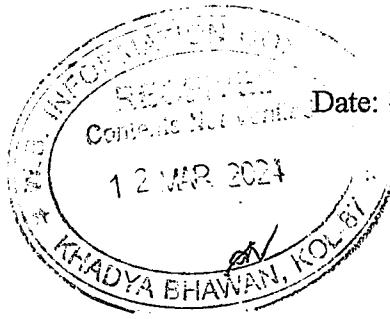


100250 (A)
13/03/2024



Date: 12th February 2024

To,
The State Information Commissioner,
West Bengal Information Commission,
Khadya Bhawan Complex, 11A,
Mirza Ghalib Street, Janbazar,
Taltala, Kolkata,
West Bengal – 700087

Subject: Appeal for Intervention in the Matter of Non-Disclosure of Information under the RTI Act, 2005

Respected Sir/Madam,

I, Hari Sunar, a resident and tenant at D.I. Fund Plot No. 84, 85, 87, and 636, belonging to the Scheduled Caste community, hereby file this appeal under the Right to Information Act, 2005, seeking your immediate and kind intervention in a matter that concerns not only my legal rights but also the safety and well-being of my family.

For generations, my family has been living on the aforementioned plots, where currently, a four-storied structure stands, housing us on the ground floor. Recently, we have been subjected to threats and coercive attempts by certain elements, colloquially known as 'land mafias', aiming to demolish the existing structure to construct a shopping mall. In an attempt to protect our residency and to assert our rights legally, I sought to obtain the necessary land documents and details from the D.I. Fund Department through several applications under the Right to Information Act, 2005.

Despite my efforts, the response from the D.I. Fund authority has been disheartening and obstructive. Instead of providing the requested information, they have cited the involvement of third-party information, referring to a memo no. 29/DIF/KPG/2023, dated 29th August 2023, which states that the third party has refused to disclose the information. It is pertinent to mention that the State Public Information Officer had explicitly directed the D.I. Fund Department to provide the information directly to me, with an intimation to their office, as per the provisions under Section 6(3) of the RTI Act, 2005.

The denial of information and the subsequent misleading guidance by the D.I. Fund authorities have not only left me in a state of vulnerability but have also blatantly disregarded the directive issued by the State Public Information Officer. This obstruction hinders my ability to pursue justice and safeguard my family's interests legally.

I humbly request your esteemed intervention to ensure that the information rightfully due to me under the RTI Act is provided at the earliest. Your action in this matter is not only crucial for upholding the principles of transparency and accountability as enshrined in the RTI Act but also for the protection and justice of individuals like myself, who find themselves marginalized and threatened by powerful interests.

I trust in your authority and the mechanisms of the RTI Act to provide a fair resolution to this impasse. I am ready to provide any further information or clarification needed in this regard and look forward to your prompt and positive response.

Thank you for your attention to this matter.

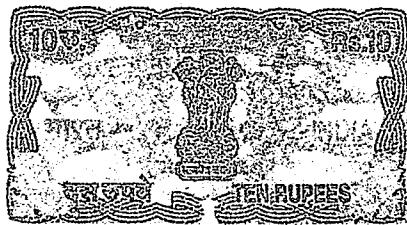
Yours sincerely,

Hari Sunar

Hari Sunar,
Aadhar No.: 211937852565
Mobile No.: 7908131503
C/O L.S Sundas Abode,
Relli Road,
Kalimpong – 734301

Enclosed: My RTI applications and Replies

To,
The State Public Information Officer,
DLLRO,
D.I Fund Department,
Kalimpong – 734301



Date: 21.08.2023

Subject: Request for Information under the Right to Information Act, 2005

Dear Sir/Madam,

I, Hari Sunar S/O Late D.B Sunar, am writing to you under the provisions of the Right to Information Act, 2005, to seek certain information regarding the D.I Fund Plots situated at Saheed Dal Bahadur Giri Path (Main Road), within Kalimpong Municipal Ward No. XII.

The details of the information sought are as follows:

1. Status of Lease for D.I Fund Plots: Kindly provide information on whether D.I Fund Plot No. 84, 85, 87, and 636 are under a temporary lease or a permanent lease. I request the relevant details pertaining to the same.
2. Details of Lessee and Land Area: Please furnish the details of the lessee's name associated with the aforementioned D.I Fund plots and the total land area of these plots.
3. Lease Renewal Period: I seek information on the date from which the lessee has renewed the leased land for the above-mentioned plots. Additionally, I request a copy of the application made for the lease renewal.
4. Frequency of Lease Renewal: Kindly provide the number of times the lease period for the said plots has been renewed.
5. Rent Receipts: I request the provision of the rent receipt for the D.I Fund plots mentioned above.

Furthermore, I would like to bring to your attention that my family and I have been tenants of the Chung Building for over sixty years. Currently, the owner of the said plot is pressuring us to vacate the property with intentions to sell the building. I have reasons to believe that the owner of the said D.I Fund Plot has neither applied for selling permission nor sought renovation permission from your esteemed office. If you could provide the requested details, it would greatly assist us in seeking justice and ensuring our rights are protected.

I understand that the particulars of the organization, its functions, duties, and the procedure followed in the decision-making process, including channels of supervision and accountability, are mandated to be made available to the public under the RTI Act, 2005 (as mentioned on page 5 of the Act). Therefore, I believe that the information sought does not fall under any exemptions provided in the Act and should be furnished within the stipulated time frame.

Thank you for your attention to this matter. I look forward to your prompt response.

Yours faithfully,

Hari Sunar

Hari Sunar,
Aadhar No: 211937852565
Voter Card: TQG0118521
Mobile No: 7908131503
C/O L.S Sundas ABODE,
Relli Road,
Kalimpong – 734301



GOVERNMENT OF WEST BENGAL
OFFICE OF THE DISTRICT MAGISTRATE
RTI SECTION
KALIMPONG

Phone & FAX No. -03552255264

Email Id – kalimpongrti@gmail.com

Memo No: /RTI.

Dated:

To,
The Officer-in-Charge,
DI Fund, Kalimpong

Subject: Transfer of RTI application U/S 6(3) of the RTI Act 2005.

Sir,

In reference to the subject mentioned above, enclosed please find herewith an application under RTI Act, 2005 received on 28.07.2023 from Hari Sunar, C/O L. S Sundas ABODE, Relli Road, PS Kalimpong- 734301.

The application is being forwarded to your office U/S 6(3) of the RTI Act 2005. You are requested to provide point wise information directly to the applicant with intimation to this office

It is also being requested that if the subject matter of the application relates to any other authority/department, the same may be transferred to the concerned authority under intimation to the applicant.

This is for favor of kind information and taking necessary action.

Yours faithfully

Enclosed: As stated above.

S.S.

S.P.I.O.

Office of the District Magistrate,
Kalimpong

Memo No: *82/1/10*/RTI.

Dated: *25/8/2023*

Copy forwarded for information to:-

✓ 1. Hari Sunar, C/O L. S Sundas ABODE, Relli Road, PS Kalimpong- 734301

25/8/2023

S.P.I.O.

Office of the District Magistrate,
Kalimpong

To,
The State Public Information Officer, DC or the DISTRICT MAGISTRATE, KALIMPONG
DLLRO,
D.I Fund Department,
Kalimpong - 734301

Received but contents not verified
20
1) Docket No. 2210812023
2) Receipt date 22/08/2023
3) Received by (Signature of Official)

2917

Date: 21.08.2023

Subject: Request for Information under the Right to Information Act, 2005

Dear Sir/Madam,

I, Hari Sunar S/O Late D.B Sunar, am writing to you under the provisions of the Right to Information Act, 2005, to seek certain information regarding the D.I Fund Plots situated at Saheed Dal Bahadur Giri Path (Main Road), within Kalimpong Municipal Ward No. XII.

The details of the information sought are as follows:

- Status of Lease for D.I Fund Plots:** Kindly provide information on whether D.I Fund Plot No. 84, 85, 87, and 636 are under a temporary lease or a permanent lease. I request the relevant details pertaining to the same.
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- Rent Receipts:** I request the provision of the rent receipt for the D.I Fund plots mentioned above.

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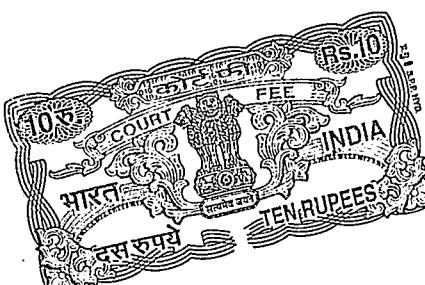
I understand that the particulars of the organization, its functions, duties, and the procedure followed in the decision-making process, including channels of supervision and accountability, are mandated to be made available to the public under the RTI Act, 2005 (as mentioned on page 5 of the Act). Therefore, I believe that the information sought does not fall under any exemptions provided in the Act and should be furnished within the stipulated time frame.

Thank you for your attention to this matter. I look forward to your prompt response.

Yours faithfully,

Hari Sunar

Hari Sunar,
Aadhar No: 211937852565
Voter Card: TQG0118521
Mobile No: 7908131503
C/O L.S Sundas ABODE,
Relli Road,
Kalimpong - 734301



To,
The State Public Information Officer,
District Land and Land Reform Officer,
Land & Land Reforms Department,
Kalimpong – 734301

18
Date: 14.12.2023

Subject: Appeal Against the Denial of Information under RTI Act, 2005 – Ref: Memo No. 41/DIF/KPG/23 dated 30/11/2023

Dear Sir,

I am writing to formally appeal against the decision mentioned in your Memo No. 41/DIF/KPG/23 dated 30/11/2023, which denies my request for information under the Right to Information Act, 2005.

As an Indian citizen (Aadhar No: 211937852565, Voter Card: TQG0118521), I firmly believe that the decision to classify me as a "third party" and thereby deny access to the requested public records is not only unjust but also contradictory to the principles of transparency and accountability upheld by the RTI Act.

The information I seek is related to public records, which, by definition, are meant for public scrutiny to promote governmental accountability. These records are the property of the government and, as a citizen, I have the right to access them unless explicitly restricted by law. The third-party clause should not apply in this context as the information pertains to actions and records of the government, not private entities.

I wish to highlight the significant aspect of the RTI Act concerning the accountability of public officers. This law, for the first time in the history of Independent India, casts direct accountability on the officer for non-performance. If the concerned officer does not provide information in time, the Information Commissioner can impose a penalty of ₹ 250 per day of delay. Further, if the information provided is false, a penalty of a maximum of ₹ 25,000 can be imposed. This fine is deducted from the officer's salary. A penalty can also be imposed for providing incomplete information or rejecting an application for malafide reasons. These provisions underscore the seriousness of the Act enforcing the right to information.

I request a re-evaluation of my application and the provision of the requested information. Denying access to public records under the guise of protecting third-party interests, when no such interests are at stake, undermines the very foundation of the RTI Act.

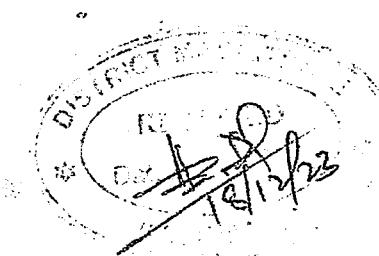
I trust that upon reconsideration, my request will be granted and the information provided in a timely manner. If this appeal is not satisfactorily addressed, I am prepared to take further necessary steps, including approaching the Information Commission for redressal.

Thank you for your attention to this matter.

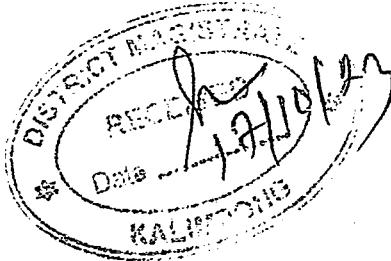
Yours faithfully,

Hari Sumar

Hari Sumar
Aadhar No: 211937852565
Voter Card: TQG0118521
Mobile No: 7908131503
C/O L.S Sundas ABODE,
Relli Road,
Kalimpong – 734301



To,
The State Public Information Officer,
DLLRO,
D.I Fund Department,
Kalimpong – 734301



Date: 17.10.2023

Subject: Urgent Reconsideration of Request for Information under the Right to Information Act, 2005

Dear Sir/Madam,

I am writing to express my concern and disappointment regarding your Memo No: 34/DIF/KPG/23 dated 22/09/2023, in which my legitimate request for information under the RTI Act, 2005, was summarily denied, citing the involvement of third-party details.

I, Hari Sunar (Scheduled Caste), a citizen of India, Aadhar No: 211937852565, and Voter Card: TQG0118521, am compelled to remind you that the RTI Act, 2005, is a powerful tool bestowed upon the citizens of India to promote transparency and accountability in the working of every public authority. The information I am seeking pertains to government records, which are inherently meant to be transparent and accessible to the citizens of this country.

I find it perplexing and disconcerting that I, being a citizen of India, am being considered a third party in a matter that directly affects my rights and well-being. The term "third party" implies a detachment and an absence of direct involvement or interest in the matter, which is not the case here. My family and I have been longstanding tenants, and the information sought is crucial to safeguard our rights against potential illicit intentions to sell the building without acquiring the requisite permissions.

Denial of Information under Section 8

(a) information, disclosure of which would prejudicially affect the sovereignty and integrity of India, the security, strategic, scientific or economic interests of the State, relation with foreign State or lead to incitement of an offence;

The PIO must explain how the disclosure of information is likely to 'prejudicially affect the sovereignty and integrity of India, or the security, strategic, scientific or economic interests of the State, relation with foreign State or lead to incitement of an offence'. The information must be provided if no specific reasoning is given to justify denial. It must be observed that the law does not exempt files or information labelled 'confidential' as exempt. Classification as 'confidential' is an internal procedure and cannot be used to deny information since the RTI Act has exempted this category.

(b) the information which has been expressly forbidden to be published by any court of law or tribunal or the disclosure of which may constitute contempt of court;

The exemption will only apply when any matter has been specifically and expressly forbidden to be made public by a court or tribunal. Even if an issue is subjudice, the information has to be provided. This exemption will only apply if a specific order of the Court or tribunal says the particular information has been prohibited from disclosure. Such a disclosure would be contempt of court and hence barred.

(c) information, the disclosure of which would cause a breach of privilege of Parliament or the State Legislature; This will primarily apply where there is a legal stipulation to present some information like a report to Parliament or the Legislature. This provision will also apply when a specific order has been given by the Legislature to avoid disclosing some information in public domain or to prohibit some proceedings of the Parliament or Legislature from being made public.

There is a common practice of governments appointing Commissions of Inquiry and often not making the reports public. Since the report has not been placed before Parliament can it be given in response to an RTI application?

As per Section 3(4) of the Commissions of Inquiry Act, "The appropriate Government shall cause to be laid before each House of Parliament or, as the case may be, the Legislature of the State the report, if any, of the commission on the inquiry made by the Commission under sub-section (1) together with a Memorandum of

the action taken thereon, within a period of six months of the submission of the report by the commission to the appropriate Government."

If it has not been placed within six months before the Parliament, or State Legislature, the breach of privilege has already occurred since the government has not abided by the provision of the Commissions of Inquiry Act. It cannot then be claimed that giving the report to the applicant will

cause a breach of privilege since it has already been breached by the holder of the report.

Another important point which must be noted is that if some information is denied to Legislature, this exemption does not say it should not be given to a citizen. There is an additional view at this juncture.

(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;

To qualify for this exemption, it must be established that it is 'commercial confidence, trade secret or intellectual property'. Most importantly, it must be shown that the disclosure would 'harm the competitive position of a third party'. This would mean if particular information is given by the 'third party' which can be identified as a trade secret or commercial confidence and its disclosure would harm its competitive position, then such information could be denied to the applicant. This section does not envisage denial of information such as tender bids, specifications or guarantees are given by bidders to the public authorities. The PIO must examine and ensure whether information denied qualifies this test of damage to third party likely to be caused by disclosure.

As an example, if a Company is negotiating with some other customers for some orders and discloses this to the Public authority, it may be claimed that it is information given in commercial confidence and disclosing this information could damage its competitive position. Similarly, if a formula/formulation is disclosed by a company, its disclosure could be exempted since disclosure could harm its competitive position. If there is no possibility of competition, the exemption cannot be claimed under this clause.

I am not seeking any concession or favoritism towards any third party. My sole intention is to exercise my right to information to ensure justice and to uphold the principles of transparency and accountability enshrined in the RTI Act, 2005.

I anticipate your immediate and positive response to this matter, ensuring the provision of the requested information or, at the very least, part of the record containing information which can be disclosed, as per Section 10 of the RTI Act, 2005.

Yours faithfully,

Hari Sunar

Hari Sunar,

Aadhar No: 211937852565

Voter Card: TQG0118521

Mobile No: 7908131503

C/O L.S Sundas ABODE,

Relli Road,

Kalimpong – 734301



GOVERNMENT OF WEST BENGAL
OFFICE OF THE DISTRICT MAGISTRATE
RTI SECTION
KALIMPONG

Phone & FAX No. -03552255264

Email Id – kalimpongrti@gmail.com

Memo No: /RTI.

Dated:

To
The SPIO,
DI Fund, Kalimpong

Subject: Urgent reconsideration of request for information under the Right to Information Act, 2005.

Sir,

In reference to the subject mentioned above, enclosed please find herewith a letter from Hari Sunar, C/O L.S Sundas ABODE, Relli Road, Kalimpong-734301 received on 17.10.2023.

The letter is being forwarded to your office and you are requested to provide information directly to the applicant with intimation to this office.

This is for favor of kind information and taking necessary action.

Yours faithfully

Enclosed: As stated above.

Sd/r

S.P.I.O.

Office of the District Magistrate,
Kalimpong

Memo No: 103/1/(1)/RTI.

Dated: 31/10/2023

Copy forwarded for information to:-

✓ 1. Hari Sunar, C/O L.S Sundas ABODE, Relli Road, Kalimpong-734301.

S.P.I.O.

Office of the District Magistrate,
Kalimpong



GOVERNMENT OF WEST BENGAL
OFFICE OF THE DISTRICT MAGISTRATE, KALIMPONG
D.I. FUND SECTION

Phone & FAX No. -03552255264

Email Id - dmkalimpong2017@gmail.com

Memo No: 21 /DIF / KPG/23

Date: 30/11/2023.

To

Hari Sunar
C/O L.S Sundas 'ABODE',
Relli Road,
Kalimpong- 734301

Sub: Information sought under RTI Act, 2005.

Ref: Memo No. 103/RTI, dated; 31/10/2023 of the State Public Information Officer, Office of the District Magistrate, Kalimpong.

In regard to your application under RTI Act, this is to inform you that the information sought by you involves disclosing the information of third party. In relation to that the third party was informed vide memo no. 29/DIF/KPG/2023, dated 29.08.2023 wheather they desire to provide the information or not? And they verbally informed that they would not like to get the information disclosed.

AS. 11.27
Officer in Charge
D.I.Fund
Kalimpong

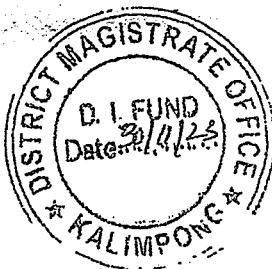
Memo No: /DIF/KPG/23

Date: 30/11/2023

Copy forwarded for kind information to the:

1) State Public Information Officer, Office of the District Magistrate, Kalimpong.

Officer in Charge
D.I.Fund
Kalimpong





GOVERNMENT OF WEST BENGAL
OFFICE OF THE DISTRICT MAGISTRATE
RTI SECTION
KALIMPONG

Phone & FAX No. -03552255264

Email Id – kalimpongrti@gmail.com

Memo No: /RTI.

Dated:

To,
The District Land & Land Reform Officer, Kalimpong
&
The First Appellate authority
U/S 19 of the RTI Act, 2005
Office of the District Land & Land Reform Officer,
Kalimpong

Subject: First Appeal U/S 19 of RTI Act, 2005.

Sir,

Please find herewith the First Appeal U/S 19 of the RTI Act, 2005 received on 18.12.2023 from Hari Sunar, C/O L.S Sundas ABODE, Relli Road, Kalimpong-734301. The application is being forwarded to your end for your kind perusal and taking necessary action.

Yours faithfully

Sd/-

S.P.I.O.

Office of the District Magistrate,
Kalimpong

Memo No: 123/1(2)/RTI.

Dated: 22/12/2023

Copy forwarded for information to:-

1. Hari Sunar, C/O L.S Sundas ABODE, Relli Road, Kalimpong-734301.
2. The CA to DM, Kalimpong.

22/12/2023
S.P.I.O.

Office of the District Magistrate,
Kalimpong

Hearing on 29-01-2026

State Chief Information Commissioner West Bengal < scic-wb@nic.in >

Tue, 06 Jan 2026 11:51:57 AM +0530

To "Shri Balasubramanian IAS"<dm.kpg-wb@nic.in>,"kalimpongrti"<kalimpongrti@gmail.com>

Please find the attachment, for further details visit our website

West Bengal Information Commission

1 Attachment(s)

WBIC-RTI-A-100250-689-2024...
15.9 KB