

**CENTRAL INFORMATION COMMISSION**

August Kranti Bhawan, Bhikaji Cama Place,  
New Delhi-110066

F. No. **CIC/SA/C/2016/000380**

Date of Hearing : 03.08.2017  
Date of Decision : 22.09.2017  
Appellant/Complainant : Anil Sood  
Respondent : Mr. Kailash Kr. Singh – Director of Panchayat, GNCTD  
Mr. Shisupal – EE, SWD - DDA;  
Mr. Harswarup – DD(Horticulture)  
Mr. Dilip Singh – Delhi Parks and Garden Society, Ministry of Environment and Forest, GNCTD  
**Information Commissioner : Shri Yashovardhan Azad**

**Relevant facts emerging from appeal:**

RTI application filed on : 16.06.2016  
PIO replied on :  
First Appeal filed on :  
First Appellate Order on : -  
2<sup>nd</sup> Appeal/complaint received on :

**Information sought and background of the case:**

Vide RTI application dated 16.06.2016, addressed to the PIO, Principal Secretary, Divisional Commissioner, GNCTD, the complainant in the background of affidavit filed by Mr. G.K. Marwaha, Divisional Commissioner before Hon'ble High Court in WP No(s)- WP(C)3502/2000, WP(C)4385/2001, WP(C)3515/2002, WP(C)8227/2002, WP(C)4750/2003 & WP(C)6755/2003, as noted in order dated 25.08.2004 by Hon'ble High Court. The appellant sought the following information :

- a. Copy of report of committee claiming existence of 580 water bodies;
- b. List of 261 water bodies that are dry;
- c. List of 319 water bodies that are wet;
- d. List of 189 water bodies that do not exist, the outcome of visit by Committee to the dried up water bodies;
- e. Exercise done by Committee constituted by Hon'ble High Court to examine the ownership of water bodies whether owned by Government, Panchayat that were encroached and now cleared.

The CPIOs transferred the RTI application to the offices of myriad and irrelevant public officials including the BDOs/SDMs etc. The details of these transfers have been discussed separately at a later stage.

Feeling aggrieved over no response from the public authority the complainant approached the Commission.

### **Relevant facts emerging during hearing:**

Both parties are duly represented. The Respondent is represented by an Executive Engineer, PIO-Delhi Parks and Garden Society alongwith three other officials. Background of the case as it emerged from deliberations of the parties is as follows:

- i.) The complainant through RTI application highlighted the deteriorating situation regarding depletion of water table in the capital city of Delhi. He had earlier filed a PIL No. WP(C) 3515/2002 before the Delhi High Court on the same issue, drawing attention to the encroachments and filling up of the water bodies, thus killing the water recharge areas of the city. The High Court of Delhi while adjudicating a batch of writ petitions WP(C) no. 3502/2000, WP(C) no. 4385/2001, WP(C) no. 3515/2002, WP(C) no. 8227/2002, WP(C) no. 4750/2003 & WP(C) no. 6755/2003 vide order dated 25.08.2004 had passed the following directions:

*“ We have perused the affidavit alongwith the annexure filed by Mr. G K Marwaha, Divisional Commissioner. According to the petitioner, there are 794 water bodies. While the Committee on the basis of the land owning agencies, at present, arrived at a figure of 580 existing water bodies out of which 261 water bodies are dry and 319 water bodies are wet... So far as 189 water bodies are concerned, they are reported non-existent .....*

*So far as the water bodies which are encroached upon are concerned, it is directed that the State Government as well as local authorities shall see that encroachments are removed and the water bodies are used as water bodies.*

*So far as the water bodies which are indicated as dry by the Committee are concerned, it is directed that the respondent authorities must take immediate action to see that those water bodies are really used as water bodies. It is for the experts of the Government to plan about.*

*In the monsoon water bodies must have been filled with water and it is a question of maintaining them. Therefore, due care is required to be taken by the respondent authorities.*

Learned Counsel for the petitioner has already given a list of nonexistent water bodies. Ld. Counsel shall sit together for this purpose and the Committee shall re-examine the matter. This is the proper time for the Committee to visit the sites of 189 water bodies which according to them are non-existent. The Committee shall visit these sites and must make a report to the Court in this behalf.

- ii.) The complainant had also approached the National Green Tribunal [hereinafter referred as 'NGT'] on the same issue vide Original Application No. 307/2016 wherein vide order dated 03.06.2016 the National Green Tribunal directed the "...GNCT of Delhi, Central Ground Water Authority and Delhi Jal Board to clean, maintain and restore all the bodies, natural wells and baolis and other water bodies and other water bodies which are in existence in the NCT of Delhi, within three weeks ...and "...to ensure that for the coming rainy seasons these water bodies places can receive rainwater in good quality..." The complainant alleges that instead of collecting the information and providing the same to the complainant, the public authority kept on simply transferring the application from one office to another.
- iii.) In the course of arguments, citing multiple transfers of the RTI application, the Applicant has placed reliance on the letter dated 18.07.2016 whereby the application initially transferred from PIO, O/o the Divisional Commissioner, was again transferred by PIO, Delhi Parks and Gardens Society to ten different irrelevant PIOs/BDOs citing that the requisite information pertains to/closely connected with those offices. The applicant has further pointed out that he had filed the RTI Application before the Divisional Commissioner, GNCTD, the same authority, which had filed affidavit before the High Court in the PIL cited above. A bare reading of the RTI application reveals that before asking for the information, the appellant had clearly mentioned the context in which the information was asked and that is the affidavit filed by the Divisional Commissioner before the Hon'ble High Court and the order dated 25.08.2004. And yet ironically without any application of mind, the RTI query was simply transferred vide letter dated 20.06.2016 and kept getting transferred to myriad authorities, without any response from any of the authorities. The Applicant has further contended that even if the current information was not in possession of the O/o Divisional Commissioner, it was obligatory upon the PIO to collect the information from the actual custodian of information and provide the same to the information seeker or ensure that the custodian of information was traced and made to furnish the

requisite information. The applicant has correctly placed reliance of the Delhi High Court decision dated 12.09.2014 in the case of Ministry of Railways through Secretary & Anr. Vs. Girish Mittal, relevant portion whereof reads as follows:

*“Section 6(3) of the Act cannot be read to mean that the responsibility of a CPIO is only limited to forwarding the applications to different departments/offices. Forwarding an application by a public authority to another public authority is not the same as a Public Information Officer of a public authority arranging or sourcing information from within its own organisation. In the present case, undisputedly, certain information which was not provided to respondent would be available with the Railway Board and the CPIO was required to furnish the same. He cannot escape his responsibility to provide the information by simply stating that the queries were forwarded to other officials. Undeniably, the directions of CIC were not complied with.”*

**Decision:**

1. At the very outset, the Commission notes that that the plea of the Applicant and relief sought demands that the instant Complaint be converted into an Appeal for adjudication of the same.
2. While examining the facts of the case, the Commission undertook the exercise of analysing the information available on this issue on the website of the Respondent. The Delhi Government official website *delhi.gov.in* holds detailed information about the water-bodies in Delhi, some of which have been reproduced here for the purpose of discussion:
  - Discussing the problem of survival of the water-bodies, the Delhi Govt website reveals that since exact ownership about the water-body is not known, affixation of responsibility of the authority is difficult. For example an area which belongs to Revenue Deptt., if taken over by other Department, delay in actual taking over of responsibility of preserving such water-bodies leads to the concerned water body being neglected of necessary protection. Similarly during transfer, often the charge is carelessly marked.
  - One of the key problems in preservation of the water-bodies is that the water-bodies come under jurisdiction of different agencies which have different and poorly adaptive approaches towards their preservation or maintenance. Institutional arrangements in this regard are weak and coupled with lack of knowledge and lack of proper and unified Action

Plans and monitoring, pose a threat to the preservation and nurturing of these natural water-bodies.

- The information available on the Delhi Government website further demonstrates that these water bodies under the jurisdiction of various Departments/Authorities/Bodies responsible for its maintenance, development and improvement etc. are as follows:

<u>Sl. No.</u>	<u>Department/Authority/ Autonomous Body</u>	<u>Approximate Number of Water Bodies in their jurisdiction</u>
1	Revenue Deptt/Irrigation & Flood Control Deptt.	476
2	Delhi Development Authority	118
3	Department of Archaeological Survey	15
4	Department of Forest	12
5	Central Public Works Department	04
6	Public Works Department	02
7	Municipal Corporation of Delhi	01
8	I.I.T	01
	Total	629

- It appears from the information available online that for the purpose of regular monitoring of the progress of water bodies in NCT of Delhi, an Apex Body has been constituted, which is headed by the Chief Secretary, Delhi and the Vice-Chairperson of the said Apex Body is the Secretary (Environment & Forest) apart from a team of approximately 19 experts from various departments as members of the said Apex body.
- A Steering Committee has also been constituted to monitor the progress and intervene as and when required during the time of execution of various programme in the improvement of water Bodies and provide suggestions. This Committee is headed by the Secretary (Env.& Forest) as the Chairperson while C.E.O., DPGS is the Vice-Chairperson-cum-Convener of the Committee and the Court Commissioner nominated by Hon'ble DHC is a Member thereof.
- Action Plan envisaged by the Government seems to indicate that every six months progress/action taken report is to be submitted before the Court.

However, the Commission notes that no such Report forms part of the website and even the updation of the website appears to have been done last in June 2016, which is more than a year old.

4. On further study in this regard, reports and newspaper articles indicate that in order to counter the problem of the capital's water-bodies: lakes, ponds and stepwells, dying a slow death due to encroachments and sewage irregularities, the Delhi Government had

in June, 2017 set up a high-level committee to take action with respect to the water-bodies, under the chairmanship of Public and Works Department (PWD) Minister. The Delhi Government senior officials of Delhi Jal Board and the Ministry are likely to give a final shape to the decision in this regard. The constitution of the Committee was necessitated due to direction of the National Green Tribunal (NGT) on 03.06.2016 for revival of the water-bodies in view of their dilapidated condition. Study further reveals that as per Delhi government's records, there are 971 identified water-bodies in the capital, though according to the public officials the actual figure could well be above 1,000 since some of the water-bodies are not traceable. It is also reported that out of the 971 identified water-bodies, only 250 are those which still have water and can come under the 'clean' category. Over 300 water-bodies are such which have completely dried up and 100 have been taken over by encroachments like buildings, parks and slums, leaving no scope of revival. Apart from this, around 150 water bodies are partially encroached which are also targeted by the Government for revival and around 100 water-bodies, mostly in villages, are on the brink of extinction due to the unmonitored and unhindered sewage flowing into them.

5. In so far as scope of the instant case at hand is concerned, scrutiny of the facts from the beginning reveal that the RTI application dated 16.06.2016 was addressed to the office of Divisional Commissioner, since Mr. G K Marwaha, Divisional Commissioner had filed an affidavit before the Delhi High Court deposing on related facts pertaining to water bodies. However, records of this case reveal that the RTI application was transferred in the following manner:

S. No.	Transferred by	Vide communication dated	Transferred to
1	O/o Divisional Commissioner-APIO/Supdt.	20.06.2016	SDM – II (HQ)/Co ordn.
2	SDM(HQ)/PIO	29.06.2016	a) PIO/Delhi Parks and Garden Society b) Director (Panchayat) c) Deptt. of Forests & Wildlife
3	O/o Divisional Commissioner-APIO/Supdt	11.07.2016	SDM-V (HQ)
4	SDM-V (HQ)	15.07.2016	a) PIO/ADM(HQ) and b) Dy. Conservator of Forests

5	SDM (HQ)-I	15.07.2016	a) SDM(Kanjhawala); b)SDM(Rohini) c)SDM(Saraswati Vihar)
6	PIO, DPGS(Delhi Parks and Garden Society)	18.07.2016.	10 odd PIO/BDOs covering the whole of Delhi

The above trail of transfers indicates a virtual collapse of the RTI regime and is a travesty of justice. It is ironical to note that the detailed information available on the Delhi Government's website, as discussed above is copyrighted to the Delhi Parks and Garden Society, Deptt. of Environment, GNCTD. And yet, the PIO, Delhi Parks and Garden Society – Sh. Dilip Singh chose to forward the RTI application to all PIO/BDOs of the city, without bothering to furnish the available information and checking his own records or even the website. It is atypical case of a bureaucratic exercise where everyone wants to coordinate by acting as a post office transferring papers without even attempting to address them. Interestingly, the information sought by the appellant is available on the Delhi Government website in the form of a complete chart showing the break-up of wet water bodies and dry water bodies in each zone, apart from their traceable/untraceable/encroached etc status. The PIO, DPGS instead of providing the said information, chose to simply transfer his responsibility on irrelevant and unconnected public officials.

At this stage, the Commission finds it pertinent to refer to the decision cited by the Applicant, of the Delhi High Court dated 12.09.2014 in the case of Ministry of Railways through Secretary & Anr. Vs. Girish Mittal, relevant portion whereof reads as follows:

*“Section 6(3) of the Act cannot be read to mean that the responsibility of a CPIO is only limited to forwarding the applications to different departments/offices. Forwarding an application by a public authority to another public authority is not the same as a Public Information Officer of a public authority arranging or sourcing information from within its own organisation. In the present case, undisputedly, certain information which was not provided to respondent would be available with the Railway Board and the CPIO was required to furnish the same. He cannot escape his responsibility to provide the information by simply stating that the queries were forwarded to other officials. Undeniably, the directions of CIC were not complied with.”*

6. In the above backdrop, the Commission is gravely concerned over the state of the RTI regime specially with respect to dissemination of information to the public on public interest issues like preservation of water bodies in the National Capital. It is not a case where the issue suffers from lack of attention, as is noted from the information available with the Government as reflected from their website. Despite a well designed machinery, with two Committees set up only to monitor the task of protection and preservation of the water-bodies, there appears no action in developing the capability for disseminating correct information portraying the accurate picture to the citizens. The Hon'ble High Court, had passed specific directions in the batch of Writ petitions filed as Public Interest litigation, vide order dated 25.08.2004 **(discussed above)**, directing as follows:

“... State Government as well as local authorities shall see that encroachments are removed and the water bodies are used as water bodies ..... it is directed that the respondent authorities must take immediate action to see that those water bodies are really used as water bodies...”

Even the National Green Tribunal while deciding the Original Application No. 307/2016 by its order dated 03.06.2016, had clearly directed “...GNCT of Delhi, Central Ground Water Authority and Delhi Jal Board to clean, maintain and restore all the bodies, natural wells and baolis and other water bodies and other water bodies which are in existence in the NCT of Delhi, .....” As is evident from the Despite categoric directions of the High Court directs, no report is disclosed on the website of the Respondent demonstrating the compliance of publishing six-monthly reports.

7. Despite directions from the High Court as well as NGT, which are crystal clear and depict the judicial intent on this issue, it is distressing to note that a very pertinent query entirely in the interest of society and environment at large, has been dealt with extreme insensitivity and a cavalier approach by the concerned PIO/DPGS. It is regrettable to note the level of indifference of the PIO in handling and addressing such important issues as preservation of water-bodies, which is critically linked to survival of our eco systems. It is incomprehensible to perceive, as to what necessitated the transfers which reflects poorly on the capability, knowledge base and will of the public officials. Treating all RTI applications with the same straight jacket pattern was neither the intent nor the desired approach under the RTI Act. Each RTI application deserves to be treated on merits thereof and one which raises an issue of larger public concern and the



environment at large, like the instant case, deserves to have been prioritised and addressed with the seriousness it merited. Sadly, the public officials have adopted a rather mechanical, evasive and insensitive approach in this case.

8. The Commission is perturbed over the laid-back and careless approach of the public officials demonstrated in this case. Lack of application of mind, poor knowledge base and the reluctance to reach out on the part of officials, as characterised in the instant case, bodes ill for the RTI regime. Rampant and illegal depletion of ground water table will certainly lead us to a situation on the brink of disaster. Unless the civic authorities start taking proactive measures, at least on the call of diligent citizens like the applicant, instead of passing the responsibility (here in the form of the RTI Application), the situation will further worsen.

The above discussion also demonstrates a disturbing practice of absence of involvement of senior officials in the process of dissemination of information under the RTI Act. As a result the officials designated to furnish information are neither checked nor monitored appropriately.

9. Though four PIOs appeared for hearing in the instant case, before the Commission, none had any information to provide except the trail of transfers. The Commission takes a very poor view of such sloppy representation devoid of any preparation, which renders the very purpose of the hearing infructuous. The Commission has always stressed in many of its decisions, that PIOs attending RTI hearings should be appropriately briefed, sensitised adequately to deal each case on its merits, exhorted to expand their domain knowledge and above all come fully prepared for CIC hearings after reading the RTI queries carefully and checking their own records/website.
10. After the above observations, the Commission issues the following directions:
  - i) The entire information as sought by the appellant in his queries (a), (b), (c) and (d) shall be provided to the appellant within three weeks of the receipt of this order;
  - ii) In addition, the current status on the information sought in query (e) shall also be provided i.e. the exercise done by the

Committee constituted by the High Court with respect to the examination of ownership and encroachment of water bodies;

In view of the public interest involved in this matter, the Commission also directs that:

iii) The website of the Respondent should be updated giving out the current status of the water bodies in the Capital with respect to encroachment, ownership etc.

iv) The information about implementation of directions by the High Court to submit a six- monthly progress Report by the Committee should also be posted on the website.

11. The Commission observes that prima facie the first lapse has been on the part of PIO, O/o Divisional Commissioner, who despite the details of information sought very clearly as laid out in the RTI application, refused to apply his mind, made no efforts to check his records or apply Section 5(4) of the RTI Act to garner the information. The RTI application was instead simply transferred, as noted above to totally unconcerned public official. This tantamounts to causing deliberate obstruction in the flow of information and violation of the provisions of the RTI Act. Hence, the Registry of this Bench is directed to issue SHOW CAUSE NOTICE upon the PIO, O/o Divisional Commissioner for denial of information without any reasonable cause by transferring the RTI application without any application of mind. The Noticee is hereby directed to explain as to why maximum penalty of Rupees Twenty Five Thousand shall not be imposed upon him for his complete dereliction of duty and violation of provisions of the RTI Act by simply forwarding the RTI application to irrelevant official with a view to frustrate the very dissemination of information. Reply to the Show Cause shall be sent by the Noticee at least a week prior to the hearing of the Show Cause case.
12. The Commission further directs the Registry of this Bench to issue SHOW CAUSE NOTICE upon Sh. Dilip Singh- the PIO, Delhi Parks and Garden Society, GNCTD for causing deliberate obstruction to the dissemination of information by mindlessly transferring the RTI Application to irrelevant officials, without checking his own records/website. The Noticee is hereby directed to explain as to why maximum penalty of Rupees Twenty Five Thousand shall not be imposed upon him for his complete dereliction of duty and violation of provisions of the RTI Act by simply forwarding the RTI application to irrelevant officials with a view to frustrate the very dissemination of

information. Reply to the Show Cause shall be sent by the Noticee at least a week before the Show Cause hearing, explaining the cause of non disclosure of information so far and the irrelevant transfer of RTI applications.

13. A copy of this order with the above observations and directions at paragraph nos. 8,9,10, 11 and 12 above, shall be sent by the Registry of this Bench, to the Secretary to the Lt. Governor, Secretary to the Chief Minister of Delhi and the Chief Secretary, GNCTD to observe the manner in which the instant case of public interest has been dealt with by the CPIOs/PIOs entrusted with the job of disseminating information to the public. Unless senior officers are entrusted with the task of overseeing the operation of the RTI machinery, the regime will continue to suffer as evident in the instant case. The Commission is given to understand that a Consultant of considerable repute has been employed by the Delhi Government to bolster the RTI regime. The Delhi Govt is well advised to utilise his services in not only sensitising the CPIOs and the PIOs but senior echelons too of the Govt. Only then matters of national importance can be attended to in a manner befitting the requirements of the RTI regime.

**(Yashovardhan Azad)**  
**Information Commissioner**

