

Central Information Commission

Room No.307, II Floor, B Wing, August Kranti Bhawan, Bhikaji Cama Place, New Delhi-110066
website-cic.gov.in

Appeal No. CIC/SB/A/2016/001171/MP

Appellant : Shri Ram Kumar Agrawal, Delhi
Public Authority : CBI, New Delhi

Date of Hearing : June 02, 2017
Date of Decision : June 09, 2017

Present:

Appellant : Not present
Respondent : Shri R.K. Dutta, AAO , Shri D.K. Rai, ASP – at CIC

RTI application : 29.04.2016
CPIO's reply : 06.05.2016
First appeal : 13.05.2016
FAA's order : 24.05.2016
Second appeal : 17.06.2016

ORDER

1. Shri Ram Kumar Agrawal, the appellant, sought the present status of the RDA proceedings initiated against him; reasons for not issuing show cause notice to the appellant as mentioned in the DoPT check list Sl. No. 7 dated 25.02.2014; reasons for not giving the appellant an opportunity to submit his explanation to the show cause notice as mentioned in the DoPT check list Sl. No. 8, reasons for not considering the name of the appellant for promotion to the post of SP; reasons for transfer of the appellant to Imphal Branch on the basis of a false complaint; etc., through 15 points.

2. The Central Public Information Officer (CPIO) informed the appellant that the appellant had been already responded to on his identical/similar RTI queries, in the recent past, that the CBI was placed at Sl. No. 23 under the Second Schedule to the RTI Act, 2005 and the Act was not applicable to the CBI and hence, the CPIO had claimed exemption from disclosure of the requisite information. The CPIO further informed the appellant on point 7 of his application that orders relating to transfer of applicant to far off place/branch or initiation of departmental proceedings against him or a CBI employee was totally an administrative decision of the Department and could not be categorized as human right violation. Dissatisfied with the CPIO's denial of the information, the appellant filed appeal before the First Appellate Authority (FAA) and requested the FAA to direct the CPIO to provide the desired information as there had been violation of his human rights. The FAA upheld the decision of the CPIO. Aggrieved, the appellant came in appeal before the Commission stating that

stating that since his RTI request pertained to violation of his human rights; he was entitled to seek the desired information under the RTI Act, 2005, which was refused to him by the CPIO and FAA and therefore, requested the Commission to direct the CPIO to provide him complete information.

3. The matter was heard by the Commission. The appellant was not present for the hearing despite the notice for hearing having been duly sent to him. The appellant is an employee of the Central Bureau of Investigation (CBI) and had sought the status of his own disciplinary proceedings and related information through 15 points but, the CPIO did not give him a satisfactory response in the matter.

4. The respondent stated that the appellant was informed by the CPIO that the transfer of applicant to far off place/branch or initiation of departmental proceedings against him or a CBI employee was an administrative decision of the Department and depended on the administrative exigencies and therefore, it could not be categorized as a matter of human right violation. The Commission, however, observed that only point 7 of the appellant's request had been replied to. The respondents could not explain as to how exemption granted to the organization u/s 24 of the RTI Act, 2005, from disclosure of information pertaining to a CBI's own employee/officer came within the purview of exemption/Schedule II to Section 24 of the Act, to the satisfaction of the Commission.

5. On hearing the respondent and perusing the records before it, the Commission observes that the respondents cannot deny the benefit of RTI Act, 2005 to their own employee, the appellant in this case, who has been seeking status of his own disciplinary proceedings from the respondent authority, since the information sought by the appellant in his RTI application is not related to a corruption or a human rights violation case investigated by the CBI but related to the employee's own case. There appears to be no reason to place a CBI employee at a place of disadvantage as compared to other government employees and deprive him of the benefits of the RTI Act, 2005. The decision of this Commission in the case of *Shri Banarasi Rai vs. CBI*, (Appeal no. CIC/CC/A/2014/000687/SB, decision dated 24.06.2016), is produced hereunder in support of the order:

“5. ... Further, the information sought does not pertain to allegations of corruption and human rights violation by the officers of CBI. Hence, information cannot be provided to the appellant.”

6. However, the matter at present involves the case of CBI's own official and the appellant has a right to know about his own case and a public authority which seeks to claim the exemption u/s 24 of the Act from disclosure of information, available with it and pertaining to its own employee/official, has to show/prove that the information sought is of the nature specified in Section 24 of the Act, to the satisfaction of the Commission. The CPIO has, without applying his mind and keeping in view the very object of the RTI Act, 2005 r/w Section 24, denied information to the appellant on no legal grounds. The decision of the Hon'ble Delhi High Court, in the case of *B.S. Mathur vs. PIO*, is relevant in this regard:

“19. The scheme of the RTI Act, its objects and reasons indicate that disclosure of information is the rule and non-disclosure the exception.”

7. The Commission, therefore, directs the CPIO to revisit the appellant's RTI application and reply to him, point wise, keeping in view the provisions of the RTI Act, 2005. The appeal is disposed of.

(Manjula Prasher)
Information Commissioner

Authenticated true copy:

Dy Registrar

Copy to:

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