

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

द्वितीय अपील संख्या / Second Appeal No.:- CIC/BARCM/A/2018/150720-BJ

Mr. N. Viswanathan Nair

....अपीलकर्ता/Appellant

VERSUS

बनाम

CPIO
Chief Administrative Officer (A) & PIO
Bhabha Atomic Research Centre
Central Complex, 3rd Floor, BARC, Trombay
Mumbai – 400085

...प्रतिवादीगण /Respondent

Date of Hearing : 11.03.2020
Date of Decision : 12.03.2020

Date of RTI application	07.03.2018
CPIO's response	09.04.2018
Date of the First Appeal	17.04.2018
First Appellate Authority's response	17.05.2018
Date of diarised receipt of Appeal by the Commission	16.08.2018

ORDER

FACTS:

The Appellant vide his RTI application sought information regarding all letters/ replies given by Smt Pooja Satpathy in reference to his complaints to BARC authorities vide various letters from June 2017 till date.

The CPIO, vide its letter 09.04.2018 stated that the third party had denied its consent for the disclosure of information u/s 11 and that the information was exempted from disclosure u/s 8 (1) (j) of the RTI Act, 2005. Dissatisfied by the response, the Appellant approached the FAA. The FAA, vide its order dated 17.05.2018 concurred with the response of the CPIO.

HEARING:

Facts emerging during the hearing:

The following were present:

Appellant: Mr. N. Viswanathan Nair through VC;

Respondent: Dr. R. Murugaiah, Chief AO (A) & PIO through VC;

The Appellant reiterated the contents of the RTI application and stated that he had given Rs. 25 lakhs personal loan to Smt Pooja Satputeey and that to recover that loan amount, he had been making complaints to the authorities. A civil dispute in the aforesaid matter is sub-judice. On being queried if there was any larger public interest involved in the matter, he replied in the negative and consistently maintained that he required information in his personal case only. It was also submitted that he worked as Assistant Manager in BARC and that Smt Pooja Satputeey was his colleague.

The Commission was in receipt of a written submission from the Respondent dated 06.03.2020 wherein it was inter alia stated that the Appellant had given interest free loan amounting to Rs. 25 Lakhs to Smt Pooja Satputeey for purchase of flat at Kamothe in the year 2013 and that the Appellant had filed several complaints in this regard against Smt Pooja Satputeey regarding the money borrowed by her. The Appellant was now seeking a copy of the explanation given by Smt Pooja Satputeey to the authorities of the centre. As per Section 11 (1) of the Act, Smt Pooja Satputeey was given an opportunity to submit her representation as to whether the information could be given to the Appellant or not under RTI who had requested not to disclose the information. Thereafter, CPIO, BARC had exempted the information u/s 8 (1) (j) of the RTI Act, 2005.

The Commission referred to the definition of information u/s 2(f) of the RTI Act, 2005 which is reproduced below:

“information” means any material in any form, including records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, report, papers, samples, models, data material held in any electronic form and information relating to any private body which can be accessed by a public authority under any other law for the time being in force.”

Furthermore, a reference can also be made to the relevant extract of Section 2 (j) of the RTI Act, 2005 which reads as under:

“(j) right to information” means the right to information accessible under this Act which is held by or under the control of any public authority and includes

In this context a reference was made to the Hon’ble Supreme Court decision in 2011 (8) SCC 497 (CBSE Vs. Aditya Bandopadhyay), wherein it was held as under:

35..... “It is also not required to provide ‘advice’ or ‘opinion’ to an applicant, nor required to obtain and furnish any ‘opinion’ or ‘advice’ to an applicant. The reference to ‘opinion’ or ‘advice’ in the definition of ‘information’ in section 2(f) of the Act, only refers to such material available in the records of the public authority. Many public authorities have, as a public relation exercise, provide advice, guidance and opinion to the citizens. But that is purely voluntary and should not be confused with any obligation under the RTI Act.”

Furthermore, the Hon’ble Supreme Court of India in Khanapuram Gandaiah Vs. Administrative Officer and Ors. Special Leave Petition (Civil) No.34868 OF 2009 (Decided on January 4, 2010) had held as under:

6. “....Under the RTI Act “information” is defined under Section 2(f) which provides:

“information” means any material in any form, including records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, report, papers, samples, models, data material held in any electronic form and information relating to any private body which can be accessed by a public authority under any other law for the time being in force.”

This definition shows that an applicant under Section 6 of the RTI Act can get any information which is already in existence and accessible to the public authority under law. Of course, under the RTI Act an applicant is entitled to get copy of the opinions, advices, circulars, orders, etc., but he cannot ask for any information as to why such opinions, advices, circulars, orders, etc. have been passed.”

7. *“...the Public Information Officer is not supposed to have any material which is not before him; or any information he could have obtained under law. Under Section 6 of the RTI Act, an applicant is entitled to get only such information which can be accessed by the “public authority” under any other law for the time being in force. The answers sought by the petitioner in the application could not have been with the public authority nor could he have had access to this information and Respondent No. 4 was not obliged to give any reasons as to why he had taken such a decision in the matter which was before him.”*

The Commission observed that the framework of the RTI Act, 2005 restricts the jurisdiction of the Commission to provide a ruling on the issues pertaining to access/ right to information and to venture into the merits of a case or redressal of grievance. The Commission in a plethora of decisions including Shri Vikram Singh v. Delhi Police, North East District, CIC/SS/A/2011/001615 dated 17.02.2012 Sh. Triveni Prasad Bahuguna vs. LIC of India, Lucknow CIC/DS/A/2012/000906 dated 06.09.2012, Mr. H. K. Bansal vs. CPIO & GM (OP), MTNL CIC/LS/A/2011/000982/BS/1786 dated 29.01.2013 had held that RTI Act was not the proper law for redressal of grievances/disputes.

The Hon'ble Supreme Court of India in the matter of Union of India v. Namit Sharma in REVIEW PETITION [C] No.2309 OF 2012 IN Writ Petition [C] No.210 OF 2012 with State of Rajasthan and Anr. vs. Namit Sharma Review Petition [C] No.2675 OF 2012 In Writ Petition [C] No.210 OF 2012 had held as under:

“While deciding whether a citizen should or should not get a particular information “which is held by or under the control of any public authority”, the Information Commission does not decide a dispute between two or more parties concerning their legal rights other than their right to get information in possession of a public authority. This function obviously is not a judicial function, but an administrative function conferred by the Act on the Information Commissions.”

Furthermore, the High Court of Delhi in the matter of Hansi Rawat and Anr. vs. Punjab National Bank and Ors. LPA No.785/2012 dated 11.01.2013 held as under:

*“6. The proceedings under the RTI Act do not entail detailed adjudication of the said aspects. The dispute relating to dismissal of the appellant No.2 LPA No.785/2012 from the employment of the respondent Bank is admittedly pending consideration before the appropriate forum. The purport of the RTI Act is to enable the appellants to effectively pursue the said dispute. The question, as to what inference if any is to be drawn from the response of the PIO of the respondent Bank to the RTI application of the appellants, **is to be drawn in the said proceedings and as aforesaid the proceedings under the RTI Act***

cannot be converted into proceedings for adjudication of disputes as to the correctness of the information furnished.”

Moreover, in a recent decision in Govt. of NCT vs. Rajendra Prasad WP (C) 10676/2016 dated 30.11.2017, the Hon’ble High Court of Delhi had held as under:

6. The CIC has been constituted under Section 12 of the Act and the powers of CIC are delineated under the Act. The CIC being a statutory body has to act strictly within the confines of the Act and is neither required to nor has the jurisdiction to examine any other controversy or disputes.

7. In the present case, it is apparent that CIC had decided issues which were plainly outside the scope of the jurisdiction of CIC under the Act. The limited scope of examination by the CIC was: (i) whether the information sought for by the respondent was provided to him; (ii) if the same was denied, whether such denial was justified; (iii) whether any punitive action was required to be taken against the concerned PIO; and (iv) whether any directions under Section 19(8) were warranted. In addition, the CIC also exercises powers under Section 18 of the Act and also performs certain other functions as expressly provided under various provisions of the Act including Section 25 of the Act. It is plainly not within the jurisdiction of the CIC to examine the dispute as to whether respondent no.2 was entitled to and was allotted a plot of land under the 20-Point Programme.

A similar view delineating the scope of the Commission’s jurisdiction was also taken by the Hon’ble High Court of Delhi in Sher Singh Rawat vs. Chief Information Commissioner and Ors., W.P. (C) 5220/2017 and CM No. 22184/2017 dated 29.08.2017 and in the matter of Shobha Vijender vs. Chief Information Commissioner W.P. (C) No. 8289/2016 and CM 34297/2016 dated 29.11.2017.

DECISION:

Keeping in view the facts of the case and the submissions made by both the parties, no further intervention of the Commission is required in the matter. For redressal of his grievance, the Appellant is advised to approach an appropriate forum.

The Appeal stands disposed accordingly.

(Bimal Julka) (बिमल जुल्का)
(Chief Information Commissioner) (मुख्य सूचना आयुक्त)

Authenticated true copy
(अभिप्रमाणित सत्यापित प्रति)

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