

CENTRAL INFORMATION COMMISSION

August Kranti Bhawan, Bhikaji Cama Place,
New Delhi-110066

F. No. CIC/SA/A/2016/001799

Date of Hearing : **29.08.2017**
Date of Decision : **16.10.2017**
Appellant/Complainant : **Mansoor Chunawala**
Through:
Ms. Amrita Narayan, Adv.
Respondent : **PIO /Dy.Dir Edn.**
(Central/New Delhi)
GNCTD
Through:
Ms. Seema Sahni
Information Commissioner : **Shri Yashovardhan Azad**

Relevant facts emerging from appeal:

RTI application filed on : 26.02.2016
PIO replied on : 05.03.2016
First Appeal filed on : 22.03.2016
First Appellate Order on :
2nd Appeal/complaint received on : 28.06.2016

Information sought and background of the case:

Vide RTI application dated 26.02.2016, the appellant sought copies of application and documents filed with I.C.S.E Board by N.S. Dixit Education Foundation /M.N. Dixit Foundation for the purpose of obtaining affiliation for 'City International School' under 3 points. PIO/Asstt. Director of Education informed the appellant that no such information is available in this District. Being dissatisfied, the appellant filed an appeal on 22.03.2016 which remained unheard. Feeling aggrieved, the appellant approached the Commission.

Relevant facts emerging during hearing:

Both the parties are present and heard. Ld. counsel for appellant states that there are certain conditions prescribed by Council for the Indian School Certificate Examinations (ICSE) for grant of recognition to schools. It is her

submission that recognition granted to City International School, Oshiwara, Mumbai has been in derogation of the rules inasmuch as the lease of the school premises has been expired. However since, the recognition was renewed by the ICSE, she expresses apprehension that the lease documents may have been forged by the school management to obtain undue benefit. Upon a query from the Commission, she would clarify that the appellant is the owner of land and the since the lease granted in favour of school management has already expired in 2016. In this factual context, the appellant sought copies of documents filed alongwith application for grant of renewal of recognition with ICSE board. Per contra, the PIO, Dte. Of Education states that no part of information is held by it and addressing the application the application to Directorate of Education, GNCTD was *per se* misconceived. Ld. Counsel however contended that the Directorate ought to have transferred the RTI application to the public authority concerned.

Decision:

After hearing parties and perusal of record, the Commission finds that the RTI application was filed with Dte. Of Education, GNCTD seeking information relating to a Mumbai based school, whose information is lying with a private organization, which admittedly is not a 'public authority' within the meaning of RTI Act. The Calcutta High Court in **Dinesh Sinha and Ors. vs. Council for the India School Certificate Examinations and Ors.: MANU/WB/0812/2016** has conclusively held CISCE beyond the purview of the RTI Act. Relevant observation is reproduced hereinafter:

15. Bearing in mind the aforesaid definition of 'information' and the 'public authority,' this Court is, thus, of the view that the Council is not a public authority or body or Institution of self-government established or constituted under the Constitution, under the law enacted by the Parliament or by the State Legislature or body owned, controlled or substantially financed, directly or indirectly by the fund provided by the appropriate Government. Therefore, it does not come within the purview of a public authority under Section 2(h) of the said Act.

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25. In the context above, the respondent No. 2 'the Council' is not a public authority within the meaning of Section 2(h) of the said Act and also considering the petitioner No. 2 being the successful candidate in the examination 2016 having obtained very good marks, I do not find

reasons to quash the Memorandum No. CISCE/RTI/16 dated June 24, 2016 issued by respondent No. 2 as not being devoid of any merit.

The aforesaid decision leaves no scope for further deliberation on the issue. Further, it remains an admitted fact that Dte. Of Education, GNCTD has not even an iota of information in its control, as sought through the present RTI application.

It is a settled principle of law that what cannot be achieved directly cannot be permitted to be achieved indirectly. Thus requiring the respondent to transfer the RTI application to CISCE is neither lawful nor desirable. Should the appellant feel wronged by the acts of the school management, he is at liberty to institute appropriate proceedings, if so advised.

The Commission finds the RTI application to be misconceived. The decision of PIO as well as FAA is upheld.

The appeal is dismissed.

(Yashovardhan Azad)
Information Commissioner

Authenticated true copy. Additional copies of orders shall be supplied against application and payment of the charges prescribed under the Act to the CPIO of this Commission.

(R.P.Grover)
Designated Officer

Copy to:-