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/2020/675669

In the matter of:

Naresh Kadyan ... अपीलकर्ता/Appellant

VERSUS
बनाम

CPIO, ...प्रतिवादीगण /Respondent
/Assistant Secretary Animal
Welfare Board of India National
Institute of Animal Welfare
Campus P.O. 42 KM Stone,
Delhi-Agra Highway Village-
Seekri, Ballabhgarh,
Haryana -121004

Relevant dates emerging from the appeal:

RTI Application filed on	:	19.03.2020
CPIO replied on	:	13.04.2020
First Appeal filed on	:	Nil
First Appellate Authority order	:	Not on Record
Second Appeal received on	:	28.06.2020
Date of Hearing	:	04.01.2022

4219
27/01/2022

Read
25/11/2022
HEO/RTI

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.

ORDER

Information sought:

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

> *"Please provide me all concerned records, all copies of reports, advice, letters received & made along with concerned noting sheets, keeping in view section 38-A of the Prevention of Cruelty to Animals Act, 1960, all agenda & proposal placed before both Houses of Indian Parliament with their decisions, on the Notifications as issued & amended from time to time as placed below, on wards 1990 till date:*
>
> 1. *MINISTRY OF SOCIAL JUSTICE AND EMPOWERMENT, NOTIFICATION, New Delhi, the 14th October, 1988: G.S.R.619(E): Whereas the High Court of Delhi in C.W.P. No.890 – 91 by its order dated 21st August, 1997 directed that the Central Government may take up the notification dated 2-3 -1991 for consideration afresh and take into consideration such material as may be available with it or it may choose to collect through any of the authentic agencies or such other agency or committee of experts as it may choose to appoint. Where in pursuance of the order of the Honble High Court of Delhi, the Central Government constituted a Committee under the Chairmanship of Additional Inspector General of Forests ((Wildlife) to have a fresh look at the notification G S P No. 252 dated 2-3-1991 in the light of the additional material available with any authenticated agencies such other agency or persons, Whereas the said Committee submitted its report to the Central Government. Whereas the Central Government has taken into consideration the report of the said committee: Now, therefore, in exercise of the powers conferred by section 22 of the Prevention of Cruelty to Animal Act, 1960 (59 of 1960), and in supersession of the Notification of the Government of India in the*

erstwhile Ministry of Environment and Forests G.S.R. No. 252 dated 2-3-1991 and G.S.R. No. 485 dated 7- 8-1991, except as respects things done or omitted to be done before such supersession, the Central Government hereby specifies that the following animals shall not be exhibited or trained as performing animals, with effect from the date of publication of this notification, namely: 1. Bears 2. Monkeys 2. Tigers 4. Panthers 5. Lions: File No.9-9/97-A.W. Dr. M.S.Ahmed, Jt. Secy.

2. *Complete details, recommendations, advices with orders of competent Authorities, placing Bull at No. 6.*
3. *Complete details, recommendations, advices with orders of competent Authorities, about Jalikattu exemptions etc with all concerned Notifications.*
4. *Feasibility of appointment of Veterinarian Doctors, VLDA etc para staff to held animals as 10 animals & birds, permanent Veterinarian justified."*

Ms. Prachi Jain, CPIO and Assistant Secretary, Animal Welfare Board of India, Ballabhgarh, Haryana vide letter dated 13.04.2020, informed the Appellant as under:

Ans.1: As per the available records, the information sought regarding the documents, materials, committee reports for issuing the notification dated GSR No.619(E) dated 14th October, 1998 by Ministry of Social Justice & Empowerment is not available with the Board.

Ans.2: As per the available records, the information sought regarding the documents, materials, committee reports for issuing the notification dated GSR No.528(E) dated 11th July, 2011 by Ministry of Environment & Forests is not available with the Board.

Ans.3: As per the available records, the information sought regarding exemption of Jallikattu was done by an ordinance issued by the Government of Tamil Nadu and a copy of the notification available with the Board is attached for your information.

Ans.4: It is informed that "this" does not come under definition of "information" under Section 2(f) of the RTI Act, 2005.

Being dissatisfied, the appellant filed a **First Appeal** dated Nil, 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.

The Respondent submitted that appropriate reply was provided to the Appellant on 13.04.2020. Upon 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/2020/675669 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/20/00038 dated 19-03-2020 on 13.04.2020 and Appeal No.AWBIC/A/E/20/00021 on 20.05.2020, 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 appropriate reply has been provided by the Respondent 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-रजिस्ट्रार)
011-26105027

Addresses of the parties:

1. The First Appellate Authority (FAA)
Animal Welfare Board of India National
Institute of Animal Welfare Campus
P.O. 42 KM Stone, Delhi-Agra
Highway Village-Seekri,
Ballabhgarh, Haryana 121004

2. The Central Public Information Officer
/Assistant Secretary
Animal Welfare Board of India
National Institute of Animal Welfare
Campus P.O. 42 KM Stone,
Delhi-Agra Highway Village-Seekri,
Ballabhgarh, Haryana -121004

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