



Central Information Commission

2nd Floor, August Kranti Bhawan,
Bhikaji Cama Place, New Delhi – 110 066
Website: www.cic.gov.in

Decision No.5123/IC(A)/2010
F. Nos.CIC/MA/A/2009/000916
CIC/MA/A/2009/000935
Dated, the 5th February, 2010

Name of the Appellant: Shri. G. Rahul

Name of the Public Authority: Trade Marks Registry

Facts: ⁱ

1. The appellant was heard on 4/2/2010.
2. The appellant has asked for certain information, through separate applications. Being dissatisfied with the PIO's response, he has submitted two separate appeals, which are examined together.

I. Appeal No.CIC/MA/A/2009/000916:

3. The appellant has sought for the following information vide his application dated March 23, 2009:

- (i) *“Has the error in the records of the Registry mentioned in our letter dated April 25, 2007 has been corrected?”*
- (ii) *Is our request on Form TM-16 dated October 25, 2006 has been taken on record and records of the Registry has been updated? If not, please let us know why?*
- (iii) *Why no order for withdrawal has been passed in Class 41?*
- (iv) *Is our requests on Form TM-16 dated May 13, 2008 has been taken on record and records of the Registry has been updated? If not, please let us know why?”*

4. The CPIO replied, as under, vide his letter dated 29/4/2009:

“With reference to your application dated 27/3/2009 under Right to Information Act on the above subject, this is to inform you that the TM-16

ⁱ **“If you don't ask, you don't get.” - Mahatma Gandhi**

dated 25/10/2008 and 13/05/2008 were not put up on the opposition file as you have not mentioned the relevant opposition number in your letter”.

5. Subsequently, the appellant filed his first appeal before the Appellate Authority, vide his letter dated 21st May, 2009, to which the Appellate Authority did not respond. Hence, this complaint before the Commission.

II. Appeal No.CIC/MA/A/2009/000935:

6. In respect of the RTI application dated 27/3/2009 the appellant sought to know the following:

(i) *“Why the hearing notice was issued to the previous agent despite of filing appropriate request by us for change of address for service?”*

(ii) *Why the mark was not restored despite of regular follow ups?”*

7. In his response to the above RTI application, the PIO stated as under, vide his letter dated 11/6/2009:

“Due to digitization work under progress, the physical file is not available/traceable in the Section at this moment. It is therefore, requested that some more time is required to trace the file. However, if this was the case you should have filed a request on form Tm-57 with fees within the prescribed time limit.”

8. During the hearing, the appellant stated that the PIO has not provided the information asked for and that there was inordinate delay in responding to the RTI application dated March 27, 2009. He also alleged that the Appellate Authority of the respondent has not passed the necessary orders for supply of the desired information.

Decision:

9. The documents on record and the averments made by the appellant indicate that the PIO, Sh. A.G. Amare has not made attempts to provide a point-wise response on the basis of available records. The Appellate Authority of the respondent has also made no attempt to examine the petitions filed by the appellant. Clearly, the respondents have erred, as they have not shown any sign of promoting transparency in the functioning of the respondent nor they have furnished the information as per the provisions of the Act.

10. The CPIO is held responsible for violation of section 7(1) of the Act, without any reasonable cause. The PIO, Sh. A.G. Amare is therefore directed to show cause as to why a maximum penalty of Rs.25,000/- (Rupees twenty five

thousand only) should not be imposed on him for denial of information without any justifiable reason. He should submit his explanation at the earliest and also appear for a personal hearing on **31st March 2010 at 12.30 p.m.** failing which penalty would be imposed u/s 20(1) of the Act.

11. The appellant has surely suffered detriments in seeking information as per the provisions of the Act. He has not only filed petitions for accessing information but also wasted considerable amount of time and resources due to lackadaisical attitude of the officials of the respondent towards the implementation of the provisions of the Act. The Registrar of Trade Marks Registry or his nominee, should explain as to why compensation of Rs.10,000/- (Rupees ten thousand only), u/s 19(8)(b) of the Act, should not be awarded to the appellant for all kinds of losses, including time and financial resources and mental harassment. The Registrar or his nominee, should submit his explanation at the earliest and also appear for a personal hearing on the date and time indicated above, failing which the above amount of compensation would be awarded. The appellant may also be present during the hearing.

12. The appeal is thus disposed of.

Sd/-
(Prof. M.M. Ansari)
Central Information Commissionerⁱⁱ

Authenticated true copy:

(M.C. Sharma)
Deputy Registrar

Name & address of Parties:

1. Sh. G. Rahul, Lall & Sethi Advocates, M-19A, NDSE-II, New Delhi – 110 049.
2. Sh. D.S. Banod, CPIO, Trade Marks Registry, Intellectual Property Office Building, Plot No.32, Sector-14, Dwarka, New Delhi – 110 075
3. Sh. A.G. Amare, CPIO, Trade Marks Registry, Intellectual Property Office Building, Plot No.32, Sector-14, Dwarka, New Delhi – 110 075
4. Sh. P.K. Patni, Appellate Authority, Trade Marks Registry, Intellectual Property Office Building, Plot No.32, Sector-14, Dwarka, New Delhi – 110 075.
5. The Registrar, Trade Marks Registry, Boudhik Sampada Bhavan, S.M. Road, Near Antop Hill Post Office, Mumbai – 37.

ⁱⁱ “**All men by nature desire to know.**” - Aristotle