

## **CENTRAL INFORMATION COMMISSION**

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**Prof. M. Sridhar Acharyulu (Madabhushi Sridhar)**

**Central Information Commissioner**

**CIC/BS/C/2016/000180**

**Sucheta Sureshkumar Panicker v. PIO, EPFO, Mumbai**

RTI	:	01.02.2016 / 04.02.2016
FAO	:	Nil
Second Appeal	:	03.03.2016
Hearing	:	30.03.2017
Complainant	:	Absent
Public authority	:	SK Dharmadhikari, Enforcement Officer
Decided on	:	05.04.2017

### **Final Order**

#### **FACTS:**

**1.** The complainant vide her two RTI applications dated 01.02.2016 and 04.02.2016 sought information about the recovered amount by M/s. Shogun Organics Ltd. In view of the 7A order dated 18.11.2015; sought reasons on her application seeking withdrawal of her PF amount and why the same was not immediately disbursed; details with regard to copy of appeal memo filed by M/s. Shogun Organics Ltd. upon APFC, Kandivali through eight and nine points respectively. The CPIO rejected the RTI appeal by giving the reason that the complainant had not paid RTI application fee and requested to submit fresh application along with the requisite fee. Being dissatisfied by the decision, the complainant approached this Commission.

#### **Decision :**

**2.** Mr. SK Dharmadhikari, Enforcement Officer stated that the complainant sought information about non disbursement of her PF dues. As IPO was not correctly addressed, the RTI application was rejected by the respondent authority. The complainant has filed written submission on 22.2.2016

complaining about rejection of her RTI application. She stated that when has paid Rs. 10/- for IPO , fees has already been paid to the government and thereupon same could not be rejected for want of requisite fees as per section 6(1) of RTI Act, 2005 which states that fee can be in form of DD/IPO as per rule 3 of RTI rules. In event of non acceptance of RTI fees in given mode, the respondent authority should have asked the complainant to pay the amount in cask etc instead of rejecting the RTI application. Complainant stated that the rejection of RTI application was done with malafide intention and reflected lack of good faith on part of CPIO. The complainant requested the Commission to impose penalty on the CPIO for illegal rejection of her RTI application.

**3.** The Right to Information (Regulation of Fee and Cost) Rules, 2012 prescribed under Rule 6(b) states that fee may be paid by appellant in form of IPO payable to Accounts Officer of the Public Authority. The 'Office Memorandum' of DoPT dated 5<sup>th</sup> December 2008 directed the public authorities not to reject the RTI applications if IPO is addressed to accounts officer. The OM also cautioned that such non-acceptance of IPOs may amount to refusal to accept the application which may result into imposition of penalty by the CIC on the concerned CPIO.

**4.** The Commission in its earlier order dated 27.12.2016 in decision no. CIC/SA/C/2016/000234 & CIC/SA/C/2016/000235 in matter of **Mohd. Irsad vs. PIO, Delhi University** held that:

"The CPIO has every authority to collect the fee prescribed. But when IPO indicates that Rs 10 paid to Government of India, the RTI application cannot be considered as 'without payment' and be rejected. Even non-payment of fee was not prescribed as a ground for rejection of RTI application. Only grounds for rejection are specifically provided under section 8 and 9. Reading Section 6 and 7 together and understanding spirit of RTI Act as a whole should make CPIO to act reasonably and provide information rather than searching for excuses to reject. Expression "on payment of such fee" means both fee of Rs 10 and further fee representing cost of copying. For that the CPIO has to accept and study the RTI Application, get ready to give the information sought, if not exempted, and seek payment of cost of copying and on receipt of additional fee, if needed, and then the information need to be provided.

The CPIOs action of rejection resulted in denial of RTI and harassment of applicant.

The Commission finds that the rejections of RTI applications by CPIO reminds the saying '**penny wise pound foolish**', the rejection of RTI application of the complainant is against the Right to Information Act, rules and OM of DoPT, their institutional rules of procedure, even if existed with any authority, is not valid to the extent of its contradiction to RTI Act and Rules. The explanation of the CPIO confirms the fact of rejection and totally fails to present any merit or justification. Thus it is apparent denial of information and that too without any reasonable cause on part of CPIO."

The Commission in decision no. CIC/SA/A/2014/001610 in matter of **Mr. Alok Kumar Ghosh vs GNCTD (NGT)** has also held that:

" 12. Denying information, which public authority has to give on its own, even after applied for, rejecting it for Rs 10, and fighting the rightful citizen with the might of state power and public money is absolutely unpardonable and totally against the will of the parliament. Rs 10 is not must for giving information, as public authority has to supply most of information on its own and a person of BPL should get it for free as prescribed by law. Can PIO reject RTI request, for non-payment of fee?

13. Let us consider a situation; can a PIO reject a RTI request filed by a citizen for non-payment or simply because it is not accompanied by a IPO or DD? If applicant is a person below the poverty line, Act says he is entitled to information without paying fee. RTI request without fee is not invalid per se. Paragraph 20 of Guide on Right to Information Act, 2005, issued by DoPT says "there is no bar on the public authority to supply information in response to such applications".

14. There is another relevant paragraph in DoPT guide with caption, "Applications received without fee", in which it is stated at point 2 "Soon after receiving the application, the Public Information Officer should check whether the applicant has made the payment of application fee or whether the applicant is a person belonging to a Below Poverty Line (BPL) category. If application is not accompanied by the prescribed fee or the BPL Certificate, it cannot be treated as an application under the RTI Act. It may, however, be noted that the Public Information Officer should

consider such an application sympathetically and try to supply information sought by way of such an application".

15. From these guidelines it is clear that 'fee' is not material factor to throw out the RTI request. Non- payment of fee is not prescribed ground for rejection of request. In fact, this is not at all a case of RTI request without payment of fee. Applicant is also not claiming BPL status. The very fact that he has paid fee through court fee stamps proves his intention to pay. When guidelines goad the public authority to be sympathetic to an applicant without paying fee, it does not need special mention that it cannot take technical excuse about form of payment to deny or delay the information. Whether any public servant has time and inclination to understand these rules? "

**5.** In light of above, it is not proper on part of Mr. Raju Kumar to reject RTI application on the ground that name of the addressee for IPO was not correct. Besides rejecting the PIO spent around Rs. 100/- Rupees in demanding another IPO in name of correct addressee. In fact the appellant has already paid Rs. 10/- to Govt. of India when he purchased the IPO. Both common sense and prudence does not justify spending Rs. 100/- asking for Rs. 10/-. If PIO had furnished information and along with that had he asked for properly addressed IPO, there could have been justification for spending Rs. 100/-. The Commission records its admonition against the CPIO for such rejection and warns the public authority not to reject RTI applications in this manner. The Commission finds Mr. Raju Kumar accountable for wasting more than Rs. 100/- for rejecting the RTI application.

**6.** The Commission directs Mr. Raju Kumar and Mr. SK Dharmadhikari, Enforcement Officer to **show cause** why maximum penalty should not be imposed upon each of them for unnecessarily rejecting RTI application and for not providing information to the appellant, within 21 days from the date of receipt of this order.

**7.** The Commission directs respondent authority to provide complete information, within 21 days from the date of receipt of this order.

**8.** The Commission also directs respondent authority to explain why they should not be directed to pay compensation to the complainant, within 21 days from the date of receipt of this order.

Sd/-

(M. Sridhar Acharyulu)  
Central Information Commissioner

Authenticated true copy

(Dinesh Kumar)  
Deputy Registrar

Copy of decision given to the parties free of cost.

Addresses of the parties:

1. The CPIO under RTI,  
EPFO, 2<sup>nd</sup> Floor, O/o Provident  
Fund Commissioner, RO,  
Kandivali West, Mumbai-400067.
2. Shri Sucheta Surershkumar Panicker,  
Plot No. 62, Paradise Abhinav Nagar,  
Road No. 1, Borivali East,  
Mumbai-400066.