

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/2019/601348**

Shri Samir Ranjan Das

... अपीलकर्ता / Appellant

VERSUS/बनाम

PIO, Chief Administrative Officer(A) & CPIO
Bhabha Atomic Research Centre
Through: Sh. Sriram S and Sh. Stanley M

...प्रतिवादीगण / Respondent

Date of Hearing : 19.01.2021

Date of Decision : 19.01.2021

Chief Information Commissioner : Shri Y. K. Sinha

Relevant facts emerging from appeal:

RTI application filed on : 01.09.2018
PIO replied on : 25.09.2018
First Appeal filed on : 31.10.2018
First Appellate Order on : 27.11.2018
2ndAppeal/complaint received on : 19.01.2019

Information sought and background of the case:

The Appellant filed an RTI application dated 01.09.2018 seeking information on following points:-

1. Whether the Tender has provisions to comply with Public Procurement Policy for Micro and Small Enterprises (MSEs) Order, 2012?
2. Whether the bidding process was made online or offline?
3. How many vendors have participated in the said tender?
4. Whether all the bidders have satisfied prequalification criteria/ Eligibility Criteria? If no, please give names of vendors not qualified along with reason for disqualification of the said vendors.
5. Please, give names of vendors who have satisfied prequalification criteria/ eligibility criteria.
6. Please, provide all the documents/testimonials submitted in compliance with prequalification criteria/ eligibility criteria by all the vendors.
7. Had all the vendors been found techno-commercially capable to carry out the work on the basis of the provisions made in the tender document?
8. Kindly provide all the documents submitted by all the vendors in compliance with provisions of the tender to see techno-commercial capability of vendors.
9. Please provide report, if any, of inspection conducted by BARC to verify techno-commercial capability of vendors.
10. Whether the Financial Bid has been opened, if so, please, provide price bid all the vendors opened.
11. Whether the work has been awarded? If so, please give the name vendor that that has been awarded the work

12. Please inform if the lowest bidder has been awarded or not, if not, please give reason why?

The CPIO, vide letter dated 25.09.2018, replied as under:

1. No.
2. Offline
3. Seven
4. Following vendors have not technically qualified:
 1. M/s. Sirius Global Ltd., New Delhi
 2. M/s. Bharat IT Services Ltd., Mumbai
 3. M/s. Micropoint computers Ltd. Mumbai
 4. M/s. Grey Technologies Pvt. LTD. Mumbai
5.
 1. M/s. HCL Services Ltd. Mumbai
 2. M/s. Aforeserve, Mumbai
 3. M/s. PuthurInfotech Pvt. Ltd. Mumbai
6. The information sought is held under Fiduciary relationship. Hence, exempt under section 8(1)(e) of the RTI Act, 2005.
7. No.
8. The information sought is held under fiduciary relationship. Hence, exempt under section 8(1)(e) of the RTI Act, 2005.
9. A copy of the report will be available on payment of Rs. 06/- (@ Rs. 2/- per page for 3 Nos. of pages) by way of Demand Draft or Pay order issued by any Bank payable at Mumbai or Indian Postal Order Payable to "Accounts Officer, BARC" or in cash to be deposited with APIO, BARC (SR&W Section) between 2.30 pm to 4.00 pm.
10. Yes, the financial bid has opened.
 1. M/s. HCL Service Ltd. Mumbai, Rs. 1,00,15,250/-
 2. M/s. Aforeserve, Mumbai, Rs. 65,11,250/-
 3. M/s. PuthurInfotech Pvt. Ltd., Mumbai, Rs. 73,80,550/-
11. No.
12. Work order has not been issued. Contract will be awarded to lowest quoted party among the technically qualified parties.

Dissatisfied with the response received from the PIO, the Appellant filed a First Appeal dated 31.10.2018. The FAA vide letter dated 27.11.2018 directed the CPIO to forward a copy of RTI reply dated 25.09.2018 to the Appellant at the email ID of the appellant within 05 days.

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

Facts emerging in Course of Hearing:

Written submissions have been received from PIO, BARC vide letter dated 11.01.2021 and 14.01.2021, reiterating the above facts and adding that the FAA's order was duly complied.

In order to ensure social distancing and prevent the spread of the pandemic, COVID-19, video hearing has been scheduled after giving prior notice to both the parties. Both parties are present for hearing and Respondent elaborated that information submitted by vendors includes information of commercial importance, intellectual property etc. which is held by the Respondent in fiduciary capacity, disclosure of which could adversely impact and compromise the position of the vendors. Hence, only those specific queries which dealt with vendors' confidential information had been withheld from the Appellant. Appellant on the other hand reiterated the contentions as mentioned by him in his Second Appeal.

Decision:

Upon examination of the facts of the case, it is evident that information as permissible under the RTI Act has been provided by the Respondent while only information against queries number 6 and 8 have been denied claiming exemption under Section 8(1)(e) of the RTI Act, 2005. The Commission is in agreement with the justification provided by the Respondent for denial of information against queries number 6 and 8 and finds no infirmity with the reply of the Respondent. No further adjudication is required in this case.

The appeal is disposed off accordingly.

Y. K. Sinha (वाई. के. सिन्हा)

Chief Information Commissioner (मुख्य सूचना आयुक्त)

Authenticated true copy
(अभिप्रमाणित सत्यापित प्रति)

S. K. Chitkara (एस. के. चिटकारा)
Dy. Registrar (उप-पंजीयक)
011-26186535

