



Central Information Commission  
Room No. 107, Ground Floor, Baba Gangnath Marg,  
Munirka, Near Old JNU Campus, New Delhi - 110 067

File No. CICOM/R/2018/00247/CR-1

Dated 11.04.2018

To

Shri Harbinder Singh

Sub: Providing information under RTI Act. 2005.

Sir,

I am to refer to your RTI application dated 13.03.2018 which has been registered vide no. CICOM/R/2018/00247. It has been received through online RTI MIS in Central Registry on 13.03.2018.

Point-wise reply your RTI application is as under:-

Consequent upon issue of letter no. CICOM/R/2018/00247/CR-1, dated 10.04.2018 (copy also enclosed to you). The Registrar, custodian of information preferred to sent the concerned file no. CIC/SS/C/2014/000116 to undersigned. It was received at 5.27 PM on 10.04.2018. Accordingly, I am responding to your RTI application herewith.

Point No. 1:-

No hearing/proceeding held.

Point No. 2:-

Not applicable.

Point No. 3:-

The hearing in question was deferred vide cancellation of hearing Notice CIC/SS/C/2014/000116 dated 11.08.2017 wherein no reason was mentioned. However, in this regard, a copy of Note sheet dated 11.08.2017 (running into two pages) wherein the decision for cancellation of hearing taken, is enclosed was herewith.

Point No. 4:-

To the best of undersigned CPIO's knowledge there is no such provision in the RTI Act, 2005 or RTI Rules 2012.

Appeal, if any, against this reply will lie to Shri Rakesh Kumar Singh, First Appellate Authority & Additional Secretary, CIC, Room No 502, 5<sup>th</sup> Floor, Baba Gang Nath Marg, Munirka, Near Old JNU Campus, New Delhi-110067 within 30 days of receipt of reply of CPIO. His Telephone no. is 011-26162290, 26175295.

Enclosed: as above

  
(Krishan Avtar Talwar)  
Deputy Secretary & CPIO  
Central Registry - 1

Copy to:-

1. Shri Ashok Kumar Sharma, CPIO (RTI Cell), CIC, New Delhi.

2. Shri Kishore Kumar Pukhral, CPIO & SO (Legal) - Delay in transferring point no. 2 is regretted.

11/04/18

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C.I.C. / R/2018/00247/CR-1

RECEIVED

11 APR 2018

D. No. ....

Initials. ....

  
(Krishan Avtar Talwar)  
Deputy Secretary & CPIO

CENTRAL INFORMATION COMMISSION

Shri R.K. Jain vide his application dated 09.08.2017 raised objections for dissolving of the 3-member bench in complaint case no. CIC/SS/C/2014/000116 and Others and thereafter constitution of a fresh bench of 4 members in violation to the provisions of the RTI Act and decisions of the Hon'ble Supreme Court of India. He has also filed photocopies of the judgments of the Supreme Court of India and Gujarat High Court in support of his contention raised in the said application. The same are placed opposite for perusal.

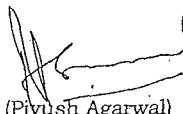
1. In the said application, Shri R.K Jain has stated that the bench constituted by CIC instead of providing replacement for Shri Bimal Julka, Information Commissioner, who recused from the bench, dissolved the constituted bench which is neither legal nor valid as the Chief Information Commissioner has no power under the RTI Act to dissolve an already constituted full bench of 3 members and constitute a fresh bench of 4 ICs without recording any reason for constituting a 4-member bench instead of already constituted 3-member bench.
2. He has also cited the Hon'ble Supreme Court of India's judgment in the case of Union of India v/s Namit Sharma - Review.Petition (C) no. 2309 of 2012 and WP (C) no. 2010 of 2012 where the Supreme Court has held that whenever the intricate question of law arises, the Chief Information Commissioner shall ensure that the matter is heard by the Information Commissioner who has wide knowledge and experience in the field of law. He has further stated that all the 4 members of the newly constituted bench, do not possess legal qualification and experience in the legal field and therefore the constitution of present bench is in violation of the directions of the Supreme Court of India.
3. The placing of the present matter before the fresh bench without giving or recording any reason or without any reference by the jurisdictional Information Commissioner referring the matter to a larger bench, is neither legal nor valid as the applicant is entitled to free and fair hearing before the authority which has jurisdiction in the matter as per notified jurisdiction.
4. Further, he has quoted the judgment of Gujarat High Court in case of Suo Motu v/s Gujarat High Court Advocates Association-2015 (320) ELT 564 (GUJ) where it was held that the Chief Justice of the High Court cannot constitute a larger bench unless the matter is referred to him by a competent bench for constitution of larger bench and in the present case neither the jurisdiction Information Commissioner has made any reference to the Chief Information Commissioner nor the 3-member bench has referred the matter to Chief Information Commissioner for constitution of a larger bench of 4 members. Therefore, the constitution of a larger bench of 4 members is neither legal, valid nor proper and is without the authority of law.
5. He has further quoted another judgment of the Supreme Court of India in the case Pradip Chandra Parija v/s Pramod Chandra Patnaik-2002 (144) ELT 7 (SC) where the Court has held that a judicial discipline requires that a larger bench can be constituted only when a bench of co-equal no. of members differ with the earlier decision.

P.T.O.

In the present matter, neither the 3-member bench has differed with any of its earlier decision nor has referred the matter for constitution of a larger bench than of 3 members. Therefore, the CIC has no jurisdiction to constitute a bench larger than 3-member bench, particularly when he has not recorded/assigned any reason for constitution of a larger bench of 4 members.

6. He has also stated that the constitution of 4-member bench is not in the interest of justice because if the bench is equally divided, the matter has to be re-heard.
7. He has further quoted the Delhi High Court's order dated 22.08.2014 which has directed for disposal of the applicant's complaint within 6 months. Therefore the constitution of a 4-member bench is against the interest of justice as well as against public interest and hence the same is neither legal nor proper.

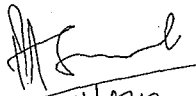
In view of the position stated above, may like to decide whether the hearing fixed for 16-18 August 2017 is to continue or the same needs to be cancelled.

  
(Piyush Agarwal)  
Registrar  
11.08.2017

~~CIC~~ All other constituents are similarly affected in the matter of constitution of bench. It seems appropriate to seek legal opinion in the matter. The hearing by the bench in the matter may be postponed till a view is taken in the matter.

Registrar

AS approved. Order for cancellation of date of hearing on 16-18 August 2017 has been issued.

  
11/8/17



# Central Information Commission

Room No. 107, Ground Floor, Baba Gangnath Marg,  
Munirka, Near Old JNU Campus, New Delhi - 110 067

File No CICOM/R/2018/00247/CR-1

Date: 10.04.2018

To


✓ The Registrar  
Central Information Commission,  
New Delhi

Sub: Request for furnishing information u/s 5(4) of the RTI Act, 2005 – reg.

Respected Sir,

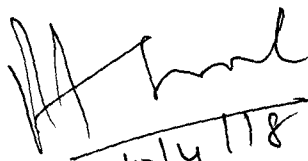
Kind reference is invited to communication dated 16.03.2018 (copy enclosed) wherein your goodself had made an endorsement "file is under submission to CIC and its return same will be provided to you for further n.a". (Copy enclosed for ready reference).

If by now, the file has been received back, may I request you to kindly provide the requisite information, as asked in RTI application dated 13.03.2018 so that the same may be provided to the RTI applicant.

  
(Krishan Avtar Talwar)  
Deputy Secretary & CPIO  
Central Registry – 1

Enclosed: as above

b2  
file may be sent to DS & CPIO (CR) for  
further necessary action.

  
10/4/18

Mr Rajesh

20-2/18-182  
10.04.2018

Received at 5:27 PM today  
Talwar  
10/4/18