

RIGHT TO INFORMATION ACT. 2005

(See Rule 3, Sub Section (1) Section (6))

APPLICATION

To,

The State Public Information Officer,
Office of the Commissioner of Central Excise,
Division IV – Bel., ~~First~~ ^{Ground} Floor, C.G.O. Complex,
C.B.D. Navi Mumbai 400 614



- (1) Full name of the Applicant : Mr. Mahendra Baba Kamble
- (2) Address : 30/69, B. D. D. Chawl, N.M. Joshi Marg,
Lower Parel, Mumbai 400 013
Mobile - 9224297728
- (3) Particulars of Information required :
- 1) Shavo Norgren (I) Pvt. Ltd., Plot No. R-324, M.I.D.C. T.T.C. Industrial Area, Post Ghansoli, Thane Belapur Road, Rabale, Navi Mumbai 400 701
 - 2) Whether the Company situated as mentioned above comes under the purview of your office and excise laws ?
 - 3) Whether the Company situated as mentioned above has taken license and excise number from your office ? If yes please provide me copies of all concerned documents.
 - 4) Whether your office has ever corresponded with the company ? Please provide me all copies of the concerned correspondence.

1704
27.12.13
(2 letters)

Contd...2/-

..2..

5) Whether officer or staff of your office has ever visited to this factory ? If the answer is Yes, then the Xerox copies of all concerned documents and reports be provided

- (4) Subject matter for information : For Court Proceedings.
- (5) The period of which the information relates : January 2011 to December 2013
- (6) Whether information is required by post or in person : Personally
- (7) Whether the applicant is below poverty line ? : No

Place : Mumbai
Date : 26/12/2013


Signature of Applicant

**OFFICE OF THE COMMISSIONER, CENTRAL EXCISE,
BELAPUR COMMISSIONERATE.
1ST FLOOR, C.G.O. COMPLEX, C.B.D. BELAPUR, NAVI MUMBAI – 400 614.**

Order-in-Appeal No. : 4/2013(RTI)

F.No.I/4-4/RTI/Appeal/Bel/13

Date of Order : .2.2014

Date of issue : .2.2014

Passed by : Shri.Anil Kumar Sahay
First Appellate Authority,
Joint Commissioner of Central Excise,
Belapur Commissionerate.

533
19.2.14

ORDER – IN – APPEAL

1. This is an order passed in terms of Section 19(1) of the Right to Information Act, 2005.
2. The application of appeal was received in this office received on 6.2.2014 and therefore the last date of issue of Order-in-Appeal is 8.03.2014.
3. In terms of sub-section (1) of Section 5 of Right to Information Act, 2005, Shri Anil Kumar Sahay, Joint Commissioner, Central Excise, has been nominated as the 1st Appellate Authority of Belapur Commissionerate..
4. An Appeal against this order lies with the Central Information Commission, New Delhi in terms of Section 19(3) of the Right to Information Act, 2005. Such an appeal shall be filed within ninety (90) days from the date of communication of this order.
5. The appeal should be signed by the person to whom this Order-in-Appeal is issued. It shall be accompanied by a certified copy of the order appealed against and all documents in support of appeal. The appeal shall be presented to the authorized officer of the Central Information Commission referred in paragraph 4 above or sent by Registered Post addressed to such authorized officer.

Sub: Appeal against not providing information by CPIO issued Under F.No.V(Gen)30/RTI/Bel-IV/13-14 dt. 17.1.14 Passed by CPIO Belapur IV Division in the matter of request made by Shri.Mahendra Baba Kamble 4th February 2014 which was received in Dn office on 6.2.14.

The applicant Shri Mahendra Baba Kamble had filed RTI application directly to CPIO, Belapur IV Dn on 26.12.2013 which was received in Dn office on 27.12.2013 wherein he sought the information as bellow.

- 1) M/s Shavo Norgrane (I) Pvt Ltd Plot No R-324, M.I.D.C TTC Industrial Area Post-Ghansoli Thane Belapur Road Rabale New Bombay-400701
- 2) whether the company situated as mentioned above comes under the purview of your office and excise laws?
- 3) whether the company situated as mentioned above has taken licence & excise No. from your office. If yes, please provide me copies of all concerned documents.
- 4) Whether your office has ever corresponded with the company? Please provide me all copies of the concerned correspondence.
- 5) Whether officer or staff of your office has ever visited to this factory?. If the answer is yes, then the Xerox copies of all concerned documents and reports to be provided

CPIO, Belapur IV Dn called for the said information from Supdt Range III Belapur.IV.& from M/s Shavo Norgren (I) Pvt Ltd. The reply has been received from the said company reporting vide their letter No. SNF/2013-14/EXC dt.6.1.14 informed that the provisions of Right to Information Act 2005 does not apply to it and even the said information is not in the public interest as contemplated by the said RTI Act. The Company further stated that the Union /Workmen employed by it including the Mr. Mahendra baba Kamble have instituted proceedings against the company which are pending before the Hon.Industrial/Labour court at Thane. The Company further stated that provisions of RTI Act are not applicable to the company and third party information cannot be sought for by using Good Offices. The Supdt Range III has given reply vide his letter F.No.Cex/RIII/Bel-IV/RTI/2013-14 dt. 7.1.14 Accordingly CPIO has given reply to the applicant vide his letter F.No.V(Gen)30/RTI/Bel-IV/13-14 dt.17.1.14 that this office is unable to provide any documents as same is confidential. Since M/s Shavo Norgren (I) Pvt Ltd being the third party his office corresponded with M/s Shavo Norgrane (I) P Ltd Plot No R-324, M.I.D.C, TTC Industrial Area Post-Ghansoli Thane Belapur Road Rabale New Bombay-400701 who vide their letter dt 6.1.14 as per section 11 of RTI Act 2005 requested his office not to disclose the confidential information to Mr. Mahendra baba Kamble & also CPIO found that disclosure of such information would harm the competitive position of the third party, hence exempted from disclosure in terms of section 8(d) of the RTI Act, 2005 and he partially rejected his request for information in terms of Section 7(1) of RTI Act 2005.

Against this reply the applicant has filed appeal which was received by this office on 06.02.2014. i.e. the applicant has directly sent the appeal application in the name of Addl Commissioner .

In the grounds of appeal, the appellant has stated as follows.

- 1) That the order dt. 17.1.14 was bad in law.
- 2) That the Information Officer has failed to appropriate the intention of the Act U/s 8(1)(d) which reads as under :

Section 8 (1)-Notwithstanding anything contained in this Act, there shall be no obligation to

give any Citizen.

(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.

Therefore the Second Part of the section clearly state that

“...unless the competent authority is satisfied that larger public interest warrants the disclosure of such information “

But the concerned information officer failed to appreciate the same.

3) That the concerned Company M/s Shavo Norgren (I) Pvt Ltd., Plot No.14, M.I.D.C. Digha Village, Post Airoli, Thane Belapur Road, Navi Mumbai-400708, hereinafter referred to as “The Said Company“ has made a written statement before the Hon`ble Industrial Court at Thane that it has been closed permanently and irrevocably on and from 19.6.12. However CPIO –Central Excise-Belapur, Dn IV vide his reply F.No.V(Gen)30/RTI/Bel-IV/10-11 dt.2.8.2013 (copy enclosed), that the said company has not surrendered their registration. Therefore an employees of the said company himself not only doubt but also know that the said closure is sham and bogus and the said company has started new unit at the address mentioned in the RTI application i.e. at Plot No. 324, M.I.D.C. T.T.C. Industrial Area. Post Ghansoli, Thane Belapur Road, Rabale, Navi Mumbai-400701.The said closure is nothing but due to hatred of workmen and thus the said Company has refused total of more than 50 workers to work and has compromised the lives at those workmen and their families.

4) That the said Company is not only compromising the livelihood of the said more than 50 families but also has made false statement before the Hon`ble Industries Court and has challenged the Government Authority in a way.

5) That there is a larger public interest not only of those more than 50 families but also the interest of all people of India as this can be only an example.

6) That if this authority allows the information to be disclosed, then at around 50 families can be saved from non-employment and further degradation in life.

7) Therefore it is prayed before this authority to please quash the Order dated 17.1.2014 and kindly disclose the information asked by him by way of Application dated 26.12.2013.

Applicant has not requested for personal hearing in the said appeal.

FINDINGS

I have gone through the appeal filed by the appellant and the order given by the CPIO vide his order F.No.V(Gen)30/RTI/Bel-IV/13-14 dt. 17.1.14

I have examined the grounds of appeal given by the appellant in detail. I find that the CPIO has partially denied the information to the appellant on the ground that M/s Shavo Norgren (I) Pvt Ltd vide their letter dt.6.1.14 informed that the provisions of Right to Information Act 2005 does not apply to it and even the said information is not in the public interest as contemplated by the said RTI Act. Company further stated that the Union /Workmen employed by it including the Mr. Mahendra baba Kamble have instituted proceedings against the

company which are pending before the Hon. Industrial/ Labour court at Thane. Company further stated that provisions of RTI Act are not applicable to the company and third party information cannot be sought for by using Good Offices. However, I find that a larger public interest involved & the information as requested by applicant at Sr.No.3, 4 and 5 are not covered under Section 8(1)(d) of RTI Act 2005.

ORDER

In view of the above, the appeal made by the applicant accepted and CPIO is directed to part with all the available information as sought.

o/c

(Anil Kumar Sahay)
 Joint Commissioner
 Central Excise, Belpur

To

1. Shri.Mahendra Baba Kamble
 30/69, B.D.D. Chawl, N.M.Joshi Marg,
 Lower Parel, Mumbai-400013
2. Shri Sumit Kumar Yadav
 Dy. Commissioner & CPIO
 Central Excise, Belapur IV Dn
3. M/s Shavo Norgren (I) Pvt Ltd.,
 Plot No.324, M.I.D.C. TTC Industrial Area
 Post Thane, Thane Belapur Road, Rabale
 Navi Mumbai-400701
4. Guard file

W3

**OFFICE OF THE DEPUTY COMMISSIONER OF CENTRAL EXCISE,
BELAPUR-IV DIVISION**

Gr. FLOOR, CGO COMPLEX, C.B.D.BELAPUR, NAVI MUMBAI-400614.

RTI MATTER

F. No. V (Gen) 30/RTI/Bel-IV/13-14/Pt.1
Navi Mumbai, the March., 2014

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A-3-14

To
Shri Mahendra Baba Kamble
30/69, B.D.D. Chawl, N.M.Joshi Marg,
Lower Parel, Mumbai- 400013

Sir,


Sub : Application for Information under Right to Information
Act, 2005 filed by Shri Mahendra Baba Kamble - reg.

With reference to your application dtd. 26.12.2013, on the above subject, the information called by you is given, as below, along with the relevant documents enclosed;

- 1) M/s Shavo Norgren (I) Pvt Ltd Plot No R-324, MIDC, TTC Industrial Area, Post Ghansoli Thane Belapur Road New Bombay 400 0701.--- copy of Registration is enclosed .
- 2) Whether the company situated as mentioned above comes under the purview of your office and excise laws?
Yes. Range- III, Belapur Dn-IV Belapur Commissionerate
- 3) Whether the company situated as mentioned above has taken Licence & Excise No. from your office.
Yes. Copy of Registration AABCS8869IHEM004, Project report, Leave & License Agreement, Declaration etc, are enclosed.
- 4) Whether your office has ever corresponded with company.
Yes. Annexure19, Proof of exports, copies of E.RI from Feb-2011 to Dec- 2013, authorization of signature, undertaking are enclosed .
- 5) Whether office or staff of your office has ever visited to this company.
Yes . whenever export has to be attended - copy of statement of ARE1 From 01-04-2011 to 02-01-2014 are enclosed.

As required copies of all available correspondence as mentioned above are enclosed herewith .

Yours faithfully


C.P.I.O., Deputy Commissioner of Central Excise
Belapur-IV Division

Encl as above

Copy to : 1) First Appellate authority, Joint Commissioner Central Excise, Belapur
w.r.t. Order-in-Appeal No.4/2013(RTI) dt.19.02.2014.
2) Dy./Asst. Commissioner, (CPIO), Central Excise, Belapur for information