

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/2016/001079

Appellant : Shri Aditya Upadhyay
114-G, Se-2B, Janki Nagar
Chunabhatti, Bhopal-462016
Madhya Pradesh

Public Authority : The Vigilance Officer & CPIO
Ministry of Textiles, NIFT, Vigilance Department, Head Office,
HauzKhas, New Delhi-110016
The PIO (Non-Academics)
NIFT, MP Bhoj, Open University Campus, Kolar Road, Bhopal,
Madhya Pradesh-462016

Date of Hearing : 05.09.2016
Date of Decision : 05.09.2016

Presence:

Appellant : Shri Aditya Upadhyay
CPIO : Ms. Rajni Shah, Asst Bd. Secretary & PIO

FACTS:

- I. Vide RTI application dated **04.03.2016**, the appellant sought information on **2 issues**.
- II. CPIO, vide its response dated **29.03.2016**, denied the information u/s 8 (1) (h).
- III. The First Appeal (FA) was filed on **06.04.2016**, as desired information not provided.
- IV. First Appellate Authority (FAA), vide its order dated **05.05.2016**, upheld the decision of CPIO.
- V. Grounds for the Second Appeal filed on **08.06.2016**, are contained in the Memorandum of Second Appeal.

HEARING

Appellant as well as respondent appeared before the Commission personally and made the submissions at length.

DECISION

During hearing of the second appeal, it is submitted by Shri Aditya Upadhyay, Appellant, that he has received the required information **against issue no. 2**. However, he has not received the satisfactory reply from the respondents on issue no. 1 of this RTI

application dated 04.03.2016. Therefore, he wants to press only issue no. 1 of the RTI application dated **04.03.2016**.

2. It would be seen here that the appellant, vide his RTI Application dated **04.03.2016**, sought information from the respondents on 2 issues. Respondents, vide their response dated **29.03.2016**, allegedly provided the part required information to the appellant. Being aggrieved by the aforesaid response, FA was filed by the appellant on **06.04.2016** before the FAA, who vide his order dated 05.05.2016, upheld the decision of CPIO. Hence, a Second Appeal before this Commission.
3. During hearing of the appeal, it is submitted by Appellant that his contractual employment was terminated. Against the respondent's termination order dated 22.02.2016, he has submitted his representation dated 02.03.2016 to the respondents. However, no action was taken on his representation dated 02.03.2016. Further, respondents vide their response dated **29.03.2016**, responded appellant's RTI application dated **04.03.2016** by **denying** the the required information, against issue no. 1, to the appellant by taking a plea under **Section 8(1) (h) of the RTI Act 2005**.
4. Before scrutinizing the respondent's responses on the subject, in the legal parlance, it would be better and even justified to quote the relevant section of the RTI Act 2005 which deals the issue, under reference, i.e. **Section 8(1) (h) of the RTI Act 2005**, envisages as under:

Section 8(1) (h) - Notwithstanding anything contained in this Act, there shall be no obligation to give any citizen,— information which would impede the process of investigation or apprehension or prosecution of offenders

5. It is further submitted by Appellant that against the termination order dated 22.02.2016, he also filed a Writ Petition before Hon. High court of Madhya Pradesh, who vide its order dated **31.03.2016**, has stayed the respondent's termination order by stating as under:

“In view of aforesaid submissions, it is directed that the operation and effect of the order dated 22.02.2016 shall remain stayed till the next date of hearing.”

6. Furthermore, it is worth to mention here that respondents vide their termination order dated **22.02.2016** have stated as under:

“The Vigilance Deptt vide office order dated 02.02.2016 informed that Mr. Aditya Upadhyay, Assistant Professor, NIFT Bhopal alleging that the certificate submitted by him in support of his work experience, purportedly issued to him by Netink Technical & Management services Pvt. Ltd. in respect of his employment with them from July 2007 to June 2009 is false as he was regular student of Bachelor of Engineering from 2005-2008.

In view of the above, Mr. Aditya Upadhyay did not possess required experience at the time of his contract appointment as Assistant Professor in NIFT.

In view of the given facts and circumstances, the Competent Authority has decided to terminate the contract of Shri Aditya Upadhyay, Assistant Professor, NIFT Bhopal Campus with effect from 1st April 2016.”

7. In view of the above, it is abundantly clear that respondents plea taken under section 8(1)(h) of the RTI Act 2005 definitely goes out i.e. not legally tenable at this juncture. Thus, the appellant is legally entitled to get the required information from the respondents, so far the issue no. 1 is concerned.
8. Further, learned FAA, vide his order dated **05.05.2016**, disposed of the FA by upholding the views of CPIO, **without application of his mind**, as to whether the complete & categorical information has ever been provided to the appellant **on all issues or not**. As such, CPIO's response dated **29.03.2016** and Learned FAA's order dated **05.05.2016**, deserve to be **quashed and set aside**. Therefore, these are hereby quashed and set aside being **not legally tenable**.
9. The Commissioner heard the submissions made by appellant as well as respondents at length. The Commission also **perused** the case-file **thoroughly**; specifically, **nature of issues** raised by the appellant in his RTI application dated **04.03.2016**, respondent's response dated **29.03.2016**, FAA's order dated **05.05.2016**, other material made available on record and also the grounds of memorandum of second appeal.
10. 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 six 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 partly** i.e. against **issue no. 1**. Therefore, it is **allowed accordingly**.
11. In view of the above, the respondents are hereby directed to provide the **complete & categorical** information, against **issue no. 1**, 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 Vigilance Officer & CPIO
Ministry of Textiles, NIFT,
Vigilance Department, Head Office,
HauzKhas, New Delhi-110016

The PIO (Non-Academics)
NIFT, MP Bhoj, Open University Campus,
Kolar Road, Bhopal, Madhya Pradesh-462016

Shri Aditya Upadhyay
114-G, Se-2B, Janki Nagar
Chunabhatti, Bhopal-462016
Madhya Pradesh

