

F. No. 3(4)/2015-Coord.(RTI)  
Government of India  
Office of the Development Commissioner  
Micro, Small & Medium Enterprises  
(Coord. Section)

'A' Wing 7th Floor  
Nirman Bhawan, New Delhi

Dated the 18<sup>th</sup> July, 2016

To

Shri B.N. Sudhakara,  
Director,  
MSME-DI, Ahmedabad

Subject: Irrelevant answering to queries under RTI Act and forwarding of reply without approval of Competent Authority.

Sir,

I am directed to refer to your letter No. DIR/MSMEDI/ABD/1/16-17/178 dated 27.06.2016 on the above subject, wherein you have mentioned a case of your office, where a reply to an RTI application was given by an official other than the designated CPIO. To this extent, you have sought clarifications whether such an eventuality could occur and also without the approval of the CPIO/Director.

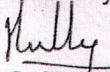
In this connection, your attention is invited to section 5 (1) of the RTI Act which prescribes designating CPIOs and ACPIOs to deal with RTI applications. The implication of this section is that only a designated CPIO could reply to an RTI application and in his absence, this function would be performed by a designated ACPIO.

In your letter, you have mentioned that a note was written by the CPIO to the AD for replying to the RTI application. This is in clear violation of the RTI Act, since the powers/duties of a CPIO cannot be delegated and hence the Act prescribes for designating ACPIOs.

So far as obtaining the approval of a higher authority before replying to an RTI Application, it is to state that the role of an CPIO is quasi-judicial by nature and power has been vested in him through an Act passed by Parliament and hence the CPIO is not required to obtain approval and he becomes responsible for the content of the reply furnished in response to an RTI application. Secondly, the authority above the CPIO is normally designated as the First Appellate Authority, whose job is to adjudicate in a dispute that may arise between an appellant and the CPIO and hence his approval of the reply at the initial stage may create a conflict of interest at the time of a first appeal proffered by an appellant.

In view of the above, you are advised to ensure that all RTI applications received in your office are disposed of only by the CPIO and such cases as the one mentioned by you do not recur. It may also be kept in mind that it is not the responsibility of the First Appellate Authority to reply or to furnish information in response to RTI applications and his duty is only to adjudicate.

Yours faithfully

  
(Robert C. Tully)  
Director & CPIO

Copy to All MSME DIs/TCs/TSSs for information.