

IN THE HIGH COURT OF DELHI AT NEW DELHI

W.P.(C) 2258/2012 and CM APPL.4845/2012

UNION OF INDIAPetitioner

Through Mr. Rajesh Katyal, Advocate

versus

PRAVEEN GUPTARespondent

Through None

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

ORDER
20.02.2014

Present writ petition has been filed challenging the order dated 13th October, 2011 passed by the Central Information Commission (for short ?CIC?) whereby penalty of Rs. 25,000/- has been levied on the PIO for not supplying the information within the prescribed time. Since despite a pass over none has appeared for the respondent, this Court has no other option but to proceed ahead with the matter.

A perusal of the paper book reveals that following information was sought by respondent:-

"1- What steps has been taken by the Ministry to improve Hindi Language give details.

2- What steps has been taken by the Ministry to made Hindi as National Language. What kind of work is being done by your ministry in Hindi. How much percentage of work is being done in hindi.

3- Provide details of steps taken by the ministry to improve and

develop India Culture.

- 4- *Provide copy of citizen charter.*
- 5- *Provide copy of annual report.*
- 6- *Steps being taken by the ministry for NGOs, Media provide details. Copy of orders notification issued in respect to this.*
- 7- *What all facilities being given to the NGOs, Media etc.*
- 8- *Copy of rules by which these facilities are being given.*
- 9- *Provide copy of advertisement rules for empanelment.*
- 10- *Provide of telephone directory.*
- 11- *Provide copies of all PSUs.*
- 12- *Provide copies of complaints disposal rules.*
- 13- *Provide tails and location of next World Hindi Sammellan.*
- 14- *Provide copy of list of committees, samitees formed by the Ministry.”*

The CIC has imposed penalty on the PIO on the ground that the information had been supplied after lapse of hundred days instead of prescribed period of thirty days.

However, keeping in view the width and amplitude of the queries sought for by the respondent, this Court is of the view that same could not have been reasonably disclosed within a period of thirty days.

In the opinion of this Court, the primary duty of the officials of the Ministry of External Affairs is to maintain good diplomatic relations with different countries and to promote as well as protect the political, economic interest of the country abroad. If the limited manpower and resources of the Ministry of External Affairs are devoted to address such meaningless and vague queries, this Court is of the opinion that the office of the Ministry of External Affairs would come to a standstill.

The Supreme Court in **CBSE vs. Aditya Bandopadhyay, (2011) 8 SCC 497**, has held as under:-

62. *When trying to ensure that the right to information does not*

conflict with several other public interests (which includes efficient operations of the Governments, preservation of confidentiality of sensitive information, optimum use of limited fiscal resources, etc.), it is difficult to visualise and enumerate all types of information which require to be exempted from disclosure in public interest. The legislature has however made an attempt to do so. The enumeration of exemptions is more exhaustive than the enumeration of exemptions attempted in the earlier Act, that is, Section 8 of the Freedom to Information Act, 2002. The courts and Information Commissions enforcing the provisions of the RTI Act have to adopt a purposive construction, involving a reasonable and balanced approach which harmonises the two objects of the Act, while interpreting Section 8 and the other provisions of the Act.

63. At this juncture, it is necessary to clear some misconceptions about the RTI Act. The RTI Act provides access to all information that is available and existing. This is clear from a combined reading of Section 3 and the definitions of “information” and “right to information” under clauses (f) and (j) of Section 2 of the Act. If a public authority has any information in the form of data or analysed data, or abstracts, or statistics, an applicant may access such information, subject to the exemptions in Section 8 of the Act. But where the information sought is not a part of the record of a public authority, and where such information is not required to be maintained under any law or the rules or regulations of the public authority, the Act does not cast an obligation upon the public authority, to collect or collate such non-available information and then furnish it to an applicant. A public authority is also not required to furnish information which require drawing of inferences and/or making of assumptions. It is also not required to provide “advice” or “opinion” to an applicant, nor required to obtain and furnish any “opinion” or “advice” to an applicant. The reference to “opinion” or “advice” in the definition of “information” in Section 2(f) of the Act, only refers to such material available in the records of the public authority. Many public authorities have, as a public relation exercise, provide advice, guidance and opinion to the citizens. But that is purely voluntary and should not be confused with any obligation under the RTI Act.

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65. The power under Section 19(8) of the Act, however, does not extend to requiring a public authority to take any steps which are not required or contemplated to secure compliance with the provisions of the Act or to issue directions beyond the provisions of the Act. The power under Section 19(8) of the Act is intended to be used by the Commissions to ensure compliance with the Act, in particular ensure that every public authority maintains its records duly catalogued and indexed in the manner

and in the form which facilitates the right to information and ensure that the records are computerised, as required under clause (a) of Section 4(1) of the Act; and to ensure that the information enumerated in clauses (b) and (c) of Section 4(1) of the Act are published and disseminated, and are periodically updated as provided in sub-sections (3) and (4) of Section 4 of the Act. If the "information" enumerated in clause (b) of Section 4(1) of the Act are effectively disseminated (by publications in print and on websites and other effective means), apart from providing transparency and accountability, citizens will be able to access relevant information and avoid unnecessary applications for information under the Act.

66. The right to information is a cherished right. Information and right to information are intended to be formidable tools in the hands of responsible citizens to fight corruption and to bring in transparency and accountability. The provisions of the RTI Act should be enforced strictly and all efforts should be made to bring to light the necessary information under clause (b) of Section 4(1) of the Act which relates to securing transparency and accountability in the working of public authorities and in discouraging corruption. But in regard to other information [that is, information other than those enumerated in Sections 4(1)(b) and (c) of the Act], equal importance and emphasis are given to other public interests (like confidentiality of sensitive information, fidelity and fiduciary relationships, efficient operation of Governments, etc.).

67. Indiscriminate and impractical demands or directions under the RTI Act for disclosure of all and sundry information (unrelated to transparency and accountability in the functioning of public authorities and eradication of corruption) would be counterproductive as it will adversely affect the efficiency of the administration and result in the executive getting bogged down with the non-productive work of collecting and furnishing information. The Act should not be allowed to be misused or abused, to become a tool to obstruct the national development and integration, or to destroy the peace, tranquillity and harmony among its citizens. Nor should it be converted into a tool of oppression or intimidation of honest officials striving to do their duty. The nation does not want a scenario where 75% of the staff of public authorities spends 75% of their time in collecting and furnishing information to applicants instead of discharging their regular duties. The threat of penalties under the RTI Act and the pressure of the authorities under the RTI Act should not lead to employees of a public authorities prioritising ?information furnishing?, at the cost of their normal and regular duties.?

(emphasis supplied)

After all disproportionate diversion of limited resources of PIO, Ministry of External Affairs would also take its toll on the Ministry of External Affairs. The Supreme Court in **ICAI vs. Shaunak H. Satya, (2011) 8 SCC781** has held as under:-

“39. We however agree that it is necessary to make a distinction in regard to information intended to bring transparency, to improve accountability and to reduce corruption, falling under Sections 4(1)(b) and (c) and other information which may not have a bearing on accountability or reducing corruption. The competent authorities under the RTI Act will have to maintain a proper balance so that while achieving transparency, the demand for information does not reach unmanageable proportions affecting other public interests, which include efficient operation of public authorities and the Government, preservation of confidentiality of sensitive information and optimum use of limited fiscal resources.”

(emphasis supplied)

Consequently, the impugned order dated 13th October, 2011 imposing penalty on the PIO is set aside. The amount of penalty, if any, paid to respondent shall be refunded to the petitioner. Accordingly, present petition and application stand disposed of.

MANMOHAN, J

FEBRUARY 20, 2014

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