

CENTRAL INFORMATION COMMISSION
Appeal No.CIC/WB/A/2006/00537 dated 23.8.2006
Right to Information Act 2005 – Section 19

Appellant - Shri Ajit Singh Malik
Respondent - Delhi Development Authority

Facts:

Vide application of 9.3.06 Shri Ajit Singh Malik of Masood Pur, Vasant Kunj, applied to Sh. Rakesh Bhatnagar, Director (Housing-I) for the following information:

1. You have mentioned about building construction permission and compulsory environmental permission from Delhi Govt. for construction of Malls from August 2004 , but have not supplied its date etc.
2. You have mentioned about notification of Mega Housing construction in Sultangarhi but have neither supplied copy nor given the date etc. of the environment permission.
3. You have mentioned about Govt. Mandi at Andheria Mor and its allotment by Lt. Governor as also permission for temporary constn. But you have not mentioned the date of constn. Permission etc.etc.
4. Delhi Govt's Liver Institute is under construction since June 2004 and you have mentioned about change of its land use, but have not provided date of public notice, constn. Permission etc.etc.
5. You have informed that DDA and Private Allottees start the constn. After obtaining permission from Delhi Jal Board, but have not mentioned its date of permission etc.
6. You have mentioned that under integration of village, and development on village land, there is a scheme that residents of villages should become domestic servants of residents of these flats but not mentioned who has proposed this scheme.”

To this he received a response through a letter of 7.4.06 addressed by Shri J.P. Aggarwal, PIO / Director H-2, to Shri Pankaj Kumar, PIO / Dy. Director (CL) DDA and Sh. Parthadhar, PIO/ Asstt. Director-I, DDA stating that Shri Rakesh Bhatnagar had forwarded the application to Shri J.P. Aggarwal on 29.3.06, but since none of the information desired by applicant pertain to Director H-2, the request is forwarded to the above two PIOs. He received a further response in consequence from Shri Pankaj Kumar on 20.4.06 and from Shri Parthadhar on 26.4.06. However, not satisfied with these responses, he moved three first appeals before Shri R.K. Singh, Commissioner (LD), Smt. Asma Manzar, Commissioner (Housing) and Shri A.K. Jain, Commissioner (Plg) who were Appellate Authorities of PIOs from whom a response had been received. On this an order was received only from Smt. Asma Manzar, Commr. (LD) dated 31.7.06 which dealt with all the six questions raised in the original application as follows:

1. In Para 1 of the application, the appellant has stated that the DDA has mentioned about the environment clearance regarding construction of commercial Malls from August 2004. However, the date thereof is not mentioned. The PIO vide his order dated 20.4.06 has informed that in para 8 of the said counter affidavit the DDA has not mentioned about the construction of commercial malls as environment clearance from Delhi Govt. The PIO has also mentioned that the DDA has no concern with the said matter as DDA had auctioned the plot to the private auction purchasers and they have to seek clearance, if any, in case, any environment clearance is required, the same has to be seen by the DPCC.
2. In para No. 2 & 6 of his application, the appellant has mentioned about the environmental clearance of the Delhi Govt. regarding Mega Housing Project at Sultan Garhi. The appellant had sought the information regarding the copy of notification as well as the date of environmental clearance. The PIO in his order has mentioned that this information pertains to the Planning Dep't. of the DDA and the application of the applicant was forwarded to the Director (AP)-1, DDA regarding environment clearance of the same and the information sought by the appellant.

3. The information sought in para No. 3 to 5 of the application do not pertain to DDA as the same pertains to Govt. of NCT of Delhi and Delhi Jal Board. The PIO has informed the appellant accordingly vide his order sought to be impugned in the present appeal.

In view of the foregoing discussion, the appeal is disposed. A copy of the order be sent to the Commissioner (Planning), DDA with a request to provide the information in respect of para No. 2 & 6. So far as the information sought in para No. 3 to 5, the appellant, if so, desires may approach the concerned Govt. Dep't."

Shri Ajit Singh Malik moved his second appeal before us with the following prayer:

- (a) Direct PIO Sh. Rakesh Bhatnagar to furnish to the Appellant, free of charge, copies of the documents from the records of the DDA on which Shri Rakesh Bhatnagar had relied to swear the affidavit to which the RTI application dt. 9.3.06 pertained.
- (b) Call from Shri Pankaj Kumar a statement on oath as to why he gave the Appellant patently false information based on personal 'understanding and knowledge'
- © Call from Smt. Asma Manzar a statement on oath as to the records referred to by her while disposing off the Appellant's First Appeal.
- (d) Impose penalties against failure to provide the information requested vide application dt. 9.3.06 as well as against providing false information at application and first appeal stage, and

In response to our appeal notice, we have received a letter of 13.3.07 from Shri Pankaj Kumar, Dy. Dir. (CL), and from Shri P.S. Uttarwar, Director (Planning) on 11.4.07. Shri Pankaj Kumar in his response has argued as follows:

"In this regard, it is submitted that Shri Rakesh Bhatnagar has also been transferred from the Commercial Land Branch in April, 2005. The said affidavit was prepared based on available record and information. Since the matter is subjudice, it would not be appropriate to provide documents etc. relating to court case. The communication between the lawyer and client is personal in nature

and cannot be disclosed. Moreover, the said record have not been asked by the appellant in the first instance in the application. Appellant cannot ask fresh information in the appeal. Subsequently, the affidavit have been filed by the Planning Branch in this case.”

The Director (Plg) in his letter has submitted as follows:

“With reference to above, Planning Deptt. Has sent reply to Shri Ajit Singh Malik r/o C-15, Mansood Pur, New Delhi-110070 vide letter of even no. dated 23.11.2006 providing him copy of the Notification for change of land use of 56 hac. Of land in “J” zone as directed by Appellant Authority in its order No.F.100(01)06/CL/RTI/84/2776 dated 31.7.06 w.r.t. para 2 & 6. Copy of the letter dated 23.11.06 is enclosed for ready reference.

Further a letter was issued by PIO/SE(HQ)-SWZ vide No.CE/SWZ/15/10/06/RTI/4213 dated 27.11.06 regarding Environment Clearance (copy of the same is enclosed for ready reference). Further a reply was sent to Shri Ajit Singh Malik in response to his RTI application ID No. 4277 dated 13.11.06 regarding information related to ‘J’ Zone vide letter of even No. dated 6.12.2006 (copy enclosed). The applicant was also requested to seek clarification on the above matter on any working day. However, this opportunity was not availed by the applicant. It is clear from the above that his queries are fully replied and available information provided to him.”

The appeal was heard on 20.4.07. The following are present:

1. Shri Ajit Singh Malik, appellant
2. Ms.Gita Dewan Verma (Authorised representative of appellant)
3. Shri Pankaj Kumar, Dy. Dir. (CL)
4. Shri Bir Singh, Asstt. (CL)
5. Shri R.M. Lal, Dir. (Bldg)
6. Shri Chandu Bhutia, Dy. Director (Plg)

The authorized representative of appellant Ms.Gita Dewan Verma has submitted that Shri Bhatnagar had in fact invited appellant Shri Ajit Singh Malik for a discussion on 5.4.07 during which it was clarified that questions raised were with reference to para 8 of the affidavit but also referred to clearance in regard to para 5. This clarified the point raised by Shri Pankaj Kumar in the hearing that much of the confusion in responding occurred because the original application

referred to para 8 and not para 5. Although, therefore, this confusion need not have arisen, it now stands clarified.

On 13.4.07 Shri Ajit Singh Malik has submitted a rejoinder to the response of 13.3.07 of respondent Shri Pankaj Kumar to the appeal notice. In this rejoinder the specific information sought and obtained has been expatiated as under:

	Affidavit averment	Information Requested	Response status
1	Vasant Kunj Shopping Mall allotments had been made in these 92 hec. Of land and environmental clearances for such buildings had been obtained by the allottees of the said land from the DPCC (Para 5 of affidavit)	Date etc. . . . environment permission . . . GNCTD.	Not given Application mentioned Para 8 of affidavit; PIO noted Para 8 did not mention clearance and added DDA has no concern with the said matter.
2	Sultangarhi Scheme has already got the approval of the Govt. of India and the change of land use from agricultural and rural use zone to residential and public and semi public facilities has been notified by the Govt. of India last year.	Notification . . . copy & Delhi Govt.'s environment permission date etc. etc.	Partly given after F.A. Order Notification given on 19.9.06 EIA clearance date evaded in letter dt. 27.12.06 w.r.t alleged GNCTD circular dt. 14.9.06, whereas EIA was required by MoEF notification dt. 7.7.04 & DPCC public notice

			dt.13.3.05.
3	GNCTD A/c Mandi . . . this land has been directly allotted by the Lt.Governor. . . only certain temporary structures are being put up ... which are permissible under the Master Plan in a Regional Park.	. . Date etc. of Allotment & constr. permission	Advice to approach GNCTD
4	GNCTD Institute of Live Sciences the land for the hospital was allotted in public interest by DDA . . . Delhi Govt. is constructing the hospital and the change of land use is under process.	Date of public notice & constr. Permission etc. etc.	Advice to approach GNCTD
5	WATER SUPPLY: DDA/ Private Individual Allottees take clearance from the DJB before starting any project.	When compulsory permission was granted to above-mentioned . . from Delhi Jal Board.	Advice to approach DJB
6	In the MPD 2001, integration of villages with the urban development have been suggested the	There is scheme of integration of villages . . . in village	Not given despite FA order. Letter dt. 23.11.06 said "it

	Economically Weaker Section, the work place are generated by developing the residential areas where these people can have job related with the household assistance.	development scheme. . . . in villages whose land has been acquired . . that these residents should become domestic servants in these houses . . but it has not been informed that whose proposal it was?	is policy issue and, therefore, does not pertain to any particular department, therefore, it is not a proposal but a policy statement.
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A copy of this rejoinder was also provided in the hearing to respondent Shri Pankaj Kumar. On perusing this he agreed that the specific information sought could be provided.

DECISION NOTICE

The information sought is related only to an affidavit presented by the public authority itself. It is quite clear that for preparing this affidavit although the information may have been sought from many quarters, the record should be accessible through one source. We, therefore, take an adverse view of the manner in which the simple information sought, the appellant has been given the run around for over a year without result. Representative of appellant Ms. Gita Dewan Verma has admitted that there was no lack of good intention in this matter, but the results seem to have been along the proverbial 'way', and the opposite of what was intended. Now, therefore, we direct Shri A.K. Gupta, Addl. Commissioner (Area Planning-II), whose department is primarily responsible for maintaining the records of the information sought, will obtain the information from

all the necessary authorities and provide this to applicant Shri Ajit Singh Malik within 15 working days of the date of issue of this Decision Notice. The appeal is disposed of accordingly.

However, the issue of delay in providing the information now needs to be addressed. During the hearing no satisfactory explanation could be provided for this. Even though appellant has not questioned the sincerity of the PIOs in this matter, as held by us in the case of Er Sarbajit Roy Vs. D.D.A., (Vide Appeal No. 10/1/2005-CIC dated 7.8.06), it is the primary responsibility of the CPIO to whom the application is submitted to obtain and provide the information to an applicant. That order concerned the very public authority that is respondent in this case and, therefore, there is little excuse for the failure to adhere to this direction in the present application. Shri O.P. Mishra, OSD (Lands) to whom the initial application was forwarded by the RTI Counter in DDA and Shri Rakesh Bhatnagar to whom the application was addressed by applicant will, therefore, appear before the undersigned on **25.5.2007 at 10.00** a.m. or submit the reasons for this lapse in writing by **5.5.2007**.

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

(Wajahat Habibullah)
Chief Information Commissioner
20.4.2007

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
20.4.2007