

CENTRAL INFORMATION COMMISSION

(Room No.315, B-Wing, August Kranti Bhawan, Bhikaji Cama Place, New Delhi 110 066)

CIC/SA/C/2013/000007

CIC/SA/C/2014/000032

**Complainant/
Appellant** : **R.K.Jain**

Respondent : **D/o Legal Affairs**

Date of hearing : **14.11.2014**

Date of decision : **25.11.2014**

Information Commissioner : **Prof. M. Sridhar Acharyulu**
(Madabhushi Sridhar)

Referred Sections : **Section 3, 18 & 19(3) of**
the RTI Act

Result : **Appeal allowed/
Disposed of**

Heard on 14.11.14. Appellant/Complainant present. Respondent is represented by Shri B.K.Prasad, Central Agency Section, Shri K.Ginkhan Thang, CPIO and Ms.Asha Sota, CAPIO, D/o Legal Affairs.

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2. The Complainant sought inspection of files pertaining to his RTI applications (13) (12 RTI applications dt.7.3.13 and one dt.25.3.13) and copies of

his file notings vide his RTI application dt.24.5.13.filed before CAPIO. The office did not respond in thirty days and after the first appeal was filed, response came. There was a delay of 125 days by another CAPIO, Shri Joshi, and delay of 82 days by First Appellate Authority. The Complainant deemed Ms.Asha Sota as deemed CPIO. Complainant has complaint against entire office of Respondent Public Authority as his RTI was not responded within thirty days by a CAPIO before whom he filed the RTI and responded by another CAPIO beyond 125 days. After hearing the complaint, Commission issued show cause notice to ms.Asha Sota who received RTI but did not respond.

3. The Paras 3, 4 and 5 of the CIC order No.CIC/SA/C/2013/000007 dt.14.10.14 is reproduced below:

3. The Commission took on record the submissions made by Ms.Asha Sota. The Complainant submitted that the complaint No.CIC/SA/C/2014/000032 dealing with the same RTI application be tagged with the present case and disposed of together.

4. The Commission after hearing the submissions made adjourns the hearing to **14th November, 2014 at 2.30 P.M.**

5. The Registry is directed to include the file No.CIC/SA/C/2014/000032 in the cause list for the hearing to be held on **14th November, 2014 at 2.30 P.M**

4. During the hearing, Complainant submitted that despite issuing show cause notice vide order dt.25.9.14, no reply has been furnished by Ms.Asha Sota apart from submitting written submissions. He alleged that written submissions were not dated and documented properly. Ms.Asha Sota, CAPIO in her written submissions which was received in the Commission on 10.10.14 had stated that Complainant

vide his RTI application dt.24.5.13 had sought inspection of files in which his thirteen applications have been dealt with. According to her, the RTI Cell was shifted three times during 2013 due to renovation (February, April and September). Due to frequent shifting, most of the records were tied up and mixed with the records of the work related to Implementation Cell. Vide office order dt.22.4.13, work related to RTI Applications was distributed amongst the Branch officers of the concerned sections and this order was revoked only on 18.6.13 after which RTI Cell again started sending the information for the whole department. Because of these reasons, the concerned sections could be requested to furnish their no objection for inspection vide OM dt.5.7.13. and intimation could be received only from three sections till 27.7.13 when again there was a proposal to shift the RTI Cell and accordingly the RTI Cell was shifted in September 2013 and RTI Cell could properly settle down only by the end of Nov.2013. A reminder was sent on 19.12.13 to the concerned sections and information from one section only was received. Despite that Complainant was invited to inspect the relevant files on a mutually convenient date and time vide letter dt.4.3.14. Instead, Complainant wrote a letter dt.8.3.14 to let him know the no. of documents and the total no. of pages to be offered for inspection. Concerned sections were requested to provide copies of notesheet vide OM dt.29.7.13 followed by reminder dt.22.8.13. The information from all the sections could be received in RTI Cell on 2.9.13 and Complainant was provided the information vide letter dt.27.9.13.

5. On 17.11.14, Ms.Asha Sota submitted her explanation, saying that RTI application was received by facilitation centre on 24.5.13 and on the same day, it was sent to RTI Cell. The Commission noticed from her explanation that it was the

RTI Cell which was preparing to respond, in which she promptly did her part of job. She denied her role in delay and malafide.

6. The Commission after perusing the written submissions and also her reply dt.17.11.14 in response to the show cause notice finds no material to draw inference of malafide intention on the part of Ms.Asha Sota, deliberately to delay the information. The Commission observes that she being a subordinate in the office of CPIO was not in a position to decide as to what is the right course of action, accordingly the penalty proceedings against her are dropped and the case is closed at the Commission's end against her.

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7. The petition in this case relates to the same RTI Application as dealt in above case No.CIC/SA/C/2013/000007. According to the Appellant on non-receipt of information, he had filed an appeal on 8.7.13 against deemed refusal and Shri A.K.Joshi, CAPIO replied on 27.9.13 furnishing information against point (B) of the RTI Application dt.24.5.13. According to him, Shri Joshi, malafidely did not allow inspection of records as sought in Point (A) of the RTI Application. The Appellate Authority disposed of the appeal vide order dt.1.10.13. The relevant portion of the order is reproduced below:

On perusal of the record it appears that the appellant could not get proper information of his request dt.24.5.13 as the respondent could not collect the substantive response from the concerned public authority and failed to give reply to the appellant. It appears that the information sought by appellant is of such nature that requires lot of time. Hence, there is adequate reason for not giving the reply in time.

It is noticed that appellant has mentioned in his appeal that he has enclosed the application wherein he has sought the information. But in fact the enclosures have not been received by this office. Appellant is directed to furnish all his applications.

The appellant may kindly note that since the proceeding has been closed, no further hearing may be conducted in this matter.

8. In response to the reply dt.27.9.13, Appellant filed another appeal dt.15.10.13 and the Appellate Authority without reading the contents of the appeal, rejected the same vide order dt.22.11.13 on the ground that the appeal has already been decided.

9. The Commission after hearing the submissions made sets aside the order of the Appellate Authority dt.22.11.13 and directs the PIO to facilitate inspection of records as sought by the Appellant against Point (A) of his RTI Application dt.24.5.13 and to provide attested copies of documents sought for free of cost up to fifty pages and to charge Rs.2/- per page beyond that. The entire exercise to be completed within three weeks of receipt of this order.

10. The Commission directs Shri A.K.Joshi, CPIO who chose to reply instead of CPIO to show cause why penalty cannot be imposed for the delay of 25 days when the information was received on 2.9.13 but reply was sent only on 27.9.13.

11. He is to be present along with his written submissions with a copy endorsed to the Complainant on **17th December, 2014 at 2.30 PM**. Shri Ginkhan Thang, present CPIO is directed to forward a copy of this order to Shri A.K.Joshi for compliance of Para 8 and to render necessary assistance.

12. The Commission also noticed that Appellate Authority without going into the contents of the first appeal had dismissed it when in fact the Appellant's first appeal was against non-receipt of information, while his second 'first appeal' was against the reply furnished by the PIO. The Appellate Authority is cautioned not to dismiss any appeals without reading the contents of the appeals or hearing the parties.

13. Penalty hearing against Shri A.K.Joshi, CAPIO is adjourned to **17th December, 2014 at 2.30 PM.**

Sd/-

(M. Sridhar Acharyulu)
Information Commissioner

Authenticated true copy

(Babu Lal)
Dy. Registrar

Address of the parties

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Ministry of Law and Justice
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