the applicant to disclose either of these.</i></p> <p><i>No claim has been made by the PIO of any exemption under the RTI act to deny the information. If a Public authority has a process of disclosing certain information which can also be accessed by a Citizen using Right to Information, it is the Citizen's right to decide which route he wishes to use. The existence of another method of accessing information cannot be used to deny the Citizen his freedom to use his fundamental right codified under the Right to Information Act. If Parliament wanted to restrict his right, it would have been stated in the Law. Nobody else has the right to constrain or constrict the rights of the Citizen.</i></p>
15.	Mr. T.B. Dhorajiwala v. Dr. Indu Saxena, Deputy Registrar (Admn) & P.I.O.	09.02.2009	2(f)	Information-what constitutes information-duty of	<i>The RTI act does not state that queries must not be answered, nor does it stipulate that prefixes such as 'why, what, when and whether' cannot</i>

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	CIC/SG/A/2008/00347+00 277			PIO-exemptions cannot be added	<i>be used. The PIO is right in accepting that what is asked must be a matter of record, but errs in imposing a new set of non-existent exemptions.</i>
16.	Mr. R. Sridharan v. Mr. Vinod Kumar CIC/SG/A/2008/00213 Mr. Pankaj v. Central Public Information Officer CIC/SG/A/2011/000763	09.02.2009	8(1)(e), (g)	Information-exemptions-fiduciary relationship-reasons for making exemptions applicable	<i>Since Right to Information is a fundamental right of Citizens, where denial has to be only on the basis of the exemptions under Section 8 (1), it is necessary to carefully explain the reasons of how any of the exemptions apply, when a PIO wishes to deny information on the basis of the exemptions. Merely quoting the Subsection of Section 8 is not adequate. Giving information is the rule and denial the exception. In the present case no reasoning has been given initially or in the written submissions as to how releasing the report would lead to endangering the life or physical safety or identify the source of information given in confidence for law enforcement. In the absence of any reasoning, the exemption under Section 8 (1) (g) is held to have been applied without any basis. The second ground for denial is Section 8 (1) (e) on the ground that the information – ‘the report of the Expert Committee’- is held by the Public authority in a fiduciary relationship. The traditional definition of a fiduciary is a person who occupies a position of trust in relation to someone else, therefore requiring him to act for the latter’s benefit within the scope of that relationship. In business or law, we</i>

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					<p><i>generally mean someone who has specific duties, such as those that attend a particular profession or role, e.g. financial analyst or trustee. The information must be given by the holder of information when there is a choice,- as when a litigant goes to a particular lawyer, or a patient goes to particular doctor. It is also necessary that the principal character of the relationship is the trust placed by the provider of information in the person to whom the information is given. An equally important characteristic for the relationship to qualify as a fiduciary relationship is that the provider of information gives the information for using it for his the benefit of the giver. When a committee is formed to give a report, the information provided by it in the report cannot be said to be given in a fiduciary relationship. All relationships usually have an element of trust, but all of them cannot be classified as fiduciary. The information in the report was certainly not given for the benefit of the Expert Committee. Hence, the contention that the Expert Committee gave the report in a fiduciary relationship is not correct.</i></p>
17.	Mr. Neeraj Kumar v. Mr. Jit Singh, Public Information Officer DR(SC/ST Cell)	10.02.2009	8(1)(j)	Exemption-privacy-public activity	<p><i>While deciding this case, the Commission agrees with the contention of the appellant that when a person “is holding a public office, getting salary from the public exchequer and discharging public functions in a public</i></p>

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	CIC/SG/A/2008/00248/				<i>institution, therefore whatever documents she has submitted in pursuance of her appointment to public office in a public institution falls in public domain.” The act of applying for a job or a selection process is not a private activity but is clearly a Public activity, and disclosure of the documents and papers submitted to obtain the job cannot be held to be an invasion on privacy.</i>
18.	Mr. Ashwani Kumar Goel v. Mr. R.N. Sharma CIC/WB/A/2008/00838 Mr. Dharampal Singh Dahiya v. The Public Information Officer, Director UGC-DAEF Consortium CIC/SG/A/2009/000874	18.02.2009	8(1)(e)	Exemption-sub judice matters-information to be provided unless specific order to contrary	<i>This clause does not cover subjudice matters, and unless an exemption is specifically mentioned, information cannot be denied. Disclosing information on matters which are subjudice does not constitute contempt of Court, unless there is a specific order forbidding its disclosure.</i>
19.	Mr. Mahesh Kumar Sharma v. PIO, Delhi Jal Board Mr. Jagvesh Kumar Sharma v. Joint Secretary	27.02.2009	8(1)(e), (j)	Exemptions-fiduciary relationship-privacy	<i>Even if the exemptions of Section 8 (1) apply in a particular matter, if there is larger public interest, information shall be disclosed. It is useful to comment here that an applicant does not have to show any public interest for disclosure of any information, unless a specific exemption under Section 8 (1) is established.</i>

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	<p>(Home) & Public Information Officer</p> <p>CIC/WB/A/2008/00993</p> <p>Mr. R.C. Jain v. PIO, Delhi Jal Board</p> <p>CIC/SG/A/2009/000401</p> <p>Mr. Ram Karan Malviya v. Public Information Officer</p> <p>CIC/SG/A/2010/001446</p>				<p><i>Under Section 8 (1) (j) information which has been exempted is defined as: ...</i></p> <p><i>1. It must be personal information.</i></p> <p><i>Words in a law should normally be given the meanings given in common language. In common language we would ascribe the adjective personal to an attribute which applies to an individual and not to an Institution or a Corporate. From this it flows that personal cannot be related to Institutions, organisations or corporates. (Hence we could state that Section 8 (1) (j) cannot be applied when the information concerns institutions, organisations or corporates.).</i></p> <p><i>The phrase disclosure of which has no relationship to any public activity or interest must be interpreted means that the information must have some relationship to a Public activity. Various Public authorities in performing their functions routinely ask for personal information from Citizens, and this is clearly a public activity. When a person applies for a job, or gives information about himself to a Public authority as an employee, or asks for a permission, licence or authorisation, all these are public activities.</i></p> <p><i>We can also look at this from another aspect. The State has no right to invade the privacy of an individual. There are some extraordinary situations where the State may be allowed to</i></p>

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					<p><i>invade on the privacy of a Citizen. In those circumstances special provisos of the law apply, always with certain safeguards. Therefore it can be argued that where the State routinely obtains information from Citizens, this information is in relationship to a public activity and will not be an intrusion on privacy.</i></p> <p><i>Therefore we can accept that disclosure of information which is routinely collected by the Public authority and routinely provided by individuals, would not be an invasion on the privacy of an individual and there will only be a few exceptions to this rule which might relate to information which is obtained by a Public authority while using extraordinary powers such as in the case of a raid or phone-tapping.</i></p> <p><i>Under this Act, providing information is the rule and denial an exception. Any attempt to constrict or deny information to the Sovereign Citizen of India without the explicit sanction of the law will be going against the rule of law. The Citizen needs to give no reasons nor are his credentials to be checked for giving the information. If the third party objects to giving the information, the Public Information Officer must take his objections and see if any of the exemption clauses of Section 8 (1) apply. If the any of the</i></p>

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					<i>exemption clauses apply, the PIO is then obliged to see if there is a larger Public interest in disclosure. If none of the exemption clauses apply, information has to be given.</i>
20.	Dr. Prem Prakash Sharma v. Dr. O.P. Sharma, Shyam Lal College, (University of Delhi) CIC/SG/A/2008/00275	20.03.2009	8(1), (j)	Purpose to seek information not remedy-third parties-privacy	<i>The PIO's contention is flawed. By using RTI the applicant is seeking information and cannot get any remedy. The basis for refusing to give any information under RTI has to be based on the law not on a handbook issued by any authority. The Commission also takes this opportunity to direct the University to correct its Manual and not misguide its PIOs by creating exemptions. Those who make manuals or guides are advised not to create exemptions which do not exist in the law. It would be prudent only to record the exemptions of Section 8 (1) verbatim, and not amplify these.</i>
21.	Dr. Amit Mehta v. Prof. Mini S. Thomas, The Public Information Officer, Jamia Milia Islamia, Jamia Nagar CIC/SG/C/2009/000185 Mr. Krishan Kumar v. Mr. Hari Ram, CIC/SG/C/2009/901582	19.08.2009	18	Recommending disciplinary action-seeking compliance report	<i>It appears the FAA Prof. Z.H.Khan has no reasons for complete dereliction of his duty as First Appellate Authority. He has not held any hearing not passed any orders in this matter. It appears he is not willing to do his duty as First Appellate Authority. In view of this the Commission directs the Vice Chancellor Jamia Milia Islamia to take disciplinary action against the Registrar Prof. Z.H.Khan for dereliction of his duty as First Appellate Authority. The Vice Chancellor is</i>

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	Mr. Sher Singh v. The Commissioner, Municipal Corporation of Delhi CIC/SG/C/2011/000728				<i>directed to send a compliance report evidencing the action taken to the Commission before 30 September 2009.</i>
22.	Mr. Mahavir Chopda v. Public Information Officer, NMIMS University CIC/OK/A/2008/01098/ Mrs. Neeru Kumar v. CPIO, Western International University, CIC/SG/A/2009/001050	31.03.2009	2(h)	Deemed university-public authority-applicability of the RTI Act	<i>Thus it is clear that a deemed University gets this status by virtue of a notification issued by the Central government. NMIMS has been conferred the status of a deemed University by virtue of notification no. F.9-37/2001-U-3 dated 13 January 2003 of the Government of India. It clearly meets the criterion of Section 2 (d) of the act since it gets its status as 'deemed University' by virtue of a notification by the Central Government. All deemed Universities are Public authorities as defined under the RTI act. Since NMIMS University is also a deemed University by virtue of a notification by the Central Government it is a Public authority and must furnish information as mandated by the RTI act.</i>
23.	Mr. Prakash Chandra v. Mr. Amitabh Joshi, Assistant Director (Vigilance) & PIO CIC/SG/A/2009/000015 Shanti Swarup Gupta v. Mr. M. L. Gupta, Assistant Registrar (NW) and PIO,	10.09.2009	20	Penalty-wilful non compliance-maximum penalty	<i>The PIO has given no reasonable cause for refusing to comply with the orders of the Information Commissioner. A PIO cannot take refuge in the excuse that he asks any public authority and if the public authority tells him not to release the information, he is justified in following the orders of such a public authority. The PIO chose to defy the Commission's order for a period of over 4 months. The PIO had no evidence of any legally valid stay having been</i>

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	<p>Govt. of NCT Delhi, CIC/SG/A/2009/000123</p> <p>Mr. Prakash Chandra v. Mr. Amitabh Joshi, Assistant Director (Vigilance) & PIO, Govt. of NCT of Delhi, CIC/SG/A/2009/000015</p> <p>Mr. Hari Om Gupta v. Public Information Officer, Registrar, I.A.S.E. University, CIC/SG/C/2009/000193</p> <p>Mr. Kanhiya Lal v. Mrs. Indira Rani Singh, Public Information Officer/DDE(W-B), CIC/SG/A/2009/000713</p> <p>Mr. Nitesh Duhan v. Prof. J.K. Mitra, CIC/SG/A/2009/000867</p> <p>Mr. Jathedar Kudlip Singh Bhogal v. Mr. N. S. Badhan, Public Information</p>				<p><i>obtained against the Commission's order. Since the delay is already over 100 days the Commission sees this as a fit case for the levy of maximum penalty of Rs. 25,000/- as per Section 20(1) of the RTI Act.</i></p>

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	<p>Commissioner, Delhi Sikh Gurudwara Management Committee, CIC/SG/A/2009/000619</p> <p>Prof Rajeev Kumar v. Mr. A. Patra & Ors. CIC/SG/C/2010/000001</p> <p>Mr. Vishal Narula v. Mr. K.C. Meena CIC/SG/A/2010/000242</p> <p>Mr. V.B. Bansal v. Mr. R.K. Sharma, Executive Engineer & Deemed PIO CIC/SG/A/2010/000293</p> <p>Mr. Anand Bhushan v. Mr. R.A. Haritash CIC/SG/A/2010/000292</p>				
24.	<p>Mr. Mohd. Fakrudhin v. Mr. V. S. Arya & Anr. CIC /SG/A/2009/000566</p> <p>Mr. Deep Chand v. Mr. Tej Ram, Deemed PIO & AZI/UDC</p>	13.05.2009	20 (1) & (2)	Show cause-recommendation of disciplinary action	<i>As per the provisions of Section 20 (1), the Commission finds this a fit case for levying penalty on Mr. V.S. Arya PIO/Deputy Labour Commissioner and Mr. Subhash Chandra APIO/Asst. Labour Commissioner. As per section 20 (1) of the RTI Act, for delay in sending the information to the Applicant, a penalty of Rs. 250/- per day may be levied on a PIO with the</i>

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	CIC/SG/A/2011/002248				<p><i>maximum penalty set at Rs. 25,000/-. The Appellant received the information only pursuant to the issuance of the show cause notice by the Commission on 17.04.2009 which is after more than 320 days from the date on which he filed the RTI application (27.05.2008). Furthermore, they have both shown clear dereliction of their duty in providing the complete information as per the provisions of RTI Act. The PIO had wrongly stated that he had sent the information to the Appellant on 20.06.2008 and the APIO wrongly stated that he had sent the information in compliance with the First Appellate Authority's order on 28.11.2008. The PIO and the APIO supported their claims by relying on entries in the dispatch register which appear to have been inserted subsequently. Both persons have attempted to mislead the Commission. Since the PIO and the APIO are guilty of providing the information late by over 100 days, the Commission imposes a penalty on both the PIO and APIO for the maximum amount permitted as per Section 20 (1) of the RTI Act– Rs. 25,000/- each. It also appears that Mr. V.S.Arya and Mr. Subhash Chandra have without any reasonable cause and persistently, not furnished information within the time specified under sub-section (1) of section 7 and malafidely denied the request for information. Hence the Commission sees this as a fit case to</i></p>

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					<p><i>recommend disciplinary action against them. The Commission directs the Chief Secretary to initiate disciplinary action against them under Section 20 (2) of the RTI Act.</i></p>
25.	<p>Mr. Ramesh Tiwari v. Registrar, P.G. & Research Institute, University Wing, Dakshina Bharat Hindi Prachar Sabha</p> <p>CIC/SG/A/2009/000635</p> <p>Mr. R. K. Nanda v. Ms. Renu Popli, Public Information Officer, Delhi Transport Corporation</p> <p>CIC/SG/A/2009/001391</p>	17.11.2009	2(h), 20(1)	Public authority-funding	<p><i>Therefore a body substantially financed by the appropriate government is a public authority as per Section 2(h)(d)(i). The issue to be determined is whether Dakshina Bharat Hindi Prachar Sabha is substantially financed. The Commission in Decision No. CIC/SG/C/2009/001193/5009 dated 05/10/2009 has held that- "...if a body receives a minimum of Rs. 5 lacs and this amount constitutes over ten percent of its annual income, the body can be considered to be 'substantially funded' for the purposes of the Right to Information Act, and would be considered to be a Public authority."</i></p> <p><i>In view of this decision of the Commission, it is clear that the Dakshina Bharat Hindi Prachar Sabha is substantially funded by the government since 2005 as it has received more than 10% of its total income from government grants and it is therefore a public authority under Section 2(h) of the RTI Act.</i></p> <p><i>The Commission therefore directs the Dakshina Bharat Hindi Prachar Sabha to appoint a Public Information Officer and a First Appellate Authority before 15 December 2009. A compliance report in this regard must be sent to</i></p>

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					<p><i>the Commission before 21 December 2009. Dakshina Bharat Hindi Prachar Sabha is further directed to fulfill its obligations under Section 4 of the RTI Act before 31 January 2009. A compliance report with regard to Section 4 compliance will be sent to the Commission before 10 February 2009.</i></p> <p><i>The Dakshina Bharat Hindi Prachar Sabha is further directed to provide the following information to the Appellant before 21 December 2009:</i></p> <ol style="list-style-type: none"> <i>1. Pay scale and Total pay as well as official address of the members of the staff and employees of the Distance Education Directorate; if any persons have been dismissed, reasons for such dismissal if any.</i> <i>2. Pay scale and Total pay as well as official address of the members of the staff and employees of the PG & Research Institute; if any persons have been dismissed, reasons for such dismissal if any."</i>
26.	<p>Mr. Rakesh Agarwal v. Mr. K. S. Rawat, PIO, Tis Hazari Courts, Delhi</p> <p>CIC/ SG/A/2009/000676</p>	22.05.2009	5(4)	Information-courts-presiding officer	<p><i>According to Section 5(4) the PIO may seek the assistance of any other officer as he or she considers it necessary for the proper discharge of his or her duties, i.e. to provide the information. The onus therefore lies on the PIO to approach any officer of the court as he considers necessary to procure the information that the Appellant is seeking. If the Appellant is</i></p>

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					<p><i>exercising his right to information under the RTI Act, then he is within his statutory rights to only approach persons designated as PIO or APIO. The Appellant is the sovereign Citizen of India exercising his fundamental right, and no authority can ask him to seek permissions from anybody. The purpose of putting in place Section 5(4) is to ensure that applicants for information do not have to run from pillar to post to access information to which they are rightfully entitled to under the RTI Act. In the present case, to ask the Appellant to apply for permission from the Presiding Officer of the Court is in clear contradiction to the spirit and word of the law.</i></p>
27.	<p>Mr. Rakesh Agarwal v. Mr. K. S. Rawat, PIO, Tis Hazari Courts, Delhi</p> <p>CIC/ SG/A/2009/000677</p>	22.05.2009	5(4), 28	Information-different rules made by Delhi High Court	<p><i>According to Section 5(4) the PIO may seek the assistance of any other officer as he or she considers it necessary for the proper discharge of his or her duties, i.e. to provide the information. The onus therefore lies on the PIO to approach any officer of the court as he considers necessary to procure the information that the Appellant is seeking. If the Appellant is exercising his right to information under the RTI Act, then he is within his statutory rights to only approach persons designated as PIO or APIO. He is not expected to seek permission from persons who are not designated under the RTI Act. The purpose of putting in place Section 5(4) is to ensure that applicants for information do not have to run from pillar to post to access</i></p>

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					<p><i>information to which they are rightfully entitled to under the RTI Act.</i></p> <p><i>The Delhi High Court RTI Rules have been framed under Section 28 RTI Act. This provision clearly states that the competent authority may make rules to carry out the provisions of the Act. Therefore, rules framed by the High Court under Section 28 cannot run contrary to the fundamental basis of the RTI Act which is to ensure that citizens can enjoy their fundamental as well as statutory right to information. Rule 5(a), in effect, appears to add another ground based on which disclosure of information can be exempted. No public body is permitted under the Act to take upon itself the role of the legislature and import new exemptions hitherto not provided. The Act leaves no such liberty with the public authorities to read law beyond what it is stated explicitly. There is absolutely no ambiguity in the Act and creating new exemptions will go against the spirit of the Act.</i></p>
28.	Sh. M.G. Menghaney v. Mr. L.R. Garg, SPIO CIC/SG/A/2009/000898	10.06.2009	8(2)	Information-exemption-public interest	<p><i>However, given the fact that the cooperative society has defaulted for many years on its loan payment and a large amount of over Rs.12cr. are outstanding, it is reasonable to argue that there is a large public interest in knowing the details and nature of such a loan. In matters where public</i></p>

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					<p><i>financial institution which are public authorities large and continues defaults in loans could be the result of corruption or gross mismanagement and citizens have a right to know the details so that this acts as a check on such public authorities. In view of this the Commission feels that as per Section 8(2) public interest in disclosure outweighs the harm to the protected interest and hence the information must be disclosed.</i></p>
29.	<p>Mr. S. Sankar v. Mr. Sunil Kumar, PIO, Railway Board</p> <p>CIC/SG/A/2009/001043</p>	17.06.2009	8(1), 19(5)	Information-exemption-Parliament	<p><i>The whole purpose of Right to Information is to bring about greater transparency and accountability in the workings of the public authority. These will at times, reveal different opinions and at other times they may even reveals mistakes that have been made. Parliament has enacted the RTI Act in the belief that the truth must be revealed. Democracies, - the world over, - have been moving in the direction of empowering their citizens with transparency. Parliament has legislated the Act and provided the 10 exemptions under Section 8(1), to safeguard certain interests. These have to construed narrowly and definite reasons advanced to justify denial. Hence, Section 19(5) has clearly put the onus on the public information office to justify the denial of information. In the instant case the PIO has not justified how disclosure of the truth would be</i></p>

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					<p><i>harmful to the Economic interest of the State or its Commercial interest. Besides the PIO has also admitted that the information sought by the appellant would be disclosed to Parliament. Hence the Commission comes to a conclusion that the PIO's denial of information is not justified and is not covered by the exemption under RTI Act.</i></p>
30.	<p>Mr. Dharmender Kumar Garg v. Mr. Raj Kumar Sah, PIO, Registrar of Companies & CAPIO</p> <p>CIC/SG/C/2009/000702</p>	14.07.2009	2(j), 8	<p>Information-alternate route-fee payable-Registrar of Companies</p>	<p><i>With regards to the second argument of the Respondent about information to be sought only under Section 610 of the Companies Act, the Respondent has relied on order number CIC/MA/A/2006/0016 of the Commission where the Hon'ble Commissioner Shri M.M. Ansari upholding FAA's order stated that "There is already a provision for seeking information under Section 610 of The Companies Act, 1956. The Complainant may accordingly approach the ROC as advised by the Appellate Authority to obtain the relevant information." If the Complainant has more than one way of seeking remedy he has the freedom to opt for the way which is more convenient for him. No claim has been made by the PIO of any exemption under the RTI Act to deny the information. If a Public Authority has a procedure of disclosing certain information which can also be accessed by a Citizen using the Right to Information Act, it is the Citizen's prerogative to decide which route he wishes to take. The existence of another</i></p>

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					<i>method of accessing information cannot be a justification to deny the Citizen his freedom to exercise his fundamental right codified under the Right to Information Act. If the Parliament wanted to restrict this right, it would have been stated expressly in the Act. Nobody else has the right to constrain or limit the rights of the Sovereign Citizen.</i>
31.	<p>Mr. Jathedar Kudlip Singh Bhogal v. Mr. N. S. Badhan, Public Information Commissioner, Delhi Sikh Gurudwara Management Committee</p> <p>CIC/SG/A/2009/000619</p> <p>Mr. C.K. Sharma v. Mr. P.K. Barua</p> <p>CIC/SG/A/2009/002193</p>	22.07.2009	2(h)(b), 8(1)	Public Authority-sub judice matters	<i>Section 2(h)(b) clearly says that any Institution of self Government established or constituted by any law made by Government is public authority. The Respondent states that the Delhi Sikh Gurudwara Management Committee is not financed or controlled by the Government. This is covered by Section 2(h)(d) and the law does not state that sub-sections (a) to (d) need to be satisfied simultaneously for a body to be considered as public authority.</i>
32.	<p>Mr. Rakesh Kumar Gupta v. PIO(s), Director (Vigilance)</p> <p>CIC/SG/A/2008/00045</p>	18.08.2009	8(1)(j)	Applicant not required to give reasons for seeking information	<i>The Commission explained that the overriding principle of the RTI Act is Section 3 which very elegantly states "subject to the provisions of this Act, all citizens shall have the right to information". Section 6(2) of the Act has explicitly stated "an Applicant making request for information shall not be required to give any reason for requesting the information or any</i>

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					<i>other personal details except those that may be necessary for contacting him". Thus Parliament was very clear in its thinking that since right to information is the fundamental right of citizens and citizens own the information, no reasons need to be given for accessing the information. IN fact, Parliament expected that Public Authorities will put up most of the information into public domain suo moto as mandated under Section 4.</i>
33.	Mr. Tushar Goyal v. Asstt. Registrar (SW) & PIO, Govt. of NCT Delhi CIC/SG/A/2009/001768	14.09.2009	2(f)	Cooperative societies - information	<i>The term used it 'information relating to any private body which can be accessed by a public authority under any other law in time being in force'. If a very wide interpretation is given to this it would mean that every voucher of a small sales tax dealer would have to be accessed by the Sales Tax officer or any details about the income or expenditure of any income tax payer, would have to be accessed by the income tax authorities for the purposes of answering a RTI query. It is clear that this is not the intention of the Parliament and the Commission interprets this to mean – information which under the rules and laws, a public authority obtains from various private bodies.</i>
34.	Mr. Tarun K. Roy v. Public Information Officer, University of Delhi CIC/SG/A/2009/001841	09.10.2009	8(1)(j)	Information not provided-privacy-	<i>The following details will not be provided to the Appellant out of the records sought by him since the respondents have raised objection about these being an intrusion on privacy of the employees:</i>

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					<p>1. Details of families of employees and their addresses</p> <p>2. Health certificates</p> <p>3. Home town declarations and addresses of candidates.</p>
35.	<p>Mr. Anand Swarup Garg v. Central Public Information Officer</p> <p>CIC/SG/C/2009/000817</p> <p>Mr. Pratap Singh Gandas v. Dr. K.K. Bhalla, PIO & Deputy Health Officer</p> <p>CIC/SG/C/2010/001044</p> <p>Mr. J.N. Kapur v. Mr. V.R. Bansal, Public Information Officer & SE-I</p> <p>CIC/SG/A/2010/002810</p>	25.09.2009	8(1), 19(5), 6(2), 20	Information exemption – PIO – duty	<p><i>The only reasons for denial of information under the RTI Act can be under Section 8(1) and these reasons have to be explained.</i></p> <p><i>Section 3 of the RTI Act very succinctly describes the directive of the Act, ‘Subject to the provisions of this Act, all citizens shall have the right to information.’</i></p> <p><i>Since Right to Information is a fundamental right of Citizens, any denial of information has to be only on the basis of the exemptions under Section 8 (1). If the PIO denies any information it is necessary to quote the specific Subsection of Section 8(1) and explain the reasons of how it applies in the particular case. Merely quoting the Subsection of Section 8 is not adequate. Section 19 (5) of the RTI Act states, ‘In any appeal proceedings, the onus to prove that a denial of a request was justified shall be on the Central Public Information Officer or State Public Information Officer, as the case may be, who denied the request.’ Giving information is the rule and denial the exception. Section 6 (2) clearly states, ‘An applicant making request for information</i></p>

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					<p><i>shall not be required to give any reason for requesting the information or any other personal details except those that may be necessary for contacting him.' Thus the Citizen does not have to explain any reasons for asking for the information, but the PIO must explain the justification for denial of information.</i></p> <p><i>If no reasoning is provided by the PIO it would be construed that the denial of information was without reasonable cause and the Commission would have to apply the penal provisions of Section 20 (1) if there are no reasonable grounds for denial of information.</i></p>
36.	<p>Mr. Ved Prakash Sharma v. Mr. Bhagwan Das Sharma</p> <p>CIC/SG/C/2009/001193</p>	05.10.2009	2(1)(h)	Public Authority- funding	<p><i>I am of the view that substantial funding can be decided through two methods- first to identify what percentage of the organisation's income is given by the government which is 'of considerable importance' to its revenue; and second, to identify an amount of money which in the Indian scenario would, in itself, be 'of considerable importance'. Both methods if applied on a case-to-case basis are vulnerable to a charge of arbitrariness. Therefore, I take this opportunity to lay a specific guideline to decide whether a body is substantially financed by the government or not. I am aware that such a guideline is also open to a charge of arbitrariness but it is better to have a pre-decided transparent standard which everyone can follow rather than a post-facto</i></p>

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					<p><i>case- to-case determination. I recognize that for this particular matter the guideline that I lay down would be a post-facto determination but the precedential value of this decision could help remove the arbitrariness to a large extent.</i></p> <p><i>I believe a funding of Rs. 5,00,000 per year can be considered as the minimum funding being received by an organization, to consider it as being substantially funded. Such an organization can be expected to have some full time employees and should certainly be able to discharge its duties under the Right to Information Act. On the other hand we need to set a percentage of the revenue which should be considered as the minimum to determine an organization as being 'substantially financed'. I propose that if 10% of the revenue of an organization comes from government funding, it should be considered to be 'substantially financed'. Thus, if a body receives a minimum of Rs. 5 lacs and this amount constitutes over ten percent of its annual income, the body can be considered to be 'substantially funded' for the purposes of the Right to Information Act, and would be considered to be a Public authority.</i></p>
37.	Mr. V.S. Jain v. Mr. L.R. Garg, Public Information Officer & GM	19.11.2009	2(f), 8(1)(d), (e)	Information-exemptions	<i>The Commission accepts the exemptions claimed by the PIO since a public sector banks also has commercial interest which would be compromised if information about their</i>

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	CIC/SG/A/2009/002493				<p><i>customers has to be disclosed as a rule under RTI. It is also a fact that the information provided by the customer to a financial institution or public sector bank will fall under the exemption of being information which was provided in a fiduciary relationship. It is not for the Commission to decide on the merits of who should be discharging the liability.</i></p> <p><i>However the Appellant's contention that there is a public interest in knowing the facts about who were the original loanees appears to be reasonable. Public interest also includes the right to get reasonable justice based on the truth. In view of this the Commission has asked the Appellant to ask for the minimum information required keeping in mind that it should not hurt the institutions commercial interest nor lead to a situation where it would be disclosing sensitive information received by it in the fiduciary capacity. The Appellant identifies the following:</i></p> <p><i>1- List of original loanee members submitted by society and accepted by DCHFC.</i></p> <p><i>2- Photocopy of the ledger account of society.</i></p> <p><i>This information would not harm the commercial interest of the institution nor disclosed any sensitive information held by the institution.</i></p>
38.	Mr. Sanjeev Kumar v. Public Information Officer,	20.11.2009	8(1)(j)	Information-privacy-DoPT OM	<i>The Appellant was seeking his own ACR. The PIO relied on a DOPT memorandum of 21</i>

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	<p>Directorate of Education, GNCT, Delhi</p> <p>CIC/SG/A/2009/002510</p> <p>Mr. V.R. Sharma v. Mr. Prakash Tamrakar, Under Secretary & PIO</p> <p>CIC/SG/A/2011/000464</p>				<p><i>September 2007 in which it states that “public authority is not under obligation to disclose ACR’s of any employee to the employee himself or to any other person in as much to disclosure of ACR is protected by clause j of subsection 1 of section 8 of RTI Act.” This memorandum is contrary to the law and PIO are advised to give their own reasoning before applying section 8 (1) of RTI Act. It is evident that a person cannot invade his own privacy.</i></p>
39.	<p>Mr. Mukesh Kumar v. Mr. N.S. Sagar, Public Information Officer & SE(E)</p> <p>CIC/SG/A/2009/002515</p>	23.11.2009	11(1)	Information-bidding-confidentiality	<p><i>For point no. 16 the tenders was called which were opened before all the parties. All the parties present have access to all the documents submitted at the time of tendering. Hence it is apparent that there is no claim of confidentiality in any of the documents submitted in the process of open tendering system. Section 11(1) of the RTI Act only applied to information “which relates to or has been supplied by a third party and has been treated as confidential by that third party”. In an open tendering process documents are accessible to all the tenderers at time of opening of bids as admitted by the PIO. Hence Section 11(1) cannot be applied to documents which are part of the bid documents, since there is an implied condition that these would be shown to all the bidders. Since these are to be shown to all the bidders at the time of</i></p>

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					<p><i>opening the tenders none of the bidders can subsequently claim that he treats this as confidential. In view of this, documents submitted in the tendering process which are open before all bidders in an open tendering system cannot be claimed to be third party documents which are claimed to be confidential.</i></p>
40.	<p>Dr. Tariq Islam v. Mr. Qazi Javed, Central Public Information Officer & Section Officer</p> <p>CIC/SG/A/2009/002567</p>	27.11.2009	7(1), 8(1)(g), 4(1)(d)	Information-imminent danger-	<p><i>Whether the information sought concerns the life or liberty of a person has to be carefully scrutinized and only in a very limited number of cases this ground can be relied upon. The government machinery is not designed in a way that responses to all RTI Applications can be given within forty-eight hours. A broad interpretation of 'life or liberty' would result in a substantial diversion of manpower and resources towards replying to RTI Applications which would be unjustified. Parliament has made a very special exception for cases involving 'life or liberty' so that it would be used only when an imminent threat to life or liberty is involved. The life or liberty provision can be applied only in cases where there is an imminent danger to the life or liberty of a person and the non-supply of the information may either lead to death or grievous injury to the concerned person. Liberty of a person is threatened if she or he is going to be incarcerated or has already been incarcerated and the disclosure of the information may change that situation. If the</i></p>

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					<p><i>disclosure of the information would obviate the danger then it may be considered under the proviso of Section 7(1). The imminent danger has to be demonstrably proven. The Commission is well aware of the fact that when a citizen exercises his or her fundamental right to information, the information disclosed may assist him or her to lead a better life. But in all such cases, the proviso of Section 7(1) cannot be invoked unless imminent danger to life or liberty can be proven. The Commission has perused the RTI Application filed by the Appellant and has come to the conclusion that non-disclosure will not lead to an imminent threat to life or liberty of the Appellant.</i></p> <p><i>The Respondent has refused to give the information sought by the Appellant on query-1 claiming exemption under Section 8(1)(g) of the RTI Act. Section 8(1)(g) exempts, "information, the disclosure of which would endanger the life or physical safety of any person or identify the source of information or assistance given in confidence for law enforcement or security purposes;". The obvious implication of this is that revealing the facts and reasons leading to the issue of suspending the appellant who is a faculty member of University would endanger the life or physical safety of the persons who are involved in this process. The implication of</i></p>

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					<p><i>using this exemption would be that Aligarh Muslim University believes that faculty member is capable of physically harming those who may have been involved in the process of his suspension. This is a very serious charge and the PIO admits that this was not in their mind at all. Before invoking Section 8(1)(g) PIO should carefully evaluate whether It applies since it the instant case this is invoking this section is like making an allegation against a faculty member of the university itself. This would be reducing the respect and the structure of the University and the PI admits that he had not realized this implication. In view of this the exemption claimed under Section 8(1)(g) is struck down.</i></p> <p><i>The Appellant claims that he is entitled for the administrative reasons under Section 4(1)(d). This is not in the domain of Information Commissioner to go into whether the reasons provided are adequate or not. If the RTI applicants claim that the Information Commissioner's go into the merits or adequacy of reasons for each administrative decision taken by various administrative bodies in each individual case, this is not sustainable.</i></p>
41.	Mr. J.D. Kataria v. Mr. R. Prasad CIC/SG/C/2009/001209	16.12.2009	8(1)(e), (j)	Information-privacy-fiduciary relationship	<i>Therefore we can state that disclosure of information such as assets of a Public servant, - which is routinely collected by the Public authority and routinely provided by the Public</i>

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					<p><i>servants,- cannot be construed as an invasion on the privacy of an individual. There will only be a few exceptions to this rule which might relate to information which is obtained by a Public authority while using extraordinary powers such as in the case of a raid or phone-tapping. Any other exceptions would have to be specifically justified. Besides the Supreme Court has clearly ruled that even people who aspire to be public servants by getting elected have to declare their property details. If people who aspire to be public servants must declare their property details it is only logical that the details of assets of those who are public servants must be considered to be disclosable. Hence the exemption under Section 8(1) (j) cannot be applied in the instant case.</i></p> <p><i>All relationships usually have an element of trust, but all of them cannot be classified as fiduciary. Information provided in discharge of a statutory requirement, or to obtain a job, or to get a license, cannot be considered to have been given in a fiduciary relationship.</i></p>
42.	Mr. Aman v. Mr. Pankaj Agarwal, Public Information Officer	30.12.2009	8(1)(e)	Lawyer-client relationship-exemption-fiduciary relationship	<p><i>Section 8(1)(e) exemption applies to information that is held that by the information holder in his fiduciary capacity i.e. another person has chosen to trust the information holder with that information and the information holder is expected to act in the interest of the information</i></p>

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					<p><i>provided. Therefore, the exemption under Section 8(1)(e) cannot apply to the information held by a client in a lawyer-client relationship or with the patient in a doctor- patient relationship.</i></p> <p><i>The Commission is not ruling on the applicability of any other exemption under Section 8(1) of the Act to such information as none has been claimed. The University has stated that certain opinion provided by the lawyer is the intellectual property of the lawyer. This ground had not been relied on by the PIO in his reply to the Appellant and nor was it raised during the hearing before the Commission. Therefore, the Commission will not accept this ground at such a late stage. However, it deems it fit to rule the mere fact that a copyright exists in a literary work does not mean that its disclosure under the RTI Act would lead to its infringement.</i></p>
43.	<p>Mr. Vijay Kumar v. Mr. K.S. Rawat</p> <p>CIC/SG/A/2009/001997</p> <p>Mr. Rishipal Singh Tomer v. Mrs. Shukla Malhotra, Public Information Officer & DDE(W-B)</p>	11.01.2010	8, 9, 25(5)	Exemptions-cannot be made beyond the RTI Act-powers of the CIC	<p><i>Therefore, it is clear that Rule 7(xii) cannot be invoked to deny information under the RTI Act, as it goes beyond the scope of the exemptions provided in the RTI Act. Rule 7(xii), if implemented it would defeat the purpose of the RTI Act and reading it as valid would tantamount to adding exemptions to the RTI Act, which were not envisaged by Parliament which enacted this Act. Hence, it can be stated that Rule 7(xii) which has been framed by the Delhi</i></p>

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	<p>CIC/SG/A/2010/000222</p> <p>Mr. Shailendra Singh v. Ms. Juhi Mukherjee, Public Information Officer & SDM (HK)</p> <p>CIC/SG/A/2010/001963</p>				<p><i>High Court under section 28(1) of the RTI Act goes beyond the scope of the RTI Act. No exemptions other than those provided in the Act can be created by a rule making authority.</i></p> <p><i>Thus, any rule, the application of which would result in denial of information under the RTI Act would be inconsistent with the RTI Act and cannot be read harmoniously. Thus, CCS (CCA) Rules, 1965 cannot be invoked as exemptions to deny information which otherwise can be obtained under the RTI Act.</i></p> <p><i>In exercise of the power in Section 25(5) quoted above, the Commission recommends to the High Court of Delhi to withdraw the Rules made by it for the District Courts due to lack of jurisdiction and the fact that certain sub-rules of Rule 7 are beyond the exemptions provided in Section 8 and 9 of the RTI Act.</i></p>
44.	<p>Mr. Kayumars F Mehta v. Mr. H.D. Malesra, Consultant</p> <p>CIC/SG/C/2009/001346</p>	12.01.2010; 15.02.2010	2(h)(d),	Public authority – Timely dispensation of information under the Act	<p><i>Hence, the conditions that need to be satisfied to constitute a public authority, in this case, are two fold. Firstly, the public authority should be any “authority” or “body” or “institution of self-government”. Secondly, the above such public authority should be established or constituted by a notification issued or order made by the appropriate government to satisfy condition (d).</i></p>

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					<p><i>If the body is controlled by the Government also, it would be construed as a Public authority. The Commission comes to the conclusion that the Board is controlled by the Government, and thus the Board of Management of Bombay Properties of the Indian Institute of Science is a Public authority as defined by Section 2 (h)(i) of the RTI Act.</i></p> <p><i>This Commission which is a creation of the RTI Act is very conscious of the fact that its job is to ensure information to citizens within a time bound manner. This Commission is conscious that the poorest man in India, - who does not even get enough to eat and may be dying of hunger, - is paying for every minute of this Commission's time. Hence it believes its duty is to ensure that Respondents or Appellants are not able to take disproportionate amount of its time to delay matters through the device of adjournments or multiple hearings. A Citizen has a right to expect that delivery of every service which the State must provide to him, - whether a ration card, passport, or a decision by this Commission, - must be done within a reasonable time. Hence the Commission is giving its decision in the matter, though the respondent has refused to give any reasons for denial of information. The Commission deplores the acts of Public authorities in unnecessarily</i></p>

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					<p><i>wasting public money by delaying supplying information to the public by using public money.</i></p> <p><i>However, since the respondent has refused to give any reasons, the Commission has applied its mind to the information sought by the appellant and finds that prima facie none of the exemptions of section 8(1) apply to the information sought by the Appellant. The Respondent has chosen not to give any reasons for denial of information. Hence it appears that he does not have any valid reasons to invoke the provisions of section 8(1) of the RTI Act.</i></p>
45.	Mr. Birinder Singh v. Public Information Officer, Superintendent Engineer	10.02.2010	25(v)	Powers of CIC	<p><i>The Commission feels that this is a weakness in the working of the MCD. Section 4 (1) (b) (iv) of the RTI Act requires that norms set by a public authority for discharge of its functions must be disclosed. If norms of time period for taking action after booking of unauthorized construction are not laid down it would only lead to defiance of the rule of law and arbitrariness and corruption. Under the powers given to the Commission under section 25 (v) the Commission recommends that MCD should consider fixing some norms for the time within which action would be taken in case of unauthorized construction.</i></p>

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46.	Mr. Vishwanath Sharma v. Mr. S.P. Sharma, Public Information Officer & Assistant Secretary	11.02.2010	8(1)(d), 8(1)(e), 8(1)(g)	Exemptions- commercial confidence-fiduciary relationship-physical safety	<p><i>Disclosing the information about the names of teachers and principals of these five schools cannot harm the competitive position of any party and it is not at all clear how this information could be considered as commercial confidence or trade secret.</i></p> <p><i>The information must be given by the holder of information when there is a choice,- as when a litigant goes to a particular lawyer, a customer chooses a particular bank, or a patient goes to particular doctor. It is also necessary that the principal character of the relationship is the trust placed by the provider of information in the person to whom the information is given. An equally important characteristic for the relationship to qualify as a fiduciary relationship is that the provider of information gives the information for using it for the benefit of the one who is providing the information. All relationships usually have an element of trust, but all of them cannot be classified as fiduciary. Information provided in discharge of a statutory requirement, or to obtain a job, or to get a license, cannot be considered to have been given in a fiduciary relationship. Schools give information about their teachers and various other informations regarding their working to the CBSE to maintain their affiliation. This cannot be considered a fiduciary relationship.</i></p>

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					<p><i>The PIO states that this list is asked of teachers who have got three years experience and is subsequently used to select evaluators for examinations. The city of Bijnore has 24 CBSE schools and the total number of teachers and principals whose name would be in the list would certainly be in hundreds. It is also not likely that answer scripts of the city would be given to the evaluators in the same city. To believe that any one could use a list of potential evaluators which is in hundreds to threaten them or endanger their safety to get favoured results is really very far fetched and not in the realm of reality. Thus the Commission comes to the conclusion that the exemptions claimed by the PIO for non-disclosure are not valid.</i></p>
47.	<p>Mr. Inder Mohan Singh v. Mr. J.S. Ghuman</p> <p>CIC/SG/A/2009/003218</p>	19.02.2010	5(1)	Public authority	<p><i>The Commission in its Decision no. CIC/SG/A/2009/003014/6859 dated 10 February 2010 decided that the complete Board is nominated by the Gurudwara Prabhandak Committee and at least 9 members are members of the Gurudwara Prabhandak Committee, New Delhi. Thus it is clear that the Gurudwara Prabhandak Committee has complete and pervasive control over the affairs of Guru Harkrishan Public School. In view of this the Guru Harkrishan Public School is effectively a mere extension of the Gurudwara Prabhandak Committee and would have to provide information under the RTI Act. Hence the</i></p>

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					<p><i>information would have to be provided. Since the school is at a separate location from the Delhi Sikh Gurudwara Prabandhak Committee the school must have a PIO as per the provisions of Section 5(1) of the RTI Act. The school is directed to appoint a PIO before 28 February 2010.</i></p>
48.	Mr. S.K. Choudhary v. Mr. K.V. Krishna Kumar	26.02.2010	2(h)(i)	Public authority – controlled or substantially financed	<p><i>According to the ASG, the Trust caters to no public function or purpose. It is exclusively maintained and run for the benefit of its members. The Commission does not find merit in this argument. Whether a body performs public functions or for public purpose is not a criterion to decide whether it is a public authority under Section 2(h) of the RTI Act. In fact, there are several institutions which perform public functions such as imparting education or providing medical facilities but they do not come within the ambit of the RTI Act as they are not public authorities. Hence the issue of whether a body performs a public function is a relevant criteria but it is not the deciding criteria to determine whether it is a public authority as defined by the RTI Act. The Commission feels that given that the Pension Trust provides terminal benefits to government servants, it certainly performs a public function, though this matter is not the decisive criteria to determine whether DVB ETF fund is a public authority.</i></p>

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					<p><i>The Commission comes to the conclusion that the Pension Trust is controlled and also substantially financed by the Government and thus the Pension Trust is a Public authority as defined by Section 2 (h)(i) of the RTI Act.</i></p> <p><i>A perusal of the information sought by the Complainant, it appears that most of the information sought by the Complainant is information that should be suo moto disclosed by the Respondent in accordance with its mandatory obligations under Section 4 of the RTI Act. The Commission directs the Pension Trust to ensure that it meet its obligations to suo moto disclose information under Section 4 of the RTI Act by 30 April 2010. A compliance report in this regard must be sent to the Commission before 07 May 2010.</i></p>
49.	Ms. S. Sobhana v. Mr. Mukul Koranga, PIO & Deputy Secretary (Home)	04.03.2010	22(5)		<p><i>It is unfortunate that the department expects the citizen to physically deposit the cash receipt or a photocopy with the PIO. Once a citizen paid the money it is department's responsibility to find the way of communicating this to the PIO. This can be done by either a duplicate receipt being sent to the PIO mentioning the details of the payment and the RTI application or – if the department wants to conserve paper and energy,- simple email could do the job. In the instant case the PIO crossed the receipt and put down the ID number since the appellant rightly wanted the original receipt with herself. It</i></p>

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					<p><i>appears that the Department has no proper method of ensuring that the PIO knows that the additional fee has been paid by a RTI applicant. The Commission under the powers given to it under Section 25(5) recommends to the public authority it should evolved an appropriate system for the PIO to be informed about the additional fees without shifting this burden on the RTI applicants.</i></p>
50.	<p>Mr. Rajendra Gupta v. Mr. Arun Kumar, Public Information Officer</p> <p>CIC/SG/C/2010/000142</p>	22.06.2010	6(2), 8(1), 20(1)	Information-no reasons required to be given-penalty	<p><i>The law has very clearly stated in Section 6(2), “An applicant making request for information shall not be required to give any reason for requesting the information or any other personal details except those that may be necessary for contacting him”. Thus the Act has clearly stated that the reasons for requesting information or the personal details of the Complainant are not to be considered when a request of the information has been provided. Section-3 of the RTI Act has very succinctly stated “Subject to the provisions of this act, all citizens shall have the Right to Information.” The only information which can be exempted from disclosure is that which is defined in Section 8(1) of the RTI Act. The PIO has not stated that the information was exempt under Section 8(1) of the RTI Act but has sought to deny the information on the ground that the Complainant is an editor of a news</i></p>

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					<p><i>paper who has stated upfront that he intends to use the information for publication.</i></p> <p><i>Refusing information on this ground has no basis in law. If the PIO refuses to give information to applicants without any basis in the law it can only be assumed to be an arbitrary exercise which is dictated by the desire to refuse giving information without any basis in law.</i></p>
51.	<p>Dr. A.K. Dawar v. Mr. P.D. Sharma</p> <p>CIC/SG/A/2010/001394</p>	06.07.2010	8(1)(e), (g)	<p>Information-exemptions-fiduciary relationship-endanger life or physical safety</p>	<p><i>Section 8(1)(g) of the RTI Act exempts, "information, the disclosure of which would endanger the life or physical safety of any person or identify the source of information or assistance given in confidence for law enforcement or security purposes;". It is a very sad comment on an organization if it states that if information about the evaluation done by senior officer disclosed to the junior officers, junior officers are likely to endanger the life or physical safety of such senior officers. This is a very poor reflection on the employees of the public authority if this is the perception of employees working in these organizations. The Commission is not in a position to judge whether employees of a particular organization are law abiding or people who might endanger the life and physically safety of their senior officers. If however the public authority believes this danger to be true it may sever the names of the officers who have given the reports as per Section-10 of the RTI Act.</i></p>

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52.	<p>Mr. Rajveer Singh v. Mr. B.D. Sharma, CPIO & Director</p> <p>CIC/SG/A/2010/001407</p> <p>Ch. Srinivasa Rao v. Mr. V.R. Kamalcha, Central Public Information Officer & RPFC-II</p> <p>CIC/SG/A/2010/002382</p>	07.07.2010	7(9)	Public information-alternate methods-inspection of records	<p><i>The appellant had sought details and notings of transfers of many officers for the period 2006 onwards. The respondent has stated that providing this information would disproportionately divert the resourced of the public authority. The FAA has erred in refusing information using Section 7(9). If proving the information in the format sought by the appellant would disproportionately divert the resources of the public authority the information has to be provided in an alternate format. Section 7(9) can not be a ground for refusing the information. After discussions with the appellant and the respondent it has been agreed that the appellant would inspect the transfer posting order guard file. The respondent states that all transfer orders may not be on this file. After inspecting the said file the appellant will identify the orders for which he wants photocopies and these would be provided to him. The respondent has pointed out that providing notings for all of these would be a very laborious task hence the appellant has agreed that he will seek notings for 10 transfer orders which he will select.</i></p>
53.	<p>Mr. S Balaji v. Public Information Officer</p> <p>CIC/SG/A/2010/001462</p>	15.07.2010	8(1)(e), (j)	Public information-fiduciary relationship-privacy	<p><i>However, on the death of the individual, the said protection would not be available and consequently, information pertaining to an individual's PF account and details in relation to the same may be disclosed. It must be noted</i></p>

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					<p><i>that on the death of an individual, all information pertaining to him may not be disclosed and certain information may continue to be protected by his right to privacy even after death. However, the Commission is of the view that information pertaining to an individual's PF account, contributions made from his salary, etc does not come within the ambit of information that continues to remain protected from disclosure even after the death of the individual and can be disclosed under the RTI Act since such disclosure cannot be considered an invasion on the privacy of a person who is dead.</i></p> <p><i>However, the exemption under Section 8(1)(j) of the RTI Act claimed by the PIO and upheld by the FAA is devoid of merit and is being rejected by the Commission. Thus the Commission holds that the exemptions under Sections 8(1)(e) and 8(1)(j) of the RTI Act claimed by the PIO and the FAA are not applicable in the instant case for the reasons given above.</i></p>
54.	<p>Mr. Pooran Chand v. Dr. G. Kausalya, Public Information Officer & Chief Medical Officer</p> <p>CIC/SG/C/2009/001628</p>	20.08.2010	7(1), 19(8)(b)	Information – life and liberty – 48 hours - Compensation	<p><i>Since the matter pertains to life or liberty of the Complainant, there should have been fast and effective coordination between the PIO and the officers from whom assistance was sought. Instead there has been a delay of 7 days in receipt of the RTI application by the deemed PIO. The Commission feels that when there are urgent</i></p>

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	<p>Mr. J.N. Kapur v. Mr. V.R. Bansal, Public Information Officer & SE-I</p> <p>CIC/SG/A/2010/002810</p> <p>Mr. Jaggan Nath v. Mr. Anand Kumar Baraik, Deemed PIO & FSO</p> <p>CIC/SG/A/2010/003356</p> <p>Mr. Baldev Raj v. Mr. Suresh Chandra, Public Information Officer & SE</p> <p>CIC/SG/A/2010/003507</p> <p>Mr. R.P. Yadav v. Mr. V.R. Bansal, PIO & SE</p> <p>CIC/SG/A/2010/000868</p> <p>Smt. Durga v. Mr. Alok Bhattacharya, Deemed PIO & FSO (C-47)</p> <p>CIC/SG/A/2011/001074</p>				<p><i>medical matters like spinal operation, which affect the life of the patient involved, PIOs would have to look more sensitively and ensure that the system gives information within 48 hours. The Complainant had mentioned in his RTI application that he needed an urgent operation and hence was seeking the said information in 48 hours. Even after the deemed PIO sent the information to the PIO on 11/09/2009, the same was provided to the Complainant only on 16/09/2009 i.e. after 5 days. The Commission noted that no reasonable explanation was offered by the PIO as well as the deemed PIO for justifying the total delay of 12 days in providing the information.</i></p> <p><i>The Commission feels that unless all officers and systems can respond in a time bound manner, governance cannot deliver to those who need it the most. The High Court of Delhi in Union of India v. Central Information Commission W.P. (C) 6661/2008 while discussing the Commission's power to award compensation under Section 19(8)(b) of the RTI Act, held in its decision dated April 16, 2009:</i></p> <p><i>"9. ... The Jurisdiction to direct compensation under the Act, has to be understood as arising in relation to culpability of the organization's inability to respond suitably, in time, or otherwise, to the information applicant."</i></p>

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	<p>Mr. Kishan Lal v. Mr. Rohit Prasad, Director (Development & Strategy)</p> <p>CIC/SG/C/2011/001273</p>				<p><i>In light of the aforesaid, the Commission finds this to be a fit case to award compensation to the Complainant on account of the loss and detriment suffered by him vide its powers under Section 19(8)(b) of the RTI Act. If the PIO and all the officers had acted with urgency when the RTI Application was received on 02/09/2009 and provided the information within 48 hours, the Complainant may have been able to avail the free service that he was entitled to. If the PIO had acted proactively information could have been provided over the telephone to the Complainant who had given the telephone number on the RTI application. It is unfortunate that most schemes which promise to deliver to the poor fail because of lack of sensitivity in implementation. The Complainant was forced to approach others to borrow money to pay for his urgent surgery.</i></p> <p><i>Keeping in view the deplorable manner in which the PIO processed the said RTI application, the Commission recommends that cases where information sought pertains to 'life or liberty' of the individual, the PIO should ensure that information sought is provided within 48 hours. The instant case is reflective of the incompetence and callousness of the public authority, which was incapable of responding to the RTI application concerning the life of the Complainant within 48 hours. This case</i></p>

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					<p><i>represents how the delivery systems to the poor fail. Unless all officers and systems can respond in time-bound manner, governance cannot deliver to those who need it most. The Commission hereby directs the public authority to pay a compensation of Rs. 50,000 to the Complainant on account of the suffering and detriment that he had to undergo due to the delay caused by the Department in providing him timely information.</i></p>
55.	Mr. Kishlay v. Mr. Prahlad Rai Gupta, PIO & Superintendent	15.10.2010	8, 22	Exemptions-cannot go beyond the RTI Act	<p><i>On review of Rules 7(iv) and (vi) and Rule 9(x) of the District Court Rules, the Commission observed that the said rules provide for a much wider exemption than that stipulated under Section 8 of the RTI Act. Specifically, Section 8(1)(b) of the RTI Act provides that there shall be no obligation to disclose any information which has been expressly forbidden from being published by the Court of law or tribunal or the disclosure of which may constitute contempt of Court. The said rules, if implemented, would defeat the purpose of the RTI Act and reading them as valid would tantamount to adding exemptions to the RTI Act, which were not envisaged by the Parliament. Further, Section 4(1)(d) of the RTI Act refers to suo moto disclosure of administrative or quasi judicial decisions by the public authority and does have any relevance in terms of seeking exemption from denying information.</i></p>

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					<p><i>Therefore, the aforementioned exemptions contained in the District Court Rules cannot be invoked to deny information under the RTI Act as they go beyond the scope of the exemptions provided under Section 8 of the RTI Act. It must be noted that no public body is permitted under the RTI Act to take upon itself the role of the legislature and import new exemptions hitherto not provided. Moreover, as per Section 22 of the RTI Act, the provisions of the RTI Act shall have effect notwithstanding anything inconsistent contained therewith in the Official Secrets Act, 1923 and any other law for the time being in force or in any instrumentality having effect by virtue of any law other than the RTI Act.</i></p>
56.	<p>Mr. Raj Karan v. Public Information Officer</p> <p>CIC/SG/A/2010/002274</p>	30.09.2010	4, 20(5)	Powers of CIC	<p><i>The Commission under its powers under Section 20(5) recommends that the PIO ensure that the list mentioned at Point 2 above is displayed on the website of the public authority in compliance of its obligations under Section 4 of the RTI Act. A compliance report will be sent to the Commission at rtimonitoring@gmail.com before 25 October, 2010.</i></p>
57.	<p>Mr. Kul Bhushan Dania v. Ms. Usha Kumar, PIO & DDE (E)</p>	26.11.2010	2(f), (h),	<p>Public authority- public function- disagreement with previous decision -</p>	<p><i>On a plain reading of the definition of “public authority” given above, it appears that whether a body is performing a public function or not is not a factor to determine whether such body is a public authority.</i></p> <p><i>The Commission cannot read in ‘public function’ as a criterion to determine whether a</i></p>

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					<p><i>body is a public authority or not when 'public function' has not been expressly mentioned in Section 2(h) of the RTI Act.</i></p> <p><i>Therefore, with due respect to the observations of Professor M. M. Ansari, Information Commissioner, this Commission differs from his observation inasmuch as whether a body performs a public function is not a criterion to decide whether it is a "public authority" under Section 2(h) of the RTI Act. In fact, there are several institutions which perform public functions such as imparting technical guidance or providing medical facilities, but they do not come within the ambit of the RTI Act as they are not public authorities.</i></p> <p><i>Therefore, merely by performing a public function of imparting education, an unaided or private school cannot be considered a "public authority". The term "public authority" has been specifically mentioned and defined under the RTI Act, hence this Commission has to be guided by the definition provided under the RTI Act only. However, if it can be established that a private or unaided school is owned or controlled or has received substantial finance from the appropriate government, it would be a "public authority" as defined in the RTI Act.</i></p> <p><i>Theoretically, a public authority may be able to access any information relating to a private body over which it exercises regulatory control,</i></p>

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					<p><i>while carrying out an inspection/ investigation. However, Section 2(f) of the RTI Act does not envisage the same. "Information", as defined under Section 2(f) of the RTI Act, brings within its purview only that information which has been furnished by a private body to a public authority, or which can be accessed by a public authority, in accordance with what is specifically prescribed in law. The law which establishes regulatory control of a public authority over a private body usually lays down the various reports, returns, compliance documents, etc which the latter is required to furnish to the former. This typically includes information relating to the management and regulation of the private body and is required to be furnished to the public authority for ensuring proper functioning of the private body by the public authority. Only such information comes within the ambit of "information relating to any private body which can be accessed by a public authority under any other law for the time being in force" under Section 2(f) of the RTI Act.</i></p>
58.	<p>Mr. Ram Karan Malviya v. Public Information Officer</p> <p>CIC/SG/A/2010/001446</p> <p>Mr. Vishal Narula v. Mr. K.C. Meena, Public</p>	14.07.2010	8(1)(j)	Information-exemption-privacy-State	<p><i>To qualify for this exemption the information must satisfy the following criteria:</i></p> <p><i>1. It must be personal information. Words in a law should normally be given the meanings given in common language. In common language we would ascribe the adjective &</i></p>

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	<p>Information Officer & Superintending Engineer-II</p> <p>CIC/SG/A/2010/003155</p> <p>Mr. K.S. Yadav v. Mr. Madan Mohan, Public Information Officer & Assistant Commissioner</p> <p>CIC/SG/A/2010/003429</p> <p>Mr. Amarjeet v. Mr. N.K. Sharma</p> <p>CIC/SM/A/2011/000347/S G</p>				<p><i>personal; to an attribute which applies to an individual and not to an Institution or a Corporate. From this it flows that personal cannot be related to Institutions, organisations or corporates. Hence Section 8 (1) (j) cannot be applied when the information concerns institutions, organisations or corporates. The phrase disclosure of which has no relationship to any public activity or interest means that the information must have been given in the course of a Public activity.</i></p> <p><i>Various Public authorities in performing their functions routinely ask for personal information from Citizens, and this is clearly a public activity. When a person applies for a job, or gives information about himself to a Public authority as an employee, or asks for a permission, licence or authorisation, all these are public activities. Also when a Citizen provides information in discharge of a statutory obligation this too is a public activity. We can also look at this from another aspect. The State has no right to invade the privacy of an individual. There are some extraordinary situations where the State may be allowed to invade the privacy of a Citizen. In those circumstances special provisions of the law apply;- usually with certain safeguards. Therefore where the State routinely obtains information from Citizens, this information is in</i></p>

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					<p><i>relationship to a public activity and will not be an intrusion on privacy.</i></p> <p><i>Certain human rights such as liberty, freedom of expression or right to life are universal and therefore would apply uniformly to all human beings worldwide. However, the concept of privacy is a cultural notion, related to social norms, and different societies would look at these differently.</i></p> <p><i>Therefore referring to the UK Data protection act or the laws of other countries to define 'privacy' cannot be considered a valid exercise to constrain the Citizen's fundamental Right to Information in India. Parliament has not codified the right to privacy so far, hence in balancing the Right to Information of Citizens and the individuals. Right to Privacy the Citizens Right to Information would be given greater weightage. The Supreme of India has ruled that Citizens have a right to know about charges against candidates for elections as well as details of their assets, since they desire to offer themselves for public service. It is obvious then that those who are public servants cannot claim exemption from disclosure of charges against them or details of their assets. Given our dismal record of misgovernance and rampant corruption which colludes to deny Citizens their essential rights and dignity, it is in the fitness of</i></p>

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					<i>things that the Citizen's Right to Information is given greater primacy with regard to privacy.</i>
59.	Mr. Mahendra Pal Goyal v. Mr. R. Prasad CIC/SG/A/2010/001542	19.07.2010	18(3)	Evidence	<i>The Commission is summoning the PIO Mr. R. Prasad and the FAA Mrs. Kiran Dabral under its powers under Section 18(3) of the RTI Act to give evidence whether the FAA had made a wrong statement or the PIO has put a prior date on the replies sent to the appellant.</i>
60.	Swami Dr. Laxmi Narayanacharya v. Mr. Keshav Kumar, Public Information Officer & Dy Conservator of Forest CIC/SG/A/2010/003500	20.01.2011			<i>Mr. Keshav Kumar, PIO admits that when such investigation is done photographs have to be taken but in this case Mr. Tilak Chand has stated that he did not take photographs. The Appellant has stated that there is a threat to his security since when he had gone there for the investigation with Mr. Tilak Chand he was threatened. Mr. Tilak Chand when asked by the Commission why photographs have not been taken has effectively corroborated the statement of the Appellant since he stated that the place was very tense with hundreds of people and it was not possible to take a photograph. However, Mr. Tialk Chand states that he has filed a report that no tree cutting was being done. It appears that massive tree cutting was probably being done but the officers who are paid to stop this are probably colluding in this activity. The Commission requests the Conservator of Forests to look into this matter and decide</i>

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					<i>whether taking photographs was required by Mr. Tilak Chand or not. The Commission also requests the Conservator of Forests to send a report after this inquiry to the Commission and the Appellant before 15 February 2011.</i>
61.	Mr. Mukesh Bharadwaj v. Mr. Anjum Masood, Public Information Officer (HQ) & ADE CIC/SG/A/2010/003515	25.01.2011			<i>The Commission also directs the Deemed PIO Mr. Nitya Nand to file a police complaint with respect to query A(1) to (5) and C(1) to (4) that the relevant file is stolen/lost giving the names of the officers who last handled the file.</i>
62.	Mr. Siddharth Pandey v. Dr. R.N. Sharma, Public Information Officer & Dy. Director (Planning)	28.01.2011	8(1)(d)	Information-exemption-commercial confidence	<i>The Respondent has refused to give information on query-10 claiming exemption under Section 8(1)(d) of the RTI Act. He states that the commercial confidence placed by the L2 and L3 bidders would be violated leading to affecting their competitive position. The Commission asked the Deemed PIO was the process followed in normal tendering and he admitted that the rates of all the tenderers are openly announced when the tenders are open. However, he claims that in the instant case since there was E-Tendering the rates of L2 and L3 were not known to others. Given the fact that announcing the rates of all tenderers is an intrinsic part of normal tendering process, it cannot be argued that just because of E- Tendering the rates cannot be disclosed. The Commission rejects the PIO's claim of Section 8(1)(d) of the RTI Act. The Respondent also admits that the information</i>

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					<p><i>on query-11 which was not provided is being held by him and can be provided. He states that he did not provide the information since he was very busy with the Commonwealth Games at the time when RTI application was received.</i></p>
63.	<p>Mr. Kuldeep Singh Tomer v. Public Information Officer CIC/SG/A/2010/002273</p>	07.02.2011	8(1)(g), (d), 9	Information-exemption-disclosure which would endanger life or physical safety	<p><i>In the instant case, the Third Party appears to be apprehensive of the fact that disclosure of the sanction plan(s) may endanger the life or physical safety of the Third Party and her family members. The Commission finds merit in the submissions of the Third Party. If the building sanction plan(s) is provided, it would lead to disclosure of the exact position of the rooms, passages, etc of the property of the Third Party to the Appellant. The fact that such disclosure may endanger the life or physical safety of the Third Party and her family members cannot be completely discounted. Therefore, the plea of the Third Party that the building sanction plan(s) is not required to be disclosed under Section 8(1)(g) of the RTI Act is upheld. Section 8(1)(d) of the RTI Act exempts the PIO from furnishing information, the disclosure of which would harm the competitive position of a third party. Therefore, in order to come within the exemption under Section 8(1)(d) of the RTI Act, the critical test to be applied is whether the disclosure of the information sought would harm the competitive position of a third party.</i></p>

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					<p><i>The Commission does not see merit in the argument that disclosing the building sanction plan(s) would lead to compromising any commercial confidence, which could harm the competitive position of any party.</i></p> <p><i>Section 9 of the RTI Act states that without prejudice to the provisions of Section 8 of the RTI Act, the PIO may reject a request for information where such request for providing access would involve an infringement of copyright subsisting in a person other than the State. In the instant case, the Third Party has argued that it had engaged the services of a professional architect for designing the layout plans, elevation, etc and paid the architect for his services. Divulgence of such layout plans, etc would be a breach of contract between the Third Party and the architect.</i></p> <p><i>In the Nijhawan Case, this Commission had accepted the contention of the Third Party that disclosure of the entire building sanction plan may be an infringement of the copyright of the architect and therefore, the exemption under Section 9 of the RTI Act could be legitimately sought. In the instant case, the Commission accepts the contention of the Third Party that disclosure of the building sanction plan(s) may be an infringement of the intellectual property rights of the architect and therefore, the</i></p>

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					<i>disclosure of the sanction plan(s) may be exempted under Section 9 of the RTI Act.</i>
64.	Mr. R.S. Misra v. Mrs. Smita Vats Sharma, CPIO CIC/SM/A/2011/000237/S G	11.05.2011	6(2), 8, 9	Information-exemptions-inconsistent rules	<p><i>On a plain reading of Rules 1 and 2, it appears that citizens shall have the right to access information pertaining only to judicial matters i.e. documents/ records in a case. Rule 1 allows only a party to any cause, appeal or matter who has appeared to inspect and/ or obtain copies of information pertaining to judicial matters. However, Rule 2 allows a person who is not a party to the case, appeal or matter to inspect and/ or obtain information relating to judicial matters where 'good cause' is shown. In other words, where a person is not a party to a case, appeal or matter, she would be required to demonstrate 'good cause' before the Court before being allowed to inspect and/ or obtain copies of the information sought.</i></p> <p><i>As per Section 6(2) of the RTI Act, an applicant making a request for information under the RTI Act shall not give any reasons for requesting the information. Under Rule 2, in order to determine what is 'good cause', it is necessary to enquire into the purpose/ reasons for which an applicant is seeking information. This is clearly violative of the statutory mandate of Section 6(2) of the RTI Act.</i></p> <p><i>Moreover, from the use of the word "may" in Rule 2, there appears to be a certain discretion conferred upon the Court to determine what</i></p>

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					<p><i>amounts to 'good cause', and even where 'good cause' has been shown, whether such information shall be provided or not. This is a clear embargo on the enforcement of the fundamental right to information of citizens. Citizens would have to justify any request for information by demonstrating 'good cause' under Rule 2 and the ultimate decision whether information should be provided or not would lie with the Court. Rule 2 appears to create an exemption in providing the information, which is not envisaged in Sections 8 and 9 of the RTI Act. At this juncture, it would not be out of place to mention that the SC Rules neither provide for a specific time within which information shall be furnished, any appeal procedure, nor any penalty provisions where information is not provided.</i></p> <p><i>Therefore, this Commission respectfully disagrees with the observations of the then Chief Information Commissioner and holds that Rule 2, Order XII of the SC Rules appears to impose a restriction on access to information held by or under the control of a public authority, which is prima facie inconsistent with the RTI Act. Therefore, in accordance with Section 22 of the RTI Act, the provisions of the RTI Act shall override the SC Rules.</i></p> <p><i>On a plain reading of Rules 1 and 2, it appears that citizens shall have the right to access</i></p>

Sr. No.	NAME/APPEAL NO.	DATE	SECTION	KEY WORDS	DECISION
					<p><i>information pertaining only to judicial matters i.e. documents/ records in a case. Rule 1 allows only a party to any cause, appeal or matter who has appeared to inspect and/ or obtain copies of information pertaining to judicial matters. However, Rule 2 allows a person who is not a party to the case, appeal or matter to inspect and/ or obtain information relating to judicial matters where 'good cause' is shown. In other words, where a person is not a party to a case, appeal or matter, she would be required to demonstrate 'good cause' before the Court before being allowed to inspect and/ or obtain copies of the information sought.</i></p> <p><i>As per Section 6(2) of the RTI Act, an applicant making a request for information under the RTI Act shall not give any reasons for requesting the information. Under Rule 2, in order to determine what is 'good cause', it is necessary to enquire into the purpose/ reasons for which an applicant is seeking information. This is clearly violative of the statutory mandate of Section 6(2) of the RTI Act. Moreover, from the use of the word "may" in Rule 2, there appears to be a certain discretion conferred upon the Court to determine what amounts to 'good cause', and even where 'good cause' has been shown, whether such information shall be</i></p>

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					<p><i>provided or not. This is a clear embargo on the enforcement of the fundamental right to information of citizens. Citizens would have to justify any request for information by demonstrating 'good cause' under Rule 2 and the ultimate decision whether information should be provided or not would lie with the Court. Rule 2 appears to create an exemption in providing the information, which is not envisaged in Sections 8 and 9 of the RTI Act. At this juncture, it would not be out of place to mention that the SC Rules neither provide for a specific time within which information shall be furnished, any appeal procedure, nor any penalty provisions where information is not provided. Therefore, this Commission respectfully disagrees with the observations of the then Chief Information Commissioner and holds that Rule 2, Order XII of the SC Rules appears to impose a restriction on access to information held by or under the control of a public authority, which is prima facie inconsistent with the RTI Act. Therefore, in accordance with Section 22 of the RTI Act, the provisions of the RTI Act shall override the SC Rules.</i></p>
65.	Mr. Chetan Kothari v. Mr. K.J. Sibichan	16.06.2011	2(f),4(1), 5, 6(3)	Information-public authority	<i>The Commission rules that DOPT's office memorandum no. 10/02/2008-IR dated</i>

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	CIC/SM/A/2011/000237/S G				<i>12/06/2008 is not consistent with the law. The Commission explained to the Appellant that seeking information for 10 years would definitely disproportionately divert the resources of the public authorities. He has agreed that information could be furnished to him for the last two years.</i>
66.	<p>Mr. Dharambir Kattar v. Mr. Jagroop S Gusinha CIC/SM/A/2011/000308/S G</p> <p>Mr. A.N. Gupta v. Mr. M.C. Sahni, PIO & Sr. Superintendent of Police CIC/SM/A/2011/000313/ AG</p> <p>Mr. S.P. Goyal v. Mr. V.C. Ramchandran, Public Information Officer & DGM</p> <p>CIC/SG/C/2011/000760, CIC/SM/A/2011/000926/S G, CIC/SM/A/2011/001111/S G, CIC/SG/A/2011/002909</p>	21.06.2011	8(1)(b), (g), (h), 10	Severability	<i>Under Section 10 of the RTI Act, it is possible to severe certain portions of the information before disclosing it to an applicant to ensure that information that is exempt from disclosure under the RTI Act is not disclosed. Therefore, this Commission has decided to apply Section 10 of the RTI Act to the proposal sought by the Appellant. The Respondent is directed to provide to the Appellant the proposal sent to MHA by omitting the names/ designation of the officers mentioned therein.</i>

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	Mr. Ramneshwar Dass Saini v. Mr. K.M. Pradhan, PIO & General Manager CIC/SG/A/2011/003657				
67.	Ms. Nisha Priya Bhatia v. Ms. Sumati Kumar, CPIO & Director	22.07.2011	24(1)	R&AW-exemption	<p><i>Hence the Commission will have to see whether an allegation of corruption or human rights violation has been made when seeking the information. The Commission will also see whether an allegation appears to be specific and mentions adequate information. The allegation may be true or false but so long as it mentions specifics it would have to be taken into account when deciding whether the information should be provided or not. In the instant case the Appellant has provided specific information that Mr. Kao the first Chief of had written memoirs and given them to with the intention that the organization would publish them at some future date. She has also alleged that these are not with any longer. If any of this is false the PIO only needs to state this. However, if the allegation is not denied then it fulfills the condition provided in Section 24(1) to qualify for information being provided. If the allegation is true it could constitute criminal misconduct as defined in Section 13(d) of the Prevention of Corruption Act 1988.</i></p>
68.	Smt. Jayalaxmi v. Mr. Balkrishna Alse	18.08.2011	8(1)(j)	Exemption-privacy	<p><i>Various Public authorities in performing their functions routinely ask for personal information from Citizens, and this is clearly a public</i></p>

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	CIC/SM/A/2011/000002+000010/SG				<p><i>activity. When a person applies for a job, or gives information about himself to a Public authority as an employee, or asks for a permission, licence or authorisation, all these are public activities. Also when a Citizen provides information in discharge of a statutory obligation this too is a public activity.</i></p> <p><i>We can also look at this from another aspect. The State has no right to invade the privacy of an individual. There are some extraordinary situations where the State may be allowed to invade the privacy of a Citizen. In those circumstances special provisions of the law apply;- usually with certain safeguards. Therefore where the State routinely obtains information from Citizens, this information is in relationship to a public activity and will not be an intrusion on privacy.</i></p> <p><i>Therefore we can state that disclosure of information such as assets of a Public servant, - which is routinely collected by the Public authority and routinely provided by the Public servants,- cannot be construed as an invasion on the privacy of an individual. There will only be a few exceptions to this rule which might relate to information which is obtained by a Public authority while using extraordinary powers such as in the case of a raid or phone tapping. The information sought by the Appellant is regarding suspension or chargesheets issued to</i></p>

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					<i>public servants. The suspension or chargesheets are issued in the course of Public Activity and this information cannot be considered to be unwarranted intrusion on the privacy of an individual. The PIO's claim for exemption is not upheld by the Commission.</i>
69.	Mr. V. Sarvana Kumar v. Public Information Officer & Assistant Secretary (Vigilance) CIC/SM/A/2010/001230/S G	23.08.2011	8(1)(j)	Information-exemption-privacy	<i>In the instant case the list of officers of doubt integrity is maintained by the Government and disclosing this information cannot be considered an invasion on the privacy of an individual. The citizens have right to know about the performance of the public servants and hence this information would have to be released.</i>
70.	Mr. Umesh Chand Saxsena v. Public Information Officer CIC/SM/A/2010/001365/S G Mr. Ramnarayan Shah S/o Sakhichand Shah v. Mr. Mithilesh Kumar Jain, PIO & Branch Manager CIC/SM/A/2010/001482/S G	05.09.2011	4(1)(b)	Information-suo moto disclosure	<i>As regards information which is required to be suo-motu published as per Section 4(1)(b) no exemption clauses can be applicable since the law requires the information to be published suo-motu. Whereas the Commission accepts that the details of the customers of a Bank are exempted by Section 8(1)(e) of the RTI Act since the information is held in a fiduciary relationship. Details of subsidized loan programmes cannot be exempted. The PIO is directed to ensure that details of beneficiaries of such schemes are published suo-motu on the website of the Bank.</i>

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71.	Mr. Keshav Gupta v. Mr. Ashok Sharma, PIO & Chief Manager CIC/SM/A/2011/000713/S G	22.09.2011	8(1)(j)	Public information-exemption-privacy	<p><i>In the instant case, there is no doubt that the information sought is “personal” information inasmuch as it is the Annual Confidential Report of a government officer. The ACR is a report that evaluates the work and performance of a public servant. The public authority concerned, must necessarily have this information so to make an assessment of its officers’ performance. The ACR, containing certain information about the officer is disclosed by the officer to the public authority and such report is prepared by the public authority. This is necessarily done in the course of a public activity. Disclosure of such information cannot be construed as unwarranted invasion of privacy of the officer concerned as it concerns issues raised in the exercise of his public activity as a public servant. Moreover, a public servant is accountable to the public and therefore, every citizen has the right to obtain information that may assess his credibility, integrity and performance.</i></p> <p><i>It is pertinent to mention that the Supreme Court of India in Union of India v. ADR in Appeal (Civil) 178 of 2001 and W. P. (Civil) 294 of 2001 decided on 02/05/2002, observed that persons who aspire to be public servants by getting elected have to declare inter alia their property details, any conviction/ acquittal of criminal</i></p>

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					<p><i>charges, etc. It follows that persons who are already public servants cannot claim exemptions from disclosure of charges against them or details of their assets. Given our dismal record of misgovernance and rampant corruption which colludes to deny citizens' their essential rights and dignity, it is imperative for achieving the goal of democracy that the citizens' right to information is given greater primacy with regard to privacy.</i></p> <p><i>Therefore, disclosure of information such as property details, any conviction/ acquittal of criminal charges, etc of a public servant, which is routinely collected by the public authority and provided by the public servants, cannot be construed as an invasion of the privacy of an individual and must be provided an applicant under the RTI Act. Similarly, citizens have a right to know about the strengths and weaknesses as well as performance evaluation of all public servants. The government is elected by the citizens of India and it is the duty of such government through its officers to protect the rights of the citizens. The salary of such government officers is also paid from the public exchequer. For these reasons, every citizen has the right to know and obtain information about the performance of every public servant or government officer to ascertain whether the</i></p>

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					<i>duties entrusted to such public servant or government officer are being carried out.</i>
72.	Dr. S.P. Udayakumar v. Mr. S.K. Srivatsava, PIO & Deputy Chief Engineer (Projects)	30.04.2012	4(1)(c), 8(1)(a), 19(1)(b)	Information-exemption-suo moto disclosure-directions	<p><i>The Commission finds merit in the Appellant's contention. The purpose of a site evaluation for nuclear installation in terms of nuclear safety is to protect the public and the environment from the radiological consequences of radioactive releases due to accidents, etc. The Commission notes that the site evaluation report not only provides the technical basis of the safety analysis report, it contains technical information useful for fulfilling the environmental impact assessment for radiological hazards. Therefore, it follows that the site evaluation report forms an important basis of the environmental impact assessment report as well. In order to appreciate the conclusions reached in the environmental impact assessment report, a citizen must have access to the site evaluation report as well. This will enable the public to obtain a comprehensive understanding of the likely environmental impact of the KKNP Project.</i></p> <p><i>The RTI Act recognises the above mandate and in Section 4 contains a statutory direction to all public authorities "to provide as much information suo moto to the public at regular intervals through various means of</i></p>

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					<p><i>communications, including internet, so that the public have minimum resort to the use of this Act to obtain information”. More specifically, Section 4(1)(c) of the RTI Act mandates that all public authorities shall- “publish all relevant facts while formulating important policies or announcing the decisions which affect public”. It follows from the above that citizens have a right to know about the Safety Analysis Report and the Site Evaluation Study Report, which has been prepared with public money.</i></p> <p><i>The disclosure of the Reports would provide a comprehensive perspective to the citizens about holistic understanding of the KKNP Project including environment, health and safety concerns. It would enable citizens to voice their opinions with the information made available in the said report. Such opinions will be based on the credible information provided by an agency appointed by the government. This would facilitate an informed discussion between citizens based on a report prepared with their/public money. The Respondent-public authority’s unwillingness to be transparent is likely to give citizens an impression that most decisions are taken in furtherance of corruption resulting in a serious trust deficit. This hampers the health of our democracy and the correct method to alter this perception is to become</i></p>

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					<p><i>transparent. Such a move would only bring greater trust in the government and its functionaries, and hurt only the corrupt. It follows that the Safety Analysis Report and Site Evaluation Report of KKNP Plant I & II must be displayed suo moto as per the mandate of Section 4 (1) (c) of the RTI Act.</i></p> <p><i>There should be a declaration on the website about the parts that have been severed, and the reasons for claiming exemptions as per the provisions of the RTI Act. This direction is being given by the Commission under Section 19(1)(b)(iii) of the Act to the Managing Director of Nuclear Power Corporation of India Limited.</i></p>
73.	Mr. Uma Mohan v. Mr. A.M. Singh, Public Information Officer & DIG (Wild Life)	21.05.2012	2(j)	Information-exemptions	<p><i>The PIO and the FAA have not followed the provisions of the RTI Act at all. RTI is a fundamental right of Citizens and Right to Information has been clearly defined in Section 2(j) of the RTI Act as giving access to any record of document held by or under the control of any public authority. All citizens are entitled to access information held by the public authorities and denial of information can only be based on the exemptions of Section 8(1) or Section 9 of the RTI Act. In the instant case no evidence has been produced to show that the information sought by the Appellant is exempt as per the provisions of Section 8(1) or Section 9 of the RTI Act. In view of this the refusal to give information by the PIO</i></p>

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					<i>and the order of the FAA are not being upheld by the Commission since they are not based on the law.</i>
74.	Mr. Venkatesh Nayak v. Mr. A. Anandraju, PIO & OSD(ER)	26.06.2012	8(1)(i), 4(1)	Cabinet note-exemption-disclosure	<i>In view of preceding discussion the Commission rules that the Cabinet note is material on the basis of which a Cabinet decision is taken to table a bill in Parliament. Once the decision is taken by the Cabinet to table the bill in Parliament the 'decision has been taken'; when the bill is tabled in Parliament 'the matter is complete or over' as far as the Cabinet is concerned. In the instant case, since the 'the decision has been taken, and the matter is complete, or over:' the exemption claimed under Section 8 (1) (i) of the RTI Act by the PIO is not upheld. The PIO has not given any valid reasons showing that any harm could come to any protected interest, whereas it is obvious that if Citizens knew the contents of the Cabinet note based on which Parliament proposed to enact a law, it would lead to a better and meaningful democracy and enactments of laws which would indeed serve people's needs. It appears to the Commission that there is a larger public interest in disclosing Cabinet notes regarding introducing any new bill in Parliament, after the Cabinet has taken a decision to table such a bill and the bill is tabled. This meets the criterion for suo moto disclosure mandated by the RTI Act in Section 4 (1) (d) of the Act which mandates that</i>

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					<i>all public authorities must 'provide reasons for its administrative or quasi judicial decisions to affected persons'.</i>
75.	<p>Mr. Vivek Madhukar Shirvalkar v. Public Information Officer, Reserve Bank of India CIC/SG/A/2011/002033</p> <p>Mr. Jayantilal N. Mistry v. CPIO & Chief General Manager, RBI CIC/SM/A/2011/001487/S G</p> <p>Mr. Subhash Chandra Agarwal v. Mr. Jaganmohan Rao, CPIO & Chief General Manager, Reserve Bank of India CIC/SG/A/2011/002254</p> <p>Mr. Ashwini Dixit v. Mr. A. Udgata, CPIO & CGM (UBD), Reserve Bank of India CIC/SG/A/2011/003293</p>	04.11.2011	8(1)(a), (e) 8(2)	Information-disclosure-exemptions-fiduciary relationship-economic interest	<i>It is apparent from the scheme of the RTI Act that the Commission is a quasi- judicial body which is responsible for deciding appeals and complaints arising under the RTI Act. While deciding such cases, the Commission would necessarily have to consider whether there were any cogent reasons for denial of information under Sections 8 and 9 of the RTI Act. The Commission cannot abdicate its responsibilities under the RTI Act to RBI on the ground that the latter is an expert body. The Commission cannot rely solely on the decision of the public authority and must look into the merits of the case itself. It must determine, on its own, whether the denial of information by the PIO was justified as per Sections 8 and 9 of the RTI Act. Since the Full Bench has not recorded any comment which shows that it consciously agreed that Section 8 (1)(a) of the RTI Act was applicable in such matters, it does not establish any legal principle or interpretation which can be considered as a precedent or ratio. Thus the decision is applicable only to the particular matter before it, and does not become a binding precedent.</i>

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					<p><i>Hence I will examine whether the economic interests of the State are likely to be prejudicially affected by disclosure of the information. The information which has been claimed to be exempt under Section 8 (1)(a) is query 1 i.e. copy of report submitted by officer(s) of RBI on the investigation carried out by them in the matters/ issues stated by the Appellant in his complaint dated 17/11/2009.</i></p> <p><i>This Bench is unable to understand how disclosing the investigation and audit report of Thane Bharat Sahakari Bank Limited, Thane would in any miniscule way affect the economic interests of the Indian Nation. Even if the report reveals any gross weaknesses in the Thane Bharat Sahakari Bank Limited, it is unlikely to have even a minor ripple effect on the economy of the Country. Hence there is no ground for refusing information with regard to query 1.</i></p>
76.	<p>Dr. Mohan K. Patil v. Mr. A. Udgata, CPIO & Chief General Manager, Reserve Bank of India</p> <p>CIC/SG/A/2011/002069</p> <p>Mr. Ashwini Dixit v. Mr. A. Udgata, CPIO & CGM (UBD), Reserve Bank of India</p>	29.11.2011	8(1)(d)	Information-exemption-commercial confidence	<p><i>In order to claim the exemption under Section 8(1)(d) of the RTI Act, the PIO must establish that disclosure of the information sought (which may include commercial or trade secrets, intellectual property or similar information) would result in harming the competitive position of a third party. As per Section 19(5) of the RTI Act, the burden of establishing the applicability of the exemption lies on the PIO.</i></p> <p><i>The PIO has argued that disclosure of information regarding complaints received from</i></p>

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	CIC/SG/A/2011/003293				<p><i>third parties would harm the competitive position of the third party. This Bench is unable to appreciate how disclosure of complaints made against the Bank would harm the competitive position of the person/entity making these complaints. Moreover, the PIO has not even clarified the nature/identity of the third party. Section 19 (5) of the RTI Act states that 'In any appeal proceedings, the onus to prove that denial of a request was justified shall be on the Central Public Information Officer or State Public Information Officer, as the case may be, who denied the request.' The PIO has not justified this denial claiming exemption under Section 8 (1) (d).</i></p>
77.	<p>Mr. Dharambir Khattar v. Mr. Jagroop S. Gusinha, AIG (P) & CPIO, Central Bureau of Investigation</p> <p>CIC/SM/C/2011/000129/S G</p>	21.06.2011	8(1)(a), (g), (h)	Information-exemptions-CBI	<p><i>In the instant case, the argument raised by the Respondent to justify the denial of information on the basis of Section 8(1)(h) of the RTI Act appears to be nothing more than a mere apprehension. As mentioned above, the information contained in the proposal was in the nature of generic statements and without any specific and concrete allegations against the accused. The Respondent has failed to establish how disclosure of this information would impede the process of investigation or prosecution of the Appellant. The Commission has come to the conclusion after reading the said proposals that there is nothing in them, which could qualify for exemption under Section</i></p>

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					<p><i>8 (1) (h). In other words, the Respondent has not been able to discharge the burden placed upon him under Section 19(5) of the RTI Act to prove that the denial of information under Section 8(1) (h) of the RTI Act was justified. Given the general nature of the information contained in the proposal, the reason for its non- disclosure does not appear to meet the criteria laid down in Section 8(1)(h) of the RTI Act.</i></p> <p><i>Furthermore, the Respondent has claimed Section 8(1)(g) of the RTI Act for non-disclosure of information and argued that the identity of the source and officials handling and processing the information would be revealed, who work in confidence that their identity would not be revealed considering the sensitive nature of their job. The disclosure of the information sought by the Appellant would endanger their physical safety. The Commission is of the opinion that there may be some merit in the contention raised by the Respondent. Disclosing the names/ identity of the officers mentioned in the proposal may attract the exemption contained in Section 8(1)(g) of the RTI Act.</i></p>
78.	Mr. S.S. Ranawat v. Mr. Ashwani Kumar, CPIO & SSP (HQ), CBI	04.07.2011	8 (1) (g), 24	Information-exemption-endanger life-CBI-Schedule II	<p><i>As observed above, CBI is not an “intelligence or security organisation”, which requirement needs to be satisfied in order for it to be covered under Section 24 of the RTI Act and therefore, it cannot be included in the Second Schedule.</i></p>

Sr. No.	NAME/APPEAL NO.	DATE	SECTION	KEY WORDS	DECISION
	CIC/SM/C/2011/000129/S G				<p><i>No reasons have been provided by the DOPT or the Ministry of Personnel, Public Grievances and Pensions, as required under Section 4(1)(d) of the RTI Act, to justify the inclusion of CBI in the Second Schedule. In the absence of reasons, inclusion of CBI in the Second Schedule along with National Intelligence Agency and National Intelligence Grid appears to be an arbitrary act. The promise made to Citizens under Section 4(1)(d) of the RTI Act must be fulfilled. This Commission rules that the said notification of 9/6/2011 is not in consonance with the letter or spirit of Section 24 of the RTI Act, since it constricts the Citizen's fundamental right in a manner not sanctioned by the law.</i></p> <p><i>On perusal of the papers, the Commission noted that information about permanent address of officers based at Delhi and Mumbai was not provided on the basis that it was exempted under Section 8(1)(g) of the RTI Act. Given the nature of the functions carried out by CBI, disclosure of permanent address of officers may endanger the life or physical safety of such officer. Therefore, the Commission is of the view that the information regarding permanent address of officers based at Delhi and Mumbai was rightly denied by the PIO on the basis of Section 8(1)(g) of the RTI Act.</i></p>