

CENTRAL INFORMATION COMMISSION
BLOCK IV, OLD JNU CAMPUS, NEW DELHI 110067

Appeal No.37/ICPB/2006
June 26, 2006

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

Appellant : Shri S.R. Pershad, Dy. Director of Supplies, DGS&D.
Public Authority : Directorate General of Supplies & Disposals
Ms. Asha Makhijani, CPIO
Shri Subodha Nath Jha, DG – Appellate Authority.

FACTS:

By an application dated 21.2.2006 to the CPIO, the appellant, an officer of Indian Supply Service, presently on suspension, sought for copies of the notifications issued by the President of India in terms of Allocation of Business Rules regarding decentralization of the purchase and disposal functions of DGS&D authorizing various Ministries/ Departments to make their own arrangements for purchase of their requirements in years 1974, 1984, 1985, 1991 and 1999. By a communication dated 7.3.2006, the CPIO informed the appellant that the information sought for in respect of the years 1974, 1984 and 1985 being related to a period beyond 20 years need not be furnished in terms of Section 8(3) of the RTI Act. Further, since all the five items sought for were policy matters, they were not dealt with in the administration of Directorate of DGS&D. Aggrieved with this decision, the appellant filed an appeal before the appellate authority on 3.4.2006. In his decision dated 24.4.2006, the appellate authority has pointed out that since the Allocation of Business is notified by the President through the Cabinet Secretariat, the CPIO should have forwarded the application of the appellant to the Cabinet Secretariat in terms of Section 6(3) of the RTI Act. He has also further stated in his decision that since these notifications are published in the Gazette of India, the appellant could get copies of the same from the market/libraries and these are not privy to DGS&D.

GROUND OF APPEAL:

2. The stand of the DGS&D that the information sought for is available only in the Cabinet Secretariat is wrong. Without the initiative/ involvement of DGS&D and its administrative ministry, on its own the Cabinet Secretariat does not initiate any proposal for reallocation of business relating to DGS&D. Therefore, copies of the notifications should be available with DGS&D and as such, the CPIO should be directed to furnish the same.

DECISION :

3. Comments were called for from the CPIO. In a most cryptic and short comments that this Commission has ever received, the CPIO has intimated that in her letter to the appellant on 7.3.2006, she only conveyed the information that she had received from the Administration of Directorate General of Supplies & Disposals and if the concerned Directorate is able to provide any such document to her, the same could be provided to the appellant as per direction of appellate authority.

4. In terms of RTI Act, it is the responsibility of the designated CPIO to furnish the information sought for by a citizen, if the said information is in the custody of the public authority. It is quite possible that the information sought for may not be available with the CPIO himself/ herself, but if it is available within the public authority, it is the responsibility of the CPIO to collect/gather the said information from the concerned person/section of the public authority and furnish the same to the information seeker. In the present case, neither the CPIO nor the appellate authority has categorically stated whether copies of the notifications are available within DGS&D or not. If they are not available, a simple communication to the appellant to that effect could have sufficed. The observation of the appellate authority that the appellant could get copies of the notifications from libraries/shops is uncalled for as in terms of the RTI Act, a citizen is entitled to get information from the public authority which is in its possession/custody even if the same is in the public domain.

5. Further, the public authority has erred in interpreting Section 8(3) of the Act to state that since some of the information related to the period prior to 20 years, the same need not be furnished. Section 8(3) is part of Section 8, which deals with 'exemption from disclosure of information'. Section 8(1) specifies classes of information which are exempt from disclosure. What Section 8(3) stipulates is that,

the exemption u/s 8(1) cannot be applied if the information sought related to a period prior to 20 years except those covered in Section clauses (a), (c) and (i) of sub-section 8(1). In other words, even if the information sought is exempt in terms of other sub-clauses of sub-section (1) of Section 8, and if the same relates to a period 20 years prior to the date of application, then the same **shall** be provided. In the present case, since part of the information sought, even though related to a period prior to 20 years, relate to notifications, DGS&D is bound to furnish the same, if the same is available with it. It is also stated by the CPIO that the information sought relates to policy matters not dealt with in the administration of the Directorate. What the appellant seeks is only copies of the notification and, therefore, the question of the same being related to policy matter does not arise.

6. I dispose of this appeal with the direction to the CPIO to furnish copies of the notifications as sought for by the appellant, if available within DGS&D, within 15 days of receipt of this decision. If not available, an affidavit to that effect should be filed before the Commission and the appellant should be informed accordingly within the said period.

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

Sd/-
(Padma Balasubramanian)
Information Commissioner

Authenticated true copy :

(Prem K. Gera)
Registrar

Address of parties :

1. Ms. Asha Makhijani, Central Public Information Officer, Directorate General of Supplies & Disposal, Jeevan Tara Building, 5 Sansad Marg, New Delhi.
2. Shri S. R. Pershad, GP-18, CPWD Officers Transit Hostel & Guest House, Aliganj Colony, Lodi Road, New Delhi-110003.