

OPEN DECISIONS

THE RIGHT TO INFORMATION ACT 2005

LANDMARK DECISIONS OF THE CENTRAL INFORMATION COMMISSION AND STATE INFORMATION COMMISSIONS AND JUDGMENTS OF THE COURTS

Decisions that provide guidance on future similar cases and reduce the need of appeals

Sections 9-20

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- 9 **Grounds for rejection to access in certain cases:– Without prejudice to the provisions of section 8, a Central Public Information Officer or a State Public Information Officer, as the case may be, may reject a request for information where such a request for providing access would involve an infringement of copyright subsisting in a person other than the State.**
- 10 **Severability:–**
- (1) **Where a request for access to information is rejected on the ground that it is in relation to information which is exempt from disclosure, then, notwithstanding anything contained in this Act, access may be provided to that part of the record which does not contain any information which is exempt from disclosure under this Act and which can reasonably be severed from any part that contains exempt information.**
- (2) **Where access is granted to a part of the record under sub-section (1), the Central Public Information Officer or State Public Information Officer, as the case may be, shall give a notice to the applicant, informing—**
- (a) **that only part of the record requested, after severance of the record containing information which is exempt from disclosure, is being provided;**
- (b) **the reasons for the decision, including any findings on any material question of fact, referring to the material on which those findings were based;**
- (c) **the name and designation of the person giving the decision;**
- (d) **the details of the fees calculated by him or her and the amount of fee which the applicant is required to deposit; and**
- (e) **his or her rights with respect to review of the decision regarding non-disclosure of part of the information, the amount of fee charged or the form of access provided, including the particulars of the senior officer specified under sub-section (1) of section 19 or the Central Information Commission or the State Information Commission, as the case may be, time limit, process and any other form of access.**
- 11 **Third party information:–**
- (1) **Where a Central Public Information Officer or a State Public Information Officer, as the case may be, intends to disclose any information or record, or part thereof on a request made under this Act, which relates to or has been supplied by a third party and has been treated as confidential by that third party, the Central Public Information Officer or State Public Information Officer, as the case may be, shall, within five days from the receipt of the request, give a written notice to such third party of the request and of the fact that the Central Public Information Officer or State Public Information Officer, as the case may be, intends to disclose the information or record, or**

part thereof, and invite the third party to make a submission in writing or orally, regarding whether the information should be disclosed, and such submission of the third party shall be kept in view while taking a decision about disclosure of information:

Provided that except in the case of trade or commercial secrets protected by law, disclosure may be allowed if the public interest in disclosure outweighs in importance any possible harm or injury to the interests of such third party.

- (2) Where a notice is served by the Central Public Information Officer or State Public Information Officer, as the case may be, under sub-section (1) to a third party in respect of any information or record or part thereof, the third party shall, within ten days from the date of receipt of such notice, be given the opportunity to make representation against the proposed disclosure.
- (3) Notwithstanding anything contained in section 7, the Central Public Information Officer or State Public Information Officer, as the case may be, shall, within forty days after receipt of the request under section 6, if the third party has been given an opportunity to make representation under sub-section (2), make a decision as to whether or not to disclose the information or record or part thereof and give in writing the notice of his decision to the third party.
- (4) A notice given under sub-section (3) shall include a statement that the third party to whom the notice is given is entitled to prefer an appeal under section 19 against the decision.

What can a PIO do if the number of third parties is huge?

“In view of the fact that the number of third-parties in this case runs to over 800, the AA may choose to call for hearing certain representatives of all third-parties, selecting them from samples of large, medium and small investors and, pass a speaking order...”¹

Third party

The RTI Act does not give a third party an automatic veto on disclosure of information. PIO and A.O are required to examine the third party's case in terms of provisions of section 8(1) (j) or Section 11(1) as the case may be and arrive at a finding by properly assessing the facts and the circumstances of the case. A speaking order should thereafter be passed.²

Third party

It is possible that the PIO and the AA didn't consider invoking the provision of

¹ CIC/AT/A/2007/01554,30th May, 2008

² CIC/AT/A/2006/00014-22 May, 2006.

Section 7(7) because they had, in any case, reached a decision not to disclose the information requested by the appellant; and Section 11(1) which Section 7(7) refers, is to be invoked only when a PIO “intends” to disclose any confidential information or record supplied by a third party, and not otherwise. This approach excludes the other possibility that the third party may have no objection to the disclosure of the information, in which case disclosure can be authorized even when an information is prima-facie a personal information, and if it does not attract any other exemption. In my view Sections 7(7), 11 and 7(1) have to be read together. The combined reading of these Sections leaves a clear impression, that when the information sought by an applicant have had a third party link, then “before taking any decision” (Section 7, sub-section 7) under sub-section (1) of Section 7, viz. “either provide the information or ... reject the request”, the PIO will need to consult / hear the third party. Section 11(1) adds another dimension to the protection of third party interest, viz. giving a hearing to the 3rdparty if the PIO intends to disclose any information entrusted to the public authority by the third party and “which has been treated as confidential” by such 3rdparty. The requirement of hearing the representation of the 3rdparty in respect of an ordinary as well as a confidential information relating to that 3rdparty, is a common thread linking these Sections and sub-sections, and should therefore be construed as an invariant procedural as well as a substantive requirement of the RTI Act.³

Third party

The case pertains to one Dr. Vankayalpati Sri Venkateswar Prasad who had studied in AIIMS and got an MBBS degree in the year 1986 and later opened a deluxe hospital, the ‘Krishna Institute of Medical Science (KIMS)’ in Hyderabad. Dr. Prasad treated Shri Sanjeev Kumar Jain’s son who allegedly died at his hands. Shri Sanjeev Jain and his wife Smt. Anju Jain, a lecturer in Zoology, felt that Dr. Prasad was not a competent doctor and according to them on further enquiries, they discovered several discrepancies in the certificates the doctor had earned not only during his term of education, but even later. There were also discrepancies in the details of the passport that he had used to go to America. The couple, Shri Jain and Mrs. Anju Jain delved further into the matter and was convinced that this is a case of a fake doctor. To strengthen their case, as also to procure documents to pursue the matter further, they applied to AIIMS to provide them with photocopies or certified copies of the degrees and certificates that the AIIMS has in possession regarding this doctor. They also applied to the Regional Passport office, New Delhi for details of the passport number as well as the photograph on Dr. Prasad’s passport in order to find out whether he was using more than one passport. The AIIMS supplied them some documents which according to the couple were not only

³ CIC/AT/A/2006/00306-16.10.2006

incomplete but unsatisfactory. The Passport Office too refused to entertain their request on the ground that the request was an “invasion of the privacy” of the individual in question and, therefore, they could not disclose the information under Section 8(1) (j) of the Right to Information Act, 2005. The couple then approached this Commission for help in getting the requisite documents from AIIMS as well as the Passport Office.

Decision:

The Commission heard the case in detail and also examined several documents produced by the Appellants and came to the conclusion that the case had prima facie evidence of **forgery, impersonation** and falsification of documents. To establish the truth, therefore, it was necessary that all the documents regarding Dr. Vankayalpati be made available to the Appellants. The Commission ordinarily would not have entertained the request of the Appellant as the information related to the third party and being personal, the third party should be given notice in the interest of equity but this is a case of a Doctor who already allegedly mishandled a case causing loss of life and is also the Director of an entire medical set up. Therefore, the matter is definitely in public interest and is covered by Section 8(2) of the Act and warrants a thorough investigation. The Commission, therefore, directs CPIO, AIIMS to make available to Shri Sanjeev Kumar Jain and Mrs. Anju Jain all the records regarding Dr. Prasad and also provide them photocopies of the documents they required without payment of fees. The Commission also directs the Passport Office to provide to Shri Sanjeev Kumar Jain and Smt. Anju Jain a copy of the photograph of Dr. Prasad as in his passport and also the passport number without payment of any fee and allow them also to inspect any other passport carrying the same name but with different details. The information as directed above shall be provided without delay to the Appellants.⁴

Third party

Stiller and Department of Justice and Attorney-General; "RDR" (Third party); A Referee (Fourth party)

(S 113/02 [2/03], 12 January 2004)

The applicant sought access to certain documents concerning the prosecution and sentencing of the third party in the District Court in relation to offences committed against minors. The documents in issue comprised a psychiatrist's report about the third party, character references provided to the Court in support of the third party, and parts of statements by five police officers involved in the investigation of the third

⁴ CIC/OK/C/2006/00048 – 3 July, 2006.

party.

Applying the principles stated in *Re Stewart and Department of Transport* (1993) 1 QAR 227, the Deputy Information Commissioner found that, with the exception of some matter contained in the psychiatrist's report concerning the psychiatrist's professional qualifications *et cetera*, the matter in issue was properly to be characterised as concerning the personal affairs of persons other than the applicant, and hence that it was *prima facie* exempt from disclosure to the applicant under s.44(1) of the FOI Act, subject to the application of the public interest balancing test incorporated in s.44(1).

The Deputy Information Commissioner discussed in detail the various public interest considerations weighing for and against disclosure of the matter in issue. As regards the psychiatrist's report, the Deputy Information Commissioner considered that, in respect of those parts of the report which had been reproduced in the transcript of the District Court hearing or in the Court of Appeal's judgment, the weight of the public interest in protecting the third party's privacy interests had been significantly reduced. Balancing the reduced weight of the third party's privacy interests against the public interest in open justice and accountability of the criminal justice system, the Deputy Information Commissioner was satisfied that the disclosure of the relevant parts of the report would, on balance, be in the public interest. However, as regards those parts of the report which had not been published in any other forum, the Deputy Information Commissioner found that disclosure of such information would not, on balance, be in the public interest, and that it was therefore exempt under s.44(1) of the FOI Act.

As to the character references, the Deputy Information Commissioner considered that, with the exception of information relating to the third party's wife and other family members, disclosure of the references, including the authors' signatures, would enhance the public interest in scrutiny and accountability of the criminal justice system, such that disclosure would, on balance, be in the public interest. Accordingly, the Deputy Information Commissioner decided that the bulk of the information contained in the references did not qualify for exemption under s.44 (1) of the FOI Act.

As to the matter in issue in the police statements, given the fact that the third party had pleaded guilty to the offences with which he was charged, together with the amount and type of information which was already publicly available in the form of the transcript of the District Court proceedings and the Court of Appeal's judgment, the Deputy Information Commissioner considered that the weight to be attributed to the public interest in protecting the third party's privacy in respect of the matter in issue was minimal. He considered that disclosure would enhance the accountability

of the Queensland Police Service and the Director of Public Prosecutions regarding their investigation and prosecution of the third party. The Deputy Information Commissioner therefore decided that disclosure of the matter in issue in the police statements would, on balance, be in the public interest and that it did not qualify for exemption under s.44(1) of the FOI Act. [Office of the Information Commissioner (Queensland) Informal Decision Summaries 2005/2006.

CHAPTER III

The Central Information Commission

12 Constitution of Central Information Commission:—

- (1) **The Central Government shall, by notification in the Official Gazette, constitute a body to be known as the Central Information Commission to exercise the powers conferred on, and to perform the functions assigned to, it under this Act.**
- (2) **The Central Information Commission shall consist of—**
 - (a) **the Chief Information Commissioner; and**
 - (b) **such number of Central Information Commissioners, not exceeding ten, as may be deemed necessary.**
- (3) **The Chief Information Commissioner and Information Commissioners shall be appointed by the President on the recommendation of a committee consisting of—**
 - (i) **the Prime Minister, who shall be the Chairperson of the committee;**
 - (ii) **the Leader of Opposition in the Lok Sabha; and**
 - (iii) **a Union Cabinet Minister to be nominated by the Prime Minister.**

Explanation.—For the purposes of removal of doubts, it is hereby declared that where the Leader of Opposition in the House of the People has not been recognised as such, the Leader of the single largest group in opposition of the Government in the House of the People shall be deemed to be the Leader of Opposition.

- (4) **The general superintendence, direction and management of the affairs of the Central Information Commission shall vest in the Chief Information Commissioner who shall be assisted by the Information Commissioners and may exercise all such powers and do all such acts and things which may be exercised or done by the Central Information Commission autonomously without being subjected to directions by any other authority under this Act.**
- (5) **The Chief Information Commissioner and Information Commissioners shall be**

- persons of eminence in public life with wide knowledge and experience in law, science and technology, social service, management, journalism, mass media or administration and governance.
- (6) **The Chief Information Commissioner or an Information Commissioner shall not be a Member of Parliament or Member of the Legislature of any State or Union territory, as the case may be, or hold any other office of profit or connected with any political party or carrying on any business or pursuing any profession.**
- (7) **The headquarters of the Central Information Commission shall be at Delhi and the Central Information Commission may, with the previous approval of the Central Government, establish offices at other places in India.**

Should the Information Commission decide *en banc*?

Department of Personnel and Training (DOPT) objected to a Decision by Dr.O.P.Kejriwal and sought legal opinion from the Additional Solicitor General, who questioned the legality of the decisions taken by a single bench and opined that it is mandatory under the law that each of the case which is to be decided by the Commission has to be decided by its Full Bench as Section 12(1) and 12(2) of RTI Act provided that every decision of the Commission should be a Full Bench decision.

The Full Bench of the Central Information Commission in *Pyare Lal Verma v Ministry of Railways* (Appeal No.CIC/OK/A/2006/00154 dated 29.1.2007) rejected DOPT's argument which makes 'the right on a citizen to access information totally unworkable'. It further held as follows:

"The Right to Information Act, 2005 seeks to establish a practical regime to ensure that the right to access of information conferred on a citizen is put in actual practice in order to promote transparency and accountability in the working of every public authority. With that object in view, it provides for constitution of Central Information Commission and the State Information Commissions. In this context, it is pertinent to refer to the preamble of the Act which reads as under:-

"An Act to provide for setting out the practical regime of right to information for citizens to secure access to information under the control o public authorities, in order to promote transparency and accountability in the working of every public authority, the constitution of a Central Information Commission and State Information Commissions and for matters connected therewith or incidental thereto."

30. Thus, the constitution of the Central Information Commission is central to

the Act of 2005 and the Commission has been constituted to exercise the powers conferred on and to perform the functions assigned to it under this Act. The Act intends to secure complete autonomy to the Commission while exercising its powers and performing its functions assigned to it under the Act. It will be pertinent to quote the provisions contained in Section 12(4) of the Act which reads as under:

“The general superintendence, direction and management of the affairs of the Central Information Commission shall vest in the Chief Information Commissioner who shall be assisted by the Information Commissioners and may exercise all such powers and do all such acts and things which may be exercised or done by the Central Information Commission autonomously without being subjected to directions by any other authority under this Act.”

31. The Central Information Commission is, therefore, expected to work without being subjected to directions by any other authority under this Act and it is needless to say that any other authority would implicitly include the Government and any public authority. It is also clear that the general superintendence, direction and management of the affairs of the Commission vests in the Chief Information Commissioner and he may exercise all such powers and do all such acts and things which may be exercised or done by the Central Information Commission autonomously. The autonomy granted to the Commission would implicitly mean and include that the Commission has the freedom and powers to act independently and effectively for ensuring better management of its affairs. The constitution of the Benches is an integral part of internal management of the affairs of the Commission. If the Commission is of the view that the disposal of cases or discharging of the duties can be better managed by constitution of single or division Benches under these provisions, the Chief Information Commissioner is fully empowered to do so under Section 12(4) of the Act. The comparison with the powers assigned under the Consumer Protection Act 1986 is misplaced since there is no clause comparative to Sec 12(4) in that Act.

32. On behalf of the DoPT, it has been submitted that the rule making power is not with the Commission but it is with the appropriate Government under Section 27 of the said Act and such rule-making power includes prescribing the procedure to be adopted by the Central Information Commission or the State Information Commissions, as the case may be in deciding appeals under subsection (10) of Section 19. Although the rule-making power has been conferred on the appropriate Government under Section 27 of the Act, insofar as internal management is concerned, the Chief Information Commissioner is fully competent to frame Regulations or to lay down guidelines or issue directions as and when so required or considered necessary for management of the affairs of

the Central Information Commission and with a view to ensuring that it is in a position to function autonomously without being subjected to any direction by any other authority. The constitution of the Bench is not a part of the appeal procedure but it is a matter more connected with the internal management of the Commission and as such the rule making power conferred on the appropriate government does not in any way limit the authority of the Chief Information Commissioner to delegate powers of the Commission on an individual Information Commissioner or to a group of Information Commissioners as he thinks fit and proper for the proper performance of the functions of the Commission autonomously.

33. The very fact that the Government has already framed the rules and that these rules did not provide for constitution of the Benches makes it very clear that these matters concerning the constitution of Benches and internal management affairs of the Commission were left to be decided by the Chief Information Commissioner and the Commission has been deciding these matters normally in its Weekly Meetings, the minutes of which are displayed on its web site for the information of the general public. In this context, it may be pertinent to mention that the Commission has so far received more than 4,000 Appeals/complaints and if the contention of the DoPT that the Commission should hear and decide all Appeals and complaints sitting only in Full Bench is accepted, it would be amount to rendering the whole enactment meaningless negating the very first words of the Prelude to the Act, “for setting out the practical regime of right to information”. No such interpretation can ever be accepted which will make the Act, which confers the right on a citizen to access information totally unworkable.”

13 **Term of office and conditions of service:–**

- (1) **The Chief Information Commissioner shall hold office for a term of five years from the date on which he enters upon his office and shall not be eligible for reappointment:
Provided that no Chief Information Commissioner shall hold office as such after he has attained the age of sixty-five years.**
- (2) **Every Information Commissioner shall hold office for a term of five years from the date on which he enters upon his office or till he attains the age of sixty-five years, whichever is earlier, and shall not be eligible for reappointment as such Information Commissioner:
Provided that every Information Commissioner shall, on vacating his office under this sub-section be eligible for appointment as the Chief Information Commissioner in the manner specified in sub-section (3) of section 12:**

Provided further that where the Information Commissioner is appointed as the Chief Information Commissioner, his term of office shall not be more than five years in aggregate as the Information Commissioner and the Chief Information Commissioner.

- (3) The Chief Information Commissioner or an Information Commissioner shall before he enters upon his office make and subscribe before the President or some other person appointed by him in that behalf, an oath or affirmation according to the form set out for the purpose in the First Schedule.**
- (4) The Chief Information Commissioner or an Information Commissioner may, at any time, by writing under his hand addressed to the President, resign from his office:
Provided that the Chief Information Commissioner or an Information Commissioner may be removed in the manner specified under section 14.**
- (5) The salaries and allowances payable to and other terms and conditions of service of —**
- (a) the Chief Information Commissioner shall be the same as that of the Chief Election Commissioner;**
- (b) an Information Commissioner shall be the same as that of an Election Commissioner:**

Provided that if the Chief Information Commissioner or an Information Commissioner, at the time of his appointment is, in receipt of a pension, other than a disability or wound pension, in respect of any previous service under the Government of India or under the Government of a State, his salary in respect of the service as the Chief Information Commissioner or an Information Commissioner shall be reduced by the amount of that pension including any portion of pension which was commuted and pension equivalent of other forms of retirement benefits excluding pension equivalent of retirement gratuity:

Provided further that if the Chief Information Commissioner or an Information Commissioner if, at the time of his appointment is, in receipt of retirement benefits in respect of any previous service rendered in a Corporation established by or under any Central Act or State Act or a Government company owned or controlled by the Central Government or the State Government, his salary in respect of the service as the Chief Information Commissioner or an Information Commissioner shall be reduced by the amount of pension equivalent to the retirement benefits:

Provided also that the salaries, allowances and other conditions of service of the Chief Information Commissioner and the Information Commissioners shall not be varied to their disadvantage after their appointment.

- (6) The Central Government shall provide the Chief Information Commissioner**

and the Information Commissioners with such officers and employees as may be necessary for the efficient performance of their functions under this Act, and the salaries and allowances payable to and the terms and conditions of service of the officers and other employees appointed for the purpose of this Act shall be such as may be prescribed.

14 Removal of Chief Information Commissioner or Information Commissioner:—

- (1) Subject to the provisions of sub-section (3), the Chief Information Commissioner or any Information Commissioner shall be removed from his office only by order of the President on the ground of proved misbehaviour or incapacity after the Supreme Court, on a reference made to it by the President, has, on inquiry, reported that the Chief Information Commissioner or any Information Commissioner, as the case may be, ought on such ground be removed.
- (2) The President may suspend from office, and if deem necessary prohibit also from attending the office during inquiry, the Chief Information Commissioner or Information Commissioner in respect of whom a reference has been made to the Supreme Court under sub-section (1) until the President has passed orders on receipt of the report of the Supreme Court on such reference.
- (3) Notwithstanding anything contained in sub-section (1), the President may by order remove from office the Chief Information Commissioner or any Information Commissioner if the Chief Information Commissioner or a Information Commissioner, as the case may be,—
 - (a) is adjudged an insolvent; or
 - (b) has been convicted of an offence which, in the opinion of the President, involves moral turpitude; or
 - (c) engages during his term of office in any paid employment outside the duties of his office; or
 - (d) is, in the opinion of the President, unfit to continue in office by reason of infirmity of mind or body; or
 - (e) has acquired such financial or other interest as is likely to affect prejudicially his functions as the Chief Information Commissioner or a Information Commissioner.
- (4) If the Chief Information Commissioner or a Information Commissioner in any way, concerned or interested in any contract or agreement made by or on behalf of the Government of India or participates in any way in the profit thereof or in any benefit or emolument arising there from otherwise than as a member and in common with the other members of an incorporated company, he shall, for the purposes of sub-section (1), be deemed to be guilty of

misbehavior.

CHAPTER IV The State Information Commission

- 15 Constitution of State Information Commission:—**
- (1) Every State Government shall, by notification in the Official Gazette, constitute a body to be known as the..... (name of the State) Information Commission to exercise the powers conferred on, and to perform the functions assigned to, it under this Act.**
 - (2) The State Information Commission shall consist of—**
 - (a) the State Chief Information Commissioner, and**
 - (b) such number of State Information Commissioners, not exceeding ten, as may be deemed necessary.**
 - (3) The State Chief Information Commissioner and the State Information Commissioners shall be appointed by the Governor on the recommendation of a committee consisting of—**
 - (i) the Chief Minister, who shall be the Chairperson of the committee;**
 - (ii) the Leader of Opposition in the Legislative Assembly; and**
 - (iii) a Cabinet Minister to be nominated by the Chief Minister.**

Explanation.—For the purposes of removal of doubts, it is hereby declared that where the Leader of Opposition in the Legislative Assembly has not been recognised as such, the Leader of the single largest group in opposition of the Government in the Legislative Assembly shall be deemed to be the Leader of Opposition.
 - (4) The general superintendence, direction and management of the affairs of the State Information Commission shall vest in the State Chief Information Commissioner who shall be assisted by the State Information Commissioners and may exercise all such powers and do all such acts and things which may be exercised or done by the State Information Commission autonomously without being subjected to directions by any other authority under this Act.**
 - (5) The State Chief Information Commissioner and the State Information Commissioners shall be persons of eminence in public life with wide knowledge and experience in law, science and technology, social service, management, journalism, mass media or administration and governance.**
 - (6) The State Chief Information Commissioner or a State Information Commissioner shall not be a Member of Parliament or Member of the Legislature of any State or Union territory, as the case may be, or hold any**

other office of profit or connected with any political party or carrying on any business or pursuing any profession.

- (7) The headquarters of the State Information Commission shall be at such place in the State as the State Government may, by notification in the Official Gazette, specify and the State Information Commission may, with the previous approval of the State Government, establish offices at other places in the State.

16 Term of office and conditions of service:—

- (1) The State Chief Information Commissioner shall hold office for a term of five years from the date on which he enters upon his office and shall not be eligible for reappointment:

Provided that no State Chief Information Commissioner shall hold office as such after he has attained the age of sixty-five years.

- (2) Every State Information Commissioner shall hold office for a term of five years from the date on which he enters upon his office or till he attains the age of sixty-five years, whichever is earlier, and shall not be eligible for reappointment as such State Information Commissioner:

Provided that every State Information Commissioner shall, on vacating his office under this sub-section, be eligible for appointment as the State Chief Information Commissioner in the manner specified in sub-section (3) of section 15:

Provided further that where the State Information Commissioner is appointed as the State Chief Information Commissioner, his term of office shall not be more than five years in aggregate as the State Information Commissioner and the State Chief Information Commissioner.

- (3) The State Chief Information Commissioner or a State Information Commissioner, shall before he enters upon his office make and subscribe before the Governor or some other person appointed by him in that behalf, an oath or affirmation according to the form set out for the purpose in the First Schedule.
- (4) The State Chief Information Commissioner or a State Information Commissioner may, at any time, by writing under his hand addressed to the Governor, resign from his office:
Provided that the State Chief Information Commissioner or a State Information Commissioner may be removed in the manner specified under section 17.
- (5) The salaries and allowances payable to and other terms and conditions of service of—

- (a) the State Chief Information Commissioner shall be the same as that of an Election Commissioner;
- (b) the State Information Commissioner shall be the same as that of the Chief Secretary to the State Government:

Provided that if the State Chief Information Commissioner or a State Information Commissioner, at the time of his appointment is, in receipt of a pension, other than a disability or wound pension, in respect of any previous service under the Government of India or under the Government of a State, his salary in respect of the service as the State Chief Information Commissioner or a State Information Commissioner shall be reduced by the amount of that pension including any portion of pension which was commuted and pension equivalent of other forms of retirement benefits excluding pension equivalent of retirement gratuity:

Provided further that where the State Chief Information Commissioner or a State Information Commissioner if, at the time of his appointment is, in receipt of retirement benefits in respect of any previous service rendered in a Corporation established by or under any Central Act or State Act or a Government company owned or controlled by the Central Government or the State Government, his salary in respect of the service as the State Chief Information Commissioner or the State Information Commissioner shall be reduced by the amount of pension equivalent to the retirement benefits:

Provided also that the salaries, allowances and other conditions of service of the State Chief Information Commissioner and the State Information Commissioners shall not be varied to their disadvantage after their appointment.

- (6) **The State Government shall provide the State Chief Information Commissioner and the State Information Commissioners with such officers and employees as may be necessary for the efficient performance of their functions under this Act, and the salaries and allowances payable to and the terms and conditions of service of the officers and other employees appointed for the purpose of this Act shall be such as may be prescribed.**

17 **Removal of State Chief Information Commissioner or State Information Commissioner:–**

- (1) **Subject to the provisions of sub-section (3), the State Chief Information Commissioner or a State Information Commissioner shall be removed from his office only by order of the Governor on the ground of proved misbehaviour or incapacity after the Supreme Court, on a reference made to it by the Governor, has on inquiry, reported that the State Chief Information Commissioner or a State Information Commissioner, as the case may be, ought on such ground be**

- removed.
- (2) **The Governor may suspend from office, and if deem necessary prohibit also from attending the office during inquiry, the State Chief Information Commissioner or a State Information Commissioner in respect of whom a reference has been made to the Supreme Court under sub-section (1) until the Governor has passed orders on receipt of the report of the Supreme Court on such reference.**
- (3) **Notwithstanding anything contained in sub-section (1), the Governor may by order remove from office the State Chief Information Commissioner or a State Information Commissioner if a State Chief Information Commissioner or a State Information Commissioner, as the case may be,—**
- (a) is adjudged an insolvent; or**
 - (b) has been convicted of an offence which, in the opinion of the Governor, involves moral turpitude; or**
 - (c) engages during his term of office in any paid employment outside the duties of his office; or**
 - (d) is, in the opinion of the Governor, unfit to continue in office by reason of infirmity of mind or body; or**
 - (e) has acquired such financial or other interest as is likely to affect prejudicially his functions as the State Chief Information Commissioner or a State Information Commissioner.**
- (4) **If the State Chief Information Commissioner or a State Information Commissioner in any way, concerned or interested in any contract or agreement made by or on behalf of the Government of the State or participates in any way in the profit thereof or in any benefit or emoluments arising therefrom otherwise than as a member and in common with the other members of an incorporated company, he shall, for the purposes of sub-section (1), be deemed to be guilty of misbehaviour.**

CHAPTER V

Powers and functions of the Information Commissions, appeal and penalties

18 Powers and functions of Information Commissions:—

- (1) **Subject to the provisions of this Act, it shall be the duty of the Central Information Commission or State Information Commission, as the case may be, to receive and inquire into a complaint from any person,—**
- (a) who has been unable to submit a request to a Central Public Information Officer or State Public Information Officer, as the case may be, either by reason that no such officer has been appointed under this Act, or because the**

Central Assistant Public Information Officer or State Assistant Public Information Officer, as the case may be, has refused to accept his or her application for information or appeal under this Act for forwarding the same to the Central Public Information Officer or State Public Information Officer or senior officer specified in sub-section (1) of section 19 or the Central Information Commission or the State Information Commission, as the case may be;

- (b) who has been refused access to any information requested under this Act;**
- (c) who has not been given a response to a request for information or access to information within the time limit specified under this Act;**
- (d) who has been required to pay an amount of fee which he or she considers unreasonable;**
- (e) who believes that he or she has been given incomplete, misleading or false information under this Act; and**
- (f) in respect of any other matter relating to requesting or obtaining access to records under this Act.**

Complaint or Appeal?

Since applicant ... has given no reason why he does not wish to make an appeal u/s 19(1), he is advised to first make that appeal before seeking further redress before this Commission.⁵

- (2) Where the Central Information Commission or State Information Commission, as the case may be, is satisfied that there are reasonable grounds to inquire into the matter, it may initiate an inquiry in respect thereof.**
- (3) The Central Information Commission or State Information Commission, as the case may be, shall, while inquiring into any matter under this section, have the same powers as are vested in a civil court while trying a suit under the Code of Civil Procedure, 1908, in respect of the following matters, namely:—**
 - (a) summoning and enforcing the attendance of persons and compel them to give oral or written evidence on oath and to produce the documents or things;**
 - (b) requiring the discovery and inspection of documents;**
 - (c) receiving evidence on affidavit;**
 - (d) requisitioning any public record or copies thereof from any court or office;**

⁵ CIC/WB/C/2006/00032-31.8.2006

- (e) issuing summons for examination of witnesses or documents; and
- (f) any other matter which may be prescribed.

- (4) Notwithstanding anything inconsistent contained in any other Act of Parliament or State Legislature, as the case may be, the Central Information Commission or the State Information Commission, as the case may be, may, during the inquiry of any complaint under this Act, examine any record to which this Act applies which is under the control of the public authority, and no such record may be withheld from it on any grounds.

19 Appeal:–

- (1) Any person who, does not receive a decision within the time specified in sub-section (1) or clause (a) of sub-section (3) of section 7, or is aggrieved by a decision of the Central Public Information Officer or State Public Information Officer, as the case may be, may within thirty days from the expiry of such period or from the receipt of such a decision prefer an appeal to such officer who is senior in rank to the Central Public Information Officer or State Public Information Officer as the case may be, in each public authority:
Provided that such officer may admit the appeal after the expiry of the period of thirty days if he or she is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

How to decide Appeal filed under section 19(1)?

CIC advocated that “the ‘Central Information Commission Appeal Procedure Rules 2005’ are clear that an appellant may be present in person or through his duly authorized representative, or may opt not to be present in appeal before this Commission. Such a principle will apply *mutatis mutandis* to any appeal before any lower authority under the Right to Information Act.”⁶

Paragraph 38 of the ‘*Guide for the First Appellate Authorities*’, published by Department of Personnel & Training, Ministry of Personnel, P.G. and Pensions, Government of India (O.M.No.1/3/2008-IR dated: 25th April, 2008) states as follows:

“Disposal of Appeal

38. Deciding appeals under the RTI Act is a quasi-judicial function. It is, therefore, necessary that the appellate authority should see to it that *the justice is not only done*

⁶[CIC/WB/A/2006/00321,14 Dec.2006]

but it should also appear to have been done. In order to do so, the order passed by the appellate authority should be a speaking order giving justification for the decision arrived at.”

Justice must not only be done; it must also be seen to be done.

Rex v. Sussex Justices, Ex parte McCarthy ([1924] 1 KB 256, [1923] All ER 233) is a leading English criminal case famous for its precedence in establishing the principle that the mere appearance of bias is sufficient to overturn a judicial decision. It also brought into common parlance the oft-quoted aphorism "*Justice must not only be done; it must also be seen to be done.*"

In 1923 McCarthy, a motorcyclist, was involved in a road accident which resulted in his prosecution before a Magistrates Court for dangerous driving.

Unknown to the Defendant and his Solicitors, the ***Clerk to the Justices*** was a member of the firm of Solicitors acting in a civil claim against the Defendant arising out of the accident that had given rise to the prosecution. The Clerk retired with the Justices, who returned to convict the Defendant.

On learning of the Clerk's provenance, the Defendant applied to have the conviction quashed. The Justices swore affidavits stating that they had reached their decision to convict the Defendant without consulting their Clerk.

The Appeal was essentially one of Judicial Review and was heard at the King's Bench division by Lord Chief Justice Hewart.

In a landmark and far-reaching judgement, Lord Hewart CJ said:

"It is said, and, no doubt, truly, that when that gentleman retired in the usual way with the justices, taking with him the notes of the evidence in case the justices might desire to consult him, the justices came to a conclusion without consulting him, and that he scrupulously abstained from referring to the case in any way. But while that is so, a long line of cases shows that it is not merely of some importance but is of fundamental importance that ***justice should not only be done, but should manifestly and undoubtedly be seen to be done.***

The question therefore is not whether in this case the deputy clerk made any observation or offered any criticism which he might not properly have made or offered; the question is whether he was so related to the case in its civil

aspect as to be unfit to act as clerk to the justices in the criminal matter. The answer to that question depends not upon what actually was done but upon what might appear to be done.

Nothing is to be done which creates even a suspicion that there has been an improper interference with the course of justice. Speaking for myself, I accept the statements contained in the justices' affidavit, but they show very clearly that the deputy clerk was connected with the case in a capacity which made it right that he should scrupulously abstain from referring to the matter in any way, although he retired with the justices; in other words, his one position was such that he could not, if he had been required to do so, discharge the duties which his other position involved. His twofold position was a manifest contradiction.

In those circumstances I am satisfied that this conviction must be quashed, unless it can be shown that the applicant or his solicitor was aware of the point that might be taken, refrained from taking it, and took his chance of an acquittal on the facts, and then, on a conviction being recorded, decided to take the point. On the facts I am satisfied that there has been no waiver of the irregularity, and, that being so, the rule must be made absolute and the conviction quashed."

The ruling is derived from the principle of natural justice and has been followed throughout the world in countries that use the English legal system.⁷

Appeal

"Appeal" is defined in the Oxford Dictionary as the transference of a case from an inferior to a higher Court or tribunal in the hope of reversing or modifying the decision of the former. In the Law Dictionary by Bouvier an appeal is defined as the removal of a case from a Court of inferior jurisdiction to one of superior jurisdiction for the purpose of obtaining a review and re-trial. In the Law Dictionary by Sweet, the term "appeal" is defined as a proceeding taken to rectify an erroneous decision of a Court by submitting the question to a higher Court or Court of Appeal. It is a settled law that an appeal proceeding is a continuation of the original proceeding. A decision by an appellate authority after issue of a notice and after a full hearing, in presence of both the parties, replaces the judgment of the lower court/ authority. The decision of the appellate authority is on merit and as such, it can vary, modify or substitute its own decision in place of the decision of the inferior authority. In appropriate cases, it can quash or set-aside the decision of the inferior authority and can pass its own decision, which may be altogether different from that of the

⁷ <http://en.wikipedia.org/wiki/R._v._Sussex_Justices,_Ex_parte_McCarthy>

original decision. An Appellate Authority may re-examine the matter and take fresh evidence, if required, or if considered necessary.

In view of the legal position as stated above, the first Appellate Authority was justified in setting aside the order of the CPIO. The first Appellate Authority was well within its ambit while taking up a new ground and to deny the information u/s 8(2) of the Right to Information Act, 2005. On the same analogy, this Commission is perfectly justified in looking into and considering, not only what the first Appellate Authority decided but also what was decided by the CPIO. The submission of the first Appellate Authority that this Commission should only consider the decision of the first Appellate Authority and should not look into or consider the order of the CPIO, is without any merit and as such, cannot be accepted.⁸

Whether PIO can intercept the first appeal and decide it himself?

No. In this case -Order on appeal to the First appellate authority was communicated to the requester under the signature of PIO.

CIC Condemning the PIO's action stated: PIO putting himself in the shoes of Appellate authority is against the letter and spirit of the Act.⁹

- (2) **Where an appeal is preferred against an order made by a Central Public Information Officer or a State Public Information Officer, as the case may be, under section 11 to disclose third party information, the appeal by the concerned third party shall be made within thirty days from the date of the order.**
- (3) **A second appeal against the decision under sub-section (1) shall lie within ninety days from the date on which the decision should have been made or was actually received, with the Central Information Commission or the State Information Commission:**
Provided that the Central Information Commission or the State Information Commission, as the case may be, may admit the appeal after the expiry of the period of ninety days if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

⁸ CIC/WB/A/2006/00274-22.9.2006

⁹ CIC/OK/A/2006/00073 - 19 May, 2006

Can a PIO file an appeal with CIC against the order of an appellate officer?

CIC held: PIO is the information provider not the seeker of information. There is no question of denial of information. There is no provision in the RTIA to consider such appeals or complaints by the PIO herself against the order of an appellate officer.¹⁰

Drafting an appeal :

Appeal should be drafted in a simple and direct manner and be brief. It should not be unnecessarily long, too detailed and couched in legalese with several repetitions.¹¹

Drafting an appeal :

No fresh grounds for information can be allowed to be urged at appellate levels, unless found to be of a nature that would warrant their admittance, if the same has not been brought up at the primary level, i.e.the PIO.¹²

Third party appeals

The appellant is neither an information seeker nor provider. It is a third party, which has filed an appeal against the order passed by the appellate authority of the Directorate General (IT) allowing for the disclosure of documents, mainly Income Tax returns, to an information seeker, respondent 2, submitted by the appellant. CIC held that I.T. returns and related documents filed by the assesses are personal information of third parties, which should not be disclosed, unless there is an overriding public interest.¹³

- (4) **If the decision of the Central Public Information Officer or State Public Information Officer, as the case may be, against which an appeal is preferred relates to information of a third party, the Central Information Commission or State Information Commission, as the case may be, shall give a reasonable opportunity of being heard to that third party.**
- (5) **In any appeal proceedings, the onus to prove that a denial of a request was justified shall be on the Central Public Information Officer or State Public Information Officer, as the case may be, who denied the request.**
- (6) **An appeal under sub-section (1) or sub-section (2) shall be disposed of within thirty days of the receipt of the appeal or within such extended period not exceeding a total of forty-five days from the date of filing thereof, as the case**

¹⁰ 06/IC (A)/CIC/2006 - 3 March, 2006.

¹¹ CIC/OK/A/2006/00069 - 18 May, 2006.

¹² CIC/AT/A/2006/00128 – 13 July, 2006.

¹³ 327/IC(A)/2006-20.10.2006

may be, for reasons to be recorded in writing.

Deemed refusal :

If the appellate officer fails to pass an order within 45 days of the appeal, it was construed as a deemed refusal.¹⁴

(7) The decision of the Central Information Commission or State Information Commission, as the case may be, shall be binding.

What can a requester do if a PIO does not provide complete information even after issuance of the Decision Notice?

The requester can move a complaint under section 18(1) (b), alleging non compliance with the Decision Notice.

CIC admitted one such complaint by an aggrieved requester:

“Not satisfied with the information provided Ms. Divya Raghunandan, appellant then moved a complaint before us u/s 18(1) (b) alleging non compliance with some of our orders in the Decision Notice. This has, therefore, been treated as a fresh complaint u/s 18(1) (b), whereas the earlier orders were passed in appeal u/s 19(3).”¹⁵

Though “the decision ... shall be binding”... What can the Information Commission(IC) do if a Public Authority (PA) disobeys its Decision?
Can IC take action against the PA showing contempt?

In one such case IC resorted to s176, 187,188 and 228 of the Indian Penal Code: “Commissioner, Municipal Corporation, Delhi has failed to assist the Commission which he was legally bound to do, and he has also failed to explain as to why the orders of this Commission were not executed. It also appears that he has thereby caused an interruption to the proceedings. He has, therefore, committed offences punishable u/s176, 187,188 and 228 of the Indian Penal Code.NOW THEREFORE, it is ordered as follows:

- i) That the Commissioner, MCD shall appear in person and show cause
 - a) as to why he be not prosecuted for committing the said offences and
 - b) as to why appropriate action be not recommended against him u/s 20(2) of the Right to Information Act; and
 - c) as to why such further action/ actions be not taken as this Commission may deem fit and proper.

¹⁴ CIC/WB/A/2006/00011-3 January,2006

¹⁵ [CIC/WB/A/2006/00548,13 April 2007 and 25 Nov.2007]

ii) He is further directed to furnish the name and address of the concerned CPIO(s) who were responsible for not furnishing the information to the appellants, so as to enable initiation of appropriate proceedings against him.”¹⁶

In a recent case CIC warned concerned PIOs as follows:

“Prima-facie, we are of the view that it is a case of mala fide denial of information and that the orders passed by this Commission under the law have been deliberately disobeyed. It appears that the functionaries in the President’s Secretariat and in the Department of Personnel & Training have completely overlooked the fact that the proceedings before the Commission are judicial proceedings and u/s 19 (7) its decisions are binding and that this Commission has been given the power under the law to require any Public Authority to take any such steps as may be necessary to secure compliance with the provisions of the Act. By willfully disobeying the orders of this Commission, the functionaries in the President’s Secretariat and in the Department of Personnel & Training who have dealt with this matter appear to have committed offences punishable under Sections 176, 177, 186, 187, 188 and 228 of the Indian Penal Code, apart from rendering themselves liable for penalty stipulated under Section 20(1) of the Right to Information Act, 2005.”¹⁷

Section 54 of U.K.F.O.I. Act has in-built provisions to deal with such situations which read as follows:

“Failure to comply with notice

(1) If a public authority has failed to comply with—

(a) so much of a decision notice as requires steps to be taken,

(b) an information notice, or

(c) an enforcement notice,

the Commissioner may certify in writing to the court [High Court or, in Scotland, the Court of Session] that the public authority has failed to comply with that notice.

(2) For the purposes of this section, a public authority which, in purported compliance with an information notice—

¹⁶ [CIC/WB/C/2006/ 00040, 9 August, 2006]

¹⁷ [CIC/WB/A/2006/00830 & 889-Adjunct, 07.01.2008]

- (a) makes a statement which it knows to be false in a material respect, or
 - (b) recklessly makes a statement which is false in a material respect,
- is to be taken to have failed to comply with the notice.

(3) Where a failure to comply is certified under subsection (1), the court may inquire into the matter and, after hearing any witness who may be produced against or on behalf of the public authority, and after hearing any statement that may be offered in defence, deal with the authority as if it had committed a contempt of court.”

Review

“This Commission draws its authority for limited review from Section 114 and Order LXVII of the Code of Civil Procedure. Under this provision application for review of an order lies to the court which passed the order only in the following circumstances:

- (i) On discovery of new and important matter or evidence; (which is not within his knowledge or could not be produced by the applicant at the time when the order or decree was passed despite exercise of due diligence).
- (ii) On account of some mistake or error apparent on the face of record; or
- (iii) for any other reason.

Review may lie because in cases decided by this Commission, which are binding, there is no appeal. In this matter reference may be made to Kabari Pvt. Ltd. Vs. Shivnath Shroff & ors.¹⁸

The object of such a review is not to allow the court to write a 2nd judgment. The court has to exercise utmost care while granting review. As explained in our discussion at the start, it is for these reasons that this matter has been addressed in CIC (Management) Regulations 2007.”¹⁹

Regulation 23 of the Central Information Commission (Management) Regulations, 2007 deal with review of Decision, which reads as follows:

“23. Finality of Decision:

- (1) A decision or an order once pronounced by the Commission shall be final
- (2) An appellant or a complainant or a respondent may, however, make an application to the Chief Information Commissioner for

¹⁸ (AIR 1996 SC 742)

¹⁹ [CIC/WB/A/2006/742, 27-2-2008]

special leave to appeal or review of a decision or order of the case and mention the grounds for such a request;
(3) The Chief Information Commissioner, on receipt of such a request, may consider and decide the matter as he thinks fit.”

Review: Can CIC review its own decision?

Yes .A review is permissible only:

- If there is a technical error in the decision
- If there was an omission to consider certain material facts relevant for the decision.
- If appellant was not given opportunity of being heard
- If PIO has not enclosed relevant supporting documents in his comments furnished to CIC.

Review Application No. 1/2006 - 16 May, 2006.

Review *suo motu*

CIC decided to review the case *suo motu*, more for the purpose of clearing the doubts of the appellant than to alter or modify the decision.²⁰

- (8) In its decision, the Central Information Commission or State Information Commission, as the case may be, has the power to—**
- (a) require the public authority to take any such steps as may be necessary to secure compliance with the provisions of this Act, including—**
- (i) by providing access to information, if so requested, in a particular form;**
 - (ii) by appointing a Central Public Information Officer or State Public Information Officer, as the case may be;**
 - (iii) by publishing certain information or categories of information;**
 - (iv) by making necessary changes to its practices in relation to the maintenance, management and destruction of records;**

²⁰ 43/ICPB/2006 – 7 July, 2006.

Sub clause (iv) is similar to the powers of the English Information Commission to make ‘Recommendations as to good practice’ under section 48 of U.K. Freedom of Information Act 2000 which read as follows:

“(1) If it appears to the Commissioner that the practice of a public authority in relation to the exercise of its functions under this Act does not conform with that proposed in the codes of practice under sections 45 and 46, he may give to the authority a recommendation (in this section referred to as a “practice recommendation”) specifying the steps which ought in his opinion to be taken for promoting such conformity.

(2) A practice recommendation must be given in writing and must refer to the particular provisions of the code of practice with which, in the Commissioner’s opinion, the public authority’s practice does not conform....”

Using these powers U.K. Information Commissioner Richard Thomas recently issued practice directions to National Offender Management Service (NOMS) and Department of Health. Press Release issued by the Commissioner says that Department of Health has repeatedly applied blanket exemptions to requested information with the effect, in some instances, of withholding entire documents from release, breached the Act several times over a request for information relating to its electronic recruitment service. The Information Commissioner carried out an audit of 40 complaints received about the Department. He is concerned that the Department’s current levels of resource may not support the volume of FOI requests and recommends that the Department reviews the staffing and resource given to freedom of information in order to improve request handling.

NOMS has repeatedly extended the time limit for considering whether there was a public interest in releasing information, in some cases for 12 months consecutively. Such delays may appear to be designed to hold-up the process of providing full responses to FOI requests. NOMS was giving unhelpful advice which could be discouraging to requesters. It regularly failed to explain sufficiently why exemptions applied when refusing to release information.

- (v) **by enhancing the provision of training on the right to information for its officials;**
- (vi) **by providing it with an annual report in compliance with clause (b) of sub-section (1) of section 4;**

CIC advises LIC to have training programs on RTI

The CMD, LIC (Headquarters) is directed to plan and organize education and training programmes for the staff of LIC, as mandated u/s 25 of the Act, so that the CPIOs and appellate authorities of LIC do not repeat such mistakes as committed by the officials in the instant case. A compliance report should be submitted within 30 days to the Commission.²¹

CIC advises public authorities to have training programs

[JIPMER] should have some training program conducted for those dealing with RTI applications /appeals.²²

CIC insists on training

He [in charge of the RTI Act in the Ministry] may also ensure that proper training is given to the staff dealing with RTI applications. They may also be advised of the web site of this Commission (www.cic.gov.in) wherein most of the Decisions of the Commission are available for reference. The AA will also ensure that all pro active information which are useful to the public are updated periodically.²³

- (b) require the public authority to compensate the complainant for any loss or other detriment suffered;**

Compensation

For the first time in its history, CIC in its decision No. 30/ICPB/2006, 13 June 2006- directed the public authority, CGHS (Central Government Health Scheme, Pune) to pay a sum of Rs. 5000/- to the appellant Ms. M.N. Trival as compensation, and refund her the sum of Rs. 60/- paid by her as fee for – non-application of mind by both the PIO and AO resulted in the appellant's having to interact with PIO and CIC repeatedly, causing mental harassment to her.

Compensation

Smt. Dasharathi of Lal Gumbad Camp, Panchshil Park, has submitted a complaint on 16.3.06 stating that when she approached the office of the Asstt. Commissioner

²¹ 204/IC(A)/2006-25.8.2006

²² 236/ICPB/2006-21.12.2006

²³ 164/ICPB/2006-27.11.2006

(South) in the Food & Civil Supplies Dep't., Delhi, to ask for information regarding her application regarding Kerosene oil she was told that the officer was not present and her application could only be accepted after he returns. After waiting for 2 to 3 hours, she was told that the officer would not return that day. She, therefore, complains that her time was wasted together with Rs. 100/- in travel costs.

As we have held in other cases misbehaviour with applicants approaching public authorities under the R.T.I. is not acceptable and in direction violation of Sec 5 (3). In this case the PIO Shri Nand Lal will invite Smt. Dasharathi to visit his office and identify members of his staff who refused to provide her the information. Under Sec. 19(8) (b) the Public Authority will pay Rs. 100/- as damages suffered to the applicant Smt. Dasharathi. This may be either directly or through recovery from the erring officials, as deemed appropriate by the PIO.²⁴

Compensation

Because of not being provided with information which had already been collected by CPIO, and the latter's failure to attend two hearings necessitating adjournments, the appellant has during the hearing submitted an application for damages for expenses incurred by him amounting to Rs. 2685/- which amounts to Rs. 860/- per hearing u/s 19(8) (B), which requires the public authority to compensate the complainant for loss/damages suffered.

We find that damages in this case become due, in the case of two hearings which had to be adjourned without sufficient cause. However, we would like to satisfy ourselves regarding the authenticity of the amount claimed. Appellants may present before us the substantiation for the claim within one week of the date of issue of this decision notice.

Adjunct to Complaint No.:²⁵

Compensation

The appellant shall be paid a sum of Rs.3, 000/- by the public authority as compensation for the harassment and detriment that he has suffered. As the Appellate Authority and the CPIO should bear the full responsibility for the detriment suffered by the appellant due to their acts of omission and commission, it will be open to the public authority to recover this amount from the Appellate Authority and the CPIO.

Commission is forced to resort to these punitive measures as it feels that officers in public authorities have been, often times, inadequately sensitive to their responsibilities under the RTI Act. This Act has been in force for over one year, and

²⁴ CIC/WB/C/2006/00145 -10 August, 2006.

²⁵ CIC/WB/C/2006/00042-24, Aug, 2006

Government servants ought to have understood by now the duties the Act casts on them, especially in regard to disposing of petitions and first appeals well within time. Failures to do so by CPIOs and AAs should be visited by penalties. The provision entitling the wronged petitioner to appropriate compensation is to be invoked whenever the reason for the officers' failures is manifestly insubstantial.²⁶

Compensation

The appellant was under no obligation to engage an advocate for filing an application to DDA or for appearing before the first Appellate Authority and before us. If the charges paid to the Counsel are deducted then the net claim, which may be allowed as "costs", comes to Rs. 939/00 only. However, as we have held in the appeal hearing it cannot be denied that appellant Shri Kundan Lal Uppal, aged & suffering from illness has been put to undue expenditure and effort by having been compelled to go through the appeal process in establishing the contradiction that he sought to establish in seeking the information in the first place. Therefore, he may be paid damages in the form of a Lump sum of Rs. 3000/- (Rupees three thousand only), which will cover his direct expenses and some of the inconvenience unnecessarily, caused to him. As clarified in the Decision Notice this amount is to be paid by the public authority, the DDA, as damages u/s 19(8)(b) of the RTI Act.²⁷

Compensation

CIC directed the Dept. of Posts to compensate the appellant for the time he has wasted on sending the appeals to the tune of Rs.1000/-²⁸

Compensation

...the claim of damages sought u/s 19(1) (b) will require to be established by the appellant.²⁹

Compensation

...compensation cannot be claimed from penalty imposed. That would require to be claimed separately u/s 19(8) (b) of the Act.
Adjunct to Appeal No.³⁰

(c) impose any of the penalties provided under this Act;

²⁶ CIC/AT/A/2006/00305-31.10.2006

²⁷ CIC/WB/A/2006/00345- 3.11.2006

²⁸ 247/ICPB/2006-28.12.2006

²⁹ CIC/WB/A/2006/00345-9.10.2006

³⁰ CIC/WB/A/2006/00305-18.12.2006

(d) reject the application.

- (9) The Central Information Commission or State Information Commission, as the case may be, shall give notice of its decision, including any right of appeal, to the complainant and the public authority.
- (10) The Central Information Commission or State Information Commission, as the case may be, shall decide the appeal in accordance with such procedure as may be prescribed.

20 Penalties:–

- (1) Where the Central Information Commission or the State Information Commission, as the case may be, at the time of deciding any complaint or appeal is of the opinion that the Central Public Information Officer or the State Public Information Officer, as the case may be, has, without any reasonable cause, refused to receive an application for information or has not furnished information within the time specified under sub-section (1) of section 7 or malafidely denied the request for information or knowingly given incorrect, incomplete or misleading information or destroyed information which was the subject of the request or obstructed in any manner in furnishing the information, it shall impose a penalty of two hundred and fifty rupees each day till application is received or information is furnished, so however, the total amount of such penalty shall not exceed twenty-five thousand rupees: Provided that the Central Public Information Officer or the State Public Information Officer, as the case may be, shall be given a reasonable opportunity of being heard before any penalty is imposed on him: Provided further that the burden of proving that he acted reasonably and diligently shall be on the Central Public Information Officer or the State Public Information Officer, as the case may be.

First CPIO to pay the penalty under the RTI Act

KD Bansar created history of sorts, as she became the first Central government official to lose Rs.12, 500 from her salary for violations under the RTI Act. The Central Information Commission (CIC) had found KD Bansor, an additional public information officer and an under-secretary in the National Commission for Scheduled Castes and Scheduled Tribes, and her colleague Tikam Singh, a section officer, guilty of delay in divulging information and harassing an applicant, Mukesh Kumar.

When the Commission failed to provide the relevant information even after a CIC order, Information Commissioner OP Kejriwal invoked the penalty clause in

September against the two officials. They were fined Rs 25,000 — the maximum amount under the RTI Act.

Last week, the SC/ST Commission sent the CIC a cheque of Rs 12,500 that was deducted from Bansor's salary. But the fine could not be recovered from Singh's salary as he has since been transferred to the ministry of social welfare and justice. However, the Commission said they had asked Singh's new ministry to make sure they deduct his salary.

HindustanTimes.com-14.11.2006³¹

Penalty

For the first time in its history of the CIC, Sri Wajahat Habibullah Chief Information Commissioner imposed a penalty of Rs.25000/- on a P.I.O. - Complaint No: ³²Vide Decision Notice dated: 23/5/'06 on the above cited complaint under the Right to Information Act, 2005, Section 18 (1) in the case of *Shri Ajay Kumar Goel v M.C.D.* we had decided as follows:

“Since the PIO has been held in violation of prescribed limits u/s 7(1), he may appear before this Commission on June 2, 2006 at 11.00 am to show cause why penalty u/s 20 (1) should not be imposed on him.” Deputy Commissioner Shahdara (South) Zone, Delhi, PIO, has failed to appear before the Commission on the due date and time, despite a telephone reminder. Because the burden of proving that he acted reasonably and diligently is on the PIO under Proviso II to Sec 20(1), it is assumed that he has no reasonable cause to show why penalty should not be imposed. Under the aforementioned Section of the Act, penalty shall be imposed on any of the following grounds: If PIO has

- a) refused to receive an application
- b) not furnished the information within the time frame specified in Sec 7(1)
- c) malafidely denied the request for information or knowingly given incorrect information
- d) obstructed in any manner in furnishing the information

By not supplying some of the information sought by the applicant as found by us in the Decision Notice of 23/5/'06, PIO/ Deputy Commissioner, Shahadara (South) Zone, M.C.D. is in violation of b) above, and by evading his responsibility to provide the information sought, also obstructed the complainant's access Since the time from which the information became due, i.e. 18/12/'05, he will therefore pay a penalty of Rs 250/- for every day subject to a maximum of Rs.25000/-

³¹ CIC/OK/A/2006/00077-6.10.2006

³² CIC/WB/C/2006/00040, 5 June, 2006.

Penalty

CIC imposed penalty on employees of the National Commission for Scheduled Castes

New Delhi, held responsible for the delay in handling the matter. The Commission directed that a penalty of Rs. 25,000 may be imposed on both, the Section Officer, Shri Tikam Singh and APIO, Mrs. K.D. Bhansor to be shared equally.³³

Penalty

Commission imposed a penalty of Rs.13,750/- on Prof. Akhtar Majeed, Registrar, JamiaHamdard, New Delhi. The Commission further authorised and requested the Vice Chancellor, Jamia Hamdard, New Delhi to cause the recovery of the amount of penalty **from the salary** of Prof. Akhtar Majeed and remit the amount by Demand Draft/Banker's Cheque drawn in favour of Pay & Accounts Officer, DP&AR, payable at New Delhi, to Shri Pankaj K.P. Shreyaskar, Assistant Registrar, Central information Commission, 4th Floor, Block No. IV, Old J.N.U. Campus, New Delhi – 110067, by 15th September, 2006.³⁴

Penalty

Appellant's attention is drawn to first proviso to Section 20 which reads ***“provided that CPIO shall be given a reasonable opportunity of being heard before any penalty is imposed on him”***. Therefore, the law mandates giving a show cause notice to the CPIO even in a case, when the Commission finds, while deciding an appeal, that there was delay in furnishing information.

To determine the period of default, this Commission does not act mechanically but uses its discretion, taking into account all circumstances as explained in the comments of the CPIO.³⁵

Penalty

CIC imposed penalty of Rs.3500 on PIO Sri Dharamvir Singh, Directorate of Education, NCT, Delhi for delay in furnishing information.³⁶

Penalty

PIO Shri OP Mishra[DDA] liable to penalty u/s 20(1) of the RTI Act, 2005. He will, therefore, pay a penalty of Rs. 1750/- @ Rs. 250/- per day from 24.11.05 to 30.11.05, the date on which the response was sent to appellant purporting to be information sought.³⁷

³³ CIC/OK/A/2006/00077-6.10.2006

³⁴ CIC/OK/C/2006/00042-28 July,2006.

³⁵ 43/ICPB/2006 – 7 July,2006.

³⁶ [35 Appeal Nos. CIC/WB/A/2006/00221-32, 00233-46 & 00247-55,dt.4.10.2006]

³⁷ CIC/WB/A/2006/00307 & 308-4.12.2006

Penalty

Shri P.R.Sethi, Dy. Commissioner, MCD Sadar Paharganj Zone, who was then Dy. Commissioner (S&JJ) has appeared before us as directed in our Decision of 1.12.2006. He has also shown us the file maintained on the subject and the noting. From the noting, it is clear that the file was actually seen and signed by him on 6.1.06 i.e. a day after the information sought had become due. Further, there was obviously non-application of mind on the time spent on the information required to be provided with the result that the response was only sent on 13.1.06. The admitted delay of nine days @ Rs.250/- per day amounts to Rs. 2250/-. This amount will be paid by the PIO Shri P.R.Sethi. The Commission directs the Commissioner, MCD to ensure payment, failing which cause recovery of the amount of penalty from the salary of Shri PR Sethi, made payable in the name of P&AO, DP & PR in New Delhi, under intimation to Shri Pankaj Shreyaskar, Assistant Registrar in this Commission by January 3, 2007³⁸

Penalty

[Appellant: Shri Bhik Ram

Respondent: A.D.M. (South, Govt. of NCT of Delhi)]

By our order of 7.12.2006, we had directed as follows :

“As held by us in our decision of 28.11.2006 the information supplied on 19.6.06 was only cursory and cannot be construed as an adequate response to the information sought by Appellant Shri Bhik Ram.

During the hearing Shri A.K.Choudhary, N.T.(LA) who is assisting Shri A.K.Singh argued that much of the information sought was not available in the office of D.C.(South) and would have to be obtained from other sources. He could not, however, explain why this was not brought to the notice of the applicant, much less the application transferred as was mandated u/s 6(3)(1) & (2). Shri Nitin Panigrahi, N.T. who supplied the information to PIO is guilty of having supplied incomplete information. He is, therefore, liable for penalty u/s 5(5).

Both Shri A.K.Singh and Shri Panigrahi are, therefore, in violation of sec. 7(1) of the R.T.I. Act and liable to penalty. Shri A.K.Singh will be liable till the date he handed over the charge of the position of ADM (South). He is, therefore, required to pay Rs. 13,250/- @ Rs. 250 per day from 1.6.06 when the information became due to 23.7.06 when he demitted office. Shri Panigrahi is also so liable because he provided the incomplete information which was forwarded by PIO and ADM (South) without application of mind to applicant Shri Bhik Ram. The

³⁸ CIC/WB/A/2006/00305-18.12.2006

DC (South) is, therefore, directed to determine the quantum of penalty each of the above two Officers is to be shared. The Commission further directs the DC(South) to cause recovery of the amount of penalty from the salary of S/Shri A.K.Singh and Panigarhi, made payable in the name of P&AO, DP & AR in New Delhi and submitted to Shri Pankaj Shreyaskar, Assistant Registrar in this Commission by January 3, 2006 for further depositing in the appropriate Account Head. We have by our Decision Notice of 28.11.06 directed that information sought be supplied within 15 days. The present ADM (South) and PIO Shri S.K.Singh is, therefore, liable for penalty from 23.7.06 till the date the information is supplied. He may show cause either in writing or by personal appearance on 22.12.2006 at 10.00 a.m. as to why a penalty @ Rs. 250/- a day should not be imposed upon him till such date as the information sought is actually supplied, subject to a maximum of Rs. 25,000/-³⁹
Adjunct to Appeal No. 39

Penalty

[Appellant: Prof. B.B.Lal

Respondent: Delhi Development Authority]

In our decision notice of 28-11-2006 in the above case, we have directed as follows:

“The request for information stands acknowledged to have been received on 10.11.06 as per cash receipt for the fee of Rs. 10/- No. 161480. PIO Shri O.P.Mishra shall explain why this information was not supplied by 10.12.05 and Show Cause either in writing or by personal appearance before us by 6.12.2006 at 10.00 a.m. why a penalty of Rs. 25,000/- @ Rs. 250/- a day, till the information sought is provided, subject to that maximum limit, should not be imposed on him for his failure to do so”.

Shri O.P. Mishra did not appear before us on the due date nor have we received any response to the show cause notice issued to him. The dispatch register of this Commission shows that the decision notice was dispatched to respondent Shri OP Mishra at serial No.17046 of the Register by speed post. It is presumed that this has been received by him. A penalty of Rs.25000/- is, therefore, imposed on Shri O.P. Mishra, OSD (Lands) DDA to be recovered in two installments from his salary of February and March, 2007. The Commission further directs the Vice Chairman DDA to cause recovery of the amount of penalty from the salary of Shri OP Mishra OSD (Lands), DDA made payable in

³⁹ CIC/WB/A/2006/00435-22.12.2006

the name of P&AO, DP & PR in New Delhi, and submitted to Shri Pankaj Shreyaskar, Assistant Registrar in this Commission starting March 3, 2007 for further depositing in the appropriate Account Head.

Adjunct to Appeal No. ⁴⁰

Shifting the burden of proof

[Appellant:

Ms. Seema Bhattacharya

Respondent: Dy. Commissioner, Shahdara (North Zone), MCD]

In response to Show Cause Notice Shri A.K.Singh, at present Dy. Commissioner, Shahdara (North Zone) appeared before us on 5.12.2006 and submitted his explanation under a letter dated 28.11.2006. His explanation for the delay in supply of information in response to the request of appellant Ms. Seema Bhattacharya of 10.2.06 is as follows:

“The Superintending Engineer-XI was requested to send the reply of said ID vide Assistant Commissioner’s Office letter No. DC/Shah(N) 2006/166 dated 11.3.06, but the information was not received and, therefore, Department had to issue following reminders to obtain information:

Reminders/letters:

- 1) Letter No. DC/Shah(N)/2006/186 dated 17.3.06
- 2) Letter No. DC/Shah(N)/2006/201 dated 22.3.06
- 3) Letter No. DC/Shah(N)/2006/219 dated 10.4.06

However, the Superintendent Engineer XI Shahdara North Zone sent a consolidated reply on 17.7.06, which was sent to the applicant, vide this office letter No. DC/Shah(N) Zone/2006/436 dated 21.7.06 by speed post.”

...However, since the PIO had forwarded the letter to Superintending Engineer-XI asking for the information requested within a day of receipt of the application, he cannot be held liable for penalty u/s 20 of the Act. On the other hand, we find that response from Superintending Engineer-XI was received only on 17.7.2006, which is in fact a violation of the time limit prescribed u/s 7(1) of the Act. Shri Devinder Singh, Superintending Engineer-XI, MCD Delhi will, therefore, show cause by 10.30 a.m. of 21-12-06, either in person or in writing why a penalty of Rs. 250/- per day for 129 days should not be imposed on him from the date the application was forwarded to him dated 11.3.06 to 17.7.06 i.e. the date when the information was supplied by his office, subject to a maximum of Rs. 25,000/-

Adjunct to Appeal No. ⁴¹

⁴⁰ CIC/WB/A/2006/00428-24.01.2007

In his response to our Show Cause Notice, Shri Devinder Singh, Superintending Engineer has indeed expressed regret for the delay. The plea that the Division could not react to the ID or to the reminder sent as most of the staff was busy with the sealing/demotion operations being carried out in the light of orders of Hon'ble High Court and Supreme Court., could be cited as reasonable cause for delay, in case the delay was a matter of a few days. However, in this case the delay is of 129 days. This cause, therefore, cannot be accepted to be reasonable. Shri Devinder Singh SE, being liable for penalty u/s 5(5), the penalty will, therefore, require to be imposed to the maximum limit of Rs 25,000/- since the time taken for providing the information is in excess of 100 days. The Commission directs the Additional Commissioner (Engineering), MCD to cause recovery of the amount of penalty from the salary of Shri Devinder Singh in suitable instalments made payable in the name of P&AO, DP & AR in New Delhi, under intimation to Shri Pankaj Shreyaskar, Assistant Registrar in this⁴²

Waiver of penalty

[Appellant: Shri V.P.Singh

Respondent: Directorate of Audit, Govt. of NCT of Delhi]

In our Decision Notice of 8.11.06 in the above case, we had directed as follows:

“Even though the PIO Shri Gauba has not violated time limits in responding to the information sought, the manner of disposal of the application and appeal leaves ground for suspicion that the request for information has been either malafidely denied or misleading information given knowingly. Shri S.C.Gauba will show cause by 10.30 a.m. 30.11.2006 either in person or in writing why a penalty should not be imposed on him from the date of issue of these orders till the information is received by the appellant upto a maximum of Rs. 25,000/- “.

Accordingly by letter of 16.11.06 Shri S.C.Gauba PIO and DCA (Audit) NCT Delhi has responded by indicating that the information sought has been sent to appellant Shri V.P. Singh by letter of 14.11.06 as directed, a copy of which has been attached with his explanation. He has explained the refusal of information in the first instance on the following grounds :

“Initially the request of the appellant was not accepted to under 8(1)(J) (wrongly) typed as 8(1)(f) treating the information as private. I request and

⁴¹ CIC/WB/A/2006/00377 -5.12.2006

⁴² CIC/WB/A/2006/00377-21.12.2006

assure your august honour that no malafide intention had been made. The information was denied only due to academic interpretation of sec. 8(1)(j).” He has also noted the directions of this Commission.

Although as we have found in our Decision Notice the response to the application received from appellant Shri V.P.Singh by PIO Shri Gauba had not violated time limits having been supplied vide letter of 23.5.06 in response to an application dated 5.5.06, notice was issued to him on suspicion of malafide. Since the information has been supplied to appellant Shri V.P.Singh immediately on receipt of our Decision Notice and in light of the explanation of PIO Shri S.C.Gauba that the refusal was on grounds of sincere misinterpretation, the PIO Shri Gauba can be given benefit of doubt that he has acted with due diligence in this matter. The Show Cause Notice is disposed of accordingly.

Adjunct to Appeal No.⁴³

Chasing the PIO

Adjunct to Appeal No.⁴⁴

Shri C.Arvind, ADM (NW) at the time when the application was received and to whom Show Cause Notice for imposition of penalty of Rs.8500/- was addressed by us in our decision notice of 27/11/’06 is on study leave to the USA. Shri Krishan Kumar present ADM (NW) appeared before us and indicated that he is ready to represent Shri C. Arvind. However, Shri C.Arvind is the SPIO liable for penalty, since the delay in providing information took place under his watch. He may either respond to the Show Cause Notice directly to this Commission by E-mail or by FAX or authorize his successor to plead his case in the matter. The Show Cause notice together with this interim order may be forwarded to Shri Arvind at the following EMail address :...He may proceed either in explaining the delay through Email/FAX or he may authorize Shri Krishan Kumar, present ADM(NW) to explain the reason for this delay.

Due diligence

[If the timelimits could not be adhered to] the CPIO could have taken the appellant into confidence and kept him periodically posted with the progress of the information gathering process.⁴⁵

Due diligence

- PIO has furnished details of the circumstances under which the

⁴³ CIC/WB/A/2006/00312-22.12.2006

⁴⁴ CIC/WB/A/2006/00423 -11.12.2006

⁴⁵ CIC/AT/A/2006/00031 -10,July,2006.

information sought for by the appellant could not be furnished within the statutory period of 30 days : that the area of RTI was new to him and other officials were also not very familiar with it; that there was/is an acute shortage of administrative and faculty positions in the Institute; that the concerned dealing assistant was away on training from January to March; that there were two major activities in the Institute during that period, which, as the head of Department of Communication, he had to actively involve himself;

- that besides being the CPIO, he has various other major responsibilities in the Institute. Therefore, the delay was not intentional and as a matter of fact, since he has become familiar with RTI now, 49 out of 59 cases registered under RTI Act in the Institute, he has already disposed of 49 cases. He has also assured that in future no such delay would occur. Accordingly, he has sought for condonation of delay.
- CIC Held : I have considered the matter carefully and I am convinced that the delay on the part of the CPIO was neither intentional nor deliberate. In view of the fact that he has assured that such delays would not occur in future, I condone the delay⁴⁶

Due diligence

The PIO and the AA have taken the plea that they were engaged in some important work such as budget preparation, financial year closing, preparation of agenda etc. for high level meetings, elections and so on. **Pressed for time** as they were, they could not reply to the requestor within the stipulated time. Given the nature of the requestor's queries, **consultation** with the Legal Department also became necessary, which consumed a good lot of time. In any case, all care has been taken to provide him with clear and accurate information. From the material before me, I am inclined to agree with the CPIO that the delay caused by him was not deliberate or without reasonable cause. As such, I am not inclined to invoke the penalty provisions against him. The complaint is, therefore, dismissed.⁴⁷

⁴⁶ 60/ICPB/2006 – 31 July,2006.

⁴⁷ CIC/PB/A/2006/00074 - 28 June 2006

Due diligence

The CPIO has urged that the delay was caused by the logistic of collecting the information from several sources, his absence from office on leave and his relative lack of familiarity with the processes under the RTI Act as well as his precise role. Only after he attended a few training classes did he realize what his role was and how to discharge the same.

The CPIO, no doubt, could have done better. He could have taken the appellant into confidence and kept him **periodically posted with the progress** of the information gathering process. However, the reasons for delay seem to meet the test of “reasonable cause” under Section 20 of the RTI Act.⁴⁸

Due diligence

It may have been a lot better if the CPIO had kept the complainant **periodically informed** about the stages of the processing of his case and taken him into confidence about the possibility of some delay.⁴⁹

Can an appellate officer be penalized under the Act ?

This Appellate authority is not covered under the penalizing provisions of the Act. [But in this case] he clearly failed to uphold the law or Act in the public interest .This decision may be sent to [the public authority] to consider disciplinary action under their (service) rules.⁵⁰

State Information Commission, Punjab imposes double penalty:

Two applications for information were made by Sh. Malkiat Singh .PIO, Punjab State Federation of Coop. House Building Society Ltd., was directed to deposit the total amount of penalty of Rs. 50,000/- in the State Treasury for his persisting absence during the hearings.. Since, however, the quantum of the penalty prescribed in the Act *ibid* is limited to Rs. 25000/- in any single case, SIC, in exercise of the powers vested u/s 20 (1) of the RTI Act, 2005 imposed the penalty of Rs. 250/- per day for 100 days in each of the two cases. [AC No. 86 of 2006, 1 February, 2007.]

- (2) **Where the Central Information Commission or the State Information Commission, as the case may be, at the time of deciding any complaint or appeal is of the opinion that the Central Public Information Officer or the State Public Information Officer, as the case may be, has, without any reasonable cause and persistently, failed to receive an application for**

⁴⁸ CIC/AT/A/2006/00031 -10,July,2006.

⁴⁹ CIC/AT/A/2006/00066 – 4 July,2006.

⁵⁰ CIC/EB/C/2006/00040 - 24 April, 2006.

information or has not furnished information within the time specified under sub-section (1) of section 7 or malafidely denied the request for information or knowingly given incorrect, incomplete or misleading information or destroyed information which was the subject of the request or obstructed in any manner in furnishing the information, it shall recommend for disciplinary action against the Central Public Information Officer or the State Public Information Officer, as the case may be, under the service rules applicable to him.

Disciplinary action

CIC recommended disciplinary action against an appellate officer. This Appellate authority is not covered under the penalizing provisions of the Act. (But in this case) he clearly failed to uphold the law or Act in the public interest. This decision may be sent to [the public authority] to consider disciplinary action under their (service) rules.⁵¹

Disciplinary action

The handling of the application has, at the very least been singularly maladroit. There has been, therefore, a failure in the process of supply of information at several levels: at the level of CPIO for not having followed through, after initially supplying the information; at the level of Appellate Authority who did not hear the appeal. CPIO has during the hearing averred that Shri R.K.Singh the then Appellate Authority had demitted office in June. This, however, is of no consequence since the appeal mechanism is expected to be institutional and not individual. The failure is, therefore, of the public authority as a whole. The Vice Chairman, DDA is, therefore, directed to enquire into this matter and initiate disciplinary action u/s 20 (2) against those responsible for this lapse in responding to a simple request for information.⁵²

⁵¹ CIC/EB/C/2006/00040 - 24 April,2006.

⁵² 17.11.2006- CIC/WB/A/2006/00527