

CENTRAL INFORMATION COMMISSION
Club Building, Opposite Ber Sarai Market,
Old JNU Campus, New Delhi - 110067.
Tel: +91-11-26161796

Decision No.CIC/SG/A/2009/003176/6693
Appeal No. CIC/SG/A/2009/003176

Appellant : Mr. Dinesh Kaushik,
A-56 Anoop Nagar,
Uttam Nagar,
New Delhi - 110056

Respondent : Mr. K. C. Meena
Public Information Officer &
Assistant Commissioner, MCD
Community Center, Vishal Enclaves
Rajouri Garden,
New Delhi - 110027

RTI application filed on : 03/09/2009
PIO replied : 28/10/2009
First Appeal filed on : 31/10/2009
First Appellate Authority order : 17/12/2009
Second Appeal filed on : 15/12/2009
Notice of Hearing Sent on : 05/01/2010
Hearing Held on : 04/02/2010

Sl	Information sought	PIO's reply
1.	Is Som Bazar Road notified in MPD to carry out commercial activities?	Information sought is readily available in MPD-2021 which is available in the market.
2.	How many shops have valid registration to carry out activities on Som Bazar road?	Such type of information is not available in Bldg. Deptt./WZ/MCD
3	How many shops have deposited conversion charge? Please give me address of shops which have deposited conversion charge?	As per above Sl no.2.
4	What action the department has taken against shops which are working on the Road without paying conversion charge?	Action has been taken as per the DMC-Act/Policy of MCD
5	Please provide the list of commercial activities which are not permitted on Road.	As above Sl no. 1
6	Please give name and address of shops which are not permitted for commercial activities as per point 5 but still working on road	Such type of information is not available in Bldg. Deptt./WZ/MCD
7	What action the department has taken to shop to commercial activities which are not permitted on Road?	As above Sl no. 4
8	Are the shopkeepers or the costumers are permitted to park their vehicles on Road?	No.
9	What action the department should take against the vehicle which are parked on the main road & blocking right of way of other vehicles?	Not pertain to Bldg. Deptt.

10	Please give me name & address of shops which have encroached upon the MCD land on this road. What action the department has taken to remove such encroachment?	Pertain to Bldg. Deptt.
11	Which department is responsible to remove unauthorized parking on Som Bazar Road?	Not pertain to Bldg. Deptt.
12	Please give name address & telephone nos. of officers who should be contacted in case of unauthorized parking on Som Bazar Road?	As above Sl no. 11

Grounds for First Appeal:

PIO can't escape from his responsibility just by stating that information is available in other department.

PIO supplied incomplete & unsatisfactory information to almost all the questions.

Order of the First Appellate Authority:

The FAA states that incomplete information was provided. The PIO, SE-II was directed to supply the complete information within 2 days.

Grounds for Second Appeal:

PIO has not provided the information on any of the point. PIO asked to buy a publication from the market to get the information also in reply to many points; PIO has mention that the information is available in other departments which are part of same public authority.

Relevant Facts emerging during Hearing:

The following were present:

Appellant: Mr. Dinesh Kaushik;

Respondent: Mr. K. C. Meena, Public Information Officer & Assistant Commissioner;
Mr. Ashok Gupta, Assistant Engineer;

The Appellant states that consequent to the order of the FAA some information was provided on 17/12/2009. However this was also no complete in the following respects.

Query-3: The PIO replied that 13 properties have deposited conversion charges but did no give the addresses of the shops.

Query-6: The PIO has not provided the information.

Query-10: Information has not been provided.

Query-11: Information has not been provided.

The PIO states that the person responsible for providing incomplete reply even after the order of the FAA was Mr. Atul Meena, JE(B).

Decision:

The appeal is allowed.

The PIO is directed to give the information as directed above to the appellant before 20 February 2010.

The issue before the Commission is of not supplying the complete, required information by the deemed PIO Mr. Atul Meena, JE(B) within 30 days as required by the law.

From the facts before the Commission it is apparent that the deemed PIO is guilty of not furnishing information within the time specified under sub-section (1) of Section 7 by not replying within 30 days, as per the requirement of the RTI Act. He has further refused to obey the orders of his superior officer, which raises a reasonable doubt that the denial of information may also be malafide. The First Appellate Authority has clearly ordered the information to be given.

It appears that the deemed PIO's actions attract the penal provisions of Section 20 (1). A showcause notice is being issued to him, and he is directed give his reasons to the Commission to show cause why penalty should not be levied on him.

Mr. Atul Meena, JE(B) will present himself before the Commission at the above address on **11 March 2010 at 12.00** noon alongwith his written submissions showing cause why penalty should not be imposed on him as mandated under Section 20 (1). He will also submit proof of having given the information to the appellant. If there are other persons responsible for the delay in providing the information to the Appellant the PIO is directed to inform such persons of the show cause hearing and direct them to appear before the Commission with him.

This decision is announced in open chamber.

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

Any information in compliance with this Order will be provided free of cost as per Section 7(6) of RTI Act.

Shailesh Gandhi
Information Commissioner
04 February 2010

(In any correspondence on this decision, mention the complete decision number.) (SR)

CC:

To,

Mr. Atul Meena, JE(B) through Mr. K. C. Meena, Public Information Officer & Assistant Commissioner;