

[Home \(/\)](#) / [RTI \(/rti\)](#) / RTI- CPIO/PIO Cannot Function As...

RTI- CPIO/PIO Cannot Function As 'Post Offices' And Withhold Information Without Reasonable Cause, Delhi High Court

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The Delhi High Court has recently held that the **Central Public Information Officer (CPIO) or PIOs cannot withhold information without reasonable cause** and that such officers **cannot function merely as "post offices"** while dealing with information sought under the Right to Information (RTI) Act.

The judgment was delivered by a Single Judge Bench of the Delhi High Court comprising of **Justice Pratibha M. Singh**.

The Court while reiterating various principles of the CPIOs and other Public information Officers held that the **government departments cannot be permitted to evade disclosure of information**. In cases where the department is of an opinion that any information is not available or traceable, **a thorough search and enquiry must be conducted**.

The principles observed by the Court are as follows:

1. CPIO/PIOs **cannot withhold information without reasonable cause**.
2. A PIO/CPIO cannot be held responsible if they have **genuinely rejected the information** sought on valid grounds permissible under the Act. Mere difference of opinion on the part of CIC cannot lead to an imposition of penalty under section 20 of the RTI Act.
3. Government departments ought **not to be permitted to evade disclosure of information**. Diligence has to be exercised by the said departments, by conducting a **thorough search and enquiry**, before concluding that the information is not available or traceable.
4. Every effort should be **made to locate information**, and the fear of disciplinary action would work as a deterrent against suppression of information for vested interests.
5. PIO/CPIO **cannot function merely as "post offices"** but instead are responsible to ensure that the information sought under the RTI Act is provided.
6. A PIO/CPIO has to **apply their mind, analyze the material, and then direct disclosure** or give reasons for non-disclosure. The PIO cannot rely upon subordinate officers.
7. **Duty of compliance lies upon the PIO/CPIO**. The exercise of power by the PIO/CPIO has to be with objectivity and seriousness the PIO/CPIO cannot be casual in their approach.

8. Information **cannot be refused without reasonable cause.**

The Court went ahead to analyze the responsibilities of CPIOs and other PIOs under **sec. 5(3) of the Act** which requires every officer to *'render reasonable assistance'* to the persons seeking information.

"CPIOs or SPIOs can seek assistance from higher/other officials in the organization in order to enable them to furnish the information sought for the 'proper discharge' of their duties, as per Section 5(4). Such other officers from whom assistance may be sought would also be treated as CPIOs, under Section 5(5). CPIOs are thus expected to look into queries raised by the Applicants under the RTI Act, and fulfill an important responsibility while furnishing the said required information, in a fair, non-arbitrary and truthful manner. The organization, as a whole, also has to cooperate in the functioning of the CPIOs."

The Court held.

The observation came after the Court was dealing with a petition **filed by two CPIOs working with the Union Bank of India** challenging an order dated 14.12.2020 passed by the Information Commissioner, Central Information Commission (CIC). According to the said order, a **penalty of Rs. 10,000 each was imposed on the petitioners** for providing an **incomplete response to an RTI application.**

Initially, the petitioners took the stand of exemption of information under sec. 8(1) (d) of the Act as being of *"commercial confidence for the Bank"*. However, the stand was later changed after the CIC sent them show cause notice wherein the petitioners claimed that the required documents were not traceable.

Observing the present facts, the Court held that:

"Such a change in stand would go on to show that there was an intention to withhold certain important documents or information, leading to the finding of mala fides and unreasonable conduct."

The Court while considering the fact that both the officers were retired from the service of the Bank, **reduced the penalty to Rs. 5,000 each to be payable within 6 weeks.**

Judgment dated: 22.01.2021

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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of Decision: 22nd Janua
+ **W.P. (C) 900/2021 and CM APPL. 2395/2021**

SH RAKESH KUMAR GUPTA (ERSTWHILE CPIO) UNIC
BANK OF INDIA & ORS. Pe

Through: Mr. O.P. Gaggar, Advocat
9810185751)

versus

CENTRAL INFORMATION COMMISSION & ANR... Resp

Through: Mr. Gaurang Kanth,
Counsel with Mr. Aman
Bakhshi, Advocate. (M: 9810

CORAM:

JUSTICE PRATHIBA M. SINGH

Prathiba M. Singh, J. (Oral)

1. This hearing has been done through video conferencing.
2. The present petition has been filed by two officers, who were with the Union Bank of India as Central Public Information (*hereinafter, "CPIO*), as also the Union Bank itself, challenge impugned order dated 14th December, 2020 passed by the Information Commissioner, Central Information Commission (*hereinafter, "CIC*) which, penalties amounting to Rs. 10,000/- each have been imposed on the Petitioners.
3. The background of this case is that an RTI application was filed on 14th January, 2019. The application was assigned to the Information Commissioner, Central Information Commission (No.2) (*her*) *"Applicam* ion Bank of India

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