

CENTRAL INFORMATION COMMISSION

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

File No.CIC/SA/C/2014/000314

File No.CIC/SA/C/2014/000316

File No.CIC/SA/C/2014/000317

File No.CIC/SA/C/2014/000319

File No.CIC/SA/A/2014/000246

Complainant : **Sh.Subhash Chandra Agrawal**
Respondent : **National Green Tribunal**
Date of hearing : **08-01-2015**
Date of decision : **14-01-2015**
Information Commissioner : **Prof. M. Sridhar Acharyulu
(Madabhusi Sridhar)**
Referred Sections : **Sections 18 of the Act**
Result : **Complaint allowed/
For Compliance Posted**

The Complainant is present. The Public Authority is represented by Ms. Jaya Goyal, Advocate.

2. The complainant has filed the above four complaints and one appeal against the same public authority on the same subject and hence they are heard together today.

FACTS:

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3. The complainant through his RTI application dated 7.4.2014 sought information month-wise, the number of RTI petitions received by NGT from 1.1.2012 till date, month- wise number of first appeals received during this

period, number of second appeals filed at CIC, month-wise complaints filed at CIC etc. Having received no reply within the prescribed period , he approached the Commission under section 18 of the RTI Act.

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4. The Complainant through his RTI application dated 28.4.2014 sought complete information together with all file noting, correspondence, documents etc on purchase, decision taken to purchase and registration of vehicles including cars purchased by NGT from 1.12.2012 till date; number of vehicles including cars sold, name of the authorities in whose name vehicles including cars purchased for NGT etc. Having received no reply within the prescribed period, he approached the Commission under section 18 of the RTI Act.

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5. The Complainant through his RTI application dated 28.4.2014 sought complete information on rules, procedure, etc on sanctioning of leave to a) Chair-Person, b) other Members of NGT; information about the leave requested/sanctioned, complete information on rules/procedure of LTC to a) Chair-Person, b) other Members of the NGT etc. Having received no reply within the prescribed period, he approached the Commission under section 18 of the RTI Act.

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6. The Complainant through his RTI application dated 28.4.2014 sought complete information on rules/procedure for employing any staff on deputation at NGT, mentioning their service conditions/ eligibility, their date of joining including their cadre, where service rules/eligibility criteria changed

for any person etc. Having received no reply within the prescribed period, he approached the Commission under section 18 of the RTI Act.

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7. This case was already decided, appellant made a request for review of CIC order of which CIC has no power.

DECISION

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6. Both parties made their submissions. The complainant submitted that the FAA has passed several interim orders which are against the letter and spirit of RTI Act and has caused serious harassment of the RTI applicants. The first interim order of the FAA dated 15-7-2014 insists that the appellant has to personally come and prove the originality of RTI application, the genuineness of certain facts and clearance of suspicion, if any, and also issued a notice to appear in person. This is against the provisions of RTI Act. In another interim order dated 30-7-2014, FAA wanted the information seeker to explain about RTI applications, number of envelopes, postal orders and their genuineness, etc and insisted on personal presence of the information seeker. In this order FAA also wanted the Information seeker to file affidavit duly verified and attested by the competent authority mentioning all the facts. By the order dated 5-8-2014, the FAA again insisted the personal presence of the appellant and the affidavit by him. In the final order made on 3-9-2014, Mr. Sanjay Kumar, First Appellate Authority has observed that only one original envelope was available, while

there are 5 RTI applications received with that envelope. It was also observed that accounts section did not encash one postal order till 9-7-2014 and another postal order till 27-6-2014. FAA observed that CPIO failed to furnish the plausible and justifiable reasons for not providing information within the period. His approach is not as required by the RTI Act and rules. While the CPIO gave replies to 150 RTI applications, he does not explain why the appellant did not get the reply. FAA was astonished that the CPIO did not preserve the original envelopes and did not encash the postal orders immediately. He also mentioned that the appellant was specially treated by the CPIO which is disadvantageous to the NGT. FAA also noticed that in December, 2013, similar conduct and approach was adopted by the CPIO. FAA reiterated that the CPIO has miserably failed in his statutory duties and did not provide information to the appellant within the legally prescribed period and thus the appeal was allowed and the CPIO was directed to supply the information without mentioning the legally prescribed period within which information has to be given. The appellant objected to the way the FAA dealt his first appeal with several interim orders, which are not in tune with the RTI Act and the way in which the order mentioned "legally prescribed period" without indicating a definite period within which the CPIO has been directed to furnish the information. The Commission finds that there is substance in the complaints made by the complainant. Some of the aspects of the interim orders of the FAA are funny and strange. They will definitely impose obstructions in the process of furnishing information according to the RTI Act. It will scare away the information seekers. The Commission also observes that the FAA Shri Sanjay Kumar has not applied his mind to the facts, law and the circumstances of the case and made the hearing of the first appeal a very elaborate and unnecessary exercise on trivial matters without any purpose, because of which furnishing of information was totally obstructed and the vague order of the FAA without prescribing the time limit, leaves the CPIO confused. It is surprising to notice that FAA who is the senior-most officer of the Public Authority came down heavily on his subordinate CPIO. Hence the Commission issues the **Show Cause Notice** to

the First Appellate Authority, Shri Sanjay Kumar to explain why he passed such illegal order, why he spent so much of time without hearing the appeal, within the time prescribed by the RTI Act and insisted on the personal presence and presentation of affidavits. His explanation should reach the Commisison within 3 weeks from the date of receipt of this order.

7. The Commission queried the CPIO about the adverse observations made by the FAA. The CPIO explained that for a long time, he was suffering with health problems and then he was not provided with any infrastructure and to carry the duties as CPIO. He stated that personally he does not have any ill-will against the appellant. Simply because he did not find time and support in typing out the letters, he could not send any answer to the appellant. There was lot of confusion in the initial stages, one year ago which is now cleared and a system of responding to RTI applications within a period of one month is developed. However, he expressed his inability to attend to the RTI applications because of his original duties as Accounts Officer, as basically he was meant to look after the Accounts Division. For his accounts division, he is given the staff such as, one accountant, 3 clerks and 3 MTS, which is partly sufficient for the accounts work. He also said that he has to personally go to another section to use the computer for typing the replies to the RTI applications. The Counsel for the CPIO also explained the circumstances in which the CPIO could not discharge his duties and pleaded for condoning his bonafide lapses. Having heard the submissions, the Commisison comes to the conclusion that it is not proper to burden an Accounts Officer with RTI related work. The Commission recommends the Public Authority to replace the CPIO with another officer by providing necessary infrastructure including the computer operator, so that he could attend to RTI matters in a careful manner, which is desirable for an esteemed organisaiton like the NGT which is dealing with important matters like environment/pollution. The Commisison also observes that the FAA orders reflect lack of understanding of law in furnishing the information which is harmful to the Public Authority. The Commisison recommends in this case, a change of of officer to be

designated as FAA as the Commission finds that there is no coordination between the two officers as brought out in this case. The Commission did not prefer to issue show cause notice to the CPIO, based on the submissions of CPIO and his Counsel that the CPIO is overburdened without support and does not have time to spare for the RTI work.

8. As the NGT is suffering from absence of coordination within the office, the commission preferred to recommend the secretary union ministry of environment to look into administrative problems of NGT.

9. As far as the non-compliance of CIC order in file No.CIC/SA/A/2014/000246, is concerned, the respondent authority submitted that they have not received the notice for this case and as far his knowledge goes, they have furnished the information to the appellant. Having heard the submissions from both the parties, the Commission adjourns this case to **20.02.2015 at 2:30 PM** and directs the respondent authority to comply with the CIC Within 15 days of receipt of the present Order and appear before the Commission on that date, with all the records to show that the Commission's order has been complied. The case is **adjourned.**

10. The Commission orders accordingly in all the 4 four complaints above.

Sd/-

(M.Sridhar Acharyulu)
Information Commissioner

Authenticated true copy

(Babu Lal)
Deputy Registrar

Addresses of the parties:

1. The CPIO under the RTI Act,
National Green Tribunal (Principal Bench)
Faridkot House, Copernicus Marg, New Delhi

2. Shri Subhash Chandra Agrawal
1775 Kucha Lattushah Dariba, Chandini
Chowk, Delhi-110006

3. Shri Sanjay Kumar,
First Appellate Authority under RTI Act
National Green Tribunal (Principal Bench)
Faridkot House, Copernicus Marg, New Delhi