

Central Information Commission, New Delhi

File No. CIC/SH/A/2014/002174 to CIC/SH/A/2014/002195, CIC/SH/A/2014/002199, CIC/SH/A/2014/002200 to CIC/SH/A/2014/002214, CIC/SH/A/2014/002216, CIC/SH/A/2014/002233, CIC/SH/A/2014/002235, CIC/SH/A/2014/002237, CIC/SH/A/2014/002243 to CIC/SH/A/2014/002248, CIC/SH/A/2014/002250, CIC/SH/A/2014/002254 to CIC/SH/A/2014/002269, CIC/SH/A/2014/002275, CIC/SH/A/2014/002282, CIC/SH/A/2014/002283, CIC/SH/A/2014/002285 to CIC/SH/A/2014/002293, CIC/SH/A/2014/002297 to CIC/SH/A/2014/002306, CIC/SH/A/2014/002308 to CIC/SH/A/2014/002311, CIC/SH/A/2014/002316 to CIC/SH/A/2014/002320, CIC/SH/A/2014/002332, CIC/SH/A/2014/002333, CIC/SH/A/2014/002334, CIC/SH/A/2014/002345, CIC/SH/A/2014/002346, CIC/SH/A/2014/002347, CIC/SH/A/2014/002350, CIC/SH/A/2014/002351, CIC/SH/A/2014/002352, CIC/SH/A/2014/002354, CIC/SH/A/2014/002424, CIC/SH/A/2014/002425, CIC/SH/A/2014/002427 to CIC/SH/A/2014/002430, CIC/SH/A/2014/002436 to CIC/SH/A/2014/002439, CIC/SH/A/2014/002442 to CIC/SH/A/2014/002457, CIC/SH/A/2014/002514, CIC/SH/A/2014/002516 to CIC/SH/A/2014/002518, CIC/SH/A/2014/002520, CIC/SH/A/2014/002526, CIC/SH/A/2014/002533, CIC/SH/A/2014/002535 to CIC/SH/A/2014/002540, CIC/SH/A/2014/002542, CIC/SH/A/2014/002543, CIC/SH/A/2014/002545 to CIC/SH/A/2014/002551, CIC/SH/A/2014/002618, CIC/SH/A/2014/002619, CIC/SH/A/2014/002621, CIC/SH/A/2014/002626, & CIC/SH/A/2014/002664 to CIC/SH/A/2014/002670.

(One Hundred Sixty Five Cases)

Right to Information Act-2005-Under Section (19)

Date of first hearing : 27th August 2015

Date of first order : 31st August 2015

Date of second hearing : 22nd September 2015

Date of final order : 23rd September 2015

Name of the Appellant : M/s Indian Technomac Company Limited,
Through Mr. Rahas Bihari Panda,
Authorised Representative and Company
Secretary, 1107, Vikrant Tower, 4,
Rajendra Place, New Delhi- 110008

Name of the Public Authority : **Central Public Information Officer,
Bank of India
New Delhi Large Corporate Branch, 36,
Janpath, Chandralok Building,
New Delhi- 110001**

Attendance during the hearing on 27.8.2015 and 22.9.2015.

No one was present on behalf of the Appellant.

On behalf of the Respondents, the following were present in person:-

1. Shri H. K. Harish, AGM and CPIO.
2. Advocate Jitendra Kumar.

Information Commissioner : **Shri Sharat Sabharwal**

These files contain appeals in respect of one hundred and sixty five RTI applications, all dated 21.4.2014, filed by Shri Rahas Bihari Panda, Company Secretary, M/s Indian Technomac Company Limited, seeking information relating to the credit facilities availed of by the Company from the Respondent Bank.

2. The RTI applications on File Nos. CIC/SH/A/2014/002174, 2180, 2183, 2185, 2192, 2202, 2204, 2209, 2243, 2245, 2254, 2261, 2263, 2265, 2267, 2269, 2275, 2292, 2305, 2306, 2317, 2332, 2333, 2334, 2345, 2346, 2347, 2350, 2352, 2427, 2430, 2448, 2451, 2452, 2514, 2538, 2539, 2540, 2543, 2545, 2548, 2618, 2619, 2626, 2664, 2665, 2668 & 2669 (forty eight) seek information in the form of

clarifications/opinions/reasons in the context of credit facilities availed of by M/s Indian Technomac Company Ltd.

3. The RTI applications on File Nos. CIC/SH/A/2014/002186, 2193, 2194, 2195, 2199, 2236, 2257, 2264, 2266, 2268, 2621 & 2667 (twelve files) seek information regarding FDR of Rs. 175.00 Crores of the Company.

4. The RTI applications on File Nos. CIC/SH/A/2014/002351 & 2542 (two files) seek information regarding adhoc facility of Rs. 50.00 crores sanctioned to the Company.

5. The RTI applications on File Nos. CIC/SH/A/2014/002184, 2187, 2214, 2424, 2425, 2443, 2535 & 2536 (eight files) seek information regarding proposal of the Company concerning interchangeability of NFB limits to FB limits.

6. The RTI applications on File Nos. CIC/SH/A/2014/002207, 2210, 2233, 2450, 2453, 2551, 2670, 2444 & 2446 (nine files) seek information regarding the reasons for not responding to the letters written by the Company to DGM/ Executive Director/ Chairman & Managing Director of the Bank and the Officials of the bank, copies of which were sent to the Respondent bank.

7. The RTI applications on File Nos. CIC/SH/A/2014/002282, 2303, 2439, 2442 & 2445 (five files) seek information regarding policy/guidelines of the RBI and

bank with regard to credit facilities to the Company, assesment of working capital, period within which proposal has to be granted/sanctioned by the bank, diversion of funds by the bank itself from the account of the Company and related issues.

8. The RTI applications on File Nos. CIC/SH/A/2014/002176, 2177, 2179, 2188, 2201, 2206, 2216, 2248, 2454, 2520 & 2526 (eleven files) seek information regarding appointment of Auditors, payment of their fees etc.

9. The RTI applications on File Nos. CIC/SH/A/2014/002178, 2247, 2256, 2259, 2287, 2289, 2428, 2429, 2436, 2456, 2516, 2517, 2537 & 2550 (fourteen files) seek information regarding NFB limits granted to the Company.

10. The RTI applications on File Nos. CIC/SH/A/2014/002293, 2297 & 2310 (three files) seek information regarding syndication of loan by the bank.

11. The RTI applications on File Nos. CIC/SH/A/2014/002181 & 2189 (two files) seek information regarding action taken on the renewal proposal of the Company.

12. The RTI applications on File Nos. CIC/SH/A/2014/002255, 2262 & 2666 (three files) seek information regarding proposal of the Company for the assesment of working capital and enhancement of the same for the financial year 2013-14.

13. The RTI applications on File Nos. CIC/SH/A/2014/002205 & 2286 (two files) seek information regarding visit of bank officials to the Paonta Sahib Unit of the Company.

14. The RTI applications on File Nos. CIC/SH/A/2014/002283 & 2290 (two files) seek information regarding sanctioning of Adhoc limits.

15. The RTI applications on File Nos. CIC/SH/A/2014/002285, 2308, & 2437 (three files) seek information regarding recommendation notes made for sanction and syndication of the project of the Company to be set up at Paonta Sahib, HP.

16. The RTI applications on File Nos. CIC/SH/A/2014/002211, 2212, & 2213 (three files) seek information regarding the fixed deposit of Rs. 95.00 lacs of the Company.

17. The RTI applications on File Nos. CIC/SH/A/2014/002175, 2190, 2200, 2203, 2235, 2316 & 2457 (seven files) seek information regarding Joint Lenders Meeting (JLM) held on 1.2.2014 at the Head Office of Oriental Bank of Commerce at Gurgaon with respect to the Company.

18. The RTI applications on File Nos. CIC/SH/A/2014/002318 & 2319 (two files) seek copies of letters written by the bank about the Company to Reserve Bank of India.

19. The RTI applications on File Nos. CIC/SH/A/2014/002291 & 2298 (two files) seek information regarding sanction of proposals of the Company.

20. The RTI applications on File Nos. CIC/SH/A/2014/002300, 2301, 2302, 2304, 2311, 2354 & 2546 (seven files) seek information regarding Syndication of Project funding by way of ECB for a sum of US\$ 87 Million.

21. The RTI applications on File Nos. CIC/SH/A/2014/002288 & 2299 (two files) seek information regarding classification of the Company's account as NPA by the Auditors.

22. The RTI applications on File Nos. CIC/SH/A/2014/002208, 2246, 2447, 2250, 2258, 2266 & 2518 (seven files) seek information regarding Forensic Audit by Saraswat Bank.

23. The RTI application on File No. CIC/SH/A/2014/002320 seeks information regarding reasons for non release of LC limits to regularize the account in the month of March 2014.

24. The RTI application on File No. CIC/SH/A/2014/002547 seeks information regarding observations of the project appraisal team and file notings/correspondance with regard to decision of the Competent Authority on the proposal of the Company.

25. The RTI application on File No. CIC/SH/A/2014/002244 seeks information on six points regarding release of the mortgaged land.

26. The RTI application on File No. CIC/SH/A/2014/002309 seeks copy of approval of the Competent Authority of the bank, which authorized the circulation of the letter of invitation to other banks regarding the big proposal of the Company in the month of November 2011.

27. The RTI application on File No. CIC/SH/A/2014/002438 seeks information regarding declining note of the Competent Authority with regard to sanction of Project Term Loan.

28. The RTI application on File No. CIC/SH/A/2014/002449 seeks information regarding treatment of 1.75 Crores lying in credit of Company's account as LC margin on 24.10.2013.

29. The RTI application on File No. CIC/SH/A/2014/002455 seeks information regarding name of Competent Authority of the bank authorised to deal with grievances of the Company.

30. The RTI application on File No. CIC/SH/A/2014/002533 seeks information regarding comparison between the regular sanction of working capital limits and the adhoc working capital facilities sanctioned to the Comany by the Respondent Bank.

31. The RTI application on File No. CIC/SH/A/2014/002549 seeks information regarding details of the banks who have responded favourably with respect to circulation of the invitation letter to participate in the Project funding.

32. The RTI application on File No. CIC/SH/A/2014/002182 seeks information regarding renewal of working capital of the Company.

33. The RTI application on File No. CIC/SH/A/2014/002191 seeks information regarding copy of notings concerning the reasons for renewal and non-release of NFB facilities.

34. The CPIO responded to all the RTI applications on 12.05.2014, stating that the RTI Act gives the right to information only to the citizens of India and not to corporations, associations and companies etc., which are legal entities/ persons, but not citizens. He cited the following decisions of the Commission in support of his response:-

(i) Inder Grover vs. Ministry of Railways (CIC/OK/A/2006/00121 dated 27.6.2006).

(ii) D. C. Dharewa & Company Vs. ICAI (560/IC/2007 dated 22.2.2007).

(iii) The Secretary, Cuttack Tax Bar Association vs. CIT VII (CIC/AT/A/2007/00410 dated 3.3.2008).

The CPIO further stated that no Board Resolution of the Company had been furnished through which Shri Rahas Bihari Panda was authorised to seek information.

The CPIO cited paragraph 17 of the Guide on the Right to Information Act 2005 published by the Department of Personnel & Training in 2009, which reads as follows:-

“Supply of information to Associations etc.

17. *The Act gives the right to information only to the citizens of India. It does not make provision for giving information to Corporations, Associations, Companies etc. which are legal entities /persons, but not citizens. However, if an application is made by an employee or office bearer of any Corporation, Association, Company, NGO etc. indicating his name and such employee/office bearer is a citizen of India, information may be supplied to him/ her. In such cases, it would be presumed that a citizen has sought information at the address of the Corporation etc.”*

The CPIO stated that banks are under obligation to maintain confidentiality and secrecy about the accounts of their customers under Section 13 of the Banking Companies (Acquisition and Transfer of Undertakings) Act 1970. He further stated that the information sought in the above RTI applications was held by the bank in commercial confidence and the disclosure of the same would harm the competitive

position of the bank. Therefore, the information was also exempted from disclosure under Section 8 (1) (d) of the RTI Act.

35. Not satisfied with the reply of the CPIO, the Appellant filed appeals in all the cases to the First Appellate Authority. The appeals were disposed of by the FAA vide his order dated 25.6.2014, in which he upheld the decision of the CPIO to deny the information. He stated that a company per se is not a citizen and is not entitled to seek information under the RTI Act. The office bearer seeking the information is to be treated as a citizen and his address will be treated as the address of the company. Therefore, the said office bearer, who is a citizen, is to be provided information under the RTI Act, if not exempted under Section 8 of the Act. The said citizen becomes a third party to the company and is, therefore, denied the information. Further, the exception to Section 13 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 cannot be interpreted as a right under the RTI Act, as the RTI Act exempts disclosure of information which is of commercial confidence.

36. M/s Indian Technomac Company Limited through Mr. Rahas Bihari Panda Authorised Representative and Company Secretary filed second appeals dated 22.9.2014 to the Commission in all the cases, in which the following arguments were advanced:-

(i) The information has been sought by the Appellant on behalf of the Company and pertains to the Company itself. The said information is in respect of the credit facilities granted by the Respondent Bank to Indian Technomac Company Ltd.

(ii) The Company per se is not a citizen, but as a legal entity, it is entitled to seek information under the RTI Act, 2005 through its office bearers.

(iii) The RTI applications have been filed on behalf of the Company, bearing the official stamp and common seal of the Company and submitted on the Company's official letterhead. A board resolution dated 27.1.2014 has been attached to the second appeals, making it clear that the Company has authorised the Appellant, Mr. Rahas Bihari Panda to prefer the RTI applications on its behalf.

(iv) The Appellant has cited the following cases in favour of the request for information:-

(a) P. K. Bansal vs. Bank of India [Appeal No. 1400/ICPB/2008, order dated 31.1.2008].

(b) D. R. Singh vs. Central Warehousing Corporation [Appeal No. 1586 to 1588/ICPB/2008, order dated 3.3.2008].

(v) Citing paragraph 17 of the Guide on the Right to Information Act 2005, issued by the Department of Personnel & Training in 2009, the Appellant has stated

that in accordance with this guide, an office bearer may seek information on behalf of a Company.

(vi) The RTI applications do not fall within the ambit of Section 8 (1) (d) of the RTI Act.

Hearing on 27.8.2015

37. No one was present on behalf of the Appellant Company. The Registry has informed us that the notice sent for the hearing has been received back with the postal authority's notation "left". The Deputy Registrar tried to make enquiries about the correct address of the Appellant on the phone numbers provided in the second appeals, but a message was received that the phone numbers in question did not exist. Thereafter, the notice was scanned and e-mailed at the e-mail address given in the second appeals. However, in spite of the above, no one turned up to represent the Appellant Company.

38. At the outset of the hearing, the Respondents stated that they have not received copies of the second appeals filed by the Appellant. They were informed that identical second appeals have been filed in all the 165 cases before us. Therefore, a copy of one of the appeals would be provided to them. This was done by the Registry immediately after the hearing. The Respondents brought to our

notice a decision dated 5.9.2014 of the High Court of Delhi in R. K. Sharma & Anr. Vs. Bank of India & Anr. [W.P. (C) 5856/2014] and stated that pursuant to this decision, information as available was provided to Dr. R. K. Sharma, Managing Director, M/s Indian Technomac Company Limited, vide their letter dated 8.10.2014. It is noted that the decision of the High Court was in the context of a letter dated 12.7.2014, addressed by the petitioner R. K. Sharma to the Respondent Bank and, therefore, in a matter different from the one before us regarding the RTI applications filed by Rahas Bihari Panda, Company Secretary, Indian Technomac Company Limited. The Respondents were asked to make their submissions regarding the matter before the Commission and they sought some more time to do so.

39. In view of the foregoing, the matter is adjourned to be heard again at **10.30 a.m. on September 22, 2015** at **Room No. 305, 2nd Floor, August Kranti Bhawan, Bhikaji Cama Place, New Delhi – 110066**. The written submissions of the Respondents should reach the Commission's office latest by **15.9.2015**. The Respondents should forward a copy of their written submissions by post to the Appellant also.

Hearing on 22.9.2015

40. The matter came up again on 22.9.2015. No one was present on behalf of the Appellant. The Respondents were represented by Shri H. K. Harish, AGM and CPIO and Advocate Jitendra Kumar. The Respondents had submitted their written

submissions dated 15.9.2015 to the Commission, in which they reiterated the grounds cited by the CPIO and the FAA to deny information in response to the above mentioned RTI applications. With reference to the decision of the High Court of Delhi, mentioned in paragraph 38, the Respondents have enclosed a copy of the writ petition filed by Dr. R. K. Sharma, Managing Director of M/s Indian Technomac Company Ltd., which led to the decision dated 5.9.2014 of the High Court. It is seen from the writ petition that Dr. R. K. Sharma made references to the RTI applications filed to the Respondents and the replies of the CPIO and the FAA. He stated that M/s Indian Technomac Company Ltd. were in the process of filing appeals before the Central Information Commission against the order dated 25.6.2014 of the FAA. He made the following prayers to the High Court:-

- (i) Pass an order in the nature of Writ of Mandamus or such other appropriate Writ, order or directions directing the bank to furnish all the information as sought in the letter 12.7.2014 from Dr. R. K. Sharma, Managing Director. (The Respondents have submitted that this letter was not filed under the RTI Act, 2005.)
- (ii) Pass an order in the nature of Writ of Prohibition or such other appropriate writ, order or directions restraining the Respondent No. 2 (Registrar of Companies, Chandigarh and Shimla) from taking any coercive steps / action against Dr. R. K. Sharma and M/s Indian Technomac Company Ltd.

- (iii) Pass Writ in the nature of Mandamus or such other appropriate writ or order directing Bank of India to act swiftly in cases of Right to Information Act, 2005.

With reference to the prayer at (i), the High Court stated that in his letter dated 12.7.2014, the petitioner had posed 184 queries, which were not only prolix but also argumentative. The Court observed that in view of the above, the relief prayed for by the petitioner that the Respondent Bank be directed to answer the queries could not be granted. However, if the petitioner framed concise and relevant queries and submitted the same to the bank within twenty one days from the date of the order, the bank shall respond to the same within two weeks thereafter. The Court clarified that in the event, the bank did not have information with respect to the queries raised, it shall, candidly, state so. The Court observed that the second prayer made in the petition was not pressed by the Counsel of the Petitioner and made no observation concerning the third prayer. It is noted from the submissions of the Respondents that pursuant to the above decision of the High Court, information as available was provided to Dr. R. K. Sharma, Managing Director, M/s Indian Technomac Company Ltd., vide their letter dated 8.10.2014. From the above, it is clear that the decision of the High Court was with regard to the information sought vide the letter dated 12.7.2014 from Dr. R. K. Sharma, Managing Director and did not touch upon the RTI applications and the appeals thereon, which are under consideration in this order.

41. The representatives of the Respondents reiterated the replies of the CPIO and the FAA, denying the information.

42. We have considered the records placed before us and the submissions made by the Respondents. The RTI applications were filed by Shri Rahas Bihari Panda, Company Secretary, M/s Indian Technomac Company Ltd. The appeals to the FAA were filed by Shri Rahas Bihari Panda Authorised Representative and Company Secretary, Indian Technomac Company Ltd. The second appeals to the Commission have been filed in the name of "M/s Indian Technomac Company Ltd. Through Mr. Rahas Bihari Panda Authorised Representative and Company Secretary." The RTI applications and appeals to the FAA were filed on the letterhead of the company and the above documents, as well as the second appeals to the Commission bore the stamp and seal of the company. In the arguments advanced by the company in its second appeals, it is clearly acknowledged that the RTI applications had been filed on behalf of the Company, bearing the official stamp and common seal of the company and submitted on the company's official letterhead. It is further stated that the company per se is not a citizen, but as a legal entity, it is entitled to seek information under the RTI Act 2005 through its office bearers. The Appellant Company has further argued that in view of the above, the information sought did not come under the purview of commercial confidence or trade secret, covered by Section 8 (1) (d), as the information related to the company itself and not

to a third party. The above submissions of the Appellant Company leave no doubt whatsoever that the information was sought by the company.

43. In the above context, we note paragraph 17 of the Guide on the Right to Information Act 2005, issued by the Department of Personnel & Training as per its O. M. No. 1/4/2009-IR dated 5.10.2009 (reproduced in paragraph 34 above). It may be mentioned that the same paragraph finds a place at Sl. No. 16 in a subsequent Guide issued by the Department of Personnel & Training vide their O. M. No. 1/32/2013-IR dated 28.11.2013. The above paragraph makes it amply clear that the RTI Act gives the Right to Information only to the Citizens of India and does not make provision for giving information to Corporations, Associations, Companies etc. which are legal entities / persons, but not citizens. However, if an application is made by an employee or office bearer of any corporation, association, company, NGO etc., indicating his name and such employee / office bearer is a citizen of India, information may be supplied to him / her on the presumption a citizen has sought information at the address of the corporation etc. The above presumption cannot be made in the instant case because the company, viz. Indian Technomac Company Ltd. through Mr. Rahas Bihari Panda, Authorised Representative and Company Secretary was the RTI applicant and filed subsequent appeals. Even if it is assumed for the sake of argument that the information was sought by Mr. Rahas Bihari Panda at the address of the company, the application can at best be regarded as an

application, filed by him in his individual capacity, in which case he would become a third party to the information sought by him, bringing into play Section 8 (1) (e) of the RTI Act, because a bank is in a fiduciary relationship with its customers, viz. M/s Indian Technomac Company Ltd. in this case. With the second appeal, the Appellant Company has enclosed a copy of the minutes of the Finance Committee of the Board of Directors of M/s Indian Technomac Company Ltd., held on 27.1.2014 at its corporate office. The relevant extracts submitted with the second appeal read as follows:-

“RESOLVED THAT Mr. Rahas Bihari Panda, Company Secretary of the Company be and is hereby authorised to file applications under The Right to Information Act, represent, produce evidence and appear before the High Court(s) / Tribunal(s)/ Forum(s)/ Central Information Commission / District Court of Law or any other appropriate Judicial / Quasi Judicial authority for and on behalf of and in the name of Indian Technomac Company Limited.

RESOLVED FURTEHR THAT Mr. Rahas Bihari Panda, Company Secretary of the Company be and is hereby further authorised to appoint/ hire / retain lawyers / attornies / solicitors and to appear, make statements, sign and file the RTI applications, RTI appeals, rejoinders, affidavits, any such other documents/ pleadings, vakalatnama, relevant documents, deeds, agreements and such other writings as may be required to give effect to this resolution and to do such acts, deeds and things incidental and ancillary thereto.”

The above resolution reinforces the fact that the applications and appeals were filed to get information for the company. In any case, this fact is not in doubt because of the name, as mentioned above, in which the RTI applications and the appeals were filed.

44. The Appellant Company has cited the Commission's decisions dated 31.1.2008 and 3.3.2008, mentioned in paragraph 36 above. In the decision dated 31.1.2008, the Commission made the following observations:-

“At the outset, it was brought to the notice of CPIO that this Commission has been taking a consistent view in respect of companies, firms and association of firms that directors, partners and office bearers can seek information under the RTI Act in the name of the Company, firm, association of firm respectively even though these entities may not be construed as a citizen in terms of the RTI Act. This is with a view to ensure that the beneficial provisions of the RTI Act are not denied on restricted definition.”

In the order dated 3.3.2008, the Commission observed as follows:-

“Apart from that they have also taken a stand since the applications have been sent in the capacity of President of the Trade Union, which is not as per the definition of 'citizen' under RTI Act and therefore, they have not responded to those applications. In this connection, the Commission has taken a consistent view that in respect of companies / firms / association of firms, directors/ partners/ office-bearers respectively can seek information under RTI Act and in the name of the Company/firm/ association of firms, even though these entities

may not be construed as 'citizen' in terms of the RTI Act, with a view to ensure that the beneficial provisions of the RTI Act are not denied on a restricted definition."

45. The Respondents, on the other hand, have referred to three decisions of the Commission, mentioned in paragraph 34 above. In its decision dated 27.6.2006 in Shri Inder Grover vs. Ministry of Railways , the Commission observed as follows:-

"After hearing both the parties, the Commission observed that it would have been in order if the CPIO had declined information under Section 3 of the Act as the Applicant had applied as the Managing Director of a company and not as citizen of India...."

In its decision dated 22.2.2007 in D. C. Dharewa and Company, Chartered Accountants vs. Institute of Chartered Accountants of India, the Commission stated:-

"However, the appellant, being a firm / company itself, is not covered under Section 3 of the RTI Act, as an information seeker."

In the decision dated 3.3.2008 in The Secretary The Cuttack Tax Bar Association vs. The Commissioner of Income Tax-VII, a three member bench of the Commission made the following observations:-

"In the present case, the appellants have come as a distinct legal entity. From the records it appears that the application under the Right to Information Act

was submitted on 6th September, 2006 in the name of the Association. The application was signed by the Secretary, Shri Goliath Pasha whose name as an individual can be ascertained only from the Letter Head of the Association and his signature per-se does not signify identity of the signatory. The first appeal has also been filed, not in the name of any individual citizen, but by the Secretary, Cuttack Bar Association and it has been signed by Shri Natbar Panda who seems to have subsequently taken over as Secretary of the Association. Similarly, the 2nd appeal before this Commission has not been filed in the name of any individual citizen but by the Secretary of the Cuttack Bar Association and it has been signed by Shri Natbar Panda as Secretary for and on behalf of the Association. From this, it is clear that the signatories to the application and the appeal under the R.T.I. Act are two distinct individuals. It, therefore, leaves no doubt that it is the Association which is the applicant and the appellant as a distinct legal entity and the Association or its Secretary in its official designation cannot be treated as "citizen" under the law."

46. The issue of information sought through an RTI application on behalf of a legal entity was also considered by yet another three member bench in its decision No. CIC/AD/A/2012/000570, CIC/LS/A/2011/003966, CIC/LS/A/2012/001314 and CIC/LS/A/2012/001120 dated 20.5.2013 in '1. Shri Kuljit Singh, 2. Shri Saurabh Jain vs. Power Finance Corporation Ltd.' The Respondent in that case produced before the Commission an extract of the minutes of the meeting of the Board of Directors of M/s Ernst & Young authorising Shri Kuljit Singh to seek under RTI relevant information and copies of documents on behalf of the company. The Appellant, Shri Kuljit Singh,

on the other hand stated that the decision of the Board Members is an internal matter and that he was a citizen of India and had the right to seek information from the Respondents under the RTI Act. After considering various aspects of the matter, the three member bench made the following observations:-

“We are not inclined to accept the submission made by the counsel for the Respondent. It is true that appellant has sought the impugned information on behalf of M/s. Ernst & young and has regularly appeared before the Commission to canvass his case. The fact, however, remains that appellant is a citizen of India and this proposition has not been challenged on behalf of PFCL. Even if the appellant is seeking this information on behalf of M/s Ernst & Young, he is doing so as a citizen of India u/s 3 of the Act. The Commission, therefore, is not inclined to take a hyper technical view in the matter. In view of the precedent cited by the counsel for the appellant adverted to herein above and also by taking a pragmatic view in the matter, we hold that the appellant is well within his rights u/s 3 to seek the impugned information.”

47. From the above decisions, it is clear that the Commission has been inclined to uphold the right of a citizen to obtain information relating to a legal entity from a public authority under the RTI Act, on the basis of an authorization given by

the Board of Directors or governing body of that entity. However, the crux of the matter is that the information should have been sought by a citizen in his individual capacity. In view of the position stated in paragraphs 42 and 43 above, in the instant case, there is no doubt whatsoever that M/s Indian Technomac Company Ltd. were the RTI applicant, the Appellant before the FAA and are the Appellant before the Commission. As a legal entity, they cannot seek information under the RTI Act.

48. In the light of the foregoing, we uphold the decision of the Respondents to deny the information in response to the one hundred and sixty five RTI applications under consideration in this order.

49. With the above observations, the one hundred and sixty five appeals are disposed of.

50. Copies of this order be given free of cost to the parties.

Sd/-
(Sharat Sabharwal)
Information Commissioner

Authenticated true copy. Additional copies of orders shall be supplied against application and payment of the charges prescribed under the Act to the CPIO of this Commission.

(Vijay Bhalla)
Deputy Registrar

