

CENTRAL INFORMATION COMMISSION

Room No. 305, 3rd Floor, CIC Bhavan, Baba Gangnath Marg, Munirka,
New Delhi-110067, website:cic.gov.in

Appeal No.: -CIC/NCTED/A/2017/191523-BJ

Appellant : Dr. Achyuntananda Nayak,
Respondent : CPIO,
Eastern Regional Committee,
National Council for Teacher Education,
15, Neelakantha Nagar, Nayapalli,
Bhubaneswar (Odisha) – 751012
Date of Hearing : 09.02.2018
Date of Decision : 13.02.2018

Date of RTI application	22.07.2016
CPIO's response	19.08.2016
Date of the First Appeal	14.09.2016
First Appellate Authority's response	08.10.2016
Date of diarised receipt of Appeal by the Commission	16.12.2016

ORDER

FACTS:

The Appellant vide his RTI application sought information on 10 points regarding whether UGC regulations on “minimum qualification for appointment of teachers and other academic staff in Universities and Colleges and measures for the maintenance of standards in Higher Education, 2010 was applicable for appointment of teachers for M.Ed course in a Teacher's Training College, whether the Clause 3.5.0 of the annexure of the said UGC regulations was applicable for appointment of professor for M.Ed Course, the minimum percentage of marks at the Master's Level to be possessed for appointment as Assistant Professor for the B.Ed Course, the rules and regulations which prescribe such minimum standard, whether NET/SET/SLET was the minimum eligibly criteria for appointment of Assistant Professor for the B.Ed/M.Ed courses, whether a Ph.D degree holder was exempted from the requirement of NET/SLET/SET for appointment as Assistant Professor for M.Ed course and issues related thereto.

The PIO vide its letter dated 19.08.2016 provided a point wise response to the Appellant. Dissatisfied by the reply of the CPIO, the Appellant approached the FAA. The FAA vide its order dated 08.10.2016 upheld the reply of the PIO.

HEARING:

Facts emerging during the hearing:

The following were present:

Appellant: Dr. Achyuntananda Nayak through VC;

Respondent: Mr. Pradeep Kumar Yadav, RD; Mr. N. K. Sahoo, PS/PIO through VC;

The Appellant reiterated the contents of his RTI application and stated that wrong and misleading information had been provided to him. It was further contended that he had approached the FAA in respect of Points 01 to 08, however, the FAA did not consider the grounds of his Appeal and had mechanically passed its order by merely upholding the reply of the PIO. In its reply, the Respondent submitted that all the relevant information pertaining to the Respondent Public Authority had been supplied to the Appellant vide letter dated 19.08.2016. Furthermore, it was explained that UGC was a different Public Authority and any further clarifications, if required in relation to the UGC regulations on qualifications of teachers and other academic staff in Universities and Colleges could be ascertained from the UGC itself.

On a query from the Commission regarding the *suo-moto* disclosure of such rules and regulations regarding the qualification of the teachers in Universities, the Respondent replied in affirmative and stated that a copy of the same was also furnished to the Appellant. In addition, the Respondent informed the Commission that the Appellant had a grievance pertaining to his disqualification from the eligibility criteria for the appointment of teachers and that the present RTI application had arisen from this grievance.

The Appellant vide his written submission dated 29.01.2018 stated that the information w.r.t Point 01, 02 and 03 sought was completely wrong and misleading and alleged that the matter relating to the appointment of the teachers for M.Ed course in a Teachers Training College with respect to the percentage of marks at the Master's level pertained to NCTE. W.r.t Point 04 and 05 to 08, it was contended that no satisfactory response had been provided.

The Respondent vide his written submission dated 01.02.2018 submitted that relevant information was furnished by the PIO vide letter dated 19.08.2016. The FAA vide its order dated 21.11.2016 had also requested the Appellant that he could obtain the related information directly from the Competent Authority, UGC, New Delhi. Thereafter, instead of collecting the relevant information on the claim of marks percentage from the Competent Authority, UGC, the Appellant had submitted another representation dated 08.11.2016 through Email, responding to the FAA order, ERC and it was again informed to the Appellant vide letter dated 03.12.2016 that there was no change in its previous response. Furthermore, it was explained that the Appellant had not claimed the relaxation in percentage of marks through the approved list of faculty submitted by the institution. However, the Appellant had not provided any communication/letter of the Competent Authority of UGC in respect of relaxation in percentage of marks on any ground. Moreover, the Eastern Regional Committee had not accepted the claim of the Appellant in his RTI Application dated 22.07.2016 whereby point wise response was provided to the Appellant. A copy of this detailed response was endorsed to the Appellant as well.

In this context, the Commission referred to the decision of the Hon'ble Supreme Court in the matter of Civil Appeal no. 6454 of 2011 Central Board of Secondary Education and Anr. Vs. Aditya Bandopadhyay and Ors. which held as under:

"35..... the Act does not cast an obligation upon the public authority, to collect or collate such non-available information and then furnish it to an applicant. A public authority is also not required to furnish information which require drawing of inferences and/or making of assumptions..."

Similarly, the Hon'ble Delhi High Court in the case of *The Registrar Supreme Court of India v. Commodore Lokesh K. Batra & Ors* LPA 24/2015 & CM No. 965/2015 held as under:-

"15. On a combined reading of Section 4(1)(a) and Section 2(i), it appears to us that the requirement is only to maintain the records in a manner which facilitates the right to information under the Act. As already noticed above, 'right to information' under Section 2(j) means only the right to information which is held by any public authority. We do not find any other provision under the Act under which a direction can be issued to the public authority to collate the information in the manner in which is sought by the applicant".

A reference was drawn to the Hon'ble Supreme Court observation in *CBSE v. Aditya Bandopadhyay & Ors.(supra)*, wherein it has been held: *"35. At this juncture, it is necessary to clear some misconceptions about the RTI Act. The RTI Act provides access to all information that is available and existing. This is clear from a combined reading of Section 3 and the definitions of "information" and "right to information" under clauses (f) and (j) of Section 2 of the Act. If a public authority has any information in the form of data or analysed data, or abstracts, or statistics, an applicant may access such information, subject to the exemptions in Section 8 of the Act. But where the information sought is not a part of the record of a public authority, and where such information is not required to be maintained under any law or the rules or regulations of the public authority, the Act does not cast an obligation upon the public authority, to collect or collate such non-available information and then furnish it to an applicant....."*

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. v. 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. v. 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 fora. 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.**”*

DECISION

Keeping in view the facts of the case and the submissions made by both the parties, it is evident that a suitable response had been provided by the CPIO/FAA. No further intervention of the Commission is warranted in the matter. For redressal of his grievance, the Appellant is advised to approach an appropriate forum.

The Appeal stands disposed accordingly.

(Bimal Julka)
Information Commissioner

Authenticated True Copy:

(K.L.Das)
Deputy Registrar