



महाराष्ट्र विद्युत नियामक आयोग

Maharashtra Electricity Regulatory Commission

Ref. No. 790 /FAA/2016/A-17 /Decision/dated/30.09.2016/Mumbai

Date of RTI Application filed: 30.05.2016
Date of Reply of PIO : 30.06.2016
Date of receipt of First Appeal: 01.09.2016
Date of Decision of First Appeal: 04.10.2016

BEFORE THE APPELLATE AUTHORITY

(Under the Right to Information Act, 2005)

Maharashtra Electricity Regulatory Commission, Mumbai

Appeal No. 17 of 2016

Shri. Shaikh Shahajahan Kasam Appellant

- Vs -

PIO, MERC, Mumbai Respondent

In exercise of the power, conferred upon the Appellate Authority by Section 19 (6) of Right to Information Act, 2005, the Appellate Authority makes the following decision:

Facts of the Appeal

- 1) The Appellant had filed an application dated 30.05.2016, under the Right to Information Act, 2005, (hereinafter referred to as "RTI Act"). The Respondent vide letter dated 30.06.2016 responded to the Appellant's Application. The Appellant has filed this Appeal on 01.09.2016 against the said response.
- 2) Before passing a decision, the First Appellate Authority has given an opportunity of personal hearing to the Appellant on 19.09.2016, by serving upon him a notice of hearing dated 06.09.2016. The Appellant filed his written submission on 16.09.2016, the Appellant and Respondent PIO made their oral submission in the hearing on 19.09.2016. The Appellant has filed instant Appeal along with an Application of Condonation delay, since the hearing in this Appeal conducted first on the Condonation of delay and later on it has been decided on the merits of the Appeal.
- 3) I have carefully considered the application, the response and the Appeal and find that the matter can be decided based on the material available on record.
- 4) Upon perusal of the Appellant's request for information as made through his application, I find that Appellant has sought information with respect to (a) Details (Inspection / Copies) of the

License provided by the MERC to the Reliance Infrastructure along with the application seeking license as per the News paper article.(b) Details (Inspection / Copies) of the state Information Commissions Letter / direction /Order etc seeking MERC's advice and also the copy /copies of the advice provided / given by MERC on Reliance infrastructure being a public utility / authority / body as per the newspaper article.(c) Details (Inspection /Copies) of application of Mr. Anil Galgali seeking information on how to transfer /shift an electricity meter from one location to another made to the Reliance infrastructure along with the copy of reply furnished by Rinfra as per the News paper.

- 5) The Respondent PIO has replied in response to the above query on 30.06.2016, stating that with respect to query (a) the application made by RInfra for grant of Distribution license is available at Office of the Commission. Being a huge document, if you require information on any specific point or if you want inspect to relevant documents, you can do so by following the procedure as Laid down in the RTI Act and the procedure laid down as per provision mention in Maharashtra Right to Information (2nd Amendment) Rules, 2012 dated 31.01.2012. The Response to query (b) are as follows, the copy of State Information Commissions Letter is available in Commission office, and to query (c) of the Appellant are as follows - that Ministry of Personnel, Public Grievances & Information can not include within its fold answers to the question "Why" which would be same thing as asking the reason for a justification for a particular thing. The PIO cannot expect to communicate to the citizen the reason why a certain thing was done or not done in the sense of a justification are matter within the domain of adjudication authorities and cannot properly be classified as information." This is not come under RTI. According to section 2 (f) of the Act 'Information' means any material in any form.
- 6) Without prejudice to the foregoing, upon a consideration of the Appellant's request for Information as contained in his application in light of his Appeal, it would appear that Appellant has sought inspection/copies of the documents as stated in queries (a), (b) &(c). The main contention of the Appellant is that the Respondent has responded his Appeal after the lapse of stipulated time period, hence, the copies of the documents to be provided to the Appellant free of cost. The Appellant further contended that the Respondent has made available the inspection on 04.08.2016, and thereafter, inspecting the copies requested the Respondent to supply the copies free of cost, as non supplying of the copes u/s. 7 (6) of the RTI Act.
- 7) The Appellant filed documents on record and cited rulings of the SIC. It has been observed that, on rejection of the information or Order of the Respondent, the Appellant has to file his first Appeal u/s. 19 of the RTI Act within 30 days from the communication of the Order of the Respondent. But the Appellant has failed to file his Appeal within the stipulated time period. The

Appellant has filed instant Appeal on 01.09.2016. The Appellant did not file the instant Appeal adhering to the provisions of the Section- 7 of the RTI Act, 2005.

- 8) The Appellant has contended that the Respondent did not disposed off his Application within the stipulated time period of 30 days i.e. from 30.05.2016, and claimed copies of the documents free of cost on filing this Appeal on 01.09.2016. Whereas, the instant Appeal lies after denial of the information on 01.08.2016 before the FAA. Whereas, the Appellant has filed this Appeal and Application for Condonation of delay on 01.09.2016, stating the time period to be condoned from 04.08.2016, calculating of 26 days. The Appellant has not stated or he does not satisfied how he was prevented by any sufficient cause from filing this Appeal in time. Merely, the Appellant has calculated the Condonation delay of time period from 04.08.2016, but failed to explain about the reasons for not filing the Appeal within the stipulated time period after the receipt of the Order of the Respondent PIO on 02.07.2016.
- 9) It is specifically observed that there are no such provisions in the RTI Act to file an application or Appeal and sought Condonation of delay as mentioned by the Appellant in his application of Condonation of delay. It is also not as per the due procedure. It has been observed that under what provisions the Respondent has given the Appellant an inspection of the document after passing an Order on 30.06.2016. In view of the above, the application filed by the Appellant is not tenable in the eyes of the law.
- 10) On the contrary, if the Appeal is decided on the merits, the Respondent has passed the Order on 30.06.2016, then Appellant has to file this Appeal after 30 days after the receipt of the Order, and the question of the inspection on 04.08.2016 does not arise.
- 11) Even though, the Appellant neither inspected the documents after receipts of the Order of the Respondent PIO on 02.07.2016, nor filed the Appeal. Therefore, the contention of the Appellant for the Condonation of delay to filing of the Appeal is also not justified, and, the time period is counted is also not justified.
- 12) As the Respondent PIO has passed the Order without application of his mind and not completing the due procedure of the Section 7 of the RTI Act, has frustrated the object of the Act and not given adjudged to the request to the application of the Appellant, as well as, the Appellant by not filing the instant Appeal after the receipt of the Order and on the pretext of the communication stressing on obtaining the copies of the documents free of cost.
- 13) In view of the above, it is the fit case, in which the Appellant and Respondent has abused the process of law and misinterpreted the provision of the Act. The contentions of the Appellant and PIO are not relevant to the provisions of the RTI Act and adherence to them.

- 14) The Respondent is hereby directed to adhere to the provisions of the RTI Act, and after application of the mind dispose off the requests made by the applicants within the ambit of the RTI Act.
- 15) However, if the Appellant still wishes to get information, he may prefer a fresh application before the Respondent specifying clearly the exact information he wants from MERC. In view of the foregoing, the Appeal is disposed off accordingly as devoid of merits. This decision is passed on 04.10.2016, due to paucity of time as the FAA was in urgent work of Supreme Court of India.
- 16) In case, the Appellant is not satisfied with decision, he/she may prefer a Second Appeal under RTI Act, 2005, within 90 days from the issue of this decision before the State Information Commissioner, 13th Floor, New Administrative Building, Madam Cama Road, Opposite Mantralaya, Mumbai- 400 032.

Decision


- i. The Respondent is hereby directed that he will dispose off every RTI Application within the stipulated time period as per the provisions of the RTI Act.
- ii. The Appellant may prefer a fresh application before the Respondent.
- The Appeal disposed off accordingly.


4.10.16

(Anilkumar Ukey)
First Appellate Authority & Dy. Director (Legal)
Maharashtra Electricity Regulatory Commission

To
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Copy to:
PIO, MERC, Mumbai.


4.10.16

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