

Letter No. TEA/2015/CIC (Appeal)/52

Dated: 12-01-2015

To
Ld. Second Appellate Authority
CIC, August Kranti Bhawan
Bhikaji Cama Place
New Delhi - 110066

Sub: - Second appeal u/s 19(3) of RTI Act, 2005.

Hon'ble Sir,

**Name & Address of the Appellant: Pawan Kumar Kohli, Engineering Assistant, CBS, AIR,
Akashwani Bhavan, Sansad Marg, New Delhi – 110001.**

**Name & Address of the Respondent CPIO: Sh. Ranvir Singh, CPIO & Under Secretary, BAP-I
Section, Ministry of I&B, Shastri Bhavan, New Delhi –
110001.**

**Name & Address of First Appellate Authority: Ms. Jayanthi G., Director(BAP), Ministry of
I&B, Shastri Bhavan, New Delhi – 110001.**

**Particulars of orders appealed against: Order No. I-11011/506/2014-BAP dated 04-
29/08/2014 passed by above mentioned First Appellate
Authority & multiple replies by CPIOs.**

FACTS IN BRIEF

The Appellant herein had filed an RTI Application before the CPIO of Ministry of Information and Broadcasting on dated 19/06/2014 in which there were 14 points on which information was sought. The grievance of the appellant herein is that despite having received multiple replies from multiple CPIOs, most of the information has not been provided & denied. CPIOs are taking plea of Section 7(9) of RTI Act 2005, stating that providing information will disproportionately divert the resources of the public authority, thus the desired information cannot be provided.

**The present appellant is satisfied only with the information provided in respect of
para no. 11, 12, and 14 of RTI Application**

Persual of the replies received, reveals that in most of them, shelter has been taken behind the Section 7(9) of RTI ACT 2005 by repeating the wording used in the provision. Being

dissatisfied and aggrieved with the replies and the above said stand taken by the CPIOs, the appellant herein filed an appeal before the First appellate Authority of Ministry of Information & Broadcasting interalia on the ground that the robust provisions intended to provide information under RTI Act cannot be used to subvert and circumvent the law to deny information by misapplying the same.

Another ground urged in the appeal was that as far as possible, the information may be provided in the form desired. While doing so, the resources of the public authority required to do the job & safety and preservation of the record should be kept in view. If the effort warrants diversion of disproportionate resources, in that case, the information sought may be provided in the format in which it is generally kept by the organization.

It was further urged in the First Appeal that the appellant/applicant had not sought the information in any particular format, therefore, the CPIOs were at liberty to provide information in any manner or form they wished, or as it was available in their records.

Another ground which was taken in the appeal was that as per Manual of Office Procedure's Para no. 129 (Part 'A' Chapter XIV) the MIB was mandatorily required to preserve the records in Register of Court/CAT Cases prepared as per Appendices 49 to 51.

In pursuance of the First Appeal, the appellant herein received reply vide No. I-11011/506/2014-BAP dt. 04/24-08-2014 from Ms. Jayanthi G., Director (BAP), First Appellate Authority of MIB, wherein it has been stated that information on para nos. 1, 2, 3, 4, 5, and 9 may be sought from Prasar Bharti, DG:AIR and DG: Doordarshan. However the most important fact that has been overlooked is that since because the said CPIOs of three authorities have not provided the information to the satisfaction of appellant, the first appeal was preferred.

Sr. nos. 6, 7 & 8 :- It was further stated in First Appellate Authority's reply that information sought vide serial nos. 6, 7 & 8 pertains to BAE Section of MIB and Prasar Bharti, therefore the copy of appeal was being marked to concerned authorities.

Sr. no. 10 :- CPIO of BAP Section of MIB was directed to verify from the files of BAP Section as to whether Case (OA No.164/1996) pertained to BAP section and to give the requisite information to the applicant subject to availability of record.

Sr. nos. 11,13&14 :- It was stated that these points related to Admn. Section of I&B Ministry. However, no direction was issued to provide the information sought.

Sr. no. 12 :- It was stated that this point pertained to DG:AIR & DG: Doordarshan. However no direction was issued to the CPIO for providing the requisite information.

Therefore, in such terms, the appeal dated 23/07/2014 was disposed of without affording any personal hearing in the appeal as requested therein.

Another reply from Dr. Vincent Barla, Dy. Secretary, Admn. Section & FAA of MIB was received vide No. H-12017/10/2014-Admn.III dated 10/07/2014, who simply presumed that the appellant had not received earlier reply sent to him by Sh. S.S.Bedi, US & CPIO of Admn. Section, I&B Ministry.

Yet another reply was received from Sh. Harish Ahuja, DDG (A), FAA of DG: Doordarshan vide letter No. 910/19/2014-Scor dated 13/10/2014 wherein it was stated that the reply on points no. 11-14 was found to be satisfactory by this FAA. As explained earlier, the appellant is satisfied with replies to point no. 11, 12 & 14. It has been stated in this reply that point no. 13 does not pertain to Score section.

Four more replies in response to appeal were received from Group Captain Sh. P.A.Naidu (Retd.), FAA of DG: Doordarshan vide Letter nos. 31/48/2014-S.II/1048 dated 08/10/2014, No. 24/49/2014-S.IV/4441 dated 26/09/2014, A-11019/9/2014-SV dated 26/09/2014 and no.10/1/2014-LC dated 07/10/2014, which are inconsequential because the FAA has found the replies sent by CPIOs to be satisfactory.

Another reply in response to appeal has been sent by Dr. Kamlesh Kumar, CPIO, DDA (P) vide F.No.05/68/2014-SI(A)/723 dated 08/09-10-2014 wherein it has been stated that information related to point no. 12 is not available in SI(A) Section of DG:AIR.

Persual of the above mentioned replies by First Appellate Authorities and CPIOs reveals that they are simply indulging in the game of passing buck over to others without giving befitting replies to the points raised and are skillfully avoiding and evading the straight-forward questions.

Relief Sought

It is respectfully prayed that the CPIOs concerned and Learned First Appellate Authorities may kindly be directed to supply the information and record withheld by them as stated in the paras mentioned above.

Ground for Relief

- A. That the CPIOs of different wings of MIB and the subordinate offices under it have deliberately suppressed and withheld the information sought and each one of them has shifted the responsibility on one and others' shoulders.
- B. That factual and legal contentions raised by the appellant in his First Appeal have not been disposed of in the manner provided under the law and every effort has been made to suppress and conceal the information sought.
- C. That the replies received in response to First Appeal suffer from infirmity and stand vitiated because the principles of natural justice and settled law have been ignored and the Ld. First Appellate Authorities have followed a very casual approach and have failed to fulfil the imperative legal obligations cast on them by RTI Act 2005.
- D. That though the CPIOs and Learned First Appellate Authorities have sent multiple replies yet only three queries nos. 11, 12 & 14 have been satisfactorily replied.
- E. The refuge has been taken under Section 7(9) of RTI Act, 2005 to deny the information by completely misconstruing the provision. However, the law is very clear that as far as possible the information will be provided in the form it is sought for. In case the information is not kept ordinarily by the public authority in that format, then every effort should be made to compile the information. If the efforts warrant diversion of disproportionate resources, in that case the information sought may be provided in the format in which it is kept by the organization. However, the appellant had not sought the information in any particular format, therefore, the CPIOs were at liberty to provide the information in any manner or form they wished or found convenient. It is nowhere provided in the provision under reference that in any eventuality the information could be refused by subverting and circumventing the law. As a matter of fact, the statutory provision of law has been used as a cloak to withhold and deny the information desired by the appellant.
- F. **Rather, in fact, the CPIOs and FAAs both have misutilized and wasted away their resources by transferring the application from one public authority to another and by sending as many as around 32 worthless replies to the appellant/ applicant which are more concealing than revealing.**
- G. Further, there can be no denying the fact that as per Manual of Office Procedure's Para No. 129 (Part 'A' Chapter XIV) the Ministry of I & B was required to enter the details of each and every court-case in the Register of Court/CAT Cases prepared in the manner provided under Appendices 49 to 51. If this procedure is not being followed by MIB, it is

a serious lapse on the part of Ministry and the appellant is not to be blamed for this mess.

- H. However, Page No. 88 of Annual Report of Ministry of I & B for the years 2012-13 shows that Ministry has been keeping the records in a compiled manner which nails the plea of CPIOs that providing information desired would result in diversion of disproportionate resources.



Appellant

VERIFICATION:

Verified at Delhi on this 12th of Jan., 2015 that the above stated contents of the appeal petition are true and correct to my knowledge and belief and no part of it is wrong & incorrect and nothing has been concealed therefrom.



Appellant

Note: - Since there are multiple replies by various CPIOs and Appellate Authorities received who all cannot be joined as respondents in the appeal because it will neither possible nor practicable to do so. However, the main CPIO of MIB and FAA of MIB have been impleaded as respondents—which is sufficient for the compliance of law.

Other relevant information which this Ld. Forum may deem necessary for deciding the appeal:

I wish to mention here that due to paralysis of decision-making in MIB and failure of proper grievances redressal mechanism, the employees of AIR and Doordarshan have filed a large number of court-cases in their service-related matters which the Union of India is contesting. It has become the order of the day to challenge each and every decision of Administrative Tribunals before higher fora of judiciary until the matter attains finality at the doorstep of Hon'ble Apex Court. Another disturbing trend is that until and unless a Contempt Petition is filed in the court, the decision in favour of the employee is not implemented by the authorities which is against the established tenets of law and principles of justice. As a result of this mammoth increase in court-cases, the Union of India is spending huge amount of money in defending them despite wastage of precious time of the Administrative Machinery. On the

other hand, the employees are also suffering monetary losses due to soaring litigation-expenses in modern times. Perhaps, such a dispensation suits the vested interests in the Ministries who are aligned with the advocates to form a nexus for mutual benefit. In order to expose this unholy alliance and pave way for resolution of genuine and justified grievances of the employees, the appellant herein had sought information regarding the number of court-cases being faced by MIB and the expenditure incurred thereon during specified period of years, which the officers of MIB, Prasar Bharati, DG: AIR and DG: Doordarshan have failed to provide by denying the information sought by misinterpreting and misapplying the law related to transparency, accountability of the govt. and empowerment of citizens.

LIMITATION

Since the last reply in pursuance of first appeal was received on 13.10.2014, sent by Shri Harish Ahuja, DDG (Admn.) & Appellate Authority of DG: DDn and further reply from Shri Trish Pal, DDO (A) of DG: AIR was received on dated 15.10.2014, hence the instant second appeal is well within the limitation period of 90 days.

Dated: 12/01/2015

Delhi



Appellant