

CENTRAL INFORMATION COMMISSION
2^{ad} Adjunct to Appeal No. CIC/WB/A/2006/00302 dated 8-6-2006
Right to Information Act 2005 – Section 19

Complainant: Shri Rakesh Aggarwal
Respondent: Municipal Corporation of Delhi

ORDER

In our order on Adjunct to appeal No. CIC/WB/A/2006/00302 dated 28-3-2007 we had directed as follows:

“Since Shri J. P. Aggarwal has pleaded a defective structure in MCD in accounting for this delay, Commissioner, MCD is directed to enquire as to whether this penalty is to be distributed among those responsible for delaying the response to the application from the date that it became due i.e. 14.9.2006 up to the date it is actually provided i.e. ending February, which will now peak at Rs. 25,000/-. This exercise shall be completed by April 30, 2007. **The Commission further directs the Additional Commissioner (HQ), MCD to cause recovery of the amount of penalty from the salaries of Shri SC Kohli and Shri JP Aggarwal, together with others identified as responsible for the delay in the above mentioned enquiry¹** made payable in the name of P&PO, DP & AR in New Delhi, under intimation to Shri Pankaj Shreyaskar, Assistant Registrar in this Commission by May 3, 2007.”

In response to this we have received intimation from Shri Raj Mohan Singh, Addl. Commissioner (Hq.) stating as follows:

“Shri J. P. Aggarwal has not yet filed any reply. In view of this CA-cum FA has been directed to deduct the penalty amount of Rs. 25,000/- from the salary of Shri J. P. Aggarwal, and remit the same to P&PO., DP& AR., New Delhi (Copy of the orders enclosed).

Further, it is informed that a sum of Rs. 10,500/- was to be recovered from Shri S. C. Kohli, then Deputy Commissioner Shahdara (South) Zone and PIO. Vide letter No. PSC/215/2007 dated 19.4.07 Shri Kohli, has intimated that he has filed a review petition before the Hon'ble Commission (Copy enclosed). In view of this recovery from Shri Kohli, has not been ordered till the outcome of the review petition.”

¹ Emphasis now added

In fact, we have received requests for reconsideration from both Shri Kohli and Shri Aggarwal. In his request Shri Kohli has pleaded as follows:

“That this Hon’ble Commission has issued show cause notice dated 10.01.2007 to the respondent to furnish on or before 19.1.2007 the names, addresses and phone Nos. of the concerned PIOs, who were responsible to provide the information to the appellant and did not do so and liable for imposition of penalty and directed all the PIOs to appear on 31.01.2007 before this Hon’ble Commissioner (Annexure ‘G’). In response to the aforesaid show cause notice Shri S. C. Kohli, Secretary to Commissioner of the respondent has given information regarding the concerned PIOs vide letter dated 16.01.2007 (Annexure ‘H’).

That it is not out of context to mention here that a meeting was held in the office of Dy. Commissioner, Shahdara (South) Zone of the respondent with the appellant on 14.2.2007 In which all concerned officials were present. The appellant was thereafter fully satisfied with the information provided by the respondent.

That the respondent has brought all these facts in the notice of this Hon’ble Commission and prayed for condonation of delay. This Hon’ble Commission after hearing the parties passed the aforesaid order dated 28.3.2007.

That the respondent is moving the present review application with a prayer to review order dated 28.3.2007 and waive the penalty imposed on Shri S. C. Kohli.

That there appears to be some confusion on the face of record in so far as imposing of penalty on Shri S. C. Kohli, PIO is concerned. In fact, Shri S. C. Kohli was relieved from the post of Dy. Commissioner, Shahdara (South) Zone, MCD on 28.4.2006, but this Hon’ble Commission has imposed penalty on him for period from 21.4.2006 to 1.6.2006. Even other wise the penalty should not be imposed w.e.f. 21.4.2006 as after hearing conducted by the First Appellate Authority on 21.4.2006, the first Appellate Authority has passed its order wherein five days time was granted to the respondent to supply the complete information to the appellant, if not provided do far, in case of I.D. No. 29. Even other wise on 22.4.2006 and 23.4.2006 were holiday due to Saturday and Sunday and Shri S. C. Kohli, the then PIO had immediately ordered for compliance of order dated 21.4.2006 on 24.4.2006 and thereafter Shri S. C. Kohli was transferred and relieved from the said Zone w.e.f. 28.4.2006. Whereas In case of I.D. No. 30 and 31 no

direction for supplying any information was given to the respondent. As the required information in case of I.D. No. 29 was already provided by the respondent to the appellant in March, 2006 itself, no further information was to be supplied by the respondent. As such the penalty imposed is not justified.”

On the other hand the prayer of Shri Aggarwal is as below:

- i) It is, therefore, most respectfully prayed that the order dated 28.3.2007 may kindly be reviewed and the penalty imposed on me may kindly be waived, in view of the submissions made herein before.
- ii) The orders of the Commission regarding deduction of the penalty of Rs. 25,000/- from my pay may kindly be withdrawn and penalty order may be modified suitably so that the innocent PIO does not incur any penalty for the omissions and commissions of above-stated officers who were responsible for delay in supplying the information.”

Because of the complex arguments submitted by both officers they were summoned to be heard on 14-1-2008. Shri S.C. Kohli, present Secretary to the Commissioner, MCD, appeared before us and stated that in fact no enquiry had been conducted as directed by this Commission in our order of 23-8-07 so as to apportion the responsibility for delay in supplying the information as emphasized by us in our quote from the decision of 28.3.'07. Only a notice had been issued to both Shri Kohli and Shri Aggarwal by Shri Raj Mohan Singh, Addl. Commissioner (Hq.) to pay the penalty.

Our orders in this matter are clear. We had accepted the argument of PIO Shri Aggarwal that the MCD system was defective thus causing the delays. The purpose of asking the Commissioner, MCD to enquire into this matter so as to apportion the penalty was to enable him to streamline the processing structure of RTI application so that such delays do not occur. This has not been done thus defeating the purpose of imposing penalty.

We, therefore, direct Shri Ashok Kumar, Commissioner, MCD to conduct an enquiry into this matter, apportion responsibility for the delay in supply of

information, and submit the same to us by 29th January, 2008. It is clarified that the orders for imposition of penalty still stands. The only question remaining is now as to who will bear the liability of the penalty which is the question the answer to which was to depend upon the findings of Commissioner, MCD. Since such enquiry, however, has not been done the apportionment of penalty will be decided by us upon receiving the report of the Commissioner, MCD.

In the meantime Shri Rakesh Agarwal, appellant has been submitting requests for information on the present status of recovery of the penalty ordered. A copy of this order will be sent to Shri Rakesh Agarwal, appellant for his information.

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

(Wajahat Habibullah)
Chief Information Commissioner
14-1-2008

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.

(Pankaj K.P. Shreyaskar)
Joint Registrar
14-1-2008