

CENTRAL INFORMATION COMMISSION
Appeal No. CIC/WB/A/2009/0000151 dated 20.2.2009
Right to Information Act 2005 – Section 19

Appellant - Shri Dinesh Kumar Sharma
Respondent - High Court of Delhi

Decision announced : 8.3.2010

Facts:

By an application of 2.7.08 to the District Courts, Tis Hazari, Delhi Shri Dinesh Kumar Sharma of Vikas Marg, Delhi sought the following information with regard to a notional case of the conduct of a Judge demonstrating lack of impartiality, as below:

- “1. What action as per law may be indicated against the Judge?
2. What relief shall be provided to the sufferer in such cases?”

This application was transferred by PIO Shri Raj Kumar Khudania to the High Court of Delhi on 9.7.08, which in turn in an initial response from PIO Shri P. S. Chaggar addressed to appellant Shri Dinesh Kumar Sharma dated 16.7.08 advised the applicant, as follows:

“You are required to submit your application in the prescribed proforma (Form-A) clearly setting out the information that you intend to seek from this Court and deposit the defiant fee of Rs. 40/- (Rs. Forty only) payable to Registrar General, High Court of Delhi on any working day between 11.00 AM to 1.00 PM in terms of Delhi High Court (Right to Information) Rules, 2006.’

Subsequently, by his order of 11.9.08 CPIO Shri Chaggar informed applicant Shri Dinesh Kumar Sharma as follows:

“The forum of RTI is not meant for handing out legal opinion. The information sought for in the application at hand is legal opinion and not information within the meaning of the expression used in the law and rules.”

Aggrieved Shri Sharma moved an appeal on 21.9.08 before the First Appellate Authority, High Court of Delhi contesting the classification of his request as a 'legal opinion', as follows:

"That Shri P. S. Chaggar is in error to understand that the applicant as per his application sought information certainly concern to a legal department but not at all a legal opinion is asked for, as such there is no reference to any judgment.'

Upon this Shri Kalam Singh, in his order of 4.11.08 in appeal No. 23/2008 has ruled as follows:

"Thus, from the above, it is clear that an applicant is entitled to an information which is in existence. An 'opinion' or an 'advice' if it is a part of the record is 'information' but one cannot seek from Public Information Officer/ Appellate Authority either an opinion or advice as it would in effect be seeking a decision which they are not authorised to take. A perusal of the information sought clearly shows that appellant is not seeking information but advice or opinion which does not fall within the definition of 'information'."

Appellant Shri Dinesh Kumar Sharma's prayer before us in second appeal is as below:

"It is humbly prayed that this Hon'ble Forum Authority may be pleased to:

- (a) Issue direction to the respondent to furnish complete and detailed information as sought for as per Annexure 'A'.***
- (b) Impose penalty of Rs. 250/- each day in terms of section 20 of the Act, upon the Competent Authority concerned till the required information is furnished.'***

This prayer has been supported on the basis of the following grounds:

- (A) Because the public information officer deliberately and malafide did not give the information sought by the applicant vide application dated 2.7.2008.***
- (B) Because the information sought by the applicant is related to Hon'ble High Court of Delhi at New Delhi and no third party is related in respect to the information sought.***
- (C) Because the information denied by the respondent is a willful effort to suppress misdeed of the department."***

The appeal was heard on 8.3.2010. The following are present:

Appellant

Shri Dinesh Kumar Sharma

Respondents

Shri Rajiv Bansal. Nominated Counsel

Shri P. K. Gupta, PIO

Shri Gurcharan Singh, APIO

Shri Dibyaranjan Gonda, Jr. Judicial Asstt.

Learned Counsel for respondents Shri Rajiv Bansal submitted that the answers sought by appellant Shri Dinesh Kumar Sharma are required from a person well versed in law. The Registry of the High Court of Delhi, which is required to administer the office of the High Court of Delhi, can under the law only provide information as defined in Sec. 2(f), which would mean information which is held as part of the Office record. In case of appellant Shri Dinesh Kumar Sharma having faced damage or partiality on the part of a Justice of the Court, the remedy will lie through judicial proceedings, not through seeking the opinion of a CPIO, who is not under the law authorized to provide the same. In this context, learned Counsel submitted a written reply on behalf of the Delhi High Court, a copy of which was handed over to appellant in the hearing, in which learned Counsel Shri Rajiv Bansal has submitted as follows:

“The application does not fall within the four corners of the provisions of Right to Information Act. The application and the present appeal were liable to be rejected outright.”

Appellant Shri Dinesh Kumar Sharma submitted that all he required was to be told whether a common citizen, such as himself, having faced the kind of experience that he described in his RTI application, is entitled to any justice. He has sought this opinion from the High Court itself rather than from a lawyer who. In his view, is simply a professional.

DECISION NOTICE

Sec. 2(f) of the RTI Act, which defines information, reads as follows:

2(f)

"information" means any material in any form, including records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material held in any electronic form and information relating to any private body which can be accessed by a public authority under any other law for the time being in force;

From this it will be clear that if there is any specific recorded opinion sought that is in material form, with regard to any conduct by any specific justice, appellant Shri Sharma was free to ask for such a record. On the other hand, appellant's argument before us that DNA Rules must cover the problem that he has projected, holds no weight because these very rules are available to him as much as they are to any CPIO. Interpreting those rules, therefore, becomes a matter of legal opinion, which under the law, as unambiguously defined above, the CPIO is not authorized to provide. Under the circumstances, we agree with the Appellate Authority Shri Kalam Singh that this appeal is without merit and the same is dismissed.

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

(Wajahat Habibullah)
Chief Information Commissioner
8.3.2010

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.

(Pankaj K.P. Shreyaskar)
Joint Registrar
8.3.2010