

CENTRAL INFORMATION COMMISSION

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

File No. CIC/KY/A/2016/001034

Appellant : Shri J K Gupta
61, HIG Duplex, C- Sector
Ayodhya Nagar, Bhopal (M.P)- 462041

Public Authority : The CPIO (HRD)
Ministry of Heavy Industries and Public Enterprises
Bharat Heavy Electrical Limited
HRD Building, BHEL, Piplani
Bhopal, Madhya Pradesh-462022

The CPIO
BHEL Shiksha Mandal,
MGM Dispensary Building,
D-Sector, Piplani, BHEL, Bhopal-462021

Date of Hearing : 31.08.2016
Date of Decision : 31.08.2016

Presence:

Appellant : Absent
CPIO : Absent

FACTS:

- I. Vide RTI application dated **13.08.2015**, the appellant sought information on **sole issues**.
- II. CPIO, vide its response dated **26.09.2015**, denied to provided the information u/s 2 (h)
- III. The First Appeal (FA) was filed on **17.10.2015**, as desired information not provided.
- IV. First Appellate Authority (FAA), order is not on record.
- V. Grounds for the Second Appeal filed on **31.12.2015**, are contained in the Memorandum of Second Appeal.

HEARING

Appellant as well as respondent opted to be absent despite of our due notice to them.

DECISION

It would be seen here that the appellant, vide his RTI Application dated **13.08.2015**, sought information from the respondents on **sole issue**. Respondents, vide their response dated **26.09.2015**, allegedly denied the required information to the appellant by informing him that respondents does not fall under the four corners of **Public Authority** as defined under **section 2(h) of the RTI Act 2005**.. Being aggrieved by the aforesaid response, FA was filed by the appellant on **17.10.2015** before the FAA, who **could not take up** the same for its disposal **for the reasons best known to him**. Hence, a Second Appeal before this Commission.

2. However, it is to be seen here that this Bench of the Commission, vide its earlier decision dated **24.05.2016**, dealt in File no. **CIC/KY/A/2016/000375**, has already declared the BHEL, Shiksha Mandal as a Public Authority as defined under Section 2(h) of the RTI Act 2005 and directed the respondents to provide the required information to the appellant. For the purpose of clarity, it is would be appropriate to quote the relevant Paras of earlier Decision dated **24.05.2016 dealt in file no. CIC/KY/A/2016/000375**, passed by this Bench, which reads as under:

“However, respondents vide their letter dated 29.03.2016, issued by Secretary, BHEL, has appointed Public Information Officer (PIO) and First Appellate Authority (FAA) for dealing with the RTI application and First Appeals respectively. In view of this, the stand taken by the respondents in their earlier response dated 23.09.2015 i.e. respondent’s Institution viz. ‘*BHEL Shiksha Mandal*’ is not covered under Section 2(h) of the RTI Act 2005 is not legally applicable. As such respondent’s response dated 23.09.2015, deserves to be quashed and set aside. Therefore, it is hereby quashed and set aside.”

3. In view of the above, the Commission feels that respondent’s response dated **26.09.2015**, deserves to be quashed and set aside. Therefore, it is hereby quashed and set aside being **legally untenable**.
4. The Commissioner **perused** the case-file **thoroughly**; specifically, **nature of issues** raised by the appellant in his RTI application dated **13.08.2015**, respondent’s response dated **26.09.2015**, other material made available on record and also the grounds of memorandum of second appeal.
5. The Commission is of the considered view that the appellant has been deprived by the respondents deliberately from having the benefits of the RTI Act 2005, **even after lapse of more than nine months period**. Thus, the respondents have defeated the very purpose of the RTI Act 2005 for which it was legislated by Parliament of India. As

such, the Commission feels that appellant's second appeal deserves to be allowed in toto. Therefore, it is **allowed in toto**.

6. In view of the above, the respondents are hereby directed to provide the **complete and categorical** information, **issue-wise**, to the appellant as per his RTI application, **in accordance with the provisions of RTI Act 2005**, within 30 days from the date of receipt of this order under intimation to this Commission. **If need be, Section 5(4) of the RTI Act 2005 may also be invoked in the matter.**

The Appeal is disposed of accordingly.

Sd/-

(M.A. Khan Yusufi)

Information Commissioner

Authenticated true copy

(Krishan Avtar Talwar)

Deputy Secretary

The CPIO (HRD)

Ministry of Heavy Industries and Public Enterprises

Bharat Heavy Electrical Limited

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