

**OFFICE OF THE FIRST APPELLATE AUTHORITY
FILM AND TELEVISION INSTITUTE OF INDIA
LAW COLLEGE ROAD, PUNE – 411 004
Tel. 020-25580006 (O)**

No.FTII/RTI/FAA/1(11)/2022

Date : 07.11.2022

IN THE MATTER OF : I.D. NO.88

FATIP/A/E/22/00022

Shri Indranil Bhattacharya

Appellant

V/s

CPIO/ Administrative Officer

Respondent

FTII, Pune

ORDER

Date of RTI Application	- 06.09.2022
Date of RTI Reply	- 04.10.2022
Date of RTI Appeal	- 18.10.2022

1. This order shall dispose of the appeal filed by Shri Indranil Bhattacharya in respect of ID No.88.
2. The appellant in his Original RTI application dated 06.09.2022 had sought following information:
 1. Whether suspension order dated July 19, 2019, pertaining to Prof Indranil Bhattacharya was reviewed by the Competent Authority within a mandatory period of 3 months, may please be furnished. Date on which the suspension order dated July 19, 2019, was first reviewed should be furnished to this applicant. The CPIO should mention the specific date.
 2. Whether subsequent reviews of the suspension (dated July 19, 2019) done every 180 days done, as per rules, by the competent authority, between July 19, 2019 and September 6, 2022. The dates on which subsequent reviews of the suspension was done be furnished, unto the current date that is September 6, 2022, may be furnished to this applicant. The CPIO should mention specific dates.
 3. All copies order putting on record the extension of the suspension be furnished to this applicant (relevant to the period July 19, 2019, to September 6, 2022. If there are multiple orders issued on separate dates, copies of all those orders should be furnished by the CPIO.
 4. All reports of the suspension review committee on each occasion the suspension may have been reviewed, may be furnished to the applicant. If for example, the suspension was reviewed 10 times, the CPIO may please furnish 10 reports of the review committee.



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5. Furnish the names, designation, rank and pay scale of each member of all the Review Committees constituted for reviewing the suspension of Prof Indranil Bhattacharya between July 19, 2019 to September 6, 2022. Names of committee members constituted on each occasion should be furnished as they are part of official record.

6. CPIO should please state on record as per RTI Act, whether suspension was extended by more than 6 months at a time, as mandated by rule. Please supply the information within the mandated time period without failure. regards Dr. I. Bhattacharya

3. The Appellant has made the present appeal challenging the order dated October 4, 2022, by Shri S.K. Dekate, PIO, FTII on the ground that the order is misleading, incorrect, mischievous and attempts to suppress the dissemination of bonafide information as defined under RTI Act. His detailed and reasoned arguments regarding Mr. Dekate's order in matter FATIP/R/E/22/00040 are as follows:

1. Shri Dekate has wrongly sought recourse to Section 8(1)h of the RTI Act 2005 to deny the information to this applicant. Let us see what Section 8(1)h of the RTI Act 2005 says. The said section states that "information which would impede the process of investigation or apprehension or prosecution of offenders" may be denied. Mr Dekate has not specified which investigation is currently going on or whether the office he represents is authorized to carry out any criminal investigation. His use of 8(1)(h) is non-specific and absurd. There is a strong possibility that no investigation is going on and the PIO is lying on oath.

2. It could, however, be assumed that Mr Dekate is referring to a Disciplinary Inquiry against the applicant initiated by his office in December 2019. As per his sworn affidavit in Bombay High Court (dated April 18, 2022) Registrar, FTII, Mr Sayyid Rabeehashmi has said that the Disciplinary Inquiry on the applicant is over and has also added that the "most of the charges have been proved." So, even if Mr. Dekate was referring to the Disciplinary Inquiry as "investigation" – the same disciplinary inquiry was complete, and its results are already with Mr Dekate's Office. Registrar, FTII, in the same affidavit, has also sought permission from the Hon'ble court to impose punishment on the applicant. Mr Rabeehashmi's reference to inquiry is on Page 94 of his affidavit (attached with this appeal).

Since the Inquiry is over there is no impediment to sharing the documents. It is evident that Mr Dekate is guilty of false deposition in a legal matter. It is also amply clear that Section 8(1)(h) is deliberately misapplied to hide an act of omission and commission.



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3. Moreover, the applicant has sought orders and approvals on his own suspension. Suspension is an administrative action and not part of the Inquiry proceeding. Approval and orders of suspension are not part of any inquiry. In fact, an extension order (albeit faulty) was sent by the Administrative Officer even while the Inquiry was taking place on January 20, 2021, to this applicant. If an order of suspension, as well as approvals were shared even during an ongoing inquiry there is no reason that similar orders could not be sent now, pursuant to a RTI query. This is utterly shocking and criminally perjurious.
 4. The First Appellate Authority (FAA) is urged to take notice of the dubious reasoning used to deny information by the PIO. The FAA is also requested to allow the information to be supplied to the applicant.
 5. The FAA is further requested to impose exemplary penalties on the PIO and report his actions to CIC under Section 18 of the RTI Act and seek inquiry on the PIO u/s Sections 18(2) and 18(3) of the RTI Act for persistent perverse orders. The PIOs action
4. The undersigned as the FAA has observed that the appellant has made in his appeal unwarranted personal allegations against an official by name, who was on leave during the period of issuance of reply to his RTI query. The Public Information Officer concerned in course of duty has denied the requisite information under Section 8 (1)(h) of RTI Act, 2005, which exempts an information, which would impede the process of investigation or apprehension or prosecution of offenders. However, the Act does not define either the term "investigation" or "process of investigation". Thus the term "investigation" used in Section 8(1)(h), in the context of this Act should be interpreted broadly and liberally. The technical definition of "investigation" one finds in Criminal Law cannot be imported into RTI Act. Here, investigation would mean all actions of law enforcement, disciplinary proceedings, enquiries, adjudications and so on. Logically no investigation could be said to be complete unless it has reached a point where the final decision on the basis of that investigation is taken. In that case, an investigation can be an extended investigation, pending logical conclusion of the case. In support of this, I refer to an appeal No.CIC/AT/A/2010/000969 filed by Shri Vinod Kumar V/s Central Excise Intelligence, New Delhi disposed of by the Hon'ble CIC on 20.05.2011, wherein it has been held that no investigation could be said to be complete unless it has reached a point where the final decision on the basis of that investigation is taken.
5. It is a matter of fact that the Appellant is under suspension at present pending logical conclusion of the ongoing disciplinary case against him. The information sought is connected with the un-concluded disciplinary case on the ground of which the appellant has been continued under suspension.
 6. In view of the above, the undersigned as the FAA upholds the decision of the PIO in the present appeal. Also it is advised that the appellant should avoid personal allegations against officials as done in the present appeal.

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The appeal is therefore disposed of.


If you are not satisfied with the information provided, you may file an appeal before **Central Information Commission, August Kranti Bhawan, Bhikaji Cama Place, New Delhi – 110 066** within the stipulated time.

Sd/-
(Sayyid Rabeehashmi)
Registrar
First Appellate Authority

Shri Indranil Bhattacharya
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MIT College Road, Kothrud,
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Copy to :

1. CPIO/ Administrative Officer, FTII.
2. In-charge Multi Media, FTII with a request to upload the order on the FTII website.


(Sayyid Rabeehashmi)
Registrar
First Appellate Authority