

CENTRAL INFORMATION COMMISSION

Appeal: No. 11/9/2005-CIC

Dated, the 1st March, 2006

Name of the Appellant: Shri Mukul Mittal, Mittal Contracts Private Limited, Bhopal

Name of the Public Authority: IRCON International Limited, New Delhi

DECISION

Grounds for Appeal

Shri Mukul Mittal has made an appeal dated 22.12.2005 against Order dated 19.12.2005 passed by the Appellate Authority of IRCON International Limited, whereby the Appellate Authority of IRCON has stated that the appellant may await their response till a decision is taken on the issue whether IRCON is a 'public authority' under the Right to Information Act. Nearly, three months have lapsed since their last letter, yet IRCON has not responded to Shri Mukul Mittal's request for inspection of certain files.

Commission's Decision

A hearing was held on 24th February, 2006 by the Bench comprising of Information Commissioners, Dr. O.P. Kejariwal and Dr. M.M. Ansari. IRCON was represented by its Executive Director, Shri Shahabuddin Khan and two other members. The Appellant Shri Mukul Mittal was also present.

2. Shri Mittal briefly explained the type of information he had asked for from IRCON of which he was a sub contractor. He stated that even after the expiry of the statutory period of 30 days, he has not got the information from IRCON.

3. The Executive Director of IRCON observed that they were not clear about the status of IRCON as to whether they were a 'public authority' under clause (h) of section 2 of the Right to Information Act, 2005. For a clarification on the issue, they had made a reference to the Ministry of Railways, and also to their lawyers Srinivasan & Srinivasan. While the reference was still pending with the Ministry of Railways, the lawyers had given their opinion to the effect that IRCON was not a 'public authority'. This opinion had been forwarded to the Commission by IRCON.

4. The Commission expressed its view that the whole exercise was a crude attempt on the part of IRCON to mislead the Commission. It betrayed a total lack of perception and accountability at its best and was a brazen attempt to cloud the issue by producing an Advocate's tailored opinion at its worst. On its own admission, the Company's 99.7% of share capital has been provided by the Central Government. Even the minority shareholders, UTI and Bank of India, were Government entities. The officers of the

Company have tried to demolish the basic characteristic of 'Public Sector' by disowning the Company's partnership with Government, which entirely financed its "birth", without changing its Charter.

5. The respondents harped on the fact that they are a 'mini ratna' and have paid dividends to the Government of India many times the share capital subscribed by it. The grant of 'mini ratna' status however does not mean that the Government has shed its ownership control over the Company. It only gave IRCON some financial flexibility and relaxation in certain procedures in view of its financial performance. The fact that IRCON's Board of Directors is appointed by the Central Government, its financial accounts are subject to review by the C&AG of India and its Annual Report is presented to Parliament clearly establishes that the ultimate control of IRCON rests with the Central Government. Moreover its share capital has been paid by the GOI and public sector banks. Thus there is not a single mitigating factor to support IRCON's contention that they were not a 'Public Sector'. Hence, without an iota of doubt IRCON is covered by clause (h) of Section 2 of the Right to Information Act, 2005 and hence a 'public authority'.

6. The Commission felt that making a reference to the Ministry of Railways for seeking clarification on this matter was an infructuous exercise and dilatory tactics on the part of the IRCON authorities. [They had not even replied to the Appellant's letter even after three months on this count]. The Commission has taken a serious view of the matter and gives IRCON time of fifteen days to respond to the Appellant's request for inspection of relevant papers from the date of this Order, failing which they would invite penalties as provided under section 20 the Right to Information Act, 2005.

Sd/-
(O.P. Kejariwal)
Information Commissioner

Sd/-
(M.M. Ansari)
Information Commissioner

Authenticated true copy :

(P.K. Gera)
Registrar

CC:

1. The Executive Director, IRCON INTERNATIONAL LIMITED, Palika Bhawan, Sector XIII, R.K. Puram, New Delhi - 110066.
2. Shri Mukul Mittal, Director, Mittal Contracts Private Limited, S-31, GTB Complex, Bhopal - 462003.