

Central Information Commission

Internship Project 2018

TOPIC: Cases within the last five years
wherein the CIC has exceeded its jurisdiction

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S. No.	WP/LPA/SLP No.	Court	CIC Case F. No.	Remarks
2014				
1.	6699/2013	Delhi High Court	CIC/SM/A/2012/000695, 1199,1269 & 1413	High Court order, dated 11.09.2014 held that the power of review is a statutory power and the CIC does not have any power under the Right to Information Act, 2005 to review its own orders. Thus, the impugned order, being an order reviewing an earlier order is set aside.
2.	4162/2013	Delhi High Court	PBA/07/1345	High Court, in the order dated 17.01.2014 had stayed the impugned order of CIC as it was contended that the Right to Information Act, 2005 does not have any extra territorial application.
2015				
3.	12714/2009	Delhi High Court		High Court order, dated 21.05.2010 held that the Chief Information Commissioner does not fall within the definition of appropriate Government or the competent authority. In other words, the Chief Information Commissioner has no powers to make rules

				<p>under Section 27 or Section 28. By virtue of Regulation 21, the Commission has purportedly been given the power to award such costs or compensation to the parties as it deems fit having regard to the facts and circumstances of the case. Such a power is not provided in the RTI Act. Another instance of the regulations exceeding the limits of power prescribed under the RTI Act and the Rules is to be found in Regulation 22. Rule 8 of the Central Information Commission (Appeal Procedure) Rules, 2005 clearly stipulates that the order of the Central Information Commission shall be pronounced in open proceedings and be in writing duly authenticated by the Registrar or any other officer authorized by the Commission for this purpose. However, Regulation 22 is at variance with this rule. It provides that every decision / order of the Central Information Commission may either be pronounced in one of the sittings of the Commission or may be placed on its website or may be</p>
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				<p>communicated to the parties under authentication by the Registrar or any other officer authorized by the Commission in this regard. Yet another instance of the complete transgression of the statutory powers is to be found in Regulation 23. The said regulation, inter alia, provides that an appellant or a complainant or a respondent may, notwithstanding that the decision or order of the Commission is final, make an application to the Chief Information Commissioner for special leave to appeal or review of a decision or order of the case and mention the grounds for such a request. It further seeks to empower the Chief Information Commissioner, to consider and decide such a request as he thinks fit. Neither the RTI Act nor the rules framed thereunder grant the power of review to the Central Information Commission or the Chief Information Commissioner. Once the statute does not provide for the power of review, the Chief Information Commissioner cannot,</p>
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				<p>without any authority of law, assume the power of review or even of a special leave to appeal. Clearly, the said regulation is beyond the contemplation of the Act. Such a regulation is ultra vires the provisions of the Act. It can be seen that the regulations have been framed by the Chief Information Commissioner in complete derogation of the provisions of the RTI Act. He had no power to frame the regulations, particularly those contained in Chapter IV. The Vice-Chairman, DDA was not summoned for either giving oral evidence or written evidence or to produce any documents or things in his possession. He was directed to be present for other reasons. That power is not there with the Central Information Commission. Such a power only exists in courts of plenary jurisdiction. The Central Information Commission is not a court and certainly not a body which exercises plenary jurisdiction. The Central Information Commission is a creature of the statute</p>
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				<p>and its powers and functions are circumscribed by the statute. It does not exercise any power outside the statute. There is no power given by the statute to the Central Information Commission to call any person or compel any person to be present in a hearing before it in the proceedings under the Act, except for the purposes of giving evidence – oral or written or for producing any documents or things.</p>
4.	742/2012	Delhi High Court		<p>High Court order, dated 22.08.2013 held that the Commission has no jurisdiction to direct the public authority concerned to declare the result of the person who seeks information under Right to Information Act. In view of the above, it is directed that the recommendation made in paragraph 4 of the order dated 29.7.2011 passed by the Central Information Commission, recommending declaration of the result of the respondent shall not bind the petitioner and shall not be considered as a direction under RTI</p>

				Act.
5.	4364/2010	Delhi High Court		<p>High Court order, dated 10.02.2014 held that the documents in question are deliberations between the President and the Prime Minister within the performance of powers of the President of India or his office. As submitted by the learned counsel for the petitioner such documents by virtue of Article 361 would enjoy immunity and the immunity for the same cannot be asked nor can such documents be perused by the CIC. Thus the CIC has no authority to call for the information in question which is barred under Article 74(2) of the Constitution of India. Even on the basis of the interpretation to various provisions of the Right to Information Act, 2005 the scope and ambit of Article 74(2) cannot be whittled down or restricted. The provisions of the Right to Information Act, 2005 cannot be held to be superior to the provisions of the Constitution of India and it cannot be incorporated so as to</p>

				negate the bar which flows under Article 74(2) of the Constitution of India.
6.	3265/2015	Delhi High Court	CIC/SA/C/2014/000263, CIC/SA/A/2014/000631	High Court, in the order dated 06.04.2015 had stayed the impugned order of CIC as it was contended that the power to hold an inquiry against the petitioner was not available to the CIC under Section 18(1) (f) of the Right to Information Act, 2005.
7.	18126/2012	Punjab and Haryana High Court		High Court order, dated 21.12.2012 held that the Commission is creation of a statute. It has to work within the four corners of law, under which it has been created. There are certain duties defined to be performed by it, namely, to ensure that the information sought by an applicant provided and in case of non-compliance, penal action is taken. But in the case in hand, though the appeal was preferred by Jivan Dass, who apparently was not even aggrieved of the order passed by the appellate authority as the requisite information had been provided to him, but as it was a kind of proxy litigation, Joginder Singh appeared on his

				<p>behalf, who for some time had worked with the Board on deputation. He started pleading his own case, which was entertained by the Commission regarding claim of house rent allowance. While doing so, the Commission has travelled beyond its jurisdiction. Firstly, the issue was not the subject matter of dispute in appeal before it and secondly, the kind of directions, which have been given, could not possibly be given by any authority while proceeding under the Act. The petitioner-Board is not wrong in contending that Jivan Dass was, in fact, fighting proxy litigation for Joginder Singh, who had earlier filed a writ petition in this court for the same relief. On a direction by this court, his representation was decided and the relief regarding house rent allowance was declined to him, but still concealing that fact, he raised the issue before the Commission, though the Commission did not have any jurisdiction to entertain the same.</p>
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2016

8.	658/2016	Delhi High Court	CIC/AD/C/2013/000276/SA	<p>High Court, in the order dated 27.01.2016 had stayed the impugned order of CIC as it was contended that CIC had made observations with regard to breach of lease as if it were a writ Court and not an appellate authority under the RTI Act, 2005. The lease executed by the DDA was not at concessional rate and mere allotment of land for construction of a hospital would not mean that petitioner-hospital comes under Section 2(h)(ii) of RTI Act. The petitioner-hospital was not owned, controlled or substantially financed by the government or any other State body. Thus, the petitioner-hospital could not be held to be a ‘public authority’ under Section 2(h)(ii) of the RTI Act. Also, CIC had fixed the hearing without any notice to the petitioner and passed orders without giving any oral hearing to the petitioner.</p>
9.	9207/2015	Delhi High Court	CIC/SA/A/2015/000081	<p>High Court order, dated 18.11.2015 held that the directions in this petition substitute the directions issued in the impugned order.</p>

				<p>CIC had directed the petitioner “to consider” putting in place a system whereby the record of the certifications and attestations done by Notaries Public besides, with the Notary Public concerned, was also maintained with the petitioner Union of India. It was contended that such an order was outside the scope of CIC as the direction to the petitioner UOI was to report back within a month. The High Court clarified that the order of the CIC is only an order for ‘consideration’ and the petitioner is not to report back.</p>
10.	10845/2015	Delhi High Court	CIC/KY/C/2014/000150	<p>High Court order dated 24.11.2015 held that it prima facie appears that CIC has not been empowered to dismiss in default a Second Appeal preferred before it. Though Section 19(10) of the Act empowers the CIC to prescribe procedure for disposal of appeals, but no procedure for deciding the appeals appears to have been prescribed. The CIC (Management) Regulations, 2007 framed by the Central government in exercise of powers under Section 27 of the Act, in Regulation</p>

				<p>15 also does not appear to prescribe for closure of the appeal akin to dismissal of the same in default. Rather, Regulation 15(v) provides that if the appellant or the complainant is not present at the time of hearing, the CIC may pronounce its decision or order on the matter ex parte. The same appears to suggest that the CIC is mandated to decide the appeal on merits only. I am further of the view that CIC is not only an appellate forum, but by virtue of Sections 18, 19(8) & 25 of the Act is also a supervisory body to oversee the implementation and enforcement of the RTI Act. For this reason also, it appears that CIC is not authorized to close the appeals / dismiss the appeals in default of appearance.</p>
11.	4909/2011	Delhi High Court	CIC/DS/A/2010/000898/LS	<p>High Court order dated 15.07.2011 held that prima facie, it appears that CIC had no jurisdiction to issue consideration of representation on the ground that the said Rule is no longer valid in view of the RTI Act. The respondent had</p>

				<p>appeared in a Departmental Promotion Exam and having failed to qualify had applied under the Right to Information Act, 2005 for her answer sheets and which were supplied to her. The respondent contends that her answer sheets have been wrongly assessed/evaluated and submitted representation aforesaid to the petitioner in that regard. It is the case of the petitioner that as per the Rules of the examination, re-evaluation is not permitted and as such the representation was rejected.</p>
12.	4452/2016	Delhi High Court		<p>High Court, in the order dated 16.05.2016 had stayed the impugned order of CIC as it was contended that the CIC does not have the jurisdiction to direct a person to obtain information from a third party. The petitioner submits that CIC proceeded on a wrong premise that petitioner had deep and pervasive control in the MDI because it had in the past, granted aid. He points out that the judgments relied upon by the CIC are irrelevant to the issue</p>

				<p>at hand as they deal with an issue as to whether MDI is amenable to writ jurisdiction or not. He further states that the impugned order is contrary and beyond the purview of the Right to Information Act as the information in question is admittedly not in the possession of the petitioner or under the petitioner's control.</p>
13.	5636/2016	Delhi High Court	CIC/SA/A/2015/000435	<p>High Court order dated 23.11.2017 held that there was no occasion for the CIC to enter upon the question as to whether a minister is a public authority under section 2(h) of the Act and whether a citizen has right to information sought, and does the minister has corresponding obligation to give. Further, the directions issued to the Central or State Governments to provide necessary support to each minister including designating officers as PIOs and FAAs by providing official website for suo moto disclosure and periodical updating of information, are wholly outside the scope of the matter before CIC.</p>

14.	8289/2016	Delhi High Court	CIC/SA/A/2015/001343	<p>High Court order dated 29.11.2017 held that it is at once clear from the aforesaid directions that the same are wholly without jurisdiction and plainly outside the scope of the CIC's powers under the Act. The CIC is a statutory body constituted under Section 12 of the Act and has to perform its function and exercise its powers strictly in accordance with the Act. Its functions and powers are circumscribed by the provisions of the Act. Section 19 (8) - which is referred to by the CIC is limited to issuing directions for (a) requiring the public authority to take any such steps as may be necessary to secure compliance with the provisions of this Act; (b) requiring the public authority to compensate the complainant for any loss or other detriment suffered; (c) to impose any of the penalties provided under this Act; and (d) to reject the application made before it. Section 19(8) of the Act does not empower the CIC to issue any other directions except as specified therein. Clearly, the directions given by the CIC - to</p>
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				<p>the Lieutenant Governor to take remedial measures to ensure strict compliance of eligibility norms in pension schemes and to obtain a comprehensive note on payment of pensions by three MCDs, and the order holding Area Municipal Councillors, their political parties and the Honourable Mayors to be accountable and responsible for following the norms prescribed for pensions - are outside the ambit of Section 19(8) of the Act.</p>
15.	7434/2016	Delhi High Court	CIC/RM/C/2014/000501-SA	<p>High Court, in the order dated 10.06.2016 had stayed the impugned order of CIC as it was contended that the Commission has gone beyond the jurisdiction vested in it by the Right to Information Act, 2005 and has gone on to assess the compensation and to hold that on account of non supply of information, the petitioner has suffered loss of scholarship. The case is pending and the next date is 10.10.2018.</p>

16.	5140/2015	Delhi High Court		High Court, in the order dated 22.05.2015 had stayed the impugned order of CIC as it was contended that the impugned order dated 26.03.2015, passed by the Central Information Commission (in short the CIC), is without jurisdiction, in as much as, the show cause notice has been issued to Mr Sanjay Kumar, who discharges the function of a First Appellate Authority (FAA), apparently, under Section 20 of the Right to Information Act, 2005. It was submitted that not only did the FAA provide the information, which is reflected in the order dated 03.09.2014, but that there is no power in the Central Information Commissioner to make recommendations vis-a-vis the petitioner herein.
2017				
17.	981/2017	Delhi High Court	CIC/CC/C/2015/000347	High Court, in the order dated 22.02.2017 had stayed the impugned order of CIC as it was contended that the impugned order has been passed in exercise of powers

				<p>under Section 18(2) of the Act. The powers conferred under Section 18 of the Act are distinct from the powers conferred under Section 19 of the Act. It is submitted that the Central Information Commissioner, while entertaining an application under Section 18 of the Act, cannot treat the same as an appeal under Section 19 of the Act and pass directions for providing information. Reliance is placed on the decision of the Supreme Court in Chief Information Commissioner vs. State of Manipur & Anr.: 2011 (15) SCC Page 1, wherein the Supreme Court has held that the nature of powers under Section 18 is supervisory in character whereas the procedure under Section 19 is an appellate procedure and serve two different purposes and lay down two different procedures and provide two different remedies. One cannot be a substitute for the other.</p>
18.	7769/2017	Delhi High Court		High Court, in the order dated 04.09.2017 held that CIC has

				<p>upheld the denial of certain information, and has further directed the respondents to provide certain information, which, according to the CIC, ought to have been provided to the petitioner. It is seen that the order of the CIC is plainly without jurisdiction as the scope of examination before the CIC was limited to the petitioner's complaint and, therefore, no direction for disclosure for information could have been issued. In view of the above, the matter is remanded to the CIC to consider the question whether any punitive action is required to be taken against the concerned CPIO in accordance with Section 18 and 20 of the Act.</p>
19.	1908/2017	Delhi High Court	CIC/SA/A/2015/000435	<p>High Court order dated 23.11.17 held that there was no occasion for the CIC to enter upon the question as to whether a minister is a public authority under section 2(h) of the Act and whether a citizen has right to information sought, and does the minister has corresponding obligation to give. Further, the directions issued to the Central or</p>

				State Governments to provide necessary support to each minister including designating officers as PIOs and FAAs by providing official website for suo moto disclosure and periodical updating of information, are wholly outside the scope of the matter before CIC.
20.	1077/2017	Delhi High Court	CIC/SA/C/2016/000234	High Court, in the order dated 21.02.2017 had stayed the impugned order of CIC as it had erred in not appreciating that there is a statute, i.e., the Right to Information Act, 2005 dealing with the subject and information is sought and can be provided only within the parameters of the said Act and the Rules framed thereunder. The CIC could not have extended the procedure applicable in other states and passed the impugned order. The case is pending and the next date is 12.07.2018.
21.	1095/2017	Delhi High Court	CIC/SA/C/2016/000230	Same as above in S. No. 8