

CENTRAL INFORMATION COMMISSION

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

Complaint No.:-CIC/TEFLU/C/2017/189395-BJ

Complainant : Mr. Hemant Dubey,
Respondent : CPIO,
The English language and Foreign Language
University, Hyderabad,
Telangana- 500007
Date of Hearing : 09.02.2018
Date of Decision : 13.02.2018

Date of RTI application	26.10.2016
CPIO's response	01.12.2016
Date of the First Appeal	Not on record
First Appellate Authority's response	Not on record
Date of diarised receipt of Complaint by the Commission	06.12.2016

ORDER

FACTS:

The Complainant vide his RTI application sought information on 05 points regarding the name of the constituent members for the committee for received applications, reasons why genuine and eligible candidates like Ravi Kumar Ranjan were not called for interview and issues related thereto.

The CPIO vide its letter dated 01.12.2016 stated that efforts to collect the information were in progress and the information would be provided soon. Dissatisfied on not receiving any response thereafter, the Complainant approached the Commission.

HEARING:

Facts emerging during the hearing:

The following were present:

Complainant: Mr. Hemant Dubey in person;

Respondent: Mr. Ali Raza Moosvi, Registrar and Dr. U. J. Suresh, Jt. Registrar/PIO through VC;

The Complainant reiterated the contents of his RTI application and stated that complete and satisfactory information had not been received by him. It was categorically argued that the Respondent submitted point-wise reply on 18.01.2017 against the RTI application filed on 26.10.2016 after a delay of more than 02 months which is violative of the provisions of the RTI Act, 2005. Tendering apology for the delay in replying to the RTI application, it was submitted by the Respondent that point-wise reply had already been furnished to the Complainant on 18.01.2017. In case the complainant was not satisfied he could have approached the CPIO for further clarifications.

As regards disclosing the names of officials of the short listing committee, it was argued that the same was not mentioned to maintain the confidentiality of the Short Listing Committee. The Remaining points regarding eligibility qualification for the post of Assistant Professors were said to be in the Public domain. It was stated that they followed the criteria put out by the UGC which was already displayed on its website.

The Commission was in receipt of a written submission from the Complainant dated 09.02.2018 wherein it was stated that he received a reply from the Respondent on 04.01.2017 i.e., almost after 70 days from the date of application. Subsequently, a second and final reply was received on 18.01.2017 after a period of almost 80 days wherein vague and framed reply was given to him. The Complainant therefore prayed for compensation.

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.”*

However, it was observed that the RTI Act, 2005 stipulates time limits in its various provisions relating to responding to RTI Applications, transfer of applications, filing and disposing of first appeal to ensure that a culture of information dissemination is strengthened so that a robust functioning of the democracy gets established. This was recognised by the Hon’ble High Court of Delhi in *Mujibur Rehman vs Central Information Commission (W.P. (C) 3845/2007)*(Dated 28 April, 2009) wherein it was held as under:

*“14.....The court cannot be unmindful of the circumstances under which the Act was framed, and brought into force. It seeks to foster an "openness culture" among state agencies, and a wider section of "public authorities" whose actions have a significant or lasting impact on the people and their lives. **Information seekers are to be furnished what they ask for, unless the Act prohibits disclosure; they are not to be driven away through sheer inaction or filibustering tactics of the public authorities or their officers. It is to ensure these ends that time limits have been prescribed, in absolute terms, as well as penalty provisions. These are meant to ensure a culture of information disclosure so necessary for a robust and functioning democracy.**”*

The Commission thus felt that there is complete negligence and laxity in the public authority in dealing with the RTI applications. It is abundantly clear that such matters are being ignored and set aside without application of mind which reflects disrespect towards the RTI Act, 2005 itself. The Commission expressed its displeasure on the casual and callous approach adopted by the respondent in responding to the RTI application. It was felt that the conduct of respondent was against the spirit of the RTI Act, 2005 which was enacted to ensure greater transparency and effective access to the information.

DECISION

Keeping in view the facts of the case and the submissions made by both the parties, the Commission cautions the CPIO to timely respond to the RTI

applications failing which the Commission would be compelled to take action under Section 20(1) of the RTI Act, 2005.

The Commission also instructs the Respondent to convene periodic conferences/seminars to sensitize, familiarize and educate the concerned officials about the relevant provisions of the RTI Act, 2005 for effective discharge of its duties and responsibilities.

The Complaint stands disposed accordingly.

(Bimal Julka)
Information Commissioner

Authenticated True Copy:

(K.L.Das)
Deputy Registrar