

केन्द्रीय सूचना आयोग  
Central Information Commission  
बाबागंगनाथमार्ग, मुनिरका  
Baba Gangnath Marg, Munirka  
नईदिल्ली, New Delhi – 110067

**File No : CIC/GSTPZ/C/2021/640432 +  
CIC/GSTPZ/C/2021/640475**

Amresh Chandra Mathur

....शिकायतकर्ता /Complainant

VERSUS

बनाम

**CPIO,**

1. Office of the Principal Commissioner,  
Indirect Taxes And Customs, Central CGST,  
RTI Cell, Plot No. 36 and 37, Sector-32,  
Gurugram-122001, Haryana.

2. Office of the Asst./Dy.Commissioner,  
central Excise Division-II, Ghaziabad,  
RTI Cell, CGO Complex-II, Kamla Nehru Nagar,  
Ghaziabad, Uttar Pradesh-201002.

.... प्रतिवादीगण /Respondent(s)

Date of Hearing : 05/01/2023

Date of Decision : 05/01/2023

**INFORMATION COMMISSIONER : Saroj Punhani**

**Note – The above mentioned Complaints have been clubbed together for decision as these are based on similar RTI Application(s).**

**Relevant facts emerging from complaint:**

RTI application(s) filed on : 28/11/2020 & 22/01/2021  
CPIO replied on : 04/01/2020 & 03/03/2021  
First appeal(s) filed on : Not on record & 07/04/2020  
First Appellate Authority order : Not on record  
2nd Appeal/Complaint(s) dated : 02/09/2021

**CIC/GSTPZ/C/2021/640432**

**Information sought:**

The Complainant filed an RTI application dated 28.11.2020 seeking the following information:

*Kindly refer to the attached letters addressed to Jio Digital Fibre private limited, Reliance House, R K 4, Square Building No 4, DLF Cyber City, Gurgaon 122002, Haryana by Nagar Nigam Ghaziabad and provide information taking cognizance of definition of information u/s 2(f) also into consideration:*

- 1) Name and address of the GST office(s) responsible for collection/accounting of GST for work being executed by Jio Digital fibre private limited, in view of letters addressed to Jio Digital Fibre Private limited as per attached letter.*
- 2) Description of taxable services and accounting codes, for payment of service tax applicable to the Jio Digital Fibre private limited, in view of letters addressed to Jio Digital Fibre private limited by Nagar Nigam Ghaziabad as per records of GST office(s) named in response to query 1.*
- 3) Value of taxable services as per record of GST office(s) named in response to query 1.*
- 4) In respect of Jio Digital fibre Private limited*
  - a. Name of the organization, for which Jio Digital Fibre private limited, is digging earth and laying cables, after taking permission from the local authorities as per attached letter and its GST no, as per records of GST office(s) named in response to query 1.*
  - b. Place of Provision of services as per records of GST office(s) named in response to query 1.*
  - c. GST no. of Jio Digital Fibre private limited.*
  - d. GST paid by Jio Digital Fibre private limited or having taken credit of GST paid by its contractors executive work as per attached letters, till 30 September 2020 during FY 2020-21.*
  - e. Contract value of work on which GST will be accounted for by the office named in para 1.*
  - f. GST paid by Organization named in para 4a in respect getting work executed/ being executed through Jio Digital Fibre private limited or having taken credit of GST paid by Jio Digital Fibre private limited till September 2020.*

The CPIO furnished a pointwise reply to the complainant on 04.01.2020 stating as under:-

1. *In view of the Nagar Nigam Ghaziabad letter, the place of service is Ghaziabad which falls under the jurisdiction of CGST/SGST Ghaziabad.*
2. *The letter addressed by Nagar Nigam Ghaziabad to M/s Jio Digital Fibre Pvt. Limited, Gurugram, pertains to the terms and conditions for laying down digital cable and digging of road, earthing etc. However, this office can only provide the names and accounting code of services for which M/s Jio Digital Fibre Pvt. Ltd. Is registered within the jurisdiction of this office, which is as under:-*

<b>S.No.</b>	<b>Description of services</b>	<b>Service Accounting Code</b>
1.	<i>Data Transmission services</i>	<i>998415</i>
2.	<i>Internet access service in wired and wireless mode</i>	<i>998422</i>
3.	<i>Other internet telecommunication services n.e.c.</i>	<i>998429</i>
4.	<i>Other support services n.e.c.</i>	<i>998599</i>

3. *Pertains to CGST/SGST Ghaziabad*
4. *a. Pertains to CGST/SGST Ghaziabad*  
*b. Pertains to CGST/SGST Ghaziabad*  
*c. GST No. Of M/s Jio Digital Fibre Pvt. Limited Registered in Gurugram is 06AAECJ4213B1Z8.*  
*d. Pertains to CGST/SGST Ghaziabad*  
*e. Pertains to CGST/SGST Ghaziabad*  
*f. Pertains to CGST/SGST Ghaziabad*

**CIC/GSTPZ/C/2021/640475**

**Information sought:**

The Complainant filed an RTI application dated 22.01.2021 with Respondent no. 1 seeking the following information:

*A. I submitted a RTI DOREV/R/E/20/03467 to department of Revenue seeking information reproduced in Para C) and through CBECE/R/T/20/01555 RTI Application was finally transferred to CPIO (CGST, Gurugram) vide RTI No GSTPK/R/T/20/00071 .(page 1 of the attachment) CPIO (CGST, Gurugram) in response stated that most of the requested information will be available with CGST/SGST, Ghaziabad (Page 2 and 3 of the attachment).*

*B. Thereafter I submitted a RTI CCEMT/R/E/21/00003 to CPIO CGST Ghaziabad seeking information (reproduced in Para C) .( page 1 of attachment)*

*CPIO CGST Ghaziabad has stated that no information is available with him for the reasons mentioned in his letter which is self-explanatory. (Page 4 of the attachment)*

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*Kindly refer to the attached letters addressed to Jio Digital Fibre private limited, Reliance House, R K 4, Square Building No 4, DLF Cyber City, Gurgaon 122002, Haryana by Nagar Nigam Ghaziabad and provide information taking cognizance of definition of information u/s 2(f) also into consideration:*

- 1) Name and address of the GST office(s) responsible for collection/accounting of GST for work being executed by Jio Digital fibre private limited, in view of letters addressed to Jio Digital Fibre Private limited as per attached letter.*
- 2) Description of taxable services and accounting codes, for payment of service tax applicable to the Jio Digital Fibre private limited, in view of letters addressed to Jio Digital Fibre private limited by Nagar Nigam Ghaziabad as per records of GST office(s) named in response to query 1.*
- 3) Value of taxable services as per record of GST office(s) named in response to query 1.*
- 4) In respect of Jio Digital fibre Private limited*
  - a. Name of the organization, for which Jio Digital Fibre private limited, is digging earth and laying cables, after taking permission from the local authorities as per attached letter and its GST no, as per records of GST office(s) named in response to query 1.*
  - b. Place of Provision of services as per records of GST office(s) named in response to query 1.*
  - c. GST no. of Jio Digital Fibre private limited.*
  - d. GST paid by Jio Digital Fibre private limited or having taken credit of GST paid by its contractors executive work as per attached letters, till 30 September 2020 during FY 2020-21.*
  - e. Contract value of work on which GST will be accounted for by the office named in para 1.*
  - f. GST paid by Organization named in para 4a in respect getting work executed/ being executed through Jio Digital Fibre private limited or having taken credit of GST paid by Jio Digital Fibre private limited till September 2020.*

*The CPIO/ Respondent no. 1 furnished a pointwise reply to the complainant on 03.03.2021 stating as under -*

1. In view of the Nagar Nigam Ghaziabad letter, the place of service is Ghaziabad which falls under the jurisdiction of CGST/SGST Ghaziabad.

2. The letter addressed by Nagar Nigam Ghaziabad to M/s Jio Digital Fibre Pvt. Limited, Gurugram, pertains to the terms and conditions for laying down digital cable and digging of road, earthing etc. However, this office can only provide the names and accounting code of services for which M/s Jio Digital Fibre Pvt. Ltd. Is registered within the jurisdiction of this office, which is as under:-

<b>S.No.</b>	<b>Description of services</b>	<b>Service Accounting Code</b>
1.	Data Transmission services	998415
2.	Internet access service in wired and wireless mode	998422
3.	Other internet telecommunication services n.e.c.	998429
4.	Other support services n.e.c.	998599

3. Pertains to CGST/SGST Ghaziabad

4. a. Pertains to CGST/SGST Ghaziabad

b. Pertains to CGST/SGST Ghaziabad

c. GST No. Of M/s Jio Digital Fibre Pvt. Limited Registered in Gurugram is 06AAECJ4213B1Z8.

d. Pertains to CGST/SGST Ghaziabad

e. Pertains to CGST/SGST Ghaziabad

f. Pertains to CGST/SGST Ghaziabad

The Respondent no. 1 furnished an additional reply to the Complainant on the same date i.e. 03.03.2021 by denying the information under Section 8(1)(d) of RTI Act.

Being dissatisfied, the complainant filed a First Appeal dated 09.03.2019. FAA's order, if any, is not available on record.

Feeling aggrieved and dissatisfied, the complainant approached the Commission with the instant set of Complaint (s).

#### **Relevant Facts emerging during Hearing:**

The following were present:-

**Complainant:** Present through intra-video conference.

**Respondent no. 1:** Maninder Singh, Dy. Commissioner & Rep. of CPIO present through intra-video conference.

**Respondent no. 2:** Sajjan Singh, Superintendent (RTI) & Rep. of CPIO present through intra-video conference.

The Respondent no. 1 submitted that a point wise reply along with relevant information has already been provided to the Complainant earlier which was further supplied to him on 28.12.2022. He further submitted that even if the Complainant is not satisfied, he has every opportunity to come and inspect the relevant records of information sought at the office of CGST, Gurugram.

The Complainant raised dissatisfaction with the CPIO's reply on the following arguments –

1. *CPIO vide letter dated 28-12-2022 has provided incomplete information that also after one and half year of 1" AA order dated 07-06-2021 to provide information.*

2. *CPIO has simply forwarded information provided by an Assistant Commissioner CGST, Division East 1.*

3. *CPIO has ignored*

*a. the fact that stated to be "not available in this office" vide Query 4a, 4e and 4f can be accessed by CPIO from Jio Digital Fibre private limited as*

*per definition of information u/s 2f and b. the fact that documents attached with the RTI application showed place of provision of service as Ghaziabad which is in UP where-as in response to Query 4b CPIO writes place of Provision of Service as Haryana which are mutually self-contradictory.*

4. *Query wise response of CPIO and Complainant's observations are detailed below*

*1. Query 1-Information Provided*

*2. Query 2-Information Provided*

*3. Query 3-Information Provided*

*4. Query 4 In respect of Jio Digital Fibre private limited*

a. Name of the organisation, for which Jio Digital Fibre private limited, is digging earth and laying cables, after taking permission from local authorities as per attached letters and its GST no, as per records of GST office(s) named in response to query 1.

Information not provided. Complainant believes that information sought is accessible to CPIO as information is defined u/s 2(f) of the RTI Act 2005 and CPIO has made no attempt to access the information sought with malafide intention because information if provided is going to disclose high level of tax evasion.

b. Place of Provision of Services as per records of GST office(s) named in response to query 1.

Information provided is false/ misleading because company was carrying out: digging and cable laying operations in Ghaziabad, UP after taking due permission from Municipal Corporation of Ghaziabad taking into consideration information provided by CPIO vide query 1. Intension of CPIO is simply malafide because he avoids taking cognisance of documents attached with RTI Application while responding to RTI application.

c. GST no of Jio Digital Fibre private limited.

Information provided

d. GST paid by Jio Digital Fibre private limited or having taken credit of GST paid by its contractors executing work as per attached letters, till 30 September 2020 during FY 2020-2021.

Information provided

Contract value of work on which GST will be accounted for by office named in Para 1.

Information not provided. Complainant believes that information sought is accessible to CPIO as information is defined u/s 2(f) of the RTI Act 2005 and CPIO has made no attempt to access the information sought with malafide intention because information if provided is going to disclose high level of tax evasion.

*f. GST paid by Organisation named in Para 4a in respect getting work executed/being executed through Jio Digital Fibre private limited or having taken credit of GST paid by Jio Digital Fibre private limited till 31 Dec 2020.*

*Information not provided. Complainant believes that information sought is accessible to CPIO as information is defined u/s 2(f) of the RTI Act 2005 and CPIO has made no attempt to access the information sought with malafide intention because information if provided is going to disclose high level of tax evasion.*

*5. Hon'ble High Court of Delhi in the judgment of Hon'ble High Court of Delhi, in the matter of Dr. Deepak Juneja vs Central Information Commission 29 April, 2019 in WP (C) 11489 of 2016 that clearly explained the difference between section 18 and 19 of the RTI Act 2005.*

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#### PRAYER

*1. issue the notice in the format notified by Central Information Commission vide order CIC/4/2016-Rgr on 26-09-2018 to the CPIO whose names appear in the complaint/documents attached with complaint.*

*2. Conduct inquiry under provisions of section 18 of the RTI Act, 2005*

*3. If Hon'ble Commission decides to not to conduct inquiry under provisions of section 18 of the RTI Act 2005 then please give speaking order for not conducting inquiry, 4. Any other order to ensure that complaint u/s 18 is adjudicated in terms of the provisions of the Act and Supreme Court Order of Hon'ble Supreme Court of India dated December 12, 2011 in Civil Appeal Nos 10787-10788 of 2011 in Chief Information Commissioner and Another vs State of Manipur and Another in letter and spirit so that section 18 of the RTI Act 2005 does not become a redundant section.*

*5. Action(s) u/s section 20 of the RTI Act 2005..."*

The Complainant further narrated his grievance regarding laying down of wi-fi transmission cable lines by the Jio Fibrenet Ltd. passing through his house which create disruption in his easement right of way to his home. Such circumstances led him to resort to RTI Act; however he is aggrieved by the fact that the CPIO did not facilitate him complete desired information after liasioning with the private entity i.e. Jio Fibrenet Pvt. Ltd. as per Section 2(f) read with Section 2(j) of the Act.



He also contested the fact that his RTI Applications has been transferred to the Respondent no. 2 without application of mind for which he prayed the Commission that the CPIO should be penalized for the alleged faults.

In response to Complainant's contentions, the CPIO again reiterated his reply by submitting that there was no malafide intention on their part to withheld information and all available information has been provided to the Complainant. He re-volunteered to facilitate inspection of relevant records opportunity to the Complainant for his satisfaction.

## Decision

The Commission upon a perusal of records and after hearing submissions of the parties finds no infirmity in the reply and as a sequel to it further clarifications tendered by the Respondent no. 1 during hearing as it adequately suffices the information sought by the Complainant in terms of RTI Act.

Moreover, the Commission is not inclined to accept the contention of the Complainant for initiating penal action against the CPIO in the absence of any malafide ascribed on their part. In this regard, the attention of the Complainant is drawn towards a judgment of the Hon'ble Delhi High Court in the matter of **Registrar of Companies & Ors. v. Dharmendra Kumar Garg & Anr. [W.P.(C) 11271/2009] dated 01.06.2012** wherein it was held:

*" 61. It can happen that the PIO may genuinely and bonafidely entertain the belief and hold the view that the information sought by the querist cannot be provided for one or the other reasons. Merely because the CIC eventually finds that the view taken by the PIO was not correct, it cannot automatically lead to issuance of a show cause notice under Section 20 of the RTI Act and the imposition of penalty. The legislature has cautiously provided that only in cases of malafides or unreasonable conduct, i.e., where the PIO, without reasonable cause refuses to receive the application, or provide the information, or knowingly gives incorrect, incomplete or misleading information or destroys the information, that the personal penalty on the PIO can be imposed...."*

Additionally, the following observation of the Hon'ble Delhi High Court in **Bhagat Singh v. CIC & Ors. WP(C) 3114/2007** are pertinent in this matter:

*"17. This Court takes a serious note of the two year delay in releasing information, the lack of adequate reasoning in the orders of the Public Information Officer and the Appellate Authority and the lack of application of*

*mind in relation to the nature of information sought. The materials on record clearly show the lackadaisical approach of the second and third respondent in releasing the information sought. However, the Petitioner has not been able to demonstrate that they malafidely denied the information sought. Therefore, a direction to the Central Information Commission to initiate action under Section 20 of the Act, cannot be issued.”*

Furthermore, the Hon’ble High Court of Delhi in the decision of **Col. Rajendra Singh v. Central Information Commission and Anr. WP (C) 5469 of 2008 dated 20.03.2009** had held as under:

*“....Section 20, no doubt empowers the CIC to take penal action and direct payment of such compensation or penalty as is warranted. Yet the Commission has to be satisfied that the delay occurred was without reasonable cause or the request was denied malafidely.*

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*.....The preceding discussion shows that at least in the opinion of this Court, there are no allegations to establish that the information was withheld malafide or unduly delayed so as to lead to an inference that petitioner was responsible for unreasonably withholding it.”*

The Commission also notes that Hon’ble High Court of Punjab and Haryana at Chandigarh in Civil Writ Petition No.6504 of 2009 Date of decision: 04.03.2010 (**State of Punjab and others vs. State Information Commissioner, Punjab and another**); had held as under:

*“3. The penalty provisions under Section 20 is only to sensitize the public authorities that they should act with all due alacrity and not hold up information which a person seeks to obtain. It is not every delay that should be visited with penalty.”*

In addition to above, the issue raised by the Complainant regarding disturbance of his easement right of way owing to laying of cable wires by Jio Fibrenet is a matter of grievance which is outside the mandate of RTI Act. In this regard, reference may be had of a judgment of the Hon’ble Delhi High Court in the matter of **Govt. of NCT of Delhi vs. Rajender Prasad (W.P.[C] 10676/2016)** dated **30.11.2017** wherein it was held as under:

*“6. The CIC has been constituted under Section 12 of the Act and the powers of CIC are delineated under the Act. The CIC being a statutory body has to act strictly within the confines of the Act and is neither required to nor has the jurisdiction to examine any other controversy or disputes.”*

While, the Apex Court in the matter of **Union of India vs Namit Sharma (Review Petition [C] No.2309 of 2012)** dated **03.09.2013** observed as under:

*“20. ...While deciding whether a citizen should or should not get a particular information “which is held by or under the control of any public authority”, the Information Commission does not decide a dispute between two or more parties concerning their legal rights other than their right to get information in possession of a public authority....” (Emphasis Supplied)*

In view of the foregoing observations and considering the inability of the Complainant in substantiating his level of dissatisfaction with the CPIO’s reply in the instant Complaints, no further action is warranted in the instant matters.

**The Complaint(s) are disposed of accordingly.**

**Saroj Punhani(सरोज पुनहानि)**  
**Information Commissioner (सूचना आयुक्त)**

Authenticated true copy  
(अभिप्रमाणितसत्यापितप्रति)

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