

No. 5/26/2011-1A.R

From

The Chief Secretary to Government Haryana
Administrative Reforms Department

To

All Administrative Secretaries to Government
Haryana

Dated Chandigarh, the 28th October, 2011

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

Sir/ Madam,

I have been directed to address you on the subject noted above and to inform you that vide circular No. 1/18/2011-IR, dated 16-09-2011, Joint Secretary, Government of India, Ministry of Personnel, Public Grievances & Pensions, Department of Personnel & Training, New Delhi, has invited attention to their previous Office Memorandum No 1/4/2009-IR, dated 05-10-2009 whereby a Guide on the Right to Information Act, 2005 was circulated and informed that Para 10 of Part-1 of the Guide, inter alia, stated that 'only such information can be supplied under the Act which already exists and is held by the public authority or held under the control of the public authority. The Public Information Officer is not supposed to create information; or to interpret information; or to solve the problems raised by the applicants; or to furnish replies to hypothetical questions.' The same issue has been elaborated by the Supreme Court in the matter of Central Board of Secondary Education & Anr Vs Aditya Bandopadhyay & Ors. (Civil Appeal No 6454 of 2011) as follows:

"At this juncture, it is necessary to clear some misconceptions about the RTI Act. The RTI Act Provides access to all information that is available and existing. This is clear from a combined reading of section 3 and the definitions of 'information' and 'right to information' under clauses (f) and (j) of section 2 of the Act. If a Public authority has any information in the form of data or analyzed data, or abstracts, or statistics, an applicant may access such information, subject to the exemptions in section 8 of the Act. But where the information sought is not a part of the record of a public authority, and where such information is not required to be maintained under any law or the rules or regulations of the public authority, the Act does not cast an obligation upon the public authority; to collect or collate such non available information and then furnish it to an applicant. A public authority is also not required to furnish information which require drawing of inferences and/ or making of assumptions. It is

also not required to provided 'advice' or 'opinion' to an applicant, nor required to obtain and furnish any 'opinion' or 'advice' to an applicant. The reference to 'opinion' or 'advice' in the definition of 'information' in section 2(f) of the Act, only refers to such material available in the records of the public authority. Many public authorities have as a public relation exercise; provide advice, guidance and opinion to the citizens. But that is purely voluntary and should not be confused with any obligation under the RTI Act."

This may be brought to the kind notice of SPIOs/ FAAs working under your kind control for their information.

Yours Faithfully

Superintendent
For Chief Secretary to Government, Haryana
Administrative Reforms Department

Endst No 5/26/2011-1AR

Dated: 28-10-2011

A copy is forwarded to the Under Secretary, State Information Commission, Haryana, SCO-70-71, Sector-8C, Chandigarh, for information.

Superintendent
For Chief Secretary to Government, Haryana
Administrative Reforms Department