

CENTRAL INFORMATION COMMISSION  
Appeal No.CIC/WB/A/2006/00349 dated 20.6.2006  
**Right to Information Act 2005 – Section 19**

Appellant - Ms. Gita Dewan Verma  
Respondent - Municipal Corporation of Delhi.

**Facts:**

In her application of 22.1.06 the appellant Ms. Gita Dewan Verma applied to MCD Commissioner on 22.1.06 seeking the following information :-

1. Apropos the drive against violations of building regulation regime, on 18.01.2006 Delhi High court has reportedly given MCD 4 weeks for implementing, inter alia, the following directions:
  - uniform (no pick-and-choose) action against all recent (after 2000) violations and listing of targeted violations on websites of MCD & DDA and notices in prominent places (so as to dispel fear / confusion)
  - priority action against violations by elected representatives / big-fish, especially malls & non-residential complexes in residential areas including Lal-Dora (so as to create an atmosphere conducive to rule of law)
2. I make the following requests under Right to Information Act, 2005:
  - (a) I request schedule/action-plan for compliance in Mahipalpur-Mehrauli / Vasant Kunj area, specifically for constructions enumerated in para-3.
  - (b) I request this under s.4 (1) (d) in view of communications related to the ongoing drive and pending court matters enumerated in para-4.
  - (c) I request this with urgency (as no time frame is stipulated for s.4(1)(d), I refer to 48 hours proviso under s.7(1) for urgent requests) and, in any event, well before any action is effected in the area so as to allow time to take steps required for pending court matters
  - (d) I request that this e-mail (text of which I am also dispatching by courier) be acknowledged and I be told forthwith if MCD wishes to reject my request
3. I request, in particular, information apropos the following:

- (a) Delhi Govt Mandi at Andheria Morh (non-residential complex abutting old residential area on site where old shops and homes were summarily demolished in 2000, constructed in 2003-04 despite DDA objections, with Chief Minister gracing foundation stone and inauguration functions and unauthorised colony being carved out on appurtenant land after burying Mehrauli ridge forest)
  - (b) Delhi Govt super-specialty hospital in Green Belt south of D2 Vasant Kunj (non-residential complex under construction since June 2004, after Chief Minister graced foundation stone function in 2003, even as land use change was considered only in July 2005 by the Authority of DDA on which MCD is represented)
  - (c) So-called farmhouses around Delhi Govt super-specialty (including, besides party-places brought under pay-and-misuse policy of 2004, free-of-charge misuse in form of architecture college, objections to which were duly filed in response to MPD-2021 - because its Director, one AGK Menon, chaired a MPD-2021 sub-group and advocated also in media identical illegalities - and await hearing and disposal by the Board on which MCD is represented)
  - (d) Commercial projects in Masudpur (including illegal market honoured for Bhagidaari by CM in 2001, despite requests to DDA & MCD from residents and traders to shift all unplanned commerce to vacant planned Community Centre site, and one Sun-City Mall coming up on that site since 2005, for which MCD demolished vegetable market that Councilor had got built in some tehbazari Bhagidaari in 2001 despite objections of area residents and traders).
  - (e) Mega-housing construction since 2004 in Sultangarhi scheme near 30-year old MCD primary school at Rangpuri Pahari (with duly filed suggestion for expansion of site of school to the stipulated minimum size pending since response to Public Notice of 15.09.02 for proposal to change land use from rural for the scheme, on Board for Enquiry & Hearing for which also MCD was represented)
  - (f) Building violations on school sites in Vasant Kunj (which impede the statutory Neighbourhood School Plan for common school system and emanate largely from Delhi Govt policy of illegal permissions and were to be rectified in 12 weeks by Court order of 27.10.04 in WP 8954-59/2003 in which MCD was Respondent No.4)
4. In my open letter of 23.12.05 to you about the ongoing drive (published by Pioneer on 25.12.05), I had mentioned constructions such as the above and their proponents resorting to diversionary obfuscation. I had also asked, in view of orders for action against collusions responsible for violating existing building regulation regime, about action against collusions responsible for

unauthorized construction of a substitute regime (by some oral order and 1 cr from USAID), viz, USAID-made MCD Bill / building-byelaw project. This question is germane to my pending RTI requests, including one transferred by MoUD to MCD on 09.01.06. Those RTI requests arise from my representation of 17.11.05 about dissolution of MCD for pursuit of the USAID Bill in 2003-05, in which I had offered a list of coincident schemes to illustrate persistent default in duties. The above are part of that and the collusions are also set out in responses duly filed from the area to MPD-2021 Public Notice on basis of following court matters, in view of which, especially, I invoke for my instant request s.4(1)(d) of RTI Act:

- (a) Apropos 3(e) & (f), in WP 8954-59/2003 (MPISG & Ors v/s DDA & Ors) I signed for lead Petitioner and MCD claimed no role while undertaking to abide by orders. MCD is seized of non-compliance of order of 27.10.04 and efforts to secure non-adversarial compliance through letters (including ones forwarded to MCD Commissioner by Delhi Govt for action and ATR to me), my intervention of August 2005 in NGO PIL WP 3156/2002 in which MCD is party, and MPD-2021 Public notice responses referring to these.
- (b) Apropos 3(d), unplanned commercial development is subject of WP 6980/2002 (MPISG & Ors v/s DDA & Ar) in which I signed for Petitioner No.1. MCD is seized of this through letters, intervention in WP 2334/2005(Dharam Singh & Ors v/s MCD & Ors) against MCD-NGO bhagidaari model in Sewa-Nagar, confidential CVC reference (arising from my complaint about that) that Chief Secretary forwarded to MCD Commissioner for ATR to me, response to MCD Public Notice of 22.05.2005 for vending committees, and MPD-2021 Public notice responses referring to these.
- (c) Apropos 3(a) to (c), these are pointedly referred to in Rejoinder affidavits I have sworn as Planner to the Petitioner in WP 8523/2003 (Shiv Narayan v/s DDA & Ors), PIL in which MCD is Respondent No.4 and which seeks a-priori schemes for implementing Plan entitlements of existing communities and stopping unplanned illegal projects in the area:
  - In Rejoinder affidavit of 21.04.2005 in reply to DDA counter-affidavit I have summarised in Annexure-P/15 letters to Respondents pursuant to notice and enclosed letters by which Delhi Govt forwarded to MCD Commissioner for action and ATR my letter of 21.11.04 (& 17.02.04) objecting to pay-and-misuse policy for farmhouses, my letter of 22.11.04 objecting to restart of Sultangarhi scheme without compliance of court order of

16.09.2002 by which it had been stopped, and representation of 01.02.05 from the Petitioner for expediting replies and stopping impugned schemes and keeping other demolitions in abeyance meanwhile.

- In Rejoinder affidavit of 14.11.2005 in reply to DDA Additional counter-affidavit (disclosing illegality of Delhi Govt Mandi and super-specialty) I have pointed out that foundation stone / inauguration functions were graced by Chief Minister and Delhi Govt has approved expansion of super-specialty.
- In Rejoinder affidavit of 14.11.2005 in reply to MCD counter-affidavit in which it has taken the view that it has no role in the area I have disputed this contention with reference to its Act, its role under DD Act including in MPD-2021 Public Notice, its activities in the area, implications of the constructions for it, and its pursuit of illegal policies such as for farmhouse misuse and unconstitutional reforms / building-byelaws project to actively subvert the grounds of the PIL while claiming no role in it.

WP 8523/2003 arises primarily from non-compliance of order of 16.09.2002 (stopping the Sultangarhi scheme) in terms of the inquiry ordered to prevent perpetuation of identical illegalities, despite inquiry having been repeatedly sought, including at hearing of objections duly filed by over 1700 families in the area in response to Public Notice of 15.09.2002. MCD was represented on the Board for that hearing on 27.01.2003. The PIL reiterates suggestions and objections already presented to the Board and raises further objections to proliferating identical illegalities, relying also on the other PIL mentioned above. All contentions are also reiterated in duly filed responses to MPD-2021 Public Notice, awaiting hearing and disposal by the Board on which MCD is represented more strongly than before. For your ready reference, main pleadings in WP 8523/2003 are at: <http://plan.architexturez.org/site/FILES/landpolicy>

I am not a lawyer but it seems obvious that any action for compliance in Mahipalpur-Mehrauli / Vasant Kunj area of order of 18.01.06 arising from other PIL must be harmonised with this area-specific PIL so as not to amount to misuse of that general order and, also, any action in the area by MCD will create cause of action to make out case for perjury in counter-affidavit of April 2005.”

To this she received a response on 27.4.06 from Chief Town Planner Shri V.K. Bagga. Against this she moved her first appeal with the MCD

Commissioner on 1.5.06 to which she received a response from Addl. Commissioner (Engg.) on 26.5.06 who stated as follows:

*"It may be stated here that under the provisions of sub sections (1) and (2) of Section 5 of the Right to Information Act 2005, Commissioner, MCD has designated 38 PIOs in MCD with clearly defined jurisdiction. Apart from that 86 APIOs and eight First Appellate Authorities under sub sections (1) of Section 19 of the Act have also been designated.*

*Records and other relevant data are available with various PIOs and hence it is desirable on the part of the applicant to address the request seeking information to the PIO/First Appellate Authority concerned in order to elicit information under the provisions of the Act.*

*After going through the appeal as well as enclosures filed along with the appeal, it appears that many of the issues raised does not pertain to MCD and may be under the jurisdiction of GNCTD DDA or even GOI. A perusal of the documents attached with the appeal indicates that it is not clear in many cases the public authority who is holding information and therefore, transferring the application or part of it to the appropriate public authority is also difficult. Information available within the office of Chief Town Planner has already been made available and for specific information appropriate application may be moved before the concerned PIO."*

In her second appeal before us, therefore, Ms. Gita Dewan Verma has pleaded as follows:

- (a) direct the MCD to furnish to the Appellant the following information, free of charge and most expeditiously:
- i. schedule of sealing/demolition in Mehrauli-Mahipalpur / Vasant Kunj area by general court orders, sought prior to said actions in request dated 22.01.06;
  - ii. basis of priorities for sealing/demolition in the area, including reasons for not initiating action against constructions enumerated in request dated 22.01.06;
  - iii. copies of 'recent administrative / legal / judicial instrument that authorizes action by MCD' in the area in view of its no-role stand in area-specific matters with reference to which the request dated 22.01.06 was made under s.4(1)(d); and

iv. reply to each of the Grounds in the Appellant's First Appeal dated 01.05.06; and

(b) pass any other directions as deemed appropriate.

The appeal was heard on 18.12.06. The following were present:

1. Ms. Gita Dewan Verma, appellant
2. Sh. V. K. Bagga, Chief Town Planner, MCD

Our interim orders passed on that date were as follows:

*"Appellant has given a rejoinder to comments received from the respondent in response to our Appeal Notice. This may be studied by PIO Shri V.K. Bagga and he may submit a response in writing within one week, specifically addressing issues raised at para 2(a) to (j) on page 2. Position about delay (h), (i) and (k)"*

In response Shri V.K. Bagga Chief Town Planner sent his reply to appellant Ms.Gita Dewan Verma on 23.12.06 which is as follows:

- "a) This has been reported by the Dy. Comr. / South Zone that on enquiry, it has been found that the Delhi Govt. Mandi in Vasant Kunj Area has been established through the offices of DC/Revenue – The area being part of the agricultural belt. The matter is accordingly being referred to DC/Revenue to provide further details in the matter.
  - b) The Delhi Govt. Liver Hospital under construction in Vasant Kunj Area is on the development area of DDA and action for the change of land use/sanction of building plans is being taken by DDA. For a more specific reply, the matter is being referred to DDA.
  - c) & (f) A copy of the reply as received from DC Najafgarh Zone is enclosed for kind reference please.
  - d) & (e) As the matter relates to DDA, a reference is now being made to DDA for a specific reply.
2. The copy of the Notification of Land & Building Dep't. indicating the pockets of Vasant Kunj transferred to MCD is enclosed for your kind reference, please."

The appeal was heard on 12.4.06. The following are present:

1. Ms. Gita Dewan Verma, appellant

2. Mr. V.K. Bagga, Chief Town Planner MCD
3. Mr. R.S. Meena, ADC (CL & EC), MCD
4. Mr. R.P. Gautam, AO (CL & EC)

The appellant Ms. Gita Dewan Verma has submitted her arguments during the hearing in writing. These are as follows:-

- “1. At hearing dt.18/12/06 and by letter dt.30/12/06 the Commission had directed response on **para a.2.a-f** (six cases of unauthorized constructions for which I had requested on 22/01/06 schedule of demolitions by High Court order dt.18/01/06) and **para b.1-4** (questions about delay). With reference to the said direction I submitted to MCD Commissioner letters dt.12, 17 & 31/01/07 with copies to CIC. I received intimations of transfers but have not received response.
2. **Para a.2.a** (Delhi Govt Mandi) was transferred to DC/Revenue for reply by PIO's letter dt.23/01/06. **I have received no response from DC/Revenue**. I have also received no response to my letter dt.31/01/07 to MCD Commissioner wherein I had specifically requested intervention for response on the said transfer.
3. **Para a.2.b, d & e** (Delhi Govt ILBS, Sun city Mall and Sultangarhi housing) were transferred to DDA Commr (Plg.) for reply by PIO's letter dt.23/01/06. I received from DDA RTI branch letter dt.08/02/07 forwarding – perhaps my letters dt.12 and/or 17/01/07, copies of which were also endorsed to DDA VC – to Dir. (Bldg) and Commr. (Plg.). I also received copy of letter dt.20/02/06 from Dir. (Plg.) UC forwarding the same to Dir. (Bldg), which also stated that PIO's letter dt.23/12/06 had also been forwarded to Dir. (Bldg) by letter dt.25/01/07. However, **I have received no reply from DDA**. I have also received no response on my request in letters since 12/01/07 to MCD Commissioner – with reference to incomplete compliance of Order dt.22/09/06 in **CIC/WB/A/2006/00341** – for information of vending committee decisions to adjust the planned hawking space usurped by Sun city Mall (para a.2.d). In this regard I also appeared before Addl.Cm. (H&E) Mr KD Akolia for hearing dt. 27/02/07 pursuant to his letter dt.19/02/07 saying *“With reference to your Appeal filed before the Central Information Commission, you are requested to come for personal hearing in this office on February 27, 2007 at 5 PM”*. I had clarified over phone that I had not filed petition against incomplete compliance in that Appeal and the common issue with this Appeal was my

said request apropos Sun city Mall. However, Mr Akolia appeared to have perused neither case and hearing notice appeared to have been issued by error.

4. On **Para a.2.c** (reason for not disclosing if MCD had issued building permit to TVB college, 'immediately' by Decision dt. 22/08/06 in **CIC/WB/A/2006/00146**) PIO's letter dt.23/01/06 had enclosed note dt.21/12/06 of DC/Najafgarh stating that information was awaited from CE Bldg (HQ). I had sent letter dt.17/01/07 to MCD Commissioner with specific reference to this response upon coming to know of CIC letter dt.08/01/06 for compliance report in that Appeal. By PIO's letter dt.03/04/07 I have been provided note dt.12/03/07 of AE (Blg) HQ.IV saying, "*...no such file in respect of TVB School, Vasant Kunj, is received from DDA. The record of MCD files from 2001 has also been checked and the file is also not available on record*". **Reason for delay has not been given.** Meanwhile, the Committee having TVB Director AGK Menon and former Board Member EFN Rebeiro has submitted its report recommending regularization of such properties.
5. On **Para a.2.f** (reasons for not taking action in schools, mentioned in the application with reference to specific previous court order) PIO's letter dt.23/01/06 had enclosed note dt.21/12/06 of DC/Najafgarh reiterating the response provided with comment dt.14/12/06, viz, "*Notices have been issued to 10 schools in Vasant Kunj area for unauthorized constructions and regular hearing was conducted but in view of the Delhi Special Law Act dated 19-05-2006, no order could be passed. This has been conveyed earlier also.*" **No response has been given** on the contention in para a.2.f about the gap between notices in February and Act dt.19/05/06 and other demolitions continuing as per Annexure-A of Comment dt.14/12/06. I have also received no response to my letter dt.31/01/07 to MCD Commissioner wherein I had specifically requested intervention for expansion of reply of DC-Najafgarh on para a.2.f.
6. On **para b.1-4** (questions about delay) **I have received no response**, although copy of PIO's letter dt.23/12/06 was endorsed to Addnl.Cm. (Engg.). In my letter dt.12/01/07 I had specifically requested response. In my letter dt.17/01/07 I had pointed out delay in same office also in the Appeal about TVB College, with detailed reference to Ground J mentioned in para b.4.d. In my letter dt.31/01/07 I had requested immediate response. "

The question regarding delay in response to the initial application which is dated 22.1.06 has not been explained. PIO Shri Bagga during the hearing explained that the reason for this was that the matter concerned the Engineering Department to which it was referred. Since Engineer in Chief is himself PIO he had been requested to respond directly to the appellant but instead sent it back to PIO Sh. Bagga, Chief Town Planner arguing that he respond as the application was addressed to him, which he did.

From this and from the response to each of the questions raised, it appears that none of the information sought by appellant Ms. Gita Dewan Verma has so far been provided to her either by MCD, DDA or DC (Revenue) GNCTD.

### **DECISION NOTICE**

The disposal of the application of Ms. Gita Dewan Verma is a lamentable example of delayed action in responding to statutory requirements under the RTI Act 2005. The following will, therefore, show cause on **1.5.07 at 10.00 A.M.** as to why they should not be held liable for penalty @ Rs. 250/- a day from the date that they received the application from the Office of Shri V.K. Bagga, Chief Town Planner up to the time that the response has been given in the case of Engineer-in-Chief, MCD and in the remaining case the date when it will be given:

1. Engineer-in Chief MCD
2. Commissioer (Planning) DDA
3. DC Revenue, GNCT, Delhi

They may bring necessary documents with them to establish that they have acted reasonably and diligently in processing this case as required under proviso II to sec. 20(1) of the RTI Act 2005, failing which a penalty at the above rate will be imposed on all the days for which the application has been pending with them, beyond the time permissible, not exceeding Rs 25,000/-.

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

(Wajahat Habibullah)  
Chief Information Commissioner  
12.4.2007

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.

(L.C.Singhi)  
Addl. Registrar  
12.4.2007