

CENTRAL INFORMATION COMMISSION

No.CIC/OK/A/2006/00136

Dated, the 27th September, 2006

Name of the Appellant : Shri Mukul Mittal
Director
Mittal Contracts Pvt. Ltd.
Bhopal

Name of the Public Authority : IRCON International Limited, New Delhi

DECISION

Shri Mittal from Bhopal had filed an application with PIO, IRCON International Limited, on 17th and 18th October 2005, seeking inspection of records of IRCON relating to construction of the Indoor Museum Building at Indira Gandhi Rashtriya Manav Sangrahalaya, Bhopal. The PIO in his reply dated 9th March 2006 denied the information under Section 8(1)(j) and requested him to provide a list of specific and relevant documents indicating aims and objectives for information seeking for the decision of the competent authority under Section 8(1)(d). Thereafter, the Appellant filed the first appeal with the first Appellate Authority on 10th March 2006, wherein he alleged that the P.I.O. had malafidely and incorrectly applied provisions of Section 8(1)(j) for not allowing inspection of records. He also questioned the PIO's views that the information was personal in nature and its disclosure did not have any relation to any public activity. He also pleaded that the PIO, namely, Shri V.S. Chauhan and his predecessor Shri R.K. Aggarwal be imposed penalties under the Act from the date of his application i.e. 17th May 2005, till the date on which the information was made available to him by the first Appellate Authority. The Appellate Authority held that the disclosure of the information is exempt under Section 8(1)(h) of the RTI Act as the matter is Sub-Judice (the Appellant had filed cases against the arbitration awards in the Court of the Additional

Judge, Bhopal), and the relevant records from the part of the proceedings under progress in the Court. In regard to three items, the first Appellate Authority invoked Section 8(1)(d) and 8(1)(j) as the information involved was in the nature of the commercial confidence relating to the third parties. The Commission fixed 18th September 2006 for hearing of the case.

The bench of Dr. O.P. Kejariwal, Information Commissioner, heard the matter. Shri Mohan Tiwari and Shri V.S. Chauhan appeared on behalf of IRCON while Shri Mukul Mittal, Appellant appeared personally.

The Commission heard both the parties. The Appellant explained the type of information he had asked for and which was being stonewalled by the Respondents. He stated that the arbitration cases before the Court are civil in nature and so Section 8(1)(h) is not applicable. He contended that no commercial interest was involved as the project was completed 4-5 years before. The Respondents were of the view that the information asked for was not specific and in that two matters were sub-judice. The Commission agreed with the Respondents that in the two arbitration cases, which are pending before the Civil Court, it would not be possible for IRCON to open its records, wherein they had discussed the details and of the legal advice of their advocates. The Commission, however, was of the opinion that the Respondents cannot deny information relating to the financial aspects and dealings in matters concerning M/s Mittal Contracts Pvt. Ltd. and Amcon Consultants and Associates. The Commission, therefore, directed the Respondents to allow inspection of records relating to bills, vouchers, statement of accounts, payments and correspondence, in regard to matters listed in para 5 of the appeal dated 22nd May 2006 filed by the Appellant with the Commission in regard to any payments concerning the Mittal Contracts Pvt. Ltd. and Amcon Consultants and Associates. The Commission further directed the Respondents that quoting from clause of Section 8(1) of the Act is not sufficient while denying the information. Full reasons must also be given for invoking the provisions of Section 8(1). The orders of the

Commission shall be carried out within 15 days from the issue of this order and compliance report sent to the Commission within 7 days thereafter.

The Commission ordered accordingly.

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

Authenticated true copy:

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

Cc:

1. Shri Mukul Mittal, Director, Mittal Contracts Pvt. Ltd., S-31, GTB Complex, Bhopal - 462 003.
2. Shri Mohan Tiwari, Director (Projects), IRCON International Limited, Northern Region, Near Delhi Safdurjung Railway Station, Moti Bagh, New Delhi - 110 021.
3. Shri V.S. Chauhan, AGM, IRCON International Limited, Northern Region, Near Delhi Safdurjung Railway Station, Moti Bagh, New Delhi - 110 021.
4. Officer Incharge, NIC
5. Press E Group, CIC