

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/2017/309948-BJ

Appellant : Mr. Raj Kumar Rustagi,
Respondent : 1. CPIO & Manager,
National Insurance Company Limited,
DRO-III, New Delhi
II. CPIO
National Insurance Co. Ltd.
Regd. Had Office:3, Kolkata

Date of Hearing : 07.12.2017
Date of Decision : 07.12.2017

Date of filing of RTI application	03.06.2016
CPIO's response	20.07.2016,
Date of filing the First Appeal	28.07.2016
First Appellate Authority's response	24.08.2016
Date of diarised receipt of second appeal by the Commission	04.10.2016

ORDER

FACTS:

The Appellant vide his RTI application sought information on 04 points regarding whether the vigilance department after investigation had informed that Faridabad D.O-II had paid excess amount of Rs. 425314/- to Maruti Massess, M/s Royal Motors & M/s Sheela Motors in the years 2011-2012, 2012-2013 and 2013-2014 for payment of claim, steps undertaken to recover such amount, the amount recovered till date and issues related thereto.

The CPIO, New Delhi vide its letter dated 20.07.2016 provided a point wise response wherein information w.r.t Point 2 and 3 were denied u/s 8(1)(j) of the RTI Act,2005. Dissatisfied by the reply of the CPIO, the Appellant approached the FAA. The FAA vide its order dated 24.08.2016 concurred with the reply of the CPIO with respect to Points 02 and 03.

HEARING:

Facts emerging during the hearing:

The following were present:

Appellant: Mr. Raj Kumar Rustagi;

Respondent: Mr. Prem Prakash, Manager & FAA, NICTL, New Delhi and Mr. K. Jayasankar, CPIO/Dy. Manager, NICTL, New Delhi in person;

Mr. M. Venkatasubramnian, Chief Manager/CPIO, Kolkata and Mr. Neeraj Sharma, Admn. Officer, Kolkata through VC;

The Appellant reiterated the contents of his RTI application and stated that complete and satisfactory information had not been provided to him. It was argued that vide order of the company dated 31.05.2016, a penalty of forfeiture of full amount of gratuity was imposed on him with immediate effect and that he had appealed before the competent authority in this regard. The Respondents however, reiterated their written submission and stated that the Appellate Disciplinary Authority was seized of the matter.

The Respondent, Kolkata vide his written submission dated 05.12.2017 submitted that the RTI application was filed by the Appellant which was transferred to DGM, O/o GM, North u/s 6(3) of the RTI Act,2005 since the matter pertained to the jurisdiction of the said office. On perusal of the RTI application, it was found that the matter was closely related to Delhi Regional Office-III and therefore the RTI application was accordingly transferred to DRO-III vide letter dated 28.06.2016. The DRO-III provided a reply to the Appellant vide letter dated 20.07.2016 which was also upheld by the FAA. It was contended that the queries sought by the Appellant was more in the nature of grievance and that the information sought was exempt from disclosure u/s 8(1)(a) r/w 8(1)(d) of the RTI Act,2005.

The Respondent at Delhi vide his written submission dated 06.12.2017 submitted that the Appellant was seeking steps that the Public Authority had taken for recovery of certain amount from M/s Royal Motors & M/s Sheela Motors and that the Appellant was neither the Company nor the concerned Third party and therefore the information sought on Points 02 and 03 was denied from disclosure u/s 8(1)(j) and the disclosure of it would amount to unwarranted invasion in the privacy of the third party which also had no relationship with any public interest or activity. It was further informed that a departmental inquiry was initiated against the Appellant for conniving with some company officials and the said dealers in committing fraud with the company by paying higher amount than the actual liability. Thereafter at the conclusion of the departmental enquiry it was found that the Appellant was guilty and certain amount was recovered from his terminal benefits. It was also informed that the Appellant was in habit of filing several RTI applications with the Public Authority.

On a query from the Commission regarding disclosure of the information sought by the Appellant, the Respondent submitted that being a Third Party information, it could not be disclosed. Moreover, since the matter was subjudice, the information sought by the Appellant was in no way instrumental in affecting the proceedings before the Appellate Authority. Full facts of the case were available with the Disciplinary Authority. The issues raised by the Appellant were more interpretational in nature than seeking the information as contained in Section 2(f) of the RTI Act, 2005.

Hearing both the parties and on perusal of records, the Commission observed that under the provisions of the RTI Act, 2005, only such information as is available and existing and held by the public authority or is under control of the public authority can be provided.

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. 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 wherein it was 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....."

Moreover, the Commission relied on the decision of the Hon'ble Supreme Court of India in *Bihar Public Service Commission v. Saiyed Hussain Abbas Rizwi*: (2012) 13 SCC 61 wherein in the context of exemption under Section 8 (1) (j) of the RTI Act, 2005, the Court had held that exemption provided under Section 8 of the Act is the rule and only in exceptional circumstances

of larger public interest the information would be disclosed. The relevant observations are mentioned as under:

"22. The expression "public interest" has to be understood in its true connotation so as to give complete meaning to the relevant provisions of the Act. The expression "public interest" must be viewed in its strict sense with all its exceptions so as to justify denial of a statutory exemption in terms of the Act. In its common parlance, the expression "public interest", like "public purpose", is not capable of any precise definition. It does not have a rigid meaning, is elastic and takes its colour from the statute in which it occurs, the concept varying with time and state of society and its needs (State of Bihar v. Kameshwar Singh [AIR 1952 SC 252]). It also means the general welfare of the public that warrants recognition and protection; something in which the public as a whole has a stake [Black's Law Dictionary (8th Edn.)].

23. The satisfaction has to be arrived at by the authorities objectively and the consequences of such disclosure have to be weighed with regard to the circumstances of a given case. The decision has to be based on objective satisfaction recorded for ensuring that larger public interest outweighs unwarranted invasion of privacy or other factors stated in the provision."

The Commission further referred to the judgment of the Hon'ble Supreme Court of India in Girish Ramchandra Deshpande vs. Central Information Commission & ors. SLP(C) No. 27734 of 2012 dated 03/10/2012 wherein it was held as under:

"Of course, in a given case, if the Central Public Information Officer or the State Public Information Officer of the Appellate Authority is satisfied that the larger public interest justifies the disclosure of such information, appropriate orders could be passed but the petitioner cannot claim those details as a matter of right."

Furthermore, the Commission observed that under the provisions of the RTI Act, 2005, adjudication on the merits of the case, reasons for non compliance of rules/contesting the actions of the Respondent Public Authority and substantive rights of the parties are outside the purview of the Act.

In this context, the Commission referred to the decision of 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 wherein it 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 submissions made by both the parties and in the light of the aforesaid decisions, no further intervention of the Commission is required in the matter.

The Appeal stands disposed accordingly.

(Bimal Julka)
Information Commissioner

Authenticated True Copy:

(K.L.Das)
Deputy Registrar