

NORTHERN RAILWAYS

RTI MATTER – MOST URGENT

**Office of the
General Manager
Baroda House
NR HQ Office**

No.: RTI/Cell/Law/Policy/Misc./2021

Dt. 12.10.2021

SDGM, PCE, PCSEE, PCSTE, PCMM, PCME, PCSO, PCMD, PCSC/RPF, PCCM, PCOM, PFA, PCPO,
Northern Railway HQ Office, Baroda House, New Delhi

CAO/Const., Northern Railway, Kashmere Gate, Delhi.

CAO/USBRL Project, Northern Railway, Satyam Complex, Trikuta Nagar Extn, Jammu Tawi-180012

Dy.CCM/Claims, Station Bldg. Varanasi

CCO, Northern Railway, NDCR Bldg. New Delhi

CPRO, NDCR Building, State Entry Road, New Delhi

Divisions: Divisional Railway Manager, Northern Railway, LKO, MB, UMB, FZR & DLI,

Workshops:

Chief Workshop Manager, Amritsar Workshop, Amritsar

Chief Workshop Manager, Jagadhari Workshop, Jagadhari

Chief Workshop Manager, Alambagh Workshop, Lucknow

Chief Workshop Manager, Charbagh Workshop, Lucknow

Subject : Disclosure / Non Disclosure of 3rd Party Information under RTI Act, 2005

Reference : 1. Section 2(n), Section 8 and Section 11 of RTI Act, 2005

**2. Hon'ble CIC Decision in 2nd Appeal No.CIC/NRAIL/A/2019/149661 dt. 04.10.2021 &
CIC/NRAIL/A/2019/146180 dt. 04.10.2021**

Apropos above, it is reiterated that Section 2(n) defines the meaning of third party, Section 8 spells out the Exemptions from disclosure of Information and Section 11 of Right to Information Act, 2005 governs the procedure for disclosure/non-disclosure of Information pertaining to 3rd party. The text of Section 2(n), Section 8 and Section 11 is reproduced hereunder:

Section 11

(1) 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 on a request made under this Act, which relates to or has been supplied by a third party and has been treated as confidential by that third party, the Central Public Information Officer or State Public Information Officer, as the case may be, shall, within five days from the receipt of the request, give a written notice to such third party of the request and of the fact that the Central Public Information Officer or State Public Information Officer, as the case may be, intends to disclose the information or record, or part thereof, and invite the third party to make a submission in writing or orally, regarding whether the information should be disclosed, and such submission of the third party shall be kept in view while taking a decision about disclosure of information:

Provided that except in the case of trade or commercial secrets protected by law, disclosure may be allowed if the public interest in disclosure outweighs in importance any possible harm or injury to the interests of such third party.

(2) Where a notice is served by the Central Public Information Officer or State Public Information Officer, as the case may be, under sub-section (1) to a third party in respect of any information or record or part thereof, the third party shall, within ten days from the date of receipt of such notice, be given the opportunity to make representation against the proposed disclosure.

(3) Notwithstanding anything contained in section 7, the Central Public Information Officer or State Public Information Officer, as the case may be, shall, within forty days after receipt of the request under section 6, if the third party has been given an opportunity to make representation under sub-section (2), make a decision as to whether or not to disclose the information or record or part thereof and give in writing the notice of his decision to the third party.

(4) A notice given under sub-section (3) shall include a statement that the third party to whom the notice is given is entitled to prefer an appeal under section 19 against the decision.

Section 8: Exemption from disclosure of Information

(1) Notwithstanding anything contained in this Act, there shall be no obligation to give any citizen,--

(a) information, disclosure of which would prejudicially affect the sovereignty and integrity of India, the security, strategic, scientific or economic interests of the State, relation with foreign State or lead to incitement of an offence;

(b) information which has been expressly forbidden to be published by any court of law or tribunal or the disclosure of which may constitute contempt of court;

(c) information, the disclosure of which would cause a breach of privilege of Parliament or the State Legislature;

(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;

(e) information available to a person in his fiduciary relationship, unless the competent authority is satisfied that the larger public interest warrants the disclosure of such information;

(f) information received in confidence from foreign Government;

(g) information, the disclosure of which would endanger the life or physical safety of any person or identify the source of information or assistance given in confidence for law enforcement or security purposes;

(h) information which would impede the process of investigation or apprehension or prosecution of offenders;

(i) cabinet papers including records of deliberations of the Council of Ministers, Secretaries and other officers:

Provided that the decisions of Council of Ministers, the reasons thereof, and the material on the basis of which the decisions were taken shall be made public after the decision has been taken, and the matter is complete, or over:

Provided further that those matters which come under the exemptions specified in this section shall not be disclosed;

(j) information which relates to personal information the disclosure of which has no relationship to any public activity or interest, or which would cause unwarranted invasion of the privacy of the individual unless the Central Public Information Officer or the State Public Information Officer or the appellate authority, as the case may be, is satisfied that the larger public interest justifies the disclosure of such information:

Provided that the information which cannot be denied to the Parliament or a State Legislature shall not be denied to any person.

(2) Notwithstanding anything in the Official Secrets Act, 1923 (19 of 1923) nor any of the exemptions permissible in accordance with sub-section (1), a public authority may allow access to information, if public interest in disclosure outweighs the harm to the protected interests.

(3) Subject to the provisions of clauses (a), (c) and (i) of sub-section (1), any information relating to any occurrence, event or matter which has taken place, occurred or happened twenty years before the date on which any request is made under section 6 shall be provided to any person making a request under that section:

Provided that where any question arises as to the date from which the said period of twenty years has to be computed, the decision of the Central Government shall be final, subject to the usual appeals provided for in this Act.

Section 2(n)

"third party" means a person other than the citizen making a request for information and includes a public authority.

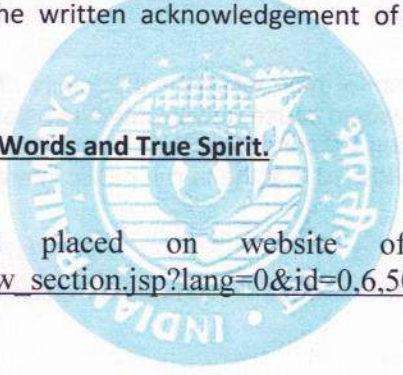
Despite the above standing legal provisions governing procedure for disclosure of third party information, it has been pointed by Hon'ble CIC in above referred Two - 2nd appeal(s) orders that the 3rd party information has been provided in violation of provisions of RTI act. Hon'ble commission in above referred orders has mentioned:

".... A Copy of this order is marked to the General Manager, Northern Railways, to take note of the aberration of RTI Act being manifested in the Respondent public authority's office. The General Manager is directed to sensitize the officials dealing with the RTI matters, regarding the provisions of RTI Act by way of training workshops etc. and putting in place a coherent system of checks and balances"

It may kindly be noted that the above provisions may be brought to notice of all concerned CPIOs, APIOs, Deemed PIOs and FAAs & the written acknowledgement of the same be provided to o/o Dy.GM/Law.

The above may kindly be followed in Words and True Spirit.

A copy of this letter is placed on website of Northern Railways at https://nr.indianrailways.gov.in/view_section.jsp?lang=0&id=0,6,501



(Handwritten signature)
12-10-2021
(Naveen Gulati)
Add'l Gen. Mgr

C: Secy. To GM/NR for kind information of GM/NR Please.