

CENTRAL INFORMATION COMMISSION
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File No.CIC/RM/A/2012/001337

Appellant: Shri M.K. Sharma, Jaipur
Public Authority: CBSE (Regional Office), Ajmer
Date of Hearing: 05.08.2013
Date of decision: 07.08.2013
Heard today, dated 05.08.2013 through video conferencing.

Appellant is present.

The Public Authority is represented by Shri PP Verma, PIO RO Jaipur..

FACTS

Vide RTI dt 11.6.12, appellant had sought information on 12 points relating to implementation of the RTI Act as also copies of Class XII Examination 2012, Physics.

2. PIO RO Ajmer, vide letter dt 28.6.12, provided a partial response and in respect of queries 4-10, informed the appellant that it relates to CPIO CBSE HQ Delhi. CPIO CBSE Delhi, vide letter dt 3.8.12, provided a response.

3. An appeal was filed on 8.7.12.

4. AA RO Ajmer, vide order dt 16.8.12, provided a response and disposed of the appeal.

5. Submissions made by the appellant and public authority were heard. Appellant submitted that he was not satisfied with the responses provided in response to his RTI. In respect of query no.1 and 2, he questioned the guidelines which have been framed by the CBSE in pursuance of the orders of the Hon'ble Supreme Court relating to inspection/procuring photocopies of answer sheets. It was his submission that he had sought the information under the RTI Act and he has been referred to CBSE guidelines in the matter. In respect of query no.5, he averred that he has not been provided a copy of the DOPT directions dt 2.3.12. In respect of query no. 12, he submitted that the information sought by him as per proforma, is not available on the website. PIO submitted that the appellant did not apply for copies of the answer sheets as per their notification dt 21.6.12 and information sought by the appellant was available on their website in respect of query no.11/12.

DECISION

6. The Hon'ble High Court of Delhi in its judgement dt 1.6.2012 in the case of Registrar of Companies Vs Dharmendra Kumar Garg has held as follows:

"34. From the above, it appears that the expression held by or under the control of any public authority, in relation to information, means that information which is held by the public authority under its control to the exclusion of others. It cannot mean that information which the public authority has already let go, i.e. shared generally with the citizens, and also that information, in respect of which there is a statutory mechanism evolved, (independent of the RTI Act) which obliges the public authority to share the

same with the citizenry by following the prescribed procedure, and upon fulfillment of the prescribed conditions. This is so, because in respect of such information, which the public authority is statutorily obliged to disseminate, it cannot be said that the public authority holds or controls the same. There is no exclusivity in such holding or control. In fact, the control vests in the seeker of the information who has only to operate the statutorily prescribed mechanism to access the information. It is not this kind of information, which appears to fall within the meaning of the expression right to information, as the information in relation to which the right to information is specifically conferred by the RTI Act is that information which "is held by or under the control of any public authority".

35. The mere prescription of a higher charge in the other statutory mechanism (in this case Section 610 of the Companies Act), than that prescribed under the RTI Act does not make any difference whatsoever. The right available to any person to seek inspection/copies of documents under Section 610 of the Companies Act is governed by the Companies (Central Government's) General Rules & Forms, 1956, which are statutory rules and prescribe the fees for inspection of documents, etc. in Rule 21A. The said rules being statutory in nature and specific in their application, do not get overridden by the rules framed under the RTI Act with regard to prescription of fee for supply of information, which is general in nature, and apply to all kinds of applications made under the RTI Act to seek information. It would also be complete waste of public funds to require the creation and maintenance of two parallel machineries by the ROC one under Section 610 of the Companies Act, and the other under the RTI Act to provide the same information to an applicant. It would lead to unnecessary and avoidable duplication of work and consequent expenditure."

7. In view of the above, the Commission sees no reason to interfere with the orders of the AA.

The appeal is disposed of.


Sd/-
(Rajiv Mathur)
Central Information Commissioner

Authenticated true copy forwarded to:

The CPIO
CBSE
(Regional Office)
Todarmal Marg, Ajmer -305030.(Raj.)

The First Appellate Authority
CBSE
(Regional Office)
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✓ Shri. M K Sharma
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(Raghubir Singh)
Deputy Registrar
26.08.2013