

CENTRAL INFORMATION COMMISSION

2nd Floor, August Kranti Bhawan,
Bhikaji Cama Place, New Delhi-110066

Decision No. CIC/SB/C/2015/000112

Dated 28.11.2016

Complainant : Shri R.K. Jain,
1512-B,
Bhishm Pitamah Marg,
Wazir Nagar,
New Delhi-110003.

Respondent : The Central Public Information Officer,
Customs Excise and Service Tax
Appellate Tribunal,
West Block-2, R.K. Puram,
New Delhi-110066.

Date of Hearing : 28.11.2016

Relevant dates emerging from the complaint:

RTI application filed on : 12.10.2015

CPIO's reply : 04.11.2015

FAA's Order : 21.06.2016

Complaint filed on : 14.11.2015

ORDER

1. Shri R.K. Jain filed an application dated 12.10.2015 under the Right to Information Act, 2005 (RTI Act) before the Public Information Officer (PIO), Customs Excise and Service Tax Appellate Tribunal (CESTAT) seeking information on ten points, relating to (a) Appeal No.E/277-280 and 298/2012-EX(BR) (Century Metal Recycling) (b) E/3561-63, 3580, 3594, 3693/2012 (Pepsico India Holding Pvt. Ltd) and (c) E/279, 291-294/05 (Raja Dyeing).

2. The complainant filed a complaint dated 14.11.2015 before the Commission on the grounds that the CPIO denied part information claiming that the matter is sub-judice and hence, exempted under Section 8(1)(h) of the RTI Act and that the First Appellate Authority (FAA) did not respond to his appeal. The complainant states that the Delhi High Court in a case of *MCD v. R.K. Jain*, WP(C) No. 14120/2009, held that “the matter being sub judice before a court is not one of the categories of information which is exempt from disclosure under any of the clauses of Section 8(1) of the RTI Act.” The complainant also states that earlier the CPIO had been providing similar information to the complainant and therefore, the CPIO is deliberately and malafidely obstructing the information which is not exempted under Section 8 or 9 or any other provisions of the RTI Act, without any reasonable cause. The complainant requested the Commission to institute an inquiry into the matter under Section 18(2) of the RTI Act, 2005, summon and peruse the original records relating to the information sought, impose a penalty on the CPIO under Section 20(1), recommend disciplinary action against the CPIO under Section 20(2) and award appropriate compensation under Section 19(8)(b) of the RTI Act, 2005.

Hearing on 28.11.2016:

3. Both the complainant Shri R.K. Jain and the respondent Shri V.P. Pandey, Assistant Registrar and CPIO, CESTAT were present in person.

4. The complainant submitted that the information sought has been incorrectly denied to him on the ground that the same is sub-judice and hence, is exempted under Section 8(1)(h) of the RTI Act. The complainant further submitted that the exemption has been incorrectly invoked as similar information has been provided to him by the same CPIO in different RTI applications. The complainant also relied on a Delhi High Court ruling in the case of *MCD v. R.K. Jain*, WP(C) No. 14120/2009, wherein, it was held that mere pendency is no ground to deny information under the RTI Act.

The complainant also stated that denial of information is deliberate on the part of the respondent and the same is corroborated from the fact that similar information had been provided to him earlier in respect of Appeal Nos. E/1112, 1113, 1114/2006 and E/2011 SM. (BR) vide letter dated 21.10.2015. The complainant further submitted that the Deemed CPIO had not provided any information in respect of Appeal Nos. E/3561-63, 3580, 3594, 3693/2012 (Pepsico India Holding Pvt. Ltd) and E/279, 291-294/05 (Raja Dyeing).

5. The respondent submitted that the complainant was informed vide letter dated 04.11.2015 that Appeal Nos.E/277-280 and298/2012 are sub-judiceand disclosure of the same is exempted under Section 8(1)(h) of the RTI Act. The respondent further submitted that the FAA vide his order dated 21.06.2016 directed the CPIO to provide information to the complainant. In compliance with the same, a letter was written to CESTAT, Chandigarh for providing information to the complainant. Hence, no further action on part of the respondent is pending. The respondent also informed the Commission that the information in respect of appeals of Pepsico India Holding Pvt. Ltd and Raja Dyeinghad been provided to the complainant.

Interim Decision:

6. The Commission, after hearing the submissions of both the parties and perusing the records, observes that the CPIO, CESTAT had denied information relating to Appeal Nos. E/277-280 and 298/2012 under Section 8(1)(h) of the RTI Act, though as per the complainant the same CPIO had provided him similar information to him earlier.The Commission, also notes that the then Deemed CPIO, Shri V.P. Pandey, had not furnished any reply in response to the RTI application. The Commission, thus finds that no information has been provided to the complainant within the stipulated period of time.Therefore, Shri S.K. Verma, the then CPIO, CESTAT and Shri V.P. Pandey, the then Deemed CPIO and presently CPIO, CESTAT are liable

for imposition of penalty in terms of provision under Section 20(1) of the RTI Act, 2005.

7.

Shri S.K. Verma, the then CPIO, CESTAT and Shri V.P. Pandey, CPIO, CESTAT are hereby directed to submit an explanation both by post and through e-mail at do.icsb-cic@gov.in before the Commission, on or before 10.01.2017, explaining why action under Section 20(1) of the RTI Act should not be initiated against them.

8. Shri S.K. Verma, the then CPIO, CESTAT and Shri V.P. Pandey, CPIO, CESTAT are further directed to appear before the Commission on **24.01.2017 at 12.00 noon** along with a copy of their written explanations.

9. The CPIO, CESTAT 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 **24.01.2017 at 12.00 noon** along with his/ their written explanations.

10. Copy of decision be given free of cost to the parties.

(Sudhir Bhargava)

Information Commissioner

Authenticated true copy

(V.K. Sharma)

Designated Officer