

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

CIC/AA/A/2018/201
CICOM/A/2018/00173
CICOM/R/2018/00609

Name of the appellant : Shri L.D. Verma,
House # 1652, Sec.4,
Urban Estate,
Gurgaon – 122 001.

1.	Date of RTI application	09.06.2018
2.	Date of reply of the RTI application	19.06.2018
3.	CPIO(s) who furnished reply	DO to IC(YA)
4.	1 st Appeal Date	16.07.2018
5.	Diary No. of 1 st Appeal of the Dak Section	731
6.	Diary date of the Dak Section	20.07.2018
7.	Diary date of 1 st Appeal in the office of FAA	23.07.2018
8.	Date of Hearing	30.07.2018

Appellant was present. Shri Ashok Kumar Sharma, CPIO, RTI Cell was present. Shri R.P. Grover, CPIO & DO to IC(YA) was on leave.

Brief facts of the case:-

In the RTI application, appellant has sought following information in respect of Commission order dated 04.05.2018 case file No.CIC/NBCCL/A/2017/105098 and CIC/NBCCL/A/2017/104577:-

- "1) copy of the Legal opinion given by the Law Officer in my case.
- 2) Copy of the Noting and Comments of the other officials in the case.
- 3) *The points/grounds for relying on the so called majeure clause No.17 of the Respondent which...Earthquake, Heavy floods, erosion of Land, Natural calamities, Epidemic disease, Riots, War, Curl War and upheaval which are beyond the control of the builder. But in the case of Marigold Project it is applicable on the Appellant nor the Respondent can use it as cover to wash off its hand and escape from the responsibility, accountability and liability towards customers.*
- 4) *The Commission has overlooked the rules of U.P. Apartment Act 2010 regarding force majeure clause and completion certificate.*
- 5) *The Commission has also overlooked my letter of request dated 22.02.18 to the Hon'ble Information Commission Shri Yashovardhan Azad which was received at their end on 27.02.2018 vide Diary No.113296 requesting therein to give me the opportunity to cross examine the Respondent on points/issues which required so. But the Hon'ble Commissioner did not accede to my genuine request as per law for the reasons best known to him."*

P.T.O.

3. Shri R.P. Grover, CPIO & DO to IC(YA) vide his letter dated 19.06.2018 responded as under:-

"Reply is as under:-

- 1. No legal opinion is available in the concern appeal files.*
- 2. Noting sheet is not being maintained in the registry.*
- 3. Applicant has not requested any information under this point.*
- 4.&5. The decision of the Commission is final and binding on all the parties."*

4. Aggrieved with the reply of the CPIO, appellant has filed present first appeal and his comments on each point of reply of the CPIO are as under:-

Comment on point 1:-

"This C.P.I.O is hiding the facts and truth. When I visited the commission and met Mr. Grover on 19-02-2018 to enquire whether the Commission had received the rejoinder from the respondent (NBCCL) which I submitted the affidavit dated 27.11.17 to you with an advance copy of the same to the respondent. He told me it has been received and the same has been sent to the lawyer and the decision will be conveyed to you in the due course. I requested him to show the rejoinder whether the respondent has submitted the reply based on facts, rules and law or not. He bluntly told me neither it can be shown nor it can be supplied to you which was quite shocking. To vindicate my claim, I am enclosing herewith copy of my letter dated 07.04.2018 which speaks for itself.

When it was given to the lawyer for his opinion, now where it has gone? He cannot cover up the issue in this way."

Comment on point 2:-

"the reply is vague and unsatisfactory if the case goes to the higher court. Will the C.P.I.O given such a reply to the court? Certainly not."

Comment on point 3:-

"It appears that C.P.I.O has not gone this Para thoroughly before giving the reply and have no reply in his defence."

Comment on point 4 & 5:-

"It again appears this C.P.I.O has not gone through the contents of Para #4 & 5. It is clear the C.P.I.O is evading the proper reply and misleading the appellant. I sought the above information as the decision on my appeal was unilateral as per law and the law of natural justice without giving an opportunity to cross examine the respondent while announcing the decision. Copy of Notice dated 7-5-2018 (downloaded from website) and decision dated 4-5-18 is enclosed. How can the decision be announced on 4/5/18 when the date of hearing is 7-5-18. Copy of e-mails also attached."

Decision with reasons:-

5. During the hearing, appellant has reiterated the same.

6. On perusal of the RTI application, reply of the CPIO and submissions made by the appellant in the appeal as well as during the hearing, it is observed that CPIO has provided factual information on the basis of record available with him. It seems that the appellant has inference that CPIO is hiding the facts from him. **Direction is, therefore, given to Shri R.P. Grover, CPIO & DO to IC(YA) to offer inspection of the concerned case file to the appellant with mutual convenient date and time within 2 weeks from the date of receipt of the order.**

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

8. 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 30th July, 2018.

(Rakesh Kumar Singh)

Additional Secretary & First Appellate Authority

Tel: 26162290

Copy to:-

Shri Ashok Kumar Sharma, CPIO, RTI Cell, CIC, New Delhi

Shri R.P. Grover, CPIO & DO to IC(YA), CIC, New Delhi.

