

CENTRAL INFORMATION COMMISSION

**Baba Gang Nath Marg,
Munirka, New Delhi -110067
Tel : +91-11-26186535**

Complaint No. CIC/ECOMM/C/2017/142600

Complainant: Sh. Neeraj Sharma,

Respondent: Central Public Information Officer
Under Secy., Election Commission of India,
Nirvachan Sadan, Ashok Road,
New Delhi-110001

Date of Hearing: 04.01.2018

Dated of Decision: 04.01.2018

ORDER

Facts:

1. The complainant filed RTI application dated 26.03.2017 seeking information regarding: investigation report with respect to malfunctioning of EVM; how the malfunction of EVM is addressed and other related issues.
2. The response of CPIO is not on record. The complainant filed first appeal dated nil with the First Appellate Authority (FAA). The response of FAA is not on record. The complainant filed complaint on 22.06.2017 with the Commission on the ground that information should be provided to him and penalty should be imposed on the respondent.

Hearing:

3. Both the parties were personally present in the hearing.
4. The complainant referred to his RTI application dated 26.03.2017 and stated that till date no reply/information has been provided to him by the respondent.
5. The respondent stated that they did not receive the online RTI application as they had not accessed the RTI online portal. On query from the

Commission, the respondent stated that many RTI applications to them are being filed on the DoP&T online portal. The respondent stated that the DoP&T had asked various public authorities, including the Election Commission of India, to give consent regarding the access of public to file their RTI application/appeals on their online portal. He further stated that one of the officers from their I.T. department had asked the DoP&T to give training session relating to 'RTI online portal'. This training was given. However, due to communication gap, the DoP&T presumed that the ECI is ready to allow filing of RTI by public on their RTI online portal and put the ECI link on their website. In fact, the ECI had never given its consent for linking them to the online portal of DoP&T. The respondent stated that the account of Nodal Officer, ECI has not been activated as the ECI has not approved participation on the said web-portal. The respondent further stated that most of their work is related to the State Authorities. Besides, ECI is an autonomous body. Hence, they are developing their own online RTI filing system. The respondent stated that they have asked the DoP&T to download the PDF file of online RTI applications/appeals received on their portal and send to them to enable them to reply the same.

6. The complainant stated that the respondent deliberately and malafidely not replying to the RTI applications of the applicants. The complainant stated that the ECI officials have also taken training programs from the DoP&T. Since, then also, they are not able to access the RTI online portal. During the hearing, the complainant showed to the Commission correspondences between DoP&T and ECI regarding the access to RTI online portal. The complainant further showed a letter vide which the CPIO, ECI asked the Director, National Informatics Centre to remove them from the list of public authority. However, the DoP&T vide their letter dated 17.02.2017, rejected the contention of the CPIO, ECI and the DoP&T further asked them if they want to take training in this regard.

7. The complainant stated that till date there are more than 2000 RTI applications are pending on the web portal of Election Commission of India and the same has not been disposing off by the respondent. The complainant

stated that the respondent has intentionally violated the RTI Act. He stated that penalty should be imposed on the respondent.

Discussion/ observation:

8. The Commission observed that there is an online RTI application/appeal filing portal which is run by DoP&T. The public authorities enrol themselves on the said portal in order to receive RTI applications/first appeals from the applicants. From the perusal of the records (including the documents/correspondences produced by the complainant during the hearing), the Commission observed that the Election Commission of India, earlier appeared to be prepared to accept the online RTI applications/first appeals from the applicants on DoP&T RTI web portal. It is further observed that the officials of the ECI had taken training with respect to usage of DoP&T RTI online portal. The Commission further observed that despite training from DoP&T and various other correspondences made with DoP&T, the ECI has not opened and accessed the RTI applications/first appeals of the applicants. The Commission further observed that it appears that the ECI did not take effective steps to ensure that the RTI applications/first appeals are not filed on the web portal of the DoP&T. Further, they took no steps to access the RTI applications/first appeals which had already got filed on DoP&T RTI portal, which has resulted in piling up of the unattended RTI applications/first appeals.

9. The Commission observed that it appears that the respondent has till date not obtained hard-copies/downloaded copies of the RTI applications/first appeals for disposing them in a time bound manner. In fact, non-disposal of RTI applications in time bound manner attracts penal proceedings under the RTI Act. The Commission further observed that the respondent has also not given any public notice on their website regarding not filing online RTI applications/first appeals on the web portal of DoP&T, besides taking steps for barring public access presently provided for filing ECI related RTI applications/appeals on DoP&T RTI online portal.

10. The Commission observed that the respondent, in support of their plea stated that they are developing their own portal to deal with the online RTI

applications/first appeals of the applicants. However, a deadline to launch this portal is not yet to be fixed. During the hearing, the Commission noted that till date, approx. 2000 RTI applications were pending for disposal by the ECI which are yet to be accessed from DoP&T portal. It was further noted that the respondent has not taken up any special drive for the disposal of such a large number of RTI applications/first appeals. The Commission is of the view that the respondent should launch a special drive and ensure disposal of the online RTI applications/first appeals within deadlines as prescribed under the RTI Act.

Decision:

11. This may appropriately be treated as second appeal.

12. The respondent is directed to give point-wise reply/information to the appellant on his RTI application dated 26.03.2017, within 15 days from the date of receipt of this order.

13. The respondent is further directed to show cause in writing the reasons for contravening the provisions of the RTI Act including not replying to this RTI application, within 15 days from the date of receipt of this order.

14. The Public Authority viz. Election Commission of India is directed to send compliance report to the Commission regarding the observations made by the Commission in para no. 8 to 10 above.

15. The Deputy Registrar is directed to fix a hearing in the matter after 30 days for compliance. The Deputy Registrar is further directed to send complete file to the respondent along with this order.

The appeal is disposed of. Copy of the order be given to the parties free of cost.

(Radha Krishna Mathur)
Chief Information Commissioner

Authenticated true copy

(S.C. Sharma)

Dy. Registrar

Copy to:

Secretary,
Election Commission of India,

Nirvachan Sadan, Ashok Road,
New Delhi-110001