

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

Decision No. CIC /SG/C/2008/00077/2013Penalty
Complaint No. CIC/SG/C/2008/00077

Complainant : Ms. Archana Joshi,
127-B, Pocket 4, Phase I, Mayur Vihar,
New Delhi- 110091

Respondent : Mr. Hukam Singh,
JE & Deemed PIO (Under posting)
ADC Engineering (Head Quarter),
Municipal Corporation of Delhi
Town Hall, Chandni Chowk,
Delhi - 110003

Facts arising from the Complaint:

Ms. Archana Joshi had filed an RTI application with the PIO, Superintendent Engineer, MCD Shahdara South on 24/07/2008 asking for certain information. Since no reply was received within the mandated time of 30 days, she had filed a complaint under Section 18 with the Commission. The Commission issued a notice to the PIO on 31/12/2008 asking him to supply the information and sought an explanation for not furnishing the information within the mandated time.

As the Commission neither received a copy of the information sent to the Complainant, nor did it receive any explanation from the PIO for not supplying the information to the Complainant, the only conclusion that could be drawn was that the PIO was deliberately and without any reasonable cause refusing to give information as per the provisions of the RTI Act. His failure to respond to the Commission's notice showed that he had no reasons for the refusal of information.

Decision dated 24 February 2009:

The Complaint was allowed. The PIO was directed to send the complete information to the Complainant before March 20, 2009. A show cause notice was issued to the PIO and he was directed to submit a written explanation to show cause why penalty should not be imposed and disciplinary action be recommended against him under Section 20 (1) of the RTI Act by March 25, 2009.

Facts leading to show cause hearing on 16 December 2009

It was clear from the RTI Application that the Complainant had sought inspection of the relevant file in her RTI Application and therefore the same should have also been facilitated after the Commission's order. There is a letter dated 04/02/2009 signed by the SE II & PIO stating that the relevant file may be inspected. However, the Complainant was informed that the relevant file is not traceable. From the facts, it appeared that the PIO had deliberately obstructed the furnishing of information.

Vide notice dated 13/11/2009, the PIO & SE-II, MCD, Shahdara South Zone was directed to bring the relevant file to the Commission on **16/12/2009** at **4 p.m.** to allow inspection of the file by the Complainant. He was further directed to bring his written submissions to show cause why penalty should not be imposed on him under Section 20 (1) of the RTI Act.

Relevant facts arising during the show cause hearing on 16 December 2009:

The following persons were present:

Appellant: Mr. Anurag Joshi on behalf of Appellant;

Respondent: Mr. Pushkar Sharma, PIO & SE-II, Shahdara South, Mr. Naurangi Lal

Mr. Sharma has stated that the person responsible for the delay in replying to the RTI Application was Mr. R.S. Gupta against whom disciplinary action has been initiated. He is also the person that the Complainant spoke to when she was informed that the file is not traceable. Mr. Sharma is not sure where the file is now. It appears that the file may have been stolen.

Adjunct Decision announced on 17 December 2009:

“The Commission directs Mr. Pushkar Sharma to file a Police Complaint stating that the file has been stolen and identifying the names of the persons who handled the file last. A copy of the Police Complaint certified by the Additional Commissioner in-charge of the Zone will be sent to the Commission and the Complainant before 15 January 2010.

Mr. Pushkar Sharma is directed to inform the Commission before 20 February 2010 about the disciplinary action taken against Mr. R.S. Gupta. Since Mr. R.S. Gupta has been identified for the delay in providing the information, 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 under Section 20 of the RTI Act.

He will present himself before the Commission at the above address on 15 January 2010 at 12.30 p.m. alongwith his written submissions showing cause why penalty should not be imposed on him as mandated under Section 20 (1).”

Facts leading to Showcause hearing on 15 March 2010:

As Mr. R.S. Gupta did not appear before the Commission on 15/01/2010 the Commission vide notice dated 04/02/2010 directed him to appear before the Commission on 15/03/2010 alongwith other persons responsible for the delay in providing the information to the Complainant.

Relevant facts arising during the show cause hearing on 15 March 2010:

The following persons were present:

Respondent: Mr. R.S. Gupta, EE & Deemed PIO; Mr. Arun Singh, AE (M-III Shahdara North); Mr. Y. A. Jafri, AE (Karol Bagh-Project); Mr. Vijender Singh, JE (M-II Shahdara North); Mr. Hukam Singh, JE (Town Hall); Mr. D. P. Sharma, AE/EE(B-II Shahdara South Zone);

Mr. R. S. Gupta states that he had sought the assistance of Mr. Vijender Singh, JE on 14/08/2008 who had marked it to Mr. Hukam Singh, JE on 21/08/2008. Mr. Hukam Singh held on to the RTI application until 20/12/2008 when he was suspended for seven months. Subsequently on 19/01/2009 Mr. Vijender Singh, JE replied to the Complainant that the regularization file has been rejected on 03/12/2008. Mr. Vijender Singh claims that on 11/06/2009 he handed over the file to Mr. Iqbal Umar Khan, JE building. The file is now claimed to be lost. The Dy. Commissioner Brig. Rajender Singh is directed to inquire into this and fix responsibilities for the theft/loss of this file and file a police complaint giving the name of the officer who last handled this file. The Dy. Commissioner Brig. Rajender Singh is directed to provide a copy of the police complaint to the Commission and the appellant before 15 April 2010.

It is apparent that Mr. Hukam Singh, JE held on to the RTI application from 21/08/2008 to 20/12/2008. The Commission asked him to explain the reasons for keeping this application

for 120 days with him. He claims that he was recruited on 13/02/2008 and was over loaded with work. He apologises for not providing the information. The Commission has not been given any reasonable cause for the delay by Mr. Hukam Singh, JE. In view of this the Commission sees this as a fit case for levy of penalty under RTI Act on Mr. Hukam Singh. Since the delay has been for over 100 days the Commission penalizes Mr. Hukam Singh, JE Rs.25000/- which is maximum penalty under the Act.

Decision:

As per the provisions of Section 20 (1) of the RTI Act 2005, the Commission finds this a fit case for levying penalty on Mr. Hukam Singh, JE and Deemed PIO Since the delay in providing the correct information has been over 100 days, the Commission is passing an order penalizing Mr. Hukam Singh for Rs. 25000/ which is the maximum penalty under the Act.

The Commissioner, Municipal Corporation of Delhi is directed to recover the amount of Rs.25000/- from the salary of Mr. Hukam Singh and remit the same by a demand draft or a Banker's Cheque in the name of the Pay & Accounts Officer, CAT, payable at New Delhi and send the same to Shri Pankaj K.P. Shreyaskar, Joint Registrar and Deputy Secretary of the Central Information Commission, 2nd Floor, August Kranti Bhawan, New Delhi – 110066. The amount may be deducted at the rate of Rs.5000/ per month every month from the salary of Mr. Hukam Singh and remitted by the 10th of every month starting from April 2010. The total amount of Rs.25000 /- will be remitted by 10th of August, 2010.

Shailesh Gandhi
Information Commissioner
15 March 2010

- 1- Commissioner
Municipal Corporation of Delhi
Town Hall, Delhi- 110006
2. Shri Pankaj K.P. Shreyaskar,
Joint Registrar and Deputy Secretary
Central Information Commission,
2nd Floor, August Kranti Bhawan,
New Delhi – 110066
- 3- Brig. Rajender Singh
Dy. Commissioner
Municipal Corporation of Delhi
Zonal Office Building, Karkarduma,
Delhi