

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/2016/001099

Appellant : Shri Prakash Keswani
Asstt. Engineer (Civil)
B2B/237, Janakpuri
Near ChotiSubziMandi, New Delhi-110058

Public Authority : The EO III to EM & PIO
DDA, E.M.S Office, VikasSadan,
INA, New Delhi-110023

Date of Hearing : 05.09.2016

Date of Decision : 05.09.2016

Presence:

Appellant : Shri Prakash Keswani
PIO : Shri Kamal Kant Toteja, EO-III to EM & PIO

FACTS:

- I. Vide RTI application dated **04.04.2016**, the appellant sought information on **2 issues**.
- II. PIO, vide its response dated **13.06.2016**, has provided the part information to the Appellant.
- III. The First Appeal (FA) was filed on **04.05.2016**, as desired information not provided.
- IV. First Appellate Authority (FAA), is not on record.
- V. Grounds for the Second Appeal filed on **22.06.2016**, 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

It would be seen here that the appellant, vide his RTI Application dated **04.04.2016**, sought information from the respondents on **2 issues**. Respondents, vide their response dated **13.06.2016**, allegedly not provided the required information to the appellant by stating that the required information is **not available**. Being aggrieved by the aforesaid response, FA was filed by the appellant on **04.05.2016** 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. On being queried by the Commission, as to under what situations, the records were not available. The Commission also highlighted the particular four situations for non-availability of the records i.e. (i) records are weeded out, (ii) records are lost in transit & (iii) records are lost in flood (iv) records are lost in fire. On this very aspect, Shri Kamal Kant Toteja, EO-III to EM & PIO, is not in position to give any **plausible reasons** in this regard except the **lame excuses**.
3. 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 **04.04.2016**, respondent's response dated **13.06.2016**, other material made available on record and also the grounds of memorandum of second appeal.
4. 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 five 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 it would be appropriate and even justified to allow the appellant's **second appeal in toto instead of remanding back to learned FAA for disposal of FA which is even more time consuming**. Therefore, it is allowed in toto.
5. In view of the above, the respondents are hereby directed to provide the **complete & 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.**
6. The Commission further directs the respondents to trace out the relevant file by making fresh and genuine efforts by using **due diligence**. In case, the file **still remains untraceable, a declaration supported by affidavits, duly sworn-in, be given to the appellant within the same period of 30 days as mentioned above**. With these directions, the appellant's second appeal is hereby closed.

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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