

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

Decision No. CIC/SG/A/2009/003182/6695 Adjunct
Appeal No. CIC/SG/A/2009/003182

SHOWCAUSE HEARING:

Appellant : Mr. B.N.Khurana,
FD-38, Tagore Garden
New Delhi - 110027

Respondent : Mr. V.R. Bansal
Public Information Officer & SE-I,
MCD, West Zone,
Vishal Enclave, Rajouri Garden,
New Delhi - 110027.

RTI application filed on : 04/09/2009 (transferred on date 07/09/2009)
PIO replied : No reply
First Appeal filed on : 22/10/2009
First Appellate Authority order : 10/12/2009
Second Appeal filed on : 17/12/2009
Notice of Hearing Sent on : 05/01/2010
Hearing Held on : 04/02/2010

Information sought:

1. Please give the total number of reliance cellular Towers in west zone MCD, as on 31/08/2009
2. Whether permission is given for the installation by department or they are working without valid permission. Please specify the no. of towers working without permission like one at FD-38 Tagore Garden.
3. Whether all records/files of permission are with department or not specify the no. of records/files missing like one at FD-38 Tagore Garden.
4. Whether any action taken by department, if the installed tower is illegal. If no, then why?
5. Whether department fix the responsibility of dereliction of duty to officials if installed tower is illegal. If so give details.

PIO's reply:

No reply

Grounds for First Appeal:

PIO not supply the information.

Order of the First Appellate Authority:

To provide the information within 7 days.

Grounds for Second Appeal:

PIO not supply the information

Relevant Facts that emerged during the Hearing on 04 February 2010:

“The following were present:

Appellant: Mr. S.K. Khurana representing Mr. B.N.Khurana;

Respondent: Mr. V.R. Bansal, Public Information Officer & SE-I;

The PIO has brought the information which is being given to the appellant before the Commission. The PIO was asked to identify the person responsible for the delay. The PIO states that the RTI application was forwarded to the JE Mr. Rajesh Sharma through EE(B-I) on 17/09/2009. The JE Mr. Rajesh Sharma provided the reply only on 03/02/2010. The order of the FAA was to provide the information within 7 days. This order was not implemented and the Assistant Engineer Mr. Kaptan kept the order with him from 21/12/2009.

Decision:

The appeal is allowed.

The information has been provided to the Appellant in the present of the Commission.

The issue before the Commission is of not supplying the complete, required information by the deemed PIOs JE Mr. Rajesh Sharma and Assistant Engineer Mr. Kaptan within 30 days as required by the law.

From the facts before the Commission it is apparent that the deemed PIOs are 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.

It appears that the deemed PIOs actions attract the penal provisions of Section 20 (1). A showcause notice is being issued to them, and they are directed give their reasons to the Commission to show cause why penalty should not be levied on them.

Mr. Rajesh Sharma and Mr. Kaptan will present themselves before the Commission at the above address on **15 March 2010 at 10.30am** alongwith their written submissions showing cause why penalty should not be imposed on them as mandated under Section 20 (1). They 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.”

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

The following persons were present:

Respondent: Deemed PIOs Mr. Rajesh Sharma, JE (West Zone) and Mr. Kaptan Singh, AE (B) Karol Bagh Zone;

The Respondent sates that the record of all the information is maintained by Office Incharge of the Building. The RTI application was marked to them but they state that they were not aware that they are expected to reply to this. They also state that the answer has been provided by OI(Building) hence they contend that the persons responsible for providing the delayed information is the OI Building. Mr. V. R. Bansal, PIO & SE-I has named Mr. Rajesh Sharma and Mr. Kaptan Singh as the persons responsible for the delay. The Respondents claimed that as per record the RTI was first marked to EE(B) on 14/09/2009 from where it was sent to Mr. Neeraj, LDC in OI's office. They claimed that from where it was sent to AE(IV), AE(I) who sent it to JE, Mr. Dushyant. It appears that JE, Mr. Dushyant against sent to AE(I) who sent it to Mr. Rajesh Sharma.

To arrive at actual position the Commission therefore issues a showcause notice to Mr. V. R. Bansal, PIO & SE-I, Mr. Rajesh Sharma, Mr. Kaptan and Mr R K. Joshi, OI (Building). All these officers will present themselves before the Commission on **12 April 2010 at 04.00PM** to showcause why penalty under Section 20(1) should not be levied on them for not supplying the information within time as mandated under RTI Act. . If there are other persons responsible for the delay in providing the information to the Appellant they are directed to inform such persons of the show cause hearing and direct them to appear before the Commission with them.

The PIO SE-I and SE-II are also directed to send the updated information with respect to the query of the appellant to the Appellant before 30 March 2010.

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.)

(SR)

CC;

To,

Mr. V. R. Bansal, PIO & SE-I and Mr R K. Joshi, OI (Building) through Mr. Rajesh Sharma/Mr. Kaptan