

Central Information Commission, New Delhi
File No. CIC/BS/A/2012/000940/SH
Right to Information Act-2005-Under Section (19)

Date of hearing : **3rd April 2014**

Date of decision : **3rd April 2014**

Name of the Appellant : **Sh. Arun Kumar Sinha,**
Flat No. 113, Type IV, CGO Quarters, 1
Belvedere Estate, Alipore, Kolkata-700 027

Name of the Public Authority : **Central Public Information Officer,**
National Library, Govt. of India,
Belvedere, Kolkata-27

The Appellant was present at the NIC Studio, Kolkata.

On behalf of the Respondents, Shri Syed Abuzar, CPIO was present at the NIC Studio, Kolkata.

Information Commissioner : **Shri Sharat Sabharwal**

This matter pertains to an RTI application dated 24.2.2012 filed by the Appellant, seeking information on a total of nine points relating to action taken, file notings etc. on complaints against a third party employee of the Respondents. The CPIO responded on

23.3.2012, expressing his inability to provide any information as the concerned Sections had not provided it to him. Not satisfied with the reply of the CPIO, the Appellant filed an appeal to the First Appellate Authority on 9.4.2012. In his order dated 7.5.2012, the FAA directed the CPIO to provide the information. The Appellant approached the CIC in second appeal on 29.6.2012.

2. We heard the submissions of the Appellant and the Respondents. The Appellant stated that he had still not received the information sought by him. The Respondents submitted that the file, on which the complaints in question were dealt with, had gone missing and the matter had been reported to the police. Therefore, they were unable to provide the information sought by the Appellant. While it is obvious that the Respondents need to investigate seriously the matter of the missing file, the Commission would not go into this issue. The pertinent issue before us is whether the Appellant is entitled to the information that he has sought regarding action taken / file notings / response of the employee complained against, in the context of complaints against a third party. The Appellant confirmed during today's hearing that the complaints in question were not filed by him. In the above context, we note that in its judgment dated 3.10.2012 in *Girish Ramchandra Deshpande vs. Central Information Commissioner and Ors.*, the Hon'ble Supreme Court of India has made the following observations:-

"13. We are in agreement with the CIC and the courts below that the details called for by the petitioner i.e. copies of all memos issued to the third respondent, show cause notices and orders of censure/punishment etc. are qualified to be personal information as defined in clause (j) of Section 8(1) of the RTI Act. The performance of an employee/officer in an

organization is primarily a matter between the employee and the employer and normally those aspects are governed by the service rules which fall under the expression "personal information", the disclosure of which has no relationship to any public activity or public interest. On the other hand, the disclosure of which would cause unwarranted invasion of privacy of that individual. Of course, in a given case, if the Central Public Information Officer or the State Public Information Officer or the Appellate Authority is satisfied that the larger public interest justifies the disclosure of such information, appropriate orders could be passed but the petitioner cannot claim those details as a matter of right."

3. In the light of the above observation of the Hon'ble Supreme Court, the information concerning complaints against a third party employee is in the nature of personal information as defined in clause (j) of Section 8 (1) of the RTI Act. The Appellant has not established any larger public interest that would warrant the disclosure of this information. Accordingly, we note that no further action is due on the RTI application dated 24.2.2012 of the Appellant.

4. We further note that the order dated 7.5.2012 of the FAA in this case has been passed in a casual manner. This order is in line with the orders of the FAAs, seen by us in some other cases, in which the First Appellate Authority has simply instructed the CPIO to provide the information sought by the Appellant, without examining the RTI request in the light of the provisions of the RTI Act. In view of the foregoing, the Commission would like to remind all the FAAs of their responsibility to pass their orders after due application of mind and careful examination of the RTI application in relation to the provisions of the RTI Act.

5. With the above observations, the appeal is disposed of.

6. 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