

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

द्वितीय अपील संख्या / Second Appeal No. **CIC/BARCM/A/2019/104141**

Shir Omprakash Kashiram

... अपीलकर्ता / Appellant

VERSUS/बनाम

PIO

...प्रतिवादीगण / Respondent

Bhabha Atomic Research Centre,

Date of Hearing : 03.12.2020

Date of Decision : 04.12.2020

Chief Information Commissioner : Shri Y. K. Sinha

Relevant facts emerging from appeal:

RTI application filed on : 01.11.2018

PIO replied on : 29.11.2018

First Appeal filed on : 27.11.2018

First Appellate Order on : -

2ndAppeal/complaint received on : 29.01.2019

Information sought and background of the case:

The Appellant filed an RTI application dated 18.06.2018 seeking information on following 05 points regarding the increasing levels of pollution of Delhi:

- 1. Please provide the documents duly attested by PIO with name and designation regarding not clear the pollution in New Delhi and nearby areas of Delhi due to frequencies net are covered /blocked the pollution in Delhi which is controlling by atomic centers of world including BARC and pollution is still existing in Delhi. In other words the BARC and other atomic centers of world having guided frequencies or frequencies guided men/women or frequencies guided technologies for covered /blocked the pollution of Delhi and prevention of fresh air though high technologies and public of India are not knowing such technologies are existing and Government /authorities are punishing them in name of prevention of pollution.*
- 2. Please provide the documents duly attested by the PIO with name and designation regarding the atomic centers of world and India are not using for blocked/covered the pollution in New Delhi /Delhi through frequencies net or frequencies guided technologies in whole atmosphere of Delhi and prevention of fresh air.*

Etc.

Queries quoted verbatim

The CPIO, Chief Administrative Officer (A) vide letter dated 21.11.2018 stated that the sought information is not clear. The Applicant is mentioning about

frequencies guided technologies to cover/block the pollution. BARC has not developed any such technologies to cover/block the pollution.

Dissatisfied with the response received from the PIO, the Appellant filed a First Appeal dated 27.11.2018. The copy of FAA's order, if any, is not annexed with the Second Appeal.

Feeling aggrieved and dissatisfied, the Appellant approached the Commission with the instant Second Appeal.

Facts emerging in Course of Hearing:

A written submission has been received from PIO and Chief Administrative Officer (A) vide letter dated 27.11.2020 wherein while reiterating the reply of the CPIO, it was stated that the first appeal was decided vide order dated 26.12.2018, a copy of which was enclosed with the written submission. It was further stated that the information sought is not available with CPIO and as per Section 2 (f), CPIO can only provide such information which is held by the public authority. Furthermore, the CPIO has informed the Appellant that BARC has not developed any such technologies to cover/ block pollution. Other queries raised in points 2 to 5 were of similar nature and not related to BARC.

In order to ensure social distancing and prevent the spread of the pandemic, COVID-19, audio hearings were scheduled after giving prior notice to both the parties.

The Appellant was not present during the hearing despite being informed about the venue of video conferencing in advance.

The Respondent is represented by Shri Sriram S, Chief Administrative Officer through audio conference. He reiterated the response of the CPIO/ FAA as also their written submission dated 27.11.2020 mentioned above.

Decision:

Keeping in view the facts of the case and the submissions made by the Respondent, the Commission notes that an appropriate response as per the provisions of the RTI Act, 2005 is provided. Hence, no further intervention of the Commission is required in the matter.

With the above observation, the instant Second Appeal stands disposed off accordingly.

Y. K. Sinha (वाई. के. सिन्हा)
Chief Information Commissioner (मुख्य सूचना आयुक्त)

Authenticated true copy
(अभिप्रमाणित सत्यापित प्रति)

Ram Parkash Grover (राम प्रकाश ग़ोवर)
Dy. Registrar (उप-पंजीयक)
011-26186535

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Central Information Commission
बाबा गंगनाथ मार्ग, मुनिरका
Baba Gangnath Marg, Munirka
नई दिल्ली, New Delhi – 110067

File No : CIC/DOP&T/A/2019/103398

Omprakash Kashiram

...अपीलकर्ता/Appellant

VERSUS

बनाम

CPIO

Ministry of Personnel, Public
& Grievances & Pentions, RTI Cell,
(DOP&T), North Block, New
Delhi-110001

CPIO

RTI Cell
Ministry of Environment &
Forest, Paryavaran Bhawan,
CGO Complex, Lodhi Road
New Delhi-110003

CPIO

Office of the Chief Secretary
Government of NCT Delhi,
Delhi Secretariat, Indraprastha
Bhawan, Indraprastha, New Delhi-

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CPIO,
RTI Cell,
Department of Atomic Energy,
Anushakti Bhawan,
CSM Marg , Mumbai-400001

...प्रतिवादीगण /Respondent(s)

Date of Hearing : 10/02/2021
Date of Decision : 10/02/2021

INFORMATION COMMISSIONER : Saroj Punhani

Relevant facts emerging from appeal:

RTI application filed on : 01/11/2018
CPIO replied on : 13/11/2018
First appeal filed on : 26/11/2018
First Appellate Authority order : NA
2nd Appeal/Complaint dated : 16/01/2019

Information sought and background of the case:

The Appellant filed RTI application dated 01.11.2018 seeking information as under:-

"Provide the documents duly attested by PIO with name and designation regarding not taking action against the chairman of BARC and not taken action against all scientists of BARC or atomic centers of India for not control the pollution which are controlled by frequencies guided net/cover through BARC or atomic centers of world and India."

The CPIO Ministry of Personnel, Public Grievances and Pensions Department of Personnel and Training provided information to the appellant on 13.11.2018 stating as under:-

".....it is stated that subject matter of RTI application i.e. pollution in Delhi and nearby areas of Delhi... falls under the purview of NCT of Govt. of Delhi and Ministry of Environment & Forest. Hence, your RTI application is being

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transferred to Govt. of NCT of Delhi and Ministry of Environment & Forest to provide you information as may be available in their records.

2. Further, as regards your query regarding documents on not taking action against the Chairman/Scientists of BARC, to the best of this CPIOs knowledge no CPIO in DoPT is dealing with this subject or holding such information and hence no information is available in the records of this Department in this regard. It is also informed that under the RTI Act, the CPIO can only provide information which is available in the records. However your RTI Application is being transferred under section 6 (3) to D/o Atomic Energy to inform you if any information is available in their records."

Being dissatisfied, the appellant filed a First Appeal dated 26.11.2018. FAA's order, if any, is not available on record.

Grounds for the Second Appeal:

Feeling aggrieved and dissatisfied, appellant approached the Commission with the instant Second Appeal.

Relevant Facts emerging during Hearing:

The following were present:-

Appellant: Not present.

Respondent No.1: Ramesh Kumar, SO and Sanjeev Kumar, ASO & Representative(s) of CPIO present through intra-video conference.

Respondent No.2: R.N. Pandey, SCD & CPIO present through intra-video conference.

Respondent No.3: Not present.

Respondent No.4: Sriram S, Chief Administrative Officer & CPIO present through video-conference.

Respondent No.1 submitted that a factual reply was provided to the Appellant stating that the subject matter of the RTI Application does not concern their office and hence it was transferred to the closely related public authorities.

The Commission remarked upon a perusal of the facts on record that the query in the RTI Application is merely in the form of speculation and does not conform to Section 2(f) of the RTI Act, moreover, the import of the query is

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incomprehensible. For the said reasons, the reply provided by Respondent No.1 was deemed as appropriate and it was observed that the transfer of the RTI Application to the other Respondent(s) was extraneous. In keeping with the said observation, the role of Respondent(s) No.2, 3 & 4 was dispensed forthwith in the matter.

DECISION

In view of the hearing proceedings, the Commission finds no scope of intervention in the matter.

Adverse Observations

This bench of the Commission heard 11 other Appeals of the Appellant simultaneously and upon a conjoint consideration of these cases it is apparent beyond reasonable doubt that the Appellant is unabashedly filing multiple RTI Applications, which in most cases is repetitive in nature as the same RTI Application is filed with different public authorities. Moreover, the queries of the Appellant neither conform to Section 2(f) of the RTI Act nor can these be comprehended easily. The Appellant seeks all sundry information under the garb of transparency and in the process of dealing with these RTI Applications, at some point in time, invariably; each public authority is dealing with the same RTI Application more than once. The Commission is also irked to note that in all of these Appeals, the Appellant has stated in his Second Appeal that he does not want to avail of the opportunity to plead his case in person or through his representative also. This further establishes the fact that the Appellant is merely a habitual RTI Applicant with no intention of gaining access to information. The RTI Applications, First Appeal(s) and Second Appeals of the Appellant without any substance or merit has a cascading effect on the functioning of the public authorities and throttles the letter and spirit of the RTI Act in addition to causing a huge loss of public money on stationery and allied resources.

It appears that the Appellant has grossly misconceived the idea of exercising his Right to Information as being absolute and unconditional. The Appellant shall note that even the superior Courts have recognized the misuse of the RTI Act as an impediment to ensuring transparency and probity in the functioning of the

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government through various judgments such as the Hon'ble Supreme Court's observation in **Central Board of Secondary Education (CBSE) & anr. v. Aditya Bandopadhyay and others** [(2011) 8 SCC 497] stating that:

*"37. The right to information is a cherished right. Information and right to information are intended to be formidable tools in the hands of responsible citizens to fight corruption and to bring in transparency and accountability. The provisions of RTI Act should be enforced strictly and all efforts should be made to bring to light the necessary information under clause (b) of section 4(1) of the Act which relates to securing transparency and accountability in the working of public authorities and in discouraging corruption. But in regard to other information, (that is information other than those enumerated in section 4(1)(b) and (c) of the Act), equal importance and emphasis are given to other public interests (like confidentiality of sensitive information, fidelity and fiduciary relationships, efficient operation of governments, etc.). Indiscriminate and impractical demands or directions under RTI Act for disclosure of all and sundry information (unrelated to transparency and accountability in the functioning of public authorities and eradication of corruption) would be counter-productive as it will adversely affect the efficiency of the administration and result in the executive getting boggedown with the non-productive work of collecting and furnishing information. **The Act should not be allowed to be misused or abused, to become a tool to obstruct the national development and integration, or to destroy the peace, tranquility and harmony among its citizens. Nor should it be converted into a tool of oppression or intimidation of honest officials striving to do their duty. The nation does not want a scenario where 75% of the staff of public authorities spends 75% of their time in collecting and furnishing information to applicants instead of discharging their regular duties. The threat of penalties under the RTI Act and the pressure of the authorities under the RTI Act should not lead to employees of a public authorities prioritizing 'information furnishing', at the cost of their normal and regular duties.**" Emphasis Supplied*

Similarly, in **ICAI v. Shaunak H. Satya, (2011) 8 SCC781** the Hon'ble Supreme Court has held that:-

"39. We however agree that it is necessary to make a distinction in regard to information intended to bring transparency, to improve accountability and to reduce corruption, falling under Sections 4(1)(b) and (c) and other information

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which may not have a bearing on accountability or reducing corruption. The competent authorities under the RTI Act will have to maintain a proper balance so that while achieving transparency, the demand for information does not reach unmanageable proportions affecting other public interests, which include efficient operation of public authorities and the Government, preservation of confidentiality of sensitive information and optimum use of limited fiscal resources."

In the matter of **Rajni Maindiratta- Vs Directorate of Education (North West - B) [W.P.(C) No. 7911/2015]** the Hon'ble High Court of Delhi has held that:

"8. Though undoubtedly, the reason for seeking the information is not required to be disclosed but when it is found that the process of the law is being abused, the same become relevant. Neither the authorities created under the RTI Act nor the Courts are helpless if witness the provisions of law being abused and owe a duty to immediately put a stop thereto." Emphasis Supplied

[Having observed as above, the Appellant is advised to steer clear of inundating the public authorities with frivolous RTI Applications.]

The appeal is dismissed accordingly.

Sd/-

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

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(अभिप्रमाणित सत्यापित प्रति)

(C.A. Joseph)

Dy. Registrar

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सी. ए. जोसेफ, उप-पंजीयक

दिनांक / Date



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