

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

शिकायत संख्या / Complaint No.(s):- CIC/ONGCL/C/2018/629501-BJ+
CIC/ONGCL/C/2018/629512- BJ+
CIC/ONGCL/C/2018/630783-BJ+
CIC/ONGCL/C/2018/630785-BJ+
CIC/ONGCL/C/2018/630787-BJ+
CIC/ONGCL/C/2018/631104-BJ+
CIC/ONGCL/C/2018/631130-BJ+
CIC/ONGCL/C/2018/631138-BJ+
CIC/ONGCL/C/2018/631206-BJ+
CIC/ONGCL/C/2018/631263-BJ

Mr. Varun Krishna

.... शिकायतकर्ता /Complainant

VERSUS

बनाम

CPIO & DY. GM (Legal) - Nodal Officer,
Oil & Natural Gas Corporation Limited,
1st Floor, Tower -A, Deendayal Urja Bhawan,
5, Nelson Mandela Marg, Vasant Kunj, New Delhi 110070

...प्रतिवादीगण /Respondent

Date of Hearing : 22.04.2020
Date of Decision : 23.04.2020

ORDER

RTI – 1 File No. CIC/ONGCL/C/2018/ 629501-BJ

Date of filing of RTI application	01.08.2018
CPIO's response	20.08.2018
Date of filing the First appeal	Not on Record
First Appellate Authority's response	Not on Record
Date of diarised receipt of Complaint by the Commission	24.08.2018

FACTS:

The Complainant vide his RTI application sought information on 05 points relating to him Email addressed to First Appellate Authority dated 18.06.2018 including Inward number and date of receiving of the said representation vide Speed Post; file noting pertaining to his email along with

daily progress, action taken report by the concerned official and by the office of CMD-ONGC and other issues related thereto.

The CPIO, vide letter dated 20.08.2018, informed the Complainant that the information sought is not available in his office. Dissatisfied by the response of the CPIO, the Complainant approached the Commission.

RTI – 2 File No. CIC/ONGCL/C/2018/629512

Date of filing of RTI application	01.08.2018
CPIO's response	20.08.2018
Date of filing the First appeal	Not on Record
First Appellate Authority's response	Not on Record
Date of diarised receipt of Complaint by the Commission	24.08.2018

FACTS:

The Complainant vide his RTI application sought information on 04 points relating to First Appellate Authority's vague orders without deadline, the total number of orders passed by FAA where directions have been issued to PIO to provide information, list of orders along with their dates where strict deadline has been issued to PIO instead of using term earliest, soon, etc.

The CPIO, vide letter dated 20.08.2018, informed the Complainant that the information sought is not available in their office. Dissatisfied by the response of the CPIO, the Complainant approached the Commission.

RTI – 3 File No. CIC/ONGCL/C/2018/ 630783-BJ

Date of filing of RTI application	21.08.2018
CPIO's response	07.09.2018
Date of filing the First appeal	Not on Record
First Appellate Authority's response	Not on Record
Date of diarised receipt of Complaint by the Commission	07.09.2018

FACTS:

The Complainant vide his RTI application sought information on 04 points pertaining to his Grievance No. dated 16.06.2018 including the copy of file noting pertaining to subject Grievance, proof from Grievance based upon which official had concluded that the Grievance pertains to RTI matter u/s 18 or/and u/s 19 of RTI Act and hence cannot be redressed as CPGRAMS, etc.

The CPIO, vide letter dated 07.09.2018, provided a point-wise information to the Complainant. Dissatisfied by the response of the CPIO, the Complainant approached the Commission.

RTI – 4 File No. CIC/ONGCL/C/2018/630785-BJ

Date of filing of RTI application	01.08.2018
CPIO's response	07.09.2018
Date of filing the First appeal	Not on Record
First Appellate Authority's response	Not on Record
Date of diarised receipt of Complaint by the Commission	Nil

FACTS:

The Complainant vide his RTI application sought information on 02 points regarding certified copies of file noting pertaining to his email dated 15.06.2018 addressed to CMD – ONGC along with daily progress from the date of receipt till date of this application mentioning names & designations of officials with whom the email was lying during this period and the date wise period with each official and details of action taken by him/her and action taken report by the concerned official.

The CPIO, vide its letter dated 07.09.2018 stated that no information had been sought as defined u/s 2(f) of the RTI Act, 2005. Dissatisfied by the response of the CPIO, the Complainant approached the Commission.

RTI – 5 File No. CIC/ONGCL/C/2018/630787-BJ

Date of filing of RTI application	01.08.2018
CPIO's response	07.09.2018
Date of filing the First appeal	Not on Record
First Appellate Authority's response	Not on Record
Date of diarised receipt of Complaint by the Commission	Nil

FACTS:

The Complainant vide his RTI application sought information on 04 points regarding proof of Grievance No. PMOPG/E/2018/0288306 dated 15.06.2018 disposed off on 25.07.2018 based upon which official had concluded that the Grievance pertains to RTI matter hence could not be redress as CPGRAMS; name and designation of the Grievance Officer who had disposed off the Grievance along with copy of file noting pertaining to subject Grievance and other issues related thereto.

The CPIO, vide its letter dated 07.09.2018 provided a point wise response to the Complainant. Dissatisfied by the response of the CPIO, the Complainant approached the Commission.

RTI – 6 File No. CIC/ONGCL/C/2018/631104-BJ

Date of filing of RTI application	09.09.2018
CPIO's response	11.09.2018
Date of filing the First appeal	Not on Record
First Appellate Authority's response	Not on Record
Date of diarised receipt of Complaint by the Commission	Nil

FACTS:

The Complainant vide his RTI application sought information on 03 points regarding certified copies of file number in which his Email Dated 15.6.18 addressed to CMD – ONGC had been filed; all documents executed, prepared, issued and received along with file noting and signatures of officers and other issues related thereto.

The CPIO, vide its letter dated 11.09.2018 stated that no file was maintained on the e-mail. Further, the CPIO stated that no information had been sought and only a grievance had been expressed. Dissatisfied by the response of the CPIO, the Complainant approached the Commission.

RTI – 7 File No. CIC/ONGCL/C/2018/631130-BJ

Date of filing of RTI application	09.09.2018
CPIO's response	11.09.2018
Date of filing the First appeal	Not on Record
First Appellate Authority's response	Not on Record
Date of diarised receipt of Complaint by the Commission	Nil

FACTS:

The Complainant vide his RTI application sought information on 03 points regarding the email dated 26.06.2018 addressed to the CMD-ONGC; certified copies of daily progress from the date of receipt mentioning names & designations of officials with whom the email was lying during this period and the date wise period with each official and the details of action taken by him/her; certified copies of all documents executed, prepared, issued and received along with file noting and signature of officers, etc.

The CPIO, vide its reply dated 11.09.2018, provided a point wise response wherein it was stated that no record/ATR was available. Dissatisfied by the response of the CPIO, the Complainant approached the Commission.

RTI – 8 File No. CIC/ONGCL/C/2018/631138-BJ

Date of filing of RTI application	10.09.2018
CPIO's response	11.09.2018
Date of filing the First appeal	Not on Record
First Appellate Authority's response	Not on Record
Date of diarised receipt of Complaint by the Commission	Nil

FACTS:

The Complainant vide his RTI application sought information on 03 points pertaining to the Email reminder dated 12.7.18 addressed to FAA-ONGC; file noting pertaining to the same; daily progress from the date of receipt till date of this application mentioning names & designations of officials with

whom the email was lying during this period and date wise period with each official and details of action taken by him/her and other issues thereto.

The CPIO, vide its reply dated 11.09.2018, provided a point wise response wherein it was stated that no email/record was available. Dissatisfied by the response of the CPIO, the Complainant approached the Commission.

RTI – 9 File No. CIC/ONGCL/C/2018/631206-BJ

Date of filing of RTI application	25.08.2018
CPIO's response	12.09.2018
Date of filing the First appeal	Not on Record
First Appellate Authority's response	Not on Record
Date of diarised receipt of Complaint by the Commission	Nil

FACTS:

The Complainant vide his RTI application sought information on 03 points regarding file noting pertaining to his Email dated 27.04.2018 addressed to FAA – ONGC; daily progress from the date of receipt till date of this application mentioning names & designations of officials with whom the email was lying during this period and date wise period with each official and details of action taken by him/her, etc.

The CPIO, vide its reply dated 12.09.2018 provided a point wise response wherein it was stated that no file is maintained on the said email and that no such record was available. Dissatisfied by the response of the CPIO, the Complainant approached the Commission.

RTI – 10 File No. CIC/ONGCL/C/2018/631263-BJ

Date of filing of RTI application	10.09.2018
CPIO's response	12.09.2018
Date of filing the First appeal	Not on Record
First Appellate Authority's response	Not on Record
Date of diarised receipt of Complaint by the Commission	Nil

FACTS:

The Complainant vide his RTI application sought information on 03 points regarding the date and diary number under which his First Appeal Dated 28.6.2018 was received by the office of FAA along with the certified copy of the Appellate Order, if any; Name and Designation of the official responsible, present status of the Appeal, copies of all the note sheets and correspondence pages of the file in which it was dealt with along with expected Date by which the Appellate Authority's standing order would be passed, etc.

The CPIO, vide its reply dated 12.09.2018 stated that First Appeal of the Complainant dated 28.06.2018 was received in the office of FAA on 03.07.2018 and no file was there on the subject. Dissatisfied by the response of the CPIO, the Complainant approached the Commission.

HEARING:

Facts emerging during the hearing:

The following were present:

Complainant: Mr. Varun Krishna through WhatsApp;

Respondent: Mr. K. S. Sonkar, DGM (Legal) & Nodal Officer, New Delhi through WhatsApp:

The Complainant reiterated the contents of the RTI applications and stated that wrong and misleading information was furnished by the CPIO which is against the provisions of the RTI Act, 2005. In its reply, the Respondent reiterated the submissions of the CPIO and feigned ignorance of the substantive issues involved in the said RTI applications. It was noted by the Commission that the First Appeal had not been filed in all these cases which was confirmed by the Complainant and it was deposed that the First Appeal remained time barred. No further justification was given for not complying with the laid down judicial procedure in such matters. It was however alleged that the Respondent Public Authority meted out a casual and callous treatment in handling all such RTI applications. On perusal of the records of the RTI application as also the replies furnished by the Respondent, it was evident that due diligence had not been exercised in examining the contents of the RTI application and that a routine replies were given without application of mind. Having examined each of the files referred to above, it was noticed that the Complainant had sought specific information with regard to his e-mail or application marked to the concerned official including CMD and the action taken thereon which was set-aside in a routine manner with total disregard to the principle of natural justice as also the provisions contained in the RTI Act, 2005.

The Commission felt that correct and timely response is the essence of the RTI mechanism enacted to ensure transparency and accountability in the working of Public Authorities. In this context, the Commission referred to the decision of the Hon'ble Delhi High Court in Mujibur Rehman vs Central Information Commission (W.P. (C) 3845/2007)(Dated 28 April, 2009) wherein it had been held as under:

*“14.....The court cannot be unmindful of the circumstances under which the Act was framed, and brought into force. It seeks to foster an "openness culture" among state agencies, and a wider section of "public authorities" whose actions have a significant or lasting impact on the people and their lives. **Information seekers are to be furnished what they ask for, unless the Act prohibits disclosure; they are not to be driven away through sheer inaction or filibustering tactics of the public authorities or their officers. It is to ensure these ends that time limits have been prescribed, in absolute terms, as well as penalty provisions. These are meant to ensure a culture of information disclosure so necessary for a robust and functioning democracy.**”*

With regard to providing a clear and cogent response to the Complainant, the Commission referred to the decision of the Hon'ble Delhi High Court in J P Aggarwal v. Union of India (WP (C) no. 7232/2009 wherein it was held that:

“ 7“it is the PIO to whom the application is submitted and it is who is responsible for ensuring that the information as sought is provided to the applicant within the statutory requirements of the Act. Section 5(4) is simply to strengthen the authority of the PIO within the department; if the PIO finds a default by those from whom he has sought information.

The PIO is expected to recommend a remedial action to be taken”. The RTI Act makes the PIO the pivot for enforcing the implementation of the Act.”

8.....The PIO is expected to apply his / her mind, duly analyse the material before him / her and then either disclose the information sought or give grounds for non-disclosure.”

The Hon'ble Delhi High Court in the case of Shri Vivek Mittal v. B.P. Srivastava, W.P.(C) 19122/2006 dated 24.08.2009 had upheld the view of the CIC and observed

“.....that a CPIO cannot escape his obligations and duties by stating that persons appointed under him had failed to collect documents and information. The Act as framed, casts obligation upon the CPIOs and fixes responsibility in case there is failure or delay in supply of information. It is the duty of the CPIOs to ensure that the provisions of the Act are fully complied with and in case of default, necessary consequences follow”.

Furthermore, the Hon'ble High Court of Delhi in the matter of R.K. Jain vs Union of India, LPA No. 369/2018, dated 29.08.2018, held as under:

“9..... That apart, the CPIO being custodian of the information or the documents sought for, is primarily responsible under the scheme of the RTI Act to supply the information and in case of default or dereliction on his part, the penal action is to be invoked against him only.

Furthermore, in OM No. 20/10/23/2007-IR dated 09.07.2009, while elaborating on the duties and responsibilities of the FAA, it was stated that:

“3. Deciding appeals under the RTI Act is a quasi judicial function. It is, therefore, necessary that the appellate authority should see that the justice is not only done but it should also appear to have been done. In order to do so, the order passed by the appellate authority should be a speaking order giving justification for the decision arrived at.”

The Commission also noted that it should be the endeavour of the CPIO to ensure that maximum assistance should be provided to the RTI applicants to ensure the flow of information. In this context, the Commission referred to the OM No.4/9/2008-IR dated 24.06.2008 issued by the DoP&T on the Subject “*Courteous behavior with the persons seeking information under the RTI Act, 2005*” wherein it was stated as under:

“The undersigned is directed to say that the responsibility of a public authority and its public information officers (PIO) is not confined to furnish information but also to provide necessary help to the information seeker, wherever necessary.”

With regard to the imposition of penalty on the CPIO/PIO under Section 20 of the RTI Act, 2005, the Commission took 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.”

Furthermore, the High Court of Delhi in the decision of *Col. Rajendra Singh v. Central Information Commission and Anr.* WP (C) 5469 of 2008 dated 20.03.2009 had held as under:

“Section 20, no doubt empowers the CIC to take penal action and direct payment of such compensation or penalty as is warranted. Yet the Commission has to be satisfied that the delay occurred was without reasonable cause or the request was denied malafidely.

.....The preceding discussion shows that at least in the opinion of this Court, there are no allegations to establish that the information was withheld malafide or unduly delayed so as to lead to an inference that petitioner was responsible for unreasonably withholding it.”

It was noted by the Commission that the Complainant had the option of seeking redressal through the First Appeal mechanism which was not availed off by him. No justification was provided regarding not seeking recourse to the laid down judicial mechanism.

DECISION

Keeping in view the facts of the case and the submissions made by both the parties, the Commission expressed its deep displeasure over the poor handling of the RTI matters in the public authority ignoring the spirit of the law. The Commission therefore, cautions the CPIO to exercise due diligence in responding to the RTI applications carefully and diligently failing which penal action under Section 20 (1) of the RTI Act, 2005 could be initiated.

The Commission also instructs the Respondent Public Authority to convene periodic conferences/seminars to sensitize, familiarize and educate the concerned officials about the relevant provisions of the RTI Act, 2005 for effective discharge of its duties and responsibilities.

The Complaints stand disposed accordingly.

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

Authenticated true copy
(अभिप्रमाणित सत्यापित प्रति)

K.L. Das (के.एल.दास)
Dy. Registrar (उप-पंजीयक)
011-26186535 kl.das@nic.in
दिनांक / Date: 23.04.2020

Copy to:

1. The CMD, ONGC Ltd., 5, Nelson Mandela Marg, Vasant Kunj, New Delhi-110070