

CENTRAL INFORMATION COMMISSION
2nd Floor, 'B' Wing, August Kranti Bhawan,
Bhikaji Cama Place, New Delhi -110066
Tel : +91-11-26186535

Complaint No.CIC/BS/C/2016/000016

Complainant: Kailash Gupta,
Chartered Accountant,
C 124, Preet Vihar,
New Delhi-110092.

Respondent: Central Public Information Officer
DGM, BSNL, Corporate Office,
Bharat Sanchar Bhawan,
H.C. Mathur Lane, Janpath,
New Delhi-110001.

Date of Hearing: 13.07.2017

Dated of Decision: 13.07.2017

ORDER

Facts:

1. The complainant filed RTI application dated 30.11.2013 seeking the following information:-

“1. Copy of Travelling Bills of Rs. 542170 submitted by M/s LC Kailash and Associates (Statutory Auditors) of NTP (BSNL) for audit of financial year 2010-2011 along with all the Hotel Stay Bills and Enclosures.

2. Provide details of TA Bills disallowed of LC Kailash and Associates for each unit and item-wise with the reasons of disallowance.

3. Provide the copy of Note sheet and copies of all the inter- departmental letters for passing TA Bills of LC Kailash and Associates for financial year 2010-2011.

4. Provide copy of the letters written by LC Kailash and Associates to CMD, D(F), GM of BSNL in pursuing their TA Bills payments since 2011 till 30.11.2013.
5. Provide copy of replies given by CMD, D(F), GM of BSNL against the letters of LC Kailash and Associates.
6. Provide copy of Balance Sheet and Profit & Loss Account along with Auditors Report & Note Schedules of NTP (BSNL) signed SC Vasudev & Co. Chartered Accountant for financial year 2011-2012.
7. Provide copy of entire correspondence between S.C. Vasudeva & Co., Chartered Accountant and BSNL in respect of TA Bills of LC Kailash and Associates.
8. Provide copy of NOC submitted by S.C. Vasudeva & CO, Chartered Accountant to NTP (BSNL) from LC Kailash and Associates for taking up the work of Auditing for financial year 2011-2012.
9. Provide the copy of Current TA Rules of NTP (BSNL) applicable to their Statutory Auditors.
10. Provide the copy of Current TA Rules of BSNL Ltd., Corporate Office applicable to their Statutory Auditors.
11. Provide the copy of TA Bills with Bills & proofs, submitted by M/s S.C. Vasudeva & Co. for Audit of financial year 2011-2012 of NTP (BSNL).
12. Provide the copy of Letter of Acceptance of audit of NTP (BSNL) by S.C. Vasudeva & Co. for financial year 2011-2012.
13. Provide the details date-wise about when SC Vasudeva & Co. started the Audit of NTP (BSNL) for financial year 2011-2012 as well as the details and names of their staff and membership numbers and qualifications along with attendance record/register maintained by NTP (BSNL) for Auditors as basis for passing of TA/DA Bills of Auditors.

14. What action has been taken on outstanding TA Bills of Rs. 380394 of M/s LC Kailash and Associates till 30.11.2013 and departmental plan for making payment in future or not.
 15. Provide the copy of TA Bills of all the Branch and Joint Auditor of NTP (BSNL) for financial year 2010-2011 and payments made to them.
 16. Provide the copy of TA Bills of Central Statutory Auditor of BSNL for financial year 2009-2010, 2010-2011 & 2011-2012 and amount of payment made to them.
 17. Whether S.C. Vasudeva & Co., Chartered Accountant has made provision for disputed TA Bill of Rs. 380394 & Service Tax of Rs. 1,61,776/- of LC Kailash and Associates, Chartered Accountant in Accounts for the financial year 2011-2012 or has disclosed as claims not acknowledged as debt in the Notes to Accounts of NTP (BSNL).
 18. Provide the copies of any letter/directions given by C&AG office in respect of outstanding TA Bills of LC Kailash and Associates.
 19. Provide copy of any affidavit filed by Mr. D. Chaudhary, AGM, Corporate Accounts filed in respect of outstanding TA Bills.
 20. Provide copies of any letter/directions of C&AG to S.C. Vasudeva & Co., to commence audit of BSNL (NTP) for financial year 2011-2012 without any delay despite the TA Bill of previous auditor M/s LC Kailash and Associates is outstanding and is in dispute as well as no NOC given by previous Auditor.”
2. The CPIO responded on 26.12.2013 and 01.01.2014. The first appeal and the FAA response are not on record. The complainant filed complaint on 16.06.2015 before the Commission on the ground that the sought for information has not been provided to him.

Hearing:

3. Both the parties participated in the hearing in person.

4. The complainant stated that his own documents i.e. Travelling Bills of Rs. 5,42,170/- submitted by 'M/s LC Kailash and Associates' should be given to him. Further, he stated that the respondent should provide him a copy of the notesheets on the processing of his TA Bills and the letter written by DGM (Corporate Accounts) to DGM (Finance). He alleged that the BSNL exerted pressure on the CAG for cancelling his audit. Moreover, he sought a copy of the audit reports done by S.C. Vasudeva & Co. on behalf of the BSNL.

5. The respondent stated that the identical matter was heard by the Commission on 17.11.2015 in decision no. CIC/BS/C/2013/000095/9016, wherein the respondent was directed as follows:-

"The CPIO is directed to give point wise information sought by the appellant in his RTI application dated 26/03/2013 other than that relating to M/s S.C. Vasudeva & Company for which third party procedure should be followed and the information disclosed if the third party gives its consent. In case some information is not available on record the same should be clearly informed to the appellant. The order should be complied within 30 days from the date of receipt.

As regard the appellant's plea for initiating penal action, it will be apt to quote the law propounded by the Hon'ble Delhi High Court in WP(C) 3114/2007, decided on 03/12/2007 (Bhagat Singh Vs. CIC & Anrs). Para 17 of the aforesaid decision is extracted below:

"17. This Court takes a serious note of the two year delay in releasing information, the lack adequate reasoning in the orders of the public information officer and the Appellate Authority and the lack of application of mind in relation to the nature of the information sought. The materials on record clearly show the lackadaisical approach of the second and third respondent in releasing the information sought. However, the petitioner has not been able to demonstrate that they malafidely denied the information sought. Therefore, a direction to the

Central Information Commission to initiate action under Section 20 of the Act cannot be issued.”

In the matter at hand, it cannot be said that the CPIO acted out of any malice or with intent to deny the information sought by the appellant. Initiation of penal action, therefore, would not be justified.

The appeal is disposed of accordingly.”

6. Further, the respondent stated that in compliance with aforesaid order dated 17.11.2015 they have furnished the information to the complainant as received in original from concerned unit of BSNL Corporate Office. However, the information on point nos. 6,7,8,15,16 and 20 of the RTI application is a third party information, therefore, they have denied the same. The affidavit as sought on point no. 19 is not available in their record. The respondent informed the Commission that on rest of the points they have provided the available information.

Discussion/ observation:

7. This complaint is treated as appeal, as complainant has insisted on information to be provided.

8. The Commission is of the view that the CAG (Comptroller and Auditor-General of India) is a Constitutional Authority, established by the Parliament under Constitution of India (Article 148-151), which audits all receipts and expenditure of the Government of India and the State Governments, including those of bodies and authorities substantially financed by the government. Moreover, where information is required by mandate of law to be provided to an authority, it cannot be said that such information is personal in nature. As in the instant case, the institution/authority has an obligation to provide the information as the Audit Reports are official in nature and such information shared under an obligation/duty cannot be considered as personal in nature. Therefore, it is the Audit reports are not third party information.

9. The respondent should provide to the appellant, within 30 days from the date of receipt of this order, the following information:-

(i) Copy of replies given by CMD, D(F), GM of BSNL on the letters of M/s LC Kailash and Associates and action taken on these letters along with the file notings/notesheets.

(ii) Date-wise details about when S.C. Vasudeva & Co. started the Audit of NTP (BSNL) for financial year 2011-2012 as well as the details and names of their staff and membership numbers and qualifications along with attendance record/register maintained by NTP (BSNL) for Auditors as basis for passing of TA/DA Bills of Auditors. A copy of the Audit report relating to S.C. Vasudeva & Co. should also be given.

(iii) Copy of TA Bills with Bills & proofs, submitted by M/s SC Vasudeva & Co. for Audit of financial year 2011-2012 of NTP (BSNL).

Decision:

10. The respondent is directed to take action as per para 9 above.

11. During the hearing, the representative of the BSNL misbehaved with the appellant saying that his T.A. Bills would never be paid. Further, the appellant threatened a government servant (representative of the BSNL) with dire consequences. Both the parties are hereby admonished for their misbehaviour and warned to exercise caution in future. CMD, BSNL may take note of this.

The appeal is disposed of. Copy of the order be given to the parties free of cost.

(Radha Krishna Mathur)

Chief Information Commissioner

Authenticated true copy

(S.C. Sharma)
Dy. Registrar

Copy To:-
CMD, BSNL, Opp Janpath Hotel,
Connaught Place, New Delhi-110001.