

CENTRAL INFORMATION COMMISSION

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

Appeal No.: -CIC/UODEL/A/2017/113207-BJ

Appellant : Mr. Sanjay Marale,
Respondent : Mr. Surendra Kumar, CPIO,
PGDAV College (University of Delhi),
Nehru Nagar, Ring Road,
New Delhi 110065
Date of Hearing : 13.04.2018
Date of Decision : 16.04.2018

Date of RTI application	21.09.2016
CPIO's response	20.10.2016 28.10.2016
Date of the First Appeal	24.10.2016
First Appellate Authority's response	Not on record
Date of diarised receipt of Appeal by the Commission	27.02.2016

ORDER

FACTS:

The Appellant vide his RTI application sought information on 04 points regarding name, qualification and bio data of the Assistant Professor selected against permanent OBC post in the d/o Environmental Science and issues related thereto.

The CPIO vide letter dated 20.10.2016 and 28.10.2016 provided a detailed response to the Appellant. Dissatisfied with the response, the Appellant approached the FAA. The FAA order is not on the record of the Commission.

HEARING:

Facts emerging during the hearing:

The following were present:

Appellant: Mr. Sanjay Marale;

Respondent: Mr. Surendra Kumar, Associate Professor;

The Appellant reiterated the contents of his RTI application and stated that complete and satisfactory information had not been received by him. The Respondent submitted that the information sought by the Appellant had already been provided including the minutes of the duly constituted Selection Committee for appointment of Assistant Professors in the Department of Environmental Studies. On record, it was observed that complete details had been provided including the names of experts etc. The

Appellant, however, desired to know the basis of selection of those candidates.

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, no further intervention of the Commission is required in the matter. 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