APPEAL U/S 19(1)

The Right to Information Act, 2005

To,

The appellate authority, Executive Engineer L ward , BMC, Mumbai-4000----

**1. Full name of the applicant:** Kamlakar Ratnakar Shenoy

* 1. **Address:** B / 903, Vaishali apartments, Sheth Motisha ( Love ) Lane, Opp. Telephone exchange, Mazgaon, Mumbai-400010. Mobile no. 9870987359.
  2. **Grounds of appeal:**

1. The PIO while replying to RTI application has violated section 7(1) of RTI act and other provision of law and thereby committed an offence u/s 166 and 167 of IPC by denying the appellant sanction plan of the building which is public document.

1. **The PIO has not disclosed his name when he signed the reply.**
2. **The information cannot be denied on the grounds that it is personal information under 8(1)(J) of the RTI act. This section is not applicable to deny information when information / documents are procured to verify compliance and confirm the procedure and rules and regulation followed in the decision making process which includes**
3. **Public documents / compliance of rules and regulations**
4. **supervision and accountability regarding the procedure followed at the time of taking decision**
5. **Criteria and compliance of criteria / conditions by any public authority at the time of**

* **Making Appointment of any person as public servant or otherwise.**
* **Giving of any contract.**
* **Any Sanction and permission given by any public authority**

1. **Section 7(8)(i) RTI act):** The PIO is duty bound to provide reason**. The PIO has not established how this information shall adversely affect the concerned third party by way of competitive position/ trade secret.**
2. **Section 8 J:** The PIO has not stated that the said information shall be denied even to Parliament and State legislatures. The PIO shall specifically state that it shall be denied even to Legislature / Parliament in his reasoned reply.
3. **Section 8D, RTI act:** the information can be denied only on the grounds mentioned herein below unless the competent authority is satisfied that larger public interest warrants disclosure of such information.

* Trade secret.
* Commercial confidence
* Intellectual property
* The disclosure of which could harm the competitive position of third party.

1. **Section 19(5) RTI act**: That information cannot be directly denied on grounds of section 11 of RTI act, without justifying the denial and application of the section 11, as required under. The PIO shall also explain what prejudice / loss and injury shall be caused to the third party by providing the information to the applicant.
2. **Section 24 (1) (4):** provided the information pertaining to the allegations of corruption and human rights violations shall not be excluded under this section
3. The larger public interest involved is that there are every probabilities / doubts / allegations / corruption been committed in the process of the appointment of staff -officers / contract issued / sanction-permission granted by causing misrepresentation/ concealing the true facts.
4. There is no invasion in privacy, as there is nothing personal of any person/ individual, which if provided shall harm the competitive position and /or destruction of trade and business.
5. The PIO cannot deny any documents which disclose the procedure followed by any public authority, before taking a decision along with rules and regulations followed by the public authority for giving sanction / permission.
6. The information which is uploaded on web site becomes public documents. Hence, section 8 (1) (j) cannot be invoked.
7. It clearly appears that the PIO/ FAA passed orders in judicial proceedings which appears -

* to be prima facie corrupt-malicious
* Blatantly Contrary to law.
* With dishonest intentions to shield and protect the wrong doers / accused.
* not intended to be done / passed under RTI Act or any rule made there under.



**Prayers**

**Mandatory role of FAA in first appeal and while passing the order shal record his finding on the below mentioned grounds raised by the appellant ( no discretion)**

* + - 1. PIO cannot forward the RTI application u/s 6(3) of RTI act. The PIO shall call for the information u/s 5(4) RTI act.
      2. The FAA shall record the submission and arguments of appellant and PIO and thereafter give his findings.
      3. The PIO shall be directed to give clarification that the information sought by the applicant shall also be denied to parliament and legislature (section 8J) to support denial of information.
      4. The FAA shall direct the PIO to provide clarification u/s 19(5) RTI act. Copy of clarification shall be provided to appellant at least 3 days before the hearing.
      5. Information which cannot be denied to Parliament / Legislature cannot be denied to any citizen.
      6. FAA shall direct PIO to provide the reasons for rejection / refusal. (Section 7(8)(i) RTI act), which the PIO has not provided.
      7. FAA is duty bound to get his order implemented and verify that the information is provided to the applicant. **(page 6 para 6) of Hon. Ratnakar Gaikwad guidelines dt 18.6.2012 and Circular dt. 25.6.2019).**
      8. FAA shall recommend action against the PIO and bring on record the illegal denial of information / any other illegal acts and violations committed by PIO. **(GAD circular dt. 10.8.2009 para 6,7,8,10 & Hon. Ratnakar Gaikwad guidelines page 2 & 3**).
      9. FAA shall after passing the order in favor of Appellant directing the PIO to provide the information shall take all efforts to provide the information and get his order implemented or take action in accordance with GAD circular 31.3.2008 and 25.6.2019 against PIO & **Hon. Ratnakar Gaikwad guidelines page 6 & para 6**).
      10. FAA shall recommend action against the PIO for violation of section 7(1) RTI act, under section 19(8), 20(1), 20(2) of the RTI Act in accordance with **page 2 & 3 ( para 1 to 8) of Hon. Ratnakar Gaikwad guidelines dt 18.6.2012 and GAD circular dt. 10.8.2009 para 6,7,8,10** .
      11. That Written submissions of PIO on affidavit shall be provided to appellant before 7 days of hearing to prepare himself for rebuttal. **GAD circular 10.8.2009 para 7. VVIMP (these documents are evidence for prosecution of PIO under RTI act as well as for criminal prosecution u/s 166, 167 IPC).**
      12. If the FAA fails to do so the FAA shall be guilty as per GAD circular 31.3.2008, 10.8.2009. SIC circular 25.6.19 and the above accusations can be made against FAA for failing to discharge his duty and disobeying direction law and framing incorrect records in judicial proceedings. getting protection u/s 21 RTI will be remote as such actions can be proved that the FAA has not acted in good faith and as intended to be done under RTI act or any rule made there under.

Place: Mumbai. Signature of the applicant

Date: