महाराष्ट्र विद्युत नियामक आयोग
Maharashtra Electricity Regulatory Commission

Order No. MERC/FAA/2022/APPEAL/11 OF 2022/0523 Date: 07.11.2022

Date of RTI Application filed : 18.08.2022

Date of Reply of PIO : 15.09.2022

Date of receipt of First Appeal : 30.09.2022

Date of Order of First Appeal : 07.11.2022

BEFORE THE APPELLATE AUTHORIY

(Under the Right to Information Act, 2005)

Maharashtra Electricity Regulatory Commission, Mumbai

Appeal No. 11 of 2022/47 of 2022

Shri. Anilkumar Ukey ..... **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 has filed an application dated 18.08.2022, under the Right to Information Act, 2005, (hereinafter referred to as "RTI Act"). The application received at the Commission's Office on 18.08.2022.

2) Before passing an Order, the First Appellate Authority has given Appellant an opportunity of personal hearing on 10.10.2022 by serving upon him a notice of hearing dated 04.10.2022. The Appellant and PIO were present in the hearing. In the hearing Appellant presented oral and written submission.

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:**

i. Provide certified copies of the notes for Constitution of the "Tripathi Committee"

ii. Provide certified copy of the "Tripathi Committee" Report.

iii. Provide certified copy of the details / remuneration /consideration / fees paid to the "Tripathi Committee" for their assigned task and also provide the expenses incurred by the Commission for their visits to different SERC's and CERC.

iv. Provide certified copies of the Seniority List from 2012 to till date of all the Cadre of Deputy Directors Technical, Legal & Admin & Finance and Executive Director and Under Secretary.

v. Provide certified copies of the Constitution of Departmental Promotion Committee (DPC) year wise from 2012 to till date and recommendations of the Committee / Report for regular promotion of the employees in the establishment of the Commission.

vi. Provide certified copies of the reply furnished to the CAG Inspection Report for FY 2019-20 to Para 4 (a) in Para 2 (b) and Para 6, Para 8.

vii. Provide certified copies of the all-Inspection Reports of the CAG FY 2019-20.

viii. Provide certified copies of the Rosters (by nomination and promotion) of the employees in the establishment of the Commission for Cadre of Class-I & II.

xi. Provide certified copies of CR's of Mr. Anilkumar Ukey / Applicant for last 7 years.

5) **The response provided by PIO to the above queries are as follows:**

i. As per the office of the record these information/documents are available with the Commission office. (The total number of pages - 210).

ii. The seniority list is not available in the office of the Commission since 2012. The first provisional seniority list was prepared in the office of the Commission on 01.01.2017 (as per GAD, GR dated 21.10.2011).

After that the seniority list was prepared from time to time (2018 to till date) which is available on Commission website www.merc.gov.in also hard copies of seniority list are available with the Commission office (The total number of pages - 33).

iii. As per GAD GR dated 01.08.2019, the office of the Commission has approved office note and DPC was constituted vide office order dated 06.04.2022 (number of page - 1).

Related to information covered under Section 8(1)(j) of the RTI Act,2005.

iv. CAG report can be given only if the same is placed before the State Legislature.

Office of the Accountant General (Audit)-II Maharashtra Branch Office Mumbai vide letter no. AG/Audit-II//Report/RTI/794, dated 04.07.2022 informed that the CAG Report No. 3 for the year 2018-19 (latest printed report) is placed in State Legislature on 8th September, 2020 (number of page - 1).

v. A roster register for Class I & II has been prepared and sent to the Government for approval vide letter no. मविनिआ/प्रशा/२०२२/२४८, dated 30.05.2022. (Number of pages - 2).

vi. From the year 2019-20 to 2021-22 is work in progress.

From the year 2015-16 to 2018-19 is available with the Commission office. (The total number of pages - 56).

6) **Reason for filling an Appeal:**

(i) The PIO has denied information Blanketly to the Appellant.

(ii) The PIO has not applied his mind while passing the Order dated 15.09.2022.

(iii) The information sought in para (v) regarding Constitution of Promotional Committee it is not personal information.

(iv) Reply of PIO to para (vi) and (vii) is incorrect, and his understanding is not clear. I have sought CAG's Inspection Report are the Public Documents which related to the Public Activity.

(v) The PIO failed to given reasoning and reasoned Order how the information sought by the Appellant is personal information.

(vi) The Appellant had not sought ant personal information which includes as such the Medical Report of a person, Bank details, Salary, PF details, Services Book, Assets & Liabilities, Leave Records, Passport, ITR details etc. Thus, the PIO has given frivolous information which is amount denial of information within the ambit of RTI Act.

7) **The Grounds of the Appeal:** Documents received partly.

8) **Issues raised in the Appeal:** i) Reply to para (vi) and (vii) is incorrect, and PIO's understanding is not correct PIO has sought CAG's Inspection Report not a CAG Report

Observation: PIO has quoted that the CAG report can be given only if the same is placed before State Legislature. On the basis of which explanation called from PIO, in which he has mentioned that he replied the same based on last available information with him which is in reference to RTI application no. 34/2022. PIO is directed to re-enquire about the status of report of CAG place before State Legislature and then furnish the RTI reply.

ii) The PIO failed to give reasoning and reasoned order how the information sought by the Appellant is personal information

Observation: After hearing I had called all The files (which were asked by the appellant for inspection) and verified the data if it is personal in nature.

And come to the conclusion that PIO needs to confirm from the respective officers regarding files (file in the name of particular officer) if, we can allow appellant to inspect the data pertaining to their file as per RTI Act 2005, section 11.

9) In view of above PIO is directed to act as per observations 8 (i) & (ii) above.

10) This Appeal has been disposed of within 45 days of extended time period as per section 19 (6) due to workload and consecutive holidays in the month of October 2022.

11) 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

PIO is directed for further action.

(Aarti Bodhare)
First Appellate Authority & Deputy Director, (A&F)
Maharashtra Electricity Regulatory Commission

To
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(Aarti Bodhare)
First Appellate Authority & Deputy Director, (A&F)
Maharashtra Electricity Regulatory Commission

CC:-
PIO, MERC,
Mumbai