

29371(A)
16/08/2023

True copy (FOR RESPONDENT)

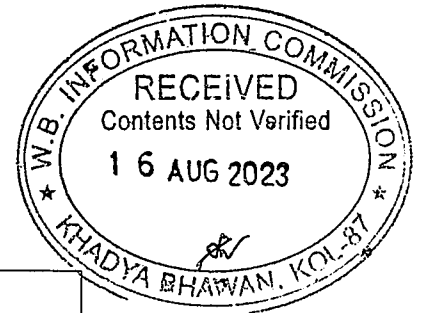
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16/08/2023

FORMAT FOR FILING 2ND APPEAL BEFORE THE WEST BENGAL

INFORMATION COMMISSION

U/S.19(3) of RTI Act, 2005

(Vide Circular No.3008-WBIC/Admin-05/13 dated 20/08/2019)



1..	Name of the Appellant	SOUMENDRA KUMAR DUTTA
2.	Complete Postal Address (Attach self attested copy of one address proof document viz, Bank Pass Book, EPIC, PAN, Driving License, Passport, AADHAR Card etc)	37, D H Road, Genexx Valley, Tower -34, Flat - 4A, PO: Joka, PS: Haridevpur, Kolkata - 700104. (Self attested copy of AADHAR Card is attached)
3.	(a) Contact No. (b) e-mail ID	9474120087 soumendra.adv@gmail.com
4.	(a) Date of filing of application for information under RTI Act (A self attested copy of RTI application should be attached) (b) Whether application fee paid (i) If yes, mode of payment (ii) If no, self attested photocopy of relevant certificate issued by the competent authority should be attached.	17/04/2023 (A self attested copy of RTI Application dated 17/04/2023 is attached) Y/N (Yes) Court Fee of Rs.10/- N A
5.	Name of the State Public Information Officer/State Asst. Public Information Officer to whom the application was made and Address (a) Whether RTI petition is transferred to another SPIO u/s.6(3) of the RTI Act, 2005. If yes, name & address of such authority (Please attach copy of transfer memo as above)	The SPIO & The Asst. Commissioner, Stamps & Revenue, The Directorate of Registration and Stamp Revenue, Govt. of West Bengal, Fortuna Tower, 9 th Floor, 23A, N S Road, Kolkata - 700001. NO N/N (No)

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6.	Gist of the information sought for	<p align="center"><u>Details of Information sought under Sec.6(1) of RTI Act, 2005</u></p> <p><u>Query No.1)</u> Is the Order dated 23rd March, 2012 issued by the Finance Deptt, Revenue Cell, Govt of West Bengal regarding payment of interest @1% on the Stamp duty and Registration fees payable per month or part thereof in case any immovable property (Flat/Apartments) remains unregistered from the 1st day of October, 2011 onwards to the date of registration with the Registering Authority <u>is enforceable now and applicable in the case of Applicant?</u></p> <p><u>Query No.2)</u> When construction of a building/flat was completed and possession of the Flat was handed over by the Builder/ Developer to erstwhile Buyer in the year 2009 on the basis of an unregistered Agreement to Sale dated 17/01/2006 and the flat/apartment is kept by him unregistered till 2022. Based on that unregistered agreement, a nomination agreement is made on 29/06/2022 on receipt of token money, a tripartite Deed of Conveyance is executed by the parties and registered before the Registering Authority on 22-07-2022, <u>who is liable/chargeable for payment of 1% interest extra on the Registration fees levied at the time of registration after 13 years in terms of the above referred Order dated 23rd March, 2012 issued by the Finance Deptt, Revenue Cell, Govt of West Bengal?</u></p> <p><u>Query No.3)</u> So far the Applicant understands, the concept/term in the name and style of <u>NOMINATION AGREEMENT</u> is not defined in any act or statute that changes the status and position of parties both in the Nomination Agreement and Deed of Conveyance made for registration. <u>Without being a registered owner of the property how can a person nominate other person to transfer its title/lien through a Nomination Agreement? Applicant therefore be apprised of the legal sanctity and reason/logic behind the practice/procedure that affects the evidentiary value of the documents.</u></p>
7.	Have you received any response/Information? If so, attach a self attested copy of the same.	Responded by the SPIO vide Memo No.1545/DRSR – 16/2/2022 ESTT SEC –DRSR (Pt.-IV) dated 11-05-2023 (Self attested copy of the same is attached & marked - A/1)
8.	Date of filing 1 st Appeal (A self attested copy of 1 st Appeal along with proof of submission of the same should be attached)	1 st Appeal u/s.19(1) of RTI Act, 2005 filed on 12-06-2023 (Self attested copy of the same is attached & marked – A/2)
9.	Authority to whom the first appeal was made with address	The FAA & The Inspector General of Registration & Commissioner of Stamp Revenue, Directorate of Registration & Stamp Revenue, Govt. of West Bengal, Fortuna Tower, 9 th Floor, 23A, N S Road, Kolkata – 700001
10.	Decision of the 1 st Appellate Authority, if any, including number and date of the Order.	Order of the FAA vide Memo No.2028/DRSR-16/1/2023-ESTT SEC – DRSR dated 22-06-2023. (Self attested copy of the Order dated 22/06/2023 of 1 st Appellate Authority is attached & marked – A/3)

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	(A self attested copy of the Order of the 1 st Appellate Authority should be attached)	
11.	Grounds of 2 nd Appeal and the relief sought (specify)	<p align="center"><u>GROUND OF 2ND APPEAL</u></p> <ol style="list-style-type: none"> 1) The reply of the SPIO was self-contradictory as reply to query no.1 is affirmative, the reply to query no.2 & 3 of the SPIO is contradictory being responded casually and lackadaisical way without even appreciating the specific queries against which information sought by the appellant in his application citing a guideline no.10 of Part-I issued by the Govt. of India vide OM No.1/4/2009-IR dated 05/10/2009. 2) The decision of the 1st Appellate Authority is passed in the same line upholding the reply of the SPIO and disposed of the 1st Appeal referring the guideline no.9 issued by the Deptt. of P & T, Govt. of India vide OM No.1/3/2008-IR dated 25-04-2008 stating that it is beyond the scope of the RTI Act to create information, or to interpret information, or to solve the problems raised by the applicants or to furnish replies to hypothetical questions. 3) The RTI Act does not state that queries must not be answered, nor does it stipulate that prefixes as "why, what, when and whether" cannot be used. The SPIO as well as 1st AA is right in accepting that what is asked must be a matter of record, but errs in imposing a new set of non-existent exemptions and denied the information in blanket manner. 4) The queries in the nature of "why, what, when and whether", per se do not disentitle an applicant from seeking information u/s.2(f) of the RTI Act. In case there is any record available in regard to any question raised in an RTI application, the same needs to be provided u/s. 7(1) of the Act. When however, these questions are mostly hypothesizes/ opinion expressed or opinions involving no record/ document by the responded authorities, one can safely disregard these information as not being covered under the definition of "information" as enunciated exhaustively u/s.2(f) of the RTI Act, 2005 5) The Appellant believes that Section (19) of the RTI Act permits any person to appeal before the Hon'ble Commission if he has been denied access to an information requested under this act or he believes that he has been given incomplete, misleading, or false information under this Act. Such an actions of the respondent are in non compliance with the provisions and spirit of the RTI Act that also proves that respondent have taken the queries made under RTI Act very casually. 6) Right to Information finds its root in the Fundamental Right which no one is supposed to violate but respondent have done that by denying the information which is detrimental to the objectives of the RTI Act, namely, creating an informed citizen of country and ensuring the establishment of a practical regime of transparency in the activities in the office of a Public Authority stands defeated.

Datta
16/08/2023

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		<p>7) Further, under Section 25(5) of the RTI Act, 2005, if it appears to the Hon'ble Commission that the practice of a public authority in relation to the exercise of its functions under this Act does not conform with the provisions or spirit of this Act, it may give to the concerned public authority a recommendation specifying the steps which ought in its opinion to be taken for promoting such conformity.</p> <p><u>Relief/s prayed for –</u></p> <p>The Appellant humbly prays that considering the submission made herein against the Order of FAA and Respondent, the Hon'ble Commission may be pleased to –</p> <ol style="list-style-type: none"> 1. Allow and admit this appeal and pass an appropriate order based on merit in the appeal to enable the appellant to access the information sought from the concerned Public Authority, 2. Invoke its power u/s.19(8)(a)(i) of the Act to direct the concerned Public Authority to furnish the information sought in compliance with the provision of Sec.10(1) or Sec.11 of the Act 3. Considering the above stated grounds behind the 2nd Appeal and the queries that involves substantial and complex questions of law which is related to an Order dated 23rd March, 2012 issued by the Finance Deptt, Revenue Cell, Govt of West Bengal that is still in vogue, the Appellant may be provided with the information/documents which pertains to the deptt/office and under the control of the Public Authority and not exempted from disclosure as per Sec.8 & 9 of the RTI Act, 2005. 4. In case the information sought by the appellant falls under the category of Third Party Information (u/s.11) or u/s.10(1)(Severability) of the Act, the information may be provided to him following the said provisions of the Act. 5. Any other order/orders as may deem fit and proper by Hon'ble Commission in the facts & circumstances stated by the appellant in the 2nd Appeal. 6. The Appellant reserves his right to make an amendment/alteration in the contents of Appeal or relief sought for or to submit additional arguments and prayers as and when required in course of hearing.
12	<p>If 2nd Appeal is filed after 90 days from the date on which the decision of the 1st Appellate Authority was received or after 135 days from the date of filing the 1st Appeal. Explain the reasons for the delay along with supporting documents.</p>	<p>The decision of 1st Appellate Authority dated 22/06/2023 was received on 26/06/2023 and 2nd Appeal u/s.19(3) of the RTI Act, 2005 is filed within 90 days.</p>

D. K.
16/08/2023

I Soumendrakumar Dutta son of Late Barendra Kr. Dutta,

Aged 66+ (Yrs) being an Indian citizen do hereby solemnly affirm that the statements made herein are true to my knowledge based on records and the rest are my submissions to the Hon'ble West Bengal Information Commission.

Place.. Kolkata-700104.

Dutta 16/08/2023
Signature of the Appellant

Date.. 16/08/2023.

(SOUENDRA KUMAR DUTTA)
(Name of the Appellant)

List of documents to be enclosed:-

- Self attested copy of address proof document
- Self attested copy of RTI Application
- Self attested photocopy of proof of RTI fee payment or of BPL status
- Self attested copy of 1st Appeal
- Self attested copy of all communication/replies received from the public authorities in connection with the instant RTI application,
- 2nd Appeal in the format as above.
- Any other documents in support of the 2nd appeal. → 1) A xerox copy of Order dated 25/04/2018 of C/C and, 2) A copy of Grievance submitted online on 26/07/2023.

Bullis
18/08/23

Government Of West Bengal
Directorate Of Registration & Stamp Revenue
Fortuna Tower , 9 th Floor
23 A , N.S. Road , Kolkata – 700001

Memo No.1545 / DRSR – 16 / 2 / 2022 ESTT SEC - DRSR (Pt.-IV)

Dated : 11.05.23

From : State Public Information Officer &
Deputy Inspector General Of Registration (Inspection/Presidency Div.)

To : Sri Soumendra Kumar Dutta
Genexx Valley
Tower – 34 , Flat no. – 4A
37 , D.H. Road
Joka
Kolkata - 700104

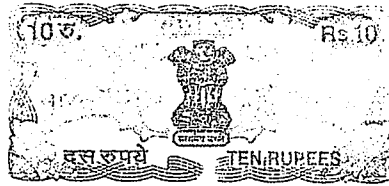
Sub : Application under 6(1) of R.T.I. Act' 2005 by Sri Soumendra Kumar Dutta .

In connection to your letter dt. nil on the subject noted above , the u/s is to inform him as follows :

- 1) G.O. No. 411 F.T. dt. 23.03.2012 as amended vide G.O. No. 1476 F.T. dt. 29.08.2014 is still in vogue .
- 2) In the absence of an agreement to the contrary , the purchaser of the document is liable to pay the Stamp Duty as per section 29 of the Indian Stamp Act , 1899 .
- 3) This information is not held by this SPIO . The SPIO is not supposed to create and interpret information as per guideline issued by the Government vide para no. 10 of Part-I of the O.M. no. 1/4/2009 dt. 05.10.2009 .

This is for your kind information .

State Public Information Officer &
Deputy Inspector General Of Registration (Inspection/Presidency Div.)



BY SPEED POST

To,
The State Public Information Officer,
(under RTI Act, 2005)
The Directorate of Registration and Stamp Revenue,
Govt. of West Bengal,
Fortuna Tower, 9th Floor,
13A, N S Road,
Kolkata - 700001.

Kind Attn: ACSR, The Directorate of Registration and Stamp Revenue,

Sub: Application seeking information under Sec: 6(1) of R T I Act, 2005

Respected Sir,

Mot humbly I am to submit that I need the following information in connection with the registration of immovable property that usually done in compliance with the provision of Registration Act, 1908, Stamp Duty Act, 1899 as amended in 2005, WB Stamp Rules, 1994, Transfer of Property Act etc. However, in view of the contents of an Order dated 23rd March, 2012 (Copy enclosed for brevity and ready reference) issued by the Finance Deptt, Revenue Cell, Govt of West Bengal regarding payment of interest @1% extra on the Stamp Duty and Registration fees payable per month or part thereof in case any immovable property (Flat/Apartments) remains unregistered from the 1st day of October, 2011 onwards to the date of registration with the Registering Authority.

Brief synopsis behind the Application under RTI Act, 2005

That, last year in the month July, 2022, Applicant bought a 2BHK Flat at Joka, construction of which was completed and possession is delivered in the year 2009 (OC dated 24-03-2009) by the Builder/Developer to the erstwhile Buyer who kept it unregistered with the Registering Authority for a period of more than 13 years on the basis of an unregistered Agreement to Sale dated 17/01/2006 made on a non-judicial stamp paper of Rs.10/- and based on said unregistered Agreement, a tripartite Agreement for Nomination on NJSP of Rs.10/- made on 29/06/2022 and a tripartite Deed of Conveyance is made between the Builder/Developer, the present Buyer/Applicant and the confirming party i.e. erstwhile Purchaser (who bought the apartment in 2006, got occupation from the Builder/Developer in 2009 and kept it unregistered till 2022). The said Deed of Conveyance was executed by all the parties and registered on 22-07-2022 in the o/o. the concerned authority in compliance of all the formalities.

That, it is noticed later on from the e-assessment slip generated by the representative of the Builder/Developer that a sum of 1% interest to the tune of Rs.20,995/- is charged and levied extra for keeping the property unregistered in terms of the Order dated 23/03/2012 of the Finance Deptt and accordingly the Buyer/Applicant has born the financial liability/burden of erstwhile Purchaser who kept it unregistered for long 13 years including his own for lack of knowledge and transparency in the deal.

Being the position as stated above, the following queries, in principle, needed to be suitably addressed and clarified in the light of above stated facts and corresponding provision of notification/orders made under relevant Act and Statute.

Details of Information sought under Sec.6(1) of R T I Act, 2005

Query No.1) Is the Order dated 23rd March, 2012 issued by the Finance Deptt, Revenue Cell, Govt of West Bengal regarding payment of interest @1% on the Stamp duty and Registration fees payable per month or part thereof in case any immovable property (Flat/Apartments) remains unregistered from the 1st day of October, 2011 onwards to the date of registration with the Registering Authority **is enforceable now and applicable in the case of Applicant?**

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13/04/23
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16/08/2023

<Dial: 18002666666> <Wear Masks, Stay Safe>

SP JOKA SO <700104>
EW165875229IN IVR:6987165875289

Counter No:1, 17/04/2023, 12:30

To: THE SPIO, DIRECTOR OF REGI

PIN: 700001, KOLKATA GPO

From: SOUMENDRA KR DUTTA, .

lit: 25gms



16/08/23
18/04/23

Query No.2) When construction of a building/flat was completed and possession of the Flat was handed over by the Builder/ Developer to erstwhile Buyer in the year 2009 on the basis of an unregistered Agreement to Sale dated 17/01/2006 and the flat/apartment is kept by him unregistered till 2022. Based on that unregistered agreement, a nomination agreement is made on 29/06/2022 on receipt of token money, a tripartite Deed of Conveyance is executed by the parties and registered before the Registering Authority on 22-07-2022, who is liable/chargeable for payment of 1% interest extra on the Registration fees levied at the time of registration after 13 years in terms of the above referred Order dated 23rd March, 2012 issued by the Finance Deptt, Revenue Cell, Govt of West Bengal?

Query No.3) So far the Applicant understands, the concept/term in the name and style of NOMINATION AGREEMENT is not defined in any act or statute that changes the status and position of parties both in the Nomination Agreement and Deed of Conveyance made for registration. Without being a registered owner of the property how can a person nominate other person to transfer its title/lien through a Nomination Agreement? Applicant therefore be apprised of the legal sanctity and reason/logic behind the practice/procedure that affects the evidentiary value of the documents, and acquisition cost to Applicant.

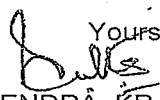
Applicant therefore, humbly prays for authentic information to these specific queries clarifying the position in details to access merit in the information to be provided in response to an application made under RTI Act.

As required under Rule 3 of West Bengal Right to Information Rules, 2006 I attach herewith a Court Fee of Rs.10/- towards the Application fees for the Application made under Sec.6(1) of RTI Act, 2005 seeking aforesaid information. However, if any additional fees/charges are required for providing the desired information/documents, the same may kindly be intimated to the applicant at an early date informing the mode of payment. Further, in case it appears that the application is sent to improper address, the same may be forwarded to the concerned SPIO in compliance of Sub-Section(3) of Sec.6 of the Act for taking n/a from his end.

The applicant understand to the best of his knowledge that the information sought herein above does not fall within the restriction/exemption from disclosure as contained in Section 8 & 9 of the R T I Act. 2005 and it pertains to the deptts/office under your kind control. However, in case the information sought by the applicant falls under the category of Third Party Information(Sec.11) or u/s.10(Severability) of the Act, the information should be provided to him following the said provisions of the Act.


Applicant shall therefore, be highly obliged if the information/ documents sought hereinabove, are delivered to him in accordance with the provision of Sec.7 of R T I Act, 2005 at an early date.

And for this act of kindness, the applicant/ petitioner shall remain ever dutybound.

Yours faithfully,

(SOUMENDRA K. DUTTA)
(Concerned Applicant)
37, D H Road, Genexx Valley,
Tower -34, Flat - 4A,
Joka, Kolkata - 700104
E.mail: soumendran.adv@gmail.com
Cont.No.9474120087

Dated: 13/04/2023

Encl. Copy of Order dated 23rd March, 2012 issued by the Finance Deptt, Revenue Cell, under the signature of Secretary to the Govt of West Bengal.


16/08/2023

PART-I—Orders and Notifications by the Governor of West Bengal,
the High Court, Government Treasury, etc.

GOVERNMENT OF WEST BENGAL
FINANCE DEPARTMENT
REVENUE

ORDER

No. 411-FT

Kolkata, the 23rd March, 2012

Whereas the Governor is of the opinion that there are reasonable grounds for doing so;

Now, Therefore, in exercise of the power conferred by clause(a) of sub-section (1) of section 9 of the Indian Stamp Act, 1899 (2 of 1899) and sub-section (2) of section 78 of the Registration Act, 1908 (16 of 1908) and in supersession of all earlier notifications on the subject-matter, the Governor is pleased hereby to remit stamp duty and registration fees chargeable on the amount of difference, if any, between the market value of such property and the value set forth in the deed of transfer thereof as the State Government or Government of India or any authority under the State Government or Government of India or any undertaking of the State Government or Government of India may transfer on sale/settlement/ long term lease/lease in perpetuity for a fine or premium or for money advanced in addition to rent, if any, as the case may be.

2. In cases of flats/apartments etc., the benefit is allowed if the registration has been done within 30th September, 2011 and if the registration is done on any subsequent date, an interest of *one per centum* on the stamp-duty chargeable and registration fees payable is paid per month or part thereof, with effect from the 1st day of October, 2011 to the date of registration.

3. For the flats/houses which are constructed or to be constructed on a subsequent date, the benefit under this order shall be allowed if the registration is done within a period of eighteen (18) months from the date of completion as per certificate issued by the competent authority in this respect or within a period of 18 months from the date of procurement of electric connection for the flat/apartment in question. If the registration is done beyond eighteen (18) months from the date of completion as per certificate issued by the competent authority in this respect or from the date of procurement of electric connection for the flat/apartment, as the case may be, an interest of *one per centum* on stamp-duty chargeable and registration fees payable per month or part thereof shall be paid for such delay.

4. This order shall be deemed to have come into force with effect from the 1st day of October, 2011.

By order of the Governor,

H.K. Dwivedi,
Secy. to the Govt. of West Bengal

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ANNEXURE - A/2.

16/08/23

15/6/23

EW297991831IN IVR:4987297991831
SF JOKA SD <700104>
Counter No:1.14/06/2023,11:31
To:INSPECTOR GEN,OF REGISTRATION
PIN:700001, KOLKATA GPO
From:SOURABH K R DUTTA..
Wt:35gms
Amt:17.70(Cash)Tax:2.70
<Track on www.indiapost.gov.in>
<Dial 1800266666> <Wear Masks, Stay Safe>



Before
The Hon'ble First Appellate Authority
(Under RTI Act, 2005)
&
The Inspector General of Registration &
Commissioner of Stamp Revenue,
Directorate of Registration & Stamp Revenue,
Govt. of West Bengal, Fortuna Tower, 9th Floor,
23A, N S Road, Kolkata – 700001.

Sub: First Appeal u/s.19(1) of R T I Act, 2005 against the unsatisfactory response of SPIO to the application dated 17-04-2023 seeking information made u/s.6(1) of the Act.(copy enclosed).

Ref: Memo No.1545/DRSR-16/2/2022 Estt SEC – DRSR(Pt-IV) dated 11-05-2023

Respected Sir,

Most humbly the Appellant beg to submit that he made an application on 17/04/2023 u/s..6(1) of R T I Act, 2005 to the State Public Information Officer & the Asst. Commissioner, Stamps and Revenue, seeking following information and on receipt of responses received from the SPIO vide above referred letter it appears to the appellant that out of three queries, response of SPIO to query no.2 is arbitrary and unsatisfactory and being aggrieved with the halfhearted/arbitrary response of SPIO, this first appeal is being filed u/s.19(1) of the Act for its review and appropriate response to a specific query of the appellant.

Details of Information sought under Sec.6(1) of R T I Act, 2005 and the response received from the SPIO are furnished hereunder for your kind perusal and ready reference.

Query No.1)Is the Order dated 23rd March, 2012 issued by the Finance Deptt, Revenue Cell, Govt of West Bengal regarding payment of interest @1% on the Stamp duty and Registration fees payable per month or part thereof in case any immovable property (Flat/Apartments) remains unregistered from the 1st day of October, 2011 onwards to the date of registration with the Registering Authority is enforceable now and applicable in the case of Applicant?

Response of SPIO to Query No.1 : G.O.No.411 F.T dt.23.03.2012 as amended vide G.O. No.1476 F.T dt.29.08.2014 is still in vogue.

Query No.2)When construction of a building/flat was completed and possession of the Flat was handed over by the Builder/ Developer to erstwhile Buyer in the year **2009** on the basis of an unregistered Agreement to Sale dated 17/01/2006 and the flat/apartment is kept by him unregistered till **2022**. Based on that unregistered agreement, a nomination agreement is made on 29/06/2022 on receipt of token money, a tripartite Deed of Conveyance is executed by the parties and registered before the Registering Authority on 22-07-2022, who is liable/chargeable for payment of 1% interest extra on the Registration fees levied at the time of registration after 13 years in terms of the above referred Order dated 23rd March, 2012 issued by the Finance Deptt, Revenue Cell, Govt of West Bengal?

12/06/23

Response of SPIO to Query no.2 : In the absence of an agreement to the contrary, the purchaser of the document is liable to pay the Stamp Duty as per Sec.29 of the Indian Stamp Act, 1899.

Query No.3) So far the Applicant understands, the concept/term in the name and style of NOMINATION AGREEMENT is not defined in any act or statute that changes the status and position of parties both in the Nomination Agreement and Deed of Conveyance made for registration. Without being a registered owner of the property how can a person nominate other person to transfer its title/lien through a Nomination Agreement? Applicant therefore be apprised of the legal sanctity and reason/logic behind the practice/procedure that affects the evidentiary value of the documents.

Response of SPIO to Queryno.3 : This information is not held by this SPIO. The SPIO is not supposed to create and interpret information as per guideline issued by the Government vide para no.10 of Part-I of the O M No.1/4/2009 dt.05.10.2009.

GROUNF OF APEAL

While the appellant is agreed with the response of SPIO to Query No.1 and 3, he disagreed with the arbitrary and halfhearted information provided against a specific query of the appellant simply quoting the provision of relevant Act which is well known to all. It appears from the response to **Query No.2** that SPIO did not even appreciate the specific query and responded it casually and lackadaisical way which is not at all sought by the appellant in his application. Query is again reproduced hereunder for the brevity.

QUOTE

“who is liable/chargeable for payment of 1% interest extra on the Registration fees levied at the time of registration after 13 years in terms of the above referred Order dated 23rd March, 2012 issued by the Finance Deptt, Revenue Cell, Govt of West Bengal?”

UNQUOTE

Thus, when a notification of 2012 is in vogue on the date of registration of document and in absence of an agreement to the contrary, the concerned purchaser shall bear the entire liability caused for the lapse of others along with his own is apparently inconsistent and not tenable so far the contents of a notification and provision of governing law on the subject are concerned. So being contradictory to each other, the question arises who got overriding effect over whom. i.e., notification overrides governing law or vice versa.

In the context, appellant hereby submits that a reply from SPIO to an application made under RTI Act, required to be delivered by Registered Post or Speed Post to ensure the delivery. But the reply is sent to the applicant by ordinary post that does not ensure/confirm delivery. In case of non-receipt of said reply within the prescribed time limit the applicant has to make an appeal u/s.19(1) of the Act to FAA for non-receipt of reply from SPIO and the appeal was disposed of straightway enclosing a copy of reply of SPIO enforcing the appellant to sought the clarification as stated above from the Hon'ble SIC.

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Further, it is to submit that when an application under RTI is disposed of by the SPIO, a footnote stating that if the applicant is not satisfied with the reply, he may apply to the First Appellate Authority citing the address of the FAA. Such, a formal stipulation is absent in the reply of SPIO.

Sir, right to information finds its root in the Fundamental Right and the core objectives of the RTI Act is to create an informed citizen of country and ensuring the establishment of practical regime of transparency in an office of Public Authority and providing an arbitrary reply to public, the said objectives stands defeated.

Hence, it is humbly prayed that the Hon'ble Appellate Authority shall be pleased to pass necessary order(s)/directions in the matter so that the reply to **Query No.2** is reviewed and specific information is provided to the Petitioner/Appellant by the concerned public authority at an early date.

Further, appellant understands to the best of my knowledge that the information sought herein above does not fall within the restriction contained in Section 8 & 9 of the R T I Act, 2005 and it pertains to the deptts/office under your control.

Appellant shall therefore, be highly obliged if considering the submission made by the Appellant in his application dated 17/04/2023 and the nature of information sought specifically with regard to **Query No.2** as stated hereinabove in the appeal are delivered to the Appellant/Petitioner in accordance with the provision of Sub-Sec.6 of Sec.19 of R T I Act, 2005

And for this act of kindness, the Appellant shall remain ever duty bound.

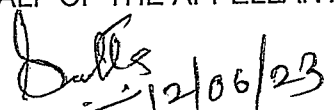
VERIFICATION

Verified that the statements made above by the Appellant are true and correct to the best of his knowledge and belief and rest are his humble submission before the Hon'ble First Appellate Authority.


Appellant signs this verification at Kolkata on this 12th day of June, 2023.

Dated: 12/06/2023

FOR & BEHALF OF THE APPELLANT


(SOUMENDRA KUMAR DUTTA)
Concerned APPELLANT
37, D H Road, Genexx Valley,
Tower -34, Flat - 4A,
Joka, Kolkata - 700104.
Cont.No.9474120087.

Encl :Xerox Copy of Application dated 17/04/2023
Made u/s.6(1) of RTI Act, 2005 with enclosure
And of reply of SPIO vide Memo dt. 11.05.2023


16/08/2023

ANNEXURE - A/3.

Bulla
16/08/23.

Resd.
Spd. Post

Government Of West Bengal
Directorate Of Registration & Stamp Revenue
Fortuna Tower , 9 th Floor
23 A, N.S. Road , Kolkata – 700001
Name of the Applicant : Sri Soumendra Kumar Dutta
Ref : Appeal u/s 19(1) of the RTI Act , 2005

ORDER

Memo. No. 2028 / DRSR-16/1/2023-ESTT SEC-DRSR

Dated : 22.06.2023

In reply to the appeal dated 12.06.2023 filed on 19.06.2023 by Sri Soumendra Kumar Dutta before the First Appellate Authority u/s 19(1) of the RTI Act , 2005, this is to inform him that as per guideline No. 9 issued by the Department of Personnel & Training , Government of India vide OM No. 1/3/2008-IR dated 25.04.2008 on the RTI Act , 2005 (may be searched from Google), it is beyond the scope of the Act to create information ; or to interpret information; or to solve the problems raised by the applicants ; or to furnish replies to hypothetical questions.

As per his RTI application Dt. 17.04. 2023 before the SPIO & DIGR (Inspection),Presidency Division, W.B., the SPIO has replied to him query wise vide Memo. No. 1545/ DRSR-16/2/2022-ESTT SEC-DRSR (Pt.-IV) Dt. 11.05.23. But the applicant is not satisfied with the replies specially for the reply in respect of query no.2. and being aggrieved , the appellant made his appeal before the First Appellate Authority of the Dte. of Regn. & Stamp Revenue , W.B.

This is to mention that RTI Act, 2005 has no scope to create information; or to interpret information; or to solve the problems raised by the applicants; or to furnish replies to hypothetical questions.

Moreover, the appellant is requested to go through section 2.(f) of RTI Act, 2005 to know which information can be provided by SPIO under the said Act.

If the applicant has any problem, he may seek solution by submitting his grievance online through Grievance Redressal of the website: wbregistration.gov.in or through ordinary application to be submitted to this Directorate.

With the above direction , the appeal stands disposed of.

However, if aggrieved, the party concerned may prefer second appeal before the State Chief Information Commissioner, West Bengal, Khadya Bhawan, 11A , Mirza Ghalib Street, Kolkata – 700087.

Enclo : Copy of the appeal with enclosures.

self
Jt. I.G.R. , W.B. & First Appellate Authority

Memo. No. 2028 /(2) / DRSR-16/1/2023-ESTT SEC-DRSR

Dated : 22.06.2023

Copy forwarded for information and taking necessary action to :

1) The SPIO & DIGR (Inspection),Presidency Division, W.B.,

Directorate Of Registration & Stamp Revenue, Fortuna Tower , 9 th Floor,
23 A, N.S. Road , Kolkata – 700001

✓2) Sri Soumendra Kumar Dutta, 37,D.H.Road , Genexx Valley , Tower-34 , Flat no. 4A , Joka , Kolkata - 700104

[Signature]
Jt. I.G.R. , W.B. & First Appellate Authority