



Central Information Commission
Room No. 306, 2nd Floor, 'B' Wing, August Kranti Bhavan,
Bhikaji Cama Place, New Delhi-110066
Web: www.cic.gov.in Tel No: 26180512

Case No. CIC/SS/A/2012/000625

Dated: 27.1.2014

Name of the Appellant: Mr. Kaushal
Name of the Public Authority: Delhi Police, East District
Date of hearing: 10.1.2014

ORDER

1. The appellant was present and heard through video conference from Tihar Jail. The respondent was represented by Shri Amit Kumar Singh (ACP/Preet Vihar), Shri Yogesh Kumar (SI,PS-Preet Vihar) and Shri Anant Kumar (I/c Info Cell east).

2. The appellant filed an RTI application dated 29.8.2011 addressed to D.C.P, East District, Shalimar Park stating that he has been awarded life imprisonment by the Court of ASJ, Karkardooma Court and that he has filed an appeal in Hon'ble High Court in relation to the same. The appellant has sought copy of the case diary for fir no. 247/2000 filed at Preet Vihar Police station, Delhi. The appellant has also relied on the decision of the Hon'ble High Court of Delhi in writ petition no. W.P (c) 12428/2009 in the case of Deputy Commissioner of Police v D.K Sharma. The CPIO vide letter dated 8.10.2011 replied as under:

"This is with reference to your application under RTI Act, 2005 received in this office on 7.9.2011. According to section 172 (3) of CrPC neither the accused nor his agent shall be entitled to call for case diaries. Hence, the same cannot be provided as the same is exempted u/s per section 8 (1) (e) & (h) of the RTI Act."

The appellant filed first appeal dated 12.10.2011 which was disposed off vide order dated 30.11.2011 upheld the decision of the CPIO. The appellant submits vide his second appeal that the copies of case diary was provided to Pawan s/o Chaman Singh in an RTI application pertaining to Police Station- Harsh Vihar.

3. The appellant submits during the hearing that the information sought pertains to his own case and also that his conviction has now been upheld in the Hon'ble High Court and he would now file an appeal in the Supreme Court.

4. In the matter of **Deputy Commissioner of Police versus D.K Sharma** (W.P (C) 12428/2009), the **Hon'ble High Court of Delhi** vide Judgement dated 15.12.2010 held as under:

"6. This Court is inclined to concur with the view expressed by the CIC that in order to deny the information under the RTI Act the authority concerned would have to show a justification with reference to one of the specific clauses under section 8 (1) of the RTI Act. In the instant case, the Petitioner has been unable to discharge that burden. The mere fact that a criminal case is pending may not by itself be sufficient unless there is a specific power to deny disclosure of the information concerning such case. In the present case, the criminal trial has concluded. Also, the investigation being affected on account of the disclosure information sought by the respondent pertains to his own case. No prejudice can be caused to the Petitioner if the D.D entry concerning his arrest, the information gathered during the course of the investigation and the copies of the case diary are furnished to the Respondent. The right of an applicant to seek such information pertaining to his own criminal case, after the conclusion of the trial, by taking recourse of the RTI Act, cannot be said to be barred by any provision of the CrPC. It is required to be noticed that section 22 of the RTI Act states that the RTI Act would prevail notwithstanding anything inconsistent therewith contained in the Official Secrets Act, 1923 and any other law for the time being in force.

7. Consequently, this court is not inclined to interfere with the impugned order dated 25th September 2009 passed by the CIC."

5. The Commission is of the view that the application of section 8 (1) (e) has not been substantiated in any way by the respondent and that the plea of fiduciary relationship has not been explained in any way. In view of the above, the plea of section 8 (1) (e) cannot be accepted. So far as section 8 (1) (h) is concerned, the Commission is of the view, that as in the present case, the trial is now over and the Hon'ble High Court has also upheld the conviction as stated by the appellant during the hearing, therefore, the information sought i.e case diary, is not exempt from disclosure as the matter pertains to the appellant himself. The Commission hereby directs the CPIO to provide the copy of the entire case diary as sought by the appellant after severing the names as per section 8 (1) (g) and section 10 of the RTI Act.

The direction of the Commission shall be complied **within one week** from the receipt of the order.

Sushma Singh
Chief Information Commissioner

D.C Singh
(Dy. Registrar)

1. Appellant
Kaushal Kumar
S/o Shri Inderpal,
Through the Superintendent,
Jail No. 3, Tihar,
New Delhi – 110 064
2. Addl. DCP & CPIO,
Delhi Police (East District),
Bhola Nath Nagar, Shalimar Park,
Delhi
3. The Dy. Commissioner & FAA
Delhi Police (East District),
Bhola Nath Nagar, Shalimar Park,
Delhi
4. The Superintendent,
Jail No. 3, Tihar Jail,
New Delhi – 110 064