

**CENTRAL INFORMATION COMMISSION**  
Appeal No. CIC/WB/A/2009/000758 dated 14.08.2008  
**Right to Information Act 2005 – Section 19**

Name of the Appellant : Sh. Venkatesh Nayak, New Delhi

Name of the Public Authority: M/o Home Affairs

**Background**

Sh. V. M (hereinafter called appellant) , through his RTI application dated 15.01.2009 sought following information from the CPIO, Dy. Secretary (IS-II) M/o Home Affairs:

- i. A copy of the most recent version of the manual of Departmental Security Instruction including all office memoranda, circulars and standing orders relating to procedural matter connected with the classification of official records issued till the date of this application.
- ii. A copy of all office memoranda, circulars and standing orders on procedural matters pertaining to claiming governmental privilege over official records under Section 123, 124 and 162/2 of the India Evidence Act, 1872 issued till the date of this application.
- iii. Details of action taken for giving effect to the recommendations contained at para 8.8.1 in the report entitled Right to Information: Master Key to Good Governance submitted by the Second Administrative Reforms Commission.”

Sh. J. P. S. Dy. Secretary to the Govt. of India, vide letter dated 28.01.2009, transferred his RTI application to the concerned CPIO's for necessary Action. Sh. Amar Chand , Under Secretary (IS-II Division) m/o Home Affairs, vide his letter dated 2.03.2009, replied to the appellant as follows: **“I am directed to refer to your application dated 15<sup>th</sup> Jan, 2009-IS-II dated 28<sup>th</sup> Jan, 2009 on the above mentioned subject and to state that the Manual of Departmental Security Instructions, 1994, reviewed and amended from time to time, is a ‘Confidential’ document, and is exempted from disclosure from sharing with the general public under Section 8(1)(a) of RTI Act, 2005”** and Sh. S.K. Malhotra, the CPIO, Dy. Secretary IS-II Division, M/o Home Affairs vide his letter dated 29.04.2009, replied as follows: **“In continuation of this ministry's OM No. A-43020/01/2009-RTI dated 26<sup>th</sup> March, 2009 and with reference to point NO. 2 of your RTI application dated 3<sup>rd</sup> March, 2009, I am directed to state that the Manual of Departmental Security Instructions, 1994 reviewed and amended from time to time, is a ‘Confidential’ document, and is exempted from sharing**

**with the general public under Section 8(1)(a) of the RTI Act, 2005.”**

Aggrieved with the decision of the CPIO, the appellant file a first appeal before the First Appellate Authority. Sh. Lokesh Jha, Jt. Secretary, Govt. of India and designated F.A.A, replied as follows **“Kindly refer to your appeal dated 1<sup>st</sup> May, 2009 on the above mentioned subject. The order of the CPIO was made as per the Departmental Security Instructions 1994 and the reasons for not conveying the information cannot be amplified as the same are covered under the Manual of Departmental Security Instructions, 1994 reviewed and amended form time to time is a ‘confidential’ document, and is exempted from sharing with the general public under Section 8(1)(a) of the RTI Act, 2005.”** Dissatisfied with the reply of the respondent the appellant file a second appeal before the Commission.

2. The matter was heard on 8.12.2009.
3. Sh. Venkatesh Nayak, the appellant was present for the hearing.
4. Sh. Lokesh Jha, J.s. (IS), Sh. S.K. Malhotra D.F. and Amar Chand, U. Secretary, IS-II represented the appellant.

During the hearing the appellant submitted that the replies of respondent indicates complete ignorance of procedure, required under the RTI Act, 2005. The replies of the respondent shows a lack of application of mind. The appellant further submitted that the respondent has not passed the speaking order and they have failed to give reasons why desired information is exempted under Section 8(1)(a) of the RTI Act, 2005. It was also the contention of the appellant that merely stating that manual is covered under Section 8(1)(a), is not adequate reason for the purpose of under Section 7(1) of the RTI Act, 2005. The crux of the argument of the appellant was that desired information will not prejudicial in the sovereignty and integrity, or its security or strategic, scientific or economic interests of the state or relations with foreign stat or lead to the incitement of any offence. On the other hand Sh. S.K. Malhotra, Dy. Secretary and CPIO, Govt. of India, submitted his written representation, in the response of the hearing notice of the Commission, wherein he pleaded that, **“In this connection it is stated that the ‘Manual of Departmental Security Instructions’ deals with the safeguarding of such information in the procession of the Government, the unauthorized disclosure of which would cause damage to national security or would cause embarrassment to the Government in its functioning or would be prejudicial to the national interest. National Security covers not only the matters concerning defence and foreign relations but also political and economic stability as well as public order. The said Manual contains instructions and procedures for classification of documents as “top secret, “secret” and “confidential”. The Manual**

also contains guidelines for officers competent to classify a document, upgrading and downgrading of a classified document, safe-custody, typing, reproduction, micro-filming and computer storage etc. of classified documents. According to the said Manual, "Top Secret" classification is applied to information and material the unauthorized disclosure of which could be expected to cause exceptionally grave damage to the national security or national interest. It may be worth mentioning that this category is reserved for the closest secrets and is to be used with great reserve. The "Secret" classification is applied to the information and material, the unauthorized disclosure of which could be expected to cause serious embarrassment to the Government in its functioning. This classification is used for highly important matters and is the highest classification normally used. The "Confidential" classification is applied to information and material, the unauthorized disclosure of which could be expected to cause damage to the national security or would be prejudicial to the national interest or would embarrass the Government in its functioning. "in this connection". He further submitted that "Each Ministry/Department is required to identify the information which deserves to be given a security classification. Illustratively, the information concerning the following would deserve classification:-

- i) Military plans, weapons and operations,
- ii) The vulnerability or capabilities of systems, installation or plans relating to national security,
- iii) Intelligence activities, Intelligence sources or methods
- iv) Foreign relations or foreign activities of the Country
- v) Nuclear energy programmes of measures for safeguarding nuclear materials or facilities.
- vi) Scientific, technological or economic information having a bearing on national security,
- vii) Information received in confidence,
- viii) Important negotiations and contracts,
- ix) Confidential source, and
- x) Cryptology

In view of his written representation Sh. Lokesh Jha, JS(IS), vehemently apposed to the disclosure of the desired information on the ground that disclosure of such information may prejudicially effect the sovereignty, integrity of Indian, the Security and strategy policy of the Govt. of India. The Manual of Departmental Security Instruction classifying documents may, indirectly, reveal the security policy/strategy of the Govt. and if the same falls into the hands of Anti Nation persons, like naxals and other terrorists group, it may compromise the security of India. In respect to the written representation of the respondent the appellant sought one week time to file the rejoinder Sh. Venkatesh Nayak submitted his rejoinder, wherein he pleaded that "The disclosure of the Manual will not amount to disclosure of sensitive information to him or to the general public. The public interest protects under Section 8(1)(a) with regard to national security, Defence, security, strategic and economic interests or relations with foreign States is not prejudicially affected at all. Therefore the orders of the CPIO and the Appellate Authority invoking Section 8(1)(a) to deny access to the Manual are unjustified and fit to be set aside. In his rejoinder the appellant further pleaded that the purpose of Section 4(1)b(5) of the RTI Act is to demystify rules, procedures and guidelines of Public Authorities and make them available in the public domain in order to serve two goals: (i) To bring a greater degree of clarity in the working of a public authority; and (ii) To enable citizens to hold the government functionaries accountable for their behavior and actions by assessing them against the standards laid down. In order for citizens to be able to exercise their right to hold government and its instrumentalities accountable, disclosure of rules, instructions, procedures and guidelines, including the manuals they contain, is of crucial importance." The appellant also cited the security and classification policy of the USA, U.K., Bulgaria, Newzealand and some other countries also, wherein, he claims that such type of information is disclosed in routine manner by these countries.

### **Decision**

The representation made by Shri S.K. Malhotra, Dy. Secretary, MHA, (CPIO) has been extracted in extenso in para 06 herein above wherein he has mentioned that the requested document is the Manual for Departmental Security Instructions, 1994, which is a 'confidential document'. He has also mentioned therein that each Ministry/Department of the Govt. of India is mandated to identify information which deserves to be given a security classification. He has also given the illustrations of the type of information which would require security classification by the concerned Ministry/Department relating to issues such as military plans, weapons and operations; intelligence activity, intelligence sources or methods; Nuclear energy programme; scientific, technological or strategic information having a bearing on national security; cryptology etc. It is common place that if sensitive

issues like the ones mentioned above are not given security classification, the security and integrity of India would be jeopardized with fatal consequences. It is to be noted that the Manual in question lays down guidelines for security classification of the issues referred to above. In other words, it is a kind of code for security classification. It can hardly be over-emphasized that disclosure of the contents of the Manual may enable elements hostile to India-both internal and external-to peep into the security strategy of the Indian security establishment and thereby cause detriment to India's security, without let or hindrance.

2. Needless to say, such a bleak scenario cannot be countenanced. I have, therefore, no hesitation in holding that disclosure of the requested information would be detrimental to the India's security interests.

3. It passing, I may also observe that the plea advanced by the appellant that the Manual under reference is mandated to be disclosed u/s 4 (1) (b) of the RTI Act is based on gross misunderstanding and misappreciation of the provisions of RTI Act. By no stretch of imagination, can it be conceived that this Act would permit disclosure of any information which may adversely impact on India's security concerns. The provisions of clause (a) of section 8 (1) bears testimony to the security concerns of the law makers. Hence, this plea is misconceived and needs to be discarded.

After examining the relevant replies and documents and after hearing the parties, the Commission finds merit in the submissions of the respondents. The disclosure of the information under Section 4 itself is guided by the Section 8 and 9 of the RTI Act, 2005. The intention of the legislature can never be to disclose the information sue-moto, which is exempted under Section 8 and 9 of the RTI Act, 2005. Moreover the disclosure of manual of the departmental security instruction and the classification final record may be interpreted i.e. by enabling the individuals hostile to the nation to know the security strategy and w the details about persons dealing with sensitive information of the country. However, the Commission feels that a speaking order should have been passed by the respondents while seeking exemption under the RTI Act, 2005. However, regarding point no. 3 of the RTI application of the Appellant, the Respondents are directed to provide requisite information to the Appellant.

(Sushma Singh)  
Information Commissioner  
8.12.2009

Authenticated true copy:

(P.C. Purkait)  
S.O. & Asst. Registrar

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