

Central Information Commission

Piyush Kumar vs Allahabad High Court on 23 June, 2021

Author: Y K Sinha

Central Information Commission

Baba Gangnath Marg, Munirka
, New Delhi - 110067

/ Second Appeal No. CIC/PRGHC/A/2019/138076

CIC/PRGHC/A/2019/138096

CIC/PRGHC/A/2019/141751

Shri Piyush Kumar

... /Appellant

VERSUS/

PIO, Allahabad High Court
Through: Shri Arvind Srivastava

... /Respondent

Date of Hearing : 23.06.2021
Date of Decision : 23.06.2021

Chief Information Commissioner : Shri Y. K. Sinha

Relevant facts emerging from appeal:

Since both the parties are same, the above mentioned cases are clubbed together for hearing and disposal.

Case No.	RTI Filed on	CPIO reply	First appeal	FAO	2nd Appeal received on
138076	17.11.2018	28.02.2019	05.03.2019	04.04.2019	07.08.2019
138096	17.11.2018	28.02.2019	05.03.2019	04.04.2019	07.08.2019
141751	17.11.2018	28.02.2019	05.03.2019	04.04.2019	27.08.2019

Information sought and background of the case:

(1) CIC/PRGHC/A/2019/138076

The Appellant filed an RTI application dated 17.11.2018 before the Chief Minister's Secretariat seeking information on 07 points, including the following:-

Etc.

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The CPIO/Dy. Registrar(A &E) received the RTI application on 30.01.2019 and vide letter dated 28.02.2019 replied to the Appellant stating that disclosure of the information sought by him is barred under Rules 3 & 4 of the Allahabad High Court (Right to Information) Rules, 2006. The relevant provisions invoked for the denial of information have been cited by the Respondent as follows:

1. Every application shall be made for one particular item of information only.

2. Each application shall be accompanied by cash or draft or pay order drawn in favour of the Registrar General, High Court, Allahabad, or the District Judge the concerned District Court as the case might be.

Dissatisfied with the response received from the CPIO, the Appellant filed a First Appeal dated 05.03.2019. The FAA vide order dated 04.04.2019 held as under:-

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

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Facts

emerging in Course of Hearing:

The CPIO/DR, Allahabad High Court has sent a communication dated 19.06.2021 annexing a detailed written submission reiterating the above facts, placing reliance on the Rules 3, 4 and 13 of the Allahabad High Court Rules, 2006 and citing the relevant OMs of the DoPT in support of his contentions.

In order to ensure social distancing and prevent the spread of the pandemic, COVID-19, hearing through audio conference was scheduled after giving prior notice to both the parties. Both parties are heard through audio conference and their respective contentions are heard at length.

(2) CIC/PRGHC/A/2019/138096 The Appellant filed an RTI application dated 17.11.2018 before the Chief Minister's Secretariat seeking information on the following 03 points:-

The CPIO/Dy. Registrar(A &E) received the RTI Application on 30.01.2019 vide letter dated 28.02.2019 and replied to the Appellant stating that disclosure of the information sought by him is barred under Rules 3 & 4 of the Allahabad High Court (Right to Information) Rules, 2006. The relevant provisions invoked for the denial of information have been cited by the Respondent as follows:

1. Every application shall be made for one particular item of information only.
2. Each application shall be accompanied by cash or draft or pay order drawn in favour of the Registrar General, High Court, Allahabad, or the District Judge of the concerned District Court as the case might be.

Dissatisfied with the response received from the CPIO, the Appellant filed a First Appeal dated

05.03.2019. The FAA vide order dated 04.04.2019 held as under:-

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

Facts emerging in Course of Hearing:

The CPIO/DR, Allahabad High Court has sent a communication dated 19.06.2021 annexing a detailed written submission reiterating the above facts, placing reliance on the Rules 3, 4 and 13 of the Allahabad High Court Rules, 2006 and citing the relevant OMs of the DoPT in support of his contentions.

In order to ensure social distancing and prevent the spread of the pandemic, COVID-19, hearing through audio conference was scheduled after giving prior notice to both the parties. Both parties are heard through audio conference and their respective contentions are heard at length.

(3) CIC/PRGHC/A/2019/141751 The Appellant filed an RTI application dated 17.11.2018 before the Chief Minister's Secretariat seeking information on the following 03 points:-

The CPIO/Dy. Registrar(A &E) received the RTI Application on 30.01.2019 vide letter dated 28.02.2019 and replied to the Appellant stating that disclosure of the information sought by him is barred under Rules 3 & 4 of the Allahabad High Court (Right to Information) Rules, 2006. The relevant provisions invoked for the denial of information have been cited by the Respondent as follows:

1. Every application shall be made for one particular item of information only.
2. Each application shall be accompanied by cash or draft or pay order drawn in favour of the Registrar General, High Court, Allahabad, or the District Judge of the concerned District Court as the case might be.

Dissatisfied with the response received from the CPIO, the Appellant filed a First Appeal dated 05.03.2019. The FAA vide order dated 04.04.2019 held as under:-

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

Facts emerging in Course of Hearing:

The CPIO/DR, Allahabad High Court has sent a communication dated 19.06.2021 annexing a detailed written submission (pg. 101-121) reiterating the above facts while placing reliance on the Rules 3, 4 and 13 of the Allahabad High Court Rules, 2006 and citing the relevant OMs of the DoPT.

In order to ensure social distancing and prevent the spread of the pandemic, COVID-19, hearing through audio conference was scheduled after giving prior notice to both the parties. Both parties are heard through audio conference and Appellant placed reliance on the number of decisions of the Commission wherein rejection of RTI application, on the grounds of non payment of fees in the prescribed mode has been repeatedly discouraged by the Commission. The Appellant referred to the Apex Court's decision in the case of Common Cause vs. High Court of Allahabad & Anr. [WP(C) No.194/2012] whereby the RTI Rules framed by the Allahabad High Court were challenged on multiple grounds. Vide order dated 20.03.2018, the Hon'ble Supreme Court had observed that:

"....as a normal Rule, the charge for the application should not be more than Rs.50 and for per page information should not be more than Rs. 5/-. However, exceptional situations may be dealt with differently. This will not debar revision in future, if situation so demands..."

The primary argument of the Appellant pertained to the outright rejection of his RTI Application for the non-payment of fees, as prescribed under the Allahabad High Court(RTI) Rules, 2006.

On the other hand, the Respondent justified the rejection of the RTI applications placing reliance on Rule 13 of the Allahabad High Court(RTI) Rules, 2006, which reads as:

"..CPIO, on receipt of request, either provide the information to the applicant on payment of prescribed fee, or reject the request within thirty days from the receipt of the request."

Decision:

The aforementioned appeals deal with similar facts and hence are decided by a common order. Upon perusal of the available records and hearing the averments of both parties at length, it is clear that the main issue which needs to be addressed in these cases is whether the rejection of the RTI Applications for non- payment of prescribed fee is appropriate or not. It is noted that the Respondent has contended that there is adequate provision for charging additional fee, as per the OM No. 12/9/2009-IR dated 24.05.2010 and OM No. 1/32/2013-IR dated 28.11.2013 issued by DOPT and the argument is found satisfactory.

Likewise it is noted that the Appellant had filed the RTI Applications before the Chief Minister's Secretariat though information sought pertained to the Allahabad High Court. This Commission has on various occasions discouraged Appellants from filing RTI Applications before public authorities which are obviously not the custodians of information, particularly, when the public offices in question are the high offices like Office of the Chief Minister, LG or Prime Minister's office. Such incorrect filing not only unnecessarily burdens the public authority but also leads to wastage of time in transfer of the RTI Application to the actual custodian of information, like in the above cases.

Having discussed the above facts, the Commission is still not convinced with the interpretation of the Rule 13 of the Allahabad High Court(RTI) Rules, 2006 by the Respondent for rejection of the

RTI application, merely because the RTI application was not accompanied by the prescribed fee. If the Appellant would have been communicated that he should pay the prescribed fee as per Rule 3 and 4 of the Allahabad High Court(RTI) Rules, 2006 to obtain the desired information and still the Appellant did not pay the fee, rejection of the RTI Application in that circumstance would have been acceptable. Since the Rule 13 of the Allahabad High Court(RTI) Rules, 2006 does not specifically address the circumstances when the RTI request can be rejected, it is left to the interpretation of the concerned PIO. However, considering that the RTI Act is a welfare legislation, it is desirable that the provisions of the law and the rules made there under should be interpreted with a positive and sensitive approach, in the larger interest of the information seeker. Accordingly, the Commission advises the PIO, Allahabad High Court to adopt a more compassionate and sensitive approach while handling RTI matters. It is recommended, in such cases, that the PIO may communicate to the Applicant, that the requisite fee be deposited under the Allahabad High Court(RTI) Rules, 2006, instead of outright rejection of the application, which only multiplies the stages of litigation.

Since the provisions of Allahabad High Court(RTI) Rules, 2006 already provide an equally efficacious remedy to access information to the Appellant, upon payment of the prescribed fee, under the Rules, no further direction is deemed necessary in these cases.

With the above observation, the aforesaid appeals are disposed off.

Y. K. Sinha (. .) Chief Information Commissioner () Authenticated true copy () S. K. Chitkara (. .)
Dy. Registrar (-) 011-26186535