

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/2016/001258

Appellant : Shri V B Khanna
Office cum Resi. 2063
Sec-19-C, Chandigarh-160019

Public Authority : The Addl. Superintending Engineer cum CPIO
O/o. the Chief Engineer, Room No. 118,
1st Floor, Sec-19-C, UT Chandigarh

Date of Hearing : 29.09.2016

Date of Decision : 29.09.2016

Presence:

Appellant : Shri V B Khanna
CPIO : Shri Subhash Chand Saini, Addl. S. E. (CPIO)

FACTS:

- I. Vide RTI application dated **21.01.2016**, the Appellant sought information on **8 issues**.
- II. CPIO, vide its response dated **01.02.2016 & 12.02.2016**, denied to provided the information on point no 1- 5 u/s 8 (1) (j) and 6.7 and 8 are under process.
- III. The First Appeal (FA) was filed on **15.03.2016**, as desired information not provided.
- IV. First Appellate Authority (FAA), vide its order dated **07.04.2016**, upheld the decision of CPIO.
- V. Grounds for the Second Appeal filed on **08.07.2016**, 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 **21.01.2016**, sought information from the respondents on **8 issues**. Respondents, vide their response dated **01.02.2016 & 12.02.2016**, allegedly denied the required information to the appellant. Being aggrieved by the aforesaid response, FA was filed by the appellant on **15.03.2016** before the FAA, who vide his order dated **07.04.2016**, upheld the decision of CPIO. Hence, a Second Appeal before this Commission.

2. It is pertinent to mention here that the CPIO, vide his response dated **01.02.2016**, **denied** the required information to the appellant by stating that information, as sought for, pertains to Third party information. Further, CPIO vide his subsequent response dated **12.02.2016**, **denied** the required information, issues no. 1 to 5, to the appellant by taking a plea under **section 8(1) (j) of the RTI Act 2005**. However, against issues no. 6 to 8, informed the appellant that the matter is under process. Further, learned FAA, vide his order dated **07.04.2016**, disposed of the FA by upholding the views of CPIO.
3. During hearing of the appeal, it is submitted by the Appellant that FAA vide his order dated **07.04.2016**, has disposed of the FA by upholding the views of CPIO, **without given him an opportunity of being heard**. Thus, it is strongly pressed by Appellant that the FAA's order is not in accordance with the provisions of RTI Act 2005.
4. In view of the above, the Commission feels that Learned FAA **violated the principles of natural justice by not giving an opportunity to the appellant of being heard before disposing of his FA dated 12.11.2015**. As such the FAA's order is not legally tenable and deserves to be quashed and set aside. Therefore, it is hereby quashed and set aside.
5. 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 **21.01.2016**, respondent's response dated **01.02.2016 & 12.02.2016**, FAA's order dated **07.04.2016**, other material made available on record and also the grounds of memorandum of second appeal.
6. By virtue of **position** above and in the **circumstances** of the case, the Commission is of the considered view that it is a fit case to be **remanded back** to learned FAA with a direction to dispose of the Appellant's FA filed on **15.03.2016**, **in accordance with the provisions of RTI Act 2005**, and after giving an opportunity to the appellant of being heard, **within 30 days** from the date of receipt of this order under intimation to the Commission. As such, the case is **remanded back**.
7. The appellant is further granted a **liberty** to move a second appeal, under **section 19(3) of the RTI Act 2005**, before this Commission, in case, he is not satisfied with the decision of the FAA on the FA.

With these observations, the appellant's second appeal is hereby disposed of.

Sd/-

(M.A. Khan Yusufi)

Information Commissioner

Authenticated true copy

(Krishan Avtar Talwar)

Deputy Secretary

The First Appellate Authority
O/o The Appellate Authority cum Chief Engineer
First Floor, UT Secretariat Building,
Sector 9-D, UT Chandigarh

The Addl. Superintending Engineer cum CPIO
O/o. the Chief Engineer, Room No. 118,
1st Floor, Sec-19-C, UT Chandigarh

Shri V B Khanna
Office cum Resi. 2063
Sec-19-C, Chandigarh-160019

