



महाराष्ट्र विद्युत नियामक आयोग

Maharashtra Electricity Regulatory Commission

Ref. No. 0018) /FAA/2016/A-08 /Decision/dated/03.05.2016/Mumbai

Date of RTI Application filed: 22.02.2016
Date of Reply of PIO : 23.03.2016
Date of receipt of First Appeal: 04.04.2016
Date of Decision of First Appeal: 03.05.2016

BEFORE THE APPELLATE AUTHORITY

(Under the Right to Information Act, 2005)

Maharashtra Electricity Regulatory Commission, Mumbai

Appeal No. 08 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 22.02.2016, under the Right to Information Act, 2005, (hereinafter referred to as "RTI Act"). The Respondent vide letter dated 23.03.2016 responded to the Appellant's Application. The Appellant has filed this Appeal on 04.04.2016 against the said response.

- 2) Before passing a decision, the First Appellate Authority has given an opportunity of personal hearing to the Appellant on 27.04.2016, by serving upon him a notice of hearing dated 05.04.2016. The Appellant and Respondent PIO made their oral submission in the hearing.
- 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) guidelines laid down/provided by MERC and Electricity Act, 2003 and Electricity Supply Code and also the Regulations framed there under and various applications, Objections, Complaints etc. received and disposed/action taken report by this office. (b) Action taken report on Appellants objection letter dated 21.12.2015. (c) Action taken report on Appellants request application dated 16.02.2016, received by this office on 18.02.2016 regarding change of name of electricity connection. (d) Action taken report on Appellants Complaint date 20.02.2016 regarding excess billing/charging by Reliance Energy and months can be charged by way of estimated consumption/bill and as per which Act/law/Rule/circular/policy/Order/Direction etc. the NOC is required for change of name of Electricity Connection etc. The Appellant also ask for the maximum months a consumer can be charged/billed as there is no access to the meter box.
- 5) The Respondent PIO has replied in response to the above query on 23.03.2016 stating that (a) The Regulations which are notified by the Commission are available in downloadable format on the Commission's websites www.merc.gov.in and www.merindia.org.in. (b) Which information/document is required is not clear (c) Above point does not come under the RTI Act, 2005, (d) Your Application is forwarded to Rinfra on 23.03.2016 for further necessary action. (e) Above point is questionnaire point by which Appellant is seeking opinion from the RTI officer. This does not come under the rights of the RTI officer. For your query, please refer MERC

(Electricity Supply code & other conditions of Supply) regulations 2005. & (f) This information is not available in this office.

- 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 guidelines laid down/provided by MERC and Electricity Act, 2003 and Electricity Supply Code and also the Regulations framed there under and various applications, Objections, Complaints etc. received and disposed/action taken report by this office. The Respondent has provided the information is available on websites of the Commission qua guidelines above referred to the Appellant.
- 7) Upon perusal of the Appellant's request for information as made through his application, I find that - (i) the information sought therein was not clear and specific, However, in this context, I note that the Hon'ble CIC in the matter of *Shri S. C. Sharma vs. CPIO, Securities and Exchange Board of India*(Decision dated August 30, 2012), held that: "*Since the Appellant had not clearly stated what exact information he wanted, the CPIO could not have provided any specific information to him. We would like to advise the Appellant that he might like to specify the exact information he wants from the SEBI and prefer afresh application before the CPIO*". Further, in the matter of *Mrs. Bina Saha vs. CPIO, Securities and Exchange Board of India* (Decision dated November 6, 2012), the Hon'ble CIC held that: "*It must be remembered that Section 2(f) of the RTI Act defines information as a material or virtual record. The citizen has every right to get copies of such records held by any public authority including the SEBI. However, in order to get the copies of such records, the information seeker has to specify the details of the records she wants. In fact, section 6(1) of the RTI Act very clearly states that the information seeker has to specify the particulars of the information sought by him or her*". In view of these observations, I find that the respondent is not obliged to provide a response where the information sought is not clear or specific. However, if the appellant still wishes to get information, he may prefer a fresh

application before there respondent specifying clearly the exact information he wants from MERC.

- 8) With respect to the Appellants points Nos. (d),(e), & (f), the information being sought by the Appellant in the form of queries, Hon'ble CIC in the matter of *Shri.P.Shivkumarn and Shri.K.Vijayakumaran Vs. CPIO, Baharat Sanchar Nigam Ltd. (Decision dated 13.06.2007)*, held that: *"information seeker should asked for information, which may be available 'in any material form' as per section (2) of the Act. A CPIO is not expected to formulate his response to various forms of queries and express his views on the issues raised by appellants. The information should be provided in the form in which it exists with the public authority."*
- 9.) I, further note that the Appellant is seeking information with respect to access of meter box and change in name of the Appellant which is lying with the Reliance Infrastructure Ltd. which is the other public authority. in this regard, I would like to note that, the information being sought by the Appellant is related to other public authority, in this regard, the Hon'ble CIC in the matter of *Shri Rakesh Agarwal vs. Shri. Nandan Singh (Decision dated 13.01.2014)* held that, *"The application under Section 6(3) of RTI Act can only be transferred if it has been made to a proper public authority under Section 6(1).When a petitioneris aware of the location of a given in formation visàvis a Public Authority, it is not open to him to file his RTI application before any Public Authority in the expectation that this latter Public Authority would act under Section 6(3) to transfer his application to where the information was known to be held."*
- 10.) However, it is appropriate to mentioned that a decision passed in RTI Appeal No.20 of 2015, the *'Reliance Infrastructure Limited, vide its letter No. ED/RTI/512/2015 dated 07.08.2015 replied to the Appellant Shri. Mithun Kath, that they are of the earnest belief that they are not a "Public Authority" as defined under the RTI Act, and hence, the provisions of the RTI Act, 2005, are not applicable to them. They further, inform to Appellant that the Hon'ble Bombay High Court has*

stayed the Maharashtra State Information Commission's Order dated 19.07.2011, interalia holding that R-Infra's Electricity Distribution Business is falling within the definition "Public Authority" as defined under the RTI Act, further, they have stated that in view of the above, they have not yet designated or appointed any Public Information Officer Or Appellate Authority for providing and / or dealing with request for information under RTI Act.'

- 11.) In view of the foregoing, it is not possible to invoke Section 6 (3) of the RTI Act, and transfer of the application of the Appellant to the Reliance infrastructure. The Respondent has provided the information which is available in the office.
- 12) The Respondent has provided information to the Appellant with respect to the point No. (c) which were available to this office.
- 13) It has been observed that the Respondent has failed to provide information/answered to the Appellants point's nos. (a) & (b) of his application, therefore the Appellate Authority called upon the information with respect to the above points from the respondent. The respondent has submitted that *"Both the letters were not addressed to the Commission. The applicant had given copy of the letters in CC to the Commission for information which were written to Reliance. Hence both the letters are filed."*
- 14) The Appellant has been stated in his appeal that the PIO has given his response/answer to the Appellant after the stipulated period in this regard it has been prima facie observed that the PIO has responded the RTI Application dated 22.02.2016 of the Appellant on 23.03.2016 after the lapse of stipulated time period. The PIO herein after directed to give his response within stipulated time period.
- 15) In view of the above facts and circumstances, there is no need to interfere with the Order of the Respondent. The Appeal is disposed accordingly.

In case, the appellant is not satisfied with decision, he may prefer 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

The Appeal disposed off accordingly.

The Public Information Officer hereby is directed that he will dispose off every RTI Application
within the stipulated time period as per the provisions of the RTI Act.



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

To
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Copy to:
PIO, MERC, Mumbai.



(Anilkumar Ukey)
**First Appellate Authority & Dy. Director (Legal)
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