

CENTRAL INFORMATION COMMISSION

(Room No.315, B-Wing, August Kranti Bhawan, Bhikaji Cama Place, New Delhi 110 066)

File No.CIC/SS/A/2013/002209-SA

Appellant : Mr. Subhash Chand Agrawal

**Respondent : Department of Legal Affairs
Government of India**

Date of hearing : 30-10-2014

Date of decision : 24-11-2014

**Information Commissioner : Prof. M. Sridhar Acharyulu
(Madabhushi Sridhar)**

**Referred Sections : Sections 3, 19(3) of the RTI
Act**

**Result : Appeal allowed/
Disposed of**

The appellant is present. The Public Authority is not represented by Mr. K.Ginkhan Thang, CPIO, Department of Legal Affairs, Govt. of India, New Delhi.

FACTS:

2. The appellant filed RTI application on 6.2.2013 seeking following information with regard to news report "UPA Loses another SG as Nariman quits", 'Raja made changes in 2G press-

note says AG', letter dt 29.2.2013 from office of Attorney General and submissions ' Attorney General before 2G-JPC' dt 5.2.2013 routed through PG-Portal:

1. Complete information together with related file-noting/ documents/correspondence on appointment of Shri GE Vahanvati, Shri Gopal Subramaniam and Rohinton Nariman as Solicitor General including copies of notifications issued in this regard.
2. Copies of resignation of Shri Gopal Subramaniam and Shri Rohinton Nariman from the post of Solicitor General together with complete information on action taken on these resignations, together with related file-noting/ documents/correspondence.
3. Complete information together with related file-noting/ documents/correspondence on action taken for appointing a new Solicitor general to replace Shri Rohinton Nariman.
4. Complete information together with related file-noting/ documents/correspondence on appointment of Shri GE Vahanvati as Attorney General including also copy of notification on such appointment.
5. Complete information of facilities, perks, privileges, office-premises, staff and all other aspects involving government- expenditure sanctioned/provided for Law Officers of Government of India including also Attorney General, Solicitor General, Add. Solicitor Generals separately for each of such Law Officers.
6. Complete details of staff with names and designations made available to Attorney General Shri GE Vhanvati mentioning also expenses made under different heads including perks, pay and facilities etc for Attorney General Shri GE Vahanvati separately for each year ever since he took charge as Attorney General.
7. Complete information of any complaint received against any of the existing Law Officers of Government of India together with action taken together with related

correspondence/document/file-notings on action taken on such complaints enclosing also copies of all such complaints.

8. Complete information on any existing Law Officer of Government of India having violated Law Officer (Service Conditions) Rules 1972 together with information on action taken n such violation of rules with related correspondence/file-noting/documents.
9. Copy of any proposal/reference by Union Ministry of Law and Justice for Attorney General GE Vahanvati to take part in discussion-process and/or drafting press notes etc in respect of allocation of 2G Spectrum as mandatory under rule 8(e) of Law Officer (Service Conditions) Rules 1972.
10. If no to query (9), complete information on action taken against Attorney General GE Vahanvati for violating rule 8(e) of Law Officer (Service Conditions) Rules 1972. Through his taking part in discussion-process and/or drafting press-note in respect of allocation of 2G Spectrum.
11. Complete information on action taken together with related file- noting/ documents/correspondence on submission "Attorney General before 2G-JPC" dt 5.2.2013 routed through PG portal either by department of legal affairs or concerned ones where these submissions might have been forwarded.
12. File noting on the moment of RTI petition.
3. PIO vide order dt 11.4.2013 replied on point no. 1-4 that the copies of file noting, correspondence and other document relating to Law Officers would be bulky and would require diversion of considerable resources of their section and the appellant was requested to provide specific name of Law Officer about whom he wanted information. Copies of notification in respect to appointment/ resignation

of AG/SGs and few ASGs were enclosed. On point no. 5, it was replied that the rules regulating the facilities, perk, privileges etc are available in Law Officer (Condition and Service Rules) 1987(link provided); on point no 6 & 12 provided enclosures; on point no 7 requested the appellant to provide the specific name of Law Officer and on point no 8-11 replied that no information was available in Judicial Section.

4. Being unsatisfied, the appellant preferred First Appeal on 20.4.2013. FAA vide order dt 10.9.2013 rejected the appeal saying that information has already been provided. The appellant preferred Second Appeal before the Commission.

Decision:

5. Both the parties made their submissions. The Commission has gone point-wise in the RTI application of the appellant and observes that the respondent authority invoked Section 7(9) of the RTI Act regarding points 1 to 4, as that the documents are bulky in nature and involve diversion of the resources. The said Section reads thus:

7. Disposal of request

....

....

(9) An information shall ordinarily be provided in the form in which it is sought unless it would disproportionately divert the resources of the public authority or would be detrimental to the safety or preservation of the record in question.

6. The High Court of Kerala at Ernakulam in the case of **Treesa Irish W/o Milton Lopez Vs. The Central Public Information Officer, The Appellate Authority, The Central Information Commission and Union of India** (UOI), W.P. (C) No. 6532 of 2006 (C) dt 30.08.2010 held that:

25. ...That Section does not even confer any discretion on a public authority to withhold information, let alone any exemption from disclosure. It only gives discretion to the public authority to provide the information in a form other than the form in which the information is sought for, if the form in which it is sought for would disproportionately divert the resources of the public authority. In fact there is no provision in the Act to deny information on the ground that the supply of the information would disproportionately divert the resources of the public authority.

In the light of the above clarification, the Commission does not accept this contention of the respondent and directs the PIO to provide copies of file notings subject to provisions of Section 8 of the RTI Act.

7. Regarding points 7 and 8, after the appellant specified the names of Attorney General, Solicitor General and Additional Solicitor General, the respondent answered that until 2013, there were no complaints against them.

8. After having perused all the points in the RTI application, the Commission found that the information sought in point 9, 10, 11 and 12 need to be provided to the appellant pertaining to the proposal/reference to Attorney General GE Vahanvati to take part in 2G spectrum case, if there is no such proposal, then sought to know action taken against him for alleged violation of rule 8(e) of Law Officer (Service Conditions) Rules 1972, (inserted on 25 February 2005), which provided that:

8. Restrictions- (1) A Law Officer shall not -

(a)...

(b)...

(c)...

(d)...

(e) Advise any Ministry or Department of Government of India or any statutory organization or any Public Sector Undertaking unless the proposal or a reference in this regard is received through the Ministry of Law and Justice, Department of Legal Affairs.

Taking into consideration the credential nature of the matter the Commission directs the respondent authority to provide information as sought under points 9, 10, 11 and 12 as on date, subject to Section 8 of the RTI application within 15 days from the date of receipt of this order.

9. The Commission observes that most of the times, the delay in response was due to certain persistent doubts existing in the mind of the respondent officers. The Commission recommends the PIO to contact the appellant/RTI applicant on phone and seek clarification if required and provide the information avoiding unnecessary delays compelling the parties to go in appeals.

10. With the above observations, the appeal is **disposed** of.

(M. Sridhar Acharyulu)
Information Commissioner

Authenticated true copy

(Babu Lal)
Deputy Registrar

Address of the parties:

1. The CPIO, Government of India
Department of Legal Affairs, Ministry of Law and Justice,
Shastri Bhawan, New Delhi-110001

2. Shri Subhash Chandra Agrawal
1775, Kucha Lattushah, Dariba Chandni Chowk, Delhi