



महाराष्ट्र विद्युत नियामक आयोग

Maharashtra Electricity Regulatory Commission

Ref. No.FAA/2017/A-07 /Decision/dt.15.12.2017/4981

Date of RTI Application filed: 22.09.2017
Date of Reply of PIO : 11.10.2017
Date of receipt of First Appeal: 16.11.2017
Date of Decision of First Appeal: 15.12.2017

BEFORE THE APPELLATE AUTHORITY

(Under the Right to Information Act, 2005)

Maharashtra Electricity Regulatory Commission, Mumbai

Appeal No. 07 of 2017

Mr. Subhash Grover 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

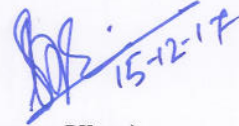
- 1) The Appellant had filed an application dated 22.09.2017, under the Right to Information Act, 2005, (hereinafter referred to as "RTI Act"). The Respondent vide letter dated 11.10.2017 responded to the Appellant's Application. The Appellant has filed this Appeal on 16.11.2017 against the said response.
- 2) Before passing a decision, the First Appellate Authority has given an opportunity of personal hearing to the Appellant on 11.12.2017 by serving upon him a notice of hearing dated 24.11.2017. The Appellant was absent during the hearing held on 11.12.2017, and Respondent PIO had submitted its written submission on 08.12.2017, as he was on leave.
- 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 following queries: (a) kindly inform the exact procedure for arbitration application to be filed under the scheme. (b) Please inform the amount to be paid / deposited and details of bank account. (c) Please inform if arbitration proceedings\ is conducted by the SC Judge or it is delegated to electricity authority or by proper and competent Electricity Engineer who understand the nature of dispute on facts, merit, honesty and verification of documents including verification of location. (d) Please inform the relevant format for filing the arbitration proceeding. (e) Kindly inform if arbitration proceeding under the scheme floated by CJI in electrical matter can be heard, contested through "Video Conference" for expeditious disposal of matter.
- 5) The Respondent PIO has replied in response to the above queries on 11.10.2017, by transferring the Appellants Application to the PIO, Maharashtra State Electricity Distribution Co. Ltd., Bandra (E), Mumbai.
- 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 had sought above (a) to (e) queries which are not related to this Office.
- 7) It has been observed that the PIO did not provide the factual information about the all queries, as it is not available in the office of the Commission; secondly the PIO has transferred Appellant's Application under Section 6 (3) of the RTI Act without application of mind to the PIO, Maharashtra State Electricity Distribution Co. Ltd. which was also not a proper authority to transfer the Application, as the same information did not pertains to this public authority.
- 8) Upon perusal of the Appellant's request for information as made through his application, I, find that the information is related with arbitration proceedings before the Supreme Court of India, 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 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."*

- 9) In view of the foregoing, it is/was not possible to invoke Section 6 (3) of the RTI Act, and transfer of the application of the Appellant to the PIO, Maharashtra State Electricity Distribution Co. Ltd.
- 10) However, it is necessitated to make it clear that the PIO has to refer this factual position about the non availability of the information with this office. The PIO henceforth, directed to pass a reasoned Order and inform the applicant factual information / position in the RTI applications. Accordingly the Appeal is disposed off.
- 11) In case, the Appellant is not satisfied with decision, he/she may prefer a Second Appeal under RTI Act, 2005, within 90 days after the receipt 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.


15-12-17

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

To
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Copy to:

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15-12-17

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