

News on Right to Information

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7th Mar 2009

Details of police complaints, arrest warrants can be made public: CIC -

The Times of India

NEW DELHI: Overruling Delhi Police's objections, the Central Information Commission (CIC) recently decided that complaints, action taken reports, arrest warrants and other details against an individual could be made public and did not violate the person's right to privacy.

The commission ordered that the information be made available to the applicant within 15 working days, saying the matter was already discussed in Parliament -- which attests to the demands of public interest -- and left no justification for withholding the information.

Quoting a recent Madras High Court decision, chief information commissioner Wajahat Habibullah said the court had concluded that the "right to privacy fades out in front of the Right to Information and larger public interest".

An applicant, Prakash Jus Roy, had asked for information related to list of complaints, FIRs, arrest warrants, action taken reports and non-traceable reports filed in the case of builders T C Jaina and his sons, Rajender and Rakesh Jaina.

The information was denied by joint commissioner of police (New Delhi) Alok Verma on the plea that the appellant had sought information related to a third party. Under section 11 of the RTI Act, for information related to a third party, the person must be allowed to present his objections. When contacted, the third party, in this case Rajender Jaina, objected to information being given to Roy.

Roy then approached the CIC, arguing that the issue was discussed on the floor of both Lok Sabha and Rajya Sabha and that Jaina continued to cheat people and it was in larger public interest to disclose the information.

Habibullah heard Jaina's objections who sought exemption under section 8 of the RTI Act that says notwithstanding anything in the Act, no citizen shall be obligated to give "information which has been expressly forbidden to be published by any court of law or tribunal or the disclosure of which may constitute

contempt of court".

However, CIC finally ruled that there was larger public interest in making this information public.

7th March 2009

CIC allows cop access to assessment grades –

The Times of India

AHMEDABAD: The Central Information Commission has given a breather to the embattled 1992 batch IPS officer Rajnish Rai in his appeal under the Right to Information Act against the Union ministry for home affairs.

In a marked departure from the positions it had taken in earlier cases, CIC has overruled the MHA stand that Supreme Court decisions on the subject should be considered, and asked it to grant Rai access to the grades entered in his annual confidential reports.

It also has provided access to Rai to the proceedings of 190th meeting of Central Police Establishment Board held in the Union home secretary's office, which considered his empanelment to the centre as DIG.

MHA had earlier turned down Rai's request seeking these details under RTI, stating they were confidential and exempt. Rai wanted to know that though eligible, why was he not empanelled.

CIC held that non-communication of entries in ACRs of a public servant has civil consequences, as it may affect his chances for promotion or other benefits. Holding non-communication would be arbitrary and violative of Article 14 of the Constitution, it set aside MHA's decision.

SC had held that principles of natural justice, fairness and transparency in public administration requires that all entries (poor, fair, average, good or very good) in a public servant's ACR, must be communicated to him within a reasonable period. This, so that he can make a representation for its upgrade.

14 th March 2009

Wives perceived as 'home utility service': Kiran Bedi

The Hindu

Bangalore (PTI): In India, where a woman is beaten up every three minutes, a wife is often considered a "home utility service" to discharge various duties, according to Magsaysay award winner and former DGP, Kiran Bedi.

Delivering the keynote address at a seminar on Domestic Violence, Bedi, the anchor of a television show 'Aap Ki Kachehri', said that her experiences handling the disputes during the show revealed that much of the anger was vented as the spouses perceived their wives as "failing" in "discharging their duties" including completing household chores, disagreeing with in-laws, refusing to tow the line and 'neglect' of the spouse and loyalty to her maternal home.

The other common causes of violence was alcohol and drug abuse, dowry, criminal acts and failure to bear a male child.

India figured high internationally on domestic violence at 45 per cent with Poland leading at 60 per cent and Japan at 59 per cent. The lowest incidence was reported from Cambodia (16 per cent), Columbia (19 per cent), New Zealand (20per cent). There was no country where domestic violence was zero per cent, she said.

Currently there were very few family counselling centres and the public, using their Right to Information must seek to find out how the budgets of the Social Welfare Department were being used. Some funds could be diverted to setting up such centres, she said.

14 th March 2009

Cops' RTI reply on missing kids costs Rs 78,927

The Times of India

NEW DELHI: How much could asking for information on missing children under the RTI Act possibly cost? Well, if the questions are addressed to Delhi Police, it could be as high as Rs 78,927. That's exactly how the office of DCP (southeast) responded to an application filed by the NGO, Bachpan Bachao Andolan (BBA), seeking details of Delhi's missing children (2006-08).

In a reply to the BBA application, the DCP's office said, "We have to suspend our regular work in order to furnish the requisite information sought by you for which

considerable manpower will be utilised/diverted to discern this information. Hence, as per provisions of Sec 7(3)(a) of RTI Act, 2005, the requisite details/information can be provided on payment."

The letter then provides the project's financial details. For instance, one head constable each from 15 police stations in the district would work for three days at the rate of Rs 840 per day costing Rs 37,800. Similarly, one constable each from the 15 police stations working for the same would cost another Rs 36,945. Similar charges for the sub-inspector associated with the work for three days adds another Rs 4,182 to the cost.

Section 7(3)(a) of RTI Act, 2005, says the public information officer shall send intimation to the person making the request giving "the details of further fees representing the cost of providing the information as determined by him, together with the calculations made to arrive at the amount in accordance with fee prescribed...".

The police seems to believe it is playing by the rules. However, activists are wondering whether the letter is just a way of making it difficult to obtain information. "The question of public authorities charging citizens the cost of manpower employed for collection of information does not arise. Compliance with the Act's provision is like any legal duty performed by a public servant," says RTI activist Commodore Lokesh Batra.

Interestingly, Rakesh Sengar of BBA, points out that other police districts such as northeast and west have offered information on the same without asking for any legwork money as done by the southeast police. The NGO has appealed to the Central Information Commission, says Sengar.

It is not an open and shut case though. Wajahat Habibullah, Chief Information Commissioner, says there are similar cases pending before the commission. "This is a live issue before us. We have not passed any judgment in this regard," he says. Those in favour of right to information would be hoping a favourable decision comes sooner than later.

15 Mar 2009

Despite RTI, information remains forbidden

The Times of India

LUCKNOW: RTI is apparently the `road to infinite' wait for common man before he gets in the know of not-so-common knowledge. Meant to assure a peep into the forbidden corridors of power within 30-days time, the Right to Information Act is far from achieving its motive in the state especially when even half-a-dozen hearings held by information commission fail to help the cause.

The case of an applicant, Naresh Dikshit firmly meets the aforesaid. He had sought information about the allocations made from the chief minister's discretionary fund every year over a period between January 1991 and July 2007, people and organisations who had been the beneficiaries and also about

the rule book, if any, followed while disbursing money from the fund over the said period.

"After two years, the information that I have got is wrong and incomplete", rued Dikshit. The case has already been heard five times in the state information commission on April 21, July 10, October 20, December 11, 2008, and March 13. The latest hearing has been fixed for May 27, 2009 after the applicant complained that he has been provided with wrong information.

"I had asked for the certified copy but all I have got is a simple paper and I do not know how far to trust the figures printed on it", he added. Though the official figures show the annual budget allocation for the discretionary fund ranging between Rs 20 lakh and Rs 25 crore from 1991-92 till 2007-08, there is no information on the beneficiaries.

The application requesting a five-point information was made to the Public Information Officer (PIO), chief minister's office, on August 24, 2007. But, information to the applicant has been constantly denied since then. Three months later on November 30, 2007, an appeal was filed with the first appeal authority but even that did not help. The half-baked information could reach him only on December 8 last year.

The PIO has mentioned that there has been no complaint received regarding the misuse of the money disbursed from the discretionary fund. And about the audit of the fund, as was questioned by the applicant, the PIO stated that it is conducted every year by the auditor general, Allahabad. To get the copy of the same, the applicant was told to contact the said official.

On the `rule-book' for disbursement of funds, the information was provided only about November 2006 rule-book. "I have asked them to clarify if it was the common rule-book all through", said the applicant. The next hearing at the commission is the only hope he has.

It is worth mentioning that Lucknow bench of the High Court in its verdict dated July 2008 held that information regarding disbursement and utilisation of CM's discretionary fund can be sought under the RTI Act by people on lawful demand. Being a public fund it comes within

16th March 09

'Speaker's nod needed to disclose assets of ministers from LS' –

The Hindu

New Delhi (PTI): The CIC has referred the matter on public disclosure of assets of Union ministers belonging to Lok Sabha, under the Right to Information Act, to the Speaker.

In its observation, the CIC said, "...because under the Lok Sabha Rules...such information is not disclosable except with the permission of the Speaker, the matter will be referred to Somnath Chatterjee, Speaker of the Lok Sabha for

disclosure of such information as relates to those Members of the Council of Ministers who are Members of the Lok Sabha."

Regarding the ministers belonging to Rajya Sabha, the Central Information Commission (CIC) said if there is a similar rule for the House, the same could also be exercised or else the matter be referred to the third parties (ministers in this case) to seek nod for disclosing the assets.

"If there is any equivalent Rule with regard to the Rajya Sabha, this may also be exercised, although, we were not told of existence of any such Rules during the hearing," it said. "If no such rules in fact exist, the matter will be referred to the third parties concerned...This process may be completed within 30 working days of the date of issue of the Decision Notice," Chief Information Commissioner Wajahat Habibullah said.

21st Mar 2009

UPSC student gets access to factual sheets –

The Times of India-

AHMEDABAD: A student who appeared for the Union Public Services Commission's (UPSC) civil services examinations, has been allowed access to the marked factual summary sheets (FSS) prepared by UPSC before his personal interview. The Central Information Commission (CIC) dismissed UPSC's arguments as "unacceptable" and allowed access to an applicant seeking copies of summary sheets of his exams under Right to Information (RTI) Act.

The case pertains to city's Vinesh Singh Rore who appeared for UPSC civil services examinations in 1999 and 2000. Rore had sought certified copies of FSS submitted to civil services exam board under RTI. His application also asked other information about exams to get his grievances redressed. UPSC had submitted before CIC that summary sheet is filled as part of examination process and is technically a part of answersheet and cannot be made available for scrutiny by the examinee.

The argument was in line with an earlier decision of the CIC where it had denied disclosure of evaluated answer sheets stating that it would render the system of examinations unworkable. However, in this case CIC held that disclosure of the summary sheet is unlikely to have the same effect.

Before CIC, Rore appealed that while a blank copy of his summary sheet was provided to him, he was seeking a marked summary sheet of no third party but his own. On other hand, UPSC argued that disclosing the summary sheet would tantamount to disclosure of the answer sheet.

Chief information commissioner Wajahat Habibullah held UPSC's arguments as "unacceptable" and ordered a copy of summary sheet concerning his interview to be supplied to Rore within 15 days.

25TH MARCH 09

Computerisation will help easy access to info: CIC

The Indian Express

BHUBANESWAR: Chief Information Commissioner, India, Wajahat Habibullah has underscored the need to accelerate computerisation of departments and digitisation of records so that access to information can be universalised in the country.

While it is the right of every citizen to be able to access information, it is the duty of the Government to pro-actively make available key information to all barring those exempted.

The e-Governance initiatives should include RTI as a key component.

Computerisation of departments and making available of all records and documents through a network of universal connectivity can make access to information easy and instant. But India's core competence (expertise in IT) is surprisingly not capitalised upon.

Let not the citizen make rounds of offices seeking information. Let him just walk into a cyber cafe to access all information that he wants.

In the US, one has to just pick up a phone to get information. Why cannot accessing information be made easier here? the CIC asked.

Delivering the Foundation Day lecture of Centre for Youth and Social Development (CYSD), Habibullah said the dawn of a new Swaraj has come only now with the Right To Information (RTI).

It materialises the dreams of Mahatma Gandhi of enabling an informed citizenry, which in turn would counter corruption, enhance transparency and ensure accountability in the government.

The freedom to access any information would enable monitoring of governance, to know about what is being done to address issues concerning them.

The CIC took note of the developments in Orissa, particularly a recent instruction by Chief Secretary AK Tripathy to all departments to list out all categories of documents held by them in 21 days.

The list once uploaded on the Internet would make access easy for all and others should follow, he stated.

Elaborating on the RTI, he said the Act includes right to inspect works and even take samples of materials to determine the quality of work.

Citing cases in Delhi, samples of material has been widely used by slum-dwellers of the National capital, with illiterate women taking the lead, to bring about positive change in developmental works.

The NGOs and rights organisations can play a vital role in generating awareness on the RTI programmes.

Chief Secretary AK Tripathy, State Information Commissioner Jagadananda, CYSD chairman PK Sahoo and Prof AK Dash of Utkal University spoke.

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26th March 2009

Two govt officials fined under RTI Act –

The Times of India

PATNA: The State Information Commission (SIC) on Wednesday imposed fine on two government officials for violation of Right to Information (RTI) Act. Those found on the wrong side of the Act are an executive engineer of electricity supply division in Saharsa district and secretary of Vishunpur Panchayat in Madhubani district.

Both these officials failed to respond to the applications filed seeking information under RTI Act. In both these cases, the SIC imposed a fine at the rate of Rs 250 per day with upper limit of fine being Rs 25,000.

The SIC also directed the erring officials to provide information to the applicants by May 11 and fixed May 18 as the next date of hearing of the cases.

29th March 2009

Info chief invites activists' wrath for going soft on babus –

The Times of India

MUMBAI: Pandemonium broke out at a public meeting on governance and Right to Information Act (RTI) on Saturday when activists accused state information commissioner Ramanand Tiwari of soft-peddling appeals filed by citizens.

The activists burst out in outrage when Tiwari said he showed leniency to public information officers (PIO) who did not provide data within the prescribed 30 days because he felt that even they had families to look after and levying a penalty of Rs 5,000 would be too heavy on them. He was participating in a question-answer session with RTI activists, who urged the state information commission to tackle the issue of huge pendency of appeals that is "slowly killing the RTI Act".

Tiwari, a former secretary of the state urban development department, faced a

volley of grievances from RTI applicants who participated in the discussion on the role of the Act and better governance at a seminar organised by Janhit Manch on Saturday. While some of the queries directly questioned his controversial order, in which he was reportedly soft on the PIOs, others related to his inaction against PIOs who blatantly disregard the SIC orders. Tiwari brushed aside most of the queries, saying they were "personal in nature".

"I know there have been complaints like me being too soft on PIOs, but then my disposal rate has been good. For me, the priority lies in providing information, but since the issue has been raised, I will try to improve and impose more penalties in future," Tiwari said. The number of complaints and appeals with SIC touched over 15,000 till December last year.

Tiwari did agree that the bureaucracy need to be sensitised. "In fact, after receiving complaints against the pending appeals, we have written to the chief secretary to issue instruction to all officers to comply with the RTI Act," he said.

RTI activist Mohammed Afzal said he was shocked at the stance taken by the state information commissioner. "He has not yet dealt with most of the complaints against PIOs not providing information even after SIC ordered to furnish details. This is a grave matter and applicants are losing faith in efficacy of the RTI Act," he said.

Consumer activist Rajan Alimchandani claimed that Tiwari had passed an order directing that Bar Council of Maharashtra and Goa does not come under the purview of the RTI Act. "I have got a copy from the CIC, which says the bar council comes under the purview of the Act," he said.

Central Information Commissioner Shailesh Gandhi told TOI that all commissioners should immediately look into the large pendency of appeals. "I have disposed of 2,600 appeals in the last six months. I have now cleared appeals pending over the past two years. So far, I have only denied information in about only 15 queries," Gandhi said. "Information can be denied under the RTI Act only in 10 exemptions under Section 8 of the Act. The Act may become ineffective if the commissions did not address the issue and be strict while dealing with PIOs and the appellate authority."

28th March 2009

Activists question move to appoint new info commissioners
The Times of India

DELHI: Civil rights activist Aruna Roy has opposed the government's move to appoint new information commissioners and has sought the Election Commission's intervention to halt the process.

Terming the move "regrettable", Roy pointed out that appointment of information commissioners while the model code of conduct was underway would raise concerns over the process of recruitment.

According to sources, the department of personnel and training has moved a proposal to appoint two information commissioners. It is learnt that while one person is a retired civil servant, the other belongs to a non-government organisation. There are seven information commissioners at present including chief information commissioner Wajahat Habibullah.

A letter signed by Roy and RTI activist Shekhar Singh sought the EC's intervention to "advise the government to refrain from appointing information commissioners during the run-up to the general elections as this would be a clear violation of the model code of conduct and would raise legitimate concerns about the fairness and the impartiality of the selection process".

Sources added that there was no real need or urgency for new commissioners. In fact, the present set is facing a staff crunch and is unable to handle the workload due to that.

According to estimates, a commissioner costs about Rs 25 lakh per year — including salary, house and transport facilities — to the public exchequer and the decision to appoint people should not be taken lightly. The Central Information Commission has an average disposal of 1,300-1,400 cases per commissioner while it is expected to be 4,000-5,000 cases.

Roy also questioned the timing of the move. Issues concerning the process of appointment and the strengthening of capacities of the information commissions have been repeatedly raised by right to information activists, and concerned citizens both at the state and central levels.

"They (information activists and citizens) have argued that the selection of information commissioners should be a transparent process based on an understanding of the current membership of the commission and the ideal mix and balance between different backgrounds and expertise of the commissioners. However, despite such protests, it is particularly regrettable that the government has decided to go ahead with these appointments even as the model code of conduct preceding the general elections has come into force," the letter said.

30 Mar 2009

RTI activists irked by cumbersome filing procedure –

The Times of India

CHENNAI: T Sadagopan, a consumer activist in Pattabiram, was surprised to see his appeal under the Right To Information Act returned four months after he sent it to the Central Information Commission (CIC). The CIC sent him a four-page communication explaining how to file an appeal.

Stating that his appeal was not in accordance with the procedure prescribed, the CIC put a condition that the appellant, before sending an appeal to the commission should give a copy to the public information officer of the department about which he had sought information and a copy to the head of that department, who is the first appellate authority, An acknowledgement of this should be enclosed with the appeal to the CIC.

The commission insisted that the appeal should also have documentary proof of the fee paid along with the original application. It should also contain two sets of copies of all the documents to get the appeal admitted for hearing.

Sadagopan is not alone. The long process of filing an appeal has irked the community of RTI activists with many saying it was against the spirit of the RTI Act itself.

"The CIC has gradually introduced several unreasonable and unnecessary procedures as if it is a court where we cannot file a petition without an advocate. The commission just returned one of my appeals saying it should contain five sets of copies of the documents enclosed. I avoided filing three or four appeals with the CIC merely because of the cumbersome procedure. But it is not so in the case of the State Information Commission," said V Gopalakrishnan, a social worker in K K Nagar.

"While the RTI Act encourages the filing of applications by not prescribing any specified format for it but stipulating that public information officers should help applicants write the application if they are illiterates or physically challenged persons, the CIC's unwanted procedures discourages people from filing appeals," said M Nizamudeen, general secretary of Consumer Confederation of India.

CIC chief commissioner Wajahat Habibullah admitted there were some procedural difficulties and said many of them were being removed. "The

appellants need not send a copy of the appeal to the PIO or the first appellate authority now. We have also introduced online filing of appeals. The documents can be sent to us through e-mail," he said.