

Central Information Commission, New Delhi
File No. CIC/SH/A/2016/000084
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,**
BANK OF MAHARASHTRA
H.O. LOKMANGAL, 1501,
SHIVAJINAGAR, PUNE,
MAHARASHTRA- 411005

RTI Application filed on : 15/05/2015

CPIO replied on : 19/06/2015

First Appeal filed on : 26/06/2015

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, Ms. Meenakshi Panda, CPIO was present at the NIC Studio, Pune.

Information Commissioner : **Shri Sharat Sabharwal**

Information sought

Stating that the Bank of Maharashtra had assigned the loan of Ind Synergy Ltd to Edelweiss Asset Reconstruction on 28.3.2014, the Appellant sought the following information:-

- (a) Copy of the offer letter received by the Respondents.
- (b) Copy of sanction of offer to Edelweiss Asset Reconstruction.

The CPIO reply

The CPIO denied the information under Section 8 (1) (d) of the RTI Act.

Grounds of the First Appeal

Aggrieved with the response of the CPIO.

Order of the First Appellate Authority

The FAA upheld the CPIO's reply.

Grounds of the Second Appeal

Information sought not provided.

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 both the queries of his RTI application in this section. The CPIO had denied the information on both the points under Section 8 (1) (d) of the RTI Act. The information pertained to the agreement of the bank with the asset reconstruction company and its terms and conditions. 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 both the points 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 signing the agreement with 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 in the RTI application dated 15.5.2015. 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 in this case.
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