

CENTRAL INFORMATION COMMISSION  
Complaint No.CIC/WB/C/2007/00345 dated 16.5.2007  
Right to Information Act 2005 – Section 18

**Appellant** - Sh. Karthik Jayashankar  
**Respondent** - Ministry of Environment & Forests (MoEF)

**Facts:**

By an application of 29.1.07 Shri Karthik Jayashankar, Advocate, Supreme Court of India applied to CPIO, Ministry of Environment & Forests seeking information on five points relating to *“Construction and Development activities/ visitors facilities inside the Zoological Parks of the country involving use of notified “forest” lands and felling of trees.”* The five points are as below:

1. “List of Construction and Development activities / visitors facilities inside the Zoological Parks of the country involving use of notified “forest” lands for which clearance under the FC Act have been granted by the MOEF, GOI from 1.1.83 along with letter numbers and dates be provided.
2. List of such clearances given for schemes executed by different zoological parks with assistance from the Zoo Authority of India, under the administrative control of the MOEF, GOI along with letter numbers and dates be provided.
3. List of Management Plans for felling of trees for construction and development activities /visitors facilities inside the zoological park of the country involving use of notified “forest” lands received from the zoological parks rejected and approved by MOEF, GOI from 12.12.96 along with letter numbers and dates be provided.
4. If no such clearances have been obtained what action has been taken against the concerned state governments and their officers for violation of FC Act 1980 and orders of the Hon'ble Supreme Court in T.N.Godhavarman Thirumalpad vs. Union of India –W.P. 202 of 1995, on 12.12.96.
5. If no action has been taken till now what action is contemplated or proposed to be taken?”

To this he received a brief reply from Shri A.K. Joshi, AIG on 28.2.07 stating that.”*as the information asked for vide the above cited letter requires obtaining and processing of information from various records, it is not possible to provide the required information.”*

Against this appellant Shri Karthik Jayashankar moved his first appeal on 4.4.07 submitting that, *“The reason stated by the Information Officer for not giving the information is totally arbitrary and illegal and is not covered under exemptions u/s 8 of the RTI Act for withholding or refusing information.”* However, to this, there was no response, leading appellant to his second appeal before us with the following prayer:

“It is humbly prayed that this Hon’ble Commission may kindly direct the Public Information Officer to provide the photocopies of the file sought for immediately. Also as per provisions of Section 20 of the Act, this Hon’ble Commission may be pleased to impose a suitable penalty on the concerned Public Information Officer/ First Appellate Authority, for illegal and deliberate act of withholding information, not adhering to the provisions of the act, and thus displaying utter disregard for due process of law for reasons best known to him.”

This appeal was based on the grounds that the information/document was readily available with the office and was “intentionally” denied to appellant.

In response to our appeal notice Shri A.K. Joshi has submitted a detailed O.M. dated 10.1.08 in which he has cited Para 6 of the minutes of a meeting taken by Secretary, MOEF on 27.9.06, in which it was decided as follows :

“As for furnishing processed information, this does not lie within the scope of the Act. Under the Act, only copies of documents are expected to be provided and not processed information.”

From this respondent Shri Joshi has concluded as below:

“It may be seen that the information asked for by the applicant under the said application under RTI, 2005 involved the collection of several pieces of information from several documents/ files separately, it amounted to ‘processed information’. Accordingly, a reply was given to the applicant stating that as the information asked by the applicant required obtaining and processing information from various records, it was not possible to provide the required information. A copy of the said reply is enclosed as Annexure-II.”

The detailed minutes of the meeting have also been appended.

In her rejoinder to this response ,learned Counsel for appellant Ms. Lakshmi Jayashankar has submitted as follows :

1. "No statute can be amended even by an executive order let alone a decision taken in a departmental meeting.
2. As per the decision quoted if information sought relates to many subjects dealt with by different CPIOs, the CPIO concerned with the first part will collect the information and send a reply. In the present case the subject relates to one file and one CPIO except that it covers many years. The stand is totally against the provisions of the Act since supply of information relating to 20 years is mandatory under the Act. Collective information on a subject for some years cannot be called processing of information.
3. The Act does not distinguish between processed and unprocessed information, a word which seems to have been coined by the MoEF."

The appeal was heard on 18.2.08. The following are present :

**Appellant**

Ms. Lakshmi Jayashankar, Counsel for Appellant.

**Respondents**

Mr. Aditya Kumar Joshi,AIF (F)

Shri A. K. Joshi respondent has submitted that on the critical date he was not CPIO. He has, however, also submitted that in fact the subject covers a multitude of files in the MoEF and also in its six Regional Offices over a period of 24 years. He has submitted that since there were clear directions from the Ministry that "*processed information should not be provided under the RTI Act 2005*", the reply was sent accordingly to appellant. He has concluded his arguments as follows :-

"It is humbly submitted that the CIC may pass appropriate orders in the above mentioned case. However, it may be kept in view that in the instant case there are a multitude of files involved and around 7 (seven) CPIOs involved, and that the collection of the said information would take a considerable amount of time. In the event that the CIC decides that the information may be provided to the

applicant, it is submitted that the present CPIO may be given adequate time to have the information collected from the various sources as described above.”

Ms. Lakshmi Jayashankar, Learned Counsel assisting appellant Shri Karthik Jayashankar submitted that in case acquisition or collection of the information sought would divert the resources of the Department she was willing to settle for this information for 5-10 years and not for 24 years as asked for.

### **DECISION NOTICE**

We agree with learned Counsel assisting appellant Ms. Lakshmi Jayashankar’s rejoinder quoted above that none of the grounds decided upon for denying information is valid. Under Rule 4 (a) of the RTI Act (Regulation of Fee & Cost Rules) 2005 which came into force on September 16, 2005 a fee is expected to be charged for each page “*created or copied*”, which indicates that all information held by or under the control of any public authority is accessible to the public as is covered by the ‘right to information’ defined in sec. 2(j), even when it needs to ‘collected’. This is, of course, subject to the exceptions laid down in sec. 7(1). None of these exemptions includes the kind of exemption the MoEF seeks to foist through its decision of 27.9.06. Therefore, the information sought will now be provided to appellant Shri Karthik Jayashankar within 30 working days from the date of receipt of this Decision Notice. However, since it has been agreed by both parties that providing of the information sought i.e. from 1983 onwards, would disproportionately divert the resources of MOEF, the information will be provided for the period 1.1.2000 to 1.1.2007.

The Decision taken in the Ministry’s meeting of 27.9.06 is therefore invalid in law. However, the then Secretary Dr. Prodipto Ghosh has since retired and, therefore, no action u/s 20 (1) is contemplated in this matter, since no other individual can be held liable for a decision taken in a meeting chaired by the Secretary for obstructing the furnishing of information. However, we are surprised to find that the Ministry of Environment & Forests, the ultimate authority

charged with the conservation of rapidly depleting forest cover in the country, has abdicated this authority by failing to keep a record of all diversion of forest lands for construction activity, even if this be only for zoos. CPIO Shri Aditya Kumar Joshi has explained during the hearing that diversion up to 40 hectares can be taken at the State Level and no record of this is kept at the Centre. We cannot, of course, comment on the merits of such delegation, but would still hold that complete information regarding forest land, its diversion or its depletion must be a matter of record with the Central Government and would qualify for *suo moto* publication under sec. 4(1) sub section b) (xi), sub sec. c) and sub sec. d). Under the authority vested in us u/s 25(5) of the RTI Act, therefore, we recommend to the MOEF the documentation of the above information on forest land and this may be published as warranted u/s 4(1).

The appeal is, therefore, allowed. Announced in the hearing.

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

(Wajahat Habibullah)  
Chief Information Commissioner  
18.2.2008

Authenticated true copy. Additional copies of orders shall be supplied against application and payment of the charges, prescribed under the Act, to the CPIO of this Commission.

(Pankaj Shreyaskar)  
Joint Registrar  
18.2.2008