

CENTRAL INFORMATION COMMISSION
Club Building, Opposite Ber Sarai Market,
Old JNU Campus, New Delhi - 110067.
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Decision No. CIC/AD/A/2010/01235/SG/14429Adjunct
Appeal No. CIC/AD/A/2010/01235/SG

Appellant : Mr. Harinder Dhingra,
D4A/7, DLF Phase I,
Gurgaon-122002

Respondent (1) : Mr. C. M. Sharma
CPIO & Under Secretary
Ministry of Environment and Forest,
CGO Complex, Paryavaran Bhawan,
Lodhi Road, New Delhi 110003

(2): Secretary
Ministry of Environment and Forest,
CGO Complex, Paryavaran Bhawan,
Lodhi Road, New Delhi 110003

RTI application filed on : 25/01/2011
PIO replied : 10/03/2011
First Appeal filed on : 07/03/2011
First Appellate Authority order : No Hearing
Second Appeal filed on : 18/04/2010

Information sought:

1. Is it a fact that Centre sponsors forestation programme of Haryana Districts under Forest Development Agency?
2. Is it a fact that the above mentioned scheme plantations were done at Distt. Jhajjar during last six years?
3. Is it a fact that a two member committee consisting of Mr. AK Srivastava & Mr Shally Ranjan as members was constituted on the orders of Cabinet Secretary of India?
4. Is it a fact that these two members committee has submitted its report?
5. Has this committee found some irregularities?
6. Kindly provide me the copy of that report and I am prepared to deposit the copying charges as prescribed under RTI Act 2005?
7. Has any official charge sheeted in the above mentioned irregularities? If yes, Please provide name of Official so booked?
8. Has than DFO Sh MS Malik also find guilty of irregularities?
9. Has this committee recommended the enquiry from any outside agency to enquire about alleged irregularities at Distt. Jhajjar in the Forest Development Agency Funds?
10. Was there ever any pressure from political bosses or their staff to hush up the matter?

Reply of PIO:

1. It was affirmed as a fact that Centre sponsors Afforestation Programme (Under NAP) of Haryana districts.

2. It was affirmed that 3000 ha Plantation were done at the district of Jahajjar Haryana during last six years (2003-04 to 2008-09).
3. It was informed that Para 3 to 10 of Appellant application does not relates to National Afforestation and Eco- Development Board and the application was sent to Ms. Prakriti Srivastava, CPIO.
4. Delay in providing information was sincerely regretted by CPIO.

Grounds for First Appeal:

The information sought was not provided within 30 days.

Order of the First Appellate Authority:

No Hearing done as yet as alleged by the Appellant.

Grounds for Second Appeal:

1. The information provided by CPIO on 4 Queries was incomplete as alleged by Appellant.
2. The Six Queries were transferred and no response was supplied to Appellant.
3. Delay in providing information by 15 days and transferring queries not related to CPIO after 45 days to the pertinent authority.

Relevant Facts emerging during Hearing on 06 September 2011:

The following were present:

Appellant: Mr. Harinder Dhingra;

Respondent: Ms. Archna Srivastava, CPIO & Under Secretary(NAEB);

“The appellant had filed the RTI application on 25/01/2011 as per the written submissions given by the CPIO Ms. Archna Srivastava the RTI Application was not forwarded to her by the RTI Cell. She also states that she is not aware of her exact work as CPIO. On 07/03/2011 some one told her that there are pending requests under RTI and hence she sent the RTI application to Mr. R. C. Meena, Technical Officer. Mr. Meena informed her on 09/03/2011 the information relating to item 03 to 10 was not available in NAEB and it was not clear which division had formed the Committee mentioned in the RTI application. The RTI application was transferred with respect to these queries to Ms. Prakriti Srivastava on 10/03/2011. No reply has been given by Ms. Prakriti Srivastava to the Appellant and she has sent a letter to Ms. Srivastava only on 30/08/2011 in which she states that no information is available with her.

The appellant states that he has received the information on query-1 & 2 appropriately. From the deposition of the Appellant and the respondents it appears that the Ministry of Environment and Forest has no proper system to ensure that information is given in RTI. Right to Information is a fundamental right of citizens and the Ministry cannot take its duties in a very casual manner as appears to be the case. Further it is clear that PIO Ms. Prakriti Srivastava Dy. Inspector General(WL) has not given any information to the Appellant nor transferred the RTI Application if the information was not held by her. The Commission notes that the Appellant has been unnecessarily harassed because of lack of seriousness by the Ministry in attending to its duties under the RTI Act.

Harassment of a common man by public authorities is socially abhorring and legally impermissible. It may harm him personally but the injury to society is far more grievous. Crime and corruption thrive and prosper in the society due to lack of public resistance. Nothing is more damaging than the feeling of helplessness. An ordinary citizen instead of complaining and fighting succumbs to the pressure of undesirable functioning in offices instead of standing against it. Therefore the award of compensation for harassment by public authorities not only compensates the individual, satisfies him personally but helps in curing social evil. It may result in improving the work culture and help in changing the outlook

The Commission therefore awards a compensation of Rs.1000/- under Section 19(8)(b) of the RTI Act for the loss and detriment suffered by him by the complete lack of systems in the Environment and Forest Ministry. The Appellant had not yet got the information.

The respondent states that she has no idea where the information relating to query 03 to 10 would be available. The Commission under its powers under Section 25(5) of the RTI Act recommends to the Secretary Ministry of Environment and Forest that appropriate steps should be taken to ensure that the RTI applicants are provided information and in case information is not available the Applications are transferred to the proper authority. In the instant case since the PIO before the Commission does not know where the information regarding query 03 to 10 would be located the Commission directs Secretary, Ministry of Environment and Forest to ensure that the information is provided to the Appellant with regards to query-03 to 10 before 30 September 2011.”

Commission’s Decision dated 06 September 2011:

The Appeal was allowed.

“The Commission directs the Secretary, Ministry of Environment and Forest to provide the information on queries 03 to 10 to the Appellant before 30 September 2011.

The Commission also directs Ms. Archana Srivastava, CPIO to ensure that a cheque for compensation of Rs.1000/- is sent to the Appellant before 15 November 2011.

The issue before the Commission is of not supplying the complete, required information by the deemed PIO Ms. Prakriti Srivastava Dy. Inspector General(WL) within 30 days as required by the law.

From the facts before the Commission it is apparent that the deemed PIO is guilty of not furnishing information within the time specified under sub-section (1) of Section 7 by not replying within 30 days, as per the requirement of the RTI Act. It appears that the deemed PIO’s actions attract the penal provisions of Section 20 (1). A show cause notice is being issued to her, and she is directed give her reasons to the Commission to show cause why penalty should not be levied on her.

Ms. Prakriti Srivastava Dy. Inspector General(WL) will present herself before the Commission at the above address on **05 October 2011 at 4.30pm** alongwith her written submissions showing cause why penalty should not be imposed on her as mandated under Section 20 (1). She will also submit proof of having given the information to the appellant.”

Relevant Facts emerging during showcause hearing on 05 October 2011:

The following were present:

Appellant: Mr. Harinder Dhingra;

Respondent: Ms. Prakriti Srivastava Dy. Inspector General(WL)

The Appellant admits that he has been given information on most of the points by Mr. C. M. Sharma, PIO & US. However, the Appellant points out the no information have been provided on queries 7 & 8. The Commission directs the PIO C. M. Sharma to provide the information on query 7 & 8 to the Appellant before 30 October 2011.

The Deemed PIO Ms. Prakriti Srivastava states that she was not responsible or the delay and has given written submission to this effect. The Commission asked her to give her statement which is as follows, “The applicant has given the application on 21/01/2011 to the CPIO NAEB and CPIO NAEB has given a reply to the applicant on 10/03/2011, in that reply she has indicated that the CPIO is myself. However, the hard copy has not reached me and it was not loaded on RTI MIS System also that I would have got any information therefore I was totally unaware that I had been indicated as the CPIO in this RTI for point 03 to 10. Further the points 03 to 10 clone from query 01 to 02 asked by the applicant which was regarding a

service matter inquiry and an inquiry conducted into certain irregularities in plantations done in district Jhajhhar Haryana. There were no wild life issues and when the CPIO NAEB decided I was the CPIO for point 03 to 10 it was without any application of mind and as per the portfolio assigned to each CPIO. The reply by the CPIO was given to the applicant only on 10/03/2011. The applicant has filed an appeal on 07/03/2011 to the Appellant Authority NAEC the DIG NAEB and he has furnished a reply on 28/03/2011. He once again indicated me as the CPIO from point 03 to 10 whereas as already indicated I had no mandate for replying to these issues. However, I have not received the hard copy of the RTI application even at this point. Further it was not again loaded to the RTI MIS System and therefore I was totally unaware of any such application. Then on 18/04/2011 the applicant filed a complaint before the CIC for non receipt of the requisite information. On 25/04/2011 the RTI Cell of the Ministry forwarded a copy of the complaint of the applicant to me as well as the IG (Wild Life) Mr. A. K. Srivastava (the letter as seen from the records). On 02/04/2011 itself I have sent back the complaint to the RTI Cell that the matter did not pertain to the CPIO Wild Life and requested them to forward the same to the appropriate CPIO. From records it is also seen that the IG (Wild Life) who is the Appellate Authority for Wild Life and who had conducted the enquiry had forwarded the application to Ms. Shally Ranjan, AIG EAP. This is the first time on 25/04/2011 that I have come to know that I was designated as CPIO in this case and I have immediately take action and informed the RTI Cell that this matter did not pertain to me. Further the Appellate Authority the IG (Wild Life) also sent the RTI application to Ms. Shally Ranjan thereby clearly indicating that I have nothing to do with this issue.”

In view of the fact that Ms. Prakriti Srivastava claims that she was not responsible for the delay the Commission is not taking any decision on the penalty imposition. It is clearly a fact that the RTI respondent has been delayed far beyond the mandated period. The Commission therefore directs the Secretary Ministry of Environment and Forest to inquire into this matter and ensure that a report is sent to the Commission fixing responsibility for the delay. This report will be sent to the Commission before 10 November 2011.

Adjunct Decision:

The Commission directs the PIO C. M. Sharma to provide the information on query 7 & 8 to the Appellant before 30 October 2011.

The Commission also directs the Secretary, Ministry of Environment and Forest to inquire into this matter and ensure that a report is sent to the Commission fixing responsibility for the delay. This report will be sent to the Commission before 10 November 2011.

This decision is announced in open chamber.

Notice of this decision be given free of cost to the parties.

Any information in compliance with this Order will be provided free of cost as per Section 7(6) of RTI Act.

Shailesh Gandhi
Information Commissioner
05 October 2011

(In any correspondence on this decision, mention the complete decision number.)(DIS)

Copy to:

1- Ms. Prakriti Srivastava Dy. Inspector General(WL);