

द्वितीय अपील संख्या / Second Appeal No. **CIC/PMOIN/A/2018/174765**  
**CIC/PMOIN/A/2018/174764**

Ms. Khusboo Omprakash Kejriwal ... अपीलकर्ता / Appellant

VERSUS/बनाम

PIO, Under Secretary, PMO, ...प्रतिवादीगण / Respondent  
South Block, New Delhi-110011  
Through: Sh. Praveen Kumar – CPIO/US

Date of Hearing : 09.12.2020

Date of Decision : 11.12.2020

**Chief Information Commissioner : Shri Y. K. Sinha**

**Relevant facts emerging from appeal:**

***Since the two Second Appeals has been filed by the same Appellant, the above mentioned cases are clubbed together for hearing and disposal.***

Case No.	RTI Filed on	CPIO reply	First appeal	FAO	Second Appeal
<b>174765</b>	04.07.2018	23.07.2018	07.08.2018	19.09.2018	13.12.2018
<b>174764</b>	07.05.2018	29.05.2018	07.08.2018	19.09.2018	13.12.2018

**Information sought and background of the case:**

**(1)CIC/PMOIN/A/2018/174765**

The Appellant filed an RTI application dated 04.07.2018 seeking information on the following 5 points:

- i. Give copy of the FIR filed by the Prime Minister of India against the PMPML Driver, driving Bus No. MH-14V-8001, on 19.12.2017, on Old Pune Mumbai Highway.*
- ii. Give copy of the FIR filed against the MAFIA Police of Maharashtra, by the Prime Minister of India.*
- iii. Give copy of the orders passed by the Prime Minister of India for dismissal of the MAFIA police of Maharashtra,*
- iv. Give copy of the orders passed by the Prime Minister of India for sending these MAFIA police to jail.*

*v. Give copy of any other orders passed by the Prime Minister of India, just and equitable, in the interest of justice.*

The CPIO, under Secretary, PMO Office, New Delhi vide letter dated 23.07.2018 stated that subject matter of the enclosed petition is not held by the PMO and relates to the State Government.

Dissatisfied with the reply received from the PIO, the Appellant filed a First Appeal dated 07.08.2018. The FAA vide order dated 19.09.2018 upheld the reply of PIO.

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

## **(2) CIC/PMOIN/A/2018/174764**

The Appellant filed RTI application dated 07.05.2018 seeking information on 5 points, some of which are as follows:

- 1. Give copy of the orders passed by the Prime Minister, dismissing this MAFIA public servant without any government perks like Gratuity, Provident Fund, Pension.*
- 2. Give copy of the orders passed by the Prime Minister attaching their properties for auction sale, to reimburse the public exchequer.*
- 3. Give copy of the orders passed by the Prime Minister for arresting these MAFIA public servants, etc.*

The CPIO, SO, PMO Office, New Delhi vide letter dated 29.05.2018 informed the Appellant that request for obtaining information under sub-section (1) of section (6) should be accompanied by an application fee of Rs.10, as per Rule 3 of the RTI(Regulation of Fee & Cost) Rules, 2005. The Appellant's RTI application was not treated as valid RTI application for want of payment of prescribed fees.

Dissatisfied with the reply received from the PIO, the Appellant filed a First Appeal dated 07.08.2018. The FAA vide order dated 19.09.2018 reiterated the contents of the PIO's reply dated 29.05.2018 and advised the Appellant to seek the information from the concerned State Government.

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

### **Facts emerging in Course of Hearing:**

In order to ensure social distancing and prevent the spread of the pandemic, COVID-19, audio hearings were scheduled after giving prior notice to both the parties. Appellant participated through audio conference and narrated that her vehicle met with an accident on 19.12.2017 and when she approached the Police to file an FIR against the errant driver of the Pune State Bus service – viz. PMPML-Pune Mahanagar Parivahan Mahamandal Limited, the police refused to register the same. She was advised to file an online complaint and even after filing the same, no action was taken by the police. Thus aggrieved, she sought redressal of her grievance through the RTI application.

Respondent is duly represented during hearing and reiterated that since the germane issue in this case did not fall under the jurisdiction of PMO, hence, Appellant was advised to pursue the matter with the concerned State Government authority.

**Decision:**

1. On examining the records of the case, the first and foremost aspect which comes to the fore is the language used by the Appellant in all of her submissions. Unnecessary use of derogatory and unparliamentary language does not add any value to the merits of a case, while restraint and composure helps in establishing one's contention. Appellant is strongly advised to refrain from using such abusive, disparaging and disrespectful language and scathing remarks and focus more on the facts of her case.
2. Addressing the facts of the case, it is noted that Appellant is aggrieved by the damage to her vehicle by a bus driver of the State Government run bus service. It is her contention that the Pune Transport Department as well as local police have harassed her by not taking action against the errant bus driver. She contended during the hearing that since the State public authorities were not taking action, she approached the PMO, holding the Prime Minister vicariously liable for failure of State Government authorities. At this juncture, it is important to understand that the common law principle of vicarious liability is based on the principle of *qui facit per se per alium facit per se*, which means, "He who does an act through another is deemed in law to do it himself". The Prime Minister or his office is not vicariously liable for acts/omission of a State Government-run Transport service nor does the local police of every state in India fall within the jurisdiction of the PMO. There are specific subject matters, Ministries and functions which require the attention of the Prime Minister of India. There is a complete Government machinery at Central and State levels to address other issues of varying importance so that every single incident or accident in this country of more than 1.3 billion Indians need not be taken to the PMO for redressal. In this case, the appropriate legal recourse for the Appellant lay in her home state while she sought the PM of this country to file FIRs on her behalf. This is not a case where the Appellant is not educated enough to know the actual authority which can redress her grievance and yet she filed the RTI application before an authority where the power to resolve her grievance does not lie at all. As a result, the information sought by her neither exists nor could be provided to her.
3. Perhaps with a view to addressing such a situation, at the very formative stage of the RTI Act, the entire scope of Section 6 of the Act had been discussed and interpreted threadbare by a Full Bench of this Commission, comprising Information Commissioners-Sh. Wajahat Habibullah, Sh. A N Tiwari and Sh. Shailesh Gandhi, in a decision dated 22.09.2009 while deciding case no. CIC/AT/A/2008/01280 titled Ketan Kantilal Modi vs Central Board of Excise and Customs holding:

“48. ....reasoning that an application for information will have to first stand the test of Section 6(1) in order to be validly accepted by the CPIO concerned for processing for disclosure of information. In case the application is not filed before the 'concerned public authority'/CPIO, it shall not qualify to be a valid request for information.

49. The expression "concerned public authority" implies that that public authority should be holding the information which the petitioner sought as per Section 2(j) of the RTI Act, which states that right to information means "the right to information accessible under this Act which is held by or under the control of any public authority...". Section 6(1) –its expression 'concerned public authority' –becomes clearer when read in conjunction with Section 2(j) of the Act.

.....

53. It follows from it that when a petitioner is aware of the location of a given information vis-à-vis public authority, it is not open to him to file his RTI application before any other public authority in the expectation that this latter public authority would act under Section 6(3) to transfer his application to where the information was known to be held. As in this particular case, it is quite obvious that the appellant was fully cognizant of the fact about the information requested by him being held by Chief Commissionerates and Commissionerates of Central Excise. Yet, rather than approach those public authorities and all these where public authorities in their own rights for the information under Section 6(1), he chose the easy way out of filing his application under Section 6(1) read with Section 6(3) before the CPIO, CBEC, demanding simultaneously that the application be transferred to the Commissioners. Appellant's argument that CBEC was the Apex body or the nodal office, does not help him much because even if CBEC were to be all that appellant says it is nodal office or Apex body, etc. under the RTI Act it is a public authority and its rights and obligations flow from its status as that public authority under Section 2(h) of the Act. A public authority cannot be forced to accept obligations beyond the statutory limit in order to suit a petitioner's convenience.

.....

56. A public authority which does not hold or is not related to an information sought by a petitioner, will not be obliged to provide an answer to the petitioner only for the reason that that public authority was the Apex body or the nodal office of others subordinate public authorities. ...”

**Emphasis supplied**

Based on the above decision of a Full Bench of the Commission, it was held in the decision dated 29.07.2016 in a case titled R S Gupta vs. L G office that:

“.....The offices of President, Vice President, Prime Minister, Governors, Lt. Governors and Chief Ministers are not legally obliged under RTI Act to entertain RTI applications seeking information unrelated to it, or not held or controlled by these high offices....”

**Emphasis supplied**

In the light of the above mentioned decisions by larger Benches of this Commission, it is observed that no onus lies on the Respondent public authority, to whom the RTI applications have been incorrectly addressed. These two matters could not be adjudicated by the Respondent, not out of intention to withhold information, but because no such information exists with them that can be provided. The Second Appeals lack merit and no relief under the RTI Act can be provided and hence they are liable to be dismissed. Appellant is at liberty to seek appropriate legal recourse before the appropriate state public authority.

**Y. K. Sinha** (वाई. के. सिन्हा)  
Chief Information Commissioner (मुख्य सूचना आयुक्त)

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