

CENTRAL INFORMATION COMMISSION

Appeal No.2971/ICPB/2008

F. No. PBA/2008/00707

October 27, 2008

In the matter of Right to Information Act, 2005 – Section 19

[Hearing on 15.10.2008 at 5.00 p.m.]

Appellant: Mr. R.K. Chopra

Public authority: D/o Industrial Policy & Promotion
Mr. S.K. Thade, Director & CPIO
Mr. N.N. Prasad, JS & Appellate Authority

Parties Present: For Respondent:
Mr. S.K. Thade, Director & CPIO
Mr. Jugal Kishore, SO

Mr. R.K. Chopra-Appellant
Mr. Ravi K. Mirg

FACTS:

The appellant has sought information under RTI Act by his application dated 15.2.2008 requesting information pertaining to his disciplinary case which has resulted in his dismissal. The PIO vide letter dated 14.03.2008 informed the appellant since a criminal appeal against conviction by trial court is pending in the High Court of Delhi, this matter is subjudice, this information cannot be given under section 8(1)(h) as it may impede the process of investigation. The appellant is aggrieved with the said decision and filed appeal on 19.3.2008 which was disposed of by the AA on 10.4.2008 in which he has endorsed the view taken by the CPIO in rejecting the application under section 8(1)(h) of the Act. The appellant has filed appeal before the Commission on 5.5.2008. Comments were called for vide letter dated 15.7.2008 which was received on 26.7.2008. This case was taken up for hearing on 15.10.2008, which was attended by the Director and Section Officer of Ministry of Commerce and Industry and the appellant also attended the hearing in person.

DECISION:

2. I have gone through the RTI application as well as replies received in this connection. In the application, the appellant is requesting information pertaining to disciplinary case which was initiated by the Department and which has also been concluded by Department by imposing penalty of dismissal from service whereas while rejecting the information the PIO and AA have taken a stand since the trial in criminal appeal against conviction is pending in the High Court of Delhi

this information cannot be given under section 8(1)(h) of RTI Act as it would impede the progress of the case. This is not the right stand taken by the public authority. It appears the official has been initiated with departmental action for which he was awarded the penalty of dismissal. Simultaneously the criminal case is also been filed in trial court and this appeal is pending in the High Court. Both these issues cannot be clubbed together. As far as the appellant is concerned his disciplinary action has been completed and appellant has gone against the dismissal by way of a writ petition in the High Court and he is entitled for this information as it is available in their records. Therefore, I direct the PIO to provide the disciplinary case file in which this matter has been taken up with the CVC as well as UPSC before giving penalty of dismissal for his inspection on a mutually convenient date. After inspection the appellant can request for the relevant copies which will be given to him by the PIO. This exercise should be completed within 15 days from the date of receipt of this direction.

In the application, the appellant has also requested information pertaining to two representations, which he has submitted to the Vigilance Desk on 19.5.2004 and 1.7.2004. The CPIO is directed to provide the present status of these two representations after ascertaining from the Vigilance Branch and provide it to the appellant within the above 15 days.

On the above lines, the appeal is disposed of.

Let a copy of this decision be sent to the appellant and CPIO.

Sd/-
(Padma Balasubramanian)
Central Information Commissioner

Authenticated true copy :

(Prem Singh Sagar)
Under Secretary & Assistant Registrar

Address of parties :

1. Mr. S.K. Thade, Director & CPIO, Department of Industrial Policy & Promotion, (Vigilance Desk), Udyog Bhavan, New Delhi-110011
2. Mr. N.N. Prasad, JS & Appellate Authority, Department of Industrial Policy & Promotion, (Vigilance Desk), Udyog Bhavan, New Delhi-110011
3. Mr. R.K. Chopra, Flat No. 38, Amardeep Coop. Group Society, Plot No. 13/2, Sector-9, Rohini, Delhi-110085.