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/2021/618932

In the matter of:

Naresh Kadyan ... अपीलकर्ता/Appellant

VERSUS
बनाम

CPIO, ...प्रतिवादीगण /Respondent
Animal Welfare of India,
42 KM Stone, Delhi- Agra
Highway, (NH-2), Ballabhgarh,
Faridabad, Haryana-121004

Relevant dates emerging from the appeal:

RTI Application filed on	:	11.01.2021
CPIO replied on	:	Not on Record
First Appeal filed on	:	04.04.2021
First Appellate Authority order	:	Not on Record
Second Appeal received on	:	20.05.2021
Date of Hearing	:	30.09.2022

The following were present:

Appellant: Shri Naresh Kadyan, participated in the hearing through video conferencing from NIC Ahmedabad.

Respondent: Ms. Prachi Jain, Assistant Secretary, Shri Vikaram Chandravanshi and Advocate and Legal Advisor/AWBI, participated in the hearing in person

3346
17/10/2022

17/10/2022
MEO

ORDER

Information sought:

The Appellant filed an online RTI Application dated 11.01.2021 seeking information on the following three points:

Animal Welfare Division with Animal Welfare Board, officials became burden - liability on public funds, abused power - authority, adopted corrupt practices as per attached petition under RTI act, 2005. Please supply all communications, made - received with file notings, from 1 to 8 as attached.

1. Please supply me point wise, complete details along with concerned file notings, about the endorsement of below stated all legislations, endorsed by all State Govt, including the State of Gujarat, list of Circuses, committed offenses, punished by court of law established, keeping in view non-cognizable offenses in legal terms:
Prevention of Cruelty to Animals Act, 1960 is a Central legislation, without consent of State Govt. it is not possible to implement in the respective revenue estates, whereas 30 entries under Rules head with 50 entries under Notification was made by the Central Government, besides it zero Regulation for carrying out its functions, under section 10 of the Prevention of Cruelty to Animals Act, 1960, keeping in view section 9, related to the functions of the Animal Welfare Board, whereas the Prevention of Cruelty to Animals (Amendment) Act, 1982 (26 of 1982), reconstitution of AWBI under section 5-A, 38-A, never been endorsed by all State Govt, including Gujarat, as position stated above.

2. Animal Welfare Board never been authorised, empowered to try & decide, offenses against, performing animals of 16 Circus, keeping in view their limitations as stated under section 36 of the Prevention of Cruelty to Animals Act, 1960. Supply under which rules AWBI authorised PETA along with their associates to conduct Inspections of 16 circuses, which was conducted during November 2012 to July 2013 along with the copies of complaints lodged within limitations to the concerned Police, by them. Please supply all communications, orders, circulars, guidelines along with concerned file notings and responsible officials for all these violations, spoiling evidences.
3. Please confirm, that 1st September, 1961, vide Notification No. S.O. 2061, dated the 25th August, 1961, for Chapters I and II in respect of the States of Assam, Andhra Pradesh, Bihar, Gujarat, Kerala, Madras, Maharashtra, Madhya Pradesh, Mysore, Orissa, Uttar Pradesh and West Bengal and the Union territories of Delhi, Manipur and Tripura, see Gazette of India, 1961, Part II, sec. 3(ii). 15th July, 1963, vide Notification No. S.O. 2000, dated 11th July, 1963, Chapter IV in respect of the States of Assam, Andhra Pradesh, Bihar, Gujarat, Kerala, Madras, Maharashtra, Madhya Pradesh, Mysore, Orissa, Rajasthan, Uttar Pradesh and West Bengal and in respect of the Union territories of Delhi, Himachal Pradesh, Manipur and Tripura, see Gazette of India, Part II, sec. 3(ii). 20th November, 1963, vide Notification No. S.O. 3160, dated 29th October, 1963, Chapters III and VI in respect of the States of Assam, Andhra Pradesh, Bihar, Gujarat, Kerala, Madras, Maharashtra, Madhya Pradesh, Mysore & so on.

Having not received any information from the CPIO, the Appellant filed a **First Appeal** dated 04.04.2021, 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. Appellant requested the Commission to direct the CPIO to provide complete information sought for.

Submissions made by Appellant and Respondent during Hearing:

The Appellant stated that he has not received any reply qua the instant RTI Application from the Respondent.

The Respondent submitted that first reply qua the instant RTI Application has been given to the Appellant vide letter dated 09.02.2021. The contents of the same are as under:

> With reference to the above cited subject, the following information is furnished hereunder:
>
> Ans.1 & 2: The matter regarding circus is under sub-judice.
>
> Ans 3: The information sought is not clear.

She further added that the First Appeal has been adjudicated vide order dated 11.05.2021. The contents of the same are as under:

> This appeal has been presented by Shri Naresh Kadyan for not furnishing information by Central Public Information Officer of Animal Welfare Board of India. The CPIO of AWBI has furnished the information to the Appellant vide letter no. 5-171/2021-22/RTIMIS dated 09.02.2021.
>
> I have read the contents of the Appeal; RTI original application of the Appellant; and also the records of the matter presented before the undersigned. The Central Public Information officer of the Board has furnished relevant information to Appellant in time. Since the requisite information has been furnished without delay the Appeal is accordingly disposed of.

A written submission has been received by the Commission from Dr. S.K Dutta Secretary /AA, Animal Welfare of India, Haryana vide letter dated 16.09.2022, wherein the Commission has been apprised as under:

> 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/21/00002 dated 11-01-2021 on 09-02-2021. The first appeal no.AWBIC/A/E/21/00024 dated 04.04.2021 was replied on 11.05.2021 The reply given to RTI Appellant is forwarded to the CIC for information.

A written submission has been received by the Commission from the Appellant vide letter dated nil and the same has been taken on record.

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 Appellant in point no. 3 of the instant RTI Application is seeking clarification from the Respondent and the same is beyond the purview of information as defined in Section 2(f) of the RTI Act. The Commission further observes that with respect to point no. 1 and 2 of the RTI Application, the Respondent in their reply dated 09.02.2021 has denied the information citing the matter is *sub-judice*. The Commission counsels the Respondent that there is no provision in RTI Act which allows denial of information on the grounds of *sub-judice*. In this regard, the Commission relies on an order of the ***Hon'ble High Court of Delhi*** in the matter of ***MCD vs. R.K. Jain*** vide ***W.P.(C) No. 14120/2009.*** The relevant extract of the order is reproduced hereunder:

"... the matter being sub judice before a court is not one of the categories of information which is exempt from disclosure under any of the clauses of Section 8(1) of the RTI Act."

In view of the above, the Commission opines that merely stating that a matter is sub-judice would not be sufficient ground for withholding information under the RTI Act. Hence, the Commission directs the Respondent to provide revised reply on point no. 1 and 2 of the RTI Application to the Appellant, with a copy marked to the Commission, within 10 days from the date of receipt of this order.

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: 30.09.2022

Authenticated true copy
(अभिप्रमाणित सत्यापित प्रति)

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

Addresses of the parties:

1. The First Appellate Authority (FAA)
Animal welfare Board of India
3rd Seaward Rd, Valmiki Nagar,
Thiruvalluvar Nagar, Thiruvanmiyur,
Chennai, Tamil Nadu -600041

2. The Central Public Information Officer
Animal Welfare of India,
42 KM Stone, Delhi- Agra Highway,
(NH-2), Ballabhgarh, Faridabad,
Haryana-121004

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