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

द्वितीय अपील संख्या/ Second Appeal No. CIC/AWBIC/A/2020/673392

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	:	03.06.2019
CPIO replied on	:	Not on Record
First Appeal filed on	:	31.07.2019
First Appellate Authority order	:	Not on Record
Second Appeal received on	:	09.06.2020
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.

Date 28/1/2022
HEO/RTI

4311
31-01-2022

ORDER

Information sought:

The Appellant filed an online RTI Application dated 03.06.2019 seeking information on the following seventeen points:

"Kindly refer to the various orders passed by the Honble Supreme Court of India, State High Courts with the circular of Animal Welfare Board of India and article 48 – 51 A (g) of Indian Constitution, keeping view these position, following information along with copies of all communication made & received with concerned Noting sheet be provided:

1. *Status reports on the decision taken in the 120th ECM on 13.2.2018 related to Gochar land along with all communications made & received with noting sheets.*
2. *Action taken report with all communications made & received as per item No 4 & 12 of 120th ECM along complete details of setting up a Animal Hostel in gocharan land and grazing land, to avoid animals are being throuwn out of the cities.*
3. *Complete details about delegation of AWBI power as per section 37 of the PCA Act, 1960.*
4. *Complete details about delegation of Police power as per section 34 of PCA Act, 1960*
5. *Complete list and details of Infirmaries set up – functional as per section 35 of PCA Act, 1960*
6. *Complete details about 2nd offense against animals, proved under the section 29 of PCA Act, 1960*
7. *Complete details about offenses registered for the violation of section 12 of PCA Act, 1960 along with the present status of abused animals, confiscated due to section 12 violations.*
8. *Complete list of Masters Trainers along with complete details about guest faculties for Masters Trainers course.*
9. *Information regarding gochar land was obtained vide AWBI letter dated 5-3-2018, deadline was 30-4-2018, hence supply me copies of para wise 1-11 replies, obtained reports, communications made & received with noting sheets.*
10. *Complete details about Scheme for Development of Gocharan land for providing fodder and shelter to animals along with complete list of beneficiaries.*
11. *Species wise census of domestic – stray – abandoned animals, birds, reptiles with wild animals*

12. *Remove all encroachments from Gauchar land all around India with time frame.*
13. *Restoration of title Gauchar land, which was registered without any Authority to the ineligible persons, holding accountable.*
14. *Status reports on the installation of animal scanner at each toll tax plaza to prevent cruelty against animals, Shri Parshottam Rupala, MOS office Note was supplied to AWBI for immediate action, let me the status of action taken.*
15. *Complete details about al HAWO, Trainers, Inspectors, CPSCSEA Nominees along with batch wise trained people at NIAW, since beginning till date to prepare alumbi of ex students.*
16. *Complete details about Camels registered as performing animals without any shifting rules, vehicle or mechanism., Explain their status.*
17. *Status about Naresh Kadyan application about display of Yak during winter seasons around NCR during temperature up to 17 degree."*

Having not received any information from the CPIO, the Appellant filed a **First Appeal** dated 31.07.2019, 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 no reply has been provided by the Respondent till date.

The Respondent submitted that point-wise reply was provided to the Appellant vide letter dated 02.07.2019.

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/2020/673392 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/2019/50034 dated 03-06-2019 on 02.07.2019. The reply given to RTI 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 a point-wise reply was provided by the Respondent, the same has not been received by the Appellant. Hence, the Commission deems it expedient to direct the present CPIO, Animal Welfare Board of India to re-send the letter dated 02.07.2019 to the Appellant, through speed post, within 7 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)
Animal Welfare board of India 13/1,
Third Seaward Road, Valmiki Nagar,
Thiruvanmiyur, Chennai- 600 041

2. The Central Public Information Officer
Animal Welfare board of India
13/1, Third Seaward Road, Valmiki Nagar,
Thiruvanmiyur, Chennai- 600 041

3. Mr. Naresh Kadyan
C 38, Rose Apartment, Sector-14,
Rohini, Delhi-110085