



माहितीचा
अधिकार

महाराष्ट्र विद्युत नियामक आयोग

Maharashtra Electricity Regulatory Commission

Order NO.-MERC/FAA/2024/Appeal/2 of 2024/ 189

Date: 13.03.2024

Date of RTI application filed: 16.01.2024
Date of reply of PIO: 13.02.2024
Date of receipt of first appeal: 14.02.2024
Date of order of first appeal: 13.03.2024

BEFORE THE APPELLATE AUTHORITY
(Under the Right to Information Act, 2005)
Maharashtra Electricity Regulatory Commission, Mumbai
Appeal No. 02 of 2024

Shri. Anilkumar Rupchand Ukey

.....Appellant

V/s

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 makes the following decision.

Facts of the Appeal

1. The appellant had filed an application dated 16.01.2024 under the Right to Information Act, 2005 (hereinafter referred to as RTI Act). The application was received at the office of the Commission on 16.01.2024. The PIO/Respondent, vide letter dated 13.02.2024, provided the information to the Appellant. Accordingly, the Appellant filed the First appeal on 14.02.2024 (received at Office of the Commission on 14.02.2024).
2. The First Appellate Authority has given the opportunity of a personal hearing on 26.02.2024 by serving a notice of hearing upon Appellant dated 21.02.2024. The Appellant and PIO attended the hearing and made an oral submission on 21.02.2024. Moreover, the Appellant requested to two days period to submit his say in writing and accordingly, Appellant is allowed to submit his written say before 28.02.2024. The written submission received from the Appellant on 27.02.2024.
3. Information sought by Appellant was as follows:

- a) *Provide the attested noting portion for qualified and non-qualified list of Candidates for the post of Director Legal by nomination.*
- b) *Provide the attested noting portion of all Commission notes regarding arriving logical end of the process of filling the post of Director Legal by nomination.*
- c) *Provide the attested noting portion approved by the Commission for non-qualified candidates for the post of Director Legal by nomination.*
- d) *Provide the project sheet for examination of Director Legal by nomination submitted by IBPS to the Office of the Commission.*

4. Reply by PIO was as follows:

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

5. Reason for filing an Appeal:

- i. The Order dated 13.02.2024 passed by the Public Information Officer is contrary to the object of the RTI Act, 2005.
- ii. The PIO without giving reasons that how it is a personal information, and unwarranted invasion of the privacy of the individual has passed Order which is bad in law and depriving the rights of the applicant under the RTI Act, 2005.
- iii. The Order passed by the PIO is not reasoned and speaking Order, and not in consonance with the provision of the RTI Act, 2005.
- iv. The PIO erred while interpreting the Section 8(1)(j) and misconstrued its meaning and not taken into the consideration the proviso clause (1) to the Section 8(1)(j) which states as follows:
"Provided that the information, which cannot be denied to the Parliament, or a State Legislature shall not be denied to any person."
- v. The Appellant also place reliance and support Judgement of the Hon'ble High Court of Karnataka at Bengaluru in WP No. 23695 of 2022(GM-RES) which hold that-
"The Petitioner, a that unless the service particulars of the persons which he has sought for in the subject RTI application are furnished, he will not be in a position to work out his grievance in the subject service matter....."
Therefore, is an error apparent on its face warranting indulgence of this Court.
"In view of the above..... the 5th respondent is directed to furnish service particulars of the persons conferred and copies of records in that connection..... his pocket of sum Rs. 1000/- to the petitioner."

The Appellant also submitted his written submission on 27.02.2024 which reasoned that,

- a) During the pendency of the Writ Petition No. 3491 of 2022 filed by the Appellant before the Hon'ble High Court for promotional benefit, the Commission had issued an Advertisement regarding the filling up of the post of Director (Legal) by nomination, subject to outcome of the Writ Petition of Appellant.
 - b) Hon'ble High Court Judicature at Bombay has passed the Judgement dated 11.10.2022 in Writ Petition No. 3491 of 2022 in Case of Anilkumar Ukey Vs. MERC & Ors. and reproduced relevant excerpts of the Judgement.
 - c) In the light of the direction the Appellant required to know the status for further process as the Hon'ble High Court's Judgement came out, which was mentioned in the Advertisement. Therefore, the Appellant wants the information, it is not personal information but public activity of filing the post of Director (Legal) by nomination. It is also pertinent to note that it is not an unwanted invasion of the privacy of the individual.
 - d) The PIO has passed non-reasoned and non-speaking Order and failed to construe true meaning of the Section 8(1)(j) of the RTI Act.
6. The Appellant contended through his written submission that the information sought pertained to his very own promotional benefit. In the first Appeal, the Appellant made a reference to the decision of the Hon'ble High Court of Karnataka in WP No. 23695 of 2022(GM-RES) dated 22.08.2023 to substantiate his contention.
 7. The Respondent, PIO placed his reliance on the decision of the Hon'ble Supreme Court of India in Girish Ramchandra Deshpande vs. Central Information Commission & ors. SLP(C) No. 27734 of 2012 dated 03.10.2012 and argued that there is no larger public interest in the information sought by the Appellant, therefore, falls under Section 8(1)(j) of the RTI Act.
 8. After considering the judgements of Hon'ble Supreme Court and Hon'ble High Court quoted by both the parties in the instant case, and the judgement of CIC on appeal no. CIC/CCABH/C/2017/121717-BJ dated 14.12.2017 and in its referred judgements of Hon'ble High Courts, it is construed that the information cannot be denied if pertained to the own case of the Appellant. Moreover, such noting does not form a part of the ministerial advice. In the instant case, the Appellant conveyed his contention through written submission that the information is sought for his own promotional benefits, therefore, the

information in form of noting portion under point no (b) could not be denied. However, the details of the author of the noting could be severed while providing the copy of related noting portion within 10 days from the date of this order. The Appellant has informed to deposit the requisite amount for the copies as per RTI Act.

9. For points no. (a), (c) and (d), the information sought includes the information of third parties and may disclose their competencies and other information which qualified to be personal information. Therefore, it is construed that such information falls under the ambit of Section 8(1)(j) of the RTI Act and cannot be shared.

Accordingly, appeal is disposed of.

10. The Appellant does not fall under the BPL category.

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-400032.

Decision

The PIO/Respondent is directed to provide the copy of related information available with office pertains to point no. (b) of the application after severing the details of the author of the note within 10 days from the date of this order after depositing requisite amount as per RTI Act by the Appellant. Points no. (a), (c) and (d) falls under the ambit of Section 8(1)(j) of the RTI Act.

The Appeal is disposed of with above decision.



Abhijeet Chatuphale
Dy. Director (A&F) & First Appellate Authority
Maharashtra Electricity Regulatory Commission

To,

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Abhijeet Chatuphale
Dy. Director (A&F) & First Appellate Authority
Maharashtra Electricity Regulatory Commission

Copy to PIO of MERC for necessary action.