

**BEFORE THE DESIGNATED FIRST APPELLATE AUTHORITY
AND B. N. D BHAUMIK, POWER GRID CORPORATION OF INDIA
LIMITED GURGAON, HARYANA.**

**Appeal submitted under Section 19(1) of the Right to Information Act,
2005**

In the matter of

Anmol Purohit

vs

CPIO, Power Grid Corporation of India Limited

Date of submission: 30/09/2020

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**BEFORE THE DESIGNATED FIRST APPELLATE AUTHORITY
AND B. N. D BHAUMIK, POWER GRID CORPORATION OF INDIA
LIMITED GURGAON, HARYANA.**

**Appeal submitted under Section 19(1) of the Right to Information Act,
2005**

Date: 30/09/2020

- 1. Name and address of the appellant** : Anmol Purohit
25, Gokuldharm society,
Chandkeda, Ahmedabad
382 424.

- 2. Name and address of the Central Public Information Officer Corporation of (CPIO) to whom the RTI application Was sent online** : The Central Public Information Officer, Power Grid
India Limited, Corporate Centre Saudamini, Plot No. 2 Sector-29,
Gurgaon Haryana - 122 007.
Application sent from;
<https://rtionline.gov.in/request/request.php>

- 3. Name of the CPIO who gave the reply to the RTI Application** : Reply dated 18/09/2020 sent by Shri Jasbeer
Singh, Information Officer, Power Grid Corporation of India Limited

- 4. Particulars of the RTI application-**

 - a) No. and date of submission is of the RTI application** : Application Reference number RTI/2020- 21/19511.



RTI MIS Reference No.
PGCIL/R/E/20/00311
Dt.24/08/2020.

b) Date of payment of additional fee (if any) : Rs. 10, payment Reference Number is 202023732813086.

5. Particulars of the order(s) including number, if any against which the appeal is preferred : Reply dated 18/09/2020

6. Brief facts leading to the appeal :

a) On 24/08/2020 present Appellant has applied RTI for information from the CPIO Power Grid Corporation of India Limited online from the website i.e. <https://rtionline.gov.in/request/request.php> by paying prescribed application fee of Rs. 10 Payment Reference Number is 202023732813086, stating as follows:

- "Provide a Copy of the letter dated 14.07.2020 of the Department of Telecommunications withdrawing the provisional demand notices towards License Fee including interest, penalty and interest on penalty in respect of NLD & ISP licenses pertaining to FY 2006-07 to FY 2018-19."

b) On 18/09/2020, this Appellant received the reply from the CPIO of the Power Grid Corporation of India Limited Against the above said information the reply given from your side is as below vide communication dated 18th September 2020;

"Based on submitted license fees by POWERGRID as per license conditions, Provisional assessment orders for some years were received from DoT.

Later on, DOT withdrew the above Provisional demand notices vide their letter dated 14/07/2020. Related information is available in the following link:



<https://www.bseindia.com/xmldata/corpfiling/AttachHis/86ba04ea-23ca41b2-b8f9-4fce9bc9acdf.pdf>

The Copy of withdrawal letter is exempted from disclosure under Section 8(1)(d) of the RTI Act, 2005".

- c) This Appellant is aggrieved by the reply of the CPIO dated 18/09/2020, therefore approaching the present authority.

7. Prayers or relief sought :

This Appellant prays that this First Appellate Authority be pleased to:

- 1) Admit this appeal and inquire into the matters raised herein;
- 2) Set aside the reply dated 18/09/2020 of the CPIO,
- 3) Direct the said CPIO to disclose all information specified in the instant RTI application free of charge as is this Appellant's right under Section 7(6) of the RTI Act.

8. Grounds for the prayer or relief :

The appeal deserves to be admitted and allowed on the following grounds without prejudice to one another, and those that may be urged at the time of hearing of the present Appeal;

- I. According to Section 19(1) of the RTI Act, an RTI applicant who is aggrieved by a decision of the CPIO, may prefer an appeal against such decision to an officer senior in rank to such CPIO within 30 days of the receipt of such decision. This Appellant received the decision of the CPIO specified on 18/09/2020. This appeal is being submitted within the stipulated time as provided in the RTI Act. This Appellant is aggrieved by the decision of the CPIO for the reasons described below:
- II. It is to be noted that it was said in that reply dated 18/09/2020 by the CPIO that "the copy of withdrawal letter is exempted from disclosure under Section 8(1) (d) of the RTI Act, 2005. The applicant herein humbly submits that Section 8(1) (d) of the RTI Act, 2005 states that;

"(d) information including commercial confidence, trade secrets or intellectual property, the disclosure of which would harm the competitive position of a third party, unless the competent authority is satisfied that larger public interest warrants the disclosure of such information; "



That by reading the above section it is clear that only in given circumstances exemption is allowed, wherein in the present case Power Grid Corporation India Limited has not been able to demonstrate that how the disclosure of the said information would fall under section 8(1)(d). Therefore, in the given circumstances the applicant herein deserves to get the information which has been sought as mentioned above.

- III. It is respectfully submitted that **there is absolutely no reason whatsoever even traversed in the cryptic refusal of information under the guise of Section 8(1)(d) of the RTI Act, 2005** as to how the said provision would be attracted in the present case, it being a copy of the order of a Government of India authority (Department of Telecommunications) in the case of the Power Grid Corporation of India Limited, an authority amenable to the RTI, wherein Demand notice was withdrawn against License Fees of a License that it very much in the public domain. Thus, this is a fit case of imposition of Penalties as envisaged in Section 20 of the Right to Information Act, 2005.
- IV. It is humbly submitted the information sought by the Appellant herein has been rejected only in terms of Section 8 (1)(d) of RTI Act, is wholly unjustified on the ground that the purpose of enactment of RTI Act itself is to ensure transparency in all respects. Moreover, a reading of the said section shows that it relates to commercial confidence, trade secrets, etc., *the disclosure of which would harm the competitive position of a **third party*** and the order of refusal **does not even mention which third Party would be harmed, much less provide any reasons whatsoever** for the same for not providing the information sought in the present case the information sought does not fall under the said Section.
- V. That the CPIO specified at has invoked Section 8(1)(d) in his reply dated 18/09/2020 to protect the information in compliance with said section if the information is in the nature of commercial confidence or trade secrets or any intellectual property and whose disclosure will harm the competitive position of a "third party" only such information can be exempted. But in the present case the Appellant has not sought any information which falls under section 8(1)(d), the contents of the instant RTI application clearly indicate that the information sought relates to the activities of this Respondent Public Authority. It is not mentioned in the said reply of the CPIO as to which third party's commercial interests, trade secrets, intellectual property or competitive position the CPIO is seeking to protect. This action of the said CPIO is also indicative of lack of adequate application of mind to the contents



of the instant RTI application. This Appellant is aggrieved by this action of the said CPIO and prays for the said decision to be set aside.

- VI. It is as well settled law that every citizen is entitled to transparent view of the functioning of public authorities and the trepidation shown by the Public Authority with regard to the demand of such details by others will not be a ground in denying details to public in contra to the provisions of the RTI Act. That is the present case the information sought was a letter dated 14.07.2020 of the Department of Telecommunications withdrawing the provisional demand notices and the same is neither result in disclosure of trade secrets or intellectual property nor it is going to harm the competitive position of any third party. Therefore, merely using section 8(1)(d) in reply dated 18/09/2020 by the CPIO of Power Grid Corporation India Limited as a ground for rejecting an application by the present Appellant under RTI is arbitrary and the same is against the very spirit of the Statue.
- VII. That the applicant humbly submits that it is a settled law that Section 8(1) (d) do not enjoy the absolute exemption and the exemption under Section 8(1)(d) is available only in regard to intellectual property, the disclosure of which would harm the competitive position of any third party. In the present case the disclosure of the information in no way harm any of the interests protected under Section 8(1)(d) of the RTI Act and no public interest is likely to be harmed by the disclosure of such information. Further, it needs to be pointed out that Respondent is a Public Authority using taxpayer funds. Therefore being a responsible voter cum taxpayer of India, this Appellant has every right to seek the information.
- VIII. The impugned order is illegal, non-speaking, misconceived, without any application of mind and is a denial of information without any reasonable cause and therefore warrants the kind interference of the Appellate Authority in the interests of Justice.
- IX. Orders pertaining to License conditions and fees are part of Public Record and the order of a Government of India authority (Department of Telecommunications) in the case of the Power Grid Corporation of India Limited, an authority amenable to the RTI, wherein Demand notice was withdrawn against License Fees of a License that it very much such Public Record and cannot be refused under Section 8(1)(d).
- X. The impugned order is against the settled law interpreting the Section 8(1)(d) of the RTI Act as per decision of the Hon'ble Supreme Court of India in a catena of decisions as under;



a. ICAI v. Shaunak H. Satya reported in (2011) 8 SCC 781

"26. Among the ten categories of information which are exempted from disclosure under Section 8 of the RTI Act, six categories which are described in clauses (a), (b), (c), (f), (g) and (h) carry absolute exemption. **Information enumerated in clauses (d), (e) and (j) on the other hand get only conditional exemption**, that is, the exemption is subject to the overriding power of the competent authority under the RTI Act in larger public interest, to direct disclosure of such information. The information referred to in clause (i) relates to an exemption for a specific period, with an obligation to make the said information public after such period. **The information relating to intellectual property and the information available to persons in their fiduciary relationship, referred to in clauses (d) and (e) of Section 8(1) do not enjoy absolute exemption.** Though exempted, if the competent authority under the Act is satisfied that larger public interest warrants disclosure of such information, such information will have to be disclosed. It is needless to say that the competent authority will have to record reasons for holding that an exempted information should be disclosed in larger public interest."

b. Union of India v. Namit Sharma, reported in (2013) 10 SCC 359

"27. In the judgment under review, this Court has also held after examining the provisions of the Act that the Information Commission decides matters which may affect the rights of third parties and hence there is requirement of judicial mind. For example, under Section 8(1)(d) of the Act, there is no obligation to furnish "information including commercial confidence, trade secrets, or intellectual property, the disclosure of which would harm the competitive position of the third party, unless the competent authority is satisfied that the larger public interest warrants the disclosure of such information". Similarly, the right to privacy of a third party, which is part of his personal liberty under Article 21 of the Constitution, may be breached if a particular kind of information, purely of personal nature may be directed to be furnished by the authority concerned. To protect the rights of third parties, Section 11 of the Act provides that where a Central Public Information Officer or a State Public Information Officer, as the case may be, intends to disclose any information or record or part thereof, may on a request made under the Act, which relates to or has been supplied by a third



party and has been treated as confidential by that third party, a written notice will have to be given to such third party inviting such party to make a submission in writing or orally, regarding whether the information should be disclosed, and such submission of the third party can be kept in view while taking a decision about disclosure of the information. The decision taken by the Central Public Information Officer or the State Public Information Officer, as the case may be, under Section 11 of the Act is appealable under Section 19 of the Act before the Information Commission and when the Information Commission decides such an appeal, it decides only whether or not the information should be furnished to the citizen in view of the objection of the third party. Here also the Information Commission does not decide the rights of a third party but only whether the information which is held by or under the control of a public authority in relation to or supplied by that third party could be furnished to a citizen under the provisions of the Act. Hence, the Information Commission discharges administrative functions, not judicial functions."

XI. Thus the impugned order (reply dated 18/09/2020) is *ex facie* bad in law, as Powergrid Corporation of India itself cannot be considered a 'third party', therefore is no question of *commercial confidence, trade secrets or intellectual property, the disclosure of which would harm the competitive position of a third party* and there being not even a single reason to even aver or justify the same, the refusal of copy in the form of information as is requested is a denial without any reasonable cause whatsoever and deserves to be set aside in Appeal.

9. I hereby verify that the aforementioned facts are true to the best of my knowledge. I also declare that I have authenticated the Annexes to this appeal.

Signature of the Appellant:


(Anmol Purohit)

Annexure - "A Colly"



Anmol Purohit <mail.anmolpurohit@gmail.com>

PowerGrid | RTI Application Created

noreply@powergrid.co.in <noreply@powergrid.co.in>
To: mail.anmolpurohit@gmail.com

Tue, Aug 25, 2020 at 3:38 PM



Dear Anmol,

RTI Application has been created.
Application Reference number is **RTI/2020-21/19511**.
RTI MIS Reference No is **PGCIL/R/E/20/00311**.
[click here to view](#)

Thank You,
POWER GRID CORPORATION OF INDIA

* This is auto generated email by system

POWER GRID CORPORATION OF INDIA
9, Qutab Institutional Area, Katwaria Sarai, New Delhi-110016

08

Your RTI Request filed successfully.

Registration Number	PGCIL/R/E/20/00311
Name	Anmol
Date of Filing	24-08-2020
RTI Fee Received	10
Payment Mode	Credit or Debit Card / RuPay Card
Payment Reference Number	202023732813086
Transaction Status	SUCCESS
Request filed with	Power Grid Corporation of India Ltd.

Telephone Number	0124-2822718
Email Id	cpio.cc@powergrid.co.in



पावर ग्रिड कॉर्पोरेशन ऑफ इंडिया लिमिटेड
Power Grid Corporation of India Limited

सूचना का अधिकार अधिनियम 2005 के अंतर्गत केन्द्रीय लोक सूचना अधिकारी
Central Public Information Officer under the RTI Act, 2005

केन्द्रीय कार्यालय, 'सौदामिनी', प्लॉट नं.2, सेक्टर-29, गुडगांव, हरियाणा-122007
Corporate Centre, 'Saudamini', Plot No. 2, Sector 29, Gurgaon, Haryana 122007



PGCIL/R/F/20/00311

दिनांक : 18 September, 2020

Shri Anmol,
25, Gokuldharm soc , chandkeda, Ahemdabad, Pin-382424
Gujarat

विषय: सूचना का अधिकार अधिनियम, 2005 के तहत जानकारी ।

महोदय / महोदया,

कृपया आर.टी.आर. अधिनियम, 2005 के तहत दिनांक 24 August, 2020 को प्रेषित अपने आर.टी.आर. अनुरोध का संदर्भ लें।

उपरोक्त पत्र में वांछित जानकारी अनुलग्नक 1 में संलग्न है।

यदि आप केन्द्रीय लोक सूचना अधिकारी के उत्तर से संतुष्ट न हों तो, केन्द्रीय लोक सूचना अधिकारी के उत्तर की प्राप्ति के 30 दिनों के भीतर पहले अपील प्राधिकारी के सम्मुख अपील की जा सकती है। आर.टी.आर. अधिनियम, 2005 के तहत केन्द्रीय कार्यालय, गुडगांव में अपील प्राधिकारी का विवरण निम्नानुसार है:

श्री बी.एन.डे.भौमिक,
कार्यपालक, निदेशक (तकनीकी विकास) एवं अपील प्राधिकारी
केन्द्रीय कार्यालय, पावर ग्रिड कॉर्पोरेशन ऑफ इंडिया लिमिटेड,
सौदामिनी, प्लॉट नंबर-2, सेक्टर-29, गुडगांव-122001, हरियाणा।
ईमेल आईडी: appellate.cc@powergrid.co.in
फोन नंबर: 0124-2571790,2863616

धन्यवाद,

भवदीय,


(जसबीर सिंह)

मुख्य महाप्रबंधक (के. आ.) एवं के.लो.सू.अधिकारी

Email ID: cpio.cc@powergrid.co.in



Sub.: Reply to RTI Query by Shri Anmol, Gujarat.

Information Sought:	POWERGRID Reply
<p>Provide a copy of the letter dated 14.07 2020 of the Department of Telecommunications withdrawing the provisional demand notices towards License Fee including interest, penalty and interest on penalty in respect of NLD & ISP licenses pertaining to FY 2006-07 to FY 2018-19.</p>	<p>Based on submitted license fees by POWERGRID as per license conditions, Provisional assessment orders for some years were received from DoT.</p> <p>Later on, DoT withdrew the above Provisional demand notices vide their letter dated 14.07.2020. Related information is available in the following link: https://www.bseindia.com/xmldata/corpfiling/AttachHis/86ba04ea-23ca41b2-b8f9-4fce9bc9acdf.pdf</p> <p>The copy of withdrawal letter is exempted from disclosure under Section 8(1)(d) of the RTI Act,2005</p>

---x---

RP Singh

AO