

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

**Decision No. CIC/SG/A/2009/003121/6529adjunct**  
**Appeal No. CIC/SG/A/2009/003121**

**Relevant Facts emerging from the Appeal:**

Appellant : Mr. Harishankar Thakur  
SATHI-NGO, B-1751,  
New Delhi - 110059

Respondent : Public Information Officer  
**Govt. of NCT of Delhi**  
O/o the Registrar of Society,  
Plot no. 419, FIE,  
Patparganj Industrial Area,  
Delhi – 110092

First Appellate Authority  
Jt. Commissioner of Industries  
419, Udyog Sadan  
FIE, Patparganj Industrial Area  
Delhi 110092

RTI application filed on : 28/08/2009  
PIO replied : 26/09/2009  
First appeal filed on : 15/10/2009  
First Appellate Authority order : Not mentioned.  
Date of Notice of Hearing : 22/12/2009  
Hearing Held on : 22/01/2010

The Appellant had sought information regarding aids given to help poor, destitute, blinds and handicapped as per Society registration no. (XXI) 1860:

<b>S. No</b>	<b>Information Sought</b>	<b>PIO's Reply</b>
A.	Whether any organization under Society Registration Act (XXI) 1860 can implement schemes which includes financial transactions?	There is no such provision in the Act.
B.	If yes. Then what is maximum amount permitted?	As stated above, there is no such provision in the Act.
C.	Whether using gifted (Dan) amounts is permissible/approved under such schemes to organization namely "Utthan".?	No such information is available regarding reorganization and justification.

D.	If not. Then under which rule such schemes can be implemented?	Company Act, Chit Fund Society and Cooperative Society Act (Thrift & Credit)
E.	If such organizations are not doing their work as approved, then what action has been taken against such organizations?	Registrar of Society is not empowered to take any action against such society.
F.	Whether 80 G certificate can be used for other such schemes.	No legal opinion can be given in this regard.

**First Appeal:**

Late information was provided. Answer to Sr. (C) was not given.

**Order of the FAA:**

Not mentioned.

**Ground of the Second Appeal:**

No information has been received by the appellant neither nay refusal letter till date.

**Relevant Facts emerging during Hearing on 22 January 2010:**

The following were present:

Appellant: Mr. Harishankar Thakur;

Respondent: Absent;

The Appellant had filed the first appeal which was posted on 20/10/2009 by speed post. The Appellant was called for the hearing on 08/12/2009 but no hearing was held. He was again called on 15/12/2009 when the hearing was held and the order was issued on 16/12/2009. The First Appellate Authority Mr. Vishwa Mohan, Joint Commissioner (Industries) is guilty of dereliction of duty since he had not passed an order in the matter within 45 days which is maximum time permission to give an order as per the RTI Act. Mr. Vishwa Mohan is directed to give an explanation to the Commission for his dereliction of duty before 15 February 2010.

The Appellant states that after the order of the FAA he has received the information. Thus the second appeal was entirely unnecessary and was made only because of the delay on the part of Mr. Vishwa Mohan who did no do his duty as per the RTI Act.

**Decision:**

“The Appeal is disposed.

The information has been provided to the Appellant.”

**Facts leading to adjunct decision :**

The First Appellate Authority (FAA) Mr. Vishwa Mohan had given written submissions on 11 February 2010 and also made oral submissions before the Commission on 10 March 2010 in a personal meeting. He has made the following key points:

1. Preliminary objection:

The Commission made an observation that FAA is “ guilty of dereliction of duty since he had not pass an order in the matter within 45 days which is maximum time permission to give an order as per the RTI Act.” And also observed that that “ FAA did not do his duty as per the RTI Act.” The FAA Mr. Vishwa Mohan states that this was an error on the part of the Commission to have held him ‘guilty’ without giving him an opportunity of hearing.

2. Reply on merits:

(i) He assumed charge as FAA only on 26/10/2009 and hence cannot be held responsible for actions before that.

(ii) A perusal of the records reveals that the RTI appeal was erroneously received by the PIO on 22/10/2009 and after travelling through some officers was received in the office of the FAA only on 26/11/2009.

(iii) On receipt of the appeal on 26/11/2009 he scheduled a hearing on 8/12/2009 which could not be held on that day since he was required to be present in the High Court of Delhi.

(iv) After hearing the matter he gave an order on 16/12/2009. Thus he had issued an order within 19 days of receiving the appeal in his office.

Hence the FAA Mr. Vishwa Mohan has stated that the Commission should withdraw its charge of ‘dereliction of duty’ against him and close that matter.

### **Adjunct Decision on 15 March 2010:**

The Commission has considered the submissions of the First Appellate authority Mr. Vishwa Mohan, and has come to the following conclusions:

1. Mr. Vishwa Mohan’s contention that the Commission should not have made a comment that he was ‘guilty of dereliction of duty’ without giving him an opportunity of hearing is correct and reasonable. I erred in making this statement and should have given an opportunity to him to explain his actions before passing this observation.

2. Based on the evidence given by Mr. Vishwa Mohan it appears that he was not guilty of any dereliction of duty, but has actually performed his duty as FAA very diligently. The appeal was erroneously received in the office of the PIO, from where it took 34 days to reach the FAA. Mr. Vishwa Mohan cannot be held accountable for this.

The Commission accepts its error in making the charge of Mr. Vishwa Mohan being ‘guilty of dereliction of duty’ and withdraws it completely. I also offer my apologies to Mr. Vishwa Mohan for this error personally.

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**  
**15 March 2010**

*(In any correspondence on this decision, mention the complete decision number.)<sub>(RR)</sub>*