

केंद्रीय सूचना आयोग
CENTRAL INFORMATION COMMISSION
बाबा गंगनाथ मार्ग
Baba Gangnath Marg
मुनिरका, नई दिल्ली- 110067
Munirka, New Delhi-110067

File no.: CIC/BSNLD/A/2020/662970

In the matter of:

Love Gogia

... Appellant

VS

Central Public Information Officer
Bharat Sanchar Nigam Ltd,
O/o Chief General Manager,
Information Technology Project Circle,
RTTC Building, Plot No. G-121 and 122,
MIDC, Chinchwad, Pune - 411019.

... Respondent

RTI application filed on	:	21/11/2019
CPIO replied on	:	20/12/2019
First appeal filed on	:	23/12/2019
First Appellate Authority order	:	15/01/2020
Second Appeal dated	:	08/02/2020
Date of Hearing	:	22/10/2021
Date of Decision	:	22/10/2021

The following were present:

Appellant: Present over intra VC

Respondent: Shri Arun B.Wage, DGM(Admn) & CPIO, present over VC

Information Sought:

The appellant has sought the following information regarding ERP system of BSNL:

1. Provide the date & time for which ERP System was shut down for maintenance during the month of August 2019.
- 2.0 Provide the date & time for which ERP System was shut down for any reason other than maintenance during the month of August 2019.

- 2.1 Also provide reasons for such shut down.
3. Any other related information.

Grounds for Second Appeal

The CPIO did not provide the desired information u/s 8(1)(d) of the RTI Act.

Submissions made by Appellant and Respondent during Hearing:

The appellant submitted that he is not satisfied with the reply of the CPIO as he had failed to justify the exemption claimed by him and the concerned CPIO may be penalized for failure on his part to provide the sought for information to him.

The CPIO submitted that an appropriate reply was given to the appellant on 20.12.2019.

Observations:

From a perusal of the relevant case records, it is noted that the reply of the CPIO was grossly improper as the CPIO failed to justify the exemption claimed by him u/s 8(1)(d) of the RTI Act. Under the provisions of [Section 19](#) (5) of the [RTI Act, 2005](#), in an appeal proceeding, the onus to prove that a denial of a request was justified shall be on the CPIO. The CPIO in his reply had clearly failed to justify his position as to how the disclosure of information would be in contravention of the provisions enshrined under [Section 8](#) of the RTI Act, 2005 and what commercial confidence would be breached as the information sought by the appellant is very general in nature. In this context, the Commission refers to the decision of the Hon'ble High Court of Delhi in the matter of [Dy. Commissioner of Police v. D.K. Sharma, WP \(C\) No. 12428 of 2009](#) dated 15.12.2010, wherein it was held as under:

"6. This Court is inclined to concur with the view expressed by the CIC that in order to deny the information under the [RTI Act](#) the authority concerned would have to show a justification with reference to one of the specific clauses under [Section 8](#) (1) of the [RTI Act](#). In the instant case, the Petitioner has been unable to discharge that burden.

The Commission, therefore, deems it appropriate to direct the CPIO to provide a revised reply to the appellant as the queries sought are disclosable, especially points 1, 2, 2.1.

During the hearing, he also submitted that he may be compensated as the CPIO had deliberately denied the demanded information which was required to contest a baseless claim of some erring official and this action on the part of the

CPIO saved the erring official and thus caused prejudice and damage/agonny to the appellant as well as to the greater public good. Thus, he is justified in demanding compensation as per RTI Act, 2005. The Commission is not convinced with the submissions of the appellant as he has failed to show or justify as to what personal detriment was caused to him by not getting the sought for information. Therefore, no compensation can be awarded.

Decision:

In view of the above, the CPIO is directed to re-visit the RTI application and provide a revised reply to the appellant as per the provisions of the RTI Act within a period of 15 days from the date of receipt of this order under intimation to the Commission. The CPIO should note that in case he is unable to justify the exemption so claimed, the sought for information should be provided to the appellant free of cost.

The appeal is disposed of accordingly.

Vanaja N. Sarna (वनजा एन. सरना)

Information Commissioner (सूचनाआयुक्त)

Authenticated true copy
(अभिप्रमाणित सत्यापितप्रति)

A.K. Assija (ऐ.के. असीजा)

Dy. Registrar (उप-पंजीयक)

011-26182594 /

दिनांक/ Date