

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

द्वितीय अपील संख्या / Second Appeal No.(s):- CIC/HPCLD/A/2018/147796-BJ+  
CIC/HPCLD/A/2019/137031-BJ+  
CIC/HPCLD/A/2020/102228-BJ

Mr. Amit Khera

....अपीलकर्ता/Appellant

VERSUS

**बनाम**

CPIO  
Dy. General Manager – LPG Region  
Hindustan Petroleum Corporation Ltd.  
Delhi L. P. G. Regional Office  
6<sup>th</sup> Floor, Core – 2, Scope Minar  
Distt. Centre, Laxmi Nagar, Delhi – 110092

...प्रतिवादीगण /Respondent

Date of Hearing : 19.02.2020  
Date of Decision : 21.02.2020

**ORDER**

**RTI – 1 File No. CIC/HPCLD/A/2018/147796-BJ**

Date of RTI application	10.03.2018
CPIO's response	11.04.2018
Date of the First Appeal	10.05.2018
First Appellate Authority's response	15.06.2018
Date of diarised receipt of Appeal by the Commission	31.07.2018

**FACTS:**

The Appellant vide his RTI application sought information regarding the evidences received by the competent authority while examining his complaint dated 29.12.2017; detailed action taken report on his complaint and issues related thereto.

The CPIO vide its letter dated 11.04.2018 provided a point wise response denying disclosure of documents examined during the administrative proceedings was information held in commercial confidence by the Public Authority and could not be disclosed as per Section 8 of the RTI Act, 2005. Dissatisfied by the response, the Appellant approached the FAA. The FAA vide its order dated 15.06.2018 concurred with the response of the CPIO.

**RTI – 2 File No. CIC/HPCLD/A/2019/137031-BJ**

Date of RTI application	11.03.2019
CPIO's response	12.04.2019
Date of the First Appeal	14.05.2019
First Appellate Authority's response	Not on Record
Date of diarised receipt of Appeal by the Commission	31.07.2019

**FACTS:**

The Appellant vide his RTI application sought information relating to the action taken on his complaint dated 29.12.2017 regarding the irregularities committed by one M/s Ganga Gas Agency, Shahdara, New Delhi and issues related thereto.

The CPIO vide its letter dated 12.04.2019 provided detailed clarification to the Appellant. Dissatisfied by the response, the Appellant approached the FAA. The order of the FAA, if any, is not on the record of the Commission.

**RTI – 3 File No. CIC/HPCLD/A/2020/102228-BJ**

Date of RTI application	14.05.2019
CPIO's response	12.06.2019
Date of the First Appeal	15.07.2019
First Appellate Authority's response	29.08.2019
Date of diarised receipt of Appeal by the Commission	14.01.2020

**FACTS:**

The Appellant vide his RTI application sought information relating to the action taken on his complaint dated 29.12.2017 regarding the irregularities committed by one M/s Ganga Gas Agency, Shahdara, New Delhi and the reply dated 12.04.2019 provided by the CPIO against an RTI application on a similar matter and issues related thereto.

The CPIO vide its letter dated 12.06.2019 provided certain clarification with the updated status in the matter. Dissatisfied with reply furnished by CPIO, the Appellant approached the FAA. The FAA vide its order dated 29.08.2019 while providing point wise clarification regarding the contentions raised in the First Appeal directed the CPIO to provide a copy of the reply dated 08.02.2018 to the Appellant within a period of 07 days from the date of receipt of the FAAs order.

**HEARING:****Facts emerging during the hearing:**

The following were present:

**Appellant:** Mr. Amit Khara;

**Respondent:** Mr. Sandeep K. Gupta, CRM- Delhi (LPG) RO and Mr. Shishir Dubey, MIS & CSC Officer;

The Appellant reiterated the contents of the RTI application and stated that the detailed investigation report on his complaint dated 29.12.2017 against M/s Ganga Gas Agency was not provided by the Respondent despite the fact that the matter pertained to the larger public interest since a penalty of Rs. 6.77 Lakhs was levied against the said agency. In its reply, the Respondent while re-iterating the

response of the CPIO/ FAA stated that the information held and available with them was provided to the Appellant. Moreover, the consumer who had the grievance against the gas agency i.e. Smt. Raj Rani had not filed the instant complaint and that the Appellant did not prove any locus standi in the matter. During the hearing, it was also conveyed that the Appellant had filed the complaint with vested interest with an intention to harass the officials of the public authority. It was further submitted that they were willing to disclose the enquiry report subject to the provisions of the RTI Act, 2005, if so, directed by the Commission.

The Commission was in receipt of a written submission from the Respondent dated 18.02.2020 (Appeal No. CIC/HPCLD/A/2018/147796-BJ) with regard to point no 01 of the RTI application it was stated that as per the records available with them, consumer no 638607 of M/s Ganga Enterprises belonged to Smt Raj Rani and not to him. The same information was provided vide letter dated 08.02.2018. With regard to points 02 and 03, it was stated that the CPIO- Delhi LPG had rightly denied the information u/s 8 (1) (d) since all documents pertaining to the investigation carried out at M/s Ganga Enterprises as these documents were of commercial confidence in nature and disclosure of such information was not having any larger public interest. Furthermore, vide the reply it was informed that a penalty of Rs. 6.77 Lacs was imposed in April, 2019 had already been levied against M/s Ganga Enterprises.

The Commission referred to the definition of information u/s 2(f) of the RTI Act, 2005 which is reproduced below:

*“information” means any material in any form, including records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, report, papers, samples, models, data material held in any electronic form and information relating to any private body which can be accessed by a public authority under any other law for the time being in force.”*

Furthermore, a reference can also be made to the relevant extract of Section 2 (j) of the RTI Act, 2005 which reads as under:

*“(j) right to information” means the right to information accessible under this Act which is held by or under the control of any public authority and includes .....*”

In this context a reference was made to the Hon’ble Supreme Court decision in 2011 (8) SCC 497 (CBSE Vs. Aditya Bandopadhyay), wherein it was held as under:

*35..... “It is also not required to provide ‘advice’ or ‘opinion’ to an applicant, nor required to obtain and furnish any ‘opinion’ or ‘advice’ to an applicant. The reference to ‘opinion’ or ‘advice’ in the definition of ‘information’ in section 2(f) of the Act, only refers to such material available in the records of the public authority. Many public authorities have, as a public relation exercise, provide advice, guidance and opinion to the citizens. But that is purely voluntary and should not be confused with any obligation under the RTI Act.”*

Furthermore, the Hon’ble Supreme Court of India in Khanapuram Gandaiah Vs. Administrative Officer and Ors. Special Leave Petition (Civil) No.34868 OF 2009 (Decided on January 4, 2010) had held as under:

6. “...Under the RTI Act “information” is defined under Section 2(f) which provides:

*“information” means any material in any form, including records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, report, papers, samples, models, data material held in any electronic form and information relating*

to any private body which can be accessed by a public authority under any other law for the time being in force.”

*This definition shows that an applicant under Section 6 of the RTI Act can get any information which is already in existence and accessible to the public authority under law. Of course, under the RTI Act an applicant is entitled to get copy of the opinions, advices, circulars, orders, etc., but he cannot ask for any information as to why such opinions, advices, circulars, orders, etc. have been passed.”*

7. *“....the Public Information Officer is not supposed to have any material which is not before him; or any information he could have obtained under law. Under Section 6 of the RTI Act, an applicant is entitled to get only such information which can be accessed by the “public authority” under any other law for the time being in force. The answers sought by the petitioner in the application could not have been with the public authority nor could he have had access to this information and Respondent No. 4 was not obliged to give any reasons as to why he had taken such a decision in the matter which was before him.”*

The Commission observed that the Hon’ble High Court of Delhi in the matter of Kamal Bhasin v. Radha Krishna Mathur and Ors., W.P.(C) 7218/2016 dated 01.11.2017 had held as under:

***“6. In the present case, the petitioner stands as a relator party as he is also one of the complainants. The petitioner is not seeking any personal information regarding respondent No. 3, but merely seeks to know the outcome of the complaint made by him and other such complaints. The PFC Officers Association had pointed out certain conduct which according to them was irregular and warranted disciplinary action; thus, they would be certainly entitled to know as to how their complaints have been treated and the results thereof.***

7. Section 8 (1) (j) of the Act reads as under:- ***“8. Exemption from disclosure of information.- (1) Notwithstanding anything contained in this Act, there shall be no obligation to give any citizen,- xxxxxxxxx (j) information which relates to personal information the disclosure of which has not relationship to any public activity or interest, or which would cause unwarranted invasion of the privacy of the individual unless the Central Public Information Officer or the State Public Information Officer or the Central Information Commission appellate authority, as the case may be, is satisfied that the larger public interest justifies the disclosure of such information.”***

8. *It is apparent from the plain reading of the aforesaid clause that in order to claim exemption from disclosure of any information, the essential conditions that must be satisfied are: (i) that it is personal information the disclosure of which has no relationship to any public activity or interest; or (b) that it would cause unwarranted invasion of the privacy of the individual. However, even if the aforesaid conditions are satisfied, the Central Public Information Officer or the State Public Information Officer or the Appellate Authority may disclose the information if they are satisfied that the larger public interest justifies the disclosure of such information.*

9. *The proviso of Section 8 (1) of the Act is also important and reads as under: “Provided that the information, which cannot be denied to the Parliament or a State Legislature shall not be denied to any person.”*

10. *By virtue of the aforesaid proviso to Section 8(1) of the Act, it is enacted that information which cannot be denied to the Parliament or a State Legislature shall not be denied to any person. In the present case, it was doubtful whether information as to the fate of the complaints can be considered as personal information that has no relationship with public interest or public activity. The activity of the Central Vigilance Department includes*

*investigation and taking action in cases of corruption. Secondly, the complaint related to the allegations of misconduct and how these complaints were treated were clearly matter of public interest.*

*11 In the circumstances, this Court directs **the respondent to disclose to the petitioner as to what action had been taken pursuant to his complaint and other similar complaints made against the then CMD. The petitioner would not be entitled to any notings and deliberations of the Group of Officers or Disciplinary Authority but only information as to what action was taken in relation to the complaints in question.***

The Commission further observed that a voluntary disclosure of all information that ought to be displayed in the public domain should be the rule and members of public who *having to seek* information should be an exception. An open government, which is the cherished objective of the RTI Act, can be realised only if all public offices comply with proactive disclosure norms. Section 4(2) of the RTI Act mandates every public authority to provide as much information *suo-motu* to the public at regular intervals through various means of communications, including the Internet, so that the public need not resort to the use of RTI Act.

The Hon'ble Supreme Court of India in the matter of CBSE and Anr. Vs. Aditya Bandopadhyay and Ors 2011 (8) SCC 497 held as under:

*“37. The right to information is a cherished right. Information and right to information are intended to be formidable tools in the hands of responsible citizens to fight corruption and to bring in transparency and accountability. The provisions of RTI Act should be enforced strictly and all efforts should be made to bring to light the necessary information under Clause (b) of Section 4(1) of the Act which relates to securing transparency and accountability in the working of public authorities and in discouraging corruption.”*

The Commission also observes the Hon'ble Delhi High Court ruling in WP (C) 12714/2009 Delhi Development Authority v. Central Information Commission and Another (delivered on: 21.05.2010), wherein it was held as under:

*“16. It also provides that the information should be easily accessible and to the extent possible should be in electronic format with the Central Public Information Officer or the State Public Information Officer, as the case may be. The word disseminate has also been defined in the explanation to mean - making the information known or communicating the information to the public through notice boards, newspapers, public announcements, media broadcasts, the internet, etc. It is, therefore, clear from a plain reading of Section 4 of the RTI Act that the information, which a public authority is obliged to publish under the said section should be made available to the public and specifically through the internet. There is no denying that the petitioner is duty bound by virtue of the provisions of Section 4 of the RTI Act to publish the information indicated in Section 4(1)(b) and 4(1)(c) on its website so that the public have minimum resort to the use of the RTI Act to obtain the information.”*

Furthermore, High Court of Delhi in the decision of General Manager Finance Air India Ltd & Anr v. Virender Singh, LPA No. 205/2012, Decided On: 16.07.2012 had held as under:

*“8. The RTI Act, as per its preamble was enacted to enable the citizens to secure access to information under the control of public authorities, in order to promote transparency and accountability in the working of every public authority. An informed citizenry and transparency of information have been spelled out as vital to democracy and to contain corruption and to hold Governments and their instrumentalities accountable to the governed. The said legislation is undoubtedly one of the most significant enactments of independent*

*India and a landmark in governance. The spirit of the legislation is further evident from various provisions thereof which require public authorities to:*

*A. Publish inter alia:*

*i) the procedure followed in the decision making process;*

*ii) the norms for the discharge of its functions;*

*iii) rules, regulations, instructions manuals and records used by its employees in discharging of its functions;*

*iv) the manner and execution of subsidy programmes including the amounts allocated and the details of beneficiaries of such programmes;*

*v) the particulars of recipients of concessions, permits or authorizations granted. [see Section [4\(1\) \(b\)](#), (iii), (iv), (v); (xii) & (xiii)].*

*B. Suo moto provide to the public at regular intervals as much information as possible [see Section [4\(2\)](#)].”*

#### **DECISION:**

Keeping in view the facts of the case and the submissions made by both the parties and in the light of the decisions cited above, the Commission instructs the Respondent to disclose the broad outcome of the investigation redacting information exempted under Section 8 (1) of the RTI Act, 2005 to the Appellant as also suo moto disclose the same on their website within a period of 15 days from the date of receipt of this order as agreed.

The Appeals stand disposed accordingly.

(Bimal Julka) (बिमल जुल्का)  
(Information Commissioner) (सूचना आयुक्त)

Authenticated true copy  
(अभिप्रमाणित सत्यापित प्रति)

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Copy to:-

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