

CENTRAL INFORMATION COMMISSION
Appeal No. CIC/WB/A/2009/000316 dated 18.3.2009
Right to Information Act 2005 – Section 19

Appellant - Shri Ashwani Kumar
Respondent - President's Secretariat

Decision announced: 12.3.2010

Facts:

By an application of 16.9.08 received in the President's Secretariat on 26.9.08 Shri Ashwani Kumar of Dilshad Colony, Delhi sought "*status of action taken report, if any with noting of H.E. President of India on my above said letter, addressed to her office.*"

To this Shri Ashwani Kumar received a response dated 23.10.08 from Shri Ashish Kalia, CAPIO, President's Secretariat informing him as follows:

"Your petition dated 8.8.08 was forwarded to the Secretary, Ministry of Finance, Government of India on 27.8.08 (computer generated copy enclosed). You are, therefore, requested that for further necessary action in this regard, you may contact the department to whom your petition was forwarded, since the matter pertain to their jurisdiction."

Aggrieved Shri Ashwani Kumar moved an appeal before Appellate Authority Ms Rasika Chaube, Internal Financial Advisor, President's Secretariat dated 27.1.08, upon which in her order of 24.12.08, Appellate Authority Ms. Rasika Chaube directed as follows:

"The CPIO is hereby directed that he should transfer the RTI application dated 16.9.08 along with the petition dated 8.8.08 to the Secretary, Ministry of Finance, Govt. of India under Section 6(3) of the RTI Act, 2005 so that the appellant can take up the matter with the concerned Ministry under the RTI Act, 2005."

Shri Ashwani Kumar has then moved a second appeal before us with the following prayer:

- “5. *That the A.A. should have obtained the reply from Secretary, NOF, GOI and then supplied the information to the applicant being ‘First Office’ of the country.*
6. *That the applicant should not have been thrown from one post to another. By doing this, the O/O H.E. President of India has degraded the status of their own office & harassed to the applicant who is whistle blower in the same case/subject.”*

The appeal was heard on 12.3.2010 through video conference. The following are present:

Appellant

Shri Ashwani Kumar

Respondents at NIC studio, Rashtrapati Bhawan
Shri Faiz Ahmad Kidwai, CPIO

It was pointed out by us to CPIO that request of 16.9.08 of appellant Shri Ashwani Kumar is comprised of two components:

1. Action taken on his representation of 8.8.08 addressed to the President of India, and
2. Copy of noting of HE President of India on the petition.

The first part stands answered but the second component has not even been addressed. CPIO Shri Faiz Ahmad Kidwai submitted that petitions received from the public are dealt with by the Petition Section of the President’s Secretariat and not submitted directly to the President. In this case, this was not among those applications that were submitted to the President.

Shri Ashwani Kumar submitted copies of reports appearing in the Time of India of 25.1.10, 26.1.10 & 22.2.10 with regard to an alleged financial fraud involving money of 65,000 employees in Northern Railway’s Employees Cooperative Credit & Thrift Society and the role of the whistleblower Shri Naveen Kumar Peer in this regard, together with the response from CEO, NZRECTC Society Ltd. Together with this he submitted a copy of an OM of the Department of Agriculture & Cooperation of 17.8.09 whereby Director (Cooperation) of Ministry of Agriculture had directed that “Northern Railway (Accounts

Department), Baroda House, New Delhi may take appropriate action on the issues raised in the aforesaid letter of Shri Naveen Kumar Peer and same is being returned herewith in original.'

Appellant Shri Ashwani Kumar acknowledged that his application had indeed been sent to the Ministry of Finance but the Department of Revenue vide its letter No. 415/28/2008-IT(Inv.1) dated 12.2.08 had asked him to approach the Director General of Income Tax (Investigations) to obtain the information sought by him. Nevertheless, on his approaching the concerned Department, he was refused any further information and even threatened.

DECISION NOTICE

With the clarification provided by the CPIO to the second component of his original application, which had not been responded to, information supplied to appellant Shri Ashwani Kumar's application of 16.9.08 is now complete insofar as President's Secretariat is concerned. There is no ground for any further action by that Public Authority in this matter and the appeal with regard to them is now closed.

Nevertheless, the issue raised in the initial application is still alive, since this application was transferred u/s 6(3) to the Ministry of Finance which in turn has advised appellant Shri Ashwani Kumar to approach Director General of Income Tax (Investigations) for further information, which information has not been received by him, and in a manner which prima facie amounts to deemed refusal, rendering the CPIO, o/o DGIT (Investigations) liable to penalty. Under the circumstances, a complaint on behalf of appellant Shri Ashwani Kumar is now registered u/s 18(1)(b) and **CPIO, Office of Director General of Income Tax (Investigations) directed to appear before us together with complainant Shri Ashwani Kumar on 30.4.2010 at 11.00 a.m.** to explain the reasons why information sought by appellant Shri Ashwani Kumar have not been

responded to and why he should not be, therefore, penalized to the extent of Rs. 250/- a day from the date when the information became due, subject to a maximum of Rs. 25,000/-.

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

(Wajahat Habibullah)
Chief Information Commissioner
12.3.2010

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
12.3.2010