

By E-mail

F.No.12-12/2020-Sch.4
Government of India
Ministry of Human Resource Development
(Department of School Education and Literacy)

Shastri Bhawan, New Delhi
05th June, 2020

To

Sh. Ved Pal Singh,
Flat No. 1, Type 4, NCERT Quarters,
Sri Aurobindo Marg,
New Delhi – 110016
(dalalvedpal@gmail.com)

Subject: Application under Right to Information Act, 2005–reg.

Sir,

I am director to refer to your Application Registration no. DOSEL/R/E/20/01114 dated 20.05.2020 seeking some information under Right to Information (RTI) Act, 2005 and to say that pointwise information sought by you vide above cited RTI Application is as follows:

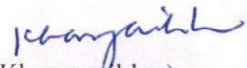
- A.(i) The requisite information is attached at Annexure.
- A.(ii) The requisite information is already covered under point A(i).
- B.(i) The requisite information is already covered under point A(i).
- B.(ii) The requisite information is already covered under point A(i).

C. to D. The information sought by you under point C to D of the Application may be available with NCERT. The Application has, therefore, already been transferred to NCERT under Section 6(3) of RTI Act, 2005 for providing the requisite information directly to the Applicant under intimation to this Department vide this Ministry's letter of even number dated 26.05.2020.

2. If you are not satisfied with the information, you may prefer first appeal to Sh. T. S. Rautela, Deputy Secretary to the Government of India & First Appellate Authority, Room No. 503 'D', Shastri Bhawan, New Delhi - 110001, within thirty days of receipt of this letter. If you are not satisfied with the information provided by NCERT, you may prefer first appeal to concerned First Appellate Authority in NCERT, within thirty days of receipt of the reply from NCERT.

Encl: As above.

Yours faithfully,


(Khamngathlun)

Under Secretary to the Government of India and CPIO
Tel: 2338 1434

Reference: Hon'ble HRM's directions on page-28/n with regard to withdrawing the powers delegated to Director, NCERT by the Executive Committee.

24. In this connection, it is stated that the following two delegations have been made to Director, NCERT in the matter of appointment in NCERT:

- i) The EC has delegated the powers to Director, NCERT to be the Chairman of all the Selection Committees in NCERT by convention; and
- ii) The powers of Appointing Authority of all the staff of all the categories within the NCERT have been delegated to Director, NCERT, vide NCERT Notification dated 24.10.1986 (p-26/cor). This delegation does not have the approval of EC.

25. It is, therefore, submitted for consideration and order whether both the above two powers delegated to Director, NCERT are to be withdrawn or only the power indicated at para 24 (i) above, which has been specifically delegated by EC, need only be withdrawn.

26. It is also relevant to mention that while the powers delegated by administrative orders can be withdrawn through administrative orders, it may perhaps not be appropriate to withdraw the powers delegated by the EC through an administrative order. Approval of the EC or GC of NCERT may be required to withdraw such delegated powers. NCERT may have to follow the due procedure to withdraw the powers delegated to the Director, NCERT by the EC.

27. Submitted for orders.

DK

(Dinesh Kumar)
Under Secretary (Sch.4)
Dt. 27.04.2016

✓ p-33/c

*Sh. Anur
27/4/16*

साहित्य/Secretary
अ.सं./Dy. No.
29 APR 2016

DS(Sch.4)
IS (SE-II)

Latika
28/4/16

DK
25/4/16
25/4/16

Satish
29/4

Secy (SE/L)

साहित्य/Secretary
अ.सं./Dy. No.
12 MAY 2016

C
HRM
25/4/16

28. The matter may be placed before E.C.

Sehantia
29/4/16

Satish
29/4/16
Secy (SE/L)

Note No. #1

Attachment:/2017/4/1562_1491456929927.pdf

Ref. from page 25-30/N:

29. This file is regarding the allegations of improper and unconstitutional recruitment/ selection process of NCERT employees made by Dr. V. P. Singh, Associate Professor, NCERT. Notes at pre pages may kindly be perused.

30. The matter has been examined with the consultation of D/o Legal Affairs, M/o Law & Justice (p 23-24/N). The opinion of D/o Legal Affairs clearly indicates that there are no violations of rule of NCERT and the administrative functions discharged by the Director in terms of delegated powers appear to be in conformity with existing Rules of NCERT.

31. The Hon'ble HRM has also approved the above decision (p-28/N). She has also ordered to issue orders to withdraw the powers delegated to the Director, NCERT in this regard by the Executive Committee of NCERT. Further, it was decided that the delegated powers to the Director, NCERT may be withdrawn by the approval of the EC or GC of NCERT (p-30/N).

32. In view of above, we may convey the decision to NCERT. Accordingly DFA please.

p 23-24)
p 28/N
* p 30/N

From 17 May 16

SO (Sch 4)

US (Sch 4)

Srawar 17/5/2016

DS/S-4)

DR 18/5

PL fair
at 22
to DSLS-4
DR 18/5
fair letter
please.
From 19 May 16

autho
24/5/16

JS (Sch-4)

Sattar 25/5

DS (Sch-4)

28/5

US (Sch 4)

DR 26/5

SO (Sch 4)

33

Fair letter for signature please.

From 31.05.16

SO (Sch 4) on leave.

US (Sch 4)

SO (S-4)

DR 1/6

Sh. Abhesh
Please issue
& give file to
me.
From 02.06.16

File No. No.F.1-28/2014-Sch.4 (Computer No. 3070529)

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Note No. #2**Reference from pre pages:**

This file is regarding the allegations made by Dr. V. P. Singh, Associate Professor, NCERT regarding improper and unconstitutional recruitment/selection process of NCERT employees. Notes at pre pages may kindly be perused.

As per the direction of Department of Legal Affairs, Ministry of Law and Justice, the Ministry vide letter dated 01.06.2016 requested the Council to review/reconsider the powers delegated to the Director, NCERT in the matter of appointment to various posts in NCERT.

Now, NCERT vide letter dated 13.04.2017 has requested to provide the details in aforesaid matter so that a proper note could be prepared to keep the notice in the ensuing Executive Committee meeting.

The matter has been discussed with DS(Sch-4). As directed by him, we may provide a copy of notes pages 16-30/N and DO letter dated 25.06.2014 of the then JS(SE-II) and its enclosures to NCERT. As per DFA please.



02/05/2017 1:07 PM

**ARUN NAITHANI
(ASO)****Note No. #3**

A representation dated 24th June, 2014 (page 4-cor.), addressed to the Hon'ble HRM, was received in this Ministry, alleging serious violation of NCERT's Rules and Regulations in the recruitment process as well as in the promotion process in the NCERT. The same was sent to the then Director, NCERT vide the then Joint Secretary (SE-II)'s D.O. letter No. 136/JS(SE-II)/2014 dated the 25th June, 2016 (p-3-Cor. previous correspondence) .

On the basis of the information/inputs received from the NCERT, the matter was examined in consultation with the Ministry of Law & Justice,

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Department of Legal Affairs {p- 16-30 notes in previous notings (pdf)} . The decision has already been conveyed to NCERT vide this Ministry's letter of even number dated the 1st June, 2016 (p- 119 -Cor of previous correspondence).

If approved, a copy each of the representation received in this Ministry on 24.6.2014, the DO letter from former JS(SE-II) to the then Director, NCERT forwarding the representation, and the relevant Notes portion of this Ministry's relevant file in which the matter was examined in consultation with Ministry of Law & Justice may be sent to NCERT so as to enable them to prepare a proper Agenda note for the consideration of the Executive Committee of NCERT in its ensuring meeting.

Accordingly, a draft letter is put up for approval please.



02/05/2017 6:56 PM

**T. S. Rautela
(DS (Sch4/Sch6))**

Note No. #4

02/05/2017 7:21 PM

**SANJAY KUMAR
(Joint Secretary)**

Note No. #5

03/05/2017 8:59 AM

**T. S. Rautela
(DS (Sch4/Sch6))**

Note No. #6

Reference from pre pages:

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This file is regarding the allegations made by Dr. V. P. Singh, Associate Professor, NCERT regarding improper and unconstitutional recruitment/selection process of NCERT employees. Earlier, the Ministry received an appeal dated 19.04.2016 from Dr. V.P. Singh, NCERT on the subject mentioned above. Since the matter was related to internal administration of NCERT, the Ministry vide letter dated 19.07.2016 forwarded the Appeal to NCERT for processing the same in NCERT's file and submitting to the President, NCERT.

2. Now, FR is a letter dated 16.06.2017 of NCERT forwarding therewith pointwise comments on the appeal dated 19.04.2016 of Dr. V. P. Singh. Meanwhile, another representation dated 05.07.2017 from Dr. V. P. Singh, NCERT has also been received in this Department. Dr. V. P. Singh has not raised any new issue and requested to direct NCERT to process his appeal as per the directions conveyed vide this Ministry's letter dated 19.07.2016.

3. If approved, we may request NCERT to process the appeal dated 19.04.2016 of Shri V. P. Singh as per the directions already conveyed vide this Ministry's letter dated 19.07.2016 and also forward the present representation dated 05.07.2017 of Dr. V. P. Singh, NCERT to NCERT for examination and further necessary action. Accordingly DFA please.

18/08/2017 5:31 PM

**ARUN NAITHANI
(ASO)**

Note No. #7

21/08/2017 6:07 PM

**T. S. Rautela
(DS (Sch4/Sch6))**

Note No. #8

This file is regarding a representation received from Dr. V. P. Singh, NCERT in which he had alleged that the Regulations of NCERT were violated in the recruitment/selection in NCERT. The matter was examined in consultation with the Ministry of Law & Justice and it came out that the selection process done in NCERT was as per Rules.

2. While examining the above matter, the then Hon'ble HRM has desired (p-28/notes) to withdraw the following delegated powers from the Director, NCERT:

- (i) Executive Committee of NCERT, in its meeting held on 12.02.1974, has authorized the Director, NCERT to be the Chairman of all the Selection Committees in NCERT by Convention; and
- (ii) Director, NCERT has been delegated the powers of Appointing Authority of all the staff

of all the categories within NCERT, vide NCERT's Notification No. F. 12-1/85-EC dated 24th October, 1986.

3. Accordingly, the Ministry vide letter dated 01.06.2016 (p-119/c) requested NCERT to place the matter before its Executive Committee for review/reconsideration.

4. Now, NCERT vide note dated 05.10.2017 (p-166/c) has informed that the said matter was placed before the Executive Committee in its meeting held on 27.06.2017 (p-168/c) and the Committee deferred the item (p-171/c) and authorised the Hon'ble HRM and President, NCERT to take a decision on it. NCERT has further brought out following facts in this regard:

(a) The President of the NCERT appointed a Committee of Academic Expert under the Chairmanship of Dr. G. Jacob to examine recommendations of Shri Batuk Singh Committee. The Committee of Academic Expert vide its recommendation No.1 recommended that ***“the Director must be the Chairman of all the Selection Committees and that the regulations of the Council should be amended to meet this requirement (Annexure-II)***. The recommendations made by the Academic Expert Committee were placed before the Executive Committee in its meeting held on 12.02.1974 (Item No. 9) and the Executive Committee of NCERT resolved that:

“The Director, NCERT may be the Chairman of all the Selection Committees by convention and that the Regulations of the Council need not be amended to meet this requirement” (Annexure-II)

(b) Further in pursuance of the recommendations of 48th Report of Public Accounts Committee, a Task Force on Organisational Reforms of NCERT headed by Dr. Madhuri R. Shah, the then Chairperson of UGC was set-up in the year 1982 (p-181/c). The Task Force submitted its report to the Govt. of India and the Govt. of India issued a Resolution thereon vide No.F. 24-1/84-Sch.4 dated 21.06.1985 (p-184/c). The decision of Govt. India with regard to recommendations No.40 and 41 is reproduced below:

Recommendation No.40-41 are that the NCERT may be given a legal charter and made into a statutory body. It should be conferred the status of a deemed university. This recommendation has been examined and Government have decided not to accept this recommendation. The NCERT is not only the adviser to the Government on academic matters but also the academic wing of the Government to which the Government turns for advice from time to time and in many cases it is also the agency for implementation of priority programmes. For example, the Government has entrusted to the NCERT the review of textbooks from the point of view of national integration, preparation of guidelines and materials for History of freedom movement and the Computer Literacy Project. Thus, relationship require a much more intimate linkage between the Ministry and NCERT than would be possible under a statutory and fully autonomous arrangement. The Education Minister should remain President of the NCERT and no change in the constitution of the

Board or the Executive Committee as also in the system of powers between the Director vis-à-vis President is called for. It seems desirable to state in this context that the Director, NCERT should be the Executive Head of the Council and should have all the administrative powers to perform this role. He should be the appointing authority of the staff of all categories within the NCERT.

(c) In view of the above decision of the Government of India, a Notification vide No.F. 12-1/85 –EC dated 24th October, 1986 (p-199/c) was issued notifying that Director, NCERT will be the appointing authority of the staff of all categories within the NCERT, including Professor, Heads of the Departments of NIE and Principals of RCEs (Now RIEs).

5. NCERT has also referred to the advice of Ministry of Law & Justice which has been reproduced below:

Administrative functions discharged by the Director in terms of delegated powers appear to be in conformity with existing Rules of NCERT. However, administrative Ministry, if so desire, may take decision about withdrawal of delegated powers which necessarily would have prospective effect.

6. In view of the opinion of Ministry of Law & Justice, the Council has stated that there is no violations of Rules of NCERT in the Selection process in terms of delegated powers and the withdrawal of these delegated powers to Director may affect the functioning of the Council.

7. Accordingly, as recommended by the Executive Committee of NCERT, the Council has requested the Hon'ble HRM and President, NCERT for reconsideration of the decision of withdrawal of the delegated powers of the Director, NCERT as mentioned in para 2 above. Submitted for kind consideration please.



25/10/2017 5:51 PM

ARUN NAITHANI
(ASO)

Note No. #9

Reference above

Rule 41 (Page 203/cor.) of the Rules of NCERT provides as under :-

"Rule 41 – Subject to these Rules and Regulations, the **Executive Committee** shall **have the power to appoint** all categories of officers and staff for conducting the affairs of the Council, to fix and amount of their remuneration, subject to budget provision and to define their

duties”.

Rule 46 (**Page 204/cor.**) of the Rules of NCERT provides as under: -

“**Rule 46** – The **Executive Committee may delegate** to the Director or any of its members and/or any other officer of the Council such administrative and financial powers and impose such duties as it deems proper and also prescribe limitations within which these powers and duties are to be exercised or discharged.”.

The above Rule position would show that the **powers to appoint** all categories of Officers and Staff of NCERT **vest with the Executive Committee** of NCERT. The **Executive Committee may delegate these powers** to the Director or any of its members and /or any other officer of the Council.

It was, however, observed that NCERT vide their notification dated 24.10.1986 (**Page 28/cor.**) made the Director, NCERT as the appointing Authority of the Staff of all categories within the NCERT, including Professors, Heads of Departments of NIE and Principals of RIEs. It is indicated in the notification that this notification has been issued in pursuance of recommendation no. 41 of the Task Force and the Government of India resolution thereon.

It is relevant to mention that the Government of India resolution dated 21st June, 1985 (**Page 30/cor.**) states that “it seems **desirable** to state in this context that the Director, NCERT should be the Executive Head of the Council and should have all the Administrative powers to perform his role. He should be appointing authority of the staff of all categories within the NCERT. It may be observed that the Resolution of Government of India only talks of **desirability** of this decision. The **desirability** was required to be converted into formal decision of the Competent Authority, i.e., the Executive Committee of NCERT under Rule 46 of the NCERT Rules”.

It may, however, be observed that **despite the fact that as per the Rules of the NCERT, the appointing Authority of all categories of officers and staff of NCERT is the Executive Committee of NCERT** and it is only the Executive Committee that can delegate the powers to any other officer/ Authority, **the NCERT made the Director, NCERT as the appointing Authority** vide their notification dated 24.10.1986 **without the specific approval of the Executive Committee.**

Though, there is no specific approval of the Executive Committee of NCERT to the aforesaid decision, the Competent Authority in the matter, the Director, NCERT has been exercising the powers of the appointing Authority in NCERT since 1986 on the basis of their Notification dated 24.10.1986.

Regulation 52 (**Page 205/cor.**) of the Regulations of NCERT provides as under : -

"The Chairman of all the Selection Committees shall be nominated by the President".

A plain reading of the above Regulation would show that the intention of the Regulation is that that whenever a Selection Committee is constitution in NCERT, its Chairman would be nominated by the President of NCERT (i.e. Hon'ble HRM). The powers to nominate Chairman the Selection Committees is exclusively with the President of NCERT only.

However, the Executive Committee of NCERT in its meeting held on 12th February, 1974 (**Page 35/cor.**) resolved as under :

"The Director, NCERT may be the Chairman of all the Selection Committee by convention and that the Regulation of the Council need not be amended to meet this requirement".

On the basis of the aforesaid resolution of the Executive Committee of the NCERT the Director, NCERT has been chairing the meetings of all the Selection Committees since 1974.

Some of the employees of NCERT filed representations (**Page 5/cor.**) against the aforesaid arrangements. Hence, the matter was taken up with Ministry of Law Department of Legal Affairs for their advice (**Page 16-18/Notes** of previous noting placed at PDF).

The Department of Legal Affairs did not find any Legal infirmity in the aforesaid arrangements (**Page 23-24/Notes of previous noting placed at PDF**). They also indicated that the Supreme Court in Nair Service Society case held that an interpretation consistent with existing practice being followed for a long time has to be preferred unless it is clear violation of Statute.

They finally opined that **the Administrative functions discharged by the Director, NCERT in terms of delegated power appear to be in conformity with existing Rules of NCERT. However, Administrative Ministry, if so desire, may take decision about withdrawal of delegated powers which necessarily would have prospective effect.**

The matter was considered in the Ministry in April, 2016 and the then Hon'ble Minister for HRD ordered (**Page 28/ Notes of previous noting placed at PDF**) to withdraw the powers delegated to Director, NCERT in this regard by EC. Later on, on reconsideration of the matter, the then Hon'ble Minister for HRD directed (**Page 30/Notes of previous noting placed at PDF**) to place the matter before the Executive Committee for NCERT for consideration. The aforesaid decision of the Hon'ble Minister of HRD was conveyed to NCERT for placing the matter before the Executive Committee.

The NCERT accordingly placed the matter before the Executive Committee in its 103rd meeting held on 27.06.2017. The Executive Committee, however, deferred the matter

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and authorized the Hon'ble HRM, President, NCERT to take decision on it (Page 171/cor.).

The NCERT has now submitted the present Note/Reference (Page 166-167/cor.) for a decision on the aforesaid two issues by the Hon'ble HRM/President, NCERT. The NCERT has stated that the Ministry of Law, Department of Legal Affairs has not found any violation of the Rules of NCERT in the selection process in terms of the delegated powers and that withdrawal of these delegated powers may affect the functioning of the Council.

In view of the above, the matter may be placed before the Hon'ble HRM/President NCERT to take a decision on the following issues.

1. Whether Director, NCERT may continue to chair all the Selection Committees by convention **or** Hon'ble HRM, being President, NCERT would like to nominate Chairman of the Selection Committees, on each individual case, as and when such Selection Committees are constituted in NCERT; and
2. Whether the Director, NCERT should continue to be the appointing Authority of all officers and staff of NCERT in terms of NCERT resolution dated 24.10.1986.

30/10/2017 1:34 PM

**T. S. Rautela
(DS (Sch4/Sch6))**

Note No. #10

30/10/2017 2:57 PM

**SANJAY KUMAR
(Joint Secretary)**

Note No. #11

30/10/2017 4:57 PM

**ANIL SWARUP
(Secretary (SE&L))**

Note No. #12

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NCERT for placing the matter before the Executive Committee.

The NCERT accordingly placed the matter before the Executive Committee in its 103rd meeting held on 27.06.2017. The Executive Committee, however, deferred the matter and authorized the Hon'ble HRM, President, NCERT to take decision on it (Page 171/cor.).

The NCERT has now submitted the present Note/Reference (Page 166-167/cor.) for a decision on the aforesaid two issues by the Hon'ble HRM/President, NCERT. The NCERT has stated that the Ministry of Law, Department of Legal Affairs has not found any violation of the Rules of NCERT in the selection process in terms of the delegated powers and that withdrawal of these delegated powers may affect the functioning of the Council.

In view of the above, the matter may be placed before the Hon'ble HRM/President NCERT to take a decision on the following issues.

1. Whether Director, NCERT may continue to chair all the Selection Committees by convention or Hon'ble HRM, being President, NCERT would like to nominate Chairman of the Selection Committees, on each individual case, as and when such Selection Committees are constituted in NCERT; and
2. Whether the Director, NCERT should continue to be the appointing Authority of all officers and staff of NCERT in terms of NCERT resolution dated 24.10.1986.

30/10/2017 1:34 PM

T. S. Rautela
(DS (Sch4/Sch6))

30/10/2017 2:57 PM

SANJAY KUMAR
(Joint Secretary)

30/10/2017 4:57 PM

ANIL SWARUP
(Secretary (SE&L))

for ~~Group A~~ Group A
President to nominate
SCSC
Jraw
5/11