

CENTRAL INFORMATION COMMISSION

Adjunct to Appeal Nos. CIC/WB/A/2006/62,65,68-74,
76-80,82,83,87,89-101,103-106,108-111
Right to Information Act 2005 – Sections 18/19

Complainant/Appellant: Ms Bobby Verma & Others
Respondent: Directorate of Education, Delhi.

Facts:

Ms. Ritu Mehra, authorized representative of appellants in the above set of complaints/appeals approached this Commission on 4/9/06 to complain that orders passed by the Commission on 27.3.06 in the above matter have not so far been complied with.

A hearing was, therefore, scheduled on 23.10.2006. The following were present:

1. Sh. Rajiv Kumar, authorized representative of appellants/complainants
2. Ms. Ritu Mehra, authorized representative of appellants/complainants
3. Dr. R.K.Sharma, Present PIO
4. Dr. R.A.Yadav, Former PIO
5. Shri Lilley Singh Deputy Education Officer (East) Department of Education, NCT Delhi.

Vide our decision of 27.3.06 we had directed as follows:

- a) Issues 2 & 3 of the set of five and issues at 1,2,4,6 & 9 of the set of ten require to be answered. The Department will do this within fifteen days of the issue of this order.
- b) 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.
- c) 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.

On (a) above, Shri Rajiv Kumar authorized representative of complainants/appellants argued that the information supplied after second appeal was only partial. As per papers with us, answers were given as below:

I) Set of 5 questions.

1. Yes, Forms for weaker section quota are also to be supplied on the same day when general category forms are supplied.
2. As per directions/policy of Education Department, every school has to admit 25% from weaker section. Number of vacancies in each class is to be displayed on Notice Board of the School.
3. If more than 20% children are registered, then date and time of draw will be fixed by School and displayed on the Notice Board of the School.
4. Draw is to be conducted under the supervision of DE's nominee in every school. Name of Nominee can be had from Website or from Notice Board of the School.
5. If more than 20% registration of students is done then selection will be made through Draw, information for which is to be given by the School to the Education Dep't. Last date for this is 31st July.

II) Set of 10 questions

- 1) It is not possible to furnish Daily progress report.
- 2) If a complaint is received against any School, then Dy. Director (Education) forwards the same within seven days to Zonal Education Officer. Zonal Education Officer submits his report within 15 days to the concerned senior officers.
- 3) Such complaints are forwarded to Higher Authorities after Departmental enquiry on these complaints.
- 4) From the day it is issued to general category candidates.
- 5) Concerned Education Officer Zone-II (Mrs. Savita Kalra) can be contacted on Ph. No. 22460579.
- 6) If necessary, Enquiry Officer also records the statement of complainant.
- 7) Education Department informs DDA if weaker section candidates are not admitted.
- 8) Reply is furnished only after enquiry against the concerned school.

- 9) Besides his normal function, Liaison Officer has to monitor the process of admission of weaker section candidates with the help of his seniors.
- 10) Every school fixes date of admission and issues forms for admission at its own discretion. Department has issued instructions that weaker section candidates may also be issued forms along with general category candidates.

We have examined these answers in relation to the information sought where we find that in relation to 10 questions, the answer to Q.No. 1 & 4 are vague, but remaining questions of the set of 10 questions together with the set of 5 questions have indeed been replied to. In answer to question 1 of the set of 10 the response is only that a daily progress report cannot be supplied but no reasons have given for this. Even if the request was pending, and there was no progress of certain days, it is possible to also reflect this in a progress report. In answer to question 4 seeking information on the number of days taken to provide a form to the complainant, it is not specified whether there is indeed a time frame or none at all. We, therefore, find that the public authority has in fact complied with our directions in this regard save two gaps and PIO Dr. Sharma may now fill the gaps with regard to questions 1 & 4 both of which were cited among the questions required to be answered in our decision of 27.3.06.

Para (b): On the question of penalty u/s 20 (1) Dr. R.A.Yadav, PIO and Deputy Director (East) at the time of processing of the applications appeared before us on 10.4.06 and argued as follows:

1. Information asked for has now been supplied to all 40 applicants, duly amended including those left out at the time of the appeal before the Commission.
2. The delay in providing the information arose from the lack of clarity in whether or not the public schools, which are private institutions, fall within the purview of the definition of public authority under the Act. The confusion arose from a ruling of the Public Grievance Commissioner, NCT

Delhi before the promulgation of the National RTI Act under the Delhi Act.
A copy of this decision is on file.

3. The matter now stands clarified from the Decision of the CIC and such a mistake will not recur.

We had therefore held as follows:

“Because the Directorate lacked clarity of focus and the confusion was genuine, we cannot conclude that the information was withheld with malafide intent. No financial penalty is therefore imposed.”

However, authorized representative of appellants have now brought to our notice that in fact 14 of the 40 appellants/complainants have received a response. In this context Shri R.A. Yadav mentioned that his report to us was based on the report supplied to him by Shri Lilley Singh who was responsible for dispatching the information to all 40 applicants. Shri Lilley Singh has produced stamped receipts of UPC before us to indicate the dispatch of letters to all 40 applicants on 5.4.06. On examination of the stamped receipt papers, a copy of which has been placed on file, it is found that receipt for 26 letters, though stamped, carried no ID No. which by practice is stamped on letters accepted for dispatch by UPC. Such numbers are found to have indeed been stamped on the 14 letters stated to have been received. Shri Lilley Singh of the Directorate of Education, responsible for the dispatch was unable to give any substantive argument as to why this was so. If in fact dispatch has not been made and this is a deliberate attempt to mislead the Commission, this becomes a serious administrative offence seen in the context of Dr Yadav's defense before us during the hearing of the notice to show cause why a penalty should not be imposed upon him, warranting serious administrative action by DDA. Since it could not be established conclusively thus far that there has in fact been an effort to fabricate dispatch papers, there are grounds for suspicion that this has indeed been the case and Shri Lilley Singh has been unable to present a convincing defense as required under proviso II of section 20 of the R.T.I. Act, 2005. The

Director (Education) Delhi is directed to enquire into the authenticity of the claim that in fact the 26 letters discussed above were dispatched. This enquiry may be completed within 15 working days from the date of issue of these directions and a report to be received in our office on the same day. In case of failure, Shri Lilley Singh will be liable not only for penal action u/s 5(5) of the Act and will be required to pay the maximum penalty of Rs. 25,000/- prescribed u/s 20(1), but also liable to disciplinary action as per the rules of the Directorate of Education u/s 20(2).

Para (c): Respondents were unable to identify the action taken by State Govt. NCT Delhi on (c) above. Secretary (Education) NCT Delhi will be asked to inform us of the action taken within one week of the date of announcement of these orders i.e. 30/10/06

Announced on 30/10/06. Notice of this decision be given free of cost to the parties.

(Wajahat Habibullah)
Chief Information Commissioner
30.10.2006

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.

(L.C.Singhi)
Addl. Registrar
30.10.2006