

No. IITH/40/2020/RTI/Admin

Dated: 21.05.2021

To,

Sub: Disposal of appeal filed under RTI Act, 2005.

Ref: 1.Your RTI application with Reg. No.IITHY/R/E/21/00136,dated.19.03.2021.

2.Your appeal No. IITHY/A/E/21/00024, Dt.23.04.2021

Dear Sir/ Madam,

I have gone through your appeal with registration No. IITHY/A/E/21/00023 dt. 23.04.2021 and the reply furnished by the CPIO with reference to your RTI application cited above. Having examined the matter in detail, I sum up my observations as follows.

4	Information Sought	Information given and details of documents, if any, furnished.
	<p>To The Central Public Information Officer Indian Institute of Technology Sir, This application under RTI Act 2005 is presented seeking certain information from your Institute to understand the Faculty recruitment landscape in Centrally Funded Technical Institutes (CFTIs like IIT, IIIT, NIT etc.) so that aspiring PhD students can choose PhD Guides / Advisors appropriately. Prof Sankar Kumar Pal is an eminent academican, stalwart scientist of India such that Prof Pal was appointed as Scholar-in-Residence in the Computer Science and Engineering Department of IIT Jodhpur and soon thereafter, 3 of his recent PhD students has been</p>	<p>No Information Sought.</p>

	<p>appointed in the same Department of IIT Jodhpur during the academic year 2019-2020</p> <ul style="list-style-type: none"> ● Dr Suman Kundu as Assistant Professor on 1st July 2019 ● Dr Debarati Bhunia Chakraborty as Young Faculty Associate on 25th July 2019 ● Dr Romi Banerjee as Young Faculty Associate on 24th February 2020 and Assistant Professor on 13th April 2020 <p>It is not known whether Dr Jayanta Kumar Pal, another recent PhD student of Prof Pal, is also recruited in the same department/institute.</p> <p>Kindly provide the following information to each point separately.</p>	
	<p>1. A list of such eminent academicians, stalwart scientists whose PhD students are prioritized / entitled to Faculty positions in your Institute.</p>	<p>No such records are available with this office, as the name of PhD Supervisor is not asked for in the faculty application.</p>
	<p>2. Since 01.01.2020, Date of Application in your Institute, with Position/Department applied for and Status of application of (i) Dr Suman Kundu (ii) Dr Debarati Bhunia Chakraborty (iii) Dr Romi Banerjee (iv) Dr Jayanta Kumar Pal.</p>	<p>Information on applications submitted & names of the candidates cannot be shared with third party, as it amounts to breach of trust placed on the institute. Also the asked information does not satisfy any larger public interest.</p>

Grounds of the appeal:

Refused access to Information Requested

Appeal Text:

Sir,

This Appeal is preferred u/s 19(1) of RTI Act due to not providing the requested information by the CPIO.

Recruitment in a public funded institute (IIT) is essentially a public activity. Therefore, information regarding the faculty recruitment (i.e. list of applicants, application number of applicants, status of application etc.) cannot be termed as third party or private information. To uphold the spirit of RTI Act, the requested information pertaining to faculty recruitment should be disclosed proactively.

Blatant misuse of section 8(1)(j) of RTI Act, is noticed here to decline requested information. To qualify for this exemption, it must be personal information. The adjective personal is an attribute which applies to an individual and not to an institution. Therefore, it suggests that personal cannot be related to IIT. Moreover, the requested information is pertaining to the faculty recruitment, a public activity of the institution. Hence, Section 8(1)(j) of RTI Act cannot be invoked here. The appellant is dismayed by the mechanical way of declining information by citing exemptions. The CPIO deliberately declined information in willful disregard for the RTI Act and circular / Oms of DoPT. It is pertinent to mention here that Hon'ble Madras High Court in a recent judgement (W.P.No.17677 of 2010) dated 07.09.2020 observed:- Now-a-days, the Officials are used to adopt a tactic answer in mechanical manner that the information sought for is exempted..... without actually ascertaining as to whether the information sought falls within the ambit of the said provision. Such Officers must be taught a lesson and in my view, they are unfit to hold the post of Public Information Officer or any other post in connection with the discharge of duties under RTI Act and they should be shown the doors, so that it will be a lesson for other Officers to act in accordance with the terms of the Act, failing which they may also face the similar or more consequences. Hence, this appeal is presented before you for disclosure of the requested information forthwith and pass any such order / direction as appropriate.

Disposal of Appeal:

Relation between an applicant & employer is fiduciary relationship. Application provides information to employee with a trust that, it will not be shared with third party. Moreover, information asked is not pertaining to any selected candidate, candidate called for interview, any person who has got any government benefit. etc.

The Question was **“Since 01.01.2020, Date of Application in your Institute, with Position/Department applied for and Status of application of (i) Dr Suman Kundu (ii) Dr Debarati Bhunia Chakraborty (iii) Dr Romi Banerjee (iv) Dr JayantaKumar Pal.”**

Under Section 8(1)(e) of the RTI Act, information available to a person in his fiduciary relationship is exempted from disclosure, unless the competent authority is satisfied that the larger public interest warrants the disclosure of such information.

The traditional definition of 'fiduciary' is, a person who occupies a position of trust in relation to someone else, therefore requiring him to act for the latter's benefit within the scope of that relationship. A fiduciary relationship springs into existence where confidence is reposed by one in another and that leads to a transaction in which there is a conflict of interest and duty in the person in whom such confidence is reposed. The term 'fiduciary' refers to a person having a duty to act for the benefit of another, showing good faith and candour, where such other person reposes trust and special confidence in the person owing or discharging the duty. The term 'fiduciary relationship' is used to describe a situation or transaction where a beneficiary places complete confidence in another person in regard to his affairs, business or transactions. The fiduciary is expected to act in confidence and for the benefit and advantage of the beneficiary, and use good faith and

fairness in dealing with the beneficiary or the things belonging to the beneficiary. If the beneficiary has entrusted anything to the fiduciary, to hold the thing in trust or to execute certain acts in regard to or with reference to the entrusted thing, the fiduciary has to act in confidence and expected not to disclose the thing or information to any third party. There are also certain relationships where both the parties have to act in a fiduciary capacity treating the other as the beneficiary, viz. a partner vis-à-vis another partner and an employer vis-à-vis employee. An employee who comes into possession of business or trade secrets or confidential information relating to the employer in the course of his employment, is expected to act as a fiduciary and cannot disclose it to others. Similarly, if on the request of the employer or official superior or the head of a department, an employee furnishes his personal details and information, to be retained in confidence, the employer, the official superior or departmental head is expected to hold such personal information in confidence as a fiduciary, to be made use of or disclosed only if the employee's conduct or acts are found to be prejudicial to the employer. The purpose of the exemption under sub- section 8(1) (e) of the RTI Act is to permit screening and preservation of confidential and sensitive information made available due to fiduciary relationship.

2. Accordingly, your appeal cited above stands disposed of.

3. Appeal against the decision of the Appellate Authority lies with the Central Information Commission, Room No.326, 'C' Wing, II Floor, August Kranti Bhawan, Bhikaji Cama Place, NEW DELHI 110 066.

Yours faithfully,



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