

CENTRAL INFORMATION COMMISSION

August Kranti Bhawan, Bhikaji Cama Place,
New Delhi-110066

F. No.CIC/CC/A/2014/001218

F.NO.CIC/CC/A/2014/001219

Date of Hearing : 09.02.2016
Date of Decision : 08.03.2016
Appellant/Complainant : **Shri Bipan Kumar**
Ropar
Respondent : **Bhakra Beas Management Board**
Nangal
Through:
Sh. H.L. Kamboj, CPIO
Sh. Sukhwinder Singh, Law Officer
Information Commissioner : Shri Yashovardhan Azad

Relevant facts emerging from appeal:

RTI application filed on : 01.05.2014, 06.05.2014
PIO replied on : 03.06.2014, 03.06.2014
First Appeal filed on : 14.06.2014, 14.06.2014
First Appellate Authority (FAA) order on : 10.07.2014, 10.07.2014
Second Appeal/complaint received on : 15.10.2014, 15.10.2014

Since both the appeals involve common parties, they are clubbed together for hearing and disposal to avoid multiplicity of the proceedings.

F. No.CIC/CC/A/2014/001218

F. No.CIC/CC/A/2014/001219

At the outset, Shri Sukhwinder Singh representing the First Appellate Authority raises a preliminary objection as regards the maintainability of the present appeals. He draws the attention of the Commission to the first appellate order dated 10.07.2014. The operative portion of the same is reproduced hereinafter:

Order:

Shri Bipan Kumar appellant herein have filed the two nos. appeals u/s Sec. 19(1) of the RTI Act against the PIO for not supplying the requisite information.

During the course of hearing, the appellant /applicant states that he is satisfied with the information supplied to him by the PIO.

In view of the above, the appeals are disposed off.

Sd/-

*Appellant Authority –cum- Chief Engineer/ Bhakra Dam,
BBMB, Nangal Township”*

Shri Singh submits that after having expressed satisfaction with the information furnished before the appellate authority, the Appellant is precluded from preferring a second appeal on the same RTI application. Per contra, appellant vehemently opposes objection raised by the respondent and denies to have made any such statement before the first appellate authority.

Upon a query by the Commission as to whether the statement purportedly made by the appellant was recorded by FAA under authentication, Shri Singh replies in negative.

Decision:

After hearing parties and perusal of record, the Commission finds the first appellate order to be premised on a fact which is controverted.

The Commission takes note of Section–102 of The Indian Evidence Act, 1872 which is extracted hereinafter:

102. On whom burden of proof lies.-The burden of proof in a suit or proceeding lies on that person who would fail if no evidence at all were given on either side.

The onus to prove the fact of having made a statement of satisfaction as well as contents thereof lies on the Respondent. The Commission cannot adjudicate a question of fact in absence of any corroboration tendered by the respondents. Hence, without commenting upon the merits of the present appeal, the Commission deems it expedient to set aside the order dated 10.07.2014 passed by the first appellate authority of BBMB. It is directed that the FAA shall decide the first appeal afresh after affording an opportunity of hearing to the appellant. The order shall be complied within 4 weeks of receipt under intimation to the Commission.

The appeals are disposed of in the above terms.

(Yashovardhan Azad)
Information Commissioner

Authenticated true copy. Additional copies of orders shall be supplied against application and payment of the charges prescribed under the Act to the CPIO of this Commission.

(V.D.Nanivadekar)
Designated Officer to IC (YA)

Copy to:-

**Central Public Information Officer under RTI
Deputy Chief Engineer / Bhakra Dam Circle,
O/o. the Chief Engineer / Bhakra Dam, Bhakra
Beas Management Board,
Nangal Township,
District – Roopnagar-140124 (Punjab).**

**First Appellate Authority under RTI
Chief Engineer / Bhakra Dam,
O/o. the Chief Engineer / Bhakra Dam,
Bhakra Beas Management Board,
Nangal Township,
District – Roopnagar-140124 (Punjab).**

**Shri Bipan Kumar
S/o. Shri Jyoti Sarup,
Cabin Shop No.-53,
Pahari Market, Nangal Township,
District – Roopnagar-140124 (Punjab).**