

CENTRAL INFORMATION COMMISSION
2nd Floor, 'B' Wing, August Kranti Bhawan,
Bhikaji Cama Place, New Delhi -110066
Tel : +91-11-26717355

Appeal No. CIC/RK/A/2016/001272

Appellant: Mr. Uttam Kumar Modak
R/o Qtr No. II-116-C, Church Road,
Railway Colony, Charbagh, Lucknow-226005
(9335049124)

Respondent: 1. Central Public Information Officer
P.M. Office, South Block
New Delhi – 110011
2. Central Public Information Officer
Ministry of Railway, Northern Railway,
Baroda House, New Delhi

Date of Hearing: 25.10.2016
Date of Decision: 25.10.2016

ORDER

Facts:

1. The appellant filed RTI application with respondent No.1 dated 09.11.2015 and with respondent No. 2 dated 24.09.2015 seeking information regarding the copy of original complaint which was made to the Prime Minister by Hon'ble MP Dr. Sanjay Jaiswal against the appellant based upon which the orders were passed for his transfer from Lucknow to Ambala and also seeks the copy of the notings vide which the competent authority passed orders for transfer of the appellant on administrative grounds.

2. The CPIO of respondent No. 1 responded on 24.02.2016 and CPIO of respondent No. 2 responded on 16.10.2015. The appellant filed the first appeal dated 09.01.2016 with First Appellate Authority (FAA) of respondent No.1 and first appeal dated 09.11.2015 with First Appellate Authority (FAA) of respondent No.2. The response of FAA of respondent No. 1 is not on

record. The FAA of respondent No. 2 responded on 04.12.2015. The appellant filed his second appeal on 30.03.2016 before the Commission on the ground that information should be provided.

Hearing:

3. The appellant and the respondents both participated in the hearing.

4. The appellant stated that he has been given incomplete information with regard to point no. 1. The appellant stated that a copy of the sought for letter has been provided but the annexure to the letter has not been furnished. The appellant stated that the information with regard to point number 2 was denied. The appellant stated that the application with regard to point no. 3 was forwarded to the Lucknow Division. The appellant stated that all the information sought for by him pertains to his own case. The appellant stated that in absence of the sought for information he cannot defend his case before authority/Court of law.

5. The appellant stated that the vigilance inquiry/investigation has been completed. The appellant stated that he has not been given even the conclusion of the inquiry /investigation. The appellant stated that he has not received salary for two months in this new place of posting viz Moradabad. The appellant further stated that the sought for information are concerned with Railway Department.

6. The respondent Prime Minister Office stated that the information was not concerned with them.

7. The respondent stated that the copy of vigilance wing letter has been provided to the appellant on 06.10.2016. However, the annexure was not provided to the appellant. The respondent stated that the annexure contained the 'source' of information and third party information hence it is exempted under section 8 (1)(j) of the RTI Act. The respondent relied upon LPA No. 618/2012 dated 06.11.2012 and stated that the vigilance inquiry/investigation report and related documents cannot be given. The respondent stated that they have no objection in providing the conclusion of the vigilance inquiry to the appellant.

Discussion/ observation:

8. From the perusal of the referred decision, it appears that the facts of that case were different to the matter at hand. In the instance matter the vigilance inquiry has been closed and the appellant is seeking information with regard to his own case.

9. The Hon'ble Delhi High Court in the matter W.P.(C) 2760/2016 & C.M.No.11604/2016 , Union Bank of India versus Central Information Commission & anr. dated 30.03.2016 has held that

“Present writ petition has been filed challenging the order dated 29th January, 2016 passed by CIC, whereby the petitioner was directed to disclose the information sought by respondent No.2 vide RTI application dated 24th July, 2014 regarding process notes and other requisite papers placed before the Appellate Authority, process notes before Chief Vigilance Officer, noting of the Chief Vigilance Officer and decisions of the Appellate Authority or any other authority. Learned counsel for petitioner states that the information sought by respondent No.2 is directly related to his second criminal case pending adjudication before CBI Court, Saket and therefore, the information is exempt under Section 8(1)(h) of the Right to Information Act, 2005. In response to a pointed query, learned counsel for the petitioner has admitted that the services of the respondent no.2 have been terminated and he has already been convicted in another criminal case filed by the CBI.

Keeping in view the aforesaid, this Court is of the opinion that Section 8(1)(h) of the RTI Act does not apply to disclosure of the information sought as the respondent no.2's services already stand terminated and Criminal Court has pronounced a judgment in one of the cases. This Court is also of the view that the respondent no.2 must 'have his say in Court'. If he can rely upon some of the internal documents of the Bank, the said opportunity should not be denied.

It is pertinent to mention that one of the grounds in the present writ petition is that disclosure of the vigilance reports of the Bank would have the effect of eroding the confidence of the public in the security and safety of their money of which the bank is the custodian!

Consequently, the present writ petition and the application are dismissed.”

10. The High Court of Delhi in the matter W. P. (C) 295/2011 B S Mathur versus Public Information Officer of Delhi High Court Decision dated 3rd June 2011 has held that:

‘The mere pendency of an investigation or inquiry is by itself not a sufficient justification for withholding information. It must be shown that the disclosure of the information sought would “impede” or even on a lesser threshold “hamper” or “interfere with” the investigation.’

Decision:

11. In view of the above, the respondent No. 2 is directed to provide to the appellant information within 30 days of this order. The respondent may suitably use the severability clause in Section 10(1) of the RTI Act.

12. The respondent No.2 is also advised to look into non-payment of salary.

The appeal is disposed of. A 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