

CENTRAL INFORMATION COMMISSION
Appeal No.CIC/WB/A/2007/00752 & 753 dated 24-5-2007
Right to Information Act 2005 – Section 19

Appellant - Ms. Gita Dewan Verma.
Respondent - Delhi Metro Rail Corporation (DMRC)

Facts:

These are two appeals from Ms. Gita Dewan Verma on information sought from PIO, DMRC:

File No. CIC/WB/A/2007/00752

In an application of 22.2.2007 Ms. Gita Dewan Verma of Vasant Kunj, New Delhi sought the following information:-

- “1.a. Particulars (including names, designations/ descriptions/ titles and contact details) of each of the 14 Director, 5 GOI nominees, 5 GONCTD nominees and 5 full-time functional directors mentioned in the ‘About Us’ selection of DMRC website.
- b. The decision- making procedure/ practice followed by the board in case of a tie in the voting (in view of the even number of members).
2. Particulars of incumbent (s) appointment since commencement of the Delhi Metro Railway (Operation and Maintenance) Act 2002 (Act) to the following posts, along with particulars of the orders/ notification related to the appointments.
 - a. General Manager under S. 4 the Act.
 - b. Safety Commissioner (s) under S. 7 of the Act.
 - c. Chairman and members of the fare fixation committee under S. 34 for purposes of S. 33 of the Act.
 - d. Claims Commissioner under S. 48 for function of determining liability of the metro railway administration to pay compensation under S. 54 of the Act.
3. Whether the information at 1&2 above has been published for public information. If so, please indicate when and in what manner and exactly where the same may be accessed.

4. Whether the following reports etc. relating to safety Commissioner (s) are published on the official website of the DMRC or elsewhere (and, if so, exactly where):
 - a. Reports of inspection/ inquiries mandated by S.8 of the Act.
 - b. Report prior to opening of metro railways, as mandated by S. 15.
 - c. Reports concerning opening of various works, as mandated by S. 16.
 - d. Annual reports to Central Government that are mandated by S. 12 and to be laid before parliament under S. 13 of the Act.”

To this she received a point wise reply from Shri Anuj Dayal, CPIO, DMRC dated 23.3.2007. Not satisfied with the response to some of the questions she moved a first appeal on 26.3.2007, upon which she received a further response from 1st appellate authority Shri CBK Rao, Director (P&P), including the following:-

“Further to our reply dated 23.3.2007, it is clarified that DMRC is claimed to be a non-Government Railway under Section 2 J (ii) of Delhi Metro Railway (Operation & Maintenance Act, 2002, and no infirmity is seen in the said reply. Managing Director is equivalent of General Manager of Government Railway.”

Ms. Gita Dewan Verma then moved her second appeal before us with the following prayer:-

“I request direction for correct and complete response to my Qn. Nos. 1a, 2a, 2d & 4b.”

The key issue here was the response to question 2 (a) and the clarification provided by Shri C. B. K. Rao, Director (Project & Planning) and First Appellate Authority in his response to the first appeal quoted above.

File No. CIC/WB/A/2007/00753

In her second request of 22.2.2007 addressed to the CPIO, DMRC, Ms. Gita Dewan Verma has sought the following two sets of information:-

- 1“a. Monthly remuneration etc of Shri R. M. Raina (since the list of 2143 officers and employees in the disclosure under S.4 (1) (b) (x) does not include Shri R. M. Raina):

- b Powers and duties of Shri R. M. Raina (as the same are not clear to me from the disclosure under S. 4(1) (b) (ii): and
 - c. Rules etc held/ used by Shri R. M. Raina /PD related department (s) advised by him (as the same is not clear to me from the disclosure under S. 4 (1) (b) (v).
 - d. The specific request (s) in Annexure -6 of my complaint for which Shri R. M. Raina's assistance was sought by CPIO in terms of S. 5(4) of RTI Act.
2. (a) The current List of property development projects, clearly indicating for each the dates of start of project preparation/ processing and start/ completion of construction as applicable, and (ii) names with contact particulars of firm (s) associated. Kindly note, court proceedings are not grounds for RTI exemption.
- (b) Copies of all communications between CPIO and anyone else on the subject of my application dated 31.01.2006. Kindly state clearly in the reply that there were no other communications in the matter.
 - (c) Apropos Shri R. M. Raina's statement at hearing dated 1.2.07 that the information had also been furnished to me in my writ petition, i.e. WP (C) 6500/2005:
 - i If the said statement was based on records of the DMRC, copy of the record (s) specifying which para in which affidavit of the DMRC in WP (C) 6500/2005 contains the information requested in my application dated 31.01.2006.
 - ii If the said statement was based on Shri R. M. Raina's opinion, copy of record(s) concerning Shri R. M. Raina's study of my WP (C) 6500/2005."

To this she once more received a point wise response on 23.3.2007. However, not satisfied with this response and specifically to questions 1 (b) (c) & (d) and to questions 2 (a) & (c) Ms. Gita Dewan Verma moved her first appeal on 26.3.2007 in which she clarified the information sought on property development projects as below:-

"I have not requested information of dates of various stages of construction, but dates of start of project preparation/ processing and start/ completion of construction and I have sought names (with usual connotation of full name), with contact particulars of

associated firms (architecture/ planning firms, as specified previously). Further, I have not sought list of projects being carried out currently by Delhi Metro Rail Corporation at its own cost but current list (meaning in continuation of my request dated 30.01.2006 cumulative list as on date) of all projects “completed, under construction and under preparation processing.”

Upon this Shri C. B.K. Rao, Director (Project & Planning) and First Appellate Authority in his order of 25.4.2007 provided some more information but requested the appellant to clarify whether appellant wanted information about all projects of DMRC or projects related to property development.

Aggrieved by this decision Ms. Gita Dewan Verma moved her second appeal before us with the following prayer:

“I request direction to DMRC to give complete information on each of my questions.”

The appeal was heard on 9.5.2008. The following are present:-

Appellant

Ms. Gita Dewan Verma.

Respondents

Shri Vijay Anand, Director (P).

Shri R. M. Raina, Advisor.

Shri A. S. Rao, SO.

Shri Anuj Dayal, PIO.

Shri S. K. Sinha, JGM/R&T.

Shri Saikat Chakravarty, AM/PR.

In appeal **No. CIC/WB/A/2007/00752**, it was agreed by both parties that the Railway Act does in fact apply to Delhi Metro. It is in this context that question 2 (a) was asked with regard to status of the General Manager under the Delhi Metro Railway Act, 2002. Shri Vijay Anand, Director (P) submitted in response to question 1 (a) that the nomination of Shri Ramesh Chandra as Director of the DMRC was made by Chief Secretary Delhi as a representative of the GNCTD. He was, however, not aware of his designation in his parent department which appellant Ms. Gita Dewan Verma clarified was the information that she sought.

However, appellant Ms. Gita Dewan Verma laid particular stress on the response to question No. 2 (a) in which CPIO had claimed that section 4 (1) of Delhi Metro Organization Management Act is not applicable to DMRC as it is “*not a Government Metro Railway*”. Ms. Gita Dewan Verma admitted that the question she had put in her second appeal was a fresh request for information. What she required were documents relating to s. 2(j) (ii) of DMR (O&M) Act 2002 that provides as follows:-

2. *Definitions-(1) In this Act, unless the context other wise requires:-*
- (j) *“metro railway administration” in relation to-*
- (i) *a government metro railway means the General Manager of that railway, or*
 - (ii) *a non-Government metro railway means the person who is the owner or lessee of that metro railway or the person working that metro railway under an arrangement with the owner or lessee of that metro railway.”*

However. this request had arisen from the answer received from CPIO exacerbated by the decision of First Appellate Authority Shri Rao in the first appeal.

In appeal **No.CIC/WB/A/2007/00753** the key issue is the response to question 2 (a). This question has two parts:-

- (i) The current List of property development projects, clearly indicating for each the dates of start of project preparation/ processing and start/ completion of construction as applicable, and
- (ii) names with contact particulars of firm (s) associated.

In response to this appellant stated that she was only provided the property development project being carried out by the DMRC at its own cost, whereas the information sought clearly goes beyond that. As quoted above appellant has very clearly clarified what she wants in her first appeal, yet First Appellate Authority, Shri C. B. K. Rao has asked for further clarification. The

matter was discussed in detail in the hearing. The kinds of projects that had been undertaken by the DMRC are as follows:-

1. Projects undertaken at its own costs- list already supplied.
2. Projects under BOT which includes seven projects, details of which are on the website. A printout of this list under the heading "Particulars of recipients of concession or authorization granted- list of projects/ land awarded on concession basis", was submitted in the hearing.
3. Property development projects on lease.

There are also properties given out for establishment of Kiosks, shops etc. numbering about 500 which do not call for any property development but being commercial enterprises, from which income is earned by DMRC.

DECISION NOTICE

Having heard both parties and perused the documents we direct as follows:-

File No. CIC/WB/A/2007/00752

1. Since it is clarified that the particulars of Director Shri Ramesh Chandra sought by appellant Ms. Gita Dewan Verma are not held by DMRC, this request will be transferred within five days of the date of issue of this Decision Notice to the **Chief Secretary, Delhi who will provide the information sought by Ms. Gita Dewan Verma to her within fifteen days of receiving such a transfer.**
2. On question 2a as expanded with the further question put in her second appeal Ms. Gita Dewan Verma is advised to submit a fresh application to PIO Anuj Dayal CPRO,DMRC u/s 6 of the RTI Act. Because as a result of lack of clarity the information sought on the basic question has delayed the delivery of the complete information, **the application will be disposed of by PIO, DMRC Shri Anuj Dayal within ten days of the receipt of application.**

3. As a result of the clarification given above, it is now clear that the question regarding appointment of Claims Commissioner is required to be answered by the Ministry of Urban Development. Appellant clarified that she has already put the question to the MoUD and received a reply. PIO, DMRC has also clarified in the hearing that DMRC's press releases on the mandatory reports relating to safety are regularly placed on the website.

4. In dealing with the response to question 4 in file no. **CIC/WB/A/2007/00753**, we find that the key issue is information sought by appellant on the current list of property development projects with details as further elucidated in her first appeal. As clarified in the hearing there are four categories of "property development projects". **On the first three listed above information will be supplied by Shri R. M. Raina, Advisor, DMRC who is present in the hearing to the appellant within ten days of the date of issue of this decision notice.** This will be provided in the format requested: (i) Title of Project ii) start of preparation/processing (iii) start/completion depending on present status (iv) Names of executing firms with contact numbers. In that response Advisor DMRC will also provide a general description of the remaining projects in the fourth category.

With these orders both appeals are allowed to the extent described. Both parties are commended for their diligence in applying for and servicing the right to information. Announced in the hearing.

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

(Wajahat Habibullah)
Chief Information Commissioner
9-5-2008

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.

(Pankaj Shreyaskar)
Joint Registrar
9-5-2008