



मिरा भाईंदर महानगरपालिका

जाक्र.मनपा/विधी/मा.अ./०२/२०२०-२१

दि. १४/०९/२०२०

प्रति,

- १) मा. जनमाहिती अधिकारी तथा सहा. संचालक नगररचना
नगररचना विभाग
- २) मा. जनमाहिती अधिकारी तथा कार्यकारी अभियंता
बांधकाम विभाग
- ३) मा. विभाग प्रमुख तथा जनमाहिती अधिकारी
अतिक्रमण व अनधिकृत बांधकाम नियंत्रण विभाग
- ४) मा. जनमाहिती अधिकारी तथा उद्यान अधिक्षक
उद्यान विभाग
मिरा भाईंदर महानगरपालिका

विषय :- केंद्र शासनाचा माहिती अधिकार २००५ अन्वये अर्ज.

संदर्भ :- अर्जदार श्री. ब्रिजेश शर्मा यांचा दि. ०७/९/२०२० रोजीचा अर्ज.

महोदय,

संदर्भिय माहिती अधिकाराच्या अर्जान्वये अर्जदार श्री. श्री. ब्रिजेश शर्मा यांनी स. क्र. ३९७ जुना, १६५ नविन, आरक्षण क्र. २६१ या जागेवरील मंदिराच्या बांधकामाबाबत जनहित याचिका क्र. १०४/२०१० मध्ये मा. उच्च न्यायालयाने पारीत केलेल्या आदेशाच्या अनुशंगाने केलेल्या कार्यवाहीची माहिती माहिती अपेक्षिली आहे. तरी सदर अर्जातील खालीलप्रमाणे मुद्दे आपल्या विभागाशी संबंधित आहेत.

मुद्दा क्र. १, ३, ४, ५ व ६ :- अतिक्रमण व अनधिकृत बांधकाम नियंत्रण विभाग

मुद्दा क्र. ७ :- नगररचना विभाग

मुद्दा क्र. २ :- अतिक्रमण विभाग, विधी विभाग, बांधकाम विभाग व उद्यान विभाग

सदरचा अर्ज आपल्या विभागास वर्ग करित आहे. तरी अर्जदार यांना सदर मुद्द्यांची माहिती आपल्या विभागामार्फत मुदतीत उपलब्ध करून देण्यात यावी, हि विनंती

Senadke

सई वडके

जनमाहिती अधिकारी तथा विधी अधिकारी

मिरा भाईंदर महानगरपालिका

सोबत :- संदर्भिय अर्जाची प्रत जोडत आहे.

प्रत :- श्री. ब्रिजेश शर्मा

ANNEXURE - A
APPLICATION UNDER THE RTI ACT, 2005

Date: 07/09/2020

To,
Public Information Officer,
Law Department, विधी विभाग
Mira Bhayandar Municipal Corporation,
Bhayandar, Thane-4001101



भाईदर महानगरपालिका
कार्यालय, भाईदर (प.)
२६(का)क

1. Full Name of the Applicant : SHRI BRIJESH SHARMA [RTI Activist & Member AAP]
and Address A/403, Jupiter Building,
P.K. Road, Behind Deepak Hospital,
Bhayandar (E) - 401105

आयुक्त
मि. भा. म. न. पा.

2. Information Sought : (RTI/1333/Law/Temple/GardenRes261/07092020) - Temple
constructed on Public Garden Reservation no 261, Survey No 397 (Old) / 165 (New) as per order passed
for Religious Institutions/ structures by Hon'ble High Court in PIL 104/2010.

✓ Information Hon. Commissioner, PIO and FAA of Mira Bhayandar Municipal Corporation office violating
and defeating the PREAMBLE OF RTI ACT.

3. The period to which the information relates: 01.01.2015 to till date of RTI reply.

4. Description of the information required: Kindly provide the information point-wise and in
English language with index and chart disclosing the page number on which the
information is available as per under Section 6 (1), 4 (3) and 7 (9) of the RTI Act,
2005. Kindly provide information in Compact Disk If available. Certified copy as per
STATE Government circular of G.A.D. no. SIC 216 / C.R. (178/16) six dt. 1.2.2017 and
as per circular 1.2.17 and as per section 2(J) (2) RTI act.

31.12
Garden
B&N
PWD

1) Certified copies of action taken on Temple constructed on Public Garden Reservation no 261 as per order
passed for Religious Institutions/ structures by Hon'ble High Court in PIL 104/2010.

2) Certified copies of all the communication made Mira Bhayandar Municipal Commissioner, Tree-Garden, Law,
Town Planning, Encroachment, WD 04, PWD and other concerned superior public authority on Religious
Institutions/ structures constructed on Public Garden Reservation no 261.

3) If no action taken or communication made till date, kindly furnish the reasons. ✓

4) Please inform me the name, designation, office address and Telephone numbers of Officer(s) and Supervisor(s)
responsible for execution, monitoring and supervising the Public Garden Reservation no 261. ✓

5) Name of Officer who failed to take action and liable for criminal proceeding for contempt of Hon'ble Bombay
High Court order passed for Religious Institutions/ structures in PIL 104/2010.

EW 6) Size and nature of Religious Temple constructed on Public Garden Reservation no 261.

TP 7) Certified copy of sanction letter, OC, CC, permission and FSI permitted for Temple.

5. Whether information is required by post or in person? : By Speed Post.

But convey me the charges of the information within 10 days by speed post as per para
no.2 of State Government Circular of G.A.D.No. Misc. 2017/C.R.(208/17) six.; dt
17.11.2017

PIO shall refer the below points while providing information under RTI act.

- ✓ The information cannot be denied on the grounds that it is available on web site. Refer to SIC guidelines page 9 para 4.
- ✓ You shall provide the information in whatever format you have maintained (it will expose the deficiency in service and willful act of omission) and shall be used as concrete evidence for criminal prosecution.
- Provision of law and procedure followed cannot be denied. (Refer section 2(f), 2(j), 4(1) (b) (iii), (iv), (v) RTI act.
- The information cannot be denied on the grounds that it is available on web site. Refer to SIC guidelines page 9 para 4.

- You shall provide the information in whatever format you have maintained (it will expose the deficiency in service and willful act of omission) and shall be used as concrete evidence for criminal prosecution. Section 7(9) RTI act
- Information shall be provided in chart form by reproducing the information sought with index and paging, which shall facilitate easy disposal of First appeal and appeal. Section 4(1) (a) RTI act and SIC guidelines page 7 para 7.
- The PIO / FAA shall also give explanation whether the information sought by the applicant shall be denied by him to Legislature / Parliament, in event, if Information is denied. Section 19(5) and section 8 J, RTI act.
- The information cannot be denied on the grounds of 7(9) as these are basic inputs which need to be maintained. The PIO shall explain how providing information shall divert resources. This will be offence of not maintaining proper records punishable under public records act. Section 4(1) A RTI act
- Refer section 2F RTI act, "any information in any form"

There is no restriction in RTI act with regards to subject.

- No information shall be denied quoting section 2F RTI act. PIO Shall be liable for prosecution u/s 18 RTI act. (GAD circular 2009/ P.K.73/ GAD Mantralay dt. 10.8.2009 para 3and para no. 2 GAD circular dt. 31.3.2008.
- You cannot demand CTS no. Citizens cannot be asked to provide CTS number (refer section 4 (1) (a) RTI act).

"Maintain all its record duly cataloged and indexed in a manner and the form which facilitates the right to information under this act"

- The information can be denied only under section 8 of RTI act and no other grounds. (GAD circular 2009/ P.K.73/ GAD Mantralay dt. 10.8.2009 para 3and para no. 2 GAD circular dt. 31.3.2008)
- Illegal / wrongful denial of information other than section 8 is disobedience of direction of law and punishable u/s 166, 217 of IPC.
- There is no provision under RTI act to deny information on grounds of application for one subject. This is framing of incorrect records punishable u/s 167, 218 IPC.
- Denial of information shall be supported by explanation. The onus of proving the correctness of denial is on PIO. Refer section 19(5) RTI act.
- Section 7(9) RTI act

"any information shall ordinarily be provided in the form in which it is sought....."

- If any of the above provision of law is violated a complaint can be directly filed u/s 18 RTI which mandatorily directs the Information Commissioner shall that the fine of Rs 250 per day or 25000/- maximum can be levied and shall direct disciplinary action against the PIO.
- See SIC web site for duties of PIO and FAA as prescribed by State Information Commissioner.
- In First appeal the FAA shall recommend action against the PIO for denying information wrongfully and violating the provision of section 7(1) RTI act. (GAD circular 2009/ P.K.73/ GAD Mantralay dt. 10.8.2009 para 8.
- The penalty levied u/s 20(1), and disciplinary action taken u/s 20(2) RTI act shall be recorded in the confidential report and service book of the PIO. (GAD circular 2009/ P.K.73/ GAD Mantralay dt. 10.8.2009 para 8.
- FAA shall be responsible for departmental action if he does not take all steps to provide information which is wrongfully denied by PIO. GAD circular dt. 25.6.2019.
- FAA along with PIO shall be liable for prosecution u/s 166, 167, 217, 218 IPC if they violate / disobey the above mandatory duties.


[SHRI BRIJESH SHARMA]