

CENTRAL INFORMATION COMMISSION
Complaint No.CIC/WB/C/2008/00806 dated 11.8.2008
Right to Information Act 2005 – Section 18

Appellant - Shri Subhash Chandra Agrawal
Respondent - Supreme Court of India

Facts:

With three applications all dated 21.5.08, Shri Subhash Chandra Agrawal of Dariba, Delhi applied to the Prime Minister's Office, the Dep't. Of Justice and the Supreme Court of India with the following request:

To Prime Minister's Office

"Kindly inform if Prime Minister's Office before Sanctioning foreign-trips of Supreme Court judges ensured that rules were obeyed in having the shortest air-route for official trips of these judges. Are wives of judges also entitled to accompany their husbands in official foreign trips abroad? If yes, please attach copy of rules in this regard.

Kindly also arrange authenticity of the enclosed IBN report together with a copy of the mentioned RTI reply on expenses made of foreign trips of Supreme Court judges and their wives. In case query relates to some other public authority, kindly transfer this RTI petition to the CPIO there. Please attach file notings."

To Dep't of Justice, Ministry of Law & Justice

"Kindly informs about authenticity of the enclosed IBN report dated 20.5.2008 on expenses made by government on foreign trips of honourable Supreme Court judges and their wives. Kindly also provide a copy of the mentioned RTI reply on such expenses in the enclosed IBN report. Is it true that rules provide for shortest air route to attend official functions? If yes, kindly provide information on alleged violation of rules. Are wives of judges also entitled to accompany their husbands in official foreign trips abroad? If yes, please attach copy of rules in this regard. In case query relates to some other public authority, kindly transfer this RTI petition to the CPIO there."

To Supreme Court of India

“Kindly inform about authenticity of the enclosed IBN report dated 20.5.2008 on expenses made by government on foreign trips of honourable Supreme Court judges and their wives. Kindly also provide a copy of the mentioned RTI reply on such expenses in the enclosed IBN report. Is it true that rules provide for shortest air route to attend official functions? If yes, kindly provide information on alleged violation of rules. Are wives of judges also entitled to accompany their husbands in official foreign trips abroad? If yes, please attach copy of rules in this regard. In case query relates to some other public authority, kindly transfer this RTI petition to the CPIO there. Please attach file notings.”

The Dep't. Of Justice responded on 20.6.08 as follows:

“Enclose herewith the copies of the reply letters sent to Ms. Meetu Jain dated January 11,2008, January 31st, 2008 and March 18th, 2008 and also copy of letter No. 88/DIR/(KG)/2008-RTI dated may 02nd 2008 for your kind information, as desired by you.”

The PMO on the other hand transferred the application to the Supreme Court of India on 23.5.08 and the Supreme Court transferred the application addressed to them to the Dep't. of Justice on 31.5.08. On 10.6.08 the Supreme Court of India transferred back to the Prime Minister's Office the letter transferred to them by that public authority with the following comments :

“The proposals for foreign visits of Hon'ble Judges of this Hon'ble Court are processed by the Department of Justice, Ministry of Law & Justice, New Delhi. The application of Shri Subhash Chandra Agrawal in original along with its enclosure is returned herewith for appropriate action at your end.”

Subsequently there was an exchange of correspondence between CPIO Shri K. Gurtu, Director (Justice), Ministry of Law & Justice and Shri Ashok Kumar, Addl. Registrar & CPIO, Supreme Court of India until finally the details of procedure followed were enunciated by Shri K. Gurtu of Dep't. of Justice in a letter addressed to Shri Ashok Kumar, CPIO, Supreme Court of India on 8th July, 2008 in which he has stated as follows:

“2. On receipt of official visit proposals of the Chief Justice of India and the Judges of the Supreme Court of India from the

Hon'ble Chief Justice of India giving detailed information, including FC-II Forms, if any, are called for from the Registry of the Supreme court of India. On furnishing of this detailed information, further processing of the official visit proposals is done.

3. After the requisite approvals, the sanctions are issued to the Pay & Accounts Officer of the Supreme Court of India, with copies of the Chief Justice of India or Judge of the Supreme Court, as the case may be, with a copy of the concerned Officer in the Registry of the Supreme Court. It would not be correct to say that the expenditure spend on the foreign visits of the Hon'ble Judges of the Supreme Court would be known to the Department of Justice, as the final figures of amount spent would be known only to the Registry of the Supreme Court of India. The guidelines and other circulars, as send by the Ministry of External Affairs have been officially circulated to the Registrar Generals and the Registrars of the Supreme Court of India and of the High Courts of India.
4. It may also not be out of place to mention that the detailed tour programmes are also forwarded to the Department of Justice by the Registry of the Supreme Court of India and requisite approvals are taken of the Hon'ble Minister of Law & Justice, Finance Minister and of the Prime Minister of India thereafter as regards the tour programme, the details of the expenditure, as and when the Hon'ble Judges are accompanied by their spouses. The sanctions of the Department of Justice, as and when issued, after the requisite approvals of the Minister of Law and Justice, Finance Minister and of the Prime Minister are sent to the Pay & Accounts Officer, Supreme Court of India, New Delhi-110 001, with a copy of the concerned Hon'ble Judge and a copy to the concerned officer in the Registry of the Supreme Court of India, along with the copies to the other concerned Ministries/ Departments like the Ministry of External Affairs etc. Hence I shall be very grateful if you could accordingly send a reply to Shri Subhash Chandra Agrawal, the RTI applicant, under intimation to me."

CPIO Shri Ashok Kumar AR of Supreme Court of India on the other hand, responded on 17.8.08, only to receive a further response of 22.8.08 from CPIO Shri K. Gurtu of the Dep't. Of Justice stating as follows:

- “1. The point of ‘Expenses’ can be given only by the Registry of the Supreme Court of India which is the final implementing authority, and the Department of Justice would not be in a position to furnish such detailed expenses information, which would be undoubtedly known, and under the purview of the Registry of the Hon’ble Supreme Court of India.
2. hence, I would once again reiterate and request you to kindly furnish the requisite expenses information to the respected RTI applicant Shri Subhash Chandra Agrawal Ji.
3. Further, I may point out to you that as per Section 6 (3) of the RTI Act, 2005 the proviso in the last three lines reads, as under:-
“Provided that the transfer of an application pursuant to this sub-section shall be made as soon as practicable, but in no case later than five days from the date of receipt of the application”
4. Hence, I am not able to agree with your interpretation of RTI Act, 2005 in respect of the above proviso and decline to accept the transfer of the RTI application of May 21, 2008 of Shri Subhash Chandra Agrawal.
5. I would, therefore, once again beseech you to kindly furnish the reply to Shri Subhash Chandra Agrawal giving him the detailed expenditure information which is under the control and knowledge of the Hon’ble Registry of the Supreme Court of India.”

To this correspondence Shri Agrawal was party since all exchanges were endorsed to him and, he therefore, then moved a complaint before us in which he prayed as follows:

“CPIO at Department of Justice was kind enough to respond to my request for providing a copy of reply to IBN reporter towards her RTI petition. However for rest other queries, it was literally a ‘war of letters’ between CPIOs at Supreme Court and Department of Justice with CPIO at PMO also involved in between, to shift respond to the queries on each other.

Under the circumstances, petitioner has no option left other than to approach Honourable Central Information Commission to fix responsibility to respond on any or all of the CPIOs concerned as mentioned in this petition before the Honourable Commission. I appeal that respective CPIOs may kindly be directed to respond to queries numbering 1, 2, 3 and 4 referred above in this petition. It is prayed accordingly.”

In response to our complaint notice, we have received a response from CPIO Shri S. Twickly, Dy. Secretary, Ministry of Law & Justice, Dep't. Of Justice and successor of Shri Gurtu as CPIO, as follows:

“This department has nothing further to add in the matter and it is again reiterated that the exact figures on the foreign visits of Judges of the Supreme Court can only be provided by the CPIO, Supreme Court of India.”

The appeal was scheduled for hearing on 20.10.2008 at 4.00 p.m. In the meantime, at 1.00 p.m. we received two requests from CPIO Shri Rajpal Arora, Addl. Registrar, Supreme Court of India pleading for grant of a short adjournment, and fixing of another date for hearing. We have also received a response to the appeal notice from CPIO Shri Amit Agrawal, Director, Prime Minister's Office in which he has submitted as follows:

- “1. The applicant, vide application dated 21.5.08 under Right to Information, had, sought information relating to foreign trips of Supreme Court Judges. The application was duly transferred to the Registrar, Supreme Court of India by the CPIO, PMO under section 6(3) of the Right to Information Act. The Addl. Registrar/ CPIO, Supreme Court returned the application stating that it is not the authority concerned and proposals for foreign visits of Judges of Supreme Court are processed by the Department of Justice. Accordingly, the application was transferred to the Department of Justice.
2. In his letter, Shri Agrawal raised the issue of non-receipt of information relating to foreign visits of Judges of Supreme Court. However, the letter encloses copy of reply provided to the applicant by the Department of Justice. The subject of the application was related to that Department. The only direct reference to this office in the application was whether PMO before sanctioning foreign trips of Supreme Court Judges ensured that rules were obeyed in having the

shortest air route for official trips of these judges. The only direct reference made in the letter dated 8.8.08 filed with the Hon'ble Commission relating to this office reads "Responsibility at PMO to ensure if rules were followed by PMO before sanctioning such tours of judges of higher courts", which is not quite the same as the original query and, at this stage, fresh queries may not be entertained. Proposals received for consideration and approval of the Prime Minister relating to foreign visits of Judges of Supreme Court are sent back to the Department of Justice with the decision of the Prime Minister. Thus, the relevant record is available with the Department. The matter as a whole relates to the Department of Justice and, therefore, in accordance with the provisions of the Right to Information Act 2005, it was transferred to that Department. This office has no information about follow up action taken by the Department of Justice in the matter and no appeal has been preferred before the appellate authority in this office, nor has the matter been otherwise raised with this office."

The following are present:

Appellant

Shri S.C.Agrawal

Respondent

Shri P.K. Roy, Dy. Secy., P.M.O.

Shri Kshitish Kumar, S.O., PMO

Shri Raj Pal Arora, Addl. Registrar, SCI

Shri A. Mariarputham, Advocate for S.C.I

A copy of the response received from the Prime Minister's Office was handed over to appellant Shri Subhash Agrawal. As agreed by all parties the appeal was then adjourned to 5.11.08 at 4.30 p.m. Accordingly, the appeal was heard on 5.11.08. The following are present:

Appellant

Shri Prashant Bhushan, Advocate

Shri Mayank Mishra, Advocate

Respondent

Shri Amarendra Sharan, Addl. Solicitor General (for CPIO Supreme Court)

Shri Amit Anand Tiwari, Adv. (-do-)

Shri Raj Pal Arora, Addl. Registrar, SCI

Shri P.K. Roy, Dy. Secy., P.M.O.

Shri Kshitish Kumar, S.O., PMO

Shri Amarendra Sharan. Addl. Solicitor General, authorized representative of CPIO, Supreme Court of India invited our attention to the original application, in which he submitted that there were three components –

- (1) verification of authenticity of IBN Report,
- (2) the Rules regarding foreign tours of the Supreme Court Judges and their spouses and
- (3) providing information on alleged violation of rules.

He submitted that the verification of authenticity of a report is not the work of a CPIO or included as information u/s 2(f). The remaining portion of the information sought pertains to rules. These rules are held by Dep't. Of Law & Justice which by its own admission is the sanctioning authority for the tours. Both appellant and Dy. Secretary, PMO agreed that the public authority concerned in this matter was indeed the Dep't. of Justice that was the authority empowered to process and recommend to the Prime Minister the sanction of such tours.

DECISION NOTICE

The Ministry of Law & Justice has not thought it necessary to depute a representative, stating that it has nothing to add to the information already provided. There is a consensus among all the other stakeholders that that Ministry is the concerned public authority. Since both the PMO and Supreme Court of India are in unison on this specific point, it is clear that the Ministry of Law & Justice, by being administrative authority in Govt. for processing applications for foreign tours on the recommendations of the Chief Justice of India is the appropriate public authority to provide copies of rules to the applicant. **CPIO Shri Twickly Dy. Secretary, Ministry of Law & Justice, Dep't. of Justice will respond to the application of Shri S. C. Agrawal within ten working days of the date of issue of this decision notice** under intimation to

Shri Pankaj K.P.Shreyaskar, Joint Registrar of this Commission. Even if the Dep't holds no such rules and simply recommends sanction of such tours without any set norms, this will also be disclosed. **The appeal is therefore allowed in this measure**

Announced in the hearing. Notice of this decision be given free of cost to the parties.

(Wajahat Habibullah)
Chief Information Commissioner
5.11.2008

Authenticated true copy. Additional copies of orders shall be supplied against application and payment of the charges, prescribed under the Act, to the CPIO of this Commission.

(Pankaj Shreyaskar)
Joint Registrar
5.11.2008