

केंद्रीय सूचना आयोग
CENTRAL INFORMATION COMMISSION
बाबा गंगनाथ मार्ग
Baba Gangnath Marg
मुनिरका, नई दिल्ली- 110067
Munirka, New Delhi-110067

File no.: CIC/MESER/A/2018/168728

In the matter of:

R K Malik

... Appellant

VS

1. Central Public Information Officer
RTI Cell, R No. 164A, Military Engineer Services,
Director General (Pers.) Dte Engineer-in-Chief,
Kashmir House, Rajaji Marg, New Delhi – 110 011

2. CPIO/ Garrison Engineer (I)
Military Engineer Services
Garrison Engineer (I) R&D, Lucknow Road
Timarpur, Delhi – 110 054

... Respondents

| | | |
|---------------------------------|---|---------------|
| RTI application filed on | : | 19/04/2018 |
| CPIO replied on | : | 26/04/2018 |
| First appeal filed on | : | 08/09/2018 |
| First Appellate Authority order | : | Not on Record |
| Second Appeal filed on | : | 15/10/2018 |
| Date of Hearing | : | 28/12/2020 |
| Date of Decision | : | 28/12/2020 |

The following were present:

Appellant: Present over VC

Respondent: Shri Kapil Verma, Garrison Engineer and CPIO, present over VC

Information Sought:

The appellant has sought the following information:

1. Copy of the letter specifying whether GE (I) R&D Timarpur and Chief Engineer (R&D), Delhi are under MES or DRDO HQ New Delhi.

2. Furnish information on GE (I) R&D letter No. 1609/RTI/382/EIC/ dt. 28/06/17, in which GE (I) R&D informed that HQ CE (R&D) and GE (I) R&D Timarpur are solely responsible for DRDO project and function under control of DRDO HQ for all works / matter and GE(I) R&D is an exempted organisation under section 24 of the RTI Act.
3. Provide a copy of the proforma of progress report for claiming pay and allowances of industrial staff.
4. And other related information.

Grounds for Second Appeal

The CPIO did not provide the desired information.

Submissions made by Appellant and Respondent during Hearing:

The appellant submitted that till date no information has been provided to him either by the CPIO or the FAA. He further submitted that he had requested information from Director General of Kashmir House and hence there is no locus of the CPIO, Garrison Engineer officer to give a reply in this case.

The Commission took serious note of the CPIO, Engineer-in-Chief office absence despite duly served notice on 04.12.2020 vide speed post acknowledgment no. ED500631337IN.

Observations:

From a perusal of the relevant case records, it is noted that the CPIO had rejected the RTI application while stating that the IPO/DD was to be addressed to GE New Delhi and that the Proof of ID was not found enclosed. Both these reasons are totally invalid and unacceptable and amount to blatant violation of the provisions of the RTI Act.

At this point, the Commission draws attention to an observation made by this Commission in the case of R. K. Jain v. CPIO, Delhi University, CIC/RM/C/2014/000138-SA. The relevant portion is extracted below:

"The CPIO has every authority to collect the fee prescribed. But when IPO indicates that Rs 10 paid to Government of India, the RTI application cannot be considered as without payment. Even non-payment of fee cannot be a ground for rejection of RTI application. Only grounds for rejection are specifically provided under section 8 and 9. Reading Section 6 and 7 together and understanding spirit of RTI Act as a whole should make CPIO to act reasonably and provide information rather than searching for excuses to reject. Expression "on payment of such fee" means both fee of Rs 10 and further fee representing cost of copying. For that the CPIO has to accept and study the RTI Application, get ready to give the information sought, if not exempted, and seek payment of

cost of copying and on receipt of additional fee, if needed, and then the information need to be provided. What is the significance of fee of 'Rs. 10'? Does it represent the value of the information, cost of its searching, labour charge for preparing the information or consideration for it? No. The decision of CPIO to return the entire application lock stock and barrel on the excuse that addressee space was left blank is without any legal base and totally unjustifiable. He refused application at threshold and was not inclined to arrange information. The mandatory 30 day limit is dismissed by this action. If CPIO has any issues with realization of that fee for his authority, he has every chance of addressing those issues. By returning application along with IPO he has closed all those chances."

With regard to the objection raised by the CPIO that the appellant had failed to annex his identity proof with his RTI application, the Commission refers to the order passed by the Commission in File No. CIC/OK/C/2008/00016

"9. During the hearing the Commission noted that the Respondent had asked the Appellant to specify that he was a bonafide Indian citizen saying that this was necessary under Section 3 of the RTI-Act.

10. The Commission considers this attitude of the Respondents as against the spirit of the RTI-Act. Actually Section 3 of the Act reads, 'Subject to the provisions of this Act, all citizens shall have the right to information'. Nowhere does it say, nor imply, that a person would be required to prove his citizenship every time that he was asking for information. Thus, there are thousands of applications which are considered without a person providing a certificate to prove that he is an Indian citizen. This means that in the rarest of rare cases where there is a doubt that the applicant is indeed an Indian citizen, the Public Authority may ask him for proof. This, however, can only be an exception rather than the rule."

The CPIO ENC officer was not present to explain how the present case is a rarest of rare case in which there is doubt about the citizenship status of the applicant i.e. he is not an Indian citizen. However, the CPIO Garrison Engineer Office submitted that a suitable reply was given to the appellant on 11.08.2018 in which all the points of the RTI application was replied to. The Commission observed that point no. 5 reply was not proper in which it was stated that Government policy is not traceable with the office. The CPIO should revisit the RTI application and provide a justified reply by substantiating the unavailability of the reply.

Decision:

In view of the above, the CPIO Garrison Engineer office is directed to provide complete information in respect of point no. 5 to the appellant within 15 days from the date of issue of this order under intimation to the Commission. The rest of the points were adequately replied to.

A strict warning is also issued to the concerned CPIO, Engineer in Chief office, for such blatant violation of the RTI Act. He should note that such kind of act amounts to denial of information which violates the letter and spirit of the RTI Act. In case such a mistake is repeated in future by him, the Commission will be constrained to initiate penal proceedings u/s 20 of the RTI Act . Further, in future he should remain present before the Commission for hearing without fail or at least intimate the Commission if he is unable to be present on some valid grounds .

The appeal is disposed of accordingly.

Vanaja N. Sarna (वनजा एन. सरना)

Information Commissioner (सूचना आयुक्त)

Authenticated true copy

(अभिप्रमाणित सत्यापितप्रति)

A.K. Assija (ऐ.के. असीजा)

Dy. Registrar (उप-पंजीयक)

011-26182594 /

दिनांक/ Date