

CENTRAL INFORMATION COMMISSION
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Bhikaji Cama Place, New Delhi -110066
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Appeal No. CIC/SA/A/2016/001249

Appellant: Sh. M. Kishore Rao,
No. 25, Subbanna Road,
Near Sambhram Boys Hostel,
Chikkabettahalli, Vidyaranyapura Post,
Bengaluru-560097

Respondent: 1. Central Public Information Officer,
Bar Council of India,
21, Rouse Avenue Institutional Area,
New Delhi-110002

2. Central Public Information Officer,
Bar Council of Karnataka, KGID Building,
Adjacent to High Court,
Bangalore

Date of Hearing: 12.05.2017

Dated of Decision: 12.05.2017

ORDER

Facts:

1. The appellant filed RTI application dated 01.12.2015 seeking information regarding: certified copy of rolls of advocate submitted by the Karnataka State Bar Council to Bar Council of India in regard to the Advocates who are on rolls of Karnataka State Bar Council in the year Jan, 2011 to Dec, 2011.
2. The response of CPIO is not on record. The appellant filed first appeal dated 06.01.2016 with First Appellate Authority (FAA). The FAA responded on

08.02.2016. The appellant filed second appeal on 06.05.2016 before the Commission on the ground that information has not been provided to him.

Hearing:

3. The respondent No. 1 was personally present in the hearing. The appellant and respondent No. 2 were absent.

4. The appellant had sent his written submissions dated 29.04.2017, which is taken on record.

5. The respondent No. 1 stated that vide their letter dated 21.12.2015, they have transferred the RTI application dated 01.12.2015 of the appellant to the Secretary, Bar Council of Karnataka for appropriate action in the matter.

6. From the perusal of the records, it is seen that the appellant stated that “all the State Bar Councils are submitting the Advocate enrolment list and addition list to the BCI every year as per Section 19 of the Advocates Act, 1961 read with Bar Council of India Rules, 1975”. On this, the respondent stated that Bar Councils are continuously requested by them to submit the list of the advocates enrolled in the respective State Bar Councils but almost all the State Bar Councils fail to furnish these details to them. He stated that this is the reason they have transferred the RTI application of the appellant to the respondent No. 2.

Discussion/ observation:

7. The Commission is of the view that it is the legal obligation of the respondent No. 1 to maintain the records as sought by the appellant in his RTI application. However, the respondent No. 1 has chosen to transfer the RTI application of the appellant to the respondent No. 2, instead of calling for records from respondent No. 2. Commission observes that the respondent No. 1 had wrongly transferred the RTI application of the appellant as the respondent No. 1 is the custodian of the records but they have failed to get this information.

8. The Commission is of the view that the respondent No. 1 should call for the records as sought by the appellant in his RTI application from the respondent No. 2 and furnish the same to the appellant, within 30 days.

Decision:

9. The respondent No. 1 is directed to comply with para no. 8 above. The respondent No. 1 is further directed to show cause in writing the reason for inappropriate transfer of RTI application dated 01.12.2015 of the appellant to the respondent No. 2, within 30 days from the date of this order.

10. The respondent No. 2 is directed to show cause in writing that why action should not be taken against him for not attending the hearing in the Commission, within 30 days from the date of this order.

11. The Deputy Registrar is directed to fix a hearing in the matter after 30 days for compliance.

Copy of the order be given to the parties free of cost.

Sd/-

(Radha Krishna Mathur)
Chief Information Commissioner

Authenticated true copy

Sd/-
(S.C. Sharma)
Dy. Registrar

ADJUNCT ORDER DATED 02.08.2017

Hearing:

1. The matter is listed today for further hearing in the matter.
2. The appellant and respondent No.2 Mr. Basu Raj Reddy, Secretary , Bar Council of Karnataka participated in the hearing through video conferencing. The respondent No.1 was absent.

3. The appellant stated that he had received the information very late i.e. after 15 months and 27 days from Bar Council of Karnataka. The appellant stated that name of an advocate was on respondent's website though the advocate had taken up a job, not related to law. He had made a complaint in the matter. Subsequently, he suspected that Advocate's name was removed from a back date. The appellant wanted to know the date on which the name of the advocate was struck out from the list.

4. The respondent No.2 stated that he had joined the Bar Council in the month of January, 2016 and he was not aware of appellant's RTI application transferred by Bar Council of India. Therefore, there was a delay in processing the RTI application. The respondent stated that they have the list of all the members/advocates on their website.

5. The Commission enquired from the respondent No.2, whether they have a monitoring system with regard to RTI application. The respondent No.2 stated that they have been maintaining a register of RTI applications.

6. The appellant stated that he had received information very late and his purpose to seek information has been defeated. Therefore, penalty should be imposed on the respondent and he should be provided with compensation.

Discussion/Observation:

7. The Commission is of the view that respondent No.2 should give clarification on following points:

- i. system of monitoring of RTI applications received by Bar Council of Karnataka.
- ii. action taken by the respondent No.2 after receiving RTI application from Bar Council of India.
- iii. person responsible for the delay in giving reply to the RTI application dated 1.12.2015 of the applicant.

Decision:

8. The respondent No.2 is directed to give clarification as mentioned in para 7 within 15 days of receipt of this order.

9. The respondent No.2 is directed to show cause, within 15 days of receipt of this order, why penalty should not be imposed on him for contravening the time line prescribed in the RTI Act and why compensation should not be granted to the appellant.

10. The respondent No.1 is directed to show cause, within 15 days of receipt of this order, why action should not be taken against him for trying to deny information by not attending the hearing.

11. It is suggested that if the name of any advocate is struck off/deleted from the list, then the name of the advocate and the date of removal of his name should be uploaded on the website.

12. The Deputy Registrar is directed to fix a hearing in the matter after 30 days .

Copy of the order be given to the parties free of cost.

Sd/-

(Radha Krishna Mathur)
Chief Information Commissioner

Authenticated true copy

Sd/-

(S.C. Sharma)

Dy. Registrar

ADJUNCT ORDER DATED 28.08.2017

Hearing:

1. The matter is listed today for further hearing in the matter.
2. The appellant and the CPIO (respondent no. 2), Mr. Basu Raj Reddy, Secretary, Bar Council of Karnataka participated in the hearing through video conferencing. Mr. Girish Chandra participated in the hearing on behalf of the Bar Council of India (respondent no. 1) in person.
3. The appellant stated that the respondent had not given him intimation about payment of requisite fee for collecting the information. Further, he stated that the respondent no. 1 did not adhere to the timelines prescribed in the RTI Act while transferring his RTI application u/Section 6(3) of the RTI Act. Therefore, penalty should be imposed on the concerned CPIO.
4. The representative of respondent no. 1, Mr. Girish Chandra stated that he is not acquainted with the facts of the case, therefore, he is unable to explain the current position in the matter before the Commission.
5. The respondent no. 2 stated that due to oversight (heavy workload of the verification process), they could not reply on time. Further, he stated that the appellant was asked to appear before the Bar Council of Karnataka in order to enable them to provide the sought for information. Moreover, he stated that a list of advocates enrolled with the Bar Council is available on their website. He apprised the Commission that he himself monitors the RTIs received in the Council. However, a separate register is not maintained for this purpose.

Discussion/Observation:

6. The Commission observed that though the information has been given to the appellant but the respondent no. 2 has failed in his duty to respond to the RTI application as per the RTI Act. The respondent no. 1 has not explained his case. The stand taken by the respondent no. 2 in asking the appellant to approach the Bar Council of Karnataka for collecting the information is not satisfactory.

7. There is an inordinate delay in giving a reply to the appellant, which was in fact sent only after receipt of notice of hearing from the Commission. The action/steps taken by the respondents in dealing with the RTI application is not satisfactory.

Decision:

8. The respondent no. 1 is directed to show cause, within 30 days from the date of receipt of this order, why penalty should not be imposed on him for delay in transferring the RTI application to the Bar Council of Karnataka u/Section 6(3) of the RTI Act.

9. The respondent no. 2 is directed to show cause, within 30 days from the date of receipt of this order, why penalty should not be imposed on him for not providing the sought for information within the timelines prescribed in the RTI Act.

10. The Deputy Registrar is directed to fix a hearing for compliance after 30 days.

Copy of the order be given to the parties free of cost.

(Radha Krishna Mathur)
Chief Information Commissioner

Authenticated true copy

(S.C. Sharma)
Dy. Registrar