

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/2022/158696**

Shri M. Narendar

... अपीलकर्ता/Appellant

VERSUS/बनाम

PIO, Bhabha Atomic Research Centre

...प्रतिवादीगण /Respondent

Date of Hearing : 11.01.2024

Date of Decision : 11.01.2024

Chief Information Commissioner : Shri Heeralal Samariya

Relevant facts emerging from appeal:

RTI application filed on : 18.07.2022

PIO replied on : 28.09.2022

First Appeal filed on : 05.10.2022

First Appellate Order on : 29.11.2022

2ndAppeal/complaint received on : 23.12.2022

Information sought and background of the case:

The Appellant filed an RTI application dated 18.07.2022 seeking information on following points:-

"I fervently appeal to you to provide photocopies Administrative Charges & Noc-Administrative charges -cash/cheque receipts in respect of B-36/9, KV."

The CPIO and Chief Administrative Officer, BARC vide letter dated 28.09.2022 replied as under:-

"No such information is available in this centre"

Dissatisfied with the response received from the CPIO, the Appellant filed a First Appeal dated 05.10.2022. The FAA and Actg Controller, BARC vide order dated 29.11.2022 held as under :-

"On perusal of all the records, it is observed that PIO has rightly stated that no such information is available as sought by the Appellant in the RTI application. It is further reiterated that the PIO can provide information which readily available with him or held by him or under the control of public authority. PIO is not supposed to create information which is not under his control and then provide the information to the Appellant. Since PIO. BARC has already informed no such information is available as sought

by the appellant in his RTI application, I UPHOLD the reply given by the PIO. BARC”

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

A written submission was received from the Appellant vide letter dated 05.01.2024, the relevant extracts of which are as under:

“With reference to the above, I would like to submit the following documents:

1. Page 64(Photocopy) of Model Bye Laws of Cooperative Housing society(Flat type) Maharashtra, Rule 173 clearly says that for any receipt of complaint within 15 days the Management Committee is to inform the decision to the member/applicant.

2. Transfer charges paid by Shri AK Muhanty,8-36/9, Kendriya Vihar (Director, BARC } paid 425,000 vide receipt no 430 Date 16/04/2022. A copy is provided ny KV (3) CHSL.

Whereas Administrative charges and NOC Administrative charges levied additionally Rs 25000 receipt No 430 I am demanding which is not provided to suppress the fact that illegally KVCHL. is collecting while selling/buying the flat from the seller/buyer. That is why I had approached your office.

3.Jt Registrar, CHS, Cidco, Navi Mumbai Vide letter dated 10/05/2022 also requested society to provide the copies to the applicant but not received so far.

4. High Court judgment published on. date-03/09/ 2018

In the Times of India, Mumbai edition mentioned that “Forced donations resorted Housing Society’s illegal” copy enclosed.

5. Bye Laws No 38 (e) (ix), circular date 09/08/2001,Deparment of Cooperation, Government of Maharashtra which clearly said that premium fixed by society for transfer of flats, can't exceed a sum of 25000)”

A written submission has also been received from the CPIO and CAO (A), BARC, Mumbai vide letter dated 05.01.2024 wherein it was inter alia stated that the information requested by the Appellant was not available with him.

Facts emerging in Course of Hearing:

Appellant: Present

Respondent: Shri B V Balaji, CPIO and Chief Administrative Officer (A)

The Appellant stated that the information sought should be provided by the Respondent public authority as S K Sahu who was working as the Secretary of KVCHFL was also an employee of BARC.

Shri B V Balaji stated that the information sought was not available with them which was communicated to the Appellant.

Decision:

In the light of the facts of the case and the submissions made by both the parties, the Commission is of the view that an appropriate response in accordance with the provisions of the RTI Act, 2005 has been provided as only such information that is held and available on the records of the public authority can be provided by the CPIO. Hence, no further intervention of the Commission is required in this matter.

The instant Second Appeal stands disposed off as such.

Heeralal Samariya (XXXXXXXXXX)

Chief Information Commissioner (मुख्य सूचना आयुक्त)

Authenticated true copy
(अभिप्रमाणित सत्यापित प्रति)

S. K. Chitkara (एस. के. चिटकारा)
Dy. Registrar (उप-मंजीयक)
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