अधपत्रा COUNTERFOIL

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किसे अदा करना
To whom payable Ministry of Home Affairs

किस डाकघर में
At what Office GPO, N. Delhi

क्या इसे क्रास किया है
Whether crossed No

भेजने की तारीख
Date sent 19/04/17

38F | 123081

No. RTI/GoI/MHA/2017/2

Date: 19/04/2017

From,
Venkatesh Nayak
#55A, 3rd Floor
Siddharth Chambers-1
Kalu Sarai
New Delhi- 110 016

To,
The Central Public Information Officer
Ministry of Home Affairs
Government of India
North Block
New Delhi – 110 001

Dear sir,

Sub: Submission of request for information under *The Right to Information Act, 2005*

Apropos of the web printout of the reply to the Unstarred Question #6497 presented in the 15th Lok Sabha on 07/05/2013 annexed to this RTI application, I would like to obtain the following information from your public authority:

a) A clear photocopy of the instructions issued to all State Governments/CAPFs to adhere to the highest standards of human rights during anti-LWE operations, mentioned in the last para of the reply to paras #(c) and (d) of the said Unstarred Question;

b) A clear photocopy of the Standard Operating Procedure (SOP) on 'Maoists using villagers as human shields' circulated to the Governments of LWE affected States and the CAPFs for consideration and comments;

c) A clear photocopy of all comments received till date in relation to the SOP mentioned in para #(b) of this RTI application;

d) A clear photocopy of the latest version of the SOP relating to the use of civilians as human shields issued by the Central Government, if any; and

e) A clear photocopy of the latest version of the SOP relating to the use of civilians as human shields by militant groups issued by the Central Government in the States of Arunachal Pradesh, Manipur, Nagaland, Meghalaya and Jammu and Kashmir.

I am a citizen of India. I have enclosed an IPO (bearing #38F 123081) for Rs.10/- towards payment of the prescribed application fee. I would like to obtain the information specified above at my postal address mentioned above. Kindly inform me of the additional fee payable for obtaining the information specified above.

Yours sincerely,

S.S. Venkatesh Nayak

Venkatesh Nayak 19/4/17

भारतीय डाक
India Post

SP SARVODAYA ENCLAVE (110017)
ED109663282IN
Counter No:1,OP-Code:SK
To:THE CENTRAL P I O,MIN. OF HOME AFFAIR
NEW DELHI, PIN:110001
From:VENKTESH NAYAK , 55A, SIDHARTH CHAMBER, NU
Wt:20grams,
Amt:17.00 ,20/04/2017 ,14:04
Taxes:Rs.2.00<<Track on www.indiapost.gov.in>>

GOVERNMENT OF INDIA

MINISTRY OF HOME AFFAIRS

LOK SABHA

UNSTARRED QUESTION NO: 6497

ANSWERED ON:07.05.2013

KILLING OF CIVILIANS IN ANTI NAXAL OPERATIONS

P. KUMAR

(a)whether there are reports that innocent civilians have been killed during anti-naxal operations;

(b)if so, the details of such cases reported during the last three years and the current year, State-wise;

(c)whether it is true that many villagers in the country have complained that the naxals were using them as shields; and

(d)if so, the details thereof and the reaction of the Government thereto?

Will the Minister of HOME AFFAIRSbe pleased to state:-

ANSWER

(P.T.O.)

MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS (SHRI R.P.N. SINGH)

(a) & (b): There have been occasional complaints against Security Forces of violation of human rights during anti-naxal operations. Such allegations usually surface after exchanges of fire between the Left Wing Extremists and the Security Forces. One such allegation pertains to the incident dated 28 June, 2012 at Sarkeguda in Bijapur district, Chhattisgarh, in which, during an exchange of fire between security forces and alleged Maoist cadres, 17 persons were killed and 6 Security Force personnel were injured.

In view of the various allegations pertaining to the said incident, the Government of Chhattisgarh has ordered a judicial inquiry into the matter under the Chairmanship of Justice (Retd) Shri V.K. Agarwal.

In the context of alleged violation of human rights, it also needs to be mentioned that a number of front organizations of the CPI(Maoist) party, while professing to be Human Rights Organisations, quite often instigate baseless and motivated allegations against the Security Forces to demoralize and demotivate them. In fact, propaganda and disinformation is an important tool of Maoist insurgency which they effectively use from time to time. One such disinformation technique is to send Fact Finding Teams (FFTs) made up of Maoist sympathizers, who present a biased picture of events before the mainstream media. Hence, some of the allegations of purported human rights violations have to be viewed in this context. In fact, it is a little known fact that since the year 2001, the Left Wing Extremists have killed 5847 civilians and 2097 security forces personnel.

(c) to (d): There are allegations that naxals use civilians as human shields during encounters with Security Forces. Such allegations have been found true on a number of occasions.

The Central Armed Police Forces (CAPFs) have sensitized their field formations to take utmost care to avoid casualties / injuries and any form of harassment of locals while undertaking anti-naxal operations even when they are used as human shields by the Maoists. Further, in all genuine instances of complaints against Security Forces of alleged violation of human rights during anti-naxal operations, the State Governments / Central Armed Police Forces (CAPFs) initiate enquiries and if found guilty, departmental / criminal proceedings are launched against the erring personnel.

The Government of India has issued instructions to all State Governments / CAPFs to adhere to the highest standards of human rights during anti-LWE operations and to strictly deal with aberrations, if any. Besides, a Standard Operating Procedure (SOP) on 'Maoists using villagers as human shields' has been circulated by the Ministry of Home Affairs to the Governments of LWE affected States and the Central Armed Police Forces (CAPFs) for consideration/ comments.

Dy. No. 112 1st Appeal /2017-RTI
28/06/17

Before the Designated First Appellate Authority

through the Central Assistant Public Information Officer & Under Secretary to the Government of India

RTI Cell, Ministry of Home Affairs, Government of India

North Block, New Delhi- 110 001

Appeal submitted under Section 19(1) of the Right to Information Act, 2005

In the matter of

Venkatesh Nayak

vs

CPIO, Ministry of Home Affairs

Ministry of Home Affairs, New Delhi
27 JUN 2017
No. 241/ RTI
C.R. Section North Block

Date of submission: 17/06/2017

RTI

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1st Appeal
Pls. link o/c of application
28/06/17

SJ (LWE)

S.S. Venkatesh Nayak

Before the Designated First Appellate Authority

through the Central Assistant Public Information Officer & Under Secretary to the Government of India,

RTI Cell, Ministry of Home Affairs, Government of India

North Block, New Delhi- 110 001

Appeal submitted under Section 19(1) of the Right to Information Act, 2005

Date: 17/06/2017

1) Name and address of the appellant	:	Venkatesh Nayak #55A, 3rd Floor Siddharth Chambers-1 Kalu Sarai New Delhi- 110 016
2) Name and address of the Central Public Information Officer (CPIO) to whom the RTI application was sent	:	The Central Public Information Officer & Ministry of Home Affairs Government of India North Block New Delhi- 110 001
3) Name and address of the Officer who gave the reply to the Application	:	NIL
4) Particulars of the RTI application-		
a) No. and date of submission of the RTI application	:	No. RTI/GoI/MHA/2017/2 dated 19/04/2017 despatched on 20/04/2017
b) Date of payment of additional fee (if any)	:	Not applicable.
5) Particulars of the order(s) including number, if any against which the appeal is preferred	:	No reply till date
6) Brief facts leading to the appeal	:	

6.1) On 20/04/2017 this Appellant despatched by Speed Post a request for information dated 19/04/2017 to the CPIO mentioned at para #2 above along with the prescribed application fee, stating as follows **(Annexe 1)**:

S.S. Venkatesh Nayak

"Apropos of the web printout of the reply to the Unstarred Question #6497 presented in the 15th Lok Sabha on 07/05/2013 annexed to this RTI application, I would like to obtain the following information from your public authority:

a) A clear photocopy of the instructions issued to all State Governments/CAPFs to adhere to the highest standards of human rights during anti-LWE operations, mentioned in the last para of the reply to paras #(c) and (d) of the said Unstarred Question;

b) A clear photocopy of the Standard Operating Procedure (SOP) on 'Maoists using villagers as human shields' circulated to the Governments of LWE affected States and the CAPFs for consideration and comments;

c) A clear photocopy of all comments received till date in relation to the SOP mentioned in para #(b) of this RTI application;

d) A clear photocopy of the latest version of the SOP relating to the use of civilians as human shields issued by the Central Government, if any; and

A clear photocopy of the latest version of the SOP relating to the use of civilians as human shields by militant groups issued by the Central Government in the States of Arunachal Pradesh, Manipur, Nagaland, Meghalaya and Jammu and Kashmir."

6.3) This Appellant has not received any reply from the CPIO of the Respondent Public Authority till date.

7) Prayers or relief sought :

This Appellant prays that this First Appellate Authority be pleased to:

1) admit this appeal and inquire into the matters raised herein; and

2) direct the concerned CPIO to disclose all information specified in the instant RTI application free of charge as is this Appellant's right under Section 7(6) of the RTI Act.

8) Grounds for the prayer or relief :

8.1) According to Section 19(1) of the RTI Act an RTI applicant who is aggrieved by the fact that no decision has been received in relation to his or her RTI application, may prefer an appeal to the officer senior in rank to the CPIO within 30 days of the date on which such decision ought to have been made. The instant RTI application was despatched to the Respondent Public Authority on 20/04/2017. The concerned CPIO ought to have replied to the RTI application within 30 days that date. The deadline of 30 days lapsed on 19/05/2017. This first appeal is being submitted on the 29th day after the lapse of the statutory deadline for reply which well within the time limit stipulated in Section 19(1) of the RTI Act. This Appellant is aggrieved by the inaction of the CPIO for the following reasons:

S.S. Venkatesh Nayak

8.1.1) According to Section 7(1) of the RTI Act, upon receiving an RTI application and finding that his or her public authority holds the information sought, in material form, a CPIO has only two courses of action open to him/her. Such CPIO is required to either furnish the requested information on payment of the additional fee at the rates prescribed in the RTI Rules, 2012 or reject the request for any of the reasons specified in Sections 8 or 9 of the RTI Act. The CPIO of the Respondent Public Authority has chosen neither course of action till date. This Appellant is aggrieved by the inaction of the said CPIO. ***Hence the submission of this first appeal to this Hon'ble Appellate Authority.***

8.1.2) Further, according to Section 7(2) of the RTI Act, where a CPIO fails to give a decision on the information request within the period of 30 days specified in Section 7(1) of the RTI Act, it shall be deemed that the request for information has been rejected. As more than 30 days have lapsed since the receipt of the instant RTI application by the Respondent Public Authority, it is to be deemed that the instant RTI application has been rejected. As Section 19(1) of the RTI Act also permits a citizen aggrieved by a decision of the CPIO to prefer an appeal against such decision, to an officer senior in rank to such CPIO, this ground is also satisfied in the instant case. ***Hence the submission of this first appeal to this Hon'ble Appellate Authority.***

8.1.3) Further, according to Section 7(6) of the RTI Act, where a CPIO fails to supply the information sought within the period of 30 days stipulated in Section 7(1) of the RTI Act, the applicant has a right to obtain the information free of charge. It has already been shown conclusively above, that the CPIO has not bothered to send any reply to the instant RTI application despite the lapse of the statutory deadline of 30 days. This Appellant therefore has a right to receive all the information specified in the instant RTI application free of charge, under Section 7(6) of the RTI Act. ***Hence the submission of this first appeal to this Hon'ble Appellate Authority.***

8.1.4) Further, as this Appellant has not received any reply from the CPIO of this public authority, he has no knowledge of the name or the contact details of the appropriate designated First Appellate Authority. Therefore this Appellant is exercising his right under Section 5(2) of the RTI Act to submit this first appeal to this Public Authority through its Central Assistant Public Information Officer. ***Hence the submission of this first appeal through the CAPIO of the RTI Cell of this Public Authority.***

9) I hereby verify that the aforementioned facts are true to the best of my knowledge. I also declare that I have authenticated the Annexes to this appeal.

Signature of the Appellant:

S.S. Venkatesh Nayak

(Venkatesh Nayak) 17/6/17

F.No. 11034/02/2017-LWE-I
Government of India
Ministry of Home Affairs
(LWE Division)

New Delhi, the 17th August, 2017

ORDER

This is with reference to your First Appeal dated 17.06.2017, received in this office on 11.07.2017. In the appeal you have stated that the CPIO has not provided the information against your application dated 19.04.2017 and requested to:

(a) Admit this appeal and inquire into the matters raised herein; and

(b) Direct the concerned CPIO to disclose all information specified in the instant RTI application free of charge as this is Appellant's right under Section 7 (6) of the RTI Act, 2005.

2. I have examined your first appeal and found that the information/documents, sought in your application dated 19.04.2017, are secret in nature and disclosure of such documents would prejudicially affect the security and strategic interests of the State. Therefore, the desired information/documents cannot be provided as per Section 8(1)(a) of the RTI Act, 2005.

3. In view of the above, your first appeal is disposed off.

4. If the appellant is aggrieved with this order, he may file 2nd appeal before the Central Information Commission within 90 days of receipt of this order under Section 19(3) of the RTI Act 2005.

(Praveen Vashista)
Appellate Authority/JS (LWE)

Shri Venkatesh Nayak
55A, 3rd Floor- Siddharth Chambers-I
Kalu Sarai,
Delhi.

Copy to: 1. RTI Cell, MHA.

2. SO, IT Cell, MHA along with copy of the first appeal for uploading on the MHA website.