

CENTRAL INFORMATION COMMISSION

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F.No.CIC/AT/A/2006/00199

Dated, the 20th September, 2006.

Appellant : Shri Shahzad Ahmed, S/o Shri Aftab Ahmed, H.No.235, Moh. Julahan, Behind Jail, Bijnor-246 701, Uttar Pradesh.

Respondent : Shri R.P. Upadhyaya, PIO & Dy. Commissioner of Police (Vigilance), Delhi Police, Delhi Police Bhawan, Asaf Ali Road, New Delhi-110 002.

Shri Ajay Kashyap, Joint Commissioner of Police (Vigilance), Delhi Police, Police Headquarters, ITO, New Delhi-110 002.

Shri Shahzad Ahmed has filed an appeal against the orders dated 17.5.2006 of the Appellate Authority (AA) & Joint Commissioner of Police (Vigilance), Delhi Police upholding the information supplied to the appellant by the PIO, Shri R.P. Upadhyaya, Dy. Commissioner of Police (Vigilance), Delhi Police, through his orders dated 22.2.2006 and 11.5.2006 in response to the appellant's request under the RTI Act dated 21.1.2006 and 8.4.2006 (12.4.2006)

From the narrative provided by the appellant, it is seen that he has been attempting to obtain certain information from as early as 27.10.2005. He had approached the Jt. Commissioner of Police (Vigilance) and the Dy. Commissioner of Police(Vigilance) requesting access to the information listed in his petition. These requests were apparently not considered owing largely to the fact that the appellant had not enclosed the requisite fee. According to the appellant, he was not properly advised about enclosing the fee with his RTI applications, and his attempt to get this information from the website of the Delhi Police proved futile as, according to him, this information did not figure on the Delhi Police website. Finally, he filed the RTI request accompanied by proper fee afresh on 21.1.2006 and again on 8.4.2006 (12.4.2006). The present appeals have been occasioned by his receiving no information in respect of his 21.1.2006 petition and incomplete information against his 8.4.2006 (12.4.2006) request.

The parties were called for a hearing on 15.9.2006. The appellant was present in person. The respondents were represented by the Appellate Authority, Shri Ajay Kashyap, Jt. Commissioner of Police (Vigilance) and the PIO, Shri R.P. Upadhyaya, Dy. Commissioner of Police (Vigilance), Delhi Police.

Heard arguments.

Appeal dated 21.1.2006

The information requested by the appellant through his petition dated 21.1.2006 replied to by the PIO, Shri R.P. Upadhyaya, DCP(Vig.) on 22.2.2006 may be paraphrased as follows:-

(a) Certified copy of vigilance enquiry report conducted by ACP (Vigilance), Shri Amaljeet Singh in four criminal cases, viz.

- (1) FIR No.712/2000 u/s 324/34 IPC, PS:Uttam Nagar, Dist: West Delhi.
- (2) FIR No.69/2002 u/s 452, 506, 341, 307, 392 IPC, PS:Nandnagri, Dist. North East
- (3) FIR No.236 u/s 452, 506, 341, 307, 392, 395, 411, 120B and 34 IPC, PS: Seelampur, Dist: North East
- (4) FIR No.11/2003 u/s 376, 506 IPC, PS: Kotwali, Dist: North

(b) Certified copy of vigilance enquiry / status report on the vigilance enquiry which was conducted by Jt. CP (Vig) (No.3136 dated 12.4.2005) regarding the following seven cases:

- (1) FIR No.712/2000 u/s 324/34 IPC, PS:Uttam Nagar, Dist: West Delhi.
- (2) FIR No.69/2002 u/s 452, 506, 341, 307, 392 IPC, PS:Nandnagri, Dist. North East
- (3) FIR No.236 u/s 452, 506, 341, 307, 392, 395, 411, 120B and 34 IPC, PS: Seelampur, Dist: North East
- (4) FIR No.11/2003 u/s 376, 506 IPC, PS: Kotwali, Dist: North
- (5) FIR No.52/2003 U/S 341, 506, 34 IPC, PS: Civil Lines, Dist: North,
- (6) FIR No.151/2003 U/S 363/341 PS: Seelampur, Dist: North East and
- (7) FIR No. Nil/2004 U/s 420 /379 & 506 IPC, PS: Uttam Nagar, Dist: West Delhi.

(c) Certified copy of reply / response / comments filed by Delhi Police before the Public Grievance Commission (PGC) in response to the PGC's letter no.F.PGC/2005/9769 dated 14.10.2005 addressed to Jt. Commissioner of Police (Vigilance).

(d) Certified copy of the Enquiry report / investigation undertaken in response to the covering letter dated 30.11.2005.

To the above request, the PIO gave a cryptic reply refusing to part with information as it attracted exemption of the Section 8(1)(g) and Section 8(1)(h) of the RTI Act. These two exemptions relate to disclosure of material which would endanger the life or physical safety of any person or identify the source of information or assistance given in confidence for law enforcement or security purposes; and information which would impede the process of investigation or apprehension or prosecution of offenders.

The AA, through his order dated 17.5.2006, upheld the contention of the PIO and dismissed the appellant's first appeal.

In course of the hearing, the respondents were asked to confirm whether the information requested by the appellant was still subject matter of investigation. They were also asked to substantiate their contention that the disclosure of the above information would jeopardize life or personal safety of any person or compromise the source of information received by the police.

It was revealed during the hearing of the appeal that the information requested at **(a)** above have, at various stages, already been produced before Courts. There is no evidence before me which could support the conclusion that disclosure of the information in the FIR's mentioned at nos. 1 to 4 at **(a)** above, would impede the progress of investigation or jeopardize personal safety of any person. In fact, since the core-content of all four FIRs seems to be identical and since much of it has already entered the public domain by being produced in Courts, any argument of its disclosure attracting exemption under Section 8(1)(g) or Section 8(1)(h) of the RTI Act, would be untenable.

It is, therefore, directed that certified copies of the four FIRs mentioned at **(a)** above shall be provided to the appellant by the PIO within 2 weeks from the date of the receipt of this order.

As regards **(b)** above, the position is largely similar to what has been stated at **(a)**. It is directed that the appellant shall be furnished the Vigilance Enquiry Report in the listed criminal cases conducted by the Jt. CP (Vig) (No.3136 dated 12.4.2005).

As regards **(c)** above, the appellant has requested for certified copy of reply / response / comments filed before the PGC. There is no basis for the Delhi Police to take and sustain a plea of this information being barred under exemptions - Section 8(1)(g) and Section 8(1)(h) of the RTI Act. The claim of exemption goes counter to the facts in this section of information requested by the appellant.

The PIO, Shri R.P. Upadhyaya, DCP (Vigilance) is directed to provide the certified copy of the information as requested in this section by the appellant, within 3 weeks from the date of the receipt of this order.

As regards **(d)** above, the request made by the appellant is not fully clear. It would be necessary to establish what precise information he seeks to receive under this section of his request. I, therefore, remit this matter (in **(d)** above) back to the AA for de-novo consideration and for giving an appropriate finding within 4 weeks from the date of the receipt of this order.

Appeal dated 8.4.2006 (12.4.2006)

The appellant has requested for the following information:

- “1. That in response to my complaints against some erring police officials, Public Grievances Commission (P.G.C.) called myself (complainant) and Joint CP/Vigilance in its meeting held on 06-12-05 and 03-02-06 under the headship of Shri Gautam Kaul, IPS (Retd.), Hon’ble Member, P.G.C. DELHI. Copies of said Minutes of Meeting dtd: 21-12-05 and 16-02-06 are enclosed herewith as Annexure A and B respectively [sic]. In this context I am seeking following information:
 - a) Kindly spell out details of action taken against erring police officials as informed by representative of Delhi Police in the meeting held on 06-12-05 vide Annexure-A. [sic]
 - b) Action taken on the direction (vide Annexure-B)[sic] issued by Shri Gautam Kaul, IPS (Retd.), Hon’ble Member, P.G.C. DELHI.
2. I am also seeking information about rationale behind not initiating action against Shri Raj Singh Dhankutt, HC IO of FIR No.712/2000 dtd: 10.08.2000 U/S 324/34 IPC, PS:Uttam Nagar and his associates.”

He further requested,

- “3. I wish to obtain copies of “final reply” filed before the National Human Rights Commission by the Vigilance Branch in response to directions issued to the Commissioner of Police, Delhi vide following case files:

NHRC Case Details of File Number : 37638/24/2001-2002
 2967/30/2002-2003-WC
 3341/30/2002-2003-WC

4. Sir, I also wish to obtain a copy of reply/action taken report submitted by Delhi Police before the National Commission for Women in response to its Notice vide Case No.C0500087-NCW/CS/YA/9356 dated 31-10-05 “seeking an action taken report” by 30-11-2005 from the Commissioner of Police, Delhi”

During the hearing of the case, it was urged by the appellant that he found the reply of the PIO to his specific queries rather vague and inadequate. The PIO’s replies to the appellant’s queries read as follows:

- “1.(a) In the meeting Delhi Police representative has informed that three of the seven cases have been submitted in the court whereas in the remaining cases it transpires that the local police machinery was misused.

- (b) The matter has been discussed with Commissioner of Police, Delhi. The DCsP/North-East Distt. and Crime & Railways, Delhi have been directed to move applications in the Hon'ble Court u/s 173(8) Cr.P.C. in case FIR No.69/2002 u/s 324/336341/34 IPC P.S. Nand Nagri and case FIR No.11/2003 P.S. Kotwali, for further investigation of the case and file an appropriate report in the Court.
2. The case FIR No.712/2000 dated 11.8.2000 u/s 324/341 IPC P.S. Uttam Nagar, Delhi was put in Court on 2.12.2000 and both the parties had compromised the matter in the court. In view of the compromised [sic] between the parties no action against police officials called for.
 3. The case details of File Nos. are as under:-
 - i) Case No.37638/24/2001-2002:- the said case is not received in Vigilance Branch as per record.
 - ii) Case No.2967/30/2002-2003-WC:- The case has been sent to DCP/North-East Distt. for necessary action (photo copy enclosed). Further reply may be asked from DCP/North-East Distt. Delhi.
 - iii) Case No.3341/30/2002-2003 WC :- The photo copy of reply is enclosed.
 4. The photo copy of the reply/action taken report submitted by Delhi Police before the National Commission for women is enclosed herewith for information.[sic]"

It may be seen that the PIO has given specific replies to the appellant's queries at points **3** and **4** above. The appellant's dissatisfaction with the replies should, therefore, be construed to be limited to items **1** and **2** only.

In respect of item **1.(a)**, the appellant wishes to know the exact action taken against the erring police officials who, according to the PIO himself, were found to have misused the local police machinery.

Disclosure of this information is not barred by any exemption of the RTI Act. It is no one's plea that the contents of the information attract Section 7(7) and Section 11(1) of the RTI Act. The PIO is instructed to disclose to the appellant the exact information requested by the latter.

As regards item **1.(b)**, the appellant has requested a copy of the letter of the Commissioner of Police, Delhi in which he directed the DCsP, North East Dist. and Crime & Railways to move application in the Hon'ble Court under Section 173(8) of CRPC.

The PIO is directed to transmit the information, viz. the above-mentioned letter of the Commissioner of Police, Delhi addressed to the DCsP, to the appellant within 3 weeks from the date of the receipt of this order.

As regards item **2**, viz. the alleged compromise in the case of FIR No. 712/2000, the appellant has contested that any compromise has at-all been reached in the matter,

which could have legitimately led to a decision not to initiate any action against the police officials for dereliction of the duty.

There seem to be different viewpoints about facts in this case, i.e. the existence of a compromise. It may be necessary for a senior police officer to look into this matter closely and to decide whether or not the compromise really took place.

In consideration of the above, the matter in item **2** above is remitted back to the AA, Shri Ajay Kashyap, Joint Commissioner of Police (Vigilance) for a finding.

The appeal is disposed of with the above directions.

Summary of Decisions	
Date of the RTI Request	Decision
21.1.2006	<p>It is, therefore, directed that certified copies of the four FIRs mentioned at (a) above shall be provided to the appellant by the PIO within 2 weeks from the date of the receipt of this order.</p> <p>As regards (b) above, the position is largely similar to what has been stated at (a). It is directed that the appellant shall be furnished the Vigilance Enquiry Report in the listed criminal cases conducted by the Jt. CP (Vig) (No.3136 dated 12.4.2005)</p> <p>As regards (c) above, the PIO, Shri R.P. Upadhyaya, DCP (Vigilance) is directed to provide the certified copy of the information as requested in this section by the appellant, within 3 weeks from the date of the receipt of this order.</p> <p>As regards (d) above, the request made by the appellant is not fully clear. It would be necessary to establish what precise information he seeks to receive under this section of his request. I, therefore, remit this matter (in (d) above) back to the AA for de-novo consideration and for giving an appropriate finding within 4 weeks from the date of the receipt of this order.</p>
8.4.2006 (12.4.2006)	<p>As regards 1.(a), disclosure of this information is not barred by any exemption of the RTI Act. The PIO is instructed to disclose to the appellant the exact information requested by the latter.</p>

	<p>As regards 1.(b), the PIO is directed to transmit the information, viz. the above-mentioned letter of the Commissioner of Police, Delhi addressed to the DCsP, to the appellant within 3 weeks from the date of the receipt of this order.</p> <p>In consideration of the above, the matter in item 2 above is remitted back to the AA, Shri Ajay Kashyap, Joint Commissioner of Police (Vigilance) for a finding.</p> <p>As regards 3 & 4 above, the appellant's queries have already been replied to by the PIO.</p>
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Sd/-
(A.N. TIWARI)
INFORMATION COMMISSIONER

Authenticated by –

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

Address of parties:

1. Shri Shahzad Ahmed, S/o Shri Aftab Ahmed, H.No.235, Moh. Julahan, Behind Jail, Bijnor-246 701, Uttar Pradesh.
2. Shri R.P. Upadhyaya, PIO & Dy. Commissioner of Police (Vigilance), Delhi Police, Delhi Police Bhawan, Asaf Ali Road, New Delhi-110 002.
3. Shri Ajay Kashyap, Joint Commissioner of Police (Vigilance), Delhi Police, Police Headquarters, ITO, New Delhi-110 002.
4. In-charge, NIC.
5. Press E Group.