

CENTRAL INFORMATION COMMISSION

Club Building (Near Post Office)

Old JNU Campus, New Delhi - 110067

Tel: +91-11-26161796

Decision No. CIC/SG/A/2011/001795/14167

Appeal No. CIC/SG/A/2011/001795

Relevant Facts emerging from the Appeal:

Appellant : Mr. Raja Ram,
R/o 252, DDA Flat,
New Ranjit Nagar,
New Delhi.

Respondent : Mr. Suresh Chandra
PIO & Superintending Engineer
Municipal Corporation of Delhi,
O/o The Superintending Engineer,
Karol Bagh Zone, Nigam Bhawan,
D.B.Gupta Road, Anand Parbat,
New Delhi – 110005.

RTI application filed on : 28/03/2011
PIO replied : 06/05/2011
First appeal filed on : 12/05/2011
First Appellate Authority order : 11/06/2011
Second Appeal received on : 06/07/2011

Information sought:-

I, the undersigned Applicant being the Attorney had contested the Case bearing No.2418/2008 titled as “Sukhdev Singh Vs. Tulsi Ram Yadav & others”, for getting removed the illegal and unauthorized construction raised after making encroachment on public land and the property is known as T-450, Gali No.21, Durga Mohalla, Baljeet Nagar, Anand Parbat, New Delhi and the said case has been decided vide Orders dated—29.09.2010 thereby Ordering for removal of the illegal and unauthorized constructions in the said property.

It is, therefore requested that the Copies of the documents as mentioned at Serial No.1 to 6 in the Application dated—29.10.2010 may kindly be provided to me under The Right to Information Act. 2005

PIO response:-

The documents filed by Sh.Tulsi Ram Yadav in regularization file of P.No. 450, Gall No.21, Durga Mohalla, Baljeet Nagar, New Delhi relates to Third person and cannot be provided under S (e) & (3) of RTT Act, 2005.

Grounds for the First Appeal:

Unsatisfactory information was given by the PIO.

Order of the First Appellate Authority (FAA):

Appellant stated that he has not received the reply of his RTI application PIO clarified that the reply was sent to the RTI applicant. Perusal of appeal application filed by the appellant reveals that a copy of the reply has been attached with it by the appellant. However, afresh photocopy of the reply is handed over to the appellant. The appeal is disposed off.

Grounds for the Second Appeal:

Unsatisfactory reply received by the Appellant and Unsatisfactory order had been passed by FAA.

Relevant Facts emerging during Hearing:

The following were present:

Appellant: Mr. Raja Ram;

Respondent: Mr. S. U. Khan, AE on behalf of Mr. Suresh Chandra, PIO & SE;

The Appellant has sought the documents submitted by the owner of the property Mr. Tulsi Ram Yadav, T-450, Gali No.21, Durga Mohalla, Baljeet Nagar, Anand Parbat, New Delhi. The Appellant shows that in suit no. 2418/08 decided on 29/09/2010 the court has ordered removal of the said unauthorized construction. The Appellant had mentioned in his RTI application that the removal has been ordered by the Court. The owner appears to have submitted an application for regularization and MCD officers appear to be colluding in flouting the orders of the Court.

The PIO has refused to give the information stating that this is third party information and he has not even bothered to justify his denial of information by quoting any exemption clause of Section 8(1) of the RTI Act. In the instant case it is apparent that the property is unauthorized construction for which a Court has ordered removal and MCD officers appear to be not following the court orders and infact appear to be colluding in getting it regularized and thereby putting the cloak of legality on this. It appears to the Commission that the denial of information was clearly unreasonable and perhaps malafide.

Decision:

The Appeal is allowed.

The PIO is directed to provide the information to the Appellant before 30 August 2011.

The issue before the Commission is of not supplying the complete, required information by the PIO within 30 days as required by the law.

From the facts before the Commission it appears that the PIO is guilty of not furnishing information within the time specified under sub-section (1) of Section 7 by not replying within 30 days, as per the requirement of the RTI Act. It appears that the PIO's actions attract the penal provisions of Section 20 (1). A showcause notice is being issued to him, and he is directed give his reasons to the Commission to show cause why penalty should not be levied on him.

Mr. Suresh Chandra, PIO & SE will present himself before the Commission at the above address on **16 September 2011 at 12.30pm** alongwith his written submissions showing cause why penalty should not be imposed on him as mandated under Section 20 (1). He will also submit proof of having given the information to the appellant.

If there are other persons responsible for the delay in providing the information to the Appellant the PIO is directed to inform such persons of the show cause hearing and direct them to appear before the Commission with him.

This decision is announced in open chamber.

Notice of this decision be given free of cost to the parties.

Any information in compliance with this Order will be provided free of cost as per Section 7(6) of RTI Act.

Shailesh Gandhi
Information Commissioner
19 August 2011

(In any correspondence on this decision, mention the complete decision number.)(GS)

