

CENTRAL INFORMATION COMMISSION

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

File No.CIC/SA/A/2014/000615

File No.CIC/SA/A/2014/000616

Appellant : **Sh. Mukesh Sharma**

Respondent : **Delhi Transport Corporation
GNCTD, Delhi**

Date of hearing : **24-12-2014**

Date of decision : **14-01-2015**

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

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

Result : **Appeal
Allowed/disposed of**

CIC's observation:

Misuse of RTI by disgruntled employee Mr. Mukesh Sharma

Summary: *The Commission found that appellant has, instead of attending the inquiry and defending his case, perpetuating the mischief of using the RTI for advancing his personal vengeance against officers or others involved in inquiry.*

Every employee has rights to secure his employment but also has duties to perform the job without resorting to misconduct or any other irregularity. The employee also has right to get the copy of complaint, notice, charge sheet and every piece of paper which is relied on against him. He should get the opportunity also to defend himself. At the end he should also get the copy of enquiry report/order/judgment or sentence pronounced along with right of appeal. He has all rights as per principles of natural justice and if there is any lapse, or suppression of information or document or non-supply of papers relied on by the disciplinary authority, he can seek them from the inquiry officer or authority, if not, he can get them under RTI Act, Though an employee facing disciplinary charges as explained above the accused employee does not have any moral or legal right to file plethora of RTI applications seeking information not related to allegation against him, but to harass the officers who he suspect to have complained or gave evidence or provided information or taken action against him, if done so it becomes misuse and that cannot be encouraged. The public interest is an overriding factor in these cases also as per the provisions of Right to Information Act, 2005. If such multiple RTI actions are allowed the officers at higher level will lose moral authority to initiate action against erring employees and whole system system of disciplined administration would crumble. In contra, there is a huge public interest in taking action against the wrongdoing employees.

Here in this case, the appellant is not even trying to protect his personal right, or right to employment or right to fair trial. But he is unleashing his private vengeance against colleagues or seniors who are either inquiring or informing or complaining or giving evidence against him. Such information would squarely fall under exempted category as per Section 8(h) ('information which would impede process of investigation or prosecution of offenders') of RTI Act, 2005 as this would not only impede the investigation or inquiry against him, but also impede the inquiries against all such erring employees who will be immorally encouraged or tempted to use RTI for this private, illegal and vengeful purpose. **The RTI is not a rendezvous for suspended employees or those erring personnel facing inquiries to serve their personal interests in protecting their misconduct or preventing the authorities from proceeding with penal proceedings enquiring into misconduct.** The RTI is not for these disgruntled employees facing disciplinary proceedings or selfish persons but for the people in general, only in public interest, and never for the private vengeance at all.

If this kind of misuse is not checked, and officers will be threatened, demoralized and prevented from proceeding against employees facing charges misconduct. None would complain/inform/give evidence or no authority would gather courage to initiate enquiry against erring employees even if law authorizes them, prescribes it as a duty and situation demands. Such a situation will lead to chaos in administration. In order to check the misuse of RTI for running a parallel or counter enquiry against inquiring officers, this application deserves to be rejected and the appellant, admonished.

Considering this as another case of misuse of RTI Act by the suspended employees who are trying to take vengence against the Inquiry officer or officers by instituting a parallel or counter

interrogatory questionnaire through multiple questions, the Commission holds that sufficient information has been given to the appellant in both the appeals and warns the appellant not to file RTI applications as a counter-measure to inquiry against him. If any such RTI application is filed in future by him or by anybody on this subject, the DTC shall refer to this order and reject the same. The Commission directs that this order has to be prominently displayed in the website and at any conspicuous place in the office under the caption of 'misuse' red in color.

The appellant is present. The Public Authority is represented by Mr. Mr. Cosmos Tigga, Dy.Manager, Mr. Chander Prakash and two other officers from DTC.

2. The appellant filed the above two appeals against the same Public Authority and hence they are heard together today.

FACTS:

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3. The appellant through his RTI application dt 12.2.2014 is seeking 8 point information with regard to Sh. B.P Nigam viz. in which depot he has been appointed as a Dy Manager in 1985,1988,1991,1992,2003 & 2007;how many employees have been suspended by him, wherever he has been a DM, no. of employees employed during his tenure etc. CPIO replied on 6.3.2014(not enclosed). Aggrieved with the CPIO reply, the appellant made first appeal on 20.3.2014. FAA on 9.4.2014 directed the PIO (HQ) to provide the information on point no. 6 within 15 days. On non-compliance of FAA order, the appellant made second appeal before the Commission.

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4. The appellant through his RTI application dt 20.3.2014 is seeking 14 point information with respect to a complaint made by him against Kirti Bala, D.M Dwarka and Shri B.P Nigam whose verification has been done on 15.1.2014, viz, who is IO of his complaint, out of 4 points of his complaint, in which an inquiry can be conducted and in which cannot etc. CPIO in the reply dt 17.4.2014 has claimed the exemption of section 8(1)(h) on points 4 to 6. Aggrieved with the CPIO reply, the appellant made first appeal on 22.4.2014. On not receiving any order from the FAA within the prescribed time, the appellant made second appeal before the Commission.

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5. Both the parties made their submissions. The Commission heard the submissions and perused both the files thoroughly. The Commission notices that in both these cases, the appellant is specifically targetting two officers of the DTC who decided to suspend him for his alleged misbehaviour. He is filing all sorts of vexatious petitions under RTI before the DTC which are not relevant to the charge/inquiry he is facing. The Commission finds that the respondent authority was answering all his RTI questions and supplied almost all the information he asked for. When the Commission queried as to what more he requires, he submitted that he wants the information analysed by the Public Authority regarding Mr. B.P.Nigam, as to how many people have been suspended by him, etc, which the Commission suggested him to do himself, from the data already supplied to him by the respondent authority. Having furnished all the data/information to the appellant, the appellant cannot expect the Public Authority to do the job of analysis of the data for him as per the appellant's whims and fancies.

6. On the other hand, the respondent authority submitted that the appellant has been suspended by Mr. B.P.Nigam, Depot Manager for his alleged lapses in the service. He did not attend the inquiry even after receiving the notice for the same.

7. The Commission found that appellant has, instead of attending the inquiry and defending his case, perpetuating the mischief of using the RTI for advancing his personal vengeance against officers who took action against his alleged wrongs.

8. Every employee has rights to secure his employment but also has duties to perform the job without resorting to misconduct or any other irregularity. Well recognized rights of employee, who is under an inquiry, are Right to:

- a) Clear information about the charges,
- b) Examining witnesses in the presence of employee in respect of charges
- c) Fair opportunity to cross examine the employer's witness
- d) Fair opportunity to defend his case by examining his own witnesses including himself if he so wants,
- e) Enquiry report by enquiring officer recording his findings and the reasons thereof. (Sur Enamel and Stamping Works v Their workmen AIR 1963 SC 1914)

Thus employee also has right to get the copy of complaint, charge sheet and every piece of paper which is relied on against him. He should get the opportunity also to defend himself. At the end he should also get the copy of enquiry report/order/judgment or sentence pronounced along with right of appeal. He has all rights as per principles of natural justice and if there is any lapse, or suppression of information or document or non-supply of papers

relied on by the disciplinary authority, he can seek them from the inquiry officer or authority, if not, he can get them under RTI Act.

9. Though an employee facing disciplinary charges as explained above the accused employee does not have any moral or legal right to file plethora of RTI applications seeking information not related to allegation against him, but to harass the officers who he suspect to have complained or gave evidence or provided information or taken action against him, if done so it becomes misuse and that cannot be encouraged. The public interest is an overriding factor in these cases also as per the provisions of Right to Information Act, 2005. If such multiple RTI actions are allowed the officers at higher level will lose moral authority to initiate action against erring employees and whole system system of disciplined administration would crumble. In contra, there is a huge public interest in taking action against the wrongdoing employees.

10. Here in this case, the appellant is not even trying to protect his personal right, or right to employment or right to fair trial. But he is unleashing his private vengeance against colleagues or seniors who are either inquiring or informing or complaining or giving evidence against him. Such information would squarely fall under exempted category as per Section 8(h) ('information which would impede process of investigation or prosecution of offenders') of RTI Act, 2005 as this would not only impede the investigation or inquiry against him, but also impede the inquiries against all such erring employees who will be immorally encouraged or tempted to use RTI for this private, illegal and vengeful purpose. The RTI is not a rendezvous for suspended employees or those erring personnel facing inquiries to serve their personal interests in protecting their misconduct or preventing the authorities from proceeding with penal proceedings enquiring into misconduct. The RTI is not for these

disgruntled employees facing disciplinary proceedings or selfish persons but for the people in general, only in public interest, and never for the private vengeance at all.

11. If this kind of misuse is not checked, and officers will be threatened, demoralized and prevented from proceeding against employees facing charges misconduct. None would complain/inform/give evidence or no authority would gather courage to initiate enquiry against erring employees even if law authorizes them, prescribes it as a duty and situation demands. Such a situation will lead to chaos in administration. In order to check the misuse of RTI for running a parallel or counter enquiry against inquiring officers, this application deserves to be rejected and the appellant, admonished.

12. Considering this as another case of misuse of RTI Act by the suspended employees who are trying to take vengeance against the Inquiry officer or officers by instituting a parallel or counter interrogatory questionnaire through multiple questions, the Commisison holds that sufficient information has been given to the appellant in both the appeals and warns the appellant not to file RTI applications as a counter-measure to inquiry against him. If any such RTI application is filed in future by him or by anybody on this subject, the DTC shall refer to this order and reject the same. The Commission directs that this order has to be prominently displayed in the website and at any conspicuous place in the office under the caption of 'misuse' red in color.

+13. With the above observations, the Commisison **rejects** both the appeals.

Sd/-

(M.Sridhar Acharyulu)
Information Commisisoner

Authenticated true copy

(Babu Lal)

Deputy Registrar

Addresses of the parties:

1. The Central Public Information
Officer under RTI Act
Delhi Transport Corporation, Vigilance Department,
IP Estate, New Delhi-110002

2. Mr. Mukesh Sharma, RZ-616, Dwaraka Flyover Piller
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