

Central Information Commission, New Delhi
File No.CIC/WB/A/2007/00417-SM
Right to Information Act-2005-Under Section (19)

Name of the Appellant : **Shri Arun Kumar Aggarwal,**
Name of the Respondents : **Prime Minister's Office/
Department of Revenue/
Directorate of Enforcement/
Ministry of Law and Justice**

Dates of hearings:-

07.08.2008
11.09.2008
29.12.2008
28.08.2009
05.12.2012
07.08.2009
29.07.2009
11.02.2009
12.01.2009
20.05.2013

Date of Decision : 20th May, 2013

It is noticed that in the RTI-application dated 2 September 2006, the Appellant had sought the following information from the CPIO of the Ministry of Law and Justice:

“Entire file containing papers along with notings, etc. relating to the appointment, scope of his brief of special envoy Mr. Virendra Dayal to obtain papers relating to Volcker report and his report to the Ministry after meeting the UN officials”.

2. Shri Kamal Dayani, Director and CPIO of the PMO vide letter dated 16 November 2006, had informed the Appellant as follows:-

“It has been decided to furnish information on the relevant portion [note and correspondence] of PMO file No. 280/3/2005-ES.I (Vol.II) relating to the appointment of Shri Virendra Dayal as Special Envoy to liaise with UNO and its Member States, to gather relevant

materials in connection with the UN Oil-For-Food Programme applied in Iraq. In case, you want copies of the relevant documents, you may deposit Rs.8/- [for four pages @ 2/- per page] either in cash with the Cashier, PMO or send a draft/banker's cheque/postal order for the amount in favour of Section Officer, PMO.

As regards the reports submitted by Shri Dayal in the matter, it has been decided not to disclose the same, under Section 8(1)(a) of the RTI Act, as their disclosure can prejudice India's relations with other countries”.

3. On appeal, Shri Sanjay Mitra, Joint Secretary to PM and the Appellate Authority, vide letter dated 8 December 2006, had refused to disclose the requested information under Section 8(1)(a) of the RTI-Act. Para 2 of his order is extracted below:-

“I, as appellate authority have gone through the appeal and other related documents. I am of the opinion that the disclosure of the reports submitted by Shri Virendera Dayal, Sepcial Envoy in connection with the UN-Oil-For-Food Programme applied in Iraq will prejudicially affect India's relations with foreign countries. CPIO, PMO has thus rightly rejected the request for their disclosure under Section 8(1)(a) of the RTI-Act.”

4. Aggrieved with the decision of the first Appellate Authority, the Appellant had filed second appeal before this Commission, which was heard by the then Chief Information Commissioner. In his interim order dated 9 July 2008, the CIC had issued notice to the CPIO of the Department of Revenue for being present before the Commission on the next date of hearing. The matter was further heard by the CIC on 2 September, 2008 and 15 September, 2008. The CIC had lamented the fact that no affirmative statement was coming from any of the public authorities concerned regarding the locus of the requested information. Before deciding the appeal, the Commission had decided to first determine the following issues:-

(a) whether the information was being held by the Directorate of Enforcement; &

- (b) whether the Directorate of Enforcement was invoking exemption clause by virtue of it being included in the Second Schedule of the RTI Act.

5. Accordingly, the Commission had issued notice to the Directorate of Enforcement.

6. The matter was further heard by the then Chief Information Commissioner on 12 January 2009 and was adjourned to 12 January 2009. The matter was heard on 12 January 2009 and was, again, adjourned to 11 February 2009.

The matter was further heard on 11 February 2009 and in the proceedings of the day, the Commission had extracted the following order dated 9 February 2009 of Justice S.R. Bhat of the Delhi High Court:-

“Having considered the submissions and the CIC’s orders, this Court is of the opinion that prima facie case for grant of interim relief is made out. Accordingly, the operation of the impugned orders so far as they direct the petitioner to disclose the files as well as the stage of investigation are hereby suspended till the next date of hearing, i.e., 22nd July, 2009”.

7. The matter was further heard by a Full Bench of the Commission on 5 December, 2012. The Bench comprised of the CIC (SM), IC (AD) and IC(LS). The representatives of the Department of Revenue and the Directorate of Enforcement were present for the hearing. The Commission directed them to intimate as to whether they were in possession of the ‘Virendra Dayal Committee Report.’

8. As directed, Shri M.G. Attri, Joint Director, Directorate of Enforcement, filed an affidavit dated 18 December 2012 before the Commission stating therein that the impugned report was not being held by the Directorate of Enforcement.

9. The real question that arises is as to who is the holder of the 'Virendra Dayal Committee Report.' As noted hereinabove, the CPIO and the first Appellate Authority of PMO had refused to disclose this information under Section 8(1)(a) of the RTI Act. By implication, the PMO admits that it is the holder of this information. Hence, it was decided to issue notice to the CPIO of the PMO to appear before this Commission on 20 May 2013 at 1600 hrs along with a copy of the Report in question.

10. As scheduled, the matter is heard today dated 20.5.2013 at 1600 hrs by the Full Bench comprising of Shri Satyananda Mishra, CIC; Smt. Annapurna Dixit, IC and Shri M.L. Sharma, IC. Appellant not present. The PMO is represented by Shri Manu Mahavar, Director; Shri Krishan Kumar, Director; Shri S.E. Rizwi, Deputy Secretary and Shri Bijender Singh, Assistant. Shri Mahavar submits that Ambassador Virender Dayal did not submit any report per se to the Prime Minister. What he had submitted was four notes dated 15.12.2005, 4.1.2006, 7.3.2006 and 20.4.2006 regarding his talks as Special Envoy with the foreign dignitaries in connection with the Volcker Committee Report. He produces the four notes before the Commission which are perused. It is Shri Mahavar's submission that it would not be expedient to provide copies of these notes to the appellant as Ambassador Virender Dayal had given a solemn assurance to the Volcker Committee and to the authorities in Iraq and Jordan that the material provided by them would be used only for the purpose of investigation being conducted into the possible violation of the Indian laws and for no other purpose. He urges the Commission not to disclose these four notes in order to uphold the sanctity of the assurance given by Ambassador Virender Dayal. He also submits that information relating to the appointment and constitution of the Special Envoy has already been provided to the appellant.

11. It would, thus, appear that part information has already been provided to the appellant. As far as the four notes under reference are concerned, after

a careful perusal thereof and in the light of the submissions made by Shri Mahavar, we are of the opinion that it would not be expedient to furnish copies thereof to the appellant as doing so may adversely affect the friendly relations of India with the foreign countries under reference. In view of the above, we are constrained to dismiss the appeal.

(Annapurna Dixit)
Information Commissioner

(M.L. Sharma)
Information Commissioner

(Satyananda Mishra)
Chief 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.

(Shri Aakash Deep Chakravarti)
JS (Law)