

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

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या इसे प्राप्त किया है  
Whether crossed

N. O.

भेजने की तारीख  
Date sent

16/5/11

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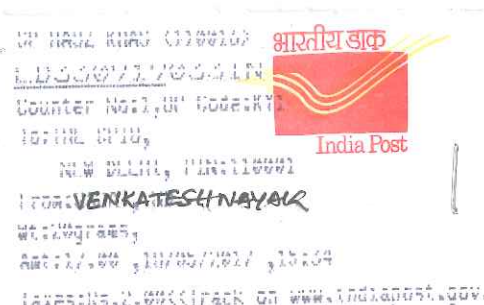
Sub: Submission of request for information under *The Right to Information Act, 2005*

- 1) A clear photocopy of the Report of the High Level Enquiry Committee (HLEC) on 26/11 appointed by the Government of Maharashtra in December 2008, as received by your public authority from that Government, along with Annexures, if any (please note, the underlined phrase above is the official title of the report);
- 2) The exact date on which the said Report of the HLEC was received in your public authority;
- 3) A clear photocopy of all correspondence conducted by your public authority with the Government of Maharashtra in relation to the said Report of the HLEC, till date; and
- 4) A clear photocopy of all file notings generated in your public authority in relation to the said Report of the HLEC, till date.

Thanking you,  
Yours sincerely,

S.S. Venkatesh Nayak  
Venkatesh Nayak

Venkatesh



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**THE TIMES OF INDIA**

# Pradhan panel's 26/11 report blames Gafoor for lapses

PTI | Dec 21, 2009, 08:18 PM IST

NAGPUR: A high-level committee appointed by the Maharashtra government to go into the Mumbai terror strikes has found serious lapses on the part of the then Mumbai Police Commissioner Hasan Gafoor in handling the "war-like" multi-pronged attack.

However, the two-member committee did not find any serious lapses to act or react on the part of individual officers and police men of the Mumbai Police.

"There was absence of overt leadership on the part of Hasan Gafoor, the CP, and lack of visible Command and Control at the CP's office," said the report prepared by former Governor and Union Home Secretary R D Pradhan.

The report tabled by Maharashtra Home Minister R R Patil in the Assembly today said the Committee found several lacunae in working, both within Mantralaya, the state secretariat, and the police establishment.

"Well set out procedures for handling intelligence and 'Crisis Management' were overlooked. These require urgent attention," Pradhan said in his note to Chief Minister Ashok Chavan presenting the report of the committee which also had as member V Balachandran, former Special Secretary in the Cabinet Secretariat.

The report said the "war-like" attack was beyond the capacity of the Mumbai Police -- for that matter of any police set up. It had to be tackled by specialised forces such as the National Security Guards.

"However, we find that the CP Mumbai did not exhibit adequate initiative in handling the multi-pronged attack. He remained at

one spot near Trident Hotel throughout the operations.

"For lack of visible Command and Control at the CP's office, an impression that the police handled the operation ineffectively, was created by the public.

"Moreover several senior officers told us that those three days, the CP did not give any directions nor enquired of ongoing operations. We found that although the CP kept in touch on wireless and mobile on selective basis, several officers felt that they did not get a feeling that they were part of a team," the report said.

The committee said "we have come to the conclusion that there was absence of visible and overt leadership on the part of Hasan Gafoor, the CP".

The committee did not find any failure to act on inputs provided by the central intelligence agencies.

It had a word of praise for the then Director General of Police A N Roy, who it found that throughout the operations, he made himself available to provide information and offered help while taking care not to intrude into the functioning of Mumbai Police officers.

RTI MATTER/TIME BOUND

No.A-43020/ 01 /2017- RTI  
Government of India/Bharat Sarkar  
Ministry of Home Affairs/Grih Mantralaya

\*\*\*\*\*

New Delhi, Dated the 01/6/2017, 2017.

OFFICE MEMORANDUM

Subject: Application of Shri/Smt/Kum/Ms. Venkatesh Nayak.  
under the Right to Information Act,  
2005 – transfer thereof.

\*\*\*\*\*

The undersigned is directed to inform that your application dated 16/5/17 received in this Ministry on 19/5/17 by way of transfer from the ..... Has been forwarded online under Registration No. (0010121) to Dir (IS-2) of IS-2 Division(s) for providing information, as the requested information pertains to/more closely related to the functions of the said Division(s). Details of address of CPIO(s) are available in MHA website: www.mha.nic.in.

2. The receipt of application fee of Rs. 10/- (No. 42359 dated 21/5/17) is enclosed herewith.

Encl: As above.

(Amarendra Singh)

Under Secretary to the Government of India.

To

Shri/Smt/Kum/Ms. Venkatesh Nayak.  
# 55 A, 3rd Floor  
Siddarth Chambers - 1, Kaly  
Saral, New Delhi - 110016

(He/She is requested to contact the above-mentioned CPIO/Public Authority for further information in the matter).



गृह मंत्रालय  
Ministry of Home Affairs

जी. ए. आर. 6 / G. A. R. 6  
(नियम 22(1) देखें) (See Rule 22(I))

रसीद / RECEIPT

सं. /No. 42359

दिनांक 22/5/20  
Dated 22/5/20

श्री/श्रीमती/सुश्री

Received from Shri/Smt./Km.

Venkatesh Nayak

के पत्र संख्या/संदर्भ संख्या के साथ

with Letter No./Reference No.

के दिनांक

20

Dated 20

बैंकर्स चेक/ड्राफ्ट/भारतीय पोस्टल आर्डर संख्या

Banker's Cheque/Draft/Indian Postal Order No.

38 F 123 667

के रूप में रुपये की नकद धनराशि

the sum of Rupees by Cash

सूचना के अधिकार अधिनियम, 2005 के शुल्क हेतु प्राप्त की।

on account of fee under Right to Information Act 2005.

आद्यक्षर/Initials

रुपये /Rs.

10/-

पदनाम/Designation

No.17011/10/2016/IS-VI(Part-V)  
Government of India  
Ministry of Home Affairs  
Internal Security Division-I  
(IS.VI Desk)

Dated : 20<sup>th</sup> June, 2017

To

Shri Venkatesh Nayak,  
# 55-A, 3<sup>rd</sup> Floor, Sidharth Chamber-1,  
Kalu Sarai,  
New Delhi-110 016.

Subject:- Seeking information under RTI Act, 2005-regarding.

Sir,

Please refer your online RTI application Registration No.MHOME/R/2017/01121 dated 31.05.2017 which was received in the office of the undersigned on 01.06.2017 on the above subject.

2. As regards the point number 02, the Report of the High Level Enquiry Committee (HLEC) on 26/11 appointed by the Government of Maharashtra in December, 2008 was received in this office on 13.09.2009.

3. As regards the point number 1, 3 & 4, the photocopy of the Report and the file notings are concerned, it is informed that the required information is a classified/secret document exempted under Section 8 (1) (a) of RTI Act, 2005.

3. The Appellate Authority in the matter is Shri Sudhir Kumar Saxena, Joint Secretary (IS-I), MHA, North Block, New Delhi, Phone - 23092736, e-mail ID-[jsis@nic.in](mailto:jsis@nic.in).

Yours faithfully,

  
(S.K.Chhikara)  
Deputy Secretary (IS-II)&CPIO  
Phone-23092159  
e-mail-[chhikara.sk@nic.in](mailto:chhikara.sk@nic.in)

1. S.O. IT Cell, MHA, North Block, New Delhi alongwith a copy of RTI application and reply for uploading the same in MHA website.

2.RTI Section, MHA, North Block, New Delhi.

**Before the Designated First Appellate Authority**

**& Joint Secretary (IS-I)**

**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 & Deputy Secretary (IS-II) Ministry of Home Affairs***

**Date of submission: 07/07/2017**

**Table of Contents**

<b><u>No.</u></b>	<b><u>Item</u></b>	<b><u>Page</u></b>
<b>1.</b>	<b>Letter of First Appeal submitted under Section 19(1) of the RTI Act</b>	<b>2-5</b>
<b>2.</b>	<b>Annexe 1:</b> Self-attested copy of the RTI application dated 16/05/2017 along with Annexure	<b>6</b>
<b>3.</b>	<b>Annexe 2:</b> Self-attested copy of the reply received from the CPIO, IS Division-I, MHA dated 20/06/2017	<b>7</b>
<b>4.</b>	<b>Annexe 3:</b> Self-attested copy of a news report published in the Times of India dated 21/12/2009	<b>8-9</b>

*S. S. Venkatesh Nayak*

**Before the Designated First Appellate Authority**

**& Joint Secretary (IS-I)**

**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: 07/07/2017**

- 1) Name and address of the Appellant :** Venkatesh Nayak  
#55A, 3<sup>rd</sup> 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 CPIO who gave the reply to the RTI Application :** Shri S. K. Chhikara  
CPIO & Deputy Secretary (IS-II)  
Internal Security Division-1  
Ministry of Home Affairs  
Government of India  
North Block  
New Delhi- 110 001
- 4) Particulars of the RTI application-**
- a) No. and date of submission of the RTI application :** No. RTI/GoI/MHA/2017/3 dated  
16/05/2017
- 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 :** Communication No. 17011/10/2016/IS-VI  
(Part-V) dated 20/06/2017 received from the  
CPIO mentioned at para #3 above

*S. S. Venkatesh Nayak*



**6) Brief facts leading to the appeal :**

**6.1)** On 16/05/2017 this Appellant despatched by Speed Post a request for information to the CPIO mentioned at para #2 above along with the prescribed application fee, stating as follows (**Annexe 1**):

"I would like to obtain the following information from your public authority under the RTI Act:

- 1) A clear photocopy of the Report of the High Level Enquiry Committee (HLEC) on 26/11 appointed by the Government of Maharashtra in December 2008, as received by your public authority from that Government, along with Annexures, if any (please note, the underlined phrase above is the official title of the report);
- 2) The exact date on which the said Report of the HLEC was received in your public authority;
- 3) A clear photocopy of all correspondence conducted by your public authority with the Government of Maharashtra in relation to the said Report of the HLEC, till date; and
- 4) A clear photocopy of all file notings generated in your public authority in relation to the said Report of the HLEC, till date."

**6.2)** Subsequently, on 23/06/2017, this Appellant received a reply from the CPIO mentioned at para #3 above stating, *inter alia*, as follows (**Annexe 2**):

"3. As regards the point #1, 3 & 4, the photocopy of the Report and file notings are concerned, it is informed that the required information is a classified/secret document exempted under Section 8(1)(a) of RTI Act, 2005"

In response to point #2 of the instant RTI application, the said CPIO provided the date on which the Report of the HLEC was received in this public authority. This Appellant records his deep appreciation for the CPIO for providing this information free of charge.

**6.3)** However, this Appellant is aggrieved by the decision of the CPIO to reject access to information sought at paras #1, 3 & 4 of the instant RTI application.

**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**

S.S. Venkatesh Nayak

- 2) direct the concerned CPIO to disclose all information specified at paras #1, 3 & 4 of 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 a decision of the CPIO, may prefer an appeal to the officer senior in rank to the concerned CPIO, within 30 days of the date on which such decision ought to have been made. This appeal is being submitted on the 14<sup>th</sup> day of receipt of the reply of the CPIO mentioned at para #3 above. This Appellant is aggrieved by the decision of the said CPIO for reasons elucidated below:

8.1.1) The CPIO mentioned at para #3 above has reasoned that the information sought at paras #1, 3 & 4 of the instant RTI application is classified/secret document exempted under Section 8(1)(a) of the RTI Act. This Appellant firmly believes that the said CPIO has not adequately appreciated the contents of Section 8(1)(a) of the RTI Act. Section 8(1)(a) of the RTI Act is reproduced below *ad literatim*:

"8. (1) Notwithstanding anything contained in this Act, there shall be no obligation to give any citizen,—

(a) information, disclosure of which would prejudicially affect the sovereignty and integrity of India, the security, strategic, scientific or economic interests of the State, relation with foreign State or lead to incitement of an offence;"

To the best of this Appellant's knowledge, nothing in Section 8(1)(a) prohibits the disclosure of information sought under the RTI Act on the ground that it is a "classified/secret document". Therefore the reasoning of the CPIO mentioned at para #1 above is not supported by the language or intent of Section 8(1)(a) of the RTI Act. Therefore the said CPIO's decision deserves to be set aside as it does not appear to have been made with due application of mind. **Hence the submission of this first appeal to this Hon'ble Appellate Authority.**

8.1.2) Further, Section 8(1)(a) of the RTI Act contains at least seven grounds for refusing access to information sought in an RTI application. The CPIO mentioned at para #3 above has not specified which of these grounds are attracted by the information sought at paras #1, 3 & 4 of the instant RTI application. According to Section 7(1) of the RTI Act, a CPIO may reject a request for information received under Section 6(1) of the RTI Act only for reasons specified under Sections 8 and 9 of the Act. The CPIO mentioned at para #3 above has not invoked any of the grounds specified in Section 8(1)(a) to reject the instant RTI application. Therefore it is this Appellant's firm belief that the CPIO's decision is bad in law and deserves to be set aside. **Hence the submission of this first appeal to this Hon'ble Appellate Authority.**

8.1.3) Further, this Appellant would like to draw the attention of this Hon'ble First Appellate Authority to the fact that the information sought at para #1 of the instant RTI application has

S.S. Kulkarni Nayak

already been tabled in the Maharashtra State Legislative Assembly in December 2009. A copy of the news report regarding the tabling of the said report of the High Level Enquiry Committee on 26/11 published contemporaneously by a reputable national daily, namely the Times of India, is at **Annexe 3**. According to the *proviso* underlying Section 8(1) of the RTI Act, information that cannot be denied to Parliament or a State Legislature cannot be denied to any citizen. Clearly, the entire Report of the High Level Enquiry Committee on 26/11 falls within this category. The Report of the HLEC has been tabled in the Maharashtra State Legislature and made available to all of its members. This Appellant, therefore, is entitled to obtain a copy of the entire Report of the HLEC as a matter of right, as per the *proviso* underlying Section 8(1) of the RTI Act. The CPIO mentioned at para #3 above has not adequately appreciated this fact while arriving at his decision on the instant RTI application. Therefore the said CPIO's decision deserves to be set aside as it has not been arrived at through due application of mind. **Hence the submission of this first appeal to this Hon'ble Appellate Authority.**

**8.1.4)** Further, the information sought at paras #3 & 4 of the RTI Act related to the action taken by this Public Authority on the basis of the report of the High Level Enquiry Committee on 26/11. As already argued above, the CPIO mentioned at para #3 above has not invoked any substantial and legitimate ground under the RTI Act to reject the request for this information. Therefore it is this Appellant's firm belief that the information specified at paras #3 and 4 of the instant RTI application is also fit to be disclosed under the RTI Act. **Hence the submission of this first appeal to this Hon'ble Appellate 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) 7/7/17

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No.17011/10/2016/IS-VI(Part-V)  
Government of India  
Ministry of Home Affairs  
Internal Security-I division  
North Block, New Delhi-110001

Dated : 26<sup>th</sup>, July, 2017

ORDER

Whereas, an RTI Appeal dated 07.07.2017 filed by the appellant Shri Venkatesh Nayak under Section 19 of the RTI Act, has been received in this office on 10.07.2017. The appeal is against the reply of Shri S.K. Chhikara, Dy.Secretary & CPIO dated 20.06.2016.

2. Whereas, the appellant has alleged that the CPIO has not purportedly furnished the following information:

- A clear photocopy of the Report of the High Level Enquiry Committee (HLEC) on 26/11 appointed by the Government of Maharashtra in December 2008, as received by your public authority from that Government, along with Annexures.
- The exact date on which the said Report of the HLEC was received in your public authority.
- A clear photocopy of all correspondence conducted by your public authority with the Government of Maharashtra in relation to the said Report of the HLEC, till date.
- A clear photocopy of all file notings generated in your public authority in relation to the said Report of the HLEC, till date.

3. Whereas, I have perused the original application filed by the appellant dated 31.05.2016 and also gone through the reply given by the CPIO dated 20.06.2016.

4. Whereas, the CPIO vide reply dated 20.06.2016 has informed that the information sought by the appellant is a classified/secret document, which is exempted under Section 8(1) (a) of RTI Act, 2005.



5. Whereas, the Appellant mentioned that the CPIO has not adequately appreciated the contents of Section 8 (1) (a) of the RTI Act and nothing in this Section prohibits the disclosure of information sought under the RTI Act.

6. The matter has been examined by the undersigned and I have directed the CPIO to re-examine the application dated 07.07.2017 in the light of provisions of RTI Act and contentions of the appellant and furnish a suitable reply to the appellant within two weeks from the date of issue of this letter. The Appeal is accordingly disposed of.

7. Second Appeal, if any, against this decision may be preferred within 90 days with the CIC.



(Sudhir Kumar Saxena)  
Joint Secretary (IS-I)  
First Appellate Authority.

To,

✓  
Shri Venkatesh Nayak,  
# 55A, 3<sup>rd</sup> floor,  
Sidharth Chambers - 1,  
Kalu Sarai,  
New Delhi - 110 016.

Copy to : Shri S.K. Chhikara, DS (IS-II) & CPIO, Ministry of Home Affairs.



No.17011/10/2016/IS-VI(Part-V)  
Government of India  
Ministry of Home Affairs  
Internal Security Division-I  
(IS.VI Desk)

Dated : 11/August, 2017

To

Shri Venkatesh Nayak,  
# 55-A, 3<sup>rd</sup> Floor, Sidharth Chamber-1,  
Kalu Sarai,  
New Delhi - 110 016.

Subject:- Seeking information under RTI Act, 2005 - regarding.

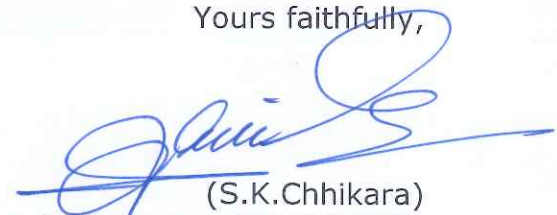
Sir,

Please refer to Joint Secretary (IS-I) & First Appellate Authority's Order No.17011/10/2016/IS-VI(Part-V) dated 26<sup>th</sup> July, 2017 on the above subject.

2. Whereas, the appellant has alleged that the CPIO has not purportedly furnished the following information:

- i. A clear photocopy of the Report of the High Level Enquiry Committee (HLEC) on 26/11 appointed by the Government of Maharashtra in December 2008, as received by your public authority from that Government, along with Annexures.
  - ii. A clear photocopy of all correspondence conducted by your public authority with the Government of Maharashtra in relation to the said report of HLEC, till date.
3. As directed by the First Appellate Authority, the matter has been re-examined by the undersigned and it is informed that the required information *at 2 (i) above* is exempted from disclosure U/s 8 (1) (a) of the RTI Act, as its disclosure would prejudicially effect the Security of the State.
4. So far as information sought at para 2 (ii) is concerned, it is informed that no such report is available in the offices of which the undersigned is CPIO and I am not aware of the public authority which may be in possession of the said information. However, you may obtain the information from the Public Authority (State Govt.) which according to you has sent the report.

Yours faithfully,

  
(S.K.Chhikara)  
Deputy Secretary (IS-II)&CPIO  
Phone-23092159  
e-mail - chhikara.sk@nic.in