

CENTRAL INFORMATION COMMISSION
Three Appeal Nos. CIC/WB/A/00259, 260 & 261 dated 22/5/06
Right to Information Act 2005 – Section 19

Appellant: Shri B.P.Srivastava

Respondent: Dy. Commissioner, Civil Lines 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 Civil Lines Zone, seeking the following information:

- (a) Details of work orders given against six NIT Nos. including EE (Br II)/TC/2004-05/16 dated 2.12.'04 and EEII(Br-II)/TC/2004-05/20 dated 8.12.2004 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) Reasons and responsibility for not taking action for alleged 'unauthorised' constructions identified in the application in Model Town, West Mukhjerjee Nagar, Tagore Park, Derawalan Nagar and Gujranwala Town, with copies of site maps, if approved. Action taken against erring officers was also sought, together with inspection of documents and sites in question

From Deputy Commissioner Central Zone, Lajpat Nagar Shri Srivastava sought details of work orders given against NIT Nos. 27/EE(Br-I)/TC/CZ/2004.O5 dated 16.12.04, 32/EE (Br-I)/TC/CZ/2004-05 dated 20.1.2005, EE-IX/TC/CZ/2004-05/1909/33 dated 28/12/'04 and EE/TC/CZ/2004-O5/1998/35 dated 13.12.'05 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 the cases seeking copies of work orders applicant Shri Srivastava 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 of Rs 454/-, at any time. In the second case the Executive Engineer of the Building Department, MCD responded vide his letter of 8.3.06 indicating that none of the properties identified had been booked. However the field staff had been directed to inspect the premises and

initiate necessary action. This was forwarded to the applicant by PIO Deputy Commissioner Civil Lines by a letter of 8.3.'06. In the third case, PIO & Deputy Commissioner Central Zone asked for a fee of Rs 4350/- to provide the information of 2175 pages vide his letter of 7/3/'06 However, although in the first case appellant Srivastava received photocopies of records of 227 pages, samples of the works were not given on the grounds that these cannot be permitted under the Right to Information Act, 2005.

All three decisions were appealed. While appellant states that he was unable to obtain a copy of decision in 1st Appeal in the first case, he complains that in the case of unauthorized encroachments, the decision of the appellate authority has not been complied with. In the case concerning Central Zone he complains that appellate authority Dr KM Kutty failed to consider his Appeal on the basis of the Act .

We have received a response dated 8/9/'06 from both Shri RM Pillai, Addl. Commissioner, CLZ and Appellate Authority, MCD and Smt Kiran Dabral Deputy Commissioner(Civil Lines) to our Appeal Notice. Appellate authority Shri Pillai has stated that in Appellate Authority's decision of 27.4.'06, appellant was asked to apply for the type of samples required in accordance with the Indian Standards Methods for Sampling of Clay Building Bricks, on the appeal brought before him by appellant Shri B.P.Srivastava against the decision of the CPIO. The copy of the decision in appeal was in fact sent to the appellant on 9/5/'06. Appellate Authority Shri Pillai also states that non-compliance with his orders in the case of unauthorised encroachments had not been brought to his notice and he had now initiated suitable action in this regard.

DECISION NOTICE

On the basis of the three 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 copies of the documents asked for by the appellant within time limits mandated by that Section of the Act.
2. Whether there was any justification in not providing samples of works asked for by the appellant Shri Srivastava.
3. Whether any CPIO has rendered himself liable for penalty u/s 20(1) of the RTI Act.

Regarding (1) above, we find that the applications of appellant Shri Srivastava in all three cases were responded to as follows:

- a) In the first case applicant Shri Srivastava was invited to inspect the files through a letter of 20/2/06. This is four days after the prescribed time limit of thirty days commencing 16.1.'06
- b) In the second case the application was dated 2/1/06 for which MCD receipt is also affixed on that date. Since the CPIO had no information to give, he has replied appropriately. Whether the orders of the Appellate Authority have been complied with are for that authority to take note of. Yet, the information that the properties concerned had not been booked is supplied only on 8/3/06, i.e. over a month after the prescribed time limit.
- c) In the third case the application was made on 13/1/06 although the ID assigned is only that of 6/2/06. Even so, the response asking for payment is seen to have been sent only on 7/3/06.

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 8.9.06 in response to the appeal notice issued by us on 25.8.06 that there are different codes applicable for sampling and that samples may be tampered with 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 as 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 all cases responses have transgressed the time frame provided. In the case of Appeal No. CIC/WB/A/00259, no reason for the delay is given. PIO Shri ZU Siddiqui is liable to pay a fine of Rs 750/- @ Rs 250/-per day for three days. In Appeal No. CIC/WB/A/00260, the application was made on 13/1/'06 and received in the public authority on that date. Yet the response detailing fees payable was sent only on 7/3/'06. PIO Shri Gyanesh Bharti has therefore rendered himself liable to a penalty of Rs 5,250 @ Rs 250/- per day for 21 days. In Appeal No. CIC/WB/A/00261, application was made on 2/1/'06 but response given only on 8/3/'06, a delay of thirty three days beyond the mandatory time limit. PIO Shri ZU Siddiqui is thus liable to a penalty of Rs.8,250/- PIOs S/Shri ZU Siddiqui and Gyanesh Bharti will show cause either in writing or by personal appearance why they should not be so penalized in writing to us before, or by personal appearance on 5/10/'06 at 10.00 am

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

(Wajahat Habibullah)
Chief Information Commissioner
18.9.2006

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
18.9.2006