

CENTRAL INFORMATION COMMISSION

Appeal No.CIC/WB/A/2008/01283 dated 16.7.2008

Right to Information Act 2005 – Section 19

Appellant - Shri P. P. Mishra  
Respondent - Supreme Court of India (SCI)

Decision announced 5.2.'10

**Facts:**

By an application of 6.5.08 Shri Parmanand Prakash Mishra of Muzaffarpur, Bihar applied to the CPIO, Supreme Court of India, seeking the following information:

1. Whether the Prime minister of India is not a constitution post?
2. To avoid RTI means the judiciary does not want interference in its purview so that the poor people may get justice and on one may raise finger on the Hon'ble Judges in this regard and it may kindly not be made a curse by the Supreme Court.
3. Kindly inform me whose decision is correct (From the case mentioned in question no. 3) and what action was taken against the person who had made such comments.
4. What about your silence in august, 2004 on my allegation that judiciary is a 'bunch of jokers'?
5. Since RTI is a way out to reveal the criminalization in judiciary, it is requested to the Hon'ble Chief Justice of India to take his words back and inform the public whether the Chief Justice of India is above the law?
6. Please inform clearly as to whether or not this country is the centre of extremism, violence and terrorism because of costly justice, delayed justice and corruption in judiciary?"

To this Shri Parmanand Prakash Mishra received response from CPIO Shri Ashok Kumar, Addl. Registrar, SCI dated 6.3.08 informing him, as follows:

"I write to say you that it is beyond the jurisdiction and scope of duties of the CPIO, Supreme Court of India under the Right to Information Act, 2005 to interpret the Constitution and the law, judgment of this Hon'ble Court or of any other court, opine, comment and advise on matters. Your request to seek legal opinion and advice on your question Nos. 1 to 6 does not fall within

the meaning of 'Information' under section 2 (f) of the Right to Information Act, 2005 and cannot be acceded to."

Not satisfied, however, Shri Mishra moved an appeal before the Chief Justice of India, pleading as follows:

"CJI interprets the law and according to him either Shri K. G. Balakrishnan is above RTI Act or the constitutional authority mentioned in my Q. Nos. 1 to 6 in the RTI application is wrong. Whether your statement or your earlier decision is correct, please intimate. "

In this appeal, he has pleaded that Q. No. 7 of his request has remained unanswered. In his order of 23.6.08, in appeal No. 63/2008 Shri M.P. Bhadran, Appellate Authority has, after noting, "*Even though notice was issued to the appellant, the appellant remained absent.*" directed as follows:

"By the impugned order the CPIO has informed the appellant that it is not the duty of the CPIO to interpret the law, judgment of the Hon'ble Supreme Court, opine, comment and advise on matter. I fully agree with the CPIO that the questions 1 to 6 as mentioned above, do not come within the meaning of 'information' as defined in section 2 (f) of the Right to Information act, 2005. The CPIO is not expected to supply the information sought by the appellant as mentioned above. There is no merit in this appeal and it is only to be dismissed.'

This has brought Shri Mishra in a second appeal before us, pleading as follows:

***"No reply on application dated 9.9.2007 & 18.2.2008."***

This has been further elucidated on a subsequent page in the appeal, as below:

"Reply of Supreme Court that they have not received my letter dated 23.3.08 is mentioned in point No.4 which was sent through ordinary post. I was informed by CPIO Shri Ashok Kumar that they have received the letter but no mention has been made of my letters dated 9.9.07 & 18.2.08 and Point No. 7 of letter dt. 5/6-5-08 has also remained untouched."

In response to our appeal notice, CPIO Shri Ashok Kumar, Addl. Registrar has written to appellant on 13.9.08 informing him, as follows:

“I write to inform you that you have no case pending in this Hon'ble Court and your appeal No. F. 1/RTI/A.63/2008 to the First Appellate Authority, Supreme Court of India has already been decided on 26.6.2008. No action is called for on the said letter and postcards under the Right to Information Act, 2005.’

Upon this, we have received the following rejoinder from Shri Mishra dated 28.9.08:

“In line 5 of CPIO's letter dated 15.9.08 it has been intimated that no case is pending whereas (a) my letters dated 18.2.08 and 9.9.07 has not been replied. Please reply after examining my FAX dated 7.6.08.”

Subsequently, in a letter of 4.11.09 appellant Shri Parmanand Prakash Mishra has submitted as follows:

“On the one hand CIC's order dated 15.7.08, 3.12.08, 3.2.09, 19.2.09, 24.2.09, 26.2.09 (forwarded to SIC), and 24.3.09 & 29.6.09 may kindly be perused, in which somewhere I have been directed to approach Departmental Officers and somewhere CIC has fixed the time limit for CPIO and on the other Chief has intimated that my request is being sent to Chief Minister. I am not getting any help from any corner for want of clear picture”

The appeal was heard by videoconference on 5.2.2010. The following are present:

**Appellant** NIC Studio, Muzaffarpur (Bihar)

Shri Parmanand Prakash Mishra

**Respondents** at CIC chambers, New Delhi.

Shri Raj Pal Arora, Addl. Registrar, SCI

Shri Devadutt Kamat, Advocate for SCI

Appellant submitted that he had submitted this RTI application in a state of frustration because he had felt insulted by comments of a Learned Judge in Bihar High Court. He now wished to withdraw any offensive remarks in that application and has no hesitation in submitting his unqualified apology. However, Shri Mishra then submitted that he has not been able to obtain justice from any source up to

Chief Justice of India, Chief Minister of Bihar or even the District Magistrate of his District. He had moved an application, therefore, before the Supreme Court in this matter in which he had sought the intervention of the Hon'ble Chief Justice of India Shri Balakrishnan. Learned Counsel for respondents on the other hand submitted that the procedure for moving a Writ Petition before the Hon'ble Supreme Court is clearly laid down. This can be moved through a simple letter under Article 32 of the Constitution of India and is open to any citizen. The Hon'ble Justice who will then decide on its admission as a writ petition, will examine this letter.

### **DECISION NOTICE**

Shri Mishra has taken recourse to the RTI Act in this case, on his own admission, out of frustration with the judicial proceedings with regard to a case moved by him in 1989. The RTI Act is no substitute for the law. Appellant Shri Mishra also agreed on his own, that the RTI Act is not the appropriate course to have adopted in obtaining redress. He, therefore, will not press the present case. On the other hand, he wishes to move the Chief Justice of the Supreme Court of India to look into the matter so that he is granted justice, which he feels that he has been unlawfully denied. For this purpose, learned Counsel for respondents Shri Devadutt Kamat has explained the procedure to appellant Shri Mishra. He may, therefore, proceed along the lines described above. In the meantime, his apology for intemperate language used in his RTI application has been taken on record. This appeal not being pressed is hereby dismissed.

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

(Wajahat Habibullah)  
Chief Information Commissioner  
5.2.2010

Authenticated true copy. Additional copies of orders shall be supplied against application and payment of the charges, prescribed under the Act, to the CPIO of this Commission.

(DC Singh)  
Asst. Registrar  
5-2-2010