

CENTRAL INFORMATION COMMISSION
Complaint No. - CIC/WB/C/2009/000152 dated: 20.03.'09
Right to Information Act- Section 18(1) (b)

Complainant: Shri Shivendra Kumar
Respondent: Department of Administrative Reforms & Public Grievances
(DoAR&PG), New Delhi.

Decision announced 16.3.'10

Facts:-

The Commission has received a complaint from Shri Shivendra Kumar of Khaugal, Patna, Bihar that his request under RTI Act, 2005 submitted to the Central Public Information Officer, Department of Administrative Reforms & Public Grievances, New Delhi, seeking information regarding action taken on his petition dated 12.02.2008, which was submitted to the department with a request for conducting a forensic enquiry of the particular pages of the tabulation register against the marks obtained by the complainant in 32nd Combined Competitive Examination conducted by Bihar Public Service Commission, together with information regarding probable date for getting his grievance redressed, has not been responded to, even though the same was duly submitted along with the requisite fee, dated 03.11.2008. Shri Shivendra Kumar has further alleged that no order has been passed by the 1st appellate authority on his appeal filed on 06.12.2008 u/s 19(1) of the Act.

Admitting the complaint of Shri Shivendra Kumar under Section 18(1) (b) of RTI Act, 2005 the Commission served a notice on 11.01.2010 on CPIO, Department of Administrative Reforms & Public Grievances, New Delhi for furnishing comments on the complaint. In response, CPIO Shri Badri Prasad, Deputy Secretary, DoAR&PG has submitted his comments on 19.01.2010 with a copy also endorsed to complainant. The CPIO has informed the Commission that the request dated 03.11.2008 and appeal dated 06.12.2008 of the complainant were transferred u/s 6(3) of the Act to the Secretary (CS and Co-ordn), Govt. of Bihar on 18.11.2008 and 16.12.2008 respectively under intimation to the

complainant because the petition dated 17.09.2001 of the complainant in which information was sought, had been forwarded to them for necessary action as the grievance of the complainant pertained to the government of Bihar. On the other hand the complainant Shri Shivendra through his rejoinder dated 28.01.2010 has informed the Commission that the petition dated 17.09.2001 regarding the same matter was filed with the Hon'ble President of India and was forwarded to the DoAR&PG for necessary action. Subsequently, the complainant has further questioned the transferring the application u/s 6(3) to the Govt. of Bihar.

Decision Notice

It is evident from the facts available in the record that the present complaint has been filed by the complainant for information regarding action taken on his petition submitted to the department on 12.02.2008 and not for the petition dated 17.09.2001. The CPIO nowhere in his comments has commented regarding the action taken on the petition of complainant Shri Shivendra Kumar dated 12.02.200, and hence, the comments submitted by him are incomplete. CPIO Shri Badri Prasad, Deputy Secretary, DoAR&PG is hereby directed to inform complainant Shri Shivendra Kumar of the status of the latter's petition dated 12.02.2008 of the complainant within 15 days from the receipt of this decision notice to Shri Shivendra Kumar.

Insofar as the question of transferring an application u/s 6(3) of the Act, Section 6(3) reads:-

Where an application is made to a public authority requesting for an information,—

*(i) which is held by another public authority; or
(ii) the subject matter of which is more closely connected with the functions of another public authority,*

the public authority, to which such application is made, shall transfer the application or such part of it as may be appropriate to that other public authority and inform the applicant immediately about such transfer."

In light of above provision, the CPIO's action in making the transfer cannot be questioned, as the grievance petition dated 17.09.2001 regarding the same

matter was forwarded to the Govt. of Bihar for necessary action and that Govt is custodian of the information sought by complainant. The complainant Shri Shivendra Kumar is hereby advised that, should he not have received a response from the Govt. of Bihar, he may approach the State Information Commission, Bihar in respect of the application and appeal which had been transferred to the Govt. of Bihar. The complaint is thus allowed in part. There will be no costs.

Announced this sixteenth day of March 2010. Notice of this decision be given free of cost to the parties.

Wajahat Habibullah
(Chief Information Commissioner)
16.03.2010

Authenticated true copy, additional copies of order shall be supplied against application and payment of the charge prescribed under the Act to the CPIO of this Commission.

Pankaj K. P. Shreyaskar
Joint Registrar.
16.03.2010