

CENTRAL INFORMATION COMMISSION
Club Building (Near Post Office)
Old JNU Campus, New Delhi - 110067
Tel: +91-11-26161796

Decision No. CIC/SG/A/2009/002597/5818Adjunct
Appeal No. CIC/SG/A/2009/002597

Appellant : Mr. Vinod Bharti
Flat No. 308, Pocket -2, Sector 19, Dwarka,
New Delhi - 110075

Respondent : Public Information Officer
S.D. Hari Mandir Girls Sr. Sec. School
Des Raj Bhatia Marg, Nabi Karim,
New Delhi – 110055.

RTI application filed on : 01/08/2009
PIO replied : 16/09/2009
First appeal filed on : 05/09/2009
First Appellate Authority order : No Order.
Second Appeal received on : 14/10/2009
Date of Notice of Hearing : 29/10/2009
Hearing Held on : 10/12/2009

Information Sought:

1. No. of teachers that had availed special leave (abortion leave) from 01/04/1995 till date (31/07/2009).
2. Certified copies of the relevant papers on basis of which such medical leave was sanctioned by the school authorities to the teachers including medical prescription, ultra sounds & urine report and fitness certificate and any other relevant information/documents etc.
3. Period of special leave of the abovementioned teachers.

Reply of the PIO: *(after first appeal had been filed)*

The requested information was of a confidential nature and therefore they were not in a position to furnish the same and that the teachers had also refused to provide their personal details in this regard.

First Appeal:

No reply by the PIO.

Order of the FAA:

No Order.

Ground of the Second Appeal:

That the Appellant has still not been supplied with the proper information.

Relevant Facts emerging during Hearing on 10 December 2009:

“The following were present

Appellant : Mr. Vinod Bharti;

Respondent : Absent;

The PIO has refused the information without giving any exemption under Section 8(1) of the RTI Act. However the Appellant’s asking for certified photocopies of various medical records of the individual teachers was certainly inappropriate. The Commission directs that PIO to give information on query-1 & 3 to the Appellant and the list of documents which were submitted by the teachers to avail of the special/abortion leave.”

Commission's Decision dated 10 December 2009:

"The Appeal is allowed.

The PIO is directed to provide the information as directed above to the Appellant before 26 December 2009."

Facts leading to Showcause:

The PIO did not provide the information and the Appellant sent a letter on 15/01/2010 complaining about non compliance of the Commission's order. The PIO sent a letter to the Commission on 04/02/2010 in which the Commission was informed that the School had decided to challenge the decision of the Commission in a writ petition. The Commission sent a showcause notice to the PIO on 15/02/2010 stating, "I am directed to inform you that as you have only moved a Writ Petition, but there is no stay order issued by a Court on the order of the Commission, the order of the Commission remains in force and has to be complied with. Section 19(7) of the RTI Act provides that the decision of the Commission "shall be binding". Further the Supreme Court has held in *Ghaziabad Development Authority v. Balbir Singh* AIR 2004 SC 2141 that-

"...unless there is stay obtained from a higher forum, the mere fact of filing of an appeal/revision will not entitle the authority to not comply with the order of the Forum. Even though the authority may have filed an appeal/revision, if no stay is obtained or if stay is refused, the order must be complied with."

Non-compliance of the Commission's order which is still in force, may lead to initiation of penalty proceedings in accordance with the Right to Information Act, 2005. The Commission is hereby directing you to provide the complete information to the Appellant before 06/03/2010. A copy of the same information must be delivered to the undersigned before 12/03/2010 along with proof of dispatch of information to the Appellant. You are further directed to appear before the Commission at the above mentioned address on **12/03/2010 at 4.00 p.m.** along with written submission to show cause why penalty should not be imposed on you under Section 20 (1) and (2) of the RTI Act, 2005."

Relevant Facts emerged during Showcause Hearing 12/03/2010:

Appellant: Mr. Vinod Bharti;

Respondent : Absent;

The PIO has not appear before the Commission nor sent any submission or explanation for not being present before the Commission. However, in the interest of justice the Commission offeres one more opportunity to the PIO to present himself before the Commission to show cause why penalty under Section 20(1) should not be levied on him as mentioned. above. The PIO is directed to present himself before the Commission with his written expansion on **27 April 2010 at 10.00AM.**

If the PIO does not give reasons to the Commission on **27/04/2010** justifying the denial of information, the Commission will assume he has no reasons for disregarding the orders of the Information Commission and a penalty will be imposed as per the Provisions of Section 20(1) of the RTI Act ex-parte.

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
12 March 2010

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