

Central Information Commission
Baba Gang Nath Marg,
Munirka, New Delhi – 110 067

CICOM/A/P/21/00023
CICOM/R/P/20/00362

Name of the Appellant: Shri Tushar Kanti
CH-16, Jhingurdah
NCL, Singrauli - 486889

1.	Date of RTI application	25.06.2020
2.	Date of receipt of RTI application in RTI Cell	26.08.2020
3.	Date of reply of the RTI application	17.09.2020
4.	CPIO (s) who furnished reply	Shri S.C.Sharma
5.	Date of First Appeal application	14.10.2020
6.	Date of receipt of First Appeal application in the office of the FAA	27.12.2020
7.	Date of Decision	09.02.2021

Brief Facts of the case:-

1. The Appellant, through his RTI application, has referred to CIC, New Delhi decision No.CIC/POWER/A/2017/138994 dated 25.09.2018 and sought information which is reproduced below, along with the respective reply of the CPIO.

Sl.	Information sought by Appellant	Reply of the CPIO
1	Whether the above Decision is binding on CPIO, Damodar Valley Corporation(DVC), u/s 19(7) of the RTI Act, 2005;	CPIO is not obliged to provide clarification of orders/rules etc. However, applicant is advised to refer to section 19(7) of RTI Act, 2005 in this regard.
2	Whether CIC has taken any action on letter No.17-1/2016-DVC dated 05/10/2018; if so, provide documentary evidences; if not, whether the "information" has been destroyed by the CPIO, DVC;	No specific action has been taken.
3	Whether it is a fact that CPIO, DVC has violated the above binding direction of CIC to arrange "inspection of records" at its Headquarters in Kolkata; If so, what are the consequences;	CPIO is not obliged to provide clarification of orders.
4	Whether the Applicant was allowed to present himself for "Hearing" over phone, as indicated in para (ix) of 2 nd Appeal dated 29.05.2017; if not, indicate the reasons, u/s 4(1)(d) of the Act;	No information is available. However, it is seen from record that the appellant was afforded opportunity to be available on NIC studio, District Centre, Collectorate, Singrauli, and further as per order and attendance sheet, the appellant was not present despite notice.
5	Whether it shall be the duty of the CIC u/s 18 of the Act to receive and inquire into a complaint from the Appellant who has been refused access to information requested under this Act u/s 18(1)(b); who has not been given a response to a request for information or access to information within the time limit specified under this Act u/s 18(1)(c) and who believes that he has been given incomplete, misleading or false information under this Act u/s 18(1)(e);	Interpretation of orders/rules etc., is not within the ambit of the CPIO please.

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6	Whether it is a fact that CIC, New Delhi is satisfied that there are reasonable grounds to inquire into the matter of DVC, it may initiate an inquiry in respect thereof u/s 18(2) of the Act; If so, whether the CIC, New Delhi shall enquire into the matter u/s 18(3) & (4) of the Act; if not, reasons there for;	Interpretation of orders/rules etc., is not within the ambit of the CPIO please.
7	Whether the Appellant/Complainant is required to be compensated appropriately u/s 19(8)(b) of the Act, since CPIO, DVC has, without any reasonable cause, malafidely denied the request for information or destroyed information which was the subject of the request or obstructed in any manner in furnishing the information; whereas democracy requires an informed citizenry and transparency of information which are vital to contain corruption (Preamble);	Interpretation of orders/rules etc., is not within the ambit of the CPIO please.
8	Whether the CIC, New Delhi has any discretionary power to decide the above Second Appeal without invoking Sections 19(7), 20(1) of the Act, while the CPIO, DVC has, without any reasonable cause, malafidely denied the request for information or destroyed information which was the subject of the request or obstructed in any manner in furnishing the information and violated the above Commission's binding decision.	Interpretation of orders/rules etc., is not within the ambit of the CPIO please.
9	Whether the CIC, New Delhi shall impose maximum penalty u/s 20(1) of the Act on the CPIO, DVC; If so, by when it would be done; and if not, indicate the reasons for not doing so u/s 4(1)(d) of the Act;	The matter has been disposed and the order of the CIC is very clear.
10	Whether the CIC, New Delhi shall recommend for disciplinary action against the CPIO, DVC; under the service rules applicable to him u/s 20(2) of the Act; if so, by when it would be done; and if not, indicate the reasons for not doing so u/s 4(1)(d) of the Act;	The matter has been disposed and the order of the CIC is very clear.
11	Whether CIC, New Delhi is satisfied that the CPIO, DVC has fully complied Section 7 of the Act and invoking Chapter 5 (Section 18/19/20) of the Act is unwarranted; if so, details thereof; and if not, reasons there for;	CPIO is not obliged to provide clarification of orders/ rules etc.
12	Whether the CIC is lenient on destroying the information raised by the Applicant, by CPIO; if not, consequences there for?	CPIO is not obliged to provide clarification of orders/ rules etc.

Ground of First Appeal:-

III. "CPIO has denied access to information within the mandated period of time in respect of queries raised to get information."

Decision with reasons:-

IV. The First Appeal petition, RTI application and reply given by the CPIO have been examined by the undersigned. It is observed that Shri S.C.Sharma, CPIO, CIC has sent a reply/information to the Appellant vide letter dated 17.09.2020 which is factual and as per the provisions of the RTI Act, 2005. A subsequent clarification dated 26.11.2020 has also been issued. Copies of the same are enclosed herewith.

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As per Section 2(f) of RTI Act, 2005 only such information as is available and existing and held by the public authority or is under control of the public authority can be provided by a PIO. The PIO is not supposed to create or collect information that is not a part of the record. He is also not required to interpret information or decision of CIC.

V. The appeal is being disposed of accordingly.

VI. 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 – 110 067 against this order within 90 days.

M. Balimane
09/02/2021
(Mecna Balimane Sharma)
First Appellate Authority
Tel: 26162290

Dated – 9th February, 2021.

Copy to:-

1. CPIO, RTI Cell, CIC, New Delhi.
2. Shri S.C.Sharma, CPIO, CIC. –

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