

# CENTRAL INFORMATION COMMISSION

Room No. – 308, 2<sup>nd</sup> Floor, August Kranti Bhawan,  
Bhikaji Cama Place, New Delhi – 110066.  
Website: cic.gov.in

File No. CIC/SH/C/2014/000522/KY

Complainant : Shri Y. Krishnasamy  
NO. 4, 6th Corss, Anna Salai  
Kailash Nagar, Kattur, Trichy-620019  
Tamilnadu

Public Authority : The CPIO  
Bharat Heavy Electricals Ltd.  
BHEL House, Siri Fort, New Delhi-49  
The CPIO  
M/o. of Heavy Industry & Public Enterprises,  
UdyogBhavan, Dept. of Heavy Industry, New Delhi-110011

Date of Hearing : 15.09.2016  
Date of Decision : 15.09.2016

## Presence:

Complainant : Absent  
CPIO : Shri Sanjiv Kumar Gupta, Under Secretary & CPIO

## FACTS:

- I. Vide RTI application dated **01.08.2014**, the applicant sought information on **12 issues**.
- II. CPIO, vide its response dated **12.08.2014**, **09.09.2014** & **22.09.2014**, has provided the part information to the Applicant.
- III. The First Appeal (FA) was filed on **20.12.2014**, as desired information not provided.
- IV. First Appellate Authority (FAA), vide its Order dated **24.21.2015**, upheld the decision of CPIO.
- V. Grounds for the Complaint filed on **26.08.2014**, are contained in the Memorandum of Complaint.

## HEARING

**Complainant opted to be absent despite of our due notice to him.** Respondents appeared before the Commission personally and made the submissions at length.

## DECISION

At the outset, it is stated here that as per the contents of the prayer clause as embedded in the instant petition, **it is a case of second appeal**. However, the Central

Registry registered it **wrongly as a complaint for the reasons best known to them**. Thus, it is being dealt with as **second appeal** and not as complaint.

2. It would be seen here that the appellant, vide his RTI Application dated **01.08.2014**, sought information from the respondents on **two issues**. Respondents, vide their responses dated **12.08.2014, 09.09.2014 & 22.09.2014**, allegedly provided the required information to the appellant. Being aggrieved by the aforesaid response, FA was filed by the appellant on **20.12.2014** before the FAA. However, an Appellate Committee vide its order dated **24.02.2015**, disposed of the FA by upholding the views of PIO. Hence, a Second Appeal before this Commission.
3. It is worth to mention here that **Appellate Committee**, vide its order dated **24.02.2015**, has disposed of the appellant's FA. Thus, it is quite apparent on the face of it that appellant's FA was disposed of by **Appellate Committee** and **not by an individual officer appointed under the provisions of RTI Act 2005 as FAA**.
4. It is also pertinent to mention here that nomination of **Appellate Committee** was done by the order issued by CMD of BHEL, dated **09.9.2005** i.e. much prior to enforcement of RTI Act 2005, which came into force on **12.10.2005 only**. However, the Appellate Committee passed its order on FA filed by the appellant only on **24.02.2015**. In view of this, the Appellate Committee's so called order does not hold good in the eyes of law and deserves to be **quashed and set aside** being **legally untenable**.
5. As such, the Commission feels that there is no perception under the provisions of RTI Act 2005 to constitute '**Appellate Committee**' for disposing of the First Appeal filed by any appellant. Thus, order dated **24.02.2015**, passed by Appellate Committee has **no legal footing** in the matter and deserves to be quashed and set aside. Therefore, Appellate Committee's order dated **24.02.2015**, is hereby **quashed and set aside**.
6. In view of the above, the Competent Authority (i.e. CMD) of BHEL, is hereby **directed to appoint a competent individual officer**, at least one rank senior to PIO, as First Appellate Authority, under **Section 5(2)** read with **Section 19(1) of the RTI Act 2005, within 2 weeks** from the date of receipt of this order in lieu of the Appellate Committee, which has no perception, at all, under the provisions of RTI Act 2005. This is also **prevalent practice** being adopted by all Government Ministries/ Departments and even PSUs in all cases under RTI Act 2005. Thereafter, the appellant's FA be referred to such FAA for its disposal expeditiously and in no case, by **consuming more than 6 weeks time** from date of receipt of this order.
7. The Commission **perused** the case-file **thoroughly**; specifically, **nature of issues** raised by the appellant in his RTI application dated **01.08.2014**, respondent's responses dated **12.08.2014, 09.09.2014 & 22.09.2014**, Appellate Committee's order dated **24.02.2015**, other material made available on record and also the grounds of memorandum of second appeal.

8. By virtue of **position** above and in the **circumstances** of the case, the Commission is of the considered view that it is a fit case to be **remanded back** to learned FAA (yet to be appointed as directed above in preceding Para 6) with a direction to dispose of the Appellant's FA filed on **20.12.2014, afresh, in accordance with the provisions of RTI Act 2005, within 6 weeks** from the date of receipt of this order under intimation to the Commission. As such, the case is **remanded back** for the purpose.

The Appeal is disposed of accordingly.

Sd/-

(M.A. Khan Yusufi)

Information Commissioner

Authenticated true copy

(Krishan Avtar Talwar)

Deputy Secretary

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