

CENTRAL INFORMATION COMMISSION
Club Building (Near Post Office),
Old JNU Campus, New Delhi - 110067.
Tel: +91-11-26161796

Decision No. CIC/SG/A/2009/001109/3893
Appeal No. CIC/SG/A/2009/001109

Relevant Facts emerging from the Appeal:

Appellant : Mr.V.K.Kapoor
Ex.Asstt. Secretary, CBSE
356, Sector-A, Pocket-C,
Vasant Kunj,
New Delhi-110070.

Respondent : Dr.G.L.Jambhulkar
Dy. Educational Adviser & PIO
Ministry of Human Resource Development
(Department of School Education & Literacy)
Room no. 529,
Shastri Bhawan, New Delhi -110001

RTI application filed on : 09/02/2009
PIO replied : 18/02/2009
First appeal filed on : 12/03/2009
First Appellate Authority order : Not replied
Second Appeal received on : 11/05/2009

The appellant has sought following information under his RTI application:-

Sl.	Information sought	PIO's reply
1.	Number and Date of the orders passed by Shri Jawahar Shrivastav, Deputy Secretary, MHRD, who was appointed Ad-hoc disciplinary authority. If no such order was passed, reasons there of.	Shri Jawahar Srivastava the then Dy. Secretary, MHRD was appointed as ad-hoc disciplinary authority in the absence of the normal disciplinary authority of CBSE i.e. Chairman, CBSE who left CSE on completion of his tenure. In the meantime, the tenure of Sh.Shrivastava was also completed and he returned the case with his observation that the normal disciplinary authority i.e.Shri Ashok Ganguly, had taken over as Chairman, CBSE. Hence, CBSE may take further action in consultation with the Controlling Authority of CBSE. In view of this Shri Srivastava did not passed any order in this case.
2.	The relevant rule of CCS(CCA) Rules 1965 may be intimated under which state witness was allowed to examine the Appeal dated 13 th January 2002 against penalty under No. CBSE/Admn I/F 170(ii)/2001/492 dated 05/11/2001.	The relevant rule of CCS(CCA) Rules of 1965 may be obtained from CBSE.
3.	Whether the comments of CBSE on Appeal were examined by Appellate Authority, with specific reference to points made in the Appeal.	Since the matter pertains to CBSE, your appeal was sent to CBSE for examination and appropriate action. You are therefore requested to consult CPIO, CBSE or Appellate Authority of CBSE in this regard.
4.	Whether Appellate Authority examined the veracity of facts submitted in comments on	-As above-

	Appeal, especially those which were neither the part of charges nor submitted by the presenting officer during the hearings and in his brief as well as not mentioned in Inquiry Officer's report.	
5.	If information against S.No.4 above is in negative, whether decision on appeal can be constructed as "without application of mind."	-As above-
6.	As per manual of office procedure, while dealing with such cases pertaining to office under control of Department/Ministry, a separate file in the controlling ministry is to be opened. Whether this was done in this case also. If so number of the relevant file may be informed. If no such file was opened, the name & designated officer may be informed who allowed violation of provision of manual of office procedure in other words who failed to create public record.	Copy of all the relevant records/ files after inspection by you have been provided to you vide this Ministry's letters of even no. dated 27.01.2009 and the matter was already discussed with CIC on 04.12.2008.

The First Appellant Authority's order:

Not replied.

Relevant Facts emerging during Hearing:

The following were present:

Appellant: Mr.V.K.Kapoor

Respondent: Dr.G.L.Jambhulkar, PIO

The PIO Dr. Jambhulkar says he has no ideas for which RTI he is here for. Dr. Jambhulkar has no clue about the reasons why he is before the Commission. The PIO has taken his duty under the RTI absolutely casually. He now states that the file relating to the information sought by the appellant has been stolen/lost but cannot produce any evidence about this. It is also significance that no such claim has been made in his letter of 18/02/2008 which he has sent to the appellant.

Decision:

The appeal is allowed.

The PIO will give the complete information to the appellant before 10 July 2009.

The issue before the Commission is of not supplying the complete, required information by the PIO within 30 days as required by the law.

From the facts before the Commission it is apparent that the PIO Dr.G.L.Jambhulkar 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. It appears that the 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.

He will present himself before the Commission at the above address on 03 August 2009 at 3.00pm 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.

This decision is announced in open chamber.

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

Shailesh Gandhi
Information Commissioner
29 June 2009

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