

# CENTRAL INFORMATION COMMISSION

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

Appeal No.:-CIC/KVSAN/A/2017/194062-BJ

Appellant : Dr. C D S Yadav,  
Respondent : CPIO & Asstt. Commissioner,  
Kendriya Vidyalaya Sangathan,  
Regional Office, Chennai IIT Campus,  
Chennai – 600036  
Date of Hearing : 09.02.2018  
Date of Decision : 13.02.2018

Date of RTI application	08.09.2016
CPIO's response	19.09.2016
Date of the First Appeal	26.09.2016
First Appellate Authority's response	30.11.2016
Date of diarised receipt of Appeal by the Commission	26.12.2016

## ORDER

### **FACTS:**

The Appellant vide his RTI application sought information on 05 points seeking clarifications on the reply affidavit (counter) submitted by Mr. N.R. Murali, Deputy Commissioner, Kendriya Vidyalaya Sangathan, Chennai Region with regard to the OA No. 1301/2013 and OA No. 1108/2012 filed by him before CAT, Madras Bench.

The CPIO and Asst. Commissioner, vide its letter dated 19.09.2016 stated that no reply could be provided for any clarification under the RTI Act. Dissatisfied by the response of the CPIO, the Appellant approached the FAA. The FAA and Dy. Commissioner vide its order dated 30.11.2016 stated that the issue came up for hearing during the inquiry but the Appellant did not counter the same and thereby acquiesced with the statement of the witness and that their office had been frittering away its precious time by replying to his hackneyed applications. Further the issue had already been adjudicated by the Hon'ble CAT Madras Bench.

### **HEARING:**

#### **Facts emerging during the hearing:**

The following were present:

**Appellant:** Dr. C D S Yadav through VC;

**Respondent:** Mr. Johnson Mathew, AC/PIO through VC;

The Appellant reiterated the contents of his RTI application and stated that clear and satisfactory reply was not given to him. In its reply, the Respondent clarified that a suitable reply had been furnished to the Appellant by the CPIO and FAA. The Appellant had also approached CAT,

Madras Bench, Chennai in the matter and vide its order dated 08.07.2015, it was disposed. The Appellant however, insisted that a copy of the Counter Affidavit filed by the Respondent in CAT should be provided to him. It was noted by the Commission that the above subject matter had already been adjudicated by Hon'ble CAT, Chennai. However, the Respondent submitted that a suitable decision had already been taken by Hon'ble CAT and that no further intervention was required. Furthermore, it was informed that a reply had already been furnished to the Appellant by the CPIO/FAA and that they had nothing more to add.

In its written submission dated 23/25.01.2018, the Respondent enclosed a copy of the decision of the CAT, Madras Bench, Chennai in OA no. 1301 of 2013 and OA No. 1108/2012 decided on 08.07.2015 and referred to para 24 of the said decision in support of their contention.

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.”*

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.”*

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 and in the light of the decision of Hon'ble CAT, 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