

CENTRAL INFORMATION COMMISSION
Club Building (Near Post Office)
Old JNU Campus, New Delhi - 110067
Tel: +91-11-26161796

Decision No. CIC/SG/A/2012/000557/18356
Appeal No. CIC/SG/A/2012/000557

Relevant Facts emerging from the Appeal:

Appellant : Mr. Joginder Dhaiya,
Federation of Narela Sub-City,
Gali No.15, Sanjay Colony,
Main Safiabad Road,
Narela, Delhi-110040.

Respondent (1) : Mr. Rajesh Khanna
Public Information Officer & SE(Narela Zone)
Municipal Corporation of Delhi,
Senior Engineer,
Narela Zone,
Narela, Delhi-110040.

(2) : Mr. K. K. Dhiran
Deemed PIO & EE(M-I)
Municipal Corporation of Delhi,
Narela Zone,
Narela, Delhi-110040.

RTI application filed on : 15/10/2011
PIO replied : Not mentioned
First appeal filed on : 04/12/2011
First Appellate Authority order : 30/01/2012
Second Appeal received on : 16/02/2011

Information Sought:

1. Provide the detailed report on all the points relating to the amount of yearly budget approved for the current tenure of the Municipal Councilors (four) within the Narela Legislative Area, and how much money was allocated/reserved for different works from the approved budget.
2. Provide detailed report on the amount of the budget which was cancelled owing to non-use of the budget money of each councilor every year.
3. Provide detailed report of the current year's budget allocation to different councilors and also the dates on which the allocated budget would be given to them and also how much money will be spent on different works.

Reply of the Public Information Officer (PIO):

Not Enclosed/not replied.

Grounds for the First Appeal:

Incomplete and unsatisfactory information provided by the PIO. Delay in providing the information.

Order of the First Appellate Authority (FAA):

The appellate authority directed the EE(M)-I/APIO to prepare the point wise reply and hand over the same to the appellant on Monday, the 30/01/2012, without fail. As regards delay, SE/PIO and EE(M)-I/APIO were cautioned to be careful in future. The case was closed.

Grounds for the Second Appeal:

Incomplete and unsatisfactory information provided by the PIO. No reply received by the appellant even after FAA's order to do so within the stipulated time.

Relevant Facts emerging during Hearing:

The following were present

Appellant: Mr. Joginder Dhaiya;

Respondent: Mr. K. K. Dhiran, EE(M-I) on behalf of Mr. Rajesh Khanna, PIO & SE(Narela Zone);

The Appellant had sought information which is supposed to be declared suo-moto as per the order of the Commission on boards to be displayed by MCD in decision no. CIC/SG/C/2010/001291/11403 on 10 February 2011. The Respondent claims that he had informed the Appellant by speed post letter sent on 21/11/2011 receipt no. ED39352515IN that the Appellant should come and inspect the records. The Respondent Mr. Dhiran admits that he was the deemed PIO in the instant matter. He had given three alternate dates on which the Appellant can come for inspection. After the order of the FAA he states that he sent the information on 31/01/2012. The Appellant points out that the details of works have not been provided to the Appellant.

The information which has been sought by the Appellant was provided in one page and the Respondent agrees that this was information which was to be displayed suo-moto on the boards. The Commission also notes that despite the delay the PIO did not provide the details of the works.

The Commission cannot see any reason for PIOs to summon citizens for inspection where the information is supposed to be put up suo-moto on their boards. The Respondent could have informed the Appellant about the additional fees to be paid and given the information after the payment of fees.

It is evident that the Appellant has been put to unnecessary hardship in having to pursue the matter in appeals when information should have been provided without any delay. Harassment of a common man by public authorities is socially abhorring and legally impermissible. It may harm him personally but the injury to society is far more grievous. Crime and corruption thrive and prosper in the society due to lack of public resistance. Nothing is more damaging than the feeling of helplessness. An ordinary citizen instead of complaining and fighting succumbs to the pressure of undesirable functioning in offices instead of standing against it. Therefore the award of compensation for harassment by public authorities not only compensates the individual, satisfies him personally but helps in curing social evil. It may result in improving the work culture and help in changing the outlook. The Commission in exercise of its power under Section 19(8)(b) of the RTI Act awards a compensation of Rs.3000/- to the Appellant for the loss and detriment suffered by him in having to pursue the appeals and getting the information late. The Commission recommends that the Municipal Commissioner recover this amount from the salary of the persons responsible for this.

The Appellant claims that he has been threatened since he is following this RTI application. He states that he has received threats from Mr. Praveen Gupta Corporator and Sanitary Inspector Mr. Subhash Chander. He states that he has been physically manhandled on 10 April 2012. He also states that has received unsigned anonymous letter threatening him and has filed a complaint at Narela Police Station. The Commission advises the Station House Officer of the Narela Police Station to take cognizance of this complaint with seriousness and after assessing the matter take appropriate actions if necessary. The Commission takes matters of threats to RTI users very seriously and will ensure that the state offers protection to RTI users and ensures that those who harass or intimidate them will have to pay the consequences.

Decision:

The Appeal is allowed.

The Commission directs Mr. K. K. Dhiran Deemed PIO to provide the details of works as sought by the Appellant before 30 April 2012.

The Commission also directs the PIO Mr. Mr. Rajesh Khanna to ensure that a cheque of Rs.3000/- as compensation is sent to the Appellant before 01 June 2012.

The issue before the Commission is of not supplying the complete, required information by the PIO Mr. Rajesh Khanna and Mr. K. K. Dhiran APIO within 30 days as required by the law.

From the facts before the Commission it is apparent that the PIO and Deemed PIO are guilty of not furnishing information within the time specified under sub-section (1) of Section 7 by not replying within 30 days, as per the requirement of the RTI Act.

It appears that the deemed PIOs actions attract the penal provisions of Section 20 (1). A showcause notice is being issued to them, and they are directed give their reasons to the Commission to show cause why penalty should not be levied on them.

PIO Mr. Rajesh Khanna and Mr. K. K. Dhiran APIO will present themselves before the Commission at the above address on **09 May 2012 at 04.30PM** alongwith their written submissions showing cause why penalty should not be imposed on them as mandated under Section 20 (1). **They will also bring the information sent to the appellant as per this decision and submit speed post receipt as proof of having sent the information to the appellant.**

If there are other persons responsible for the delay in providing the information to the Appellant the PIO is directed to inform such persons of the show cause hearing and direct them to appear before the Commission with him. If no other responsible persons are brought by the persons asked to showcause hearing, it will be presumed that they are the responsible persons.

This decision is announced in open chamber.

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

Any information in compliance with this Order will be provided free of cost as per Section 7(6) of RTI Act.

Shailesh Gandhi
Information Commissioner
12 April 2012

(In any correspondence on this decision, mention the complete decision number.)(ss)

CC to:

The Municipal Commissioner
Municipal Corporation of Delhi
04th Floor, Dr. SPM Civic Center,
New Delhi

Copy through Appellant to Mr. Joginder Dhaiya, Appellant to:

1- Station House Officer, Narela Police Station;