

CENTRAL INFORMATION COMMISSION

Club Building (Near Post Office)

Old JNU Campus, New Delhi- 110067

Tel No: +91-11-26161796

Decision No. CIC/SM/A/2011/000743/SG/14801

Appeal No. CIC/SM/A/2011/000743/SG

Relevant Facts Emerging from the Appeal:

Appellant

: Mr. L. C. Sonwane
& Shrimati Shammi Sonawane
42/27, Mother Teresa Nagar
Post Office Sector- 1
Bhilai Power House
Bhilai, District- Durg (Chattisgarh)

Respondent

: Dr. N. Krishna Mohan
CPIO & Chief General Manager
Reserve Bank of India (RBI),
Department of Banking Operations and
Development,
Central Office,
Shahid Bhagat Singh Marg, Fort,
Mumbai- 400001

RTI Application filed on : 31/07/2010
PIO Replied on : 09/11/2010
First Appeal filed on : 30/11/2010
Order of the FAA : 24/12/2010
Second Appeal filed on : 18/02/2011

S .No.	Information Sought	PIO's Reply
5 (A)	When cheque is submitted in the bank for clearance, is it not necessary to put the Bank's seal on it?	Such information as regarding the procedural aspects of clearing of cheques would be available with the Bank. You may approach the concerned bank for the necessary information. Dena Bank is a public authority for the purpose of RTI Act.
5 (B)	Whether the signature of the Branch Manager and seal of respective branch is not necessary in cheque dishonour memo?	Same as 1.
5 (C)	Can cheque be deposited without filling the pay-in-slip in the bank?	Same as 1.
5 (D)	Whether cheque's entry should be done in any register for the clearance and in case of return of instrument again the signature of the receiver in the register is not necessary.	Same as 1.
5 (E)	In case of dishonour of the cheque, which is submitted for clearance, whether any charge-surcharge is recovered from the account holder?	The charges levied are as per the policy formulated by the bank's Boards. As such the information will be available with the bank concerned.
5 (F)	If the account statement from 23/05/2003 to 13/04/2004 of the applicant was given to the complainant by the Bank to the money lender without the consent of the account holder, whether the Bank's action is justified?	You have sought an opinion and not information as defined under Section 2 (f) of RTI Act, 2005.
5 (G)	With regards to above case, has any guidelines or regulations have been issued by RBI to the Banks to act as per their ruling? If yes, kindly provide me the copy of the same.	Relevant extract of our Master Circular on Customer Service in Banks dated July 1, 2010 pertaining to dishonour of cheques is enclosed as annex 2.

Grounds of First Appeal

Information sought has not been provided as the PIO seems to not have read the application properly and no action has been taken on the complaint against Dena Bank. Also, answers to Q. 5 (e) and (f) have not been provided satisfactorily.

Order of the First Appellate Authority

The Appellate Authority found no infirmities in the replies sent by the CPIO. However, the CPIO has been directed to provide the address of the website where the text of the full Master Circular on Customer Service would be available for the perusal of the appellants.

Grounds of Second Appeal

The information sought has been unsatisfactory and incomplete.

Relevant Facts emerging during Hearing:

The following were present:

Appellant: Absent;

Respondent: Ms. Lali Ramesh, Legal Officer representing Dr. N. Krishna Mohan, PIO on video conference from NIC-Mumbai Studio;

The respondent states that they have provided the information but with respect to query-5(e) the respondent stated that the information would be available with Dena Bank and did not transfer the RTI application. The Commission asked the respondent as to why the application was not transferred for this query. The respondent quotes Commission's decision in Mr. C. K. Pandey Vs. SBI of 03/06/2009 in which it was stated that that the applicant must file the RTI application with the respective public authority. The respondent contends that this means that there is no need for the public authority to transfer the RTI application. Section 6(3) of the RTI Act states,

"Where an application is made to a public authority requesting for an information,-

- (i) which is held by another public authority; or*
- (ii) the subject matter of which is more closely connected with the functions of another public authority,*

the public authority, to which such application is made, shall transfer the application or such part of it as may be appropriate to that other public authority and inform the applicant immediately about such transfer;

Provided that the transfer of an application pursuant to this sub-section shall be made as soon as practicable but in no case later than five days from the date of receipt of the application."

Thus the law does not lay down that the responsibility of finding the right public authority is rests with the applicant. In view of this the Commission respectfully disagrees with any decisions which state that the responsibilities of the Appellant to file RTI applications with the correct Public Authorities and that PIOs shall not transfer RTI application to the other Public Authorities. Such a decision would be *per incuriam* since it would not have taken cognizance of Section 6(3) of the RTI Act.

Decision:

The Appeal is allowed.

The PIO is directed to transfer the part of the RTI application to the PIO of Dena Bank alongwith a copy of this order before 10 October 2011.

The PIO of Dena Bank is directed to provide the information on the queries transferred to him as per the provisions of the RTI Act.

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
22 September 2011