

केन्द्रीय सूचना आयोग
Central Information Commission
बाबा गंगनाथ मार्ग, मुनिरका
Baba Gangnath Marg, Munirka
नई दिल्ली, New Delhi – 110067

शिकायत संख्या/Complaint Nos. CIC/ONGCL/C/2019/603534
CIC/ONGCL/C/2019/603535
CIC/ONGCL/C/2019/603537

Varun Krishna

...शिकायतकर्ता/Complainant

VERSUS

बनाम

CPIO, Oil and Natural Gas
Corporation Limited, Mumbai.

...प्रतिवादी/Respondent

Relevant dates emerging from the complaint(s):-

RTI(s) : 03-01-2019	FA : Not on record	Complaint(s): 23-02-2019
CPIO(s) : 31-01-2019	FAO : Not on record	Hearing: 05-11-2020

ORDER

1. Since the matter involves adjudication of identical legal issues, these complaints are being clubbed together and disposed of by a common single order.

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2. The complainant filed the application under the Right to Information Act, 2005 (RTI Act) before the Central Public Information Officer (CPIO), Oil and Natural Gas Corporation Limited, Mumbai seeking following information:-

“a) Subject matter of information: Pertaining to RTI Reg No. ONGCL/R/2018/51179 Dtd 2.11.18 NOT disposed till current date.

b) The period to which information relates: 2.11.18 till the Date of this RTI application.

c) Description of Information required: Please provide certified copies of following information:

1. Daily progress report mentioning Name and Designation of the official with whom RTI was lying along with details/copies of action taken by him/her.”

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3. The complainant filed the application under the Right to Information Act, 2005 (RTI Act) before the Central Public Information Officer (CPIO), Oil and Natural Gas Corporation Limited, Mumbai seeking following information:-

“a) Subject matter of information: Pertaining to RTI Reg No. ONGCL/R/2018/51175 Dtd 1.11.18 NOT disposed till current date.

b) The period to which information relates: 1.11.18 till the Date of this RTI application.

c) Description of Information required: Please provide certified copies of following information:

1. Daily progress report mentioning Name and Designation of the official with whom RTI was lying along with details/copies of action taken by him/her.

2. Action taken report by the controlling authority upon erring official for dereliction of official duty by not disposing RTI on time.

3. In case no action being taken then provide reasons available in records [Ref section 4.1.d] along with Name, official mobile number, and designation of the controlling authority.”

CIC/ONGCL/C/2019/603537

4. The complainant filed the application under the Right to Information Act, 2005 (RTI Act) before the Central Public Information Officer (CPIO), Oil and Natural Gas Corporation Limited, Mumbai seeking following information:-

“a) Subject matter of information: Pertaining to RTI Reg No. ONGCL/R/2018/51140 Dtd 25.10.18 NOT disposed till current date.

b) The period to which information relates: 25.10.18 till the Date of this RTI application.

c) Description of Information required: Please provide certified copies of following information:

1. Daily progress report mentioning Name and Designation of the official with whom RTI was lying along with details/copies of action taken by him/her.”

5. The CPIO responded on 31-01-2019. Thereafter, the complainant filed the complaints u/Section 18 of the RTI Act before the Commission requesting to take appropriate legal action against the CPIO u/Section 20 of the RTI Act, 2005.

Hearing:

6. The complainant, Mr. Varun Krishna attended the hearing through audio conferencing. Mr. N. K. Sudhakaran, DGM(HR) & CPIO participated in the

hearing representing the respondent along with Ms. Kajal Das, GM(Mechanical) through audio conferencing. The written submissions are taken on record.

7. At the outset, the complainant submitted that the then CPIO, Mr. O P Singh should have personally attended the hearing, as he is still working in the ONGC. He expressed that according to his understanding, a daily progress report must have been prepared since the RTI file would have passed through different officials over a period of time with remarks thereon. He further contended that the CPIO should have given him whatever report was prepared in whichever format in respect of online disposal of the RTI applications dated 25.10.2018, 01.11.2018 & 02.11.2018 thereby indicating the daily activity. Other offices have also provided him 'action history' instead of the 'daily progress report' and therefore, he expected the CPIO to at least provide the action history. If the RTI applications were not disposed of within the timeline prescribed under the RTI Act, 2005, the CPIO should have provided him action taken report of the controlling authority against the erring official for dereliction of official duty. In case, no action was taken, the CPIO should have provided him reasons along with name, official mobile number and designation of the controlling authority.

8. The complainant additionally submitted before the Commission that the CPIO has furnished the replies to the RTI applications dated 25.10.2018, 01.11.2018 & 02.11.2018 instead of providing the daily progress report, action taken report of the controlling authority and reasons along with name, official mobile number and designation of the controlling authority. Therefore, the CPIO has provided him misleading information w.r.t. Section 18(1)(e) of the RTI Act, 2005 and hence, an appropriate action should be initiated against the CPIO u/Section 20 of the RTI Act, 2005 for giving misleading information.

9. The respondent confirmed that no such daily progress report as contemplated by the complainant was generated in their office and hence, they had provided him copies of the replies to the RTI applications dated 25.10.2018, 01.11.2018 & 02.11.2018 as was available in their records. Further, they submitted that the CPIO cannot be expected to provide a copy of the report in the manner sought by the complainant after interpreting his queries in the form and format he desires. Accordingly, the CPIO is not obliged to examine and judge to find out the name of the erring officials and thereafter provide him report of their controlling authority. Since there is no recorded reasons pertaining to action taken for not disposing the RTI applications, no such information can be provided to the complainant based on records of the public authority.

Decision:

10. Referring to Section 18(1)(e) of the RTI Act, 2005, the complainant expressed that the then CPIO has provided him misleading information with regard to daily progress report, name of the erring official responsible for not disposing the RTI applications dated 25.10.2018, 01.11.2018 & 02.11.2018 along with report of the controlling authority, reasons for non-disposal including name, official mobile number and designation of the controlling authority. To this, the respondent has contended that no such 'daily progress report' as contemplated by the complainant was generated in their office and hence, they had provided him copies of the replies to the RTI applications dated 25.10.2018, 01.11.2018 & 02.11.2018 as was available in their records. In this regard, this Commission observes that if no such daily progress report is generated, the CPIO is not obliged to interpret the queries of the complainant and then provide him action history as construed and understood by him. The CPIO cannot be expected to examine and make judgement to find out the name of the official and then provide him report of the controlling authority, reasons for non-disposal including name, official mobile number and designation of their controlling authority. Nonetheless, the CPIO has provided copies of the replies to the RTI applications dated 25.10.2018, 01.11.2018 & 02.11.2018 as was available in their records. Accordingly, no further interpretation can be provided by the CPIO. If the information in the manner sought by the applicant is not available, there is no bounden duty of the CPIO to create any fresh compilation for non-existent records. This legal principle is supported by the decision dated 07-01-2016 of the **Hon'ble Delhi High Court** in LPA 24/2015 & CM No. 965/2015 titled as **The Registrar of Supreme Court of India v. Commodore Lokesh K Batra & Ors.**, wherein, it was held as under:-

“15. On a combined reading of Section 4(1)(a) and Section 2(i), it appears to us that the requirement is only to maintain the records in a manner which facilitates the right to information under the Act. As already noticed above, “right to information” under Section 2(j) means only the right to information which is held by any public authority. We do not find any other provision under the Act under which a direction can be issued to the public authority to collate the information in the manner in which it is sought by the applicant.”

11. Since the CPIO has given a reply to the complainant as per available records within the timeline prescribed under the RTI Act, 2005, no malafide is observed on the part of the CPIO. The complainant has pressed for imposition of penalty on the CPIO, therefore, with regard to the situations governing imposition of penalty on

the CPIO under Section 20 of the RTI Act, 2005, this Commission refers to the decision dated 01-06-2012 of the **Hon'ble Delhi High Court** in W.P.(C) 11271/2009 titled as **Registrar of Companies & Ors v. Dharmendra Kumar Garg & Anr.**, wherein, it was held as under:-

“61. Even if it were to be assumed for the sake of argument, that the view taken by the learned Central Information Commissioner in the impugned order was correct, and that the PIOs were obliged to provide the information, which was otherwise retrievable by the querist by resort to Section 610 of the Companies Act, it could not be said that the information had been withheld malafide or deliberately without any reasonable cause. It can happen that the PIO may genuinely and bonafidely entertain the belief and hold the view that the information sought by the querist cannot be provided for one or the other reasons. Merely because the CIC eventually finds that the view taken by the PIO was not correct, it cannot automatically lead to issuance of a show cause notice under Section 20 of the RTI Act and the imposition of penalty. The legislature has cautiously provided that only in cases of malafides or unreasonable conduct, i.e., where the PIO, without reasonable cause refuses to receive the application, or provide the information, or knowingly gives incorrect, incomplete or misleading information or destroys the information, that the personal penalty on the PIO can be imposed. This was certainly not one such case. If the CIC starts imposing penalty on the PIOs in every other case, without any justification, it would instill a sense of constant apprehension in those functioning as PIOs in the public authorities, and would put undue pressure on them. They would not be able to fulfill their statutory duties under the RTI Act with an independent mind and with objectivity. Such consequences would not auger well for the future development and growth of the regime that the RTI Act seeks to bring in, and may lead to skewed and imbalanced decisions by the PIOs Appellate Authorities and the CIC. It may even lead to unreasonable and absurd orders and bring the institutions created by the RTI Act in disrepute.”

12. Similarly, the following observations of the **Hon'ble Delhi High Court** in **Bhagat Singh v. CIC & Ors.**, WP(C) 3114/2007 are pertinent in this matter:-

“17. This Court takes a serious note of the two year delay in releasing information, the lack of adequate reasoning in the orders of the Public Information Officer and the Appellate Authority and the lack of application of mind in relation to the

nature of information sought. The materials on record clearly show the lackadaisical approach of the second and third respondent in releasing the information sought. However, the Petitioner has not been able to demonstrate that they malafidely denied the information sought. Therefore, a direction to the Central Information Commission to initiate action under Section 20 of the Act, cannot be issued.”

13. Furthermore, the **Hon’ble Delhi High Court** in the decision of **Col. Rajendra Singh v. Central Information Commission and Anr.**, WP (C) 5469 of 2008 dated 20-03-2009 has held as under:-

“Section 20, no doubt empowers the CIC to take penal action and direct payment of such compensation or penalty as is warranted. Yet the Commission has to be satisfied that the delay occurred was without reasonable cause or the request was denied malafidely.

...The preceding discussion shows that at least in the opinion of this Court, there are no allegations to establish that the information was withheld malafide or unduly delayed so as to lead to an inference that petitioner was responsible for unreasonably withholding it.”

14. In light of the factual matrix of these cases and the legal principles enunciated in the aforementioned case-laws, this Commission comes to the conclusion that no action under Section 20 of the RTI Act, 2005 is warranted in these cases.

15. Since Mr. N. K. Sudhakaran, DGM(HR) & CPIO and Ms. Kajal Das, GM(Mechanical) are present to represent the public authority, the presence of the then CPIO, Mr. O P Singh as insisted by the applicant is not required.

16. With the above observations, these complaints are disposed of.

17. Copy of the decision be provided free of cost to the parties.

Neeraj Kumar Gupta (नीरज कुमार गुप्ता)
Information Commissioner (सूचना आयुक्त)

दिनांक / Date 05-11-2020

Authenticated true copy
(अभिप्रमाणित सत्यापित प्रति)

S. C. Sharma (एस. सी. शर्मा),
Dy. Registrar (उप-पंजीयक),(011-26105682)

Addresses of the parties:

1. The CPIO
Oil and Natural Gas Corporation Limited,
Nodal CPIO, RTI Cell, 3rd Floor, Quadrant No. 1,
NSP Green Heights, Plot No. C-69, Opp MCA Complex,
Bandra Kurla Complex, Bandra East, Mumbai-400051.
2. Varun Krishna,

