



महाराष्ट्र विद्युत नियामक आयोग

Maharashtra Electricity Regulatory Commission

Order No. MERC/FAA/2019/APPEAL/02 OF 2019/336

Date : 25 April, 2019

Date of RTI Application filed : 15.02.2019
Date of Reply of PIO : 18.02.2019
Date of receipt of First Appeal : 14.03.2019
Date of Order of First Appeal : 25.04.2019

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

Appeal No. 02 of 2019

Shri C.K.Yadav

..... **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 15.02.2019, under the Right to Information Act, 2005, (hereinafter referred to as "RTI Act"). The Respondent vide letter dated 18.02.2019 responded to the Appellant's Application. The Appellant has filed this Appeal on 14.03.2019, against the said response.
- 2) Before passing an Order, the First Appellate Authority has given the Appellant an opportunity of personal hearing on 10.04.2019 by serving upon him a notice of hearing dated 01.04.2019. The Appellant and PIO were present 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, was as follows:
 1. Are the contents of these circular as per the guidelines of MERC as mentioned in the Electricity Supply Code and Other Conditions of Supply Regulations, 2005?

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- II. With specific reference to the conditions for land leased to MSEDCL - Does it not violate Section 5.5 of Electricity Supply and Other Conditions of Supply Regulations, 2005?
- III. Can MERC deviate from the MERC Electricity Supply Code and Other Conditions of Supply Regulations, 2005, without express permission from MERC?
- IV. What is the legality of CRA?
- V. If MSEDCL unilaterally deviates from MERC guidelines, what penalty is imposed on MSEDCL?
- VI. What is the process to initiate action to impose such penalty against MSEDCL for SOP Violation?

5) **The Grounds of the Appeal:**

A reply was received redirecting the query to MSEDCL. However, no reply was received.

- 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 information, which is related with the other utility/public authority i.e. MSEDCL.
- 7) It has been observed from the record that, the PIO has been transferred Appellant's Application u/s 6 (3) to the PIO of MSEDCL on 18.02.2019, and Respondent herein sent the copy of the said transfer application to the Appellant herein.
- 8) In Case of *Mr. S. Gupta Vs LG Office*, the Hon'ble Central Information Commission in A.No. CIC/SA/A/2016/001483 has held that the information available with Public Authority can only be provided under RTI Act.
- 9) It has been further observed by the Hon'ble Central Information Commission that under the provisions of RTI Act one Public Authority cannot direct another Public Authority to provide information to the applicant.
- 10) It is observed that in this Case the PIO has rightly informed the appellant about the information sought that the RTI application was forwarded to the MSEDCL. The Appellant herein advised to file the appeal before the Appellate Authority of the concerned Public Authority i.e. MSEDCL if the reply given by that Authority i.e. MSEDCL is not satisfactory.
- 11) It is submitted that, as per Section 6 (1), of RTI Act, it is the duty of the applicant to file information request with the 'Concerned Public Authority', which holds the information. In this case, the MERC does not hold the information sought by the applicant. Thus according to section 2 (j) of RTI Act, it is not holder of information.
- 12) It is observed that, an application which is not filed before the 'Concerned Public Authority' holding information is not a valid RTI application u/s 6 (1) of RTI Act.

- 13) In other words, an applicant cannot file an RTI application before an unrelated public authority expecting that PIO of that public authority would transfer his application u/s 6 (3) to the Public Authority where the information may be held. No application can be filed before PIO u/s 6 (3).
- 14) The full bench opined that an applicant who knew cannot file RTI request with unrelated Public Authority and such Public Authority cannot be compelled to accept it.
- 15) It follows from it that when a Appellant is aware of the location of a given information vis - a-vis a Public Authority, it is not open to him to file his RTI application before any other Public Authority in expectation that this later Public Authority would act under section 6 (3) to transfer his application to where the information was known to be held as in this particular case.
- 16) It has been further observed by the Central Information Commission that a Public Authority which does not hold or is not related to information sought by a petitioner will not be obliged to provide an answer to the petitioner only for the reason that the public authority has the Apex body or nodal officer of subordinate public authorities.
- 17) In view above observation the Appeal is dismissed.
- 18) The First Appellate Authority & Director, Legal (I/c) was out of Mumbai head Office for Court matters at Delhi and Nagpur. Therefore, decision in this Appeal has been passed within 45 days.
- 19) 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 is dismissed accordingly.



(Anilkumar Ukey)

**First Appellate Authority & Director, Legal (I/c)
Maharashtra Electricity Regulatory Commission**

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