

Dated: 23rd April, 2010

In compliance to the direction of the Chief Information Commissioner I have enquired into the alleged manipulation of a para of the decision dated 28/11/2008. After receiving the file from the registry of Smt. Annapurna Dixit, IC, I went through the records available on file including the complaints of Sri Anil Agarwal.

Immediately thereafter, I got hold of the pen drive containing the decision and checked its content. I found that the content was identical with the decision dated 28.11.2008 signed by the information Commissioner. As per the available records it is this decision containing all 7 paras which was sent to the parties. The complainant has also conceded this point. It is however a fact that the decision which was uploaded on the website of the Commission were having only 6 paras till such time the complainant brought it to our notice. The missing content of the decision document was 6th para of the signed copy of the decision dated 28.11.2008 which read as follows:

XXX

The Commission directs the CPIO to show cause as to why a maximum penalty of Rs. 25000/- should not be levied on him for not replying the appellant's RTI application. The response to reach the Commission within 15 days of receipt of this order.

XXX

Sri Paul, NIC produced before me the content of the enclosure received by him from shafait1@yahoo.com dated 28/11/2008. The decision did not contain 6th para as signed by the IC. It is therefore now clear that 6th para lost its presence during data transfer but before being mailed to Sri paul, NIC. Sri Shafait Khan, Data Entry Operator was since responsible for emailing the decision received from the personal section of the Information Commissioner to Sri Paul, NIC, CIC; he was the most appropriate person to be questioned.

On 14.1.2010, I directed Sri Shafait Ahmed Khan, DEO to come to me and asked him to explain as to how a particular para of the decision of the Commission dated 28/11/2008 got removed and was also uploaded on www.cic.gov.in. He deposed before me the following:

“On receiving the content of the decision in the pen drive I copied it on the desktop of my computer along with 10 more decisions. Thereafter, I opened all 11 doc. files to ascertain whether all the doc. files have been copied or not. The decision in present case was attached as 635. Doc and was the first one to be attached with the mail. Once the mail was sent, I started doing my other pending jobs. I came to know about this amiss only when enquired about the same by Sri G. Subrahmanian, Designated Officer to IC.”

I have also gone through various complaints of Sri Agarwal in this regard. I would like to mention one of his observations from one of his complaint letters dated 03.08.2009 which is as under:

XXX

There are entries pertaining to “received” and “issued” which carry the signature of one “Chandry” are enough tell tale signs of manipulation.

XXX

All his complaints in regard to this more or less revolve around similar arguments.

Reasons and Conclusion

As has been indicated above there were 11 decisions that were sent electronically to Sri Paul, NIC from the registry of the Information Commissioner for uploading. Out of 11 such decisions two of them i.e. CIC/PB/C/2008/00635 and CIC/PB/C/2008/00683/AD were indicting in nature to the RTI functionaries (related to directly or indirectly) of MOHFW in regard to the disposal of RTI applications filed before them. If one were to argue that the DEO of the individual registry was defending the CPIO or the Public Authority by deleting the concerned paragraphs from the decision, it is legitimate to assume that the same would be done in both the cases being relating to the MOHFW. Knowing fully well that the hard copies of the decision are being issued by someone else would be suicidal for the DEO in question more so because hard copies of the decision did not undergo any change.

I have also enquired from the registry of Information Commissioner regarding the context of “received” and “issued”. It was explained thereupon that all the decisions are sent to the central dispatch division and from there the same is dispatched. In the present case, date on which it is received by the central dispatch section is 4.12.2008 and the date when the same was dispatched by the Central dispatch was 6.12.2008. In view of the facts and circumstances emerging out of the case I intend to conclude that the deletion of a particular para of the decision dated 28.11.2008 is not an act of manipulation with any motives.

However, since para 6 of the decision lost its presence it is important to analyse as to how such a deletion is possible.

In the field of information technology, data loss refers to the unforeseen loss of data or information. An occurrence of data loss can be called a Data Loss Event and there are several possible root causes. It further states that the unintentional data loss events are of the following type

- Accidental deletion of a file or program
- Misplacement of CDs or floppies
- Administration errors
- Inability to read unknown file format

(Source: <http://en.wikipedia.org/wiki/Dataloss>)

Literature available in this field also suggests that the MS Word is the second most affected software by such deletion after windows picture. Administrative errors also fall under this category. Present act of omission or deletion squarely falls in the category of accidental deletion. A key or combination of keys when pressed with the cursor at para 6 could have possibly deleted the entire paragraph thus automatically changing the next para number as 6th which is para 7th in the signed copy of the decision. It is however not possible to hold someone accountable for such act of omission or deletion. It is purely an accidental deletion which could have been retrieved but went unnoticed for quite sometime.

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