

CENTRAL INFORMATION COMMISSION

Room No. 305, 3rd Floor, CIC Bhavan, Baba Gangnath Marg, Munirka,
New Delhi-110067, website:cic.gov.in

Complaint No.: -CIC/DITIN/C/2017/185395-BJ

Complainant : Mr. Radha Raman Tripathi,
Respondent : CPIO & Jt. Commissioner of Income Tax,
Range-3, O/o. Jt. Commissioner of Income
Tax, Range-3, Bokaro Steel City, Jharkhand
Date of Hearing : 27.12.2017
Date of Decision : 28.12.2017

Date of filing of RTI application	28.09.2016
CPIO's response	05.10.2016
Date of filing the First Appeal	Not on Record
First Appellate Authority's response	Not on Record
Date of diarised receipt of Complaint by the Commission	15.11.2016

ORDER

FACTS:

The Complainant vide his RTI application sought information on 04 points regarding the date of joining of Mr. P.K Mondal as JCIT, Bokaro, his date of relieving on transfer, number of RTI applications filed by the Complainant before and after the date of attachment of his bank account, etc.

The CPIO vide its letter dated 05.10.2016 denied disclosure of information on Points 01 and 02 u/s 8(1)(j) of the RTI Act, 2005. Moreover, w.r.t Points 03 and 04, it was stated that the disclosure of such information sought would serve no larger public interest and therefore information was denied from disclosure u/s 8(1)(j) of the RTI Act, 2005. Dissatisfied by the reply of the CPIO, the Complainant approached the Commission.

HEARING:

Facts emerging during the hearing:

The following were present:

Complainant: Mr. Radha Raman Tripathi through VC;

Respondent: Mr. Sanjiv Kumar Roy, JCIT, Bokaro; Mr. Anand Kumar, Sr. Tax Assistant, Bokaro through VC;

The Complainant reiterated that the information sought by him had not been received and submitted that most of his RTI applications were replied by way of a common order by the CPIO which was non-reasoned and a "cut paste" job done without proper application of mind. On being queried by the Commission regarding the reasons for not approaching the FAA in the matter, the Complainant expressed his complete lack of faith and distrust in

the First Appeal Mechanism within the Public Authority and narrated his personal experience in several other matters where the FAA had merely concurred with the CPIO without application of mind. The Complainant further prayed for imposition of penalty on CPIO for providing a wrong and misleading reply in the matter. In its reply, the Respondent submitted that the information as per Section 2(f) of the RTI Act, 2005 was furnished to the Complainant on 05.10.2016 and maintained the same stand during the hearing. It was categorically stated that the information sought by the Complainant on points 01 & 02 was an internal matter between the employer and the employee that could not be shared as no larger public interest was being served in this regard. In respect of points 03 & 04, although it pertained to the number of RTI applications filed by the Complainant, the same plea was taken by the Respondent that it would not serve any larger public interest. Contesting the claim, the Complainant submitted that his intention was to expose alleged malpractices in the Respondent Public Authority. It was noted by the Commission that the Respondent vide his written submission dated 26.12.2017 provided a point wise response to all the queries in the instant RTI application.

On being queried by the Commission regarding the reasons for which information was not provided earlier, the Respondent submitted that as per the instructions of the FAA, their earlier standpoint was not to disclose information due to the absence of larger public interest involved in the matter. This was the general philosophy followed in most of these applications after discussing the matter with the FAA. It was further argued that the Complainant had filed Multiple RTI Applications for meeting his personal ends and to destabilise their day to day working which was causing disproportionate diversion of their meagre resources. Furthermore, it was emphasized that Bokaro/Hazaribagh had very skeletal staff and it was extremely difficult to cope up with large number of RTI applications of such nature.

It was however, observed that in respect of points 03 & 04 of the RTI application, it is evident that without application of mind the CPIO submitted his reply which was unethical and incorrect. The Complainant had sought information in respect of the number of RTI applications filed by him, which should have been provided in accordance with Section 2(f) of the RTI Act, 2005. Moreover, the Commission noted that in Complaint no. CIC/BS/C/2016/000097-BJ dated 03.04.2017 and in Complaint no. CIC/BS/A/2015/002243-BJ dated 06.04.2017, the Complainant had not pressed the matter further. However in the instant case, since the Respondent Public Authority possessed the desired information, it should have been provided within the stipulated time period.

In this context the definition of information as per Section 2(f) of the RTI Act, 2005 can be referred:

“information” means any material in any form, including records, documents, memos, e-mails, opinions, advices, press releases,

circulars, orders, logbooks, contracts, report, papers, samples, models, data material held in any electronic form and information relating to any private body which can be accessed by a public authority under any other law for the time being in force.”

Hearing both the parties and on perusal of records available, the Commission observed that under Section 2(j) of the RTI Act, 2005, **‘the “right to information” means the right to information accessible under this Act which is held by or under the control of any public authority.....’** and therefore the Public Authority was duty bound under the RTI Act, 2005 to provide the information to the RTI Applicants which was held by it or was under its control. In this context, the Commission referred to the decision of the Hon’ble Supreme Court in the matter of Civil Appeal no. 6454 of 2011 Central Board of Secondary Education and Anr. Vs. Aditya Bandopadhyay and Ors. held as under:

“35. At this juncture, it is necessary to clear some misconceptions about the RTI Act. The RTI Act provides access to all information that is available and existing. This is clear from a combined reading of Section 3 and the definitions of “information” and “right to information” under clauses (f) and (j) of Section 2 of the Act. If a public authority has any information in the form of data or analysed data, or abstracts, or statistics, an applicant may access such information, subject to the exemptions in Section 8 of the Act.....”

The Commission further referred to the decision of the Hon’ble High Court of Bombay in *Shonkh Technology International Ltd. v. State Information Commission Maharashtra Konkan Region, Appellate Authority and United Telecom Limited v. State Information Commission Maharashtra Konkan Region and Ors*, W.P. Nos. 2912 and 3137 of 2011 decided on 01.07.2011 wherein, the significance of RTI Act, 2005 in promoting accountability and transparency of every public authority was highlighted as under

“The RTI Act is an Act to provide for setting out the practical regime of right to information for citizens to secure access to information under the control of public authorities, in order to promote transparency and accountability in the working of every public authority. The preamble of the RTI Act itself refers to this aspect and the constitutional principles enshrined in several articles of the Constitution. It is very clearly postulated that democracy requires an informed citizenry and transparency of information which are vital to its functioning and also to contain corruption and to hold the Governments and their instrumentalities accountable to the governed. The revelation of information in actual practice is likely to conflict with other public interests including efficient operations of the Governments, optimum use of limited fiscal resources and the preservation of confidentiality of sensitive information. Therefore, the RTI Act seeks to harmonize these conflicting interests while preserving the paramount nature of democratic ideals”

DECISION

Keeping in view the facts of the case and the submissions made by both the parties, the Commission observed that the response provided by the CPIO/Respondent with respect to Points 03 and 04 was in total disregard to the provisions of the RTI Act, 2005 and contradictory response was provided by the Respondent during the hearing. The Commission therefore directs the Respondent, Mr. Sanjiv Kumar Roy, CPIO/JCIT, Range-03, Bokaro to show cause why penal action should not be taken against under the provision of Section 20(1) of the RTI Act, 2005 for this misconduct and negligence within a period of 30 days from the date of receipt of that order under intimation to the Complainant.

The Commission also advises the Respondent Public Authority to convene periodic conferences/seminars to sensitize, familiarize and educate the concerned officials about the relevant provisions of the RTI Act, 2005 for effective discharge of its duties and responsibilities.

The Complaint stands disposed with above direction.

(Bimal Julka)
Information Commissioner

Authenticated True Copy:

(K.L.Das)
Deputy Registrar