

# CENTRAL INFORMATION COMMISSION

Appeal No.CIC/WB/A/2006/00605 dated 14-8-2006

Right to Information Act 2005 – Section 19

Appellant: Ms. Gita Dewan Verma, Planner.

Respondent: MoUD

## **Facts:**

By an application of 1-5-06 Ms. Gita Dewan Verma, Planner applied to the CPIO, PMO through e-mail and courier dated 28-4-2006 seeking the following information:

*“I request under section 4 (1) (d) of RTI Act, 2005, to be provided (a) a list of any material in any form, including records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, contracts, reports, papers, models etc. and (b) on CD all material in electronic form that is held by the PMO apropos private sector participation in Jawaharlal Nehru National Urban Renewal Mission in general and, in particular, housing/ re-housing pilot-projects announced by Delhi Government under the Mission and prepared, pursuant to Urban Development Ministry directions by DDA for a site at Tehkhand that has been auctioned on 26-4-2006 to JV of Indiabulls and DLF”.*

Shri Kamal Dayani, Director and CPIO, PMO by letter of 6-5-06 forwarded this to the CPIO, MoUD u/s 6 (3) of the Act. This in turn was forwarded by the Public Information Cell of the MoUD within that public authority to Director, JNNURM and Director (Delhi Division). This was responded to by Shri S. Mukherjee, Under Secretary, GOI on 12-5-2006 asking applicant to contact DDA for information in respect of specific project and that no information regarding India Bulls, DLF or SCBI is maintained in the office of MoUD.

Aggrieved by this response Ms...Dewan made her first appeal to Shri O.P. Agarwal, in-Charge JS (DL) MoUD on 2-6-06, asking for the following

*“a) That NO “material in any form” whatsoever is held by PMO/ MoUD apropos housing/ re-housing pilot-projects (i) announced by Delhi Government under the Mission and (ii) the site/ project at Tehkhand for which auction was held on 26-4-2006.*

*b) That NO information about clearance in Yamuna Pushta – referred to in the request (in context of deaths in Bawana in 2004, in grounds for seeking most expeditious consideration) and mentioned in the reply dated 12-5-06 – is held by MoUD.*

*c) The specific provisions of the Master Plan referred to in reply dated 12-5-06 – i.e. specific Master Plan provisions applicable to private-public partnership projects/ auctions for slum re-housing such as being piloted at Tehkhand.*

*d) The requested information (viz. list of all information and copy on CD of all information held in electronic form) apropos “private sector participation in Jawaharlal Nehru National Urban Renewal Mission” be provided.”*

In response to this Dr. M.M. Kutty by then JS (DL) by his order of 22-6-06 held as follows:

*“After going through the documents, it appears that the subject matter of the information sought is more closely connected with the functions of the other public authorities like DDA and MCD. Therefore, those authorities are in a better position to furnish the information sought by the appellant. Matters relating to in Jawaharlal Nehru National Urban Renewal Mission are handled by the U.D. Division and are not under the administrative jurisdiction of the Delhi Division. No information regarding M/s. India Bulls- DLF is available in this office nor this Division is aware of the public authority under whose jurisdiction such information is available. Many of the issues raised in the letter are viewpoints/ opinion on which no comments are requested to be furnished.”*

In her second appeal before us appellant Ms. Gita Dewan Verma has reiterated her request for confirmation which she had raised in the first appeal and prayed that she be provided information requested in her first appeal and also for penalty and damages in accordance with the Act. In response to our appeal notice dated 4-1-2007 Shri S. Mukherjee, US, MoUD has offered the following clarifications:

*“1.1 Ms. Gita Dewan Verma in her application dated 28-4-2006/ 2-5-2006 addressed to the Central Public Information Officer (CPIO), PMO had requested for documents pertaining to reports, papers, models etc. regarding private participation in Jawaharlal Nehru National Urban Renewal Mission (JNNURM) invoking section 4 (1) (d) of RTI Act. She had also asked information regarding Re-housing/ re-development of certain areas of Urban Development’s directions, at Tehkhand that had been auctioned by DDA on 26-4-2006 to M/s. India Bulls and DLF Universal. She also sought*

*information on a SEBI order dated 27-4-06 against M/s. India Bulls. The application was transferred to MoUD on 6-5-2006 by PMO. As the information sought for pertained to various divisions of MoUD, copies of her application were sent to the concerned CPIOs in the MoUD.*

*1.2 In so far as Delhi Division of the MoUD is concerned, a reply was sent to her on 12-5-2006 (Annexure I) in respect of re-housing/ redevelopment of areas in Delhi including public private partnerships/ auction of land in NCT of Delhi. She was informed that planned development in Delhi is undertaken as per provisions of the Master Plan of Delhi by the concerned agencies, namely, DDA and MCD. She was advised to contact DDA for information in respect of specific projects. Detailed information in respect of slum clearance in Yamuna Pushta and auction of land in Tehkhand area also come under the purview of DDA. She was also informed that no information regarding M/s. India Bulls, DLF or role of SEBI is maintained in this Ministry.*

*1.3 Ms. Verma filed an appeal before the first appellate authority i.e. JS (D&L). Her appeal was disposed off by the Appellate Authority on 22<sup>nd</sup> June 2006 and the decision was communicated to her on the same date (Annexure II). As directed by the Appellate Authority, this Ministry also forwarded a copy of the appeal to DDA for necessary action (Annexure IIA). As regards Tehkhand project, further background details are as follows:*

*1.4 TEHKHAND PROJECT-In order to rehabilitate slum dwellers through in situ redevelopment, the Government had approved a proposal of DDA to launch a pilot project at village Tehkhand. The said land is already under encroachment by JJ clusters and others. Change of land use from "recreational" to "residential" had already been carried out by Government vide notifications dated 8-1-2002 and 23-2-2006 after following the statutory procedure. The applicant had filed an application before the Hon'ble High Court (WPC No. 6824-25/2006) claiming that her objection/suggestions were not considered before issue of the final notification dated 23-2-2006. In compliance with the directions of the Hon'ble High Court dated 30-5-2006, DDA constituted a Board of Enquiry for hearing her objections and observed that they have no bearing on the change of land use and upheld the notification dated 23-2-2006. A copy of the report of the Board of Enquiry is at Annexure III. Subsequently, the counsel of the petitioner withdrew the application, which was dismissed as withdrawn. The contention of the application that the project is without legal sanction is, therefore, baseless.*

*1.5 As regards the details of the auction carried out by DDA for disposal of the site for the pilot project, she has already been informed that this Ministry has no information and the same could be obtained from DDA or MCD. The applicant is persistently seeking information from this Ministry, on matters which are more closely connected with other public authority.”*

To this appellant Ms. Gita Dewan Verma by her letter of 7-3-'07 offered a rejoinder in which other than taking exception to the reiteration of the charge that she is persisting in seeking information from the public authority that is not held she has stated that it was incumbent on the CPIO MoUD to transfer the applications to DDA/ Delhi Government in matters concerning each. She also reiterated her contention in the second appeal that the information sought has been sought to be evaded except in the case of item (d) referring to JNNURM on which a separate hearing has been successfully concluded.

The appeal was heard on 23-3-07. Following are present:

**Appellant:**

Ms. Gita Dewan Verma

**Respondents:**

Dr. M.M. Kutty, Jt. Secretary & AA

Ms. S. Aparna, Director, &PIO

Whereas CPIO MoUD CPIO MoUD Ms. S. Aparna has contended that such information as was available in her division has been provided. Appellant Ms. Gita Dewan Verma has pointed out that information provided is not as per the clarifications that she has sought in her appeal.

**DECISION NOTICE:**

As we have held in Sarbajit Roy vs. DDA Appeal No. 10/1/2005-CIC Dated: 20/2/'06 it is the responsibility of PIO of a single public authority, even if that public authority has several CPIOs, who has been approached for information, to ensure that the information sought is provided either by obtaining the information from the concerned CPIO and supplying it to the applicant or by forwarding the

application to the concerned CPIO with direction that this be supplied. In that case we have directed as below:

*“Since this is a matter concerning adjustments within the same public authority Sec 6 (3) cannot apply. Accordingly the CPIO Ms. Neemo Dhar, who had received the request from the Complainant, was, as per section 7(1) of the ACT, under obligation to seek information from her colleague and provide it to the Complainant. Her colleague, who was to provide the information as per Section 5(5) of the RTI ACT, would become deemed CPIO “*

For this reason we find that orders of the first appellate authority have entirely missed the point. For the sake of clarity and after hearing respondents it is specifically directed as follows:

- i) When an application is received by the CPIO and found not to pertain to the public authority in which that CPIO is located this must be transferred within 5 days to the CPIO of the concerned authority under intimation to the applicant in accordance with Section 6 (3).
- ii) If on the other hand the information sought is found to pertain to a separate wing of the same public authority the CPIO receiving the information will seek the information required from the officer/ PIO dealing with the subject u/s 5 (4) and either (a) provide that information to the applicant or (b) direct the officer to whom it has been forwarded to so provide.

Therefore, the contention of CPIO, Delhi Division that the specific information sought that there was no material in any form held by the MoUD as a whole could not be provided by her Division, is unsustainable. Whereas we have agreed that such information could not be provided by her with regard to PMO. **she is now directed to provide a clear response to the questions raised at a, b and c in the 1<sup>st</sup> appeal and reiterated in the 2<sup>nd</sup> , after verifying the facts from other concerned wings of the Ministry, exercising her authority u/s 5 (4) of the Act.** This exercise may be completed within fifteen working days of the date of issue of the Decision Notice.

What remains now is the appellant's prayer for penal action. In this case we find that the failure to transfer application in the first instance and instead simply informing the applicant that she may "contact" another public authority is in violation of the provisions of Section 6(3) (ii) of the Act. However, it is equally clear that there has not been any intention to 'knowingly' mislead the applicant in response to her appeal. Therefore, because a response to the application was sent within the specified time we do not invoke section 20 (1). However, the CPIO and appellate authority in the MoUD are cautioned that repetition of such a lapse will be deemed a denial of information and invite penalty.

Appellant Ms. Gita Dewan Verma had also in her rejoinder taken objection to the remark that she has been "persistently seeking information on matters concerning other matters". From the above, it will be seen that it is accepted that this has resulted from a lack of understanding of the provision of Section 6 (3) and 5 (4). These objections may be noted. However, I cannot agree that these can be deemed to be "scurrilous", since there has been no resort to abuse or insult before us, only implication on incorrect utilization of provisions of the Act, which we have held to be unfounded. .

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

(Wajahat Habibullah)  
Chief Information Commissioner  
23-3-2007

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  
28-3-2007

