केन्द्रीय सूचना आयोग
Central Information Commission
बाबा गंगनाथ मार्ग,मुनिरका
Baba Gangnath Marg, Munirka
नई दिल्ली, New Delhi – 110067

4419
03/02/2022

द्वितीय अपील संख्या/ Second Appeal No. CIC/AWBIC/A/2020/672980

In the matter of:

Naresh Kadyan ... अपीलकर्ता/Appellant

VERSUS
बनाम

CPIO, ...प्रतिवादीगण /Respondent
Animal Welfare Board of India
13/1, Third Seaward Road,
Valmiki Nagar, Thiruvanmiyur,
Chennai- 600 041

Relevant dates emerging from the appeal:

RTI Application filed on	:	19.03.2020
CPIO replied on	:	Not on Record
First Appeal filed on	:	18.04.2020
First Appellate Authority order	:	Not on Record
Second Appeal received on	:	06.06.2020
Date of Hearing	:	04.01.2022

The following were present:

Appellant: Shri Naresh Kadyan participated in the hearing through intra-video conferencing from Central Information Commission.

Respondent: Shri Narendra Kumar, CPIO and Under Secretary, Dept. of Animal Husbandry and Smt. Prachi Jain, CPIO and Asst. Secretary, Animal Welfare Board of India participated in the hearing through intra-video conferencing from Central Information Commission.

Issue 2/2/2022 HEO

ORDER

Information sought:

The Appellant filed an online RTI Application dated 19.03.2020 seeking information on the following seven points:

"The Animal Welfare Board of India is a statutory advisory body on Animal Welfare Laws and promotes animal welfare in the country. Established in 1962 under Section 4 of the Prevention of Cruelty to Animals Act, 1960 (No. 59 of 1960), the Animal Welfare Board of India was started under the stewardship of Late Smt. Rukmini Devi Arundale, well known humanitarian. From ensuring that animal welfare laws in the country are diligently followed, to provide grants to Animal Welfare Organizations and advising the Government of India on animal welfare issues, the Board has been the fact of the animal welfare movement in the country but AWBI never advised on Camel transportation, besides, it Great Golden Circus another branch abusing Camels as performing animals but after booking by Maharashtra Police, AWBI failed to confiscate abused animals, to restore their 5 freedom, whereas AWBI allowed Great Golden Circus in 2004, all animals are being replaced as old were died, excess animals compel to perform, smuggled exotic birds are disabled as their feathers chopped, 2 Indian Parrots also were found by a team of Veterinary Doctors, without legal action & confiscation, hence supply me the truth behind, whether concerned Veterinarians are bribed, compel to compromise to safeguard the interest of Circus, violating 120-B, 309 IPC besides it decorated with oath being BVSC:

1. *Supply me under which Rules, Great Golden Circus performing with disabled smuggled foreign birds, feathers chopped allowed by whom.*
2. *Two green parrots of Indian species, which are protected under the Wildlife Protection Act, 1972, not confiscated without legal action.*
3. *AWBI recommend ban on Elephants performance but allowed Great Golden Circus to abuse these two Elephants as performing animals.*
4. *Great Golden Circus granted permission in 2004, all animals & birds are born & brought up after 2005 but AWBI allowed them to perform, supply me the copy of rules & regulations along with all communications related to this circus.*
5. *Great Bharat Circus, 2nd unit of Great Golden Circus was booked in Maharashtra, FIR was supplied to AWBI but still performing these abused animals, supply me the permission.*
6. *PETA India, submitted its report of Great Golden Circus, related cruelty against animals, which is accepted by AWBI without competency, never try & decide by Court, supply me information, truth behind.*

7. *Duly authorized under Rules 14 of Performing Rules, three persons inspected Great Golden Circus on 10-1-2013, submitted their report under Rules 15 of Performing Rules, 2001, confirming cruelty against animals, whereas surplus – unregistered animals – smuggled birds were reported without confiscation, 7 references quoted in suspension order dated 13-1-2016, supply me truth & show AWBI teeth.*

Shame on unnecessary pain & sufferings, scouting for animals & birds."

Having not received any information from the CPIO, the Appellant filed a **First Appeal** dated 18.04.2020, which has not been adjudicated by the First Appellate Authority as per available records.

Grounds for Second Appeal:

The Appellant filed a Second Appeal u/s 19 of the Act on the ground of non-receipt of information from the Respondent.

Submissions made by Appellant and Respondent during Hearing:

The Appellant stated that he has not received any reply from the Respondent till date.

The Respondent submitted that point-wise reply was provided to the Appellant vide letter dated 17.04.2020. Upon queried by the Commission as to what is the status of the information sought at point nos. 1, 2, 4 and 5 of the RTI Application, she replied that the said information can be provided to the Appellant now as the matter put-forth before the Board for consideration has been concluded. Upon further queried by the Commission as to whether the First Appeal was adjudicated by the First Appellate Authority, she replied in affirmative. She further submitted that on 20.05.2020 had upheld the reply of the CPIO.

A written submission has been received by the Commission from Dr. S.K. Dutta, Appellate Authority and Secretary vide letter dated 28.12.2021, wherein he has apprised the Commission as under:

Sub: Letter no.CIC/AWBIC/A/2020/672980 dated 14-12-2021 received by e-mail and through post
Ref.: Second Appeal of Shri Naresh Kadyan

Madam,

With reference to the above cited subject, it is stated that as per the directions of the CIC, the following information is furnished hereunder:

The Board has replied to the Online RTI application No.AWBIC/R/T/20/00037 dated 19-03-2020 on 17.04.2020 and Appeal No.AWBIC/A/E/20/00022 on 20.05.2020 is forwarded to the CIC for information.

Decision:

Upon perusal of the facts on record as well as on the basis of the proceedings during the hearing, the Commission observes that though an appropriate and point-wise reply was provided to the Appellant vide letter dated 17.04.2020, the same has not been received by the Appellant. The Commission further observes that since the Respondent i.e., Animal Welfare Board of India has agreed to provide revised information to the Appellant on point nos. 1, 2, 4 and 5 of the RTI Application, the Commission accordingly directs the present CPIO, Animal Welfare Board of India to re-send the averred letter dated 17.04.2020 as well as to provide a revised reply to the Appellant on point nos. 1, 2, 4 and 5 of the RTI Application, within 21 days from the date of receipt of this order.

Notwithstanding the above, the Commission expresses severe displeasure against the conduct of the Appellant because initially he had informed the Registry of this

Bench to exempt his appearance in person and had requested the Bench to grant permission to take part in the hearing virtually (WhatsApp video/audio call), which was rejected by the Commission. Subsequently, the Commission was generous enough to grant him an opportunity to take part in the instant hearing from NIC Ahmedabad, which was booked from 1120 hrs to 1350 hrs (for 16 cases listed on 04.01.2022), yet, the Appellant chose to take part in the proceedings, physically, thereby disrespecting the Commission's efforts in scheduling the instant hearing. Be that as it may, the queries sought in the instant RTI Application are not only lengthy but cryptic and unspecific. Therefore, The Commission counsels the Appellant to be careful, mindful and watchful in future while filing RTI Applications and not to flood the public authority by filing umpteen numbers of RTI Applications. In this regard the Commission finds it relevant to rely upon certain judgments of various Courts in India, wherein the factum of misuse of the right to information has been highlighted adequately. The excerpts of the same are as under:

a. The Hon'ble High Court of Madras in the matter of ***Public Information Officer, Registrar (Administration) vs. B. Bharathi., W.P. No. 26781/2013*** dated ***17.09.2014*** has also given its opinion about vexatious litigation crippling the public authorities and held as follows:

> *"... The action of the second respondent in sending numerous complaints and representations and then following the same with the RTI applications; that it cannot be the way to redress his grievance; that* ***he cannot overload a public authority and divert its resources disproportionately while seeking information and that the dispensation of information should not occupy the majority of time and resource of any public authority, as it would be against the larger public interest****..."*
>
> ***[Emphasis supplied]***

b. The Hon'ble High Court in the matter of ***Shail Sahni v. Sanjeev Kumar & Ors., W.P.(C) 845/2014*** has stated as under:

> *"... Consequently, this Court deems it appropriate to refuse to exercise its writ jurisdiction. Accordingly, present petition is dismissed. This Court is also of the view that misuse of the RTI Act has to be appropriately dealt with, otherwise the public would lose faith and confidence in this "sunshine Act". A beneficial Statute, when made a tool for mischief and abuse must be checked in accordance with law..."*
>
> ***[Emphasis supplied]***

c. In the matter of ***Rajni Mendiratta v. Dte. of Education (North West-B]., W.P.(C) no. 7911/2015***, the Hon'ble High Court of Delhi vide its order dated 08.10.2015 stated as under:

> *"8. ... Though undoubtedly, the reason for seeking the information is not required to be disclosed but when it is found that the process of the law is being abused, the same become relevant. Neither the authorities created under the RTI Act nor the Courts are helpless if witness the provisions of law being abused and owe a duty to immediately put a stop thereto..."*

In addition, the Commission would not be wrong to consider that the Appellant's move to seek voluminous information is only to harass the public authority and not with an intention to seek information. The Appellant rather appears to have converted the provisions of the RTI Act as a tool of oppression/intimidation, which the Commission discourages outrightly.

d. In the matter of ***The Institute of Chartered Accountants of India vs. Shaunak H. Satya and Ors., AIR 2011 SC 3336***, the Hon'ble Supreme Court of India has held as under:

> *"... The RTI Act provides access to all information that is available and existing. This is clear from a combined reading of Section 3 and the definitions of 'information' and 'right to information' under Clauses (f) and (j) of Section 2 of the Act. If a public authority has any information in the form of data or analysed data, or abstracts, or statistics, an applicant may access such information, subject to the exemptions in Section 8 of the Act.*

But where the information sought is not a part of the record of a public authority, and where such information is not required to be maintained under any law or the rules or regulations of the public authority, the Act does not cast an obligation upon the public authority, to collect or collate such non-available information and then furnish it to an applicant. The right to information is a fundamental right as enshrined in Article 10 of the Constitution of India. The Hon'ble Supreme Court has declared in a plethora of cases that the most important value for the functioning of a healthy and well-informed democracy is transparency. However it is necessary to make a distinction in regard to information intended to bring transparency, to improve accountability and to reduce corruption, falling under Section 4(1)(b) and (c) and other information which may not have a bearing on accountability or reducing corruption. The competent authorities under the RTI Act will have to maintain a proper balance so that while achieving transparency, ***the demand for information does not reach unmanageable proportions affecting other public interests, which include efficient operation of public authorities and government,*** *preservation of confidentiality of sensitive information and optimum use..."*

e. In the matter of ***Central Board of Secondary Education & Anr. V. Aditya Bandopadhyay & Ors.***, the Hon'ble Supreme Court of India has held as under:

"33. ... The Act seeks to bring about a balance between two conflicting interests, as harmony between them is essential for preserving democracy. One is to bring about transparency and accountability by providing access to information under the control of public authorities. The other is ***to ensure that the revelation of information, in actual practice, does not conflict with other public interests which include efficient operation of the governments, optimum use of limited fiscal resources*** *and preservation of confidentiality of sensitive information. The preamble to the Act specifically states that the object of the Act is to harmonise these two conflicting interests...*

...

37. The right to information is a cherished right. Information and right to information are intended to be formidable tools in the hands of responsible citizens to fight corruption and to bring in transparency and accountability... ... ***Indiscriminate and impractical demands or directions under RTI Act for disclosure of all and sundry information (unrelated to transparency and accountability in the functioning of public authorities and eradication of corruption) would be counter-productive as it will adversely affect the efficiency of the administration and result in the executive getting bogged down with the***

non-productive work of collecting and furnishing information. The Act should not be allowed to be misused or abused, to become a tool to obstruct the national development and integration, or to destroy the peace, tranquility and harmony among its citizens. Nor should it be converted into a tool of oppression or intimidation of honest officials striving to do their duty. The nation does not want a scenario where 75% of the staff of public authorities spends 75% of their time in collecting and furnishing information to applicants instead of discharging their regular duties. The threat of penalties under the RTI Act and the pressure of the authorities under the RTI Act should not lead to employees of a public authorities prioritizing 'information furnishing', at the cost of their normal and regular duties..." [Emphasis supplied]

Keeping in view of the aforesaid observations, the Commission sternly cautions the Appellant to use his right to information in a judicious manner.

With the above observations, the instant Second Appeal is disposed of.

Copy of the decision be provided free of cost to the parties.

The Appeal, hereby, stands disposed of.

Amita Pandove (अमिता पांडव)
Information Commissioner (सूचना आयुक्त)
दिनांक / Date: 05.01.2022

Authenticated true copy
(अभिप्रमाणित सत्यापित प्रति)

B. S. Kasana (बी. एस. कसाना)
Dy. Registrar (उप-पंजीयक)
011-26105027

Addresses of the parties:

1. The First Appellate Authority (FAA)
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2. The Central Public Information Officer
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3. Mr. Naresh Kadyan
C 38, Rose Apartment, Sector-14,
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