

CENTRAL INFORMATION COMMISSION

Appeal No. CIC/WB/A/2006/00183 dated 9/5/'06

Right to Information Act 2005 – Section 19

Appellant: Ms. Geeta Dewan Verma
Respondent: Delhi Development Authority

Facts:

In an application dated 28.12.05, applicant Ms. Gita Dewan Verma of Vasant Kunj, New Delhi had sought the following information from Addl. Secy and PS to LG:

1. I seek information about status of compliance of directions for the Lieutenant Governor in three judgments of Delhi High Court.
2. I urge you to consider publishing this information under s. 4(1)(c) of the Right to Information Act 2005 as relevant facts related to important and well publicized decisions for compliance of other orders of Delhi High Court.
3. And I request you to kindly provide (or refuse to provide) to me, at the earliest, this information under s. 4(1)(d) of the Right to Information Act 2005.

Shri V.P.Rao, Addl Secretary, forwarded this. to D.D.A. Vice Chairman. Applicant Ms. Geeta Dewan Verma received a response of 6.2.06 from Shri S.P.Padhy, PIO and Director (LM) DDA stating as follows :

“Though the letters are quite lengthy the precise information which is required by you from DDA, as is learned from your letters is the circumstances in which the DDA took a decision to initiate the instant action in the Pusta.

In this regard, it is to inform you that the decision to remove encroachments from DDA land was taken after receiving the directions from Hon'ble High Court in CWP No. 2112/02 titled Wazirpur Bartan Nirmata Sangh. If you further require any information you may attend the office of the undersigned from 2.30 p.m. to 5.00 p.m. on any Monday & Thursday.”

On this basis applicant Ms. Geeta Dewan Verma made her first appeal to Secretary to LG and DDA Chairman – Lt. Governor on 3.4.06 with the following prayer :

- (a) Information sought under section 4(1)(d) on 28.12.2005 and under section 6 on 30.01..2005 be provided to the Appellant under RTI Act.
- (b) Information requested about compliance of court directions for LG since 2002 also be published, as urged in the request dated 28.12.2005, as a transparency imperative under Article 14 in view of current widespread actions for compliance of Court orders.
- (c) Legality and propriety of aforesaid non-transparent unplanned action initiated in pendency of the instant RTI matter be examined, in light also of s. 41(3) of DD Act and appropriate action be taken, in light of its accountability object of RTI Act, against the failure of various officers to furnish the requested information while proceeding with actions to subvert the purpose of the RTI request.
- (d) The instant First Appeal be disposed off with utmost urgency in view of the inordinate delay thus far and of imminent actions to render the Appellant's resort to RTI infructuous.

This was transferred on 17.4.06 by Addl. Secy. and PS to LG to Vice Chairman D.D.A. indicating that the matter pertains to DDA. This was also intimated to Ms. Geeta Dewan Verma by the letter of 25.4.06 from Shri G.S.Patnaik Secy. to LG, Delhi. The matter has come before us in second appeal seeking the following :

- (a) Call for evidence on oath from the respondents as to whether or not the information requested by the Appellant from L.G. Secretariat viz status of compliance of Hon'ble High Court's directions to Hon'ble Lt. Governor, is held by the DDA, and
- (b) impose penalties and pass any other directions as deemed appropriate in regard to the denial of information if held by DDA and, if not held, in regard to failure to refer back to L.G.Sectt. the Appellant's request dt. 28.12.05 and First Appeal dt. 03.04.06 and failure to transfer to L.G. Sectt. under section 6(3) the Appellant's application dt. 30.01.06.

The gist of the appeal, therefore, is that the application was made to the Office of L.G. seeking information on compliance of High Court orders, which did not necessarily refer to the DDA. The transfer of the matter to DDA was, therefore, not justified but the DDA's inaction had led to the information sought not being supplied.

In response to appeal notice issued by us on 7.10.06, Director (LM) Shri S.P.Padhy has raised two issues :

1. A second appeal against the decision under sub section (1) could be filed within ninety days from the date on which the decision should have been made or was actually received with the CIC. In the instant case, no appeal under sub section (1) of Section 19 of the Act has been filed with any appellate authority of DDA. In absence of any appeal, no second appeal could be.
2. Similar petition files Ms. Gita Dewan Verma against the order of 1st appellate authority of the office of LG, GNCTD, has already been disposed of by Hon'ble CIC vide order dated 7.8.2006. Hence this appeal needs to be closed.

We have also received a response from Dy. Chief Legal Advisor Sh. B.K.Gupta on 16.10.2006 that has stated that the Dir. (LM) was the concerned PIO and since he had given all information at his level to the applicant Dy. Chief Legal Advisor had no role in the matter.

The matter was heard on 17.11.2006. The following are present:

1. Ms. Geeta Dewan Verma
2. Sh. S.P.Padhy, Dir. (LM), DDA
3. Sh. B.K.Gupta, Dy. C.L.A.
4. Sh. Alok Swarup, OSD to LG
5. Sh. Anil Kumar Singh APIO LG Sectt.

DECISION NOTICE

Whereas we find that the issues in this appeal are different to those decided in appeal No. CIC/WB/A/2006/00184 in that they refer to a specific request for publishing information on important decisions pertaining to the public mandated to be published under sec. 4(1)(d) of the RTI Act and the earlier decision had referred to specific cases, we do not see what further information is required to be provided under this appeal. The High Court decisions cited in the earlier decision are also cited in the present appeal. Action taken thereon requires to be taken immediately as directed in the earlier decision. However, on the larger issue of making public these decisions and action taken thereon, we find that there is sufficient ground for complaint. In the case of DDA they are directed to comply with the provisions of sec. 4(1)(c) & (d) in matters concerning them which affect the public in general. Even though they have maintained that they have not received the orders of PIO, LG's office and do not hold the information sought in this case, compliance to this direction must be completed within one month of the date of issue of this order.

Since the LG's Office is not a party in the second appeal, no directions are issued in this regard. However, the LG's Office is advised that in cases decided by the Hon'ble High Court which concern the general citizens, the concerned public authority be directed to publish these decisions and action taken thereon on their websites u/s 4(1)(c) & (d).

Because of lack of clarity on the liability of PIOs of DDA in this specific case, no penalty will lie. However, personal contact between PIO and applicant will help ease access to information, which can be demanded by right. In this case we note that PIO has offered to discuss the matter with appellant Smt.

Geeta Dewan Verma specifying the date and time for the purpose. This, however, was not acted upon.

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

(Wajahat Habibullah)
Chief Information Commissioner
20.11.2006

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
20.11.2006