

Central Information Commission, New Delhi
File No. CIC/SH/A/2016/000044
Right to Information Act-2005-Under Section (19)

Date of hearing : 3rd February 2017

Date of decision : 3rd February 2017

Name of the Appellant : **SHRI SATISH GOEL**
C-102, LOTUS COURT, OPPOSITE
V.C.A. STADIUM GATE NO- 2,
CIVIL LINES, NAGPUR,
MAHARASHTRA- 440001

Name of the Public Authority/Respondent : **CENTRAL PUBLIC INFORMATION OFFICER,**
DENA BANK
DENA CORPORATE CENTRE, C - 10,
G- BLOCK, BANDRA KURLA COMPLEX,
BANDRA - EAST, MUMBAI - 400051

RTI Application filed on : 27/05/2015

CPIO replied on : 23/06/2015

First Appeal filed on : 02/07/2015

First Appellate Authority order on : 23/07/2015

2nd Appeal received on : 31/08/2015

The Appellant was represented by Shri Prabhakar Kale, who was present at the NIC Studio, Nagpur.

On behalf of the Respondents, Shri Somesh Nagbhushan, Senior Manager (Legal) was present at the NIC Studio, Mumbai.

Information Commissioner : **Shri Sharat Sabharwal**

Information sought

- a) Whether Dena Bank called offer for assignment of loan of Ind Synergy Ltd.
- b) If yes, provide the copy of the offer received and details of sanction.

- c) Whether Dena Bank entered into an agreement with any Asset Reconstruction Company for assignment of loan/ financial assistance granted by the bank to Ind Synergy Ltd.
- d) If yes, provide the details of the assignment deed made by Dena Bank with the Asset Reconstruction Company.

The CPIO reply

The CPIO responded point wise to the RTI application and denied the information on point (b) under section 8 (1) (d) of the RTI Act.

Grounds of the First Appeal

Not satisfied with the CPIO's reply.

Order of the First Appellate Authority

The FAA upheld the CPIO's reply.

Grounds of the Second Appeal

Aggrieved with the replies given by the Respondents.

Relevant facts emerging during the Hearing, Discussion and Decision

The representative of the Appellant stated that the Appellant would like the Commission to direct provision of the information mentioned by him in the Section "prayer or relief sought" in his appeal to the Commission. The Respondents reiterated the reply of the CPIO. It is seen from the appeal to the Commission that the Appellant repeated all the queries of his RTI application in this section. On

perusal of the records, we note that the CPIO responded to point (a), (c) and (d) and we see no ground to interfere with his reply. However, he denied the information on point (b) under Section 8 (1) (d) of the RTI Act. This point relates to offer received from asset reconstruction company and the sanction granted by the bank. In our view, this information is exempted from disclosure under Section 8 (1) (d) of the RTI Act, as its disclosure is likely to affect the competitive position of the asset reconstruction company by compromising their ability to realise an appropriate amount in respect of the NPA loan assigned to them. In this regard, we also note that sub-section (2) of Section 5 of the SARFAESI Act provides as follows:-

“(2) If the bank or financial institution is a lender in relation to any financial assets acquired under sub-section (1) by the securitisation company or the reconstruction company, such securitisation company or reconstruction company shall, on such acquisition, be deemed to be the lender and all the rights of such bank or financial institution shall vest in such company in relation to such financial assets.”

In view of the foregoing, we note that the information sought at point (b) of the RTI application is exempted from disclosure under Section 8 (1) (d) of the RTI Act.

2. Further, in its judgment dated 2.9.2009 in CPIO, Supreme Court of India New Delhi vs. Subhash Chandra Agarwal & Anr. [W.P. No. 288/200], the High Court of Delhi made the following observations:-

“57. The Advanced Law Lexicon, 3rd Edition, 2005, defines fiduciary relationship as “a relationship in which one person is under a duty to act for the benefit of the other on the matters within the scope of the relationship...Fiduciary relationship usually arise in one of the four situations (1) when one person places trust in the faithful integrity of another, who as a result gains superiority or influence over the first, (2) when one person assumes control and responsibility over another, (3) when one person has a duty to act or give advice

to another on matters falling within the scope of the relationship, or (4) when there is specific relationship that has traditionally been recognized as involving fiduciary duties, as with a lawyer and a client, or a stockbroker and a customer”

58. From the above discussion, it may be seen that a fiduciary relationship is one whereby a person places complete confidence in another in regard to a particular transaction or his general affairs or business. The relationship need not be "formally" or "legally" ordained, or established, like in the case of a written trust; but can be one of moral or personal responsibility, due to the better or superior knowledge or training, or superior status of the fiduciary as compared to the one whose affairs he handles....”

In giving its offer to the bank, the asset reconstruction company has clearly placed trust in them to protect its interests which, as stated above, would be hurt if the bank were to reveal the information sought at point (b). Therefore, this information is exempted from disclosure under Section 8 (1) (e) of the RTI Act also. No larger public interest has been established for disclosure of the information.

3. In view of the foregoing, we uphold the decision of the Respondents to deny the information on point (b) of the RTI application dated 27.5.2015.
4. With the above observations, the appeal is disposed of.
5. Copies of this order be given free of cost to the parties.

Sd/-
(Sharat Sabharwal)
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.

(Vijay Bhalla)
Deputy Registrar