



भारतीय राजदूतावास

السفارة الهندية

EMBASSY OF INDIA

P.O. BOX 2788, DOHA-QATAR

Tel: (974)-44255777; Fax: (974)-44655471

E-mail : admn.doha@mea.gov.in

Homepage : <http://www.indianembassyqatar.gov.in>

No. Doh/551/RTI(FA)/1/2018

10 October 2018

ORDER OF APPELLATE AUTHORITY

In exercise of the powers, conferred upon the First Appellate Authority (FAA) by Section 19(6) of the Right to Information Act, 2005, Counsellor (C&CA) & the First Appellate Authority, Embassy of India, Doha makes the following order:

2. Shri Venkatesh Nayak had filed an RTI application under the RTI Act, 2005. The RTI application was transferred by the Ministry of External Affairs on 08.08.2018 to the Embassy of India Doha, and given the Registration no. MEADO/R/2018/80010 on the RTI Request & Appeal Management Information System (RTI-MIS). The following information was sought by Shri V. Nayak.

"1) The year-wise list of the names, age, sex, and occupation of Indian workers who died in the countries of Bahrain, Oman, Qatar, Quwait, Saudi Arabia and the United Arab Emirates between 01 January 2012 till date.

2) The cause of death as mentioned in the death certificates of every deceased Indian worker referred to at para 1 above for the same period."

In response the CPIO had provided the following reply:

"

The information sought by you in respect of the State of Qatar is tabulated below.

Year	No. of deaths	Cause of death		
		Accidents	Natural deaths	Suicides
2012	237	48	181	08
2013	241	35	194	12
2014	279	32	234	13
2015	198	31	151	16
2016	281	41	212	28
2017	282	31	237	14

Till 08 August, 2018	160	16	136	8
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Information in the format sought by you cannot be provided as this will disproportionately divert the resources of the Embassy. Furthermore, personal details of the deceased Indian nationals cannot be shared under section 8(1)(j) of the RTI Act 2005. Seeking the consent of the families for sharing the personal details of the deceased, numbering over a thousand, will disproportionately divert the limited resources of the Embassy.
”

The reply was provided by the CPIO within the stipulated time limit.

3. Shri Venkatesh Nayak has appealed against the reply provided by the CPIO vide Registration no. MEADO/A/2018/60002 dated 14.09.2018. The text of his appeal is given below.

“Prayers:

- 1) that the Honourable First Appellate (FAA) be pleased to admit this first appeal and inquire into the matters raised herein.
- 2) that the Honourable FAA be pleased to direct the CPIO to provide the balance of information described at para 1-2 of the instant RTI application free of charge as is the right of this Appellant under Section 7(6) of the RTI Act.

Grounds:

1. This Appellant is grateful to to the CPIO for supplying some statistics free of charge.
2. However, the CPIO has stated that providing information in the format requested in the RTI application and contacting the families of the deceased for seeking consent would disproportionately divert the resources of this Embassy. He has also invoked Section 8(1)(j) of the RTI Act to reject the request.

This Appellant, is aggrieved by the decision of the CPIO for reasons explained below:

- a) This Appellant has never sought information in any particular format as has been contended by the CPIO. He has only sought certain specific categories of information about Indian Workers who died in Qatar. According to Section 7(1) of the RTI Act a request for information may be rejected only for reasons specified in Sections 8 and 9 of the Act.

Disproportionate diversion of resources is not mentioned in any of those Sections. Furthermore, similar information is already being disclosed suo motu by the Embassy of Kuwait on its website (see pages 4-7 of the attachment for copy of relevant webpages downloaded from the website). So these contentions of the CPIO deserve to be dismissed as being without merit.

b) Further, Section 8(1)(j) of the RTI Act seeks to exempt disclosure of information only on two grounds, namely, if such information has no relationship to any public activity or interest or if the disclosure would cause unwarranted invasion of the privacy of the individual. The very fact that statistics regarding the deaths of Indian Worker in Qatar have been collected indicates that such information is closely related to a public activity, namely monitoring the fate of Indian workers. Second, as the deceased workers are the brothers and sisters of this Appellant, he has every right to know their details, being an Indian citizen. It is in this spirit of transparency in public interest that the Embassy of Kuwait proactively discloses such detailed information on its website. Further, the information sought is about individuals who are unfortunately deceased. The question of violating the privacy of a deceased person simply does not arise. Section 8(1)(j) of the RTI Act has its basis in the fundamental right to privacy guaranteed under Art. 21 of the Constitution. It has been recognised by a 9-Judge Constitution Bench of the Honourable Supreme Court of India in August 2017. This right is available only to living individuals. Fundamental rights cannot be claimed by deceased persons. Therefore the decision of the CPIO is bad in law on this account also and deserves to be set aside.”

4(a) Section 7(9) of the RTI Act, 2005 states, “an information shall ordinarily be provided in the form in which it is sought unless it would disproportionately divert the resources of the public authority or would be detrimental to the safety or preservation of the record in question.”

(b) Section 8(1)(j) of the Act states that there is no obligation to give any citizen, “information which relates to personal information the disclosure of which has no relationship to any public activity or interest, or which would cause unwarranted invasion of the privacy of the individual unless the Central Public Information Officer or the State Public Information Officer or the appellate authority, as the case may be, is satisfied that the larger public interest justifies the disclosure of such information.” This clause makes no distinction between the privacy of an individual who is alive and one who has passed away.


5. The Appellant had sought a year-wise list of names, age, sex, occupation, and cause of death as mentioned in the death certificate of every Indian worker who had died in the countries of Bahrain, Oman, Qatar, Kuwait, Saudi Arabia and the United Arab Emirates between 01 January 2012 and the date of his

application. Such a list is not maintained by the Embassy, and compiling such a list, of more than 1500 names, would have disproportionately diverted the resources of the Embassy. Furthermore, even if such a list could be compiled, the list would not have been made public as no larger public interest would be served by publishing such a list. The total number of deaths of Indian nationals registered in the Embassy, and the cause of their deaths categorized by accidents, natural deaths and suicides, for the period sought by the Appellant, has already been provided to him, and there is no overriding public interest in sharing other details, like name, sex and occupation of the deceased. Many families do not wish to publicize details of the deaths of their dear ones, especially so, in cases of suicides. Such information is, therefore, denied unless there is some overriding public interest involved. In the present case, there is no overriding public interest and, the FAA is, therefore, of the opinion that details other than those provided need not be given to the Appellant. Also, it is seen from the documents provided by the Appellant that the Embassy of India, Muscat has also not provided him these details, and the Embassy of India, Kuwait has stopped publishing such details from 2018.

ORDER OF APPELLATE AUTHORITY

5. In view of the reasons given above, the FAA rules that information provided by Shri K.S. Dhiman, Second Secretary (HOC) and CPIO, Embassy of India, Doha was in order.

6. The Appeal stands disposed off.


(Rajesh Kamble)
Counsellor (C&CA)
& First Appellate Authority under the RTI Act, 2005
Tel. : 00-974-44255705
Email : counsellor.doha@mea.gov.in

To:

Shri Venkatesh Nayak, 55A, 3rd Floor, Siddharth Chambers 1 Kalu Sarai, New Delhi – 110 016, India.