

CENTRAL INFORMATION COMMISSION
Right to Information Act – Section 19

Adjunct to Appeal No. CIC/WB/A/2006/00152

Dated: 10.7.2006

Appellant: Shri SK Ohri, Ramjas Marg Area Development & Welfare Association (Regd)

Respondent: Engineer-in-Chief, M.C.D. Delhi

Facts: In the decision dated 22.6.2006 on appeal no. CIC/WB/A/2006/00152 u/s 19 of the RTI Act before this Commission, the following was the decision:-

“In view of the above stated circumstances, it appears that the public authority has failed to carry out its obligations under the Right to Information Act, 2005 and that the appellant has been denied the information without any reasonable cause.

Since the denial of information was made on 29.12.05, the said public authority is liable to pay a penalty @ Rs. 250/- per day subject to a maximum of Rs. 25,000/-. The said public authority is called upon to show cause as to why he be not ordered to pay the penalty @ 250/- per day w.e.f. 29.12.05 subject to a maximum of Rs. 25000/-.

From the facts of the case, it also appears that the concerned public authority namely, Shri Ravi Dass, Engineer-in-Chief has obstructed the furnishing of the requested information, he is also, therefore, called upon to show cause as to why appropriate disciplinary action be not recommended against him u/s 20(2) of the Right to Information Act, 2005.”

Accordingly, Engineer-in-Chief, M.C.D. has prayed that penalty not be imposed for the following reasons:

1. Shri S.K.Ohri had submitted an application on 08-12-2005 under Central Right to Information Act seeking copy of building plan of Property No. 61/20, Ramjas Road, Karol Bagh, New Delhi and he was asked to attend the office on 22.12.2005, but did not attend the office. The reply was sent to him vide letter dated 29th Dec., 2005 wherein it was replied that only lawful owner of property can ask for a document like sanctioned building plan, and that in almost all the cases having such requests, a uniform stand has been taken by the Municipal Corporation of Delhi that copy of sanctioned building plan shall be supplied only to the owner(s), as the request by 3rd party amounts to be invasion of privacy. In Engineer-in Chief's view if building plan of private houses are given to outsiders, there is a risk of security to the family staying in such houses. The Chairman of Public Grievances Commission, Appellate Authority, under the Delhi Right to Information Act had upheld the said stand of MCD. Copies of two decisions of the Chairman (PGC) in the case of (i) Lt. Col. G.K.Chawla (Retd) vs. MCD and (ii) Shri K.L.Bansal Vs. MCD were enclosed.
2. It is was further argued that Shri S.K.Ohri submitted another application on 30.12.2005 under Delhi Right to Information Act with the same prayer i.e. copy of sanctioned building of property No. 61/20, Ramjas Road, Karol Bagh, New Delhi. Two applications submitted, one under Central Right to Information Act and the

other under Delhi Right to Information Act, caused confusion resulting in the information asked under Central Right to Information Act being replied under Delhi Right to Information Act. The said 'inadvertent' mistake was regretted.

3. It was further submitted that the Commission's letter No. F.CIC/A/9/2006 dated 10.3.2006 did not come to the respondent's notice and, therefore, could not be replied.

In the meantime, we have learned from the appellant that he has received the information sought by him together with a sanctioned plan. However, this is six months after the application was made.

ORDER

We have studied the explanation given. Given that the information sought was not permitted until the Delhi RTI Act, the confusion in response can be considered to be genuine. However, an Act of the Union Parliament supercedes local Acts in Union Territories which come under the direct jurisdiction of the Union under the Constitution. The Engineer-in-Chief is, therefore, cautioned to be more careful in disposing off cases of this nature in the future, and the Government of NCT advised to review any discrepancies that could confuse citizenry of Delhi in using these two laws.

However, the plea that the Commission's letter of 10.3.2006 asking for comments on the appeal notice never came to his notice reflects an administrative lapse in the respondent's office. The Engineer-in-Chief will enquire and fix responsibility for this lapse, taking further necessary action under intimation to this Commission within 15 working days of the issue of this order.

Notice of this decision be given free of cost to the parties.

(Wajahat Habibullah)
Chief Information Commissioner
10/8/2006

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:

(L.C. Singhi)
Additional Registrar
10/8/2006