



Central Information Commission
Room No. 306, 2nd Floor, 'B' Wing, August Kranti Bhavan,
Bhikaji Cama Place, New Delhi-110066
Web: www.cic.gov.in

Case No. CIC/SM/A/2013/000698/SS

Dated: 10.3.2014

Name of the Appellant: Mr R.K Jain
Name of the Public Authority: U.P.S.C
Date of hearing: 6.3.2014

ORDER

1. The appellant is present for the hearing. The respondent was represented by Shri S.C Srivastava (US & CPIO) and Shri Dharambir Sharma (US).

2. The appellant filed an RTI application dated 20.2.2013 seeking information on (iii) points in relation to W.P No. 47883 of 2011 (S CAT) in the case of UOI & two Ors & S.K Verma, AR, CESTAT & Anr before Hon'ble Karnataka High Court. The appellant sought to know the name and designation of the officers who authorised Shri M Vasudeva Rao, Advocate to withdraw the aforesaid W.P in relation to UPSC, copy of such authorisation/letter and of application/memo filed for withdrawal, etc. The appellant has filed another RTI application also dated 19.2.2013 on the same subject matter.

3. The CPIO vide letter dated 28.2.2013 transferred the said two RTI applications to the Ministry of Finance on the grounds that *"the issues raised by Shri R.K Jain in his applications do not relate to this office as the writ petition no. 47883 of 2011 (S-CAT) was filed by the department before Karnataka High Court. A copy of the letter was endorsed to the appellant. Not satisfied with the reply the appellant filed first appeal dated 2.3.2013 The first*

appellate authority vide order dated 5.4.2013 held as under:

"I have carefully considered the contents of the first appeal preferred by the Appellant, the reply given by the CPIO vide letter dated 28.2.2013 and comments of CPIO as mentioned above. It is noted that the copy of the Writ Petition No. 47883 of 2011 (S-CAT) was not received in UPSC, neither any correspondence was made with the Advocate Shri Vasudeva Rao by the Commission in this case. Consequently, the information/details which flows out of the case related aspects was not available with the Commission and in the circumstances the CPIO had appropriately transferred the RTI application to the Department concerned with a request to provide the required information to the RTI applicant."

4. During the hearing the brought on record reply dated 1.3.2013 of the Ministry of Law & Justice under the RTI Act wherein the appellant sought information on similar subject matter. In the said reply is stated that *"Since Shri M. Vasudeva Rao, Sr. CGSC was not in the panel of High Court of Karnataka, the question of authorizing him by this Branch Secretariat to withdraw the said writ petition does not arise."* During the hearing, the appellant also submits that a personal hearing was not granted to him by the first appellate authority despite his request. During the hearing the appellant sought to know what action has been taken by the respondent in relation to the filing of and or withdrawal of the said writ petition in Hon'ble Karnataka High Court by Shri M. Vasudeva Rao, without being appointed by the U.P.S.C to represent them in this matter. The appellant presses for the information sought in relation to the RTI application dated 20.2.2013.

5. The Commission vide its order dated **24.4.2008** in case no. **1890/ICPB/2008** taken the following view with regard to personal hearing at first appeal stage:

" This case came up for hearing on 22.4.2008, which was attended by the PIO in person along with Chief Manager. The appellant did not attend the hearing. At the outset, I would like to point out the appellant has prayed that proper direction or procedure be laid down

by the Information Commission that the first AA should not dispose of the appeal without holding hearing. As per RTI Act, there is no such obligation on the part of the first AA to give disposal after giving hearing.”

4. The Commission hereby directs that the CPIO, U.P.S.C shall give a categorical to point no. (i), (ii), (iii) & (iv) of his RTI application dated 20.2.2013. The Commission directs that if there is any correspondence, note-sheet etc of the department on action taken in relation to the action taken by U.P.S.C on the subject matter of the RTI application, the same shall also be provided to the appellant. Directions of the Commission are to be complied **within ten days** from the receipt of this order.

With regard to the issue raised by the appellant for personal hearing at the first appeal stage, the Commission finds no reason to differ from the earlier decision of the Commission. It cannot be made mandatory for the first appellate authority to hold a personal hearing, however, it is open for the first appellate authority to hold a personal hearing in certain cases where it is appropriate.

The appeal is disposed off accordingly.

Sushma Singh
Chief Information Commissioner

Authenticated True Copy:

D.C Singh
(Dy. Registrar)

1. Appellant
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2. Shri S.C Srivastava, Under Secretary & CPIO
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3. Mr C. Uppili, Deputy Secretary (Appt. II) & FAA,
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