

CENTRAL INFORMATION COMMISSION

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

Appeal No.:-CIC/NINCL/A/2017/112837-BJ

Appellant : Mr. Ram Kumar Sharma,
Respondent : CPIO & Divisional Manager,
National Insurance Co. Ltd.,
Divisional Office: 1-B, Govindpuri,
Ranipur Moad, Haridwar – 249401
Date of Hearing : 13.04.2018
Date of Decision : 16.04.2018

Date of RTI application	13.07.2016
CPIO's response	10.10.2016
Date of the First Appeal	16.08.2016
First Appellate Authority's response	23.09.2016
Date of diarised receipt of Appeal by the Commission	24.02.2017

ORDER

FACTS:

The Appellant vide his RTI application sought information regarding the Copy of GIPSA Circular/Rule under which payment of his two bills (R.K. Medicines Pvt. Ltd. Ghaziabad) had been made and copy of action taken on his review application dated 10.06.16 etc.

Dissatisfied due to non receipt of any information from the CPIO, the Appellant approached the FAA. The FAA vide its order dated 23.09.2016 forwarded the RTI application to Haridwar DO and directed the CPIO, Haridwar DO to provide information within 15 days. Subsequently, the CPIO vide its reply dated 10.10.16 stated that since the Appellant had been deputed by the competent authority for the Investigation of Marine Claim not for the Assessment of loss. Hence the fees paid to him were for Investigation only not for loss assessment.

HEARING:

Facts emerging during the hearing:

The following were present:

Appellant: Mr. Ram Kumar Sharma;

Respondent: Mr. R. S. Rawat, CPIO & Divisional Manager through VC;

The Appellant reiterated the contents of his RTI application and stated that even though a response was received from the CPIO/FAA, he remained dissatisfied. He further submitted that a copy of GIPSA Circular/Rule referred in his RTI application was not provided to him, till date. Explaining

the background of the matter the Appellant submitted that essentially, the dispute related to discrepancy in payment of bills for which he had sought a copy of the relevant circular/rules from the CPIO, Haridwar. In its reply, the Respondent stated that information held and available with the Public Authority had been shared by the CPIO/FAA. As regards, providing the copy of the Circular, it was stated that the same was sent earlier to the Appellant at his erstwhile residence at Meerut, which the Appellant denied having received. However, during the hearing, the Respondent assured that they would provide another copy of the Circular/Rule expeditiously.

The Appellant vide his written submission dated 05.04.18 reiterated the contents of his RTI application and replies given by the CPIO/FAA, further alleged that the CPIO/Div Manager, Haridwar had furnished reply dated 10.10.16, but the same was received by him on 28.11.16 (after 48 days from the date of reply). Hence, this reply could not be mentioned in his 2nd Appeal. In addition to above, it was further pointed out that the alleged reply given by the CPIO dated on 10.10.16 was sent by registered post and postal receipt date pertained to 24.11.16. Therefore, from the above it was clear that the CPIO's reply was backdated. Thereby, the CPIO had committed a criminal offence and an FIR deserved to be lodged against him, besides maximum punishment under the RTI Act, 2005. On perusal of the reply given by the CPIO dated on 10.10.16, it was further stated that he was not satisfied by the said reply, which was misleading and showed malafide intention on the CPIO/Div. Manager, Haridwar.

The Commission referred to the definition of information u/s Section 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.”*

Moreover, 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.**”*

DECISION

Keeping in view the facts of the case and the submissions made by both the parties, strictly in terms of the provisions of the RTI Act, 2005, no further intervention of the Commission is required in the matter. However, the Respondent is instructed to provide a copy of the GIPSA Circular/Rule as desired by the Appellant, within a period of 10 days from the date of receipt of this order. 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