

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/2016/001186

Appellant : Shri R.D. Sharma
Se. Citizen Welfare Association (regd.)
Pocket-4, MayurVihar Phase-I, Delhi-110091

Public Authority : The PIO & Dy. Director/Enb. (H)
DDA, Institutional Land Branch
A-216, Vikas Sadan, INA, New Delhi-110023

Date of Hearing : 22.09.2016
Date of Decision : 22.09.2016

Presence:

Appellant : Shri Rajinder Kumar Sharma, Authorized by the Appellant
PIO : Shri Rakesh Sharma, Asst. Director

FACTS:

- I. Vide RTI application dated **06.01.2015** the Appellant sought information on **4 issues**.
- II. PIO, response is not on record.
- III. The First Appeal (FA) was filed on **28.03.2015**, (as per FAO) FA is not on record.
- IV. First Appellate Authority (FAA), vide its order dated **24.04.2015**, directed PIO to provide the information to the Appellant.
- V. Grounds for the Second Appeal filed on **29.06.2015**, are contained in the Memorandum of Second Appeal.

HEARING

Shri Rajinder Kumar Sharma, on behalf of Appellant, as well as Shri Rakesh Sharma, Asst. Director, on behalf of 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 **06.01.2015**, sought information from the respondents on **four issues**. However, respondents **failed to furnish** any response to the appellant. Being aggrieved with the aforesaid PIO's **inaction**, FA was filed by the appellant on **28.03.2015** before the FAA, who vide his order dated **24.04.2015**, directed the PIO to provide the required information to the appellant. However on careful perusal of the case file, there appears that the directions of FAA, as contained in his order in First Appeal, was **not complied** with, at all, by the respondents concerned. Hence, a Second Appeal before this Commission.

2. It is pertinent to mention here that respondents, vide their latest response dated **21.09.2016 (at very belated stage)**, requested the appellant to have the inspection of the relevant records and pin point the required documents of which the photocopies are needed.
3. It is worth to mention here that as per **section 2(j)(i) of the RTI Act 2005**, the right of inspection of relevant record vested with the appellant and not with the respondents. As such, if the respondents have been insisting of any applicant to have the inspection of the relevant record that is **not legally tenable**. However, it is having a legal force in **vice-versa situation**.
4. Further, in the present case, appellant has not requested the respondents for allowing him the inspection of the records. As such, respondent's response dated **21.09.2016**, deserves to be quashed and set aside being legally untenable in the eyes of law. Thus, the respondents are under legal obligation to provide the required information to the appellant on his RTI application dated 06.01.2015.
5. Further, learned FAA, vide his order dated **24.04.2015**, disposed of the FA by directing the PIO to provide the required information to the appellant. On being queried by the Commission to Shri Rakesh Sharma, Asst. Director, as to whether the directions of FAA, as contained in his order dated 24.04.2015, was **complied** with by the respondents concerned or not. On this very aspect, it is admitted by Shri Rakesh Sharma, Asst. Director, that FAA's order dated 24.04.2015 has not been complied with by the PIO. However, Shri Rakesh Sharma is not in position to give any **plausible reasons** in this regard except the **lame excuses**.
6. 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 **06.01.2015**, respondent's response dated **21.09.2016**, FAA's order dated **24.04.2015**, other material made available on record and also the grounds of memorandum of second appeal.
7. In view of the **position** above and in the **circumstances** of the case, the Commission is of the considered view that there is **no legal flaw** in the order of FAA. As such, the same is hereby **upheld** being **legally tenable**. In view of this, the respondents are hereby directed to comply with the order of FAA dated **24.04.2015**, **in its letter and spirit**, 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**. With these observations, the appellant's second appeal is hereby disposed of.

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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