

CENTRAL INFORMATION COMMISSION

Application No CIC/WB/A/2006/00011

Dated: 03/1/06

Right to Information Act – Section 19

Name of Appellant: Shri Sarbajit Roy

Name of Public Authority: DERC

Facts:

Mr. Sarbajit Roy, an engineer and resident of Dwarka in New Delhi, filed a complaint against the Delhi Electricity Regulatory Commission ("DERC"), the regulatory authority for all electricity-related matters within the Union Territory of Delhi, under Section 18 read with Section 19 of the Right to Information Act, 2005, against the rejection by the PIO of the applicant's claim within 48 hours of the application that the information sought pertained to life and liberty, and on the information provided by the PIO on 18/11/05 being 'evasive, incomplete, and false.' The appellate authority failed to pass an order within 45 days of the appeal and therefore this was construed as a deemed refusal. In its response, DERC has adhered to its stand that no life and liberty were involved, that the DERC was the wrong authority approached for the information sought from DISCOMs, regulated but not owned, controlled or financed by DERC, and questioned whether DISCOMs did indeed fall within the definition of public authority under the Right to Information Act, 2005. DERC had in fact sought clarification on this from the Delhi government, which in turn had sought the advice of the Government of India, but had received no response.

PIO Sharma of DERC and appellant present on 16/3/06. Both parties agreed that the only decision required from the Commission was a ruling on whether or not the DISCOMs were to be classified as public authorities. PIO clarified that over 40% share of DISCOMs vested with the Delhi government-owned holding company, the Delhi Power Company Ltd. DISCOMs therefore fall well within the definition of a public authority under Section 2 (d) (i) with the Delhi government participating directly or indirectly in its ownership, control, and a substantial part of its finance.

DECISION

The law being clear in this matter it was not necessary for PIO and appellate authority of DERC to seek clarifications from government in the matter. However, since the question arose in a hitherto unexplored area, this delay is condoned on the grounds of good faith on this occasion. The concerned public authorities will now provide the information sought by the applicant forthwith and not later than the time limit prescribed in Sec 7 (1) of the Right to Information Act 2005

Let a copy of this decision be sent free of cost to the parties. A copy may also be sent to Chief Secretary, Delhi for his information and necessary action to ensure establishment of the requisite infrastructure for addressing applications under the Act in the public authorities.

(Dr OP Kejariwal)
Information Commissioner

(Wajahat Habibullah)
Chief Information Commissioner

Authenticated true copy. Additional copies of orders shall be supplied against application and payment of the charges prescribed under the Act to the CPIO of this Commission:

(P. K. Gera)
Registrar
16/3/06