

Central Information Commission, New Delhi
File No. CIC/SH/A/2016/000049
Right to Information Act-2005-Under Section (19)

Date of hearing : 13th January 2017

Date of decision : 16th January 2017

Name of the Appellant : **SHRI PRAKASH CHANDRA PUROHIT**
S/O- SHRI P. RAM PRASAD PUROHIT
GRAM AND POST KODKYA,
TAHSIL – JIRAPUR,
DISTT- RAJGARH, MP-465693

Name of the Public Authority/Respondent : **1. CENTRAL PUBLIC INFORMATION OFFICER,**
BHARAT PETROLEUM CORPORATION
LIMITED
INDORE RETAIL TERRITORY OFFICE:
A. B. ROAD, MANGLIA, INDORE,
M. P.- 453 771

2. BHARAT PETROLEUM CORPORATION
LIMITED
OFFICE COMPLEX, BLOCK (A),
GAUTAM NAGAR, GOVINDPURA,
BHOPAL, M. P.- 462 023

RTI Application filed on : 1-15/04/2015, 2-15/04/2015, 3-14/05/2015

CPIO replied on : 2-02/05/2015, 2- 13/05/2015, 3-28/05/2015

First Appeal filed on : 25/06/2015

First Appellate Authority order on : 04/08/2015

2nd Appeal received on : 22/12/2015

The Appellant was present in person.

On behalf of the Respondents, Shri Dinesh Gadgil, CPIO was present at the NIC Studio, Bhopal.

Information Commissioner : **Shri Sharat Sabharwal**

Information sought

This matter concerns three RTI applications filed by the Appellant seeking information regarding the name of LOI holders of a retail outlet, which was allotted in the year 1975, names of signatories along with all the details, attested copies of reconstitution proposals, transfer details and related issues. He also wanted inspection of files concerning the outlet.

The CPIO reply

The CPIO vide his letters dated 02/05/2015, 13/05/2015, 28/05/2015 provided some information and denied the remaining information under section 8 (1) (e) & (j) of the RTI Act.

Grounds of the First Appeal

Not satisfied with the CPIO's replies.

Order of the First Appellate Authority

The FAA upheld the CPIO's replies.

Grounds of the Second Appeal

Denial of inspection of files concerning the retail outlet

Relevant facts emerging during the Hearing, Discussion and Decision

The Appellant stated that the Respondents had allotted a retail outlet on 1.10.1975 under the name M. P. Bombay Auto Service (BPCL). He wishes to inspect all the files concerning this outlet, since 1975, in the possession of the Respondents and has also sought copies of the LOI issued in 1975 and the documents concerning the

reconstitution of the partnership in respect of the above outlet from time to time. He claimed that he seeks this information as a social worker because of certain malpractices prevalent in the market. He alleged that certain petrol pumps allotted by the Respondents are sold by the selected allottees to other persons. He further submitted that in his response dated 2.5.2015, the CPIO informed him about the names of partners of the reconstituted partnerships. However, in his response dated 15.5.2015, he stated that the information provided earlier was only for his knowledge. He challenged the decision of the Respondents to deny the information under Section 8 (1) (e) and (j) of the RTI Act and stated that since the dealership has been allotted by the Respondents, all the documents concerning it are public documents and should be disclosed. He also submitted that the FAA did not give a speaking order, but a brief order stating that he agreed with the reply of the CPIO.

2. The Respondents submitted that the dealership was allotted in 1975 and was reconstituted from time to time. The information concerning the change of partners was provided to the Appellant vide the CPIO's reply dated 2.5.2015. However, the Appellant seeks copies of all the documents concerning reconstitution of the dealership from time to time. They reiterated their decision to deny copies of the documents, sought by the Appellant, as well as inspection of the files concerning the dealership under Section 8 (1) (e) and (j) of the RTI Act. They submitted that the documents sought by the Appellant would contain information of a personal nature concerning the partners, including their financial statements etc.

3. We have considered the submissions of both the parties. The Commission has been in favour of transparency in the matter of selection of dealers by OMCs and has been permitting disclosure of information concerning the selection process, after it is over, with the exception of information of a personal nature concerning third parties, exempted from disclosure under Section 8 (1) (j) of the RTI Act. However, the request for information in this case is completely different because it seeks information concerning a dealership that has been in existence since 1975. The Appellant seeks documents concerning reconstitution of the partnership from time to time and inspection of all the files concerning the dealership. In this context, we note the following observations made by the High Court of Delhi in its judgment dated 2.9.2009 in CPIO, Supreme Court of India, New Delhi vs. Subhash Chandra Agarwal and Anr. [W.P. No. 288/200]:-

“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."

Going by the above interpretation of fiduciary relationship, it is clear that the Respondents hold the documents, submitted by the dealership and its partners from time to time, in a fiduciary capacity as these documents have been given to them in the trust that they (the Respondents) would not disclose the same to any third party in breach of the fiduciary relationship. Therefore, the Respondents cannot provide copies of the documents sought by the Appellant or disclose the same to any third party seeking such information, as it is exempted from disclosure under Section 8 (1) (e) of the RTI Act. The Appellant has not established any larger public interest for disclosure of the information sought by him, including inspection by him of all the files concerning the dealership since its inception. Further, the documents, whose copies have been sought by the Appellant or which he seeks to inspect would also contain the personal information of the partners of the dealership from time to time, exempted from disclosure under Section 8 (1) (j). As stated above, the Appellant has not established any larger public interest. His unsubstantiated allegation regarding sale of dealerships by original allottees cannot be treated as the ground of larger public interest. In this context, it needs to be noted that the Appellant does not seek

information regarding the allotment and reconstitution of dealerships in general. Instead, his RTI application is targeted at a particular dealership.

4. In view of the foregoing, we uphold the decision of the Respondents to deny the information under Section 8 (1) (e) and (j) of the RTI Act.
5. With the above observations, the appeal is disposed of.
6. 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