

CENTRAL INFORMATION COMMISSION

Decision No.308/IC (A)/2006
File No.**CIC/MA/A/2006/00188**

Dated, the 28th September, 2006

Name of the Appellant : Shri Vishwanath Poddar. 82/3 A,
Ballygunge Place, Kolkata-700019

Name of the Public Authority: Regional Director, Eastern Region,
Ministry of Company Affairs,
Government of India, "Nizam Palace",
2nd MSO Building, 3rd Floor, 234/4,
Acharya JC Bose Road, Kolkata-700020

DECISION

Facts:

1. The appellant Shri Vishwanath Poddar submitted four applications under the Right to Information Act before the CPIO asking certain information in respect of four companies namely Hindusthan Development Corporation Ltd., Hindusthan Engineering Industries Ltd, Eveready Industries India Ltd. and Delta International Ltd.
2. In respect of the information concerning Hindusthan Development Corporation Ltd., the CPIO denied disclosure of the information on the ground that any disclosure in regard thereto may constitute contempt of court and as such the information cannot be provided under the exemption Clause (b) of sub-section 1 of section 8 of Right to Information Act.
3. In regard to the Hindusthan Engineering Industries Ltd., the CPIO informed the appellant that information requested is not clear.
4. In respect of information concerning M/s. Eveready Industries India Ltd., the CPIO took the stand that the disclosure is exempted under Section 8(1)(h) as

disclosure of the information would impede the process of investigation or apprehension or prosecution of offenders. Aggrieved by the decision of the CPIO the appellant preferred an appeal before the appellate authority.

5. The appellate authority notified a date of hearing and asked appellant to appear. The appellant informed the appellate authority that he cannot appear on the fixed date and as such requested to fix another date for hearing. The appellate authority dismissed the appeals on the ground that the appellant has failed to attend the hearing on two occasions inspite of due notice and upheld the orders of the CPIO. Hence the second appeal.

6. The hearing in the instant appeal petition was arranged through video conferencing. The appellant did not appear at the time of hearing. The CPIO explained that the appellant wanted to know the instructions given to the advocate and as to whether the Regional Director has gone through the application filed by the appellant. The CPIO stated that since the information relates to a case pending in the court, the disclosure would amount to contempt of court. The CPIO however admitted that there was no specific direction from the court regarding non-disclosure.

7. In respect of the information concerning Eveready India Industries Ltd. and Delta International Ltd., the CPIO submitted that the prosecution is still going on and it is still not closed.

Commission's Decision:

8. Under the Right to Information Act, 2005, a public authority cannot withheld an information merely on the ground that the matter is sub-judice. The CPIO was therefore, directed to provide the information to the appellant. Even in regard to the matter where the prosecution is still continuing, the CPIO can provide the information subject to provisions of Section 10(1) of the Right to Information Act, 2005 by applying the doctrine of severability. The information

must however, be made available to the appellant within one month from the date of this order.

9. The Commission however, accepted the apology tendered by the CPIO for inordinate delay caused in the matter.

Sd/-

(Prof.M.M. Ansari)
Information Commissioner

Authenticated true copy:

(L.C. Singhi)
Additional Registrar

Cc:

1. Shri Vishwanath Poddar. 82/3 A, Ballygunge Place, Kolkata-700019
2. Shri S. Karmakar, Joint Director (Technical) & CPIO, Office of Regional Director, Eastern Region, Ministry of Company Affairs, Government of India, "Nizam Palace", 2nd MSO Building, 3rd Floor, 234/4, Acharya JC Bose Road, Kolkata-700020