

CENTRAL INFORMATION COMMISSION
Complaint No.CIC/WB/C/2009/00064 dated 24.2.2009
Right to Information Act 2005 – Section 18

Appellant - Maj. Gen. V. K. Singh
Respondent - Central Information Commission (CIC)

Facts:

By an application of 10.1.09 (mistakenly dated 10.1.08) Maj. Gen. V. K. Singh of Gurgaon, Haryana applied to Shri Tarun Kumar, CPIO, Central Information Commission, seeking the following information:

- “1. Was intimation of the hearing in the above case held on 2.12.2008 sent to the appellant? If so, proof of dispatch and delivery may be provided. If no intimation was given, reasons for the same may be provided.
2. Were summons sent to Shri Praveen Swami and Ms. Swati Chaturvedi as decided in the hearing held on 20.11.08? If so, proof of dispatch and delivery may be provided?
3. Were the summons to Shri Praveen Swami and Ms. Swati Chaturvedi delivered to them before the hearing of 2.12.2008? If not, what was the reason for holding the hearing at such short notice?
4. Was there any request from NSCS for holding an early hearing in the Case, verbally or in writing? If so, details may be provided.”

To this he received a response from Dy. Secretary Shri Pankaj K. P. Shreyaskar dated 10.2.09 as follows:

“The information sought for is as under: -

1. As per the available record in file no. CIC/WB/C/2008/00630, 631 & 633, a notice of hearing addressed to Shri G. Rajeev, National, Security Council Secretariat, copy of Major General Vinay Kr. Singh (Retd), G-31, Palam Vihar, Gurgaon, Haryana is available at Page No. 43. This notice is dated 25.11.2008. However, the proof of the dispatch is not available. No record except ‘send copies to the parties concerned’ is available on N/S-6. Copies of relevant documents are enclosed.

2. Notice of hearing were faxed to Shri Praveen Swami, Frontline, PTI Building, Sansad Marg and to Ms. Swati Chaturvedi, Reporting Section, the Hindustan Times and to the DG (M&C), PIB, Shastri Bhawan, New Delhi on the fax numbers 011-55561279, 011-23383094 and 011-23739101 (copies of fax reports are enclosed).
3. As informed in 2 the hearing notices were faxed to all three. As per available records they were not sent by any other means except the fax. All three notices were faxed on 26.11.2008. No such reasons in respect of holding the hearing in such short span are recorded on file.
4. No such records except the interim orders are available on record in regard to this.”

Not having received this response, however, Maj Gen. Singh moved a complaint before us stating that the respondent had not replied although more than thirty days had elapsed, as follows:

“The Respondent may be asked to provide the complete information (certified copies) sought in the application. The information may be provided within 48 hours under section 7 (1) of the Act, since its concerns the liberty of the applicant. It is relevant that in respect of the above-mentioned book the CBI has registered FIR No. RC 5(S)/2007/SCU-V u/s 5 of the Official Secrets Act on 20.9.2007. The CBI has also filed a complaint in the Court of the CMM against the Complainant on 9.4.2008 and a charge sheet on 11.4.2008. The Court has taken cognizance of the case on 31.1.2009 and issued summons for the presence of the complainant in the court on 18.2.2009.”

The complaint was heard on 23.4.2009. The following are present:

Complainant

Maj. Gen. V. K. Singh

Respondent

Shri Pankaj K.P. Shreyaskar, D.S.

Maj. Gen. Singh acknowledged that he had indeed received a response to his original RTI application through a letter from Shri Pankaj K.P. Shreyaskar dated 10.2.09. He stated that from this response it would appear that Shri

Praveen Swami Ms. Swati Chaturvedi, necessary witnesses in his case before the CIC never received any notice of hearing, thus compromising the Decision of this Commission. However, he had submitted a further complaint dated 2.3.09 on the basis of this response with the following prayer:

The Respondent may be asked to provide the complete information sought in the application. The information may be provided within 48 hours under section 7 (1) of the RTI Act, since its concerns the liberty of the applicant.

The Respondent may be asked to explain for delaying the reply, giving incomplete answers and faxing the intimation of the hearing on incorrect fax numbers.”

Respondent Shri Shreyaskar submitted that the fresh complaint does not appear to have been registered.

DECISION NOTICE

Because the 1st appellate authority has not addressed the questions of appellant, which are of direct concern to his public authority and because appellant has pleaded no ground for making a direct complaint to us u/s 18, or apprehension of malafide on the part of the Commission, the Commission has decided to remand this appeal to Shri L. C. Singhi, 1st appellate authority who is directed to dispose of the appeal within ten working days from the date of receipt of this decision. If not satisfied with the information so provided, complainant Maj Gen. V. K. Singh will be free to move a 2nd appeal before us as per Sec 19 (3).

In the matter of complainant Gen Singh's apprehension that our Decision in his appeal before us has been compromised, he is free to move an application for review on grounds of perceived error of fact, which will be separately examined on merit.

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

(Wajahat Habibullah)
Chief Information Commissioner
23.4.2009

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
23.4.2009