

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

CIC/AA/A/2018/193
CICOM/A/2018/60110
CICOM/R/2018/80029

Name of the appellant : Shri Varun Krishna,
213, Gobind Appts.,
B-2, Vasundhara Enclave,
Delhi – 110 096.

1.	Date of online RTI application	23.04.2018
2.	Date of reply of the RTI application	22.07.2018
3.	CPIO(s) who furnished reply	DO to IC(BJ)
4.	Online 1 st Appeal Date	24.07.2018
5.	Date of Hearing	06.08.2018

The hearing was scheduled on 06.08.2018 in consultation with the appellant but the appellant requested through email dated 06.08.2018 that he will be available on mobile.

2. Accordingly, appellant was heard over phone when Shri Ashok Kumar Sharma, CPIO, RTI Cell was present. Shri K.L. Das, CPIO & DO to IC(BJ) has intimated that his train is late, therefore, he cannot reach office to attend the hearing at 1030 hrs.

3. During the tele hearing, appellant asked to FAA to tell him that on which points of his submission, he is disagreeing so that he can argue. He was informed that in the hearing process, the appellant is given an opportunity to present his case for better appreciation. It is not for the argument between appellant and FAA to decide the case.

Brief facts of the case:-

4. In the RTI application, appellant has sought inspection of files of show cause pending cases in the registry of IC(BJ) from the year 2014 till the date of the RTI application.

5. Shri K.L. Das, CPIO & DO to IC(BJ) vide his letter dated 22.05.2018 has replied as under:-

"In this connection it is informed that information sought by you is vague and unspecific. It is not, therefore, possible to supply you the desired information. In case any specific File No. relating to your own case is indicated, there may be no objection to your inspection."

P.T.O.

6. In the appeal, appellant has stated that PIO denied inspection on grounds outside the scope of u/s 8 or u/s 9 of RTI Act and submitted on the ground that:-

"1. The PIO is denying inspection on his own personally made grounds that:

A. Information sought is vague and unspecific:

The PIO's contentions are false because very clearly, I have demanded inspection of files of ALL appellant's and complainant's cases where Show Cause notice is issued by registry of Hon'ble IC(BJ).

It is not understood from PIO what did he find vague and unspecific in this case

B. File/Cases not relating to my case:

As per RTI Act if any information is denied then exemption is quoted along with applicable explanation is provided u/s 7(8)(i) + 19(5), The Id PIO did not quote any exemption nor any explanation which proves that the intention of PIO is mala-fide."

7. In support of his submission, appellant has referred four CIC's decisions viz. No.CIC/OK/A/2006/00163 dated 07.07.2006, CIC/OK/C/2006/00010 dated 07.07.2006, CIC/SG/A/2011/003607/17371 dated 10.03.2012 and CIC/BS/A/2013/000681/4968 dated 24.04.2014 and judgment dated 15.12.2010 of Hon'ble High Court of Delhi in WP(C) No.12428/2009, WP(C) No.3114/2007 dated 03.12.2007 and Hon'ble High Court of Kerala in WP(C) No.3114/2007.

Decision with reasons:-

8. During the tele hearing, appellant has quoted similar case, decided by the FAA vide order No.CIC/AA/A/2018/169, CICOM/A/2018/60087, CICOM/R/2018/50393 dated 16.07.2018. It was held at Para 5 & 6 of the said FAA's order that:-

"5. During the hearing, appellant has reiterated the same. The CPIO, Shri K.L. Das submitted that the appellant has sought inspection of records of the case files in which show cause notices issued against the third party and it would be violation of Section 11 of the RTI Act. Therefore, he denied offering inspection. However, he also clearly intimated the appellant that in case specific File/Case number relating to own case of the appellant is indicated, there may not be any objection to the inspection. In this regard, the CPIO has also referred to Hon'ble High Court of Delhi decision in the matter of Ankur Mutreja vs. Delhi University LPA 764/2011 dated 09.01.2012, which held that:-

"The Act does not provide for the CIC to hear the complainant or the appellant in the penalty proceedings, though there is no bar also there against if the CIC so desires. However, the complainant cannot as a matter of right claim audience in the penalty proceedings which are between the CIC and the erring Information Officer."

6. *From the above, it is clear that penalty proceedings are between the CIC and the erring Information Officer and complainant cannot as a matter of right claim audience. Show cause notices are issued to give an opportunity to the erring Information Officer to submit his view point before taking any decision on the imposition of penalty. Showing the case file of others during the process may even influence the proceedings. In this case no larger public interest is appears to be involved...."*

9. Appellant has objection on two points of the above said FAA's order i.e. (1) in respect of Hon'ble High Court of Delhi decision in the matter of Ankur Mutreja vs. Delhi University LPA 764/2011 dated 09.01.2012 quoted in the order, audience was sought whereas in this case, he is seeking inspection and (2) appellant has strong objection that showing the case file of others during the process may even influence the proceedings. The fact of this case is similar to the case quoted by the appellant.

10. This case is similar to the case quoted at Para-8 above. In the present case, the judgment dated 09.01.2012 of the Hon'ble High Court of Delhi in the matter of Ankur Mutreja vs. Delhi University LPA 764/2011 is relevant. The appellant stated that he has not sought audience in his RTI application but sought inspection. It is materially not different, therefore, objection does not hold any merit. Further to it, one reasoning mentioned as excerpts quoted at sub-para of Para-8 (6) above, which has also been strongly objected by the appellant saying "how Hon'ble Information Commissioner can be influenced." The objection of appellant does not have any merit.

11. It is further observed that CPIO has informed that *"in case any specific File No. relating to your own case is indicated, there may be no objection to your inspection."* The appellant is accordingly advised that if any such case is related to him, he may intimate about it to the CPIO for carrying out inspection.

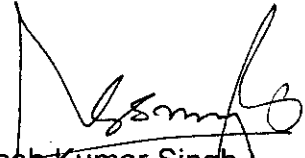
12. In view of the above, no further action is required on the part of the FAA, in the matter.

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13. The appeal is, therefore, disposed off.

14. 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 7th August, 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 K.L. Das, CPIO & DO to IC(BJ), CIC, New Delhi.




07-08-2018

