

CENTRAL INFORMATION COMMISSION

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

Appeal No.:- CIC/LICOI/A/2017/181580-BJ

Appellant : Mr. Hemanta Kumar Nanda,
Respondent : CPIO & Manager (CRM),
LIC of India, Divisional Office,
Sambalpur, Odisha.
Date of Hearing : 07.12.2017
Date of Decision : 07.12.2017

Date of filing of RTI application	23.07.2016
CPIO's response	08.08.2016
Date of filing the First Appeal	22.08.2016
First Appellate Authority's response	15.09.2016
Date of diarised receipt of second appeal by the Commission	25.10.2016

ORDER

FACTS:

The Appellant vide his RTI application sought information on 02 points regarding the cause of violation of the guideline in the appointment of Sri Daktar Patra in LIC Bonai Branch and the details of payment vouchers of Sri Daktar Patra during his tenure of five years as daily wage labourer preceding to 18.01.2011.

The CPIO vide its letter dated 08.08.2016 provided a point wise response wherein it was informed that the information pertaining to Point A did not come under the definition of 'information' as per Section 2(f) of the RTI Act, 2005 and information w.r.t Point 02 was denied from disclosure u/s 8(1)(e),(8)(j) r/w Section 11 of the RTI Act, 2005. Dissatisfied by the response of the CPIO, the Appellant approached the FAA. The FAA vide its order dated 15.09.2016 upheld the decision of the CPIO.

HEARING:

Facts emerging during the hearing:

The following were present:

Appellant: Mr. Hemanta Kumar Nanda through VC;

Respondent: Mr. B.K. Patra, Manager (CRM) and Mr. Ram Prasad Behera, AO through VC;

The Appellant reiterated the contents of his RTI application and stated that the information sought by him had not been provided. It was argued that he was provided unsatisfactory and ambiguous reply by the CPIO/FAA. In

reply, the Respondent informed the Commission that the entire process of appointment of sub-staff was carried out in accordance with the guidelines of Hon'ble Supreme Court and that the matter pertained to internal official records regarding payments to Sri Daktar Patra. Exemption was sought under Section 8(1)(e) and 8(1)(j) of the RTI Act, 2005.

The Respondent vide his written submission dated 25.11.2017 submitted that the Appellant vide his RTI application sought information relating to the cause of violation of guidelines in appointment of one Sri. Daktar Patra without supporting any evidence stating for involvement of larger public interest. It was explained that the query raised w.r.t Point 01 did not come under the definition of 'information' as per Section 2(f) of the RTI Act, 2005. However, it was submitted that the Appellant had been informed the entire process of appointment of sub staff that had been carried out in accordance with the extant guidelines of Hon'ble Supreme Court of India. Moreover, w.r.t Point 02, it was submitted that the information was primarily pertaining to the internal documents regarding the payments made to the concerned Third Party. In this context, it was explained that there exists a fiduciary relationship between the Public Authority and its employees and therefore the said information sought could not be disclosed u/s 8(1)(e), 8(1)(j) r/w Section 11 of the RTI Act, 2005.

On a query from the Commission regarding the procedure adopted for the appointment of Sub-staff, it was informed that although Appellant was one of the candidates in fray for appointment, the procedure adopted in this regard was not displayed in public domain.

The Commission observed that a voluntary disclosure of all information that ought to be displayed in the public domain should be the rule and members of public who *having to seek* information should be an exception. An open government, which is the cherished objective of the RTI Act, can be realised only if all public offices comply with proactive disclosure norms. Section 4(2) of the RTI Act mandates every public authority to provide as much information *suo-motu* to the public at regular intervals through various means of communications, including the Internet, so that the public need not resort to the use of RTI Act.

The Commission also observes the Hon'ble Delhi High Court ruling in WP (C) 12714/2009 Delhi Development Authority v. Central Information Commission and Another (delivered on: 21.05.2010), wherein it was held as under:

"16.It also provides that the information should be easily accessible and to the extent possible should be in electronic format with the Central Public Information Officer or the State Public Information Officer, as the case may be. The word disseminate has also been defined in the explanation to mean - making the information known or communicating the information to the public through notice boards, newspapers, public announcements, media broadcasts, the internet, etc. It is, therefore, clear from a plain reading of Section 4 of the RTI Act that the information, which a public authority is obliged to publish

under the said section should be made available to the public and specifically through the internet. There is no denying that the petitioner is duty bound by virtue of the provisions of Section 4 of the RTI Act to publish the information indicated in Section 4(1)(b) and 4(1)(c) on its website so that the public have minimum resort to the use of the RTI Act to obtain the information.”

Furthermore, High Court of Delhi in the decision of General Manager Finance Air India Ltd & Anr v. Virender Singh, LPA No. 205/2012, Decided On: 16.07.2012 had held as under:

“8. The RTI Act, as per its preamble was enacted to enable the citizens to secure access to information under the control of public authorities, in order to promote transparency and accountability in the working of every public authority. An informed citizenry and transparency of information have been spelled out as vital to democracy and to contain corruption and to hold Governments and their instrumentalities accountable to the governed. The said legislation is undoubtedly one of the most significant enactments of independent India and a landmark in governance. The spirit of the legislation is further evident from various provisions thereof which require public authorities to:

A. Publish inter alia:

i) the procedure followed in the decision making process;

ii) the norms for the discharge of its functions;

iii) rules, regulations, instructions manuals and records used by its employees in discharging of its functions;

iv) the manner and execution of subsidy programmes including the amounts allocated and the details of beneficiaries of such programmes;

v) the particulars of recipients of concessions, permits or authorizations granted. [see Section [4\(1\) \(b\)](#), (iii), (iv), (v); (xii) & (xiii)].

B. Suo moto provide to the public at regular intervals as much information as possible [see Section [4\(2\)](#)].”

As observed by the Hon’ble Supreme Court of India in the decision of *R.B.I. and Ors. V. Jayantilal N. Mistry and Ors*, Transferred Case (Civil) No. 91 of 2015 (Arising out of Transfer Petition (Civil) No. 707 of 2012 decided on 16.12.2015

“The ideal of ‘Government by the people’ makes it necessary that people have access to information on matters of public concern. The free flow of information about affairs of Government paves way for debate in public policy and fosters accountability in Government. It creates a condition for ‘open governance’ which is a foundation of democracy.”

DECISION

Considering the facts of the case and the submissions made by both the parties, the Commission directs the Respondent that in the interest of transparency as enshrined in the RTI Act, 2005, the Respondent should display all the necessary details regarding the procedure followed for selection of Sub-Staff on its website within a period of 30 days from the date of receipt of this order.

The Appeal stands disposed with the above direction.

(Bimal Julka)
Information Commissioner

Authenticated True Copy:

(K.L.Das)
Deputy Registrar