

CENTRAL INFORMATION COMMISSION
Room No. 302, CIC Bhawan, Baba Gangnath Marg,
Munirka, New Delhi-110067

Decision No. CIC/MECON/A/2016/301782, dated 30.11.2017

Arun Kumar Sharma vs. CPIO, MECON Limited, Head office, Jharkhand

Relevant dates emerging from the Appeal:

RTI: 27.06.2016	FA: 14.07.2016	SA: 16.08.2016
CPIO: 12.07.2016	FAAO: 06.08.2016	Hearing: 30.11.2017

ORDER

1. The appellant filed an application under the Right to Information Act, 2005 (RTI Act) before the Central Public Information Officer (CPIO), MECON Limited, Ranchi, seeking a certified copy of letter No. 11.57.CVO.18-03/07 dated 17.8.2007 along with the report enclosed by the then CVO, MECON to CMD, MECON, Ranchi.

2. The appellant filed a second appeal before the Commission on the grounds that the CPIO had wrongly denied information under Section 8(1)(e) and Section 8(1)(h) of the RTI Act. The appellant also stated that there is no court order restraining MECON Limited to supply the documents as sought by him. The appellant is also aggrieved with the Order of the First Appellate Authority (FAA), in which he had upheld the CPIO's reply. The appellant requested the Commission to direct the CPIO to provide the information sought for by him.

Hearing:

3. The appellant Shri Arun Kumar Sharma and the respondent Shri K.T. Dorai, DGM, In-charge Personnel, MECON Limited attended the hearing through video conferencing.

4. The appellant submitted that the information was wrongly denied under Section 8(1)(e) of the RTI Act, as there is no fiduciary relationship between the CMD and the CVO. The appellant further stated that the other reasons cited for denial of information is 'matter being sub-judice which will impede the process of prosecution under Section 8(1)(h) of the RTI Act'. The respondent stated that Section 8(1)(h) of the RTI Act reads "information which would impede the process of investigation or apprehension of the prosecution of offenders." It does not state nor implies a matter which is sub-judice. The appellant contended that under the RTI Act, there is no provision to deny information on the grounds that the matter is sub-judice. Hence, the information could not have been denied under Section of 8(1)(h) of the RTI Act.

5. The respondent submitted that the matter is pending in a CBI Court at Ranchi and the disclosure of information would impede the process of investigation. In view of this, the appellant was informed vide letter dated 12.07.2016 that the information sought is exempted from disclosure under Section 8(1)(h) of the RTI Act. The respondent however, could not explain as to why the disclosure of the information sought would impede the process of prosecution of offender.

Decision:

6. The Commission, after hearing the submissions of both the parties and perusing the records, notes that the CPIO has denied information on the grounds that its disclosure is exempted under Section 8(1)(e) and (h) of the RTI Act. The Commission observes that the relationship between CVO, MECON and CMD, MECON cannot be construed as a fiduciary relationship since the term 'fiduciary relationship' is used to describe a situation or transaction where one person (beneficiary) places complete confidence in another person (fiduciary) in regard to his affairs, business or transactions (as observed by the Hon'ble Apex Court in the decision in *Central Board of Secondary Education and another v. Aditya Bandopadhyay and Others*).

7. The Commission further observes that the respondent also failed to explain as to how the information sought would impede the process of

prosecution of offender. The Commission also notes that in, *B.S. Mathur vs. Public Information Officer of Delhi High Court*: W.P(C) 295/2011, the Hon'ble court has held that:

“...A public authority which seeks to withhold information available with it has to show that the information sought is of the nature specified in Section 8 RTI Act. As regards Section 8 (1) (h) RTI Act, which is the only provision invoked by the Respondent to deny the Petitioner the information sought by him, it will have to be shown by the public authority that the information sought “would impede the process of investigation.” The mere reproducing of the wording of the statute would not be sufficient when recourse is had to Section 8 (1) (h). The burden is on the public authority to show in what manner the disclosure of such information would impede the investigation...”

In view of the above, the Commission observes that the information sought by the appellant was wrongly denied to him by claiming exemption under Section 8(1)(e) and (h) of the RTI Act. The Commission, therefore, directs the respondent to furnish the information sought to the appellant within a period of four weeks from the date of receipt of a copy of this order.

8. With the above observations, the appeal is disposed of.
9. Copy of the decision be provided free of cost to the parties.

(Sudhir Bhargava)
Information Commissioner

Authenticated true copy

(S.S. Rohilla)
Designated Officer

Addresses of the parties:

1. The Central Public Information Officer (CPIO),
MECON Limited,
Head Office, Ranchi -2, Jharkhand
2. Mr. Arun Kumar Sharma