

1 केन्द्रीय सूचना आयोग
Central Information Commission
बाबागंगनाथमार्ग, मुनिरका
Baba Gangnath Marg, Munirka
नई दिल्ली, New Delhi – 110067

द्वितीय अपील संख्या / Second Appeal No. **CIC/PMOIN/A/2020/672840**

Shri Naresh Kadyan

... अपीलकर्ता / Appellant

VERSUS/बनाम

PIO

...प्रतिवादीगण / Respondent

PMO

Date of Hearing : 10.02.2022

Date of Decision : 11.02.2022

Chief Information Commissioner : Shri Y. K. Sinha

Relevant facts emerging from appeal:

RTI application filed on : 24.04.2020

PIO replied on : 25.04.2020

First Appeal filed on : 01.05.2020

First Appellate Order on : 05.06.2020

2ndAppeal/complaint received on : 06.06.2020

Information sought and background of the case:

The Appellant filed an online RTI application dated 24.04.2020 seeking information on the following:-

Scouts & Guides for Animals & Birds along with OIPA: Indian People for Animals, endorsed by Smt. Sukanya Berwal, on the eve of her marriage anniversary with Abhishek Kadyan & Smt. Suman Kadyan needs Information, being Fighter by spirit: Activist by mission: Jat by birth: Cobbler by profession: Humanitarian by choice: Gandhian by vision & action, habitually wearing Khadi, promoting gramodyog.

1. Supply me copies all orders, circulars, reports with decisions with noting parts, related to the saka calendar, which was adopted as the National Calendar of India in 1957 by the Calendar Reform Committee which was headed by Astrophysicist Dr. Meghnad Saha. The committee included some well known members like A.C. Banerjee, KK Daffari, J.S Karandikar, Gorakh Prasad, R. V. Vaidya and N.C. Lahiri. There was a humongous task before the committee to set up a unified and accurate calendar which was nationally accepted all over India.

2. Original copy of Indian Constitution have some images & photographs, supply me complete details, related its truthiness behind as these photographs & images disappeared, without describing details & reasons

3. Supply me copies of Kapoor Commission established in 1969 along with action taken report on its recommendations

4. Supply me complete details about Cow beef & Veal Export from India, since last ten years along with copies of scientific proof, patent on Panchgavya, beef / veal medicinal values

5. Supply me the copies of approved prototype of vehicles under Bureau of Indian Standards to carry & transport animals including Camels
6. Supply me copies of orders, circulars, guidelines about installation of Scanner at toll plaza to minimize cruelty against animals along with details of present mechanisms to carry / transport animals in goods transport vehicles
7. Copies of Annual Reports of Animal Welfare Board of India, Rastriya Kaamdhenu Ayog, National Institute of Animal Welfare along with & Animal Welfare Division, during 2017 to 2020 along with copies of their recommendations, if any
8. Complete details about truth behind Independent as India is a still Dominion of British Empire, can we claim as Independent Country
9. Complete Role of INA during, struggle / fights for Indian Independence.

The CPIO, PMO, vide letter dated 25.04.2020 replied as under:-

Reply :- The information sought by you relates to multiple Public Authorities and the same is obliged to be obtained by you from the respective Public Authorities only. You may find the details of the website of Central Government Ministries/Departments and State Governments from <http://goidirectory.nic.in>.

Dissatisfied with the response received from the CPIO, the Appellant filed a First Appeal dated 01.05.2020. The FAA/DS, PMO, vide order dated 05.06.2020 upheld the reply of the CPIO.

Feeling aggrieved and dissatisfied, the Appellant approached the Commission with the instant Second Appeal.

Facts emerging in Course of Hearing:

The Appellant participated in the hearing through audio conference. He stated that the issues raised by him pertained to the larger public interest which should have been answered instead of denying information on the ground that multiple issues were clubbed in a single RTI application.

The Respondent represented by Shri Parveen Kumar, CPIO and US, PMO participated in the hearing through audio conference. He reiterated the response of the CPIO/ FAA.

Decision:

Having heard both the parties and on perusal of the available records, the Commission at the outset observes that the Appellant has filed the RTI application before the PMO seeking information on multiple queries which would be available with different public authorities. Instead of filing the RTI application with the PMO the Appellant should have filed it with the concerned Public Authority being the custodian of information as any person of ordinary prudence may believe that the said information would not be available with the PMO. In this context, the Commission referred to the OM issued by the DoP&T in circular No. 10/2/2008-IR dated 12.06.2008, the relevant extract of which is as under:

“A careful reading of the provisions of sub-section (1) and sub-section (3) of Section 6, suggests that the Act requires an information seeker to

address the application to the PIO of the 'concerned public authority'. However, there may be cases in which a person of ordinary prudence may believe that the piece of information sought by him/her would be available with the public authority to which he/she has addressed the application, but is actually held by some another public authority. In such cases, the applicant makes a bonafide mistake of addressing the application to the PIO of a wrong public authority. On the other hand where an applicant addresses the application to the PIO of a public authority, which to a person of ordinary prudence, would not appear to be the 'concern of that public authority, the applicant does not fulfil his responsibility of addressing the application to the 'concerned public authority.'"

Perhaps with a view to addressing such a situation, at the very formative stage of the RTI Act, the entire scope of Section 6 of the Act had been discussed and interpreted threadbare by a Full Bench of this Commission, comprising Information Commissioners-Sh. Wajahat Habibullah, Sh. A N Tiwari and Sh. Shailesh Gandhi, in a decision dated 22.09.2009 while deciding case no. CIC/AT/A/2008/01280 titled Ketan Kantilal Modi vs Central Board of Excise and Customs holding:

"48.reasoning that an application for information will have to first stand the test of Section 6(1) in order to be validly accepted by the CPIO concerned for processing for disclosure of information. In case the application is not filed before the 'concerned public authority'/CPIO, it shall not qualify to be a valid request for information.

49. The expression "concerned public authority" implies that that public authority should be holding the information which the petitioner sought as per Section 2(j) of the RTI Act, which states that right to information means "the right to information accessible under this Act which is held by or under the control of any public authority...". Section 6(1) -its expression 'concerned public authority' -becomes clearer when read in conjunction with Section 2(j) of the Act.

.....

53. It follows from it that when a petitioner is aware of the location of a given information vis-à-vis public authority, it is not open to him to file his RTI application before any other public authority in the expectation that this latter public authority would act under Section 6(3) to transfer his application to where the information was known to be held. As in this particular case, it is quite obvious that the appellant was fully cognizant of the fact about the information requested by him being held by Chief Commissionerates and Commissionerates of Central Excise. Yet, rather than approach those public authorities and all these where public authorities in their own rights for the information under Section 6(1), he chose the easy way out of filing his application under Section 6(1) read with Section 6(3) before the CPIO, CBEC, demanding simultaneously that the application be transferred to

the Commissioners. Appellant's argument that CBEC was the Apex body or the nodal office, does not help him much because even if CBEC were to be all that appellant says it is nodal office or Apex body, etc. under the RTI Act it is a public authority and its rights and obligations flow from its status as that public authority under Section 2(h) of the Act. A public authority cannot be forced to accept obligations beyond the statutory limit in order to suit a petitioner's convenience.

.....
56. A public authority which does not hold or is not related to an information sought by a petitioner, will not be obliged to provide an answer to the petitioner only for the reason that that public authority was the Apex body or the nodal office of others subordinate public authorities. ..”

Emphasis supplied

Based on the above decision of a Full Bench of the Commission, it was held in the decision dated 29.07.2016 in a case titled R S Gupta vs. L G office that:

“.....The offices of President, Vice President, Prime Minister, Governors, Lt. Governors and Chief Ministers are not legally obliged under RTI Act to entertain RTI applications seeking information unrelated to it, or not held or controlled by these high offices....”

Emphasis supplied

Even if the Commission were to reluctantly acknowledge that this is an attempt on the Appellant's part to fight corruption, the means adopted by him stifles and defeats the very purpose of the RTI Act. In other words, however noble the purpose of this vigorous attempt to bring about probity in the functioning of the public authority would have been, the fact remains that the means adopted by him by inundating the public authority with multiple RTI queries unfortunately only points to the ignorance of the Appellant about the spirit of the RTI Act. As much as a CPIO has a statutory responsibility of complying with the provisions of the RTI Act, it is also expected of the RTI Applicant/s to not undermine the spirit of the RTI Act by clogging the system with such a barrage of RTI applications, merely claiming that these are aimed at combatting corruption.

The Hon'ble High Court of Madras in the case of Public Information Officer, Registrar (Administration) Vs B Bharathi[WP No. 26781/2013 dated 17.09.2014] has also given its opinion about such vexatious litigation crippling the public authorities and held as follows:

“...The action of the second respondent in sending numerous complaints and representations and then following the same with the RTI applications; that it cannot be the way to redress his grievance; that **he cannot overload a public authority and divert its resources disproportionately while seeking information and that the dispensation of information should not occupy the majority of time and resource of any**

public authority, as it would be against the larger public interest.....”

Emphasis supplied

The Hon'ble Delhi High Court while deciding the case of Shail Sahni vs. Sanjeev Kumar &Ors. [W.P. (C) 845/2014] has observed that:

“.....Consequently, this Court deems it appropriate to refuse to exercise its writ jurisdiction. Accordingly, present petition is dismissed. This Court is also of the view that misuse of the RTI Act has to be appropriately dealt with, otherwise the public would lose faith and confidence in this “sunshine Act”. A beneficial Statute, when made a tool for mischief and abuse must be checked in accordance with law.”

Emphasis supplied

In the matter of Rajni Maindiratta- Vs Directorate of Education (North West-B) [W.P.(C) No. 7911/2015] the Hon'ble High Court of Delhi, vide its order dated 08.10.2015 has held that:

“8.Though undoubtedly, the reason for seeking the information is not required to be disclosed but when it is found that the process of the law is being abused, the same become relevant. Neither the authorities created under the RTI Act nor the Courts are helpless if witness the provisions of law being abused and owe a duty to immediately put a stop thereto...”

A reference can also be made to the following observations made by the High Court of Bombay (Nagpur Bench) in the matter of State Information Commission vs. Tushar Dhananjay Mandlekar, LPA No. 276/ 2012 in Writ Petition No. 3818/2010 (D) dated 30.07.2012 which is relevant to the present matter:

“It is apparent from a reading of what is stated above that instead of seeking information on some specific issues, the respondent sought general information on scores of matters. The application is vague and the application does not make it clear to the Information Officer as to what information is actually sought by the respondent from the Officer. It was literally impossible for the appellants, as pointed by the learned Assistant Government Pleader, to supply the entire information sought by the respondent to the respondent within a period of 30 days. The documents ran into 3419 pages. We had asked the respondent while hearing of this letters patent appeal as to what action did the respondent take in pursuance of the information sought by the respondent after the information was supplied and it was replied by the respondent appearing in person that nothing was done on the basis of the information supplied by the appellants as there was some delay in supplying the information. It is really surprising that thousands of documents are being sought by the respondent from the authorities and none of the documents is admittedly brought into use. We are clearly of the view

in the aforesaid backdrop that the application was filed with a mala fide intention and with a view to abuse the process of law.

In the aforesaid set of facts, we feel that there is no justification for imposing the costs of Rs.2,000/- on the appellant no.2. The principle of lex non cogit ad impossibilia is clearly applicable to the facts of the case. Law does not compel a person to do that what is impossible. In the facts of the present case, we feel that it was impossible for the appellant no.2 to supply the information which ran into thousands of pages to the respondent within a period of 30 days, as those pages were not readily available with the respondent on the day the application was filed and the Officers were required to search and collect the information, which was required to be supplied to the applicant.”

The aforesaid dicta essentially prove that the misuse of RTI Act is a well recognized problem and citizens such as the Appellant should take note that their right to information is not absolute.

The Apex Court in a vital decision has categorically cautioned thus:

*“...The RTI Act provides access to all information that is available and existing. This is clear from a combined reading of Section 3 and the definitions of 'information' and 'right to information' under Clauses (f) and (j) of Section 2 of the Act. If a public authority has any information in the form of data or analysed data, or abstracts, or statistics, an applicant may access such information, subject to the exemptions in Section 8 of the Act. But where the information sought is not a part of the record of a public authority, and where such information is not required to be maintained under any law or the rules or regulations of the public authority, the Act does not cast an obligation upon the public authority, to collect or collate such non-available information and then furnish it to an applicant. The right to information is a fundamental right as enshrined in Article 19 of the Constitution of India. The Hon'ble Supreme Court has declared in a plethora of cases that the most important value for the functioning of a healthy and well-informed democracy is transparency. However it is necessary to make a distinction in regard to information intended to bring transparency, to improve accountability and to reduce corruption, falling under Section 4(1)(b) and (c) and other information which may not have a bearing on accountability or reducing corruption. The competent authorities under the RTI Act will have to maintain a proper balance so that while achieving transparency, **the demand for information does not reach unmanageable proportions affecting other public interests, which include efficient operation of public authorities and government,** preservation of confidentiality of sensitive information and optimum use..” (The Institute of Chartered Accountants of India Vs. Shaunak H. Satya and Ors, A.I.R 2011 SC 3336).*

Emphasis supplied

In the other landmark judgement in the case of Central Board of Secondary Education & Anr. Vs. Aditya Bandopadhyay & Ors., the Apex Court held as follows:

“...The Act seeks to bring about a balance between two conflicting interests, as harmony between them is essential for preserving democracy. One is to bring about transparency and accountability by providing access to information under the control of public authorities. The other is **to ensure that the revelation of information, in actual practice, does not conflict with other public interests which include efficient operation of the governments, optimum use of limited fiscal resources** and preservation of confidentiality of sensitive information. The preamble to the Act specifically states that the object of the Act is to harmonise these two conflicting interest.

.....
37. The right to information is a cherished right. Information and right to information are intended to be formidable tools in the hands of responsible citizens to fight corruption and to bring in transparency and accountability..... **Indiscriminate and impractical demands or directions under RTI Act for disclosure of all and sundry information (unrelated to transparency and accountability in the functioning of public authorities and eradication of corruption) would be counter-productive as it will adversely affect the efficiency of the administration and result in the executive getting bogged down with the non-productive work of collecting and furnishing information. The Act should not be allowed to be misused or abused, to become a tool to obstruct the national development and integration, or to destroy the peace, tranquility and harmony among its citizens. Nor should it be converted into a tool of oppression or intimidation of honest officials striving to do their duty. The nation does not want a scenario where 75% of the staff of public authorities spends 75% of their time in collecting and furnishing information to applicants instead of discharging their regular duties...**”

In the light of the above discussion, the instant Second Appeal is thus dismissed and the Appellant is advised to strictly refrain in future from seeking information under the RTI Act by filing such applications on multiple unrelated issued before offices which do not possess the relevant information.

Y. K. Sinha (वाई. के. सिन्हा)

Chief Information Commissioner (मुख्य सूचना आयुक्त)

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