

केन्द्रीयसूचनाआयोग
Central Information Commission
बाबागंगनाथमार्ग, मुनिरका
Baba Gangnath Marg, Munirka
नईदिल्ली, New Delhi – 110067

**File No : CIC/DOP&T/C/2020/694752+
CIC/DOP&T/A/2020/694751**

J P Tiwari

....शिकायतकर्ता/**Complainant**
.....अपीलकर्ता/**Appellant**

VERSUS
बनाम

CPIO,
Department of Personnel &
Training, RTI Cell, North Block,
New Delhi – 110001.

....प्रतिवादीगण/**Respondent**

Date of Hearing : 22/02/2022
Date of Decision : 22/02/2022

INFORMATION COMMISSIONER : Saroj Punhani

Relevant facts emerging from complaint/appeal:

RTI application filed on : 29/08/2020
CPIO replied on : 14/09/2020
First appeal filed on : 08/11/2020
First Appellate Authority's order : Not on record
2nd Appeal/Complaint dated : 03/12/2020

Information sought:

The Complainant filed an online RTI application dated 29.08.2020 seeking following information regarding his complaint no-139593/2019/vigilance-9 addressed to CVC:

- 1- Please inform whether the complaint mentioned was scrutinized in the office till date or not.
- 2- Please inform that the vigilance angle was determined in compliance to the office order no-74/12/05 dated-21.12.2005 of CVC, in the case mentioned above or not.
- 3- Please inform the name and designation of the officer deputed for investigation the case mentioned above.
- 4- Please provide the certified copies of the statements recorded in the matter till date if any.
- 5- Please provide the certified copy of the questionnaire and answer put before/by the charged official, if any till date.
- 6- Please provide the certified copies of charge sheet/ NIP given to charged official till date if any.
- 7- Please provide the certified copy of file noting in the matter till date.
- 8- Please provide the certified copy of all communication (letter/fax/email) made or received in the matter till date.

The CPIO replied to the complainant/appellant on 14.09.2020 stating as follows:-

“.....as per available records, no such complaint has been received in this Section. However, a copy of the complaint may be sent to DoPT for taking further action, if any.”

Being dissatisfied, the complainant/appellant filed a First Appeal dated 08.11.2020. FAA's order dated 01.12.2020 upheld the reply of CPIO.

Feeling aggrieved and dissatisfied, complainant approached the Commission with the instant Complaint and Appeal.

Relevant Facts emerging during Hearing:

The following were present:-

Complainant/Appellant: Present through audio conference.

Respondent: Surya Prakash, US & CPIO present through audio conference.

The Complainant/Appellant stated that he is not satisfied with the claim of non-receipt of the averred complaint by the DoPT from CVC as he has annexed proof of the CVC's forwarding letter received by him. He further relied on an email correspondence between him and Jai Narain, the then CPIO in pursuance of the request made to him to provide a copy of the Complaint, which the Commission directed him to place on record for better appreciation of facts.

The CPIO submitted that the non-receipt of the Complaint was informed to the Complainant/Appellant as per the availability of the records and he was requested to provide a copy of the complaint for necessary action. He further submitted that nonetheless, prior to the hearing, the concerned authority in CVC was contacted over phone and a copy of the complaint was requested to be forwarded via email. Subsequently, upon receipt of the said email from CVC on 14.02.2022, the complaint was forwarded to CIC and IR division of DoPT for necessary action as the subject matter related to them.

Decision

The Commission observes from a perusal of the facts on record that the CPIO provided a factual reply to the RTI Application and prior to the hearing went beyond their mandate to procure a copy of the averred complaint from CVC for taking the necessary action. Now, the email correspondence between the Complainant/Appellant and the then CPIO suggests that when the Complainant/Appellant was requested to send a copy of the complaint, he had informed that since he filed the complaint online, he does not have a copy of it except the CVC's forwarding letter. To this, the then CPIO had expressed his inability to trace out the complaint citing the multiple number of Sections in DoPT and again suggested the Complainant/Appellant to file a fresh representation for taking necessary action.

Taking the totality of the circumstances into consideration, the Commission finds that under the RTI Act only such information can be provided which exists in the record. Here, it is a matter of an indication that the record existed but could not be located by the concerned CPIO and therefore it cannot be said that the record did not exist. The effort invested by the CPIO prior to the hearing in procuring the copy of the complaint from CVC could have been invested by the then CPIO immediately upon receiving the reference of the CVC's forwarding letter. The letter and spirit of the RTI Act warrants exercise of due diligence by the CPIOs by providing adequate assistance to the RTI Applicants in accessing the information,

and particularly in such cases where there are plausible references to locate the record, instead of putting the onus on the RTI applicant to create the record, the CPIO ought to have taken the reasonable steps to locate the record, which in this case meant merely liaising with CVC based on a specific reference number.

While the facts of the case do not suggest malafides or a deliberate obstruction to the Complainant/Appellant's right to information, but it reflects on the then CPIO's gross non-application of mind and a lackadaisical approach in executing the statutory duty cast upon him by virtue of the RTI Act. Nonetheless, **Jai Narain, US & then CPIO is hereby directed through the present CPIO to send his written explanation stating as to why no effort was invested by him in locating the averred complaint despite being provided with the reference of the relevant CVC's forwarding note. The said explanation of Jai Narain, US & then CPIO should reach the Commission within 30 days from the date of receipt of this order.**

Surya Prakash, US & CPIO is hereby directed to ensure due service of the said order to **Jai Narain, US & then CPIO under intimation to the Commission**

The Complaint & Appeal is disposed of accordingly.

**Saroj Punhani(सरोजपुनहानि)
Information Commissioner (सूचनाआयुक्त)**

Authenticated true copy
(अभिप्रमाणितसत्यापितप्रति)

(C.A. Joseph)
Dy. Registrar
011-26179548/ ca.joseph@nic.in
सी. ए. जोसेफ, उप-पंजीयक
दिनांक / Date