

CENTRAL INFORMATION COMMISSION
2nd Floor, 'B' Wing, August Kranti Bhawan
Bhikaji Cama Place, New Delhi-110066

Tel: +91-11-26186535

Complaint No.CIC/BS/C/2014/000294

Complainant: Kishan Lal,
C-29/05, NAPS Township, P.O.,
NAPP Narora, Distt.-Bulandshahar,
U.P.-203389.

Respondent: Central Public Information Officer
DGM (NWOP-I), O/o GMTD, BSNL, B Block,
Ranjit Avenue, Amritsar, Punjab.

Date of Hearing: 09.03.2017

Date of Decision: 09.03.2017

ORDER

Facts:

1. The complainant filed RTI application dated 28.10.2013 seeking information on 19 points regarding the Call Detail Records (CDR) being maintained by BSNL with regard to (i) Certified copy of incoming & outgoing CDRs for the period 01.01.2013 to 31.10.2013 along with Tower Location Record (TLR) of phone nos. 7589127401/9464942494 & 01832550110 belonging to his late son Ratan Singh, (ii) Upto which period record of landline & mobile phones are preserved by BSNL, (iii) Whether CDR & TLR older than one year can be given to the subscriber, etc.

2. The CPIO responded on 09.12.2013 by giving a point wise reply to the complainant. The complainant filed first appeal dated 24.12.2013 before the first appellate authority (FAA). The FAA responded on 22.01.2014. The complainant filed complaint to the Commission on 09.09.2014 on the ground that information should be provided to him.

Hearing:

3. The complainant and the respondent participated in the hearing through video conferencing.

4. The complainant stated that the sought for information pertains to call details record (CDR) of phone and mobile no. 7589127401, 9464942494 & 01832550110 of his deceased son Late Rattan Singh who was an Engineer employed with the BSNL Amritsar. The complainant stated that the matter pertains to tragic death of his son in mysterious circumstances at Amritsar. The complainant stated that the respondent has not been provided CDR of mobile and land line phone of his son. The complainant stated that the sought for information can disclose the mystery behind the murder of his son. Besides, as a father, he should learn about the persons with whom his son was in touch in the last period of his life.

5. The complainant stated that the immediately after murder of his son on 16.10.2013 in BSNL Township, being father and nominee of his son , he had sought CDR which was, however, not furnished by the respondent.

6. The Complainant stated that he had filed RTI application 28.10.2013 but the information has not been provided without any cogent justification. The Complainant stated that the first appellate authority vide order dated 22.01.2014 directed the respondent to provide the information within 30 days. However, despite this clear order the respondent refused to provide the information. The complainant stated that he had again approached the FAA but FAA also became unresponsive.

7. The complainant stated that the respondent has taken the plea that the information cannot be disclosed as per the exemption provided u/s 8(1) (j). The respondent has, however, not spelt out in what manner CDR disclosure would cause unwarranted invasion of the privacy of his deceased son. The complainant stated that the information was sought by him, the father and nominee of his son, and thus the information cannot be kept confidential from him. The complainant stated that the respondent has deliberately misinterpreted the said provision with malafide intentions to deny the information. The complainant stated that the respondent be directed to provide complete information without further delay.

8. The complainant stated that the CPIO has intentionally denied the information on motivated grounds to protect some employee of BSNL and the FAA has failed to get his own order complied despite his numerous communications dated 03.03.2014 and 23.06.2014. Therefore, the respondent be penalized the maximum penalty of Rs. 25000/ and he should be granted cost of this appeal and compensation of Rs. 50000/- for malafide illegal refusal of the information and detriment suffered by him by not getting the information.

9. On query from the Commission, the complainant stated that his son's legitimate dues viz Insurance, gratuity, PF, leave encashment etc. have not been paid to him though more than 3 years have lapsed. The complainant stated that he has completed all formalities on his part. He is running from pillar to post to get these arrears.

10. The respondent stated that the sought for information viz CDR cannot be disclosed as these are personal information of third party which is exempted under section 8(1)(j) of the RTI Act. The respondent further stated that at this stage, the information is not available as the record retention period of such information is one year.

11. The respondent stated that the complainant has not submitted death certificate of his son, and therefore, the claim has not been settled.

12. The complainant stated that he had submitted death certificate issued by local authority of UP State. The complainant stated that BSNL has informed that the death certificate should be issued by the local authority of Amritsar State of Punjab. The BSNL is not cooperating or in any way facilitating due payments to him in his period of grief.

Discussion/ observation:

13. The complainant is pursuing for information. He has availed remedy of first appeal. This complaint can be treated as second appeal, and it is so ordered.

14. The Commission observed that the CDR of complainant's deceased son is sought by his own father. The Commission further observed that the appellant had sought the CDR to find details or interaction of his son in the last period of his life . This was not furnished by the respondent to him. Under RTI, prima

facie the information was incorrectly denied. Order of FAA to provide information as per provisions of RTI Act was not implemented and in fact defied. This order by FAA to provide information was given well within one year period prescribed for preservation of records. Thereafter also, the appellant made several pleas to get CDR. These were denied. Therefore, it can be presumed that the CDR of the appellant's son was deliberately not provided to the appellant. The CDR has not been preserved even though various correspondences has been done by the appellant in this regard. The respondent has prima facie displayed malafide in denial of the sought for information.

15. The Commission further observed that if the appellant would have provided information in time, the appellant could have pursued the case of his son's mysterious death. At the least, he could have spoken to persons with whom his son was in touch in the last period of his life. The detrimental loss of the appellant by denial of information is immense.

16. It is very shameful that the father of deceased is running pillar to post for getting his son's legitimate dues for more than three years. The respondent has not shown any sympathy with the appellant. The respondent, in fact, should help the appellant in getting death certificate of the deceased and help him to get the post-death due payments, insurance amount etc.

Decision:

17. The respondent is directed to show cause, why action should not be taken for contravening the provisions of the RTI Act including not providing the information to the appellant, within 30 days of this order.

18. The respondent is directed to show cause, why compensation of Rs. 50000/-should not be granted to the appellant for detrimental loss suffered by the appellant due to failure to provide information, within 30 days of this order.

19. The respondent is directed to be present personally along with the then CPIO (the CPIO who replied to the RTI application) before the Commission at Delhi on 20.04.2017 for further hearing in the matter.

20. The General Manager is directed to look into the matter and ensure the appearance of the respondent CPIO and the then CPIO on next date of hearing.

Copy of the order be given to the parties free of cost.

Sd/-

(Radha Krishna Mathur)
Chief Information Commissioner

Authenticated true copy

Sd/-

(S.C. Sharma)

Dy. Registrar

Copy to: The General Manager Telecom District Amritsar, Telephone Bhawan,
B-Block, Ranjit Avenue, Amritsar.

ADJUNCT ORDER DATED 20.04.2017

Hearing:

1. The respondents (current and the then CPIO) participated in the hearing personally.
2. Shri Gulshan Bedi, Retd DGM, BSNL, the then CPIO, stated that he has provided some of the information to the complainant. He said that he had not provided call detail records to the appellant, being third party information.
3. The present CPIO stated that vide letter dated 13.2.2014 they had informed the appellant to submit death certificate of Shri Rattan Singh, but till date they have not received the death certificate. The CPIO stated that vide letter dated 10.4.2017 they have sent to the appellant one set of Form 20 of the Employees' Provident Fund for seeking EPF amount and two sets of GSLI Claim Form B of L.I.C. of India for claim of Group Insurance amount in respect of Shri Rattan Singh. The CPIO said that an amount of Rs.3,51,264/- has been sanctioned on account to Gratuity to Shri Kishan Lal father of Late Shri Rattan Singh, ex-TTA and Rs. 84,401/- on account of leave encashment. The CPIO stated that after receiving the death certificate of Shri Rattan Singh, they will make all the payment to the appellant.

Discussion/Observation:

4. The Commission observed that if the appellant would have provided information in time, the appellant could have pursued the matter of his son's death. At the least, he could have spoken to persons with whom his son was in touch in the last period of his life. The detrimental loss of the appellant by denial of information is immense.
5. The respondent had not even directed the CDR holding authority to preserve the record despite FIR and RTI application in the matter. However, It is

observed that the respondent, the then CPIO, had no malafide in denying the information.

6. The respondent should insist appellant in getting the death certificate and they then pay legitimate dues to the respondent enable them to pay legitimate dues of deceased Shri Rattan Singh.

Decision:

7. The show cause for penalty is dropped.

8. The respondent Public Authority (CMD, BSNL) is directed to pay compensation of Rs. 50000/- to the complainant within 30 days of this order.

9. The respondent is advised to make all the payment to the appellant in respect of his late son Shri Rattan Lal within 2 months and send a compliance report to the Commission.

Copy of the order be given to the parties free of cost.

(Radha Krishna Mathur)
Chief Information Commissioner

Authenticated true copy

(S.C. Sharma)
Dy. Registrar

Copy to: CMD,
Bharat Sanchar Nigam Ltd.
Opp Janpath Hotel,
Bhawan Harish Chand Mathur Lane,
Connaught Place, New Delhi- 110001