

केन्द्रीय सूचना आयोग  
**Central Information Commission**  
बाबा गंगनाथ मार्ग, मुनिरका  
**Baba Gangnath Marg, Munirka**  
नई दिल्ली, New Delhi – 110067

द्वितीय अपील संख्या / Second Appeal No.:- CIC/MCULT/A/2019/112562/DOLAF-BJ

Mr. Chandranshu Mehta  
(E – Mail: chandranshu@gmx.com)

....अपीलकर्ता/Appellant

VERSUS  
बनाम

1. CPIO & ALA  
Ministry of Law & Justice  
Department of Legal Affairs  
High Court (Litigation) Section, Room No. 451  
Lawyer's Chambers, Delhi High Court  
New Delhi – 110003
2. CPIO & Consultant (L)  
Ministry of Culture  
National Monuments Authority  
24, Tilak Marg  
New Delhi - 110001

....प्रतिवादीगण /Respondent

Date of Hearing : 14.07.2020  
Date of Decision : 15.07.2020

Date of RTI application	11.12.2018
CPIO's response	11.02.2019/ 18.02.2019
Date of the First Appeal	16.01.2019
First Appellate Authority's response	26.02.2019
Date of diarised receipt of Appeal by the Commission	19.03.2019

**ORDER**

**FACTS:**

The Appellant vide his RTI application sought information on 06 points regarding name (s) of Central Government Standing Counsel (CGSC), Special Counsel, Senior Counsel Group I & II, Junior Counsel Advocate on record and Government Pleader w.r.t. the Hon'ble High Court of

Delhi from January 2018 to December 2018 (month – wise) engaged by the D/o Legal Affairs for M/o Culture.

The CPIO, M/o Culture vide its letter dated 11.02.2019 stated that the information relating to P. Arts Section, M/o Culture was Nil. Dissatisfied due to non-receipt of any satisfactory response from the CPIO, the Appellant approached the FAA, D/o Legal Affairs. The FAA, D/o Legal Affairs vide its order dated 26.02.2019 referred to the response of the CPIO dated 18.12.2019 transferring the application to the M/o Culture and upheld the same.

## **HEARING:**

### **Facts emerging during the hearing:**

The following were present:

**Appellant:** Mr. Chandranshu Mehta through VC;

**Respondent:** Mr. Vinay Kumar, CPIO, M/o Culture, Mr Aby P. Varghese, Legal Retainer and Mr. S. K. Singh, CPIO, Dept. of Legal Affairs through VC;

The Appellant re-iterated the contents of the RTI application and stated that the same was incorrectly transferred by the Respondent Public Authority to the M/o Culture since the information regarding the names of the Central Government Standing Counsel (CGSC), Special Counsel, Senior Counsel Group I & II, Junior Counsel Advocate on record and Government Pleader engaged by the D/o Legal Affairs for M/o Culture ought to be held and available with the D/o Legal Affairs since it fell within the scope of duties and responsibilities of the said department. While referring to his detailed written submission, the Appellant stated that Shri Brindavan, CPIO, D/o Legal Affairs merely acted as a Post Office and incorrectly transferred the application to M/o Culture which had in turn transferred the application to several departments and to the D/o Legal Affairs thereby resulting in violation of the provisions of the RTI Act, 2005 and wastage of time and resources of several Government Machinery. In its reply, the Respondent (National Monuments Authority) referred to their written submissions dated 10.07.2020 and stated that the second appeal was filed by the Appellant against the response of the D/o Legal Affairs and they had no further role in the matter. In its reply, the Respondent (D/o Legal Affairs) re-iterated the reply of the CPIO/ FAA and stated that the information sought was not available with them and that they would be able to provide the information provided the list of pending cases was provided by the M/o Culture. On being confronted by the Commission regarding the issues raised in the RTI application wherein the Appellant had specifically sought the names of the advocates appointed by the D/o Legal Affairs for M/o Culture w.r.t. matters before the Hon'ble High Court of Delhi and not the status of cases, the Respondent (D/o Legal Affairs) appeared totally clueless and stated that they merely acted as a post office on behalf of the concerned Ministry before various Courts. Undeniably, it was observed that the Respondent did not examine the RTI application with due diligence and merely transferred the same to Ministry of Culture.

The Commission was in receipt of a written submission from the Appellant dated Nil wherein at the outset he referred to the Employment News (Weekly newspaper of the Government of India) Edition 9 15 March, 2019 wherein the mandate of the D/o Legal Affairs was specified. While referring to the decision of the Commission in A R Shashi Kumar vs D/o Legal Affairs (CIC/DOLAF/A/2018/155243-BJ dated 12.06.2020), the Appellant stated that RTI application

related to the work allocated to the D/o Legal Affairs. The Litigation HC Section of D/o Legal Affairs handles litigation work of the Hon'ble High Court of Delhi on behalf of the Ministries/ Departments of Government of India. On 18.01.2019 he got a telephone call at 04:12 PM from Shri Brindavan clearly admitting the above mentioned sanctioned work profile of the D/o Legal Affairs. The Appellant further submitted that the CPIO Shri Brindavan vide communication dated 18.01.2019 without quoting any Section of the RTI Act, 2005 wrongly/ unnecessarily forwarded the RTI application in original to the M/o Culture. Further the RTI date mentioned in the reply was also wrong. While referring to the OM of the DoP&T dated 06.10.2015, the Appellant submitted that Shri Brindavan failed to act as per the GOI direction w.r.t. points (i), (ii), (v) and (vi) of the stated OM and that the said communication was also in violation of Section 6 (3), 7 (1) and 7 (8) of the RTI Act, 2005. The concerned Culture Ministry's CPIO transferred the RTI application without quoting any Section of the Act to a number of CPIOs of the same Public Authority vide letter dated 22.01.2019. Then the 3<sup>rd</sup> CPIO of M/o Culture forwarded the RTI to 23 CPIOs of the same Public Authority who in turn forwarded the application to 12 CPIOs of different Public Authorities. Among those Public Authorities some of them transferred the stated RTI application to each other. The Appellant thereafter referred to the reply of the Culture Ministry's CPIO Smt Anjana dated 20.02.2019 and reply dated 23.02.2019 of Culture Ministry's CPIO Shri Suman Bara. While raising the issue of multiple transfer of the RTI application, the Appellant submitted that Shri Brindavan acted like a post office and that transfer of RTI application resulted in spending public money on purposeless transfers. The Appellant submitted that vide letter dated 20.02.2019, incomplete information was provided by Smt Anjana, hence the Appellant prayed to direct the D/o Legal Affairs to provide information regarding the month of appointment of Advocate Rajesh Gogna as Central Government Standing Counsel (CGSC) w.r.t. the Hon'ble High Court of Delhi in 2018 for the M/o Culture.

The Commission was also in receipt of a written submission from the Respondent (M/o Culture, National Monuments Authority) dated 10.07.2020 wherein it was inter alia stated that there was no wrong on the part of the NMA and that the RTI application was meant for the CPIO, D/o Legal Affairs. It was explained that NMA is a statutory body under the MoC and it did the same as it was directed by the Ministry and this fact was made clear to the Appellant vide their letter dated 04.02.2019. Keeping in view the unknown reason for impleading of CPIO, NMA, he called the Appellant on phone who also cleared about the fact that in his appeal he had not given any reason or has called for impleading MoC and in this respect he had given a letter to the CIC with a copy to them requesting for exemption from appearing during the hearing. In view of the above it was prayed that they be exempted from hearing under reference.

Having heard both the parties and on perusal of the available records, the Commission observed that the CPIO/ FAA did not provide correct reply to the Appellant without any appropriate justification regarding the reasons why information relating to appointment of Advocates by the D/o Legal Affairs was not available with them. Moreover, the Respondent present during the hearing also attempted to deflect the issues raised in the RTI application/ Second Appeal by citing irrelevant reasons regarding list of pending cases with the M/o Culture which was not the moot point raised in the RTI application. This indicates blatant callousness/ casualness/ disregard to the provisions of the RTI Act, 2005 by providing an incorrect and misleading response to the Appellant. The provisions of the RTI Act, 2005 and various judgements on the subject matter clearly establishes that it is the duty of the CPIO to provide clear, cogent and precise response to the information seekers. Section 7 (8) (i) of the RTI Act, 2005 also states that where a request for disclosure of information is rejected, the CPIO shall communicate the reasons for such rejection.

The Hon'ble Delhi High Court in the matter of J P Aggarwal v. Union of India (WP (C) no. 7232/2009 clearly stated that the PIO acts as the Pivot for enforcing the implementation of the Act. The relevant extracts of the decision are as under:

***“ 7“it is the PIO to whom the application is submitted and it is who is responsible for ensuring that the information as sought is provided to the applicant within the statutory requirements of the Act. Section 5(4) is simply to strengthen the authority of the PIO within the department; if the PIO finds a default by those from whom he has sought information. The PIO is expected to recommend a remedial action to be taken”.  
The RTI Act makes the PIO the pivot for enforcing the implementation of the Act.”***

***8.....The PIO is expected to apply his / her mind, duly analyse the material before him / her and then either disclose the information sought or give grounds for non-disclosure.”***

Furthermore, the Hon'ble Delhi High Court in the case of Shri Vivek Mittal v. B.P. Srivastava, W.P.(C) 19122/2006 dated 24.08.2009 had upheld the view of the CIC and observed that

***“.....The Act as framed, casts obligation upon the CPIOs and fixes responsibility in case there is failure or delay in supply of information. It is the duty of the CPIOs to ensure that the provisions of the Act are fully complied with and in case of default, necessary consequences follow”.***

Furthermore, the Hon'ble High Court of Delhi in the matter of R.K. Jain vs Union of India, LPA No. 369/2018, dated 29.08.2018, held as under:

***“9..... That apart, the CPIO being custodian of the information or the documents sought for, is primarily responsible under the scheme of the RTI Act to supply the information and in case of default or dereliction on his part, the penal action is to be invoked against him only.”***

The Commission also noted that it should be the endeavour of the CPIO to ensure that maximum assistance should be provided to the RTI applicants to ensure the flow of information. In this context, the Commission referred to the OM No.4/9/2008-IR dated 24.06.2008 issued by the DoP&T on the Subject “*Courteous behavior with the persons seeking information under the RTI Act, 2005*” wherein it was stated as under:

***“The undersigned is directed to say that the responsibility of a public authority and its public information officers (PIO) is not confined to furnish information but also to provide necessary help to the information seeker, wherever necessary.”***

In the present instance the CPIO merely transferred the RTI application u/s 6 (3) of the Act which prima facie appears to be incorrect. In this context, a reference can be made to the decision of the Hon'ble Delhi High Court in J P Aggarwal v. Union of India (WP (C) no. 7232/2009 wherein it was held that:

***“ 7“it is the PIO to whom the application is submitted and it is who is responsible for ensuring that the information as sought is provided to the applicant within the statutory requirements of the Act. Section 5(4) is simply to strengthen the authority***



***of the PIO within the department; if the PIO finds a default by those from whom he has sought information. The PIO is expected to recommend a remedial action to be taken". The RTI Act makes the PIO the pivot for enforcing the implementation of the Act."***

*8.....The PIO is expected to apply his / her mind, duly analyse the material before him / her and then either disclose the information sought or give grounds for non-disclosure."*

Furthermore, in Ministry Of Railways Through ... vs Girish Mittal on 12 September, 2014 W.P.(C) 6088/2014 & CM Nos.14799/2014, 14800/2014 & 14801/2014, the Hon'ble High Court of Delhi held as under:

*"15. The plain language of Section 6(3) of the Act indicates that the public authority would transfer the application or such part of it to another public authority where the information sought is more closely connected with the functions of the other authority. The reliance placed by the learned counsel for the petitioner on the provisions of Section 6(3) of the Act is clearly misplaced in the facts and circumstances of the case. This is not a case where penalty has been imposed with respect to queries which have been referred to another public authority, but with respect to queries that were to be addressed by the public authority of which petitioner no. 2 is a Public Information Officer. Section 6(3) of the Act cannot be read to mean that the responsibility of a CPIO is only limited to forwarding the applications to different departments/offices. Forwarding an application by a public authority to another public authority is not the same as a Public Information Officer of a public authority arranging or sourcing information from within its own organisation. In the present case, undisputedly, certain information which was not provided to respondent would be available with the Railway Board and the CPIO was required to furnish the same. He cannot escape his responsibility to provide the information by simply stating that the queries were forwarded to other officials."*

A reference can also be made to a recent decision of the High Court of Delhi in the matter of Shikha Bagga Vs. Public Information Officer, Directorate of Education and Another's, in W. P. (C) 4172/2017 dated 13.07.2017 wherein it was held as under:

*"4. Clearly, transferring the petitioner's application to various schools is unsustainable. The PIO is required to provide all such information as sought for, subject to the exceptions as provided under the Act*

*5. In the circumstances, the writ petition is allowed and the impugned letters/orders dated 18.04.2017 and 22.04.2017 transferring the petitioner's application to various officers and various schools are set aside. It is directed that the petitioner's application be considered by respondent no.1 in accordance with law"*

The Commission also referred to the following observations of the High Court of Himachal Pradesh in the matter of Block Development Officer, Paonta Sahib vs. State Information

Commission and Anr., CWP No. 6072 of 2012 dated 27.06.2018 wherein in the context of ignorance of the CPIO regarding the provisions of the RTI Act, 2005 it was held as under:

“9. It is vehemently urged by learned counsel for the petitioner that the impugned order suffers from vice of arbitrariness and, therefore, should be quashed and set aside. It was further argued that the petitioner on receipt of the application had transferred it to the concerned authorities and, therefore, there was no lapse on his part. **He would also urge that the petitioner did not know the intricacies of the RTI Act and, therefore, he could not have been penalized.**

**10. I find no merit in the contention put-forth by the petitioner. It is more than settled that ignorance of law can be no excuse. Once the petitioner is designated as PIO, then all the more he is deemed to have knowledge and even otherwise the least that was required of him was to have acquainted himself thoroughly with the provisions of the RTI Act. Therefore, the explanation as sought to be put-forth by the petitioner at this stage clearly reflects the lackadaisical attitude of the petitioner. The only reasonable explanation for the cause of delay can be accepted and not lame excuses.”**

The Commission thus observed that there is complete negligence and laxity in the public authority in dealing with the RTI applications. It is abundantly clear that such matters are being ignored and set aside without application of mind which reflects disrespect towards the RTI Act, 2005 itself. The Commission expressed its displeasure on the casual and callous approach adopted by the respondent in responding to the RTI application. It was felt that the conduct of Respondent was against the spirit of the RTI Act, 2005 which was enacted to ensure greater transparency and effective access to the information.

**DECISION:**

Keeping in view the facts of the case and the submissions made by both the parties and in the light of the observations made in the preceding paragraphs, the Commission was pained to observe that the Department of Legal Affairs which was the department concerned with advising the Ministries on legal matters and formulation of Rules and Regulations and its interpretation for various Government bodies, faulted in recognizing the basic issues pertaining to the RTI Act, 2005 which was meant for dissemination of information to a common man. Therefore, the Commission instructs the Secretary, D/o Legal Affairs, Ministry of Law and Justice to depute an officer of an appropriate seniority to examine the matter and provide point wise information to the Appellant in accordance with the provisions of the RTI Act, 2005 within a period of 30 days from the date of receipt of this order depending upon the condition for containment of the Corona Virus Pandemic in the Country.

The Commission also instructs the Respondent Public Authority to convene periodic conferences/seminars to sensitize, familiarize and educate the concerned officials about the relevant provisions of the RTI Act, 2005 for effective discharge of its duties and responsibilities

The Appeal stands disposed accordingly.

(The order will be posted on the website of the Commission)

**(Bimal Julka) (बिमल जुल्का)**  
**(Chief Information Commissioner) (मुख्य सूचना आयुक्त)**

Authenticated true copy  
(अभिप्रमाणित सत्यापित प्रति)

(K.L. Das) (के.एल.दास)  
(Dy. Registrar) (उप-पंजीयक)  
011-26186535/ [kl.das@nic.in](mailto:kl.das@nic.in)  
दिनांक / Date: 15.07.2020

Copy to:

1. Secretary, Ministry of Law & Justice (Department of Legal Affairs), 4<sup>th</sup> Floor, A Wing, Shastri Bhawan, New Delhi – 110001

