

CENTRAL INFORMATION COMMISSION
D- Wing, 2nd Floor,
August Kranti Bhavan, Bhikaji Cama Place,
New Delhi - 110066

Appeal No.CIC/SS/A/2011/000340

PARTIES TO THE CASE:

(Through Video Conferencing)

Appellant : Shri Rameshwar Lal Bagotia
Respondent : Rajasthan Drugs & Pharmaceuticals Limited (A
Government of India Enterprise), Jaipur
Date of Hearing : 06/07/2011

BACKGROUND OF THE CASE:

1. The present matter was scheduled for hearing before the Commission on 06/07/2011 at 1500 hours. The Appellant, Shri Rameshwar Lal Bagotia was present in person at the NIC Centre, Jaipur. The Respondent Company was represented through Shri Santosh Nagar, PIO, Rajasthan Drugs & Pharmaceuticals Limited, who was present in person at the NIC Centre, Jaipur during the above hearing.
2. The Appellant vide his RTI Application dated 01/12/2010 had sought the copy of minutes of Board of Directors (“BoD”) meeting of the Respondent Company as held on 29/11/2010.

3. The CPIO of the Respondent vide his Order dated 20/12/2010 had disposed of the said RTI Application stating that the minutes of the said BoD meeting cannot be given as per provisions of law. There was no provision of the RTI Act which was invoked while denying the information to the Appellant. Thereafter, the Appellant preferred first appeal dated 21/12/2010 under the RTI Act highlighting the same observation as made by the Commission.
4. The FAA of the Respondent Company, i.e. Shri Sharad Gupta vide his letter dated 15/01/2011 had informed the Appellant that the first appeal filed by him would come up for hearing on 19/01/2011 at 1500 hours. However, the Appellant, through his complaint cum second appeal under the RTI Act filed before this Commission on 20/01/2011, had intimated the Commission that his first appeal was never heard by the FAA on the scheduled date and time.

DECISION NOTICE:

5. The Commission has carefully perused through the material placed on record and has considered the submissions made by both the parties during the scheduled hearing.
6. The factual matrix in the present appeal reminds the Commission of its earlier decision in the case of '**Dr. J.P. Singh vs. Housing and Urban**

Development Corpn. Ltd. (HUDCO)’ [[MANU/CI/0138/2007](#)] decided on 08/05/2007 wherein it was held that:

“10. Minutes of Board meetings as such cannot be held to be exempt Under Section 8 (1) of the RTI Act 2005, unless they transgress any of the specific provisions mentioned therein. If that is the case such a specific provision requires to be quoted in denying the information, which has not been done in this case.”

7. The Respondent is a Miniratna Company and a Government of India enterprise and hence, a Public Authority under Section 2 (h) of the RTI Act. Thus, Government of India is a majority shareholder in the Respondent and exercises its shareholder rights under the Companies Act, 1956. As was held in **Mrs. Jayanthi R. Padukone Vs. M/s. I.C.D.S. Ltd. and others** [AIR 1994 Kant 354], that firstly, there is a statutory right of the shareholders as owners of a company in protecting the future of the company, and secondly it is their right to question the action of the Directors, who stand as trustees to the shareholders. Thus, in the course of ensuring that the Respondent Company is functioning properly, the Government can call for the minutes of the general meeting, meeting of the BoD or any other meeting and can hold or maintain the records of such meetings.

8. It is absurd to assume even for the sake of argument that such record of minutes of meeting as discussed above, which can be held or maintained by the Government will not constitute “information” under Section 2 (f) of the RTI Act. Thus, in any case, a citizen has the right to seek such minutes of meetings of a Government enterprise under the provisions of the RTI Act.
9. In the present case, the PIO of the Respondent Company has taken a fresh stand before the Commission that the minutes of the meeting of the BoD held on 29/11/2010 cannot be provided to the Appellant under Section 197 of the Companies Act, 1956. Section 197 of the Companies Act reads as follows:

“197. Publication of reports of proceedings of general meetings - (1) No document purporting to be a report of the proceedings of any general meeting of a company shall be circulated or advertised at the expense of the company, unless it includes the matters required by section 193 to be contained in the minutes of the proceedings of such meeting.

(2) If any report is circulated or advertised in contravention of sub-section (1), the company, and every officer of the company who is in default, shall be punishable, in respect of each offence, with fine which may extend to 1[five thousand rupees].

10. The only prohibition on the publication or circulation of any general meeting of a company is that being at the expense of the Company itself. The records of minutes of meetings of the Respondent Company have been sought by the Appellant under the provisions of the RTI Act and it will be the Appellant who will be paying the requisite expenses for obtaining such records in accordance with the RTI Act. The question of publication of these records of minutes of the meetings at the expense of the Company doesn't even arise in the first place. Furthermore, under Section 193 of the Companies Act, 1956 the minutes of proceedings of general meetings and of the BoD meetings and other meetings are to be kept with the Respondent Company by making entries in its books. Section 193 (1A) itself separates minutes of proceedings of a general meeting from the minutes of proceedings of a meeting of the Board of Directors. Thus, in any contingency, Section 197 does not operate as a bar on disclosing the information as sought by the Appellant herein.

11. Before concluding, it needs to be clarified that disclosure of minutes of meeting of Board of Directors cannot be exempted by seeking the shelter of Section 4 (1) (b) (viii) of the RTI Act. While dealing with the same issue in '**Shri K.G. Shankar Vs. Indian Rare Earths Ltd., Dep't of Atomic Energy**' [[MANU/CI/0264/2008](#)] decided on 07/08/2008, this Commission has held that:

“Such are fit cases for public disclosure Under Section 4(1) (b) (xiii) and not a ground for refusing this disclosure Under Section 4(1)(b)(viii). The latter clause, in fact, demands "a statement of meetings of boards, councils, committees and other bodies" open to the public and whether minutes of their meetings are accessible as such. It does not give a public authority the right to exempt information from disclosure which is possible only under Section 8 (1) and Section 9.”

12. The Commission therefore directs the PIO of the Respondent Company to provide the Appellant with the minutes of the meeting of the Board of Directors of the Respondent Company as held on 29/11/2010 within 15 days of receiving this Order and upon payment of necessary charges. With the above observations and findings, the present Appeal-cum-complaint is disposed of.

Sushma Singh
Information Commissioner
04.08.2011

Authenticated True Copies

K.K. Sharma
OSD & Deputy Registrar

Name & Address of Parties:-

Sh. Rameshwar Lal Bagotia,

48, Ridhi Sidhi Nagar, Newaru Road,

Near 200 Ft. Bypass, Jhotwara,

Jaipur

The PIO/CPIO,

Rajasthan Drugs & Pharmaceuticals Limited,

Road No. 12, V.K.I. Area, Jaipur – 302 013

The First Appellate Authority,

Rajasthan Drugs & Pharmaceuticals Limited,

Road No. 12, V.K.I. Area, Jaipur – 302 013