

CENTRAL INFORMATION COMMISSION

No. CIC/OK/A/2006/00143

Dated, the 19th September, 2006

Name of the Appellant : **Shri Arun Kumar**
152, Ground Floor, Tagore Park,
Model Town, New Delhi.

Name of the Public Authority : **Northern Railway**
Baroda House, New Delhi.

DECISION

Shri Arun Kumar of Tagore Park, Model Town, New Delhi had filed two applications with the CPIO, Northern Railway, Baroda House, New Delhi on 20th February, 2006 seeking information pertaining to tender documents of the Road Over Bridge (ROB) at Dhaula Kuan, New Delhi and works contract relating to the Jammu Udhampur Rail Link and Udhampur-Srinagar-Barmulla Rail Link Project. Shri Arun Kumar had worked as Contractor for these two projects. The information was denied to him under Section 8(1)(a) of RTI Act, 2005 being the information which would pre-judicially the economic interests of the State in the first case and under Section 2 of RTI Act in the second case stating that the RTI Act does not extend to the State of Jammu & Kashmir. It was apparent from the documents submitted to the Commission that the issue of the ROB at Dhaula Kuan is reportedly pending before an arbitrator. In the case of Jammu & Kashmir, the arbitrator appointed by Delhi High Court had concluded its deliberation. However, the outcome was not known. Dissatisfied with the decision of the CPIO and the first Appellate Authority, the applicant filed his appeal with the Commission on 25th May, 2006 in both the cases. The Commission fixed 24th August, 2006 as the date of hearing for both the cases.

2. The bench of Dr. O.P. Kejariwal, Information Commissioner heard the matter. Shri P.P. Pandey, DYGM, Shri Ajit Singh, DYCE and Shri Sandeep Gupta, DYCE appeared on behalf of Northern Railway and Shri Rajinder Singh represented Shri Arun Kumar.

3. In the ROB Dhaula Kuan case the Appellant had sought the tender Committee's recommendation for award of work to M/s HBHL and M/s Arun

Construction Co. as well as the notings and correspondence from the files pertaining to this project. The Commission directed that the tender committee minutes asked for in his application dated 20th February, 2006 be made available to the Appellant. However, the Commission agreed with the Railways that disclosure of file notings and correspondence would not only adversely affect the economic interests of the Railways but may also affect the commercial information relating to the third party.

4. As regard the Jammu & Kashmir project the Commission was of the opinion that although Section 2 of the RTI Act does not extend to Jammu & Kashmir State, it is applicable to the Railways as a public authority. So, information cannot be denied to the Appellant on this ground. Moreover, the jurisdiction of the Delhi High Court was invoked by appointing an arbitrator in this case. Hence, the Commission dismissed this contention of non-applicability of the RTI Act to the Railway activities in Jammu & Kashmir State. The Commission went through the relative files of the Railways. The notes discussed the pros and cons of various clauses containing terms and conditions of the Contract. It did not contain any information of commercial confidence which could be pre-judicial to the economic interests of the Railways as the arbitration case was over. The Commission directed the Respondents to allow inspection of the file to the Appellant and supply of copies thereof on prescribed payment. The order of the Commission shall be carried out within 21 days of the issue of this order.

4. The Commission ordered accordingly.

Sd/-
(O.P. Kejariwal)
Information Commissioner

Authenticated true copy:

Sd/-
(L.C. Singhi)
Additional Registrar

Cc:

1. Shri Arun Kumar, 152, Ground Floor, Tagore Park, Model Town, New Delhi.
2. Ms. Tripti Guha, Central Public Information Officer, Northern Railway, Baroda House, New Delhi - 110 001.
3. Chief Commercial Manager (G), Northern Railway, Baroda House, New Delhi - 110 001.
4. Officer Incharge, NIC.
5. Press E Group, CIC.