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/2020/673430

In the matter of:

Naresh Kadyan ... अपीलकर्ता/Appellant

VERSUS
बनाम

CPIO, ...प्रतिवादीगण /Respondent
Animal Welfare Board of India
National Institute of Animal
Welfare Campus 42 mile Stone,
Delhi-Agra Highway, NH-2,
Ballabhgarh, Haryana -121004

Relevant dates emerging from the appeal:

RTI Application filed on	:	15.01.2020
CPIO replied on	:	12.02.2020
First Appeal filed on	:	11.03.2020
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.

Received 28/1/2022 HEO/RTI

4303 / 31/01/2022

ORDER

Information sought:

The Appellant filed an online RTI Application dated 15.01.2020 seeking information as under:

> *"Please explain with details, list the compliance of every points, year wise collection, distribution of fines, list of beneficiaries, status of SPCA, covered under these Rules & list of functional infirmaries etc.*
> *In exercise of the powers conferred by clause (K) o f sub-section (2) of Section 38 of the Prevention of Cruelty to Animals Act, 1960 (59 of 1960), the Central Government hereby makes the following rules, the some having been previously published as required by the said Section, namely Prevention of Cruelty to Animals (Application of Fines) Rules, 1978.*
> *Definitions: In these rules, unless the context otherwise requires (a) Act means the Prevention of Cruelty to Animals Act, 1960 (59 of 1960) (b) Board means the Animal Welfare Board of India established under the Act (c) Fines means fines levied under the Act. 3. Fines, after deducting cost of collection, to be made over to- Board (1) . Fines levied and realized under the Act shall, subject to any deductions relating to the cost of collection, be made over by the State Government to the Board as soon as may be after due appropriation by law (State Legislature) in this behalf. 4. Application of fines made over to Board: (1) Fines made over by any State Government to the Board shall be applied exclusively for the following purposes, namely: (i) the grant of financial assistance to societies dealing with the Prevention of Cruelty to Animals or organization actively interested in animal welfare work which are for the time being recognized by the Board. (ii) the maintenance of infirmaries, pinjrapoles and veterinary hospitals. (2) Fines realized in one State and made over to the Board shall be utilized only for the benefit of of such societies or other organizations within the jurisdiction of the State and not otherwise. 5. Principles to govern application of fines: In applying the fines for the benefit of societies or other organizations in any State, the Board shall have due regard to the following principles, namely: (i) Financial assistance shall first be given to societies dealing with the prevention of cruelty to animals within the jurisdiction to the state which are for the time being recognized by the Board. (ii) In granting financial assistance to such societies, due regard shall be had to the amounts they had been receiving from the State Government prior fo the coming into force of these rules, and consistently with the amount of fines at its disposal and having regard to the revenues of the Societies concerned, the objects for which assistance is to be given and other relevant matters, the Board shall make every endeavour to ensure that there is no diminution in the*

amounts such societies had been receiving earlier. (iii) If after the grant of financial assistances to the societies earlier referred to in this rule, there is any unspent balance, it may be applied by the Board at its discretion for the benefit of any other organization actively interested in animal welfare work include"

Ms. Prachi Jain, CPIO and Assistant Secretary, Animal Welfare Board of India, Ballabhgarh, Haryana vide letter dated 12.02.2020, informed the Appellant as under:

"The Board has not received any fine amount from any States/UTs as per the provisions of the Prevention of Cruelty to Animals (Application of fines) Rules, 1965 during the last three years. Hence, no information is available with the Board."

Being dissatisfied, the appellant filed a **First Appeal** dated 11.03.2020, 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 unsatisfactory reply furnished by the Respondent.

Submissions made by Appellant and Respondent during Hearing:

The Appellant stated that he is not satisfied with the reply provided by the Respondent. Upon queried by the Commission to substantiate his averment, he failed to provide a cogent reply.

The Respondent reiterated the facts and circumstances of the instant case.

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/2020/673430 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.No.AWBIC/R/T/20/00002 dated 15-01-2020 on 12.02.2020 and Appeal No.AWBIC/A/E/20/00006 dated 11.03.2020 on 10.04.2020 and the same 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 the Respondent has provided appropriate reply to the Appellant and the same is upheld.

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 dismissed.

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

The Appeal, hereby, stands dismissed.

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
National Institute of Animal Welfare
Campus 42 mile Stone, Delhi-Agra Highway,
NH-2, Ballabhgarh, Haryana -121004

2. The Central Public Information Officer
Animal Welfare Board of India
National Institute of Animal Welfare
Campus 42 mile Stone, Delhi-Agra Highway,
NH-2, Ballabhgarh, Haryana -121004

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