



महाराष्ट्र विद्युत नियामक आयोग

Maharashtra Electricity Regulatory Commission

Order No. MERC/FAA/2018/APPEAL/04 OF 2018/0434

04 April, 2018

Date of RTI Application filed: 05.02.2018
Date of Reply of PIO : 08.03.2018
Date of receipt of First Appeal: 08.03.2018
Date of Order of First Appeal: 04.04.2018

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

Appeal No. 04 of 2018

Shri. Yawar Husain Oomatia

..... **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 05.02.2018, under the Right to Information Act, 2005, (hereinafter referred to as "RTI Act"). The Respondent vide letter dated 08.03.2018 responded to the Appellant's Application. The Appellant has filed this Appeal on 08.03.2018, against the said response.
- 2) Before passing an Order, the First Appellate Authority has given the Appellant an opportunity of personal hearing on 20.03.2018 by serving upon him a notice of hearing dated 09.03.2018. The Appellant attended the hearing and made his oral submission. PIO was absent due the transportation issue of local trains in Mumbai.
- 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 requested to provide the complete detailed information required in regard to Files / Records / Documents in regards Electric Receiving Station, Electric Sub-Station and Electric Meter Room / Cabin under DCR 33(7), 33(9) and 33(10).

Page 1 of 3

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

i) Application under RTI Act, 2005, was submitted by hand delivery on 05.02.2018 to Public Information Officer, Maharashtra Electricity Regulatory Commission [MERC], World Trade Centre, Centre No.1, 13th Floor, Cuffe Parade, Colaba, Mumbai - 400 005, in respect to information as per my application dated 05.02.2018. However, despite lapse of more than 30 days, no reply / response was received from the PIO, till date.

ii) Hence, by this Appeal, I request the Appellate Authority to kindly direct the PIO to provide me requested information immediately and free of cost.

- 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 public authority i.e. BEST. Accordingly, the Respondent has to transfer the application of the Appellant as per the provisions of Section 6 (3) of the RTI Act, 2005, to the concerned public authority.
- 7) Whereas, the Respondent PIO, has transferred the Appellant's application to the concerned public authority after the stipulated time period, on the pretext of searching of the documents/information in the office.
- 8) It has been observed that the PIO transferred the application to the concerned public authority on 08.03.2018, after laps of 30 days, contrary to the provisions of the RTI Act, 2005. The Appellant has also filed this Appeal after the stipulated period.
- 9) It has been further observed from the record that, the Appellant had made an application to the concerned authority i.e. BEST on the same day seeking the same information, which has been sought from this office. From the correspondence of the PIO's of the BEST and MERC, it reveals that the BEST had provided the required information to the Appellant within the stipulated time period. Therefore, after receipt of the information from the proper public authority, nothing survives in the instant Appeal preferred by the Appellant, whereas, it is nothing but the abuse of the process under the RTI Act.
- 10) However, in the context, with 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 petitioner is aware of the location of a given information 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.*"

- 11) However, the Respondent PIO did not transferred RTI application or passed an appropriate Order within the stipulated time period. Since, this approach of the Respondent PIO is not consonance with the spirit and object as well as the legislative intent of the RTI Act, 2005. Therefore, the Respondent is hereby admonish and directed to pass the appropriate Order within the stipulated time period, henceforth, in the RTI Applications.
- 12) In the light of the above facts and circumstances and decision of the CIC, the present Appeal has becomes infructuous, and it has been disposed of accordingly.
- 13) In case, the appellatant 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 disposed of accordingly.



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

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Copy to:
PIO, MERC, Mumbai.



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