

**CENTRAL INFORMATION COMMISSION**

2<sup>nd</sup> Floor, August Kranti Bhawan,  
Bhikaji Cama Place, New Delhi-110066

**Decision No. CIC/SB/C/2015/000002/SB**

**Dated 29.09.2016**

- Complainant** : Shri R.K. Jain,  
1512-B,  
Bhishm Pitamah Marg,  
Wazir Nagar  
New Delhi-110003.
- Respondent** : The Central Public Information Officer,  
Customs & Central Excise Settlement  
Commission, Principal Bench,  
3<sup>rd</sup> Floor, Samrat Hotel,  
Kautilya Marg, Chanakyapuri,  
New Delhi-110021.
- Date of Hearing** : 09.08.2016/29.09.2016

**ORDER**

1. Shri R.K. Jain filed a complaint dated 11.04.2015 under the Right to Information Act, 2005 (RTI Act) before the Central Information Commission (CIC) on the grounds that Shri Anil Sharma, CPIO, Custom & Central Excise Settlement Commission (CCESC), New Delhi has deliberately and malafidely not provided the information despite specific Order dated 22.08.2013 of the Commission, even though the information sought was available with the public authority. The complainant stated that both the CPIO and Shri G.R. Meena, First Appellate Authority of Custom & Central Excise Commission have deliberately and malafidely made a false statement that copy of the Order No. CIC/SS/A/2012/003908/LS dated 22.08.2013 of the CIC has not been received by them, whereas, the said order was duly dispatched by speed post to Shri Anil Sharma, CPIO by the Dispatch Section of the CIC on 01.10.2013.

**2.** The complainant requested the Commission to initiate an inquiry in the matter, impose penalty on the concerned CPIO, recommend disciplinary action against the errant CPIO and award appropriate compensation to him.

**Hearing on 09.08.2016:**

**3.** The complainant Shri R.K. Jain and the respondent Shri Rajeev Kapoor, CPIO, CCESC were present in person.

**4.** The complainant submitted that the order of the Commission No. CIC/SS/A/2012/003908/LS dated 22.08.2013 has not been complied with. The complainant further submitted that the respondent misled the Commission that copy of the order of the Commission has not been received. The complainant has also annexed proof of dispatch of the said order from the Registry of the Commission.

**5.** The respondent submitted that no official copy of the Commission's order has been received in the respondent office. The respondent further submitted that similar information has already been provided to the complainant in subsequent RTI applications. The respondent also stated that few correspondences from the complainant were received, however no copy from the Central Information Commission was received. Therefore, the said order could not be complied with.

**Interim Decision:**

**6.** Since, the hearing could not be concluded, the Commission adjourned the matter to **29.09.2016 10:30 am.**

**Hearing on 29.09.2016:**

**7.** The appellant Shri R.K. Jain was present in person. The respondent CPIO, Customs and Central Excise Settlement Commission was not present despite notice. However, an email has been received after the hearing wherein Shri Rajiv Kapoor has submitted that the Settlement Commission has fixed for hearing a number of cases, where his presence is necessary and has accordingly requested for adjournment of the hearing in the matter in the CIC.

**8.** The appellant submitted that the copy of the order of the Commission bearing no. CIC/SS/A/2012/003908 dated 22.08.2013 was dispatched to Shri Anil Sharma, CPIO, CCESC by the Commission vide speed post no. 055766855. Further, the appellant had also served a copy of the aforesaid order on both Shri Anil Sharma, the then CPIO, CCESC and Shri G.R. Meena, the then FAA, CCESC by hand which was duly received in the office of CCESC by one Shri S. Kumar on 01.10.2013.

**Interim Decision:**

**9.** The Commission, after hearing the submissions of the appellant and perusing the records, observes that prima facie it appears that the order of the Commission dated 22.08.2013 was delivered to both the CPIO and the FAA. Hence, it cannot be said that the order of the Commission was not received by the respondents. In view of this, it can be inferred that the respondent failed to provide the information sought by the appellant and hence, the respondent is liable to be penalised under Section 20 of the RTI Act, 2005.

**10.** The then CPIO, CCESC Shri Anil Sharma is hereby directed to submit an explanation both by post and through e-mail at [do.icsb-cic@gov.in](mailto:do.icsb-cic@gov.in) before the Commission, on or before 10.11.2016, explaining why action under Section 20(1) of the RTI Act should not be initiated against him. Shri Rajeev Kapoor, CPIO, CCESC will ensure that a copy of this show cause notice is served upon the officer.

**11.** The then CPIO Shri Anil Sharma is further directed to appear before the Commission on **18.11.2016 at 1.00 p.m.** along with a copy of his written explanations.

**12.** The then CPIO Shri Anil Sharma is also directed to inform if there is/ are other person(s) responsible for knowingly not providing complete information to the complainant and if so to inform such persons of the show cause hearing and direct them to appear before the Commission on **18.11.2016 at 1.00 p.m.** along with his/ their written explanations.

**13.** The Commission further directs that an enquiry by an officer not below the rank of Joint Secretary, Government of India be conducted regarding the missing order of the CIC under reference to find out whether any officer/official of the CCESC was responsible for misplacement of the record. The Joint Secretary shall also, if required, take appropriate departmental action against the officers/officials responsible for the misplacement of the records. A copy of the inquiry report along with the action taken report may be submitted to the Commission before **10.11.2016** either through email or by special messenger.

**14.** Copy of decision be given free of cost to the parties.

**(Sudhir Bhargava)**  
**Information Commissioner**

**Authenticated true copy**

**(V.K. Sharma)**  
**Designated Officer**