**Does not fall under section 2 F of RTI act.**

The denial of information is on wrongful grounds namely\_

1. The PIO should have provided the information in the manner it is maintained by the public authority.
2. **Section 2F of RTI act**: **any information in any form**. Nowhere discloses that the information shall be provided which is only on the records as is maintained.
3. **Section 2(J) RTI act**: right to information means the right to **information accessible under this Act which is held by or under the control** of any public authority.
	1. **Section 4(1)(a):**

**“Every public authority shall----**

**(a). maintain all its records duly catalogued and indexed in a manner and the form which facilitates the right to information under this Act and ensure that all records that are appropriate to be computerized and within reasonable time……….”**

1. **Hon. Ratnakar Gaikwad Guidelines dt. 18.6.2012 page 7 para 7**

The records shall be maintained in the manner to facilitate providing of information as sought by the applicant immediately.

1. **Section 4(1) (b)**

 (iii). The procedure followed in the decision making process, including channels …………

(iv). The norms set by it for discharge of functions.

(v). The rules and regulations, instructions, manuals and records, held by it or under its control or used by its employees for discharging its functions.”

1. **RTI act section 7(1), GAD circular dt. 31.3.2008, 10.8.2009 para 3:**
* Information shall be provided within 30 days.
* information shall be denied only under section 8 & 9 of RTI act.

Hence, is denying the information as it shall expose his **“Misbehavior and incapacity”.**

1. **Section 7(9)** clearly directs PIO to provide the information in the format sought by the applicant.
2. **RTI act section 7(1), GAD circular dt. 31.3.2008, 10.8.2009 para 3:**
* Information shall be provided within 30 days.
* information shall be denied only under section 8 & 9 of RTI act.

Hence, is denying the information as it shall expose his **“Misbehavior and incapacity”.**

1. **GAD circular dt. 10.8.2009 para 6,7,8 :** i.e. in the event, if the FAA is seized with knowledge that the PIO has failed to discharge his duty, the FAA shall forward the following documents to Information Commissioner
* Original RTI application.
* Appeal memo
* PIO reply and counter statement / written submission in First appeal.
* FAA decision
* FAA recommendation to take action against the PIO for failing to discharge his duty.
1. **GAD circular dt. 10.8.2009 para 10:** the PIO and FAA shall implement all the provision of the act. The Information Commissioners shall take stringent action in case the information has not been provided and /or if the relevant information has not been provided**.**
2. **Hon. Ratnakar Gaikwad Guidelines dt. 18.6.2012 page 3 para 5,7,8**:

 Duty of the FAA

* **Para 5:** the FAA is ignoring the illegal acts committed by PIO and just passing orders to provide information.
* **Para 7:** there is no implementation of the order passed by the FAA.
* **Para 8:** the FAA is not recording the reasons for failure on the part of PIO to not provide the information within stipulated period.
1. **Hon. Ratnakar Gaikwad Guidelines dt. 18.6.2012 page 6 para 6**:

**RESPONSIBILITY OF FAA TO GET HIS ORDER IMPLEMENTED.**

It shall be responsibility of FAA to verify and confirm the implementation of his order passed and verify whether the applicant has received the information as per order in First appeal. FAA is responsible for getting his order passed in First appeal

1. **GAD circular dt. 10.8.2009**
	* 1. **Para 6:** the it comes to the knowledge or brought to the knowledge of FAA that PIO has not discharged his duty in that event the FAA shall recommend action and forward to the Information Commissioner the
* RTI application.
* Appeal memo
* Written submission by PIO
* Recommendation and reasoning of FAA
* Order in First appeal
	+ 1. **Para 8:** if it comes to the knowledge of the FAA that the PIO has committed lapses while providing information he shall forward to the information Commissioner
* Record the lapses committed by PIO in his order.
* The copy of the order along with recommendation of action to be taken against the PIO.
* This will increase the accountability of PIO
* The penalty levied and disciplinary action taken shall be recorded in confidential report and service register of the PIO.
1. **GAD circular dt. 25.6.2019**
	1. Para 3: the State Chief information Commissioner has directed that if the PIO has failed to provide information to the applicant the FAA shall take special efforts to provide information to the applicant. The FAA shall see and confirm whether the PIO has provided the information or not.

 In the event, if the FAA has been careless and omitted to implement the RTI act and if the same is brought to the knowledge of the Information Commissioner action against FAA shall be taken in accordance with section 19 (8) to recommend disciplinary action against the FAA.