

CENTRAL INFORMATION COMMISSION

Room No. 302, CIC Bhawan,
Baba Gang Nath Marg,
Munirka, New Delhi-110067

Decision No. CIC/SH/A/2016/001634 Dated 17.01.2018

**Partap Singh Narwal vs. CPIO, National Bank for Agriculture & Rural
Development, Haryana, Chandigarh**

Relevant dates emerging from the appeal:

RTI: 02.11.2015	FA: 07.12.2015	S.A. 30.06 .2016
CPIO: 01.12.2015	FAAO: 22.01.2016	Hearing: 16.01.2018

ORDER

1. The appellant filed an application under the Right to Information Act, 2005 (RTI Act) before the Central Public Information Officer (CPIO), National Bank for Agriculture & Rural Development, Haryana, Chandigarh, seeking information on eight points, including, inter-alia, (i) copy of the inspection note of the Haryana State Cooperative Agriculture and Rural Development Bank (HSCARDB) Limited, Panchkula & District Primary Cooperative Agriculture and Rural Development Banks (DPCARDBs) in the State, based on the inspection conducted by the inspection team of NABARD in February, 2012 along with the enclosures, (ii) copy regarding compliance of the above said inspection note made by the HSCARDB Ltd., Panchkula & DPCARDBs and (ii) copies of documents in respect of corrective action taken on the above said Inspection Note after receipt of its compliance.

2. The appellant filed a second appeal before the Commission on the grounds that the CPIO had provided false and baseless information to him. The appellant stated that the information sought by him was readily available in the office of the NABARD and the CPIO had incorrectly denied the same by claiming the exemption u/s 8 of the RTI Act, 2005 as the information was not confidential but ought to be disclosed to the public in

view of the 'fake loans' disbursed by the Managing Director, HSCARDB. The appellant also stated that the FAA did not provide the name and address of the Second Appellate Authority which is also unlawful and illegal on the part of the FAA. The appellant, therefore, requested the Commission to direct the CPIO to provide the information as sought by him and to impose penalty upon the CPIO and FAA for not performing their statutory duties and to award compensation to him.

Hearing:

3. The appellant was not present despite notice. The respondent Shri Arun Shukla, Chief General Manager, National Bank for Agriculture & Rural Development, Haryana RO, Chandigarh attended the hearing through video conferencing.

4. The appellant vide letter dated 08.01.2018 informed that, due to illness, he is not in a position to appear before the Commission on 16.01.2018. The appellant, therefore, requested that his appeal may be decided on merit as per its contents and grounds.

5. The respondent submitted that NABARD conducts inspections of the State Cooperative Agriculture and Rural Development Banks (SCARDBs) in order to ascertain their financial soundness and the inspections are purely voluntary. However, NABARD does not conduct inspections of DPCARDBs. The respondent also stated that the inspection report and the related documents sought by the appellant were initially denied to him as the matter regarding disclosure of inspection reports was pending before the Hon'ble Supreme Court in Transfer (Civil) case No. 91 of 2015. However, after the Court's judgment dated 16.12.2015 directing disclosure of the inspection reports, complete information, as available with the respondent, was provided to the appellant along with the inspection report and compliance report, vide letter dated 05.08.2016. Further, the status of non-availability of rest of the information had also been communicated to the appellant vide letter dated 28.01.2016 and 05.08.2016.

Decision:

6. The Commission, after hearing the submissions of the respondent and perusing the records, observes that the information sought had been initially denied to the appellant u/s 8(1)(a) & 8(1)(d) of the RTI Act, 2005. However, subsequent to the Hon'ble Supreme Court's judgment dated 16.12.2015, directing disclosure of inspection reports, information, as available with the respondent had been provided to the appellant on 05.08.2016. The Commission further observes that the exemption was claimed due to an error of judgment on the part of the CPIO concerned. However, it cannot be said that the CPIO had acted consciously and deliberately with a malafide intention to provide incorrect or misleading information to the complainant. Further, no penalty can be imposed for wrong judgment. Moreover, in a decision in the matter of Kripa Shanker v. Central Information Commission- judgment dated 18.09.2017 in W. P. (C) No. 8315/ 2017, the High Court of Delhi held that: *"Para13... Indisputably, merely because the view taken by a PIO is not correct, it would not lead to an inference that he is liable to penalty. There may be cases where the PIO is of the view that the information sought is exempt from disclosure under Section 8 of the Act. If this view is subsequently found to be incorrect, it would not necessarily mean that he would be subjected to penalty. The question of imposition of penalty depends on whether the conduct of PIO is reasonable and whether there is any bona fide justification for denial of information; penalty is levied only if it is found that the information was denied without reasonable cause."* In view of the above ratio, in the absence of any malafide intention, it would not be appropriate to initiate any action for imposition of penalty on the CPIO.

7. With the above observations, the appeal is disposed of.

8. Copy of the decision be provided free of cost to the parties.

(Sudhir Bhargava)
Information Commissioner

Authenticated true copy

(S.S. Rohilla)
Designated Officer

Addresses of the parties:

1. The Central Public Information Officer (CPIO),
National Bank for Agriculture &
Rural Development,
Haryana R.O., Plot No.3,
Sector 34-A, Chandigarh.
2. Shri Partap Singh Narwal,