

Central Information Commission
Baba Gang Nath Marg,
Munirka, New Delhi-110067.

CIC/AA/A/2018/183
CICOM/A/2018/00166
CICOM/R/2018/00501

Name of the appellant : Shri Sandeep Kumar,
302, RPS Flats,
Sheikh Sarai Phase-1,
New Delhi – 110 017.

1.	Date of RTI application	12.05.2018
2.	Date of reply of the RTI application	25.05.2018 & 29.05.2018
3.	CPIO(s) who furnished reply	DR to CR-II & DO to IC(DP)
4.	1 st Appeal Date	10.07.2018
5.	Diary No. of 1 st Appeal of the Dak Section	473
6.	Diary date of the Dak Section	10.07.2018
7.	Diary date of 1 st Appeal in the office of FAA	10.07.2018
8.	Date of Decision	30.07.2018

In the appeal, appellant has mentioned the reasons for delay in filing the appeal and requested for the condonation of the same. The delay is condoned.

2. Appellant was heard over phone. Shri H.P. Sen, CPIO & DO to IC(DP), Shri Krishan Avtar Talwar, CPIO & DR to CR-II and Shri Ashok Kumar Sharma were present during the hearing.

Brief facts of the case:-

3. In the RTI application, appellant has sought action taken on his complaint addressed to Chief Information Commissioner, diarized vide diary No.123902 dated 16.04.2018 and also sought inspection of the relevant file noting.

4. Shri R.L. Gupta, ex. CPIO & DO to CR-II vide letter dated 25.05.2018 has informed that dy.No.123902 has been attached with the e-book of case file No.CIC/CICOM/A/2017/108762 and forwarded RTI application to the registry of IC(DP) for providing information.

5. Shri H.P. Sen, CPIO & DO to IC(DP) vide letter dated 29.05.2018 furnished following information:-

6/6
“(i) No information is available in this Registry on your complaint addressed to the Chief Information Commissioner dated 16.04.2018.

C. I. C./के. सू. आ.
RECEIVED
31 JUL 2018
D. No.
Initials.

P.T.O.

- (ii) You may inspect the relevant file on any mutually convenient day, preferably after 3 pm."

Decision with reasons:-

6. Aggrieved with the reply of the CPIO, appellant has filed present first appeal and stated under Para-6 & 7 of the appeal that:-

"6. It would be seen that in point (i) of his above reply the DO to IC(DP) and PIO has stated that no information is available with regard to the action taken in respect of my complaint dated 16.04.2018, which, on the face of it could be seen, is wholly untenable and misleading and in breach of the law under reference, which is duly made evident by the position noted above. After giving the aforesaid reply in point (i), the PIO in point (ii) of his aforesaid reply has stated that I could do the inspection of the file, which, it could be seen, is further wholly meaningless considering his reply in point (i) that no information is available in respect of my complaint and if it is so, then what is there to be inspected in the file nor it is consistent with the request made in my application, which is for doing the inspection of the relevant file noting. Thus, it could be seen that reply given by the PIO is clearly in breach of the law under reference and completely untenable.

7. It may kindly be seen that my complaint dated 16.04.2018 would warrant consideration and needful decision of the Hon'ble Chief Commissioner in view of the position submitted above. The same would thus require to be dealt with in the matter of maintaining its record, providing information in relation to the decision taken in respect thereof in terms of provisions enumerated in Sec 4 of the Act as brought out above. Thus, if the DO to IC(DP) and CPIO considers that he is not the concerned authority to act and ensure the compliance of the provisions of section 4 including providing the information as mandated therein as submitted above, because that could only be the situation when he may not have information in respect of my complaint as stated in his reply, in that case, it was incumbent on him and he should have transferred my application consistent with the provisions of the act to the concerned Authority, who is liable to ensure the requisite compliance and provide the information in terms of the aforesaid section, instead of keeping the said application with himself and giving the aforesaid wholly unwarranted and untenable replies. And if the PIO considers that he is the concerned authority liable to provide information as mandated in the given section, then he should have acted in accordance with the mandate under the aforesaid provision of the Act and provided the information as mandated therein, instead of giving the completely unjustified and misleading reply he has given as noted above. Thus, the PIO has clearly acted in breach of the law and given the reply, which is clearly not sustainable in any manner in terms of the law under reference."

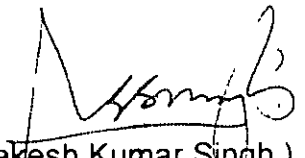
7. During the hearing, appellant has reiterated the same and further added that CPIO should not act mechanically; he should apply his mind while furnishing information.

8. From the above, it is observed that the reply furnished by the CPIO is not appropriate. **Direction is, therefore, given to Shri H.P. Sen, CPIO & DO to IC(DP) to re-visit the matter and provide appropriate information to the appellant within 2 weeks from the date of receipt of the order.**

9. The appeal is, therefore, disposed off accordingly.

10. In case the appellant is aggrieved by the decision, he is free to file second appeal, if he so desires, before the Central Information Commission, Baba Gang Nath Marg, Munirka, New Delhi-110067 against this order within 90 days.

Dated the 31st July, 2018.


(Rakesh Kumar Singh)
Additional Secretary & First Appellate Authority
Tel: 26162290

Copy to:-

1. Shri Ashok Kumar Sharma, CPIO, RTI Cell, CIC, New Delhi.
 2. Shri H.P. Sen, CPIO & DO to IC(DP), CIC, New Delhi.
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