

## CENTRAL INFORMATION COMMISSION

Appeal No: CIC/WB/A/2006/00119

Dated: 22/2/06

Right to Information Act – Section 19

Name of Appellant: Dr. BN Bhattacharjee

Name of Public Authority: Land & Development Office, Ministry of Urban Development, New Delhi

### **Facts:**

Dr Bidyut Bhattacharjee of Chittaranjan Park, New Delhi applied to PIO Shri V Sreekumar, PRO, Land & Development Office, Ministry of Urban Development on 3/11/05 u/s 6(1) asking for certified copies of Application for Sale Permission filed by Shri NK Jain on behalf of Smt Anila Das Gupta together with the following attached documents, relating to a leasehold property in Chittaranjan Park, New Delhi:

- 1) Nominee Affidavit of Smt Sawitri Jain
- 2) Affidavit of Shri Neeraj Jain.
- 3) Registered agreement to Sell

This request was declined vide PIO's letter of response DO No. PSII/1968 dated 2/12/05 "in view of the provisions contained in Sec 8(e) and 8(j) of The Right to Information Act, 2005." The applicant therefore filed an appeal with what he has termed the CPIO in his application, presumably the Appellate Authority, Shri A Madhukar Reddy, Land & Development Officer, MUD, together with copies of all documents of which certified copies had been sought. The Appellate Authority after scrutiny found that "in view of the dispute pending before the High Court of Delhi, you (the appellant) have no settled right in the property and

therefore the documents asked for cannot be supplied to you in view of the provisions of Sec 8(e) and (j) of the RTI Act, 2005” The order of the PIO was upheld. Hence the second appeal before the Commission.

Applicant Dr Bhattacharjee present on 2/6/06 together with Advocate PK Maitra. PIO Shri V Sreekumar, PRO L&D Office and Shri A Bhattacharjee, Deputy L&D Officer, L&D Office are also present. The file has been examined and arguments heard. The authorized representative of the appellant, Advocate Maitra has presented a complicated case seeking authenticated documents on the grounds that the case has been argued in the Courts on the basis of a stale document, and presenting the pros and cons of the judicial rulings in the matter, whether in favour or against the appellant, who is son of Smt Maya Bhattacharjee, now deceased, who he claims to have been recipient of the original agreement to sell from the original allottee. The Court cases in process are between the appellant and Shri NK Jain or his wife, who however are not third parties in the present proceedings.

### **DECISION NOTICE**

We have studied the file and the copies of rulings of the Supreme Court and High Court of Delhi in the matter, submitted by the appellant. The appellant is in possession of the documents he seeks, but wishes that these copies be certified/authorized by the public authority. The legal niceties of the dispute over the property in question are of little concern to us. The matter essentially remains whether the denial of the information on the grounds cited i.e. “Sec 8(e) and 8(j)” is justified. In this context we are constrained to point out that the Department’s handling of this application is flawed. Both PIO and AA have cited Sections of the Act which do not exist. If it is presumed that the authorities concerned have cited Sec 8(1) (e), it is found that the relationship between appellant and L&DO can under no account be construed to be a fiduciary relationship, as neither holds documents in “trust” to the other. On the other hand, Sec 8 (1) (j) can be invoked as this is a matter relating to personal interest. It was open to the PIO to find that

the larger public interest justifies the disclosure of such information. He has not so found, nor has it been argued before us that the matter which concerns a private litigation, does indeed have ramifications involving the larger public interest. Appellant argues that authenticated /certified copies of documents are vital to the case before the High Court. It is open to him to move the court to seek a requisition of the documents if this be so. But since the L&DO has found him not to have a settled right in the property at issue, even if the PIO were to decide that on grounds of public interest the documents sought be provided, this can only be after recourse to Sec 11 read with proviso to Sec 11(1). While therefore the Decision of the Appellate authority is upheld, the public authority is enjoined to refine its competence in dealing with matters under the Right to Information Act, 2005

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

(P. Balasubramaniam)  
Information Commissioner

(Wajahat Habibullah)  
Chief Information Commissioner  
14/6/06

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:

(LC Singhi)  
16/6/06