

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.

शिकायतसंख्या / Complaint No.

CIC/BPCLD/A/2022/602592
CIC/BPCLD/A/2022/607353
CIC/BPCLD/C/2022/602631
CIC/BPCLD/C/2022/602639
CIC/ BPCLD/C/2022/602655
CIC/BPCLD/C/2022/604444
CIC/BPCLD/C/2022/604949
CIC/BPCLD/C/2022/605281

CIC/BPCLD/C/2022/605286
CIC/BPCLD/C/2022/605295
CIC/BPCLD/C/2022/605302
CIC/ BPCLD/C/2022/606489
CIC/ BPCLD/C/2022/610046
CIC/ BPCLD/C/2022/610227
CIC/ BPCLD/C/2022/610296

Shri Saurabh Agrawal

... अपीलकर्ता /Appellant
शिकायतकर्ता /Complainant

VERSUS/बनाम

PIO,
Bharat Petroleum Corporation Limited

...प्रतिवादीगण /Respondent

Date of Hearing : 16.08.2023

Date of Decision : 21.08.2023

Chief Information Commissioner : Shri Y. K. Sinha

Relevant facts emerging from appeal:

Since both the parties are same, the above mentioned cases are clubbed together for hearing and disposal.

Case No.	RTI Filed on	CPIO reply	First appeal	FAO	2 nd Appeal received on
602592	14.11.2021	13.12.2021	14.12.2021	30.12.2021	12.01.2022
607353	15.12.2021	07.01.2022	12.01.2022	03.02.2022	05.02.2022
602631	15.12.2021	12.01.2022	12.01.2022	03.02.2022	13.01.2022
602639	15.12.2021	07.01.2022	-	-	13.01.2022
602655	15.12.2021	07.01.2022	-	-	13.01.2022
604444	19.12.2021	17.01.2022	21.01.2022	14.02.2022	21.01.2022
604949	25.12.2021	17.01.2022	-	-	24.01.2022
605281	27.12.2021	17.01.2022	-	-	25.01.2022
605286	27.12.2021	24.01.2022	25.01.2022	18.02.2022	25.01.2022
605295	29.12.2021	24.01.2022	25.01.2022	18.02.2022	25.01.2022
605302	30.12.2021	24.01.2022	25.01.2022	18.02.2022	25.01.2022

606489	08.01.2022	24.01.2022	01.02.2022	18.02.2022	02.02.2022
610046	15.01.2022	14.02.2022	16.02.2022	08.03.2022	18.02.2022
610227	16.01.2022	14.02.2022	17.02.2022	08.03.2022	19.02.2022
610296	16.01.2022	14.02.2022	17.02.2022	11.03.2022	19.02.2022

Information sought and background of the case:

(1) CIC/BPCLD/A/2022/602592

The Appellant filed an online RTI application dated 14.11.2021 seeking the following information:-

“Kindly furnish the details of em locks (inducted in tank trucks for transportation of petroleum product under contact) replaced, issued and reissued with all details of vehicle number and vendor name and the reason associated for replacement, issuance and re issuance of em locks at BPCL Mathura Installation for the period starting from January 2019 and ending November 2021.”

The CPIO, BPCL, vide letter dated 13.12.2021 replied as under:-

“Point no. 1

The information sought is of commercial confidence nature and is not in the interest of the public at large, therefore, under section 8(1)(d) of the Right to Information Act, 2005, we refuse to furnish the same.”

Dissatisfied with the response received from the CPIO, the Appellant filed a First Appeal dated 14.12.2021. The FAA/Head (Retail), Northern Region, BPCL, vide order dated 30.12.2021 upheld the reply of the CPIO.

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

A written submission was received from the CPIO (Retail), UP, BPCL vide letter dated 07.08.2023 wherein the replies available on record were reiterated.

(2) CIC/ BPCLD/A/2022/607353

The Appellant filed an online RTI application dated 15.12.2021 seeking the following information:-

“Kindly furnish as per the letter no. MAT/TRANSPORT/INDUCTION Dated 10.11.2021 by BPCL Mathura Installation in regarding POL Transportation Contract, how many tank tankers have been offered and by which tenders, also furnish details about the date and time of Stamp Paper used in undertaking/ affidavits used by the officers for induction of tank tankers, are they valid in all respect, if not, whether they were entertained by BPCL officials.”

The CPIO, BPCL, vide letter dated 07.01.2022 replied as under:-

“Point No.1

The information requested by you is of commercial confidence and has no relationship to any public activity, hence denied under Section 8(1) (d) & (j) of the RTI Act 2005.”

Dissatisfied with the response received from the CPIO, the Appellant filed a First Appeal dated 12.01.2022. The FAA/Head (Retail), Northern Region, BPCL, vide order dated 03.02.2022 upheld the reply of the CPIO.

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

A written submission was received from the CPIO (Retail), UP, BPCL vide letter dated 07.08.2023 wherein the replies available on record were reiterated.

Facts emerging during the hearing

The Appellant participated in the hearing through video conference. He argued that in both the Second Appeals, the information was incorrectly denied u/s 8 (1) (d) and (j) of the RTI Act, 2005 without any reasons/ justifications. He stated that information regarding the vehicle number and vendor name was generic in nature. Similarly disclosure of date and time indicated in the stamp papers annexed with the undertakings/ affidavits of the vendors will not result in violation of Section 8 (1) (d)/ (j) of the RTI Act, 2005.

The Respondent represented by Shri Jitendra Kalsy, DGM (Operations, UP State participated in the hearing through video conference. He stated that the vendors had verbally refused to provide information regarding their tankers in the transporters meeting held with the public authority hence exemption under the RTI Act, 2005 was claimed. Regarding the date and time mentioned in the stamp paper it was the submission of the Respondent that the undertaking in itself is a third party document disclosure of which was barred as per Section 8 (1) (d) and (j) of the RTI Act, 2005. In case the Appellant has an apprehension that false information was given in the undertaking/ affidavit he may file a grievance petition/complaint before an appropriate forum.

Decision

Keeping in view the facts of the case and the submissions made by both the parties, the Commission directs the CPIO (Retail), UP State, BPCL to obtain the written consent of the vendors u/s 11 of the RTI Act, 2005 with regard to the query raised in Second Appeal No CIC/BPCLD/A/2022/602592 and provide a revised response in accordance with the provisions of the RTI Act, 2005 to the Appellant by 30.09.2023 under intimation to the Commission. Regarding Second Appeal No CIC/ BPCLD/A/2022/607353, the Commission is not in agreement with the denial of information regarding the date and time mentioned in the stamp paper since the same is generic statistical information. The Respondent was unable to give satisfactory reasons to explain how disclosure of the said information could result in

breach of commercial confidence/ trade secrets or breach of privacy of an individual. Hence, the Commission directs the CPIO (Retail), UP State, BPCL to re-examine the RTI application and provide information as per available records in accordance with the provisions of the RTI Act, 2005 to the Appellant by 30.09.2023 under intimation to the Commission. With the above direction, the instant Second Appeals stand disposed off accordingly.

(3) CIC/BPCLD/C/2022/602631

The Complainant filed an online RTI application dated 15.12.2021 seeking the following information:-

“Kindly furnish how many Tank Tankers were demanded and inducted, under ownership or attached, by BPCL under Tender No. BPCL/NR/POL/BULK /2016-2021/Mathura and what are the estimated/indicative volumes in KL Per Month Per TL at the time of floating of tender. Also specify, number of Tank Tankers were increased (in quantity) under Tender No. BPCL/NR/POL/BULK and at how many times including ad hoc and permanent cases.

Whether attached and owned ratios has been maintain or not. Increase/ decrease on Tank Tankers under the Tender No. BPCL/NR/POL/BULK/2016-2021 /Mathura are in terms of percentage increase or decrease of an estimated/ indicative volumes in KL per Month per TL.”

The CPIO, BPCL, vide letter dated 12.01.2022 replied as under:-

“Point No.1

The information requested by you is of commercial confidence and has no relationship to any public activity, hence denied under Section 8(1) (d) & (j) of the RTI Act 2005.”

Dissatisfied with the response received from the CPIO, the Complainant filed a First Appeal dated 12.01.2022. The FAA/Head (Retail), Northern Region, BPCL, vide order dated 03.02.2022 directed the CPIO to re-examine the RTI application and take action under the provisions of the RTI Act, 2005

In compliance with the FAA's order, the CPIO, BPCL, vide letter dated 03.03.2022 replied as under:-

Point no. 1

(A) Induction tank tanker and its operation is done completely keeping in mind the business requirement of any location.

(B) The information sought by you is of commercial confidence and has no relation with any public activity, hence it is denied under section 8(1) (d) and (j) of the Right to Information Act, 2005.

Aggrieved and dissatisfied, the Complainant approached the Commission with the instant Complaint.

A written submission was received from the CPIO (Retail), UP, BPCL vide letter dated 07.08.2023, the relevant extracts of which are as under:

“It is kindly submitted that all the information requested by the RTI Application ShSaurabh Agrawal has already been provided to him by CPIO vide revised reply dated 03.03.2022 and there is no query for which information has not been provided except the ones which are tender related and are of commercial confidence having no relationship to any public Activity, hence exempted from disclosure under Section 8(1)(d)&(j) of RTI Act 2005.”

(4) CIC/BPCLD/C/2022/602639

The Complainant filed an online RTI application dated 15.12.2021 seeking the following information:-

“Kindly furnish as per the notice dated 29.07.2021 by BPCL Mathura Installation how many additional Tank Tankers requirement has been raised and number of Tank Tankers were accepted against notice for contract, whether additional accepted Tank Tankers are in same ratio of ownership and attachment tenderer as there was at the time of finalization of Tender No. BPCL/NR/POL/BULK/2016-2021/Mathura, if so, kindly furnish details, if not, please specify.”

The CPIO, BPCL, vide letter dated 07.01.2022 replied as under:-

“Point No.1

The information requested by you is of commercial confidence and has no relationship to any public activity, hence denied under Section 8(1) (d) & (j) of the RTI Act 2005.”

Aggrieved and dissatisfied, the Complainant approached the Commission with the instant Complaint.

A written submission was received from the CPIO (Retail), UP, BPCL vide letter dated 07.08.2023 wherein the replies available on record were reiterated. In addition, it was mentioned that a first appeal was also filed before the FAA on 12.01.2022 which was decided by the FAA on 03.02.2022 upholding the reply of the CPIO.

(5) CIC/BPCLD/C/2022/602655

The Complainant filed an online RTI application dated 15.12.2021 seeking the following information:-

“Kindly furnish as per the letter no. MAT/TRANSPORT/INDUCTION Dated 10.11.2021 by BPCL Mathura Installation in regarding POL Transportation Contract, how many tank tankers have been offered and by which tenderers, also furnish details about the date and time of Stamp Paper used in undertaking/ affidavits used by the offerers for induction of tank tankers, are they valid in all respect, if not, whether they were entertained by BPCL officials.”

The CPIO, BPCL, vide letter dated 07.01.2022 replied as under:-

“Point No.1

The information requested by you is of commercial confidence and has no relationship to any public activity, hence denied under Section 8(1) (d) & (j) of the RTI Act 2005.”

Aggrieved and dissatisfied, the Complainant approached the Commission with the instant Complaint.

A written submission was received from the CPIO (Retail), UP, BPCL vide letter dated 07.08.2023 wherein the replies available on record were reiterated. In addition, it was mentioned that a first appeal was also filed before the FAA on 12.01.2022 which was decided by the FAA on 03.02.2022 upholding the reply of the CPIO.

(6) CIC/BPCLD/C/2022/604444

The Complainant filed an online RTI application dated 19.12.2021 seeking the following information:-

“Kindly furnish the details about an expression active key and inactive key with respect to em locks used in tank tankers by BPCL, also provide whether em locks can be opened with an inactive key with defined or undefined business rules, if so, provide details.”

The CPIO, BPCL, vide letter dated 17.01.2022 replied as under:-

“Please refer our BPCL HQ & CPIO letter reference BPCLD/R/E/21/00944 dated 14/12/2021, which is self Explanatory, enclosed for your ready reference.”

Dissatisfied with the response received from the CPIO, the Complainant filed a First Appeal dated 21.01.2022. The FAA/Head (Retail), Northern Region, BPCL, vide order dated 14.02.2022 upheld the reply of the CPIO.

Aggrieved and dissatisfied, the Complainant approached the Commission with the instant Complaint.

A written submission was received from the CPIO (Retail), UP, BPCL vide letter dated 07.08.2023 wherein the replies available on record were reiterated.

(7) CIC/BPCLD/C/2022/604949

The Complainant filed an online RTI application dated 25.12.2021 seeking the following information:-

“Kindly furnish what are the names of the vendor transport firms who have offered and proposed the Tank Tanker for ad hoc basis in 2020 and how many tank lorries were offered and proposed by them and number of tank lorries offered by them are

used by the BPCL Mathura on adhoc basis, kindly also furnish tank lorries operated under adhoc basis May be given an option to operate under permanent basis or not.”

The CPIO, BPCL, vide letter dated 17.01.2022 replied as under:-

“

A- Name of the vendor can not disclosed by us because this information sought by you pertains to third party personal information, the disclosure of which has no relationship to any public activity or interest, hence denied under Section 8 (1) (j) of the RTI Act 2005.

B- Total 11 transporters offered 91 Tank lorries on adhoc basis in the year 2020. No tank lorry was made permanent which was taken on adhoc basis.-”

Dissatisfied with the response received from the CPIO, the Complainant filed a First Appeal dated 24.01.2022 which was disposed of by FAA vide order dated 14.02.2022 (copy not enclosed).

Aggrieved and dissatisfied, the Complainant approached the Commission with the instant Complaint.

A written submission was received from the CPIO (Retail), UP, BPCL vide letter dated 07.08.2023 wherein the replies available on record were reiterated. In addition, it was mentioned that a first appeal was also filed before the FAA on 24.01.2022 which was decided by the FAA on 14.02.2022 upholding the reply of the CPIO.

(8) CIC/BPCLD/C/2022/605281

The Complainant filed an online RTI application dated 27.12.2021 seeking the following information:-

“Kindly furnish the tank tanker numbers (4 in numbers) against whom FIR was lodged between the year 2018-2020 with respect to RTI reply dated 24.12.2021 and reference LA.BPCL.D/R/E/21/00963.”

The CPIO, BPCL, vide letter dated 17.01.2022 replied as under:-

“Information can not be disclosed by us because this information sought by you pertains to third party personal information, the disclosure of which has no relationship to any public activity or interest, hence denied under Section 8 (1) (j) of the RTI Act 2005.”

Aggrieved and dissatisfied, the Complainant approached the Commission with the instant Complaint.

A written submission was received from the CPIO (Retail), UP, BPCL vide letter dated 07.08.2023 wherein the replies available on record were reiterated. In addition, it was mentioned that a first appeal was also filed before the FAA on 25.01.2022 which was decided by the FAA on 15.03.2022 upholding the reply of the CPIO.

(9) CIC/BPCLD/C/2022/605286

The Complainant filed an online RTI application dated 27.12.2021 seeking the following information:-

“Kindly furnish the details of EM Locks with lock numbers initially allotted, issued and inducted on Tank Tanker No. UP86T8870, UP86T7414, UP86T7535, RJ05GA5439 and UP8529802, whether same EM Locks with same numbers which had been allotted, issued and inducted initially are still in use by above mentioned vehicles, if not, provide details of lock numbers of em locks presently used by Tank Tanker No. UP86T8870, UP86T7414, UP86T7535, RJ05GA5439 and UP8529802 with the valid reasons of replacement and re issuance thereto.”

The CPIO, BPCL, vide letter dated 24.01.2022 replied as under:-

“Information can not be disclosed by us because this information sought by you pertains to third party personal information, the disclosure of which has no relationship to any public activity or interest, hence denied under Section 8 (1) (j) of the RTI Act 2005.”

Dissatisfied with the response received from the CPIO, the Complainant filed a First Appeal dated 25.01.2022. The FAA/Head (Retail), North Region, BPCL, vide order dated 18.02.2022 upheld the reply of the CPIO.

Aggrieved and dissatisfied, the Complainant approached the Commission with the instant Complaint.

A written submission was received from the CPIO (Retail), UP, BPCL vide letter dated 07.08.2023 wherein the replies available on record were reiterated.

(10) CIC/BPCLD/C/2022/605295

The Complainant filed an online RTI application dated 29.12.2021 seeking the following information:-

“Kindly furnish details under which contracted transport vendor following tank lorries numbering UP14HT1280, UP75AT1455 and UP 80ET3218 are presently plying and also provide details of their last load with invoice number and date.”

The CPIO, BPCL, vide letter dated 24.01.2022 replied as under:-

“Information can not be disclosed by us because this information sought by you pertains to third party personal information, the disclosure of which has no relationship to any public activity or interest, hence denied under Section 8 (1) (j) of the RTI Act 2005.”

Dissatisfied with the response received from the CPIO, the Complainant filed a First Appeal dated 25.01.2022. The FAA/Head (Retail), Northern Region, BPCL, vide order dated 18.02.2022 upheld the reply of the CPIO.

Aggrieved and dissatisfied, the Complainant approached the Commission with the instant Complaint.

A written submission was received from the CPIO (Retail), UP, BPCL vide letter dated 07.08.2023 wherein the replies available on record were reiterated.

(11) CIC/BPCLD/C/2022/605302

The Complainant filed an online RTI application dated 30.12.2021 seeking the following information:-

“Kindly furnish details that how many times electronic clock have been issued and reissued to vehicle number UP86T8870, UP86T7414, UP86T7535, RJ05GA5439, UP8529802 and tanker number 9732 under present contract of petroleum transportation at BPCL Mathura.”

The CPIO, BPCL, vide letter dated 24.01.2022 replied as under:-

“Information can not be disclosed by us because this information sought by you pertains to third party personal information, the disclosure of which has no relationship to any public activity or interest, hence denied under Section 8 (1) (j) of the RTI Act 2005.”

Dissatisfied with the response received from the CPIO, the Complainant filed a First Appeal dated 18.02.2022. The FAA/Head (Retail), Northern Region, BPCL, vide order dated 18.02.2022 upheld the reply of the CPIO

Aggrieved and dissatisfied, the Complainant approached the Commission with the instant Complaint.

A written submission was received from the CPIO (Retail), UP, BPCL vide letter dated 07.08.2023 wherein the replies available on record were reiterated.

(12) CIC/BPCLD/C/2022/606489

The Complainant filed an online RTI application dated 08.01.2022 seeking the following information:-

“Kindly furnish whether Tank Tanker no. RJ05GA8969 present in operation under contract with BPCL, Mathura, if yes, kindly provide name of authorized official and person who has locked the vehicle no. RJ05GA8969 after loading on 31.12.2021. Also, furnish (and verification from the Camera footage placed at gate of BPCL Mathura Installation) whether vehicle no. RJ05GA8969 had been locked outside

installation gate or inside the inside the gate after loading the product from BPCL Installation, Mathura.”

The CPIO, BPCL, vide letter dated 24.01.2022 replied as under:-

“Information can not be disclosed by us because this information sought by you pertains to third party personal information, the disclosure of which has no relationship to any public activity or interest, hence denied under Section 8 (1) (j) of the RTI Act 2005.”

Dissatisfied with the response received from the CPIO, the Complainant filed a First Appeal dated 01.02.2022. The FAA/Head (Retail), North Region, BPCL, vide order dated 18.02.2022 directed the CPIO to re-examine the RTI application and take action under the provisions of the RTI Act, 2005.

In compliance with the FAA’s order, the CPIO, BPCL, vide letter dated 15.03.2022 furnished information as under:-

Point no. 1

(A) Tank tanker no. RJ05GA8969 is operated under the current contract of Mathura Installation.

(B) & (C) *“Information can not be disclosed by us because this information sought by you pertains to third party personal information, the disclosure of which has no relationship to any public activity or interest, hence denied under Section 8 (1) (j) of the RTI Act 2005.”*

Aggrieved and dissatisfied, the Complainant approached the Commission with the instant Complaint.

A written submission was received from the CPIO (Retail), UP, BPCL vide letter dated 07.08.2023, the relevant extracts of which are as under:

“It is kindly submitted that all the information requested by the RTI Application ShSaurabh Agrawal has already been provided to him by CPIO vide revised reply dated 15.03.2022 and there is no query for which information has not been provided except the information which pertains to 3rd party personal information, the disclosure of which has no relationship to any public activity or interest which is exempted from disclosure under Section 8 (1) (j) of the RTI Act, 2005.”

(13) CIC/BPCLD/C/2022/610046

The Complainant filed an online RTI application dated 15.01.2022 seeking the following information:-

“Kindly furnish the details of products (quantity with product name) transported by road transport under delivered loads from Bharat Petroleum

Corporation Limited Mathura Installation, month wise, from April 01, 2020 to January 15, 2022.”

The CPIO, BPCL, vide letter dated 14.02.2022 replied as under:-

“Point No.1

A- Petrol Diesel / Kerosene oil / Furnace oil, Mineral Turpentine Oil etc. are dispatched by our BPCL Mathura Installation.

B- The information regarding details of products quantity requested by you is of commercial confidence and has no relationship to any public activity, hence denied under Section 8(1) (d) & (j) of the RTI Act 2005.”

Dissatisfied with the response received from the CPIO, the Complainant filed a First Appeal dated 16.02.2022. The FAA/Head (Retail), Northern Region, BPCL, vide order dated 08.03.2022 upheld the reply of the CPIO. Aggrieved and dissatisfied, the Complainant approached the Commission with the instant Complaint.

A written submission was received from the CPIO (Retail), UP, BPCL vide letter dated 08.08.2023 wherein the replies available on record were reiterated.

(14) CIC/BPCLD/C/2022/610227

The Complainant filed an online RTI application dated 16.01.2022 seeking the following information:-

“Kindly furnish complete and detailed information (month wise) regarding the percentage increase and decrease of load dispatched of HSD and MS with different loading capacity of vehicles by road transport from BPCL, Mathura Installation to various dispatched locations, including stock transfers if any, between the period starting January 2020 to the period ending December 2021.”

The CPIO, BPCL, vide letter dated 14.02.2022 replied as under:-

“Point No.1

The information requested by you is of commercial confidence and has no relationship to any public activity, hence denied under Section 8(1) (d) & (j) of the RTI Act 2005.”

Dissatisfied with the response received from the CPIO, the Complainant filed a First Appeal dated 17.02.2022. The FAA/Head (Retail), North Region, BPCL, vide order dated 08.03.2022 upheld the reply of the CPIO.

Aggrieved and dissatisfied, the Complainant approached the Commission with the instant Complaint.

A written submission was received from the CPIO (Retail), UP, BPCL vide letter dated 07.08.2023 wherein the replies available on record were reiterated.

(15) CIC/BPCLD/C/2022/610296

The Complainant filed an online RTI application dated 16.01.2022 seeking the following information:-

“Kindly furnish the details (with their registration numbers and vendor firm, respectively) of tank tankers having loading capacity of 29 KL operated at BPCL Mathura Installation for delivered supplies of HSD and MS between the period 1st June 2021 to 15th January 2022. Also furnish the related documents of the tender which fulfils the conditions to induct and operate tank tankers with capacity of 29 KL for transportation of HSD and MS, under which these are currently operating.”

The CPIO, BPCL, vide letter dated 14.02.2022 replied as under:-

“Point No.1

A- Information can not be disclosed by us because this information sought by you pertains to third party personal information, the disclosure of which has no relationship to any public activity or interest, hence denied under Section 8 (1) (j) of the RTI Act 2005.

B- The information requested by you is of commercial confidence and has no relationship to any public activity, hence denied under Section 8(1) (d) & (j) of the RTI Act 2005.”

Dissatisfied with the response received from the CPIO, the Complainant filed a First Appeal dated 17.02.2022. The FAA/Head (Retail), Northern Region, BPCL, vide order dated 11.03.2022 directed the CPIO to re-examine the RTI application and take action under the provisions of the RTI Act, 2005.

In compliance with the FAA's order, the CPIO, BPCL, vide letter dated 24.03.2022 furnished the information as under:-

Point no. 1 (A). A total of 15 tankers of 29 KL capacity have been inducted on adhoc basis in Mathura Installation from 1st June 2021 to 15th January 2022 to meet the market demand. Vehicle registration number and vendor firm cannot be given because this information is personal information of a third party which is not related to larger public interest. Therefore, this is denied under section 8(1) (j) of the Right to Information Act, 2005.

(B) All these tank tankers have been inducted on adhoc basis to meet the market demand.

Aggrieved and dissatisfied, the Complainant approached the Commission with the instant Complaint.

Facts emerging in Course of Hearing:

The Complainant participated in the hearing through video conference. He reiterated his averments made in the hearing of his 15 Complaints heard on 14.08.2023 and argued that information sought in the aforementioned RTI Applications is neither of commercial confidence nor is personal in nature hence penal/ disciplinary action should be initiated against the erring officials for incorrectly denying the information u/s 8 (1) (d)/ (j) of the RTI Act, 2005. During the hearing he specifically referred to his RTI application in Complaint No CIC/BPCLD/C/2022/610296 and argued that the information regarding vendor name and registration number was incorrectly denied u/s 8 (1) (j) despite the fact that the tender process has been completed.

The Respondent represented by Shri Jitendra Kalsy, DGM (Operations, UP State participated in the hearing through video conference. He stated that the Complainant is seeking information of the other transporters disclosure of which would harm the competitive positions of third parties. He added that the Complainant was one of the transporters associated with BPCL/Mathura whose tank lorry was blacklisted due to involvement in malpractices. He further submitted that the Complainant has filed more than 100 RTI Applications in their office just to harass the officials. Regarding Complaint No CIC/BPCLD/C/2022/610296 he stated that existing transporters/ vendors were approached to obtain information regarding the tankers of capacity of 29 KL, which were contracted on an ad hoc basis with the approval of the competent authority, so that BPCL Mathura was able to meet the additional demand at that time. Since, the PIO was of the view that the information sought would affect the commercial interest of the public authority as also breach of commercial confidence/ trade secrets and privacy of vendors, the information was denied u/s 8 (1) (d)/ (j) of the Act.

Decision

The aforementioned Complaints deal with similar subject matters and hence they are decided by a common order. Perusal of the records and keeping in view the submissions made by both the parties, the Commission observes that the aforementioned Complaints are filed under Section 18 of the RTI Act, 2005 where the Commission is only required to ascertain if the information has been denied with a malafide intent or due to an unreasonable cause by the CPIO which the Commission is unable to conclude in the present instance. In a Complaint case filed u/s 18 of the Act, no further direction for disclosure of information can be made as per the judgment of the Apex Court in *Chief Information Commissioner and Ors. Vs. State of Manipur and Ors*, CIVIL APPEAL NOs.10787-10788 OF 2011 (Arising out of S.L.P(C) No.32768-32769/2010) decided on 12.12.2011.

With regard to the imposition of penalty on the CPIO/PIO under Section 20 of the RTI Act, 2005, the Commission also takes note of the ruling of Hon'ble Delhi High Court In W.P.(C) 11271/2009 Registrar of Companies & Ors v. Dharmendra Kumar Garg &Anr. (delivered on: 01.06.2012) wherein it was held:

“ 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 showcause 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 fulfil 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.”

Similarly, the following observation 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.”

The Commission also observes that the Hon'ble High Court of Delhi in the matter of *R.K. Jain v. V.P. Pandey*, CPIO, CESTAT, New Delhi in W.P. (C) No. 4785/ 2017 dated 10.10.2017 adjudicated on the correctness of an order of the Commission dated 17.04.2017 whereby the Respondent was cautioned to exercise due care in future and to ensure that correct and complete information is furnished to the RTI applicants. It was decided that:

“2. The grievance of the petitioner is that although the CIC had accepted that there was a delay in providing the necessary information to the petitioner, the CIC had not imposed the penalty as required under Section 20(1) of the Right to Information Act, 2005. **It is well settled that imposing of the penalty is a discretionary measure.** In *Anand Bhushan v. R.A. Haritash*: ILR (2012) 4 Delhi 657 a division bench of this Court had considered the question whether the levy of penalty was discretionary and held as under.....

3. In this case it is apparent that the CIC had in its discretion considered that a order cautioning the CPIO would be sufficient. This Court is not inclined to interfere with such exercise of discretion.”

Before parting with the decision, this Commission wishes to note that these cases arose out of a personal dispute between the Complainant and the Respondent for which he has filed these fifteen Complaints before the Central Information Commission, seeking redressal of his grievance. This indicates a lack of *bonafide* on the part of the Complainant. Such repetitive and vexatious litigation results in wastage of precious time of the adjudicating authorities and also the public authority in question. It is owing to the frivolousness and wasteful nature of such litigation that the Courts have repeatedly and consistently been discouraging such litigation. Some important judicial pronouncements where the Courts have discussed this subject are as under:

i) *Advocate General, Bihar vs. M.P. Khair Industries*(AIR 1980 SC 946) whereby it has termed “...*filing of frivolous and vexatious petitions as abuse of the RTI process. Some of such abuses specifically mentioned by the Apex Court include initiating or carrying on proceedings which are wanting in bona-fides or which are frivolous, vexatious or oppressive. The Apex Court also observed that in such cases the Court has extensive alternative powers to prevent an abuse of its process by striking out or staying proceedings or by prohibiting taking up further proceedings.*”

ii) The Apex Court had discussed the same issue in great detail in the case of *Ashok Kumar Pandey vs. The State of West Bengal*, (AIR 2003 SC 280 Para 11), where J. Pasayat had held:

“.....It is depressing to note that on account of such trumpety proceedings initiated before the Courts, innumerable days are wasted, which time otherwise could have been spent for the disposal of cases of the genuine litigants. Though we spare no efforts in fostering and developing the laudable concept of PIL and extending our long arm of sympathy to the poor, the ignorant, the oppressed and the needy whose fundamental rights are infringed and violated and whose grievances go unnoticed, unrepresented and unheard; yet we cannot avoid but expressing our opinion that while genuine litigants with legitimate grievances relating to civil matters involving

properties worth hundreds of millions of rupees and criminal cases in which persons sentenced to death facing gallows under untold agony and persons sentenced to life imprisonment and kept in incarceration for long years, persons suffering from undue delay in service matters, Government or private, persons awaiting the disposal of case... etc. etc. are all standing in a long serpentine queue for years with the fond hope of getting into the Courts and having their grievances redressed, the busybodies, meddling interlopers, wayfarers or officious interveners having absolutely no public interest except for personal gain or private profit either of themselves or as proxy of others or for any other extraneous motivation or for glare of publicity break the queue muffing their faces by wearing the mask of public interest litigation and get into the Courts by filing vexatious and frivolous petitions and thus criminally waste the valuable time of the Courts, as a result of which the queue standing outside the doors of the Courts never moves, which piquant situation creates frustration in the minds of the genuine litigants and resultantly they lose faith in the administration of our judicial system.....”

Emphasis supplied

iii) The Hon'ble Delhi High Court while deciding the case of Shail Sahni vs. Sanjeev Kumar & Ors. [W.P. (C) 845/2014] had observed as under:

“..... This Court is also of the view that misuse of the RTI Act has to be appropriately dealt with, otherwise the public would lose faith and confidence in this “sunshine Act”. A beneficial Statute, when made a tool for mischief and abuse must be checked in accordance with law.”

Emphasis supplied

iv) In the other landmark judgement in the case of Central Board of Secondary Education & Anr. Vs. Aditya Bandopadhyay & Ors., the Apex Court held as follows:

“...The Act seeks to bring about a balance between two conflicting interests, as harmony between them is essential for preserving democracy. One is to bring about transparency and accountability by providing access to information under the control of public authorities. The other is **to ensure that the revelation of information, in actual practice, does not conflict with other public interests which include efficient operation of the governments, optimum use of limited fiscal resources** and preservation of confidentiality of sensitive information. The preamble to the Act specifically states that the object of the Act is to harmonise these two conflicting interest.

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..... **Indiscriminate and impractical**

demands or directions under RTI Act for disclosure of all and sundry information (unrelated to transparency and accountability in the functioning of public authorities and eradication of corruption) would be counter-productive as it will adversely affect the efficiency of the administration and result in the executive getting bogged down with the non-productive work of collecting and furnishing information. The Act should not be allowed to be misused or abused, to become a tool to obstruct the national development and integration, or to destroy the peace, tranquility and harmony among its citizens. Nor should it be converted into a tool of oppression or intimidation of honest officials striving to do their duty. The nation does not want a scenario where 75% of the staff of public authorities spends 75% of their time in collecting and furnishing information to applicants instead of discharging their regular duties...

Emphasis supplied

Filing a series of RTI applications and inundating the CPIOs with queries is not in keeping with the spirit of the RTI Act. This Commission being a creature of the RTI Act is duty bound to preserve the ethos propounded by the statute. The average time taken for a second appeal/ complaint to be heard in the Commission is more than a year. As rightly said, justice delayed is justice denied. Timely dispensation of justice is essential. A single information seeker cannot usurp a collective right to the detriment of all others having an identical right nor should a person be allowed to file indiscriminate and unchecked Second Appeals/Complaints so as to clog the system of adjudication itself to the disadvantage of others. It will lead to a colossal waste of time and resources of the Commission which has the obligation to cater to thousands of genuine information seekers facing hurdles. The means adopted by the Complainant of burdening the Public Authority with multiple RTI cases, unfortunately, only points to the ignorance of the Complainant about the spirit of the RTI Act.

Hence, no further intervention of the Commission is required in the instant Complaints which are dismissed accordingly.

Y. K. Sinha (वाई. के. सिन्हा)

Chief Information Commissioner (मुख्य सूचना आयुक्त)

Authenticated true copy
(अभिप्रमाणित सत्यापित प्रति)

S. K. Chitkara (एस. के. चिटकारा)

Dy. Registrar (उप-पंजीयक)
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