

## CENTRAL INFORMATION COMMISSION

Application No CIC/WB/A/2006/62,65,68-74,76-80,82,83,87,89-101,103-106,108-111.

Dated: 27/3/'06

Right to Information Act – Section 19(3)

Name of Appellant: Bobby Verma & Others

Name of Public Authority: Directorate of Education, Delhi

### **Facts:**

This is an appeal by 40 applicants on registration and admission of children from the weaker sections in public schools in Delhi. On 1.12.'05 an application was made to PIO Dr RA Yadav Deputy Director Education (East) requesting information on ten issues from the Mayo International Public School IP Extn Delhi 92. On 14.12.'05 another application was made for information on five issues regarding the National Victor Public School IP Extn, Delhi. Identical applications of ten and five sets of issues relating to eight public schools were submitted by different applicants on different dates to the PIO Dr RA Yadav and on no response being received from the PIO within the stipulated time appeals filed together on 18.1.'06 before the appellate authority Dr MC Mathur, Regional Director of Education (East). These were all heard on 10.2.'06. The appeal to this Commission has been made against no reply having been received at all in 14 cases and allegedly wrong and irrelevant information being provided after the first appeal to the others. A statement of this process appellant wise is on file. Hence this appeal filed together before the Commission on 6.3.'06, which it was therefore decided to hear together.

Dr Mathur and Dr Yadav from the Directorate of Education present together with applicants assisted by RTI activist Sh Shekhar Singh. Officers of the Directorate explained that there is a 20% reservation in admission to schools under the free quota schemes for weaker sections. However the public schools do not come under government and are therefore not public authorities. The Department can only direct adherence to the Scheme but not actually implement it. To provide the information asked for the Department would have to await reports from the concerned schools. Hence the delay in providing the information despite every intention so to do. Representatives of the Department also explained that it was their effort to ensure implementation of the scheme and sought the collaboration of appellants in this regard. Hence meetings had been called in which all difficulties had been addressed to the satisfaction of the appellants. Hence there was deemed no further need to provide information and the order of the Appellate authority Dr Mathur says as much on 14/2/'06.

The appellants however state that although they were indeed present in the meetings mentioned they were not taken into confidence on the decisions taken and the information asked for remained unanswered or were obfuscated even though delayed replies were sent on 27.1.'06 by the PIO. The appeal mentions the details of questions and answers and claims that these answers were partial and evasive.

The Commission then went through the information supplied together with parties present. It was observed that as long as the Department had shared information available to them with the applicant this would meet the requirements of the Act. If the applicant found that action taken on a particular matter was inadequate or that some information should have been held by the Department but was not, the remedy did not lie under the Right to Information Act, but became a case of grievance redress. However, information so obtained could be used to remedy inadequacies in government action and suggest improvements in departmental performance. In this context it was found that since the Directorate of Education is responsible for enforcement of the Scheme, it cannot escape responsibility for

monitoring its implementation. It cannot therefore say it has no information on how many children of the weaker sections are admitted to each class, or indeed when, if any drawing of lots was done for any school where weaker sections exceeded 20% of those seeking admission. On the other hand not passing on information which has not been received cannot be construed as evasion of responsibility. In this context therefore issues 2 and 3 of the set of five and issues at 1, 2,4,6 and 9 of the set of ten require to be answered. The Directorate will do this within fifteen days of the issue of this order.

From the above it will be seen that we have observed that information as available in the public authority is required to be provided. If, as we have held, not giving information which the authority does not hold cannot be construed as evasion of responsibility, it cannot also be construed to mean that it gives an excuse to the authority to avoid providing the information as mandated by the law. In this context the PIO is guilty of not having provided information within the requisite time limits and he will show cause within fifteen days of the hearing as indicated to him in the hearing as to why he should not be liable for the penalty imposable u/s 20 of the Act. It is also observed that the Department appears to have adopted a lackadaisical approach to the enforcement of a salutary social development programme in this case. The Government of the NCTD will examine if there is any suspicion of venality in admissions warranting an enquiry by the CBI. A copy of this Decision may for this purpose therefore be endorsed to the Secretary (Education) Delhi with a copy for information to the Chief Secretary

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

(OP Kejariwal)

Information Commissioner

(Wajahat Habibullah)

Chief Information Commissioner

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:

(P. K. Gera)

27/3/'06