



महाराष्ट्र विद्युत नियामक आयोग Maharashtra Electricity Regulatory Commission

Ref. No. 2015/FAA/2015/A-08 /Order /dated/03.06.2015/Mumbai

Date of RTI Application filed : 06.03.2015

Date of Reply of PIO : 22.04.2015

Date of receipt of First Appeal: 05.05.2015

Date of Order of First Appeal : 03.06.2015

BEFORE THE APPELLATE AUTHORITY (Under the Right to Information Act, 2005) Maharashtra Electricity Regulatory Commission, Mumbai

Appeal No. 08 of 2015

Shri. Kamlakar Ratnakar Shenoy 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 06.03.2015, under the Right to Information Act, 2005 (hereinafter referred to as "RTI Act"). The Respondent vide letter dated 22.04.2015 responded to the Appellant's Application. The Appellant has filed this Appeal on 05.05.2015, against the said response.
2. Before passing an Order, the First Appellate Authority has given the Appellant an opportunity of personal hearing on 29.05.2015 by serving upon him a notice of hearing dated 12.05.2015. The Appellant telephonically informed to the Appellate Authority about his inability to attend the hearing and requested to consider the appeal on merit.
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.

Ground of Appeal

4. From the Appeal, I note that the Appellant is aggrieved by the Respondent's response and has raised the following grounds in his Appeal:-

i. *PIO is duty bound is provided information with index and paging the information. He has to relate each page and information sought.*

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- ii. *It is unfortunate that the information has been rejected on the grounds that it is not available in the format given by me. The dishonest intention and the conduct of MERC can be seen to use such illegal grounds to deny information which will expose the inaction/ disobedience of direction of law committed.*
- iii. *The PIO was duty bound to furnish specific information. The format was given to make it easy for PIO to furnish the information.*
- iv. *The information sought by me cannot be denied to MP/MLA/Minister. Please inform whether such application by MLA/MP Shall be rejected. I will file an application through MP and MLA.*
- v. *PIO has not furnished the relevant section and provision in RTI act to deny information on the ground that the information sought is in form of question.*
- vi. *PIO has not submitted how he has come to conclusion that the information sought is in question form.*
- vii. *Section 2F which says.....*

Information means any material in any form, including... .. data material held in any electronic material form.....”

1. *The information as contemplated in section is not exhaustive. The Word information is required to be considered in relation to the magnitude of the Act. It cannot have place in isolation. It has to be seen the spirit behind the legislation while introducing the act.*
2. *It has clearly stated that information includes This means that there are many other ways of calling for and /or parting of information. The legislature had vision that it could not make any water tight compartments for parting of information due to passage of time and advancement of technology thereby not frustrating the process of law
The legislature has not restricted the source of parting information only in particular manner.*
3. *It is pertinent to note that the names mentioned such as records, documents are instruments to part the information on which such information has been laid and /or inscribed on them as they by them themselves are not information.*

- viii. *The PIO has not specified the section relied upon which authorizes him to refuse information on the grounds that the information sought by me does not come under the purview of section 2 f. it appears that the PIO is ignorant of the fact*

that the information can be denied only on the ground mentioned in section 8 and 11 of RTI act.

ix. *The PIO has not clarified the section and provision of law which discloses which information comes under purview of RTI act and which does not.*

x. *The legislature has nowhere prescribed that information cannot be parted in question, answer form.*

xi. *Right to information section 2J:*

Means the right to information accessible under this ACT which is held by or under the control of any public authority and includes the right to.....Inspection of work.....

In view of this section the reasons there of and provision of law for any act of commission and /or omission are the information held by and under the control of public servant.

xii. *The objective spelt out in the preamble of the RTI Act are to introduce element of transparency and accountability in the functioning of public authorities and contain corruption,. By denying the information such as authorities and contain corruption. By denying the information such as*

I. *Calling for provision of law relied upon.*

II. *Reasons thereof for certain act of commission or omission*

xiii *RTI act showers the responsibility on the PIO to compile and furnish information sought by the applicant. By calling upon the applicant to mark the documents, your office is disobeying the direction of law to furnish information to the applicant. Kindly note that application is made under the provision of Right to information and not right to Inspection. Also provide me the section relied upon in RTI act to call me and ask me to compile /select the information.*

5. 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, (ii) Appellant sought information in the form of various queries, qua reasoning of the Commission (iii) the Appellant in Para – 3 of his application i.e. Particulars of information required – sought “Compliance of Section 61 and 84 of EA,2003 by the MERC.” and further states that “A common man feels that MERC has not acted in the interest of consumers”, thus, it seems that the appellant has grievances., (iv) Action taken and inaction by the Commission through his queries of his application.

6. 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.

7. In this context, the information being sought by the Appellant in the form of queries, qua reasoning of the Commission. 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."

8. In context, with the information being sought by the Appellant is in the nature of action taken and inaction, in this regard, the Hon'ble CIC in the matter of *Shri Madan lal Aswal and Dal Chand Vs. CPIO Municipal Corporation Delhi* (Decision dated 05.11.2008) held that "The respondent has replied to the query about the ownership of the land and the responsibility of maintenance The appellant now wants to know why action of demolition has not been taken, before allotment which according to him was precondition. Though the respondents are well intentioned, reasons for actions or inaction of public authorities cannot be obtained unless they have been recorded by the public authority. The PIO cannot be expected to provide reasons unless they are recorded."

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 he has a

grievance with the various actions and inactions of the Commission. In this context, I note that the Hon'ble CIC in the matter of *Sh. Triveni Prasad Bahuguna vs. LIC of India, Lucknow* (Decision dated September 6, 2012), had held that: "*The Appellant is informed that ... redressal of grievance does not fall within the ambit of the RTI Act ...*" Further, in *Mr. H. K. Bansal vs. CPIO & GM (OP), MTNL* (Decision dated January 29, 2013), the Hon'ble CIC had held that: "*The RTI Act is not the proper law for redressal of grievances/disputes ...*" In view of the above findings, I find that if the appellant has any grievance, the remedy for the same would not lie under the provisions of the RTI Act.

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

In view of the above, I find that there is no need to interfere with the decision of the Respondent. The appeal is accordingly dismissed.


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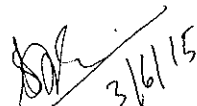
(Anilkumar Ukey)

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

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3/6/15

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