भारत सरकार
खान मंत्रालय

विषय: सूचना का अधिकार अधिनियम, 2005 के अंतर्गत प्राप्त आवेदन।

श्री श्री. सूर्य प्रकाश की प्रथम अपील, दिनांक 03.03.2017, इस पत्र के साथ उचित कार्यवाही हेतु प्रस्तुत किया जा रहा है।

2. सूचना का अधिकार अधिनियम, 2005 की धारा 6(3) के अनुसार यदि मांगी गई सूचना का विषय अन्य सरकारी कार्यालय से जुड़ा/सम्बन्धित है तो वह अधिकारी, जिसको आवेदन भेजा गया है, ऐसे आवेदन को संबंधित सरकारी अधिकारी/कार्यालय को, आवेदन की प्राप्ति की तारीख से यथाशक्त लेकिन 5 दिनों के भीतर स्थानान्तरित करना जरूरी है तथा इस बारे में आवेदक को भी सूचित करना आवश्यक है।

3. आपसे अनुरोध है कि सूचना का अधिकार अधिनियम, 2005 के नियमों का पालन करते हुए उसपर निर्धारित समय में कार्यवाही की जाए।

Encl: FTS: 85073
IPO No.: 25G 600809

(Adhir Kumar Mallik)
सी.पी.आई.ओ./CPIO

Shri Prithul Kumar, Dir. M.-IV / अपीलीय प्राधिकारी
पी.आई .सैल/PI Cell U.O. No. 2/42/2017-PI दिनांक/Dated 08.03.2017
From,

ev.surya prakash
39-633-4-6
Patel road
Kadapa-516001
Mob:9885101588

To:
shri.prithul kumar
Director & Appellate Authority
Ministry of Mines
Room.no 312 ‘D’ wing
Shastri bhavan,
New delhi- 110001.

Dt: 3-3-2017

Sir,

sub: 1st appeal filed on R.T.I application, PI cell U.O. No.2/21/2017

Dt:7/2/2017-request information.

Ref: Lt.no.9/1/2017-M.iv.Dt 22/2/2017. Under secretary, Ministry
Of Mines, GOI.

It is humbly submitted that, my RTI application is partly to
be answered, by Ministry of Mines & I.B.M. I am suggested to approach
concerned department of state govt. for Q.NOs 2,3,4,5,6&7.
Government of India  
Ministry of Mines

No.9/1/2017-M.IV

To
V. Surya Prakash,
39-633-4-6, Patel Road
Kadapa – 516 001,
Andhra Pradesh


Sir,

I am directed to refer your RTI application, PI Cell U.O. No. 2/21/2017 dated 07.02.2017 on the subject cited above and say that:

i) Documents with respect to the information sought against points no 1 & 9 of the application contain 76 pages. A certified copy can be provided to you after a sum of Rs. 152 @ Rs.2/- per page, is deposited in the form of cash/demand draft or bankers cheque in favour “Accounts Officer, Ministry of Mines” or pay and Accounts officer, Ministry of Mines, New Delhi” by post to ACPIO or deposited at “Information Counter, Ministry of Mines at the basement of Shastri Bhavan, Dr. R.P. Road, New Delhi.

ii) The information sought against point no 2, 3, 4, 5, 6 & 7 pertains to State Government. You are, therefore, requested to approach the concerned department of the State Government.

iii) Information sought against point no 8 of the application pertains to I.B.M and a copy of the RTI application has already been forwarded to them (Copy enclosed).

(2) If you are not satisfied with reply / information, you may prefer an appeal to Shri Prithul Kumar, Director and Appellate Authority, Ministry of Mines, Room No. 312 ‘D’ Wing, Shastri Bhavan, New Delhi within 30 days of receipt of information.

Yours faithfully,

[V. Jayanthi]

Under Secretary to the Govt. of India
Telefax No. 011 – 23383946
E-mail address: jayanthi.y@nic.in.

I am sending herewith an application seeking information under the Right to Information Act, 2005 as per particulars furnished below:-

<table>
<thead>
<tr>
<th>Name</th>
<th>U. Suvarna Prakash</th>
</tr>
</thead>
<tbody>
<tr>
<td>Postal Address</td>
<td>39-633-C-E-6 Patel Road, Keadapa-516 001, A.P.</td>
</tr>
<tr>
<td>Telephone No./Mobile No.</td>
<td>97685101588</td>
</tr>
<tr>
<td>Date</td>
<td>31-1-2017</td>
</tr>
<tr>
<td>Application fee</td>
<td>Rs 40 (Rs 20 x 2)</td>
</tr>
<tr>
<td>Mode of payment</td>
<td>Postal order 150, 600810, B11</td>
</tr>
</tbody>
</table>

V. Suvarna Prakash
To, 
Sri. Balvinder Kumar 
Room No.320, A-Wing, Secretary, Ministry of Mines, GOI. 
Shastri Bhavan, Dr Rajendra Prasad Road. 
NEW DELHI -110 001.

Sir,

Please furnish complete documents/Correspondence/file noting’s 
Summary note/Supplementary on Question No:1193 answered on 
Dt,25.7.2016, Sr No:83 WP.No:35564 -2015 V.Surya Prakash Vs UOI - 
and others, In High Court of Andhra Pradesh, Telangana.

1. Complete Information related with Correspondence/Documents/ 
Summary notes/Supplementary on action taken Ministry of Mines 

2. Complete information on procedure/System of Mineral compensation, 
Payable to V.Surya Prakash In Sy.No.569 Pullur (vi) Khajipet (M) 
Kadapa Dt, forceble occupation of 130 Ac. by Irrigation Dept, 
Government of Andhra Pradesh.

3. Complete information on procedure/System U/R RECTLARR Act,2015 
and Land Acquisition Mines Act for ac’quiring 130 Ac. From 
Major Mineral Mining area.

4. Complete information on Mineral quantity excavated by Irrigation 
Dept. Government of A.P. After digging canal in Lease hold area 
of V.Surya Prakash.

5. Complete information on Royalty collected by Dept. of Mines Govt, 
Of A.P. For Minerals excavated from Major Mineral Lease hold area 
in Sy.No.569, Pullur (vi) Khajipet (M) Kadapa Dt. A.P.

6. Complete information Documents/Correspondence, furnished Director 
of Mines, Industries & Commerce Department, Irrigation Dept, 
Chief Secretary, Dist Collector, Govt of A.P. relating to digging 
of canal In Sy.No.569 Pullur (vi) Khajipet (m) Kadapa Dt.

a) Complete Information Correspondence furnished by I.B.M. RCM Hyd- 
erabad, and Controller of Mines Nagapur.
GOVERNMENT OF INDIA  
MINISTRY OF MINES  

LOK SABHA  
UNSTARRED QUESTION NO.1193  
TO BE ANSWERED ON 25.07.2016  

Allocation of Mines  

+1193. SHRI RAHUL KASWAN:  

Will the Minister of MINES be pleased to state:  

(a) the number of mines allocated during each of the last three years and the number of mines out of the said mines where work has not been started till date along with the reasons therefor, State/UT-wise;  

(b) whether a large number of cases pertaining to the mines/mining industries are under consideration in various courts including the Hon’ble Supreme Court in the country, if so, the details thereof; and  

(c) the steps taken/being taken by the Government to settle these cases at the earliest?  

ANSWER  
THE MINISTER OF STATE (INDEPENDENT CHARGE) FOR MINES, POWER, COAL AND NEW & RENEWABLE ENERGY (SHRI PIYUSH GOYAL)  

(a): The State Governments grant mineral concessions for the minerals located within their respective boundaries under the provisions of the Mines and Minerals (Development and Regulation) Act, 1957 and rules made thereunder. This information is not centrally maintained by Ministry of Mines. However, as per information provided by Indian Bureau of Mines (IBM), a statement showing number of mining leases granted, number of mining leases executed and number of mining leases wherein work started during last three years and current year is given at Annexure-I.  

(b): Details of pending court cases, including the cases in Supreme Court, where the Ministry of Mines is a respondent, are given in the Annexure-II.  

(c): The Ministry is taking utmost care in defending the interest of Union of India. Due to the efforts made by the Ministry, the validity of the MMDR Amendment Act, 2015 and the provisions therein have been upheld by the Hon’ble High Court of Madhya Pradesh and by the Hon’ble High Court of Judicature at Hyderabad in their judgements dated 11.3.2016 and 11.09.2015 respectively.  

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<table>
<thead>
<tr>
<th>No.</th>
<th>Case Reference</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>37.</td>
<td>CWJC No. 6407/2016</td>
<td>M/s Khalsa Stone Works Vs Uol and others in the High Court of Judicature at Patna</td>
</tr>
<tr>
<td>38.</td>
<td>W.P. No. 5140/2016</td>
<td>M/s Laxmidas Ramji Vs Uol in the High Court of MP at Jabalpur</td>
</tr>
<tr>
<td>39.</td>
<td>W.P. No. 1901/2016</td>
<td>M/s Awin Trading Private Ltd Vs Uol and others in the High Court of MP at Jabalpur</td>
</tr>
<tr>
<td>40.</td>
<td>W.P.No. 7339/2016</td>
<td>M/s Ganesh Ferro Alloys Pvt. Ltd. Vs Uol and others in the High Court of MP at Jabalpur</td>
</tr>
<tr>
<td>41.</td>
<td>Petition for Special Leave to Appeal (c) No. 9995/2016</td>
<td>M/s Allied Minerals Industries Pvt. Ltd. in the Supreme Court of India</td>
</tr>
<tr>
<td>42.</td>
<td>W.P. No. 15345</td>
<td>M/s Rank Silicon and Industries Pvt. Ltd. Vs State of Telangana and others in the High Court of Andhra Pradesh</td>
</tr>
<tr>
<td>43.</td>
<td>CWP No. 2103/2016</td>
<td>M/s Mazdoor Co-operative Labour and Construction Society Ltd Vs Uol and others in the High Court of Haryana and Punjab at Chandigarh</td>
</tr>
<tr>
<td>44.</td>
<td>W.P. (c) No. 5410/2016</td>
<td>Dasarath Khilai and others Vs Uol and others in the High Court of Orissa at Cuttack</td>
</tr>
<tr>
<td>45.</td>
<td>W.P. No. 28168/2016</td>
<td>M/s Ramco Cement Ltd. against State of Karnataka and others in the High Court of Karnataka at Bangalore</td>
</tr>
<tr>
<td>46.</td>
<td>W.P. No. 28169/2016</td>
<td>M/s Ramco Cement Ltd. against State of Karnataka and others in the High Court of Karnataka at Bangalore</td>
</tr>
<tr>
<td>47.</td>
<td>W.P. (c) No. 2515/2016</td>
<td>M/s Padam Kr. Jain Vs Uol in the High Court of Jharkhand at Ranchi</td>
</tr>
<tr>
<td>48.</td>
<td>W.P. No. 13215/2016</td>
<td>M/s Kesoram Industries Limited Vs Uol and others in the High Court of Judicature at Hyderabad for the State of Telangana and State of Andhra Pradesh</td>
</tr>
<tr>
<td>49.</td>
<td>W.P. No. 2509/2016</td>
<td>M/s Singham Minerals Vs Uol before the Hon'ble High Court of Jharkhand at Ranchi</td>
</tr>
<tr>
<td>51.</td>
<td>Contempt Petition No. 275/2016 in Contempt Petition No. 374/2012 in Civil Appeal No. 2790/2012</td>
<td>Bhasham Powar and Steel Limited Vs Mr. SL Seal and others in the Supreme Court of India</td>
</tr>
<tr>
<td>52.</td>
<td>W.P. No. 3625/2016</td>
<td>PM Geo Exploration India Pvt. Ltd. Vs Uol in the High Court of Judicature at Bombay</td>
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<tr>
<td>No.</td>
<td>WP No. / OA No.</td>
<td>Case Details</td>
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<td>77.</td>
<td>10746/2014</td>
<td>M/s. S.K. Sarawagi &amp; Co. Pvt. Ltd. vs. UOI in High Court of Hyderabad, Andhra Pradesh.</td>
</tr>
<tr>
<td>78.</td>
<td>© No. 8474/2015</td>
<td>Sri K. Sreedhar vs. UOI in High Court of Delhi</td>
</tr>
<tr>
<td>79.</td>
<td>38941 to 38945 of 2015</td>
<td>M/s. UltraTech Cement Ltd. vs. UOI in High Court of Madras, Tamil Nadu</td>
</tr>
<tr>
<td>80.</td>
<td>38952 of 2015</td>
<td>M/s. Andhra Cements Ltd. vs. in High Court of Hyderabad (Telangana)</td>
</tr>
<tr>
<td>81.</td>
<td>260/2015</td>
<td>M/s. Rajeev Suri vs. UOI in High Court of Rajasthan</td>
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<tr>
<td>82.</td>
<td>PIL (L) 12/2016</td>
<td>Mr. Nagesh Mahadeo Nandanikar vs. in High Court of Bombay</td>
</tr>
<tr>
<td>83.</td>
<td>35564/2015</td>
<td>Mr. V. Surya Prakash vs. UOI and Others. In High Court of Hyderabad, Telangana</td>
</tr>
<tr>
<td>84.</td>
<td>261/2016</td>
<td>M/s. Ojaswi Mining vs. UOI &amp; others. In High Court of Jabalpur, MP</td>
</tr>
<tr>
<td>85.</td>
<td>1355/2016</td>
<td>M/s. Jindutt Minerals (P) Ltd. vs. UOI in High Court of Delhi</td>
</tr>
<tr>
<td>86.</td>
<td>12274/2015</td>
<td>M/s. Rio Tinto Mineral Development Ltd. vs. UOI and Others in High Court of Cuttack, Odisha</td>
</tr>
<tr>
<td>87.</td>
<td>458/2016</td>
<td>M/s. S.K. Sarawagi &amp; Co. Pvt. Ltd. vs. UOI in High Court of Delhi</td>
</tr>
<tr>
<td>88.</td>
<td>© No. 462/2016</td>
<td>M/s. API Ispat &amp; Power Tech Pvt. Ltd. vs. UOI &amp; others in High Court of Chhattisgarh.</td>
</tr>
<tr>
<td>89.</td>
<td>57311/2015</td>
<td>M/s. Kabini Minerals vs. UOI and others in High Court of Karnataka.</td>
</tr>
</tbody>
</table>
ORDER

Subject: - Appeal dated 07.03.2017 under Right to Information Act, 2005.
Appellant: Shri V. Surya Prakash.

I as the Appellate Authority, have duly considered the original Application dated 06.02.2017 made by Appellant and reply furnished by the CPIO vide letter No 9/1/2017-M.IV dated 22.02.2017. The reply furnished by acting CPIO is in order.

2. The information sought against Question Nos. 2, 3, 4, 5, 6, & 7 of the RTI application, vide the above appeal does not pertain to Ministry of Mines. You are advised to seek information directly from the concerned PIO of the State Government, as already stated in the CPIO’s reply dated 22.02.2017, since the State Government is a public authority outside the purview of Central Government.

3. Now, therefore, in exercise of the powers conferred under Section 19(6) of the Right to Information Act, 2005, the appeal made by the applicant stands disposed of with the above observations.

4. An appeal against the aforesaid decision of the appellate authority shall lie with the Central Information Commission within 90 days as provided under sub-section (3) of Section 19 of the Right to Information Act, 2005.

(Prithul Kumar)

Director (Mines IV Section)/ Appellate Authority
Phone-011-23070260
Email-prithul.kumar@nic.in

Copy to: -
(i) Shri V. Surya Prakash, 39-633-4-6, Patel Road, Kadapa – 516 001, Andhra Pradesh.
(ii) Smt V. Jayanthi, CPIO Ministry of Mines-IV Section.
(jif) PI Cell, U.O. No. 2/42/2017-PI dated 08.03.2017.
(iv) State Government of Andhra Pradesh.
भारत सरकार
खान मंज़ालय

विषय: सूचना का अधिकार अधिनियम, 2005 के अंतर्गत प्राप्त आवेदन।

श्री एस. वैज्ञानिक, तमिलनाडु की प्रथम अपील, दिनांक 14.03.2017, इस पत्र के साथ उचित कार्यवाही हेतु प्रस्तुत किया जा रहा है।

2. सूचना का अधिकार अधिनियम, 2005 की धारा 6(3) के अनुसार यदि मांगी गई सूचना का विषय अन्य सरकारी कार्यालय से जुड़ा/सम्बन्धित है तो वह अधिकारी, जिसको आवेदन भेजा गया है, ऐसे आवेदन को संबंधित सरकारी अधिकारी/कार्यालय को, आवेदन की प्राप्ति की तारीख से यथाशीघ्र लेकिन 5 दिनों के भीतर स्थानांतरित करना जरूरी है तथा इस बारे में आवेदक को भी सूचित करना आवश्यक है।

3. आपसे अनुरोध है कि सूचना का अधिकार अधिनियम, 2005 के नियमों का पालन करते हुए उसपर निर्धारित समय में कार्यवाही की जाए।

Encl: FTS: 85853

(Adhir Kumar Mallik)
सी.पी.आई.ओ./CPIO

रोकम इच्छावासार-दिव
श्री-प्र-विनय कुमार, US- M-VI /केंद्रीय लोक सूचना अधिकारी
पी.आई.सील/PI Cell U.O. No. 2/52/2017-PI दिनांक/Dated 23.03.2017

0/0
To

The Appellate Authority / Under Secretary to Govt.,
Ministry of Mines,
Shastri Bhawan,
New Delhi

Dear Sir,

Sub : Appeal under section 19(1) of RTI Act.

        17.11.16

In the letter 1st referred above, I requested the PIO to furnish the following information under Right to Information Act 2005.

1. Is there any provision either in the MMDR Act or Rules framed there under to fix up the admissible quantity of ore to be mined in the approved mining plan?

2. If yes, kindly inform the particular section.

3. Is there any depth limitation fixed under MMDR Act or Rules framed there under to carry out the mining operation in a mining lease.

4. Is there any prohibition under MMDR Act or rules framed there under for using heavy machineries for mining operation in a mining lease area.
In the letter 2nd read above the PIO transfer my application to Mr. P. Vinay Kumar, CPIO, M.IV section, Ministry of Mines, New Delhi.

More than 4 months passed, till now no reply was received. Hence I am filing the first appeal. Copy of letters referred above are enclosed herewith.

I therefore request you sir, that my appeal may kindly be allowed and the PIO may be direct to furnish the required information.

Thanking you

Yours truly

S. Vaikundarajan
GOVERNMENT OF INDIA
MINISTRY OF MINES

9/3/2016-Mines IV

New Delhi, Date 17 November, 2016

To
Shri P. Vinay Kumar
CPIO, M.VI Section,
Ministry of Mines,
Shastri Bhawan,
New Delhi.

Subject: - Information sought under RTI Act, 2005.

Sir,

I am to transfer herewith an RTI application Registration No. 2/259/2016-PI dated 19.10.2016 of Shri S. Vaikundarajan, under Section 6(3) of the RTI Act, 2005 as the information sought pertains to Mines-VI Section for necessary action.

Yours faithfully,

Encl: As Stated above

(V. Jayanthi)
Under Secretary to the Government of India
Telephone No. 011 – 23383946
E-mail address: jayanthi.v@nic.in

Copy to: - Shri S. Vaikundaraja, Keeraikaranthattu, Mahadevankulam P.O. Tisaiyanvilai (Via) Tirunelveli-627657, Tamilnadu.
To

The Public Information Officer / Under Secretary to Govt.,
Ministry of Mines,
Shastri Bhawan,
New Delhi

Dear Sir,

Kindly furnish the following information under Right to Information Act.

1. Is there any provision either in the MMDR Act or Rules framed there under to fix up the admissible quantity of ore to be mined in the approved mining plan?

2. If yes, kindly inform the particular section.

3. Is there any depth limitation fixed under MMDR Act or Rules framed there under to carry out the mining operation in a mining lease.

4. Is there any prohibition under MMDR Act or rules framed there under for using heavy machineries for mining operation in a mining lease area.

For getting the above information, I am enclosing herewith a Postal Order for Rs.10 being the application fees prescribed under Right to Information Act. I am also ready to pay additional amount if any. Hence the above information may kindly be furnished to me.

Thanking you

Yours truly

S. Vaikundarajan
No. 16/09/2017-M-VI
भारत सरकार /Government of India
खान मंत्रालय /Ministry of Mines

******

Shastri Bhawan, New Delhi
Dated the 19 April, 2017

To

Shri S. Vaikundarajan
Keeraikaranthattu,
Mahadevankulam P.O.
Tisaiyanvilai (Via)
Tirunelveli Dt.- 627657 (Tamil Nadu)

Subject: Appeal for seeking information under RTI Act, 2005.

Sir

Please refer to your appeal dated 14.03.2017 seeking information under RTI Act. It is to state that after checking the record, it is seen that your RTI application dated 19.10.2016 has not yet been received in this section under transfer.

2. In this regard, it is to inform that information sought by you is in the form of question; clarification; advice; interpretation; justification, which cannot be treated as information and is also not covered under the jurisdiction of CPIO.

3. Appeal is hereby disposed off.

4. In case, you are not satisfied with information provided, you may prefer second appeal in the Central Information Commission, ‘B’ Wing, 2nd Floor, August Kranti Bhavan, Bhikaji Cama Place, New Delhi under the provisions of the said Act.

Yours faithfully,

(Rokhum Lalremruata)
Director and Appellate Authority
Phone No. 23388345

To,
The Appellate Authority,
Ministry of Mines, 3rd Floor
D Wing, Room No. 310,
Shastri Bhavan,
Dr Rajendra Prasad Marg
New Delhi-110001

Dated -20/01/2017

Subject: Submission of First Appeal
Reference: Reply from CPIO received on 31/12/2016. (Copy enclosed)

Respected Sir/Madam,

This is in reference to the above; It is appealed that I am not satisfied with the reply given by the Central Public Information Officer (CPIO), Ministry of Mines as the information given by the CPIO is not satisfactory as well as incomplete. Therefore I am submitting my First Appeal. The details are as follows:

1. I have requested CPIO as per my question number 1 to kindly provide me the copy of due procedure followed by the Institute including Ministry for engaging Shri. Atul Pathak who is a Private advocate and law practitioner for dealing with legal matter in Hon Court of law on behalf of Ministry of Mines, Union of India and NIMH also kindly provide me the copies of draft, note-sheet, minutes if any put up for approval. The reply of CPIO to this question is, “the delegation of powers are given to the Director, NIMH for appointing counsel”

But though delegation of power is with the director, he needs to follow the relevant GOI guidelines / circulars before appointing a private counsel. In the reply it was not mentioned whether director has followed due laid down procedures or not? Hence it is requested to inform whether director has taken all the necessary steps/ approvals before appointing the Private Counsel.
   a) If yes kindly provide all the relevant documents.
   b) And If not than how the private counsel is appearing on the behalf of Ministry of Mines.

Also, it is requested to provide me the copies of notesheets, and minutes if any put for approval of Shri Atul Pathak a private advocate along with copy of due procedure followed by the Institute including Ministry for engaging/appointing Shri. Atul Pathak as Private counsel for dealing with legal matter in Hon Court of law on behalf of Union of India.
2. My second question is kindly provide the DOPT/CCS/Government of India any other rules applicable to run centrally funded autonomous body in support of statement of CPIO (copy attached) that "money earned by clientele offices of NIMH can be used to engage private counsel" who also appears on behalf of Secretary, Ministry of Mines. **The CPIO has provided the OM No. 34(14)/2005, even number dated 18 July 2005 of Department of legal affairs** which is also misleading information and not supporting the information asked by the applicant. The above OM indicates appointment of standing counsel (i.e. Govt counsel), and does not mention the appointment of PRIVATE COUNSEL. Therefore, it is requested to kindly provide the copy of DoPT/CCS/Govt of India guidelines regarding CPIO statement that "money earned by clientele offices of NIMH can be used to engage private counsel".

3. In my question number 3, I have requested to provide the Name and address of approved Government counsel for Ministry of Mines, Govt. of India, in Nagpur CAT and High court. But, I have not received the information from CPIO concerned.

4. I have requested to CPIO to provide me the information sought under question No. 4 that kindly provide the names of authority from Ministry of Mines who approved Pathak to appear for Secretary, Ministry of Mines, Govt of India. Also provide the relevant documents for such approval of Sh. Atul Pathak. The CPIO replied that information is very vague, not clear.

Here I wish to state that the undersigned has sought information under RTI, clearly mentioning the name of private counsel who was present on behalf of Secretary, Ministry of Mines and NIMH in Hon. High court and Hon. CAT. Undersigned has requested to kindly provide the names of authority from Ministry of Mines who approved the name of Shri. Atul Pathak, a private advocate to appear for Secretary, Ministry of Mines. Also provide the relevant documents of such approval of engagement of Sh. Atul Pathak. But, I have not received the Information from CPIO. Therefore, it is requested to kindly provide the above sought information as per Question-4 of RTI application. In view of the above, I am not satisfied with the information made available by the CPIO concerned, hence submitting my FIRST APPEAL under RTI Act-2005. Therefore, it is requested to kindly provide the factual information at the earliest.

Thanking you,

*Yours Sincerely,*

Ms. Vaishali Charbhai, Appellant
Address: Sh D Zade,
Kothiwan Galli, Kelibaug Road
Badkas Chowk, Mahal, Nagpur-32
MS
To,

Ms. Vaishali Charbhai  
C/o Shri D Zade  
Kothiwan Galli, Kelibaug Road,  
Badkas Chowk, Mahal, Nagpur-32  
MS

Subject: Information sought under RTI Act, 2005.

Sir,

Please refer to your RTI application dated 26.11.2016. The point wise reply is as follows:

<table>
<thead>
<tr>
<th>Point No.</th>
<th>Reply</th>
</tr>
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<tbody>
<tr>
<td>1, 2</td>
<td>Full powers have been delegated to Director, NIMH in respect of seeking services of lawyer by duly empowered Governing Body of the Institute (copy enclosed).</td>
</tr>
<tr>
<td>3</td>
<td>The Office Memorandum (OM) of Department of Legal Affairs regarding procedure for engagement of counsel for conducting cases of different Ministries/ Departments is enclosed. The said procedure is also applicable to Ministry of Mines.</td>
</tr>
<tr>
<td>4</td>
<td>The information asked by the applicant is very vague and not very clear. Please be precise and provide exact details of the referred case.</td>
</tr>
</tbody>
</table>

2 In case you are not satisfied with the reply, you may file an appeal before the Appellate Authority (Smt. Promodita Sathish, Director, Ministry of Mines, Room No. 310, D – Wing, Shastri Bhawan, New Delhi) within a period of 30 days from the date of receipt of this letter.

Encl: As above

Yours faithfully,

(Adhir Kumar Mallik)  
Under Secretary to the Govt. of India
Ph. No. 011- 23384743  
Email: ak.mallik@nic.in

OFFICE MEMORANDUM

Subject: Procedure regarding engagement of Counsel for conducting cases of different Ministries/Departments

The undersigned is directed to state that as per extant instructions, the Ministries/Departments which propose to engage a Counsel have to contact the Officer in-charge of the concerned Litigation Section or the Branch Secretariat at places where this Department has such arrangement and at other places for engagement of Counsel in High Court, the Ministries/Departments have to approach the Assistant Solicitor General of India (Senior Central Government Standing Counsel of the High Court). The Assistant Solicitor General of the concerned High Court is the in-charge of Central Government Litigation and it is his duty to distribute the cases among the Central Government Counsels (Additional Central Government Standing Counsel), but it has been observed that some of the Central Government Standing Counsel are directly appearing in cases without assigning of the same by the Assistant Solicitor General of India. It has also been observed that some of the Ministries/Departments and Subordinate Office have been directly approaching Central Government Counsel instead of approaching the Assistant Solicitor General of India for nomination of a Counsel. Such a practice is hampering conduct of smooth litigation in some High Courts. In one of the court case viz. W.P No 46487 of 2005 Lieutenant Colonel M.K. Sanga Vs. Union of India & Another where two Counsel claiming to be representing Union of India, the Hon'ble Allahabad High Court observed that this kind of dispute was most unfortunate and embarrassing and that this kind of situation apart from being detrimental to the interest of Central Government also results in wastage of the courts time.

2. It is therefore, directed that all the Central Government Counsel would appear in those cases only, which are assigned to him/her by the Assistant Solicitor General of India. Accepting cases directly from different Government Departments by the Central Government Counsel will not be appreciated, doing so will be taken seriously and action taken against the erring Central Government Counsel.

3. All the Ministries/Departments seeking to engage Counsel in a case are once again requested to contact -

i) The Officer in-charge of the concerned Branch Secretariat/Litigation Section at places where this Department has such arrangement viz. Bangalore, Chennai, Delhi, Kolkata and Mumbai, and

ii) The Assistant Solicitor General of India (Senior Central Government Standing Counsel) of the respective High Courts and Senior Central Government Standing Counsel of respective CAT Benches at places other than the places listed above.
The Ministry of Defence etc. are requested to bring these instructions to all concerned for compliance.

(D.R. Meena)
Joint Secretary & Legal Adviser to the Government of India.

1. All the Ministries/Departments of the Government of India.
2. All the Assistant Solicitors Generals of India.
3. All Senior Central Government Standing Counsel of Central Administrative Tribunal.
4. All Central Government Counsel in the Allahabad High Court.
5. Incharge, Branch Secretariats, Mumbai, Bangalore, Kolkata and Chennai.

Copy to Shri Alok K. Singh, Registrar General, High Court of Judicature at Allahabad, Allahabad for information.

(D.R. Meena)
Joint Secretary & Legal Adviser to the Government of India.
Government of India
Ministry of Mines

No. 5/11/2009 Met IV

To,

The Director,
National Institute of Miner's Health,
JNARDDC Campus, Opp. WADI Police Station,
Amarwati Road, Wadi,
Nagpur-440023.

New Delhi, 19.10.2011
24.10.11

Subject: Approval of the proposal of Delegation of enhanced financial and
Administrative Powers to Dir. NIMH.

Sir,

I am directed to refer to your letter No. NIMH/Admn./2/
(Vol.)/2011-12 / 873 Dt. Sept. 29, 2011 and to say that the proposal of the
enhancement of delegation of Administrative Powers to Dir. NIMH has
been approved by Secretary (Mines) in his capacity as Chairman,
Governing Body, NIMH.

Yours faithfully,

(Umesh Chandra)
Section Officer

[Stamp: 11/11/2011]
[Stamp: 31/11/2011]
<table>
<thead>
<tr>
<th></th>
<th>General</th>
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</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Powers to re-delegate/revoke any of the administrative power</td>
<td>N.A.</td>
<td>Full Powers</td>
<td>Required for smooth functioning and sharing responsibilities.</td>
</tr>
<tr>
<td>2</td>
<td>Seeking services of lawyer</td>
<td>N.A.</td>
<td>Full Powers</td>
<td>Required for appointing lawyers for speedy action in legal matters relating to the institute.</td>
</tr>
<tr>
<td>3</td>
<td>Signing of Memorandum of Understanding / Agreement / Contract on behalf of the Institute</td>
<td>N.A.&gt; Full Powers</td>
<td>Required for promoting scientific exchange and research oriented projects and enhancing visibility of the Institute at national and international level.</td>
<td></td>
</tr>
</tbody>
</table>
To,

Ms. Vaishali Charbhai
C/o Shri D H Zade
Kothiwan Galli, Kelibaug Road,
Badkas Chowk, Mahal, Nagpur-32
MS

Subject: Information sought under RTI Act, 2005.

Sir,

Please refer to your RTI application dated 07.10.2016 seeking information regarding engagement of Mr. Atul Pathak as a private counsel in NIMH. The matter has been examined in this Ministry. It may be stated that NIMH has hired the services of Adv. Atul Pathak to defend legal case of the institute in the court after following due procedures of the Institute. The payment to Adv. Atul Pathak has been made as per rules/terms of the Institute and no Government grant has been utilized for giving payment to Adv. Atul Pathak. The payment to the advocate has been given from the income of the Institute earned from clientele projects.

In case you are not satisfied with the reply, you may file an appeal before the Appellate Authority (Smt. Promodita Sathish, Director, Ministry of Mines, Room No. 310, D-Wing, Shastri Bhawan, New Delhi) within a period of 30 days from the date of receipt of this letter.

Yours Faithfully,

(Adhir Kumar Mallik)

2. S.O., Vigilance
To,
The Central Public Information Officer,
Ministry of Mines, 3rd Floor
A Wing, Shastri Bhavan,
Dr Rajendra Prasad Marg
New Delhi-110001

Dated - 26/11/2016

Subject: Request to provide following information under RTI Act-2005

Respected Sir/Madam,

1. With reference to your reply, Kindly provide me the copy of due procedure followed by the Institute including Ministry for employing Atul Pathak as Private counsel for dealing with legal matter in Hon Court of law also kindly provide me the copies of draft, note-sheet, minutes if any put up for approval (Copy of reply is enclosed herewith).

2. Kindly provide the DOPT/CCS/Government of India any other rules applicable to run centrally funded autonomous body in support of statement of CPIO (copy attached) that "money earned by clientele offices of NIMH can be used to engage private counsel" who also appears on behalf of Secretary, Ministry of Mines.

3. Name and address of approved Government counsel for Ministry of Mines, Govt. of India, in Nagpur CAT and High court.

4. Kindly provide the names of authority from Ministry of Mines who approved Pathak to appear for secretary. Also provide the relevant documents for such approval of Sh. Atul Pathak.

A fee of INR 10/- in the form Indian postal order in enclosed herewith for your kind perusal. It is requested to kindly provide the information at the earliest.

Thanking you,

Yours Sincerely,

Ms. Vaishali Charbhaj
Address:
C/o Shri D Zade
Kothiwan Galli, Kelibaug Road
Badkas Chowk, Mahal, Nagpur-32
Order on Appeal under Right To Information Act, 2005

Reference RTI Appeal dated 20.01.2017 of Ms. Vaishali Charbhai in reference of her RTI application dated 26.11.2016 stating that the information provided by the CPIO is not complete information.

2 The undersigned being the Appellate Authority of Ministry of Mines has examined the file and replies sent by concerned CPIO of this Ministry and found that the information furnished by the CPIO is correct and complete. Further, as per Department of Personnel & Training’s communication No. 1/18/2011-IR dated 16th September, 2011, “The Public Information Officer is not supposed to create information, or to interpret information; or to solve the problems raised by the applicants; or to interpret hypothetical questions. A public authority is also not required to furnish information which require drawing of inferences and/or making of assumption. It is also not required to provide ‘advice’ to an applicant, nor required to obtain and furnish any ‘opinion’ to an applicant.” In view of this, the reply as furnished by the concerned CPIO stands satisfactory.

3 With the above facts the Appeal stands disposed of in so far as this Appellate Authority is concerned.

To

1. Ms. Vaishali Charbhai, C/o Shri D Zade, Kothiwan Galli, Kelibaug Road, Badkas Chowk, Mahal, Nagpur-32, MS
2. PI Cell, Ministry of Mines along with copy of Appeal.

(Promodita Satish)
Director and Appellate Authority
Ph. 23381136
Email – promodita@nic.in