

## CENTRAL INFORMATION COMMISSION

Appeal Nos. CIC/WB/A/00262 & 263 dated 22/5/'06

Right to Information Act 2005 – Section 19

Appellant: Shri B.P.Srivastava

Respondent: Dy. Commissioner , Shahdara North Zone, MCD

### **Facts:**

Shri B.P.Srivastava of Sadatpur Extension, Delhi and Editor, Sab Ki Khabar Newspaper made two applications to the Dy. Commissioner, Shahdara South Zone, seeking the following information:

- (a) Details of work orders given against NIT Nos. EE-XXXI/TC/2004-05/21 dated 4.2.05 and EEXXI/TC/2005-06/01 dated 9.5.2005 with the copies of schedule of works estimates, measurement books, site maps etc. related to the works and particulars of payments/part payments/bills passed for the aforesaid works.
- (b) Details of work orders given against NIT Nos. D/EEXXVI/TC/04-05/15 dated 6.12.04 and D/EEXXVI/TC/04/05/21 dated 21.2.2005 with the copies of estimates, measurement books, site maps etc. related to the works and particulars of payments/bills passed for the aforesaid works.

In both cases he sought inspection of the related documents and obtaining the samples of the work carried out. In the first case, he was invited to inspect the concerned files and take photocopies thereof after paying the prescribed fee, on any working day in the office of the Asstt. Commissioner, Shahdara South Zone. In the latter case the Executive Engineer of the Engineering Department, MCD responded vide his letter of 24.1.06 with details of the information sought together with an invitation for inspection of related documents. However, in both cases samples of the works were denied on the grounds that these cannot be permitted as "no such provision exists under Right to Information Act, 2005".

The appeal was heard on 14.9.2006. The following are present:-

1. Shri B.P.Srivastava
2. Shri Raj Mohan Singh, Addl.Comr. MCD
3. Sh. A.K.Singh, Dy.Comr. (Shahdara)PIO
4. Sh. J.P.Verma
5. Sh. J.P.Agrawal DC (Shahdara South)

6. Sh. S.C.Kohli, Secy. to Commissioner, then DC (Shahdara South) w.r.t. Case CIC/WB/A/2006/00262

We have also received a detailed response dated 12/9/06 from Shri Raj Mohan, Addl. Commissioner, HQ and Appellate Authority, MCD to our Appeal Notice arguing that since samples of materials were not demanded appellant was asked to apply for the type of samples in Appellate Authority's decision of 24.3.06, on the appeal brought before him by appellant Shri B.P.Srivastava against the decision of the CPIO.

### **DECISION NOTICE**

On the basis of the two appeals and the arguments made before us, the following three issues are framed:

1. Whether the public authority is in violation of sec. 7(1) in not providing certified copies of the documents asked for by the appellant.
2. Whether there was a justification in not providing samples of works asked for by the appellant Shri Srivastava.
3. Whether the CPIO has rendered himself liable for penalty u/s 20(1) of the RTI Act.

Regarding (1) above, we find that the original applications of appellant Shri Srivastava do not ask for certified copies of the documents mentioned. He asked for copies and inspection together with samples of works. This request for certified copies cannot be raised at the second appeal stage and is, therefore, not accepted.

Regarding (2) above Section 2(j) of the RTI Act 2005 is abundantly clear; right to information accessible under this Act is that which is held by or under the control of any public authority and includes the right to **“taking certified samples of material”**. The argument of the Appellate Authority received with his letter of

12.9.06 in response to the appeal notice issued by us on 26.8.06 that this amounts to a demand modified from samples of work to certified samples of materials of work is not acceptable, and is simply a matter of semantics. It is quite clear that samples of works amounts to sample of materials which could have been easily clarified during the hearing of the application or appeal before the matter came before this Commission. In keeping with the law, therefore, the samples of the materials of all works which have been completed or under completion asw sought by the appellant will be provided to appellant Shri Srivastava on mutually acceptable dates and with specific materials agreed upon.

Regarding (3) we find that in both cases response has been sent within the time frame provided. In Appeal No.CIC/WB/A/2006/00263 a detailed response provided on 24.1.06 gives information on various works asked for allowing inspection of related documents free of cost for one hour and for Rs. 5/- for subsequent half hour while denying information to obtain sample of works. In case CIC/WB/A/2006/00262 PIO has invited applicant vide letter dated 24.1.06 to visit his office and inspect the records taking photo copies thereof after paying the prescribed fee. Time limits prescribed u/s 7(1) therefore, have not been transgressed. No penalty is, therefore, levied.

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

(Wajahat Habibullah)  
Chief Information Commissioner  
15.9.2006

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)  
Addl. Registrar  
15.9.2006