

CENTRAL INFORMATION COMMISSION
Club Building, Opposite Ber Sarai Market,
Old JNU Campus, New Delhi - 110067.
Tel: +91-11-26161796

Decision No.CIC/SG/A/2009/003222/6687
Appeal No. CIC/SG/A/2009/003222

Appellant : Mr. Ankit Srivastava,
33/1D-6 Sector-6,
Rohini,
New Delhi - 110085

Respondent : Mr. Rakesh Ailawadi
Public Information Officer & SE--II,
Office of Superintending Engineer-II,
MCD
Rohini Zone Sector V, Rohini,
New Delhi - 110085

RTI application filed on : 11/08/2009
PIO replied : 03/09/2009
First Appeal filed on : 08/09/2009
First Appellate Authority order : 06/10/2009
Second Appeal filed on : 19/12/2009

Sl.	Information sought	PIO's reply
1.	Under section 2 (j)(i) of RTI Act 2005, appellant would like to inspect the work that has been discussed & completed with reference to attached RTI(D/SE/II/RZ/09/398A) kindly provide the date , time & venue to do the same.	In any working day between 9.am to 5pm at the concern JE store of word C-22
2.	Appellant would like to inspect the work of deconcratisation of 80 trees as returns in reply of RTI copy attached, kindly provide the date, time & venue to do the same.	As above
3	Please provide the daily progress made on application submitted to deputy commissioner's office.	The reply of RTI application is answered. In prescribed time.
4	According to your rule & citizen charter or any other order in how many days should such matter be dealt with & resolved please provide copy of these rules.	It depends upon the nature & quantum of work.
5	Please give the name & designation of the officers with whom application was lying. Please intimate the period when it was lying with which officer & what was the action taken by that official during that period.	No such record is available.
6	What action was taken against these officials for violating the entire above rule & causing damage to environment?	As above
7	By when (specify date) appropriate action would be taken on application?	Work is in progress.
8	Please provide the status of complaint no 1486 for changing manhole covers.	Needful done
9	Who is the officer in charge of dealing such complaint	Area JE.

	(name & designation)	
10	As per your rule citizen charter in how much time this complaint should be dealt with & resolved. please provide copy of these rules.	Such complaints are taken on priority & ratify immediately.
11	What action can be taken against officials for violating above rules as more than one month has passed.	No complain is pending
12	By when appellatant problem of changing man hole cover would be resolved? (Specify date).	Needful done.

Grounds for First Appeal:

For most of the questions no answers are provided.

Order of the First Appellate Authority:

PIO are directed to furnish specific & proper reply within 15 days.

Grounds for Second Appeal:

Work of deconcratisation of trees was claimed to be completed by engineering work department which found in inspection that false & misleading information was provided in RTI. Despite various requests no action is being taken to save trees from concretization.

Relevant Facts emerging during Hearing:

The following were present:

Appellant: Mr. Ankit Srivastava;

Respondent: Mr. Rakesh Ailawadi, Public Information Officer & SE—II;

The PIO is asked to give clear point wise reply to the following:

- 1- Query nos. - 3, 4, 5, 8, 9 & 10.

The appellatant has asked about the progress of the deconcretization of the areas around the tree which has been the subject matter in a PIL before the Delhi High Court. The PIO states that since June 2009 they have deconcretized the area around 202 trees and that the area around another 400 trees will have to be still deconcretize. The FAA had ordered the PIO to give specific and proper reply within in 15 days by his order of 06/10/2009. This order has not been complied with and the appellatant states that he has been given a reply on 03/02/2010.

The PIO states that the person responsible for the delay in complying the appellate authority's order was Mr. S.K.Gupta, EE, Division (M-IV), Rohini Zone.

The Appellant has produced the order of the Delhi high court 19/09/2007 directing all authorities to comply with the directions issued in the guidelines. This order also refers to earlier orders of the high court. Form the information provided during the hearing that barely 30% work has been done through the order was issued in 2007. It appears there is no intention or capability to follow the High Court's order.

Decision:

The appeal is allowed.

The PIO is directed to give the information mentioned above to the appellatant before 20 February 2010.

The issue before the Commission is of not supplying the complete, required information by the deemed PIO Mr. S.K.Gupta, EE, Division (M-IV) within 30 days as required by the law.

From the facts before the Commission it is apparent that the deemed PIO is guilty of not furnishing information within the time specified under sub-section (1) of Section 7 by not replying within 30 days, as per the requirement of the RTI Act. He has further refused to

obey the orders of his superior officer, which raises a reasonable doubt that the denial of information may also be malafide. The First Appellate Authority has clearly ordered the information to be given.

It appears that the deemed PIO's actions attract the penal provisions of Section 20 (1). A showcause notice is being issued to him, and he is directed give his reasons to the Commission to show cause why penalty should not be levied on him.

Mr. S.K.Gupta, EE, Division (M-IV) will present himself before the Commission at the above address on **10 March 2010 at 11.00am** alongwith his written submissions showing cause why penalty should not be imposed on him as mandated under Section 20 (1). He will also submit proof of having given the information to the appellant.

If there are other persons responsible for the delay in providing the information to the Appellant the PIO is directed to inform such persons of the show cause hearing and direct them to appear before the Commission with him.

This decision is announced in open chamber.

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

Any information in compliance with this Order will be provided free of cost as per Section 7(6) of RTI Act.

Shailesh Gandhi
Information Commissioner
04 February 2010

(In any correspondence on this decision, mention the complete decision number.)

(SR)

CC:

To,

Mr. S.K.Gupta, EE, Division (M-IV) through Mr. Rakesh Ailawadi, Public Information Officer & SE—II;