

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/DSPCE/A/2019/660273**

Shri Sajeev D

... अपीलकर्ता / Appellant

VERSUS/बनाम

PIO, Liquid Propulsion Systems
Through: Shri M Prasannan - CPIO

...प्रतिवादीगण / Respondent

Date of Hearing : 22.11.2021
Date of Decision : 24.11.2021
Chief Information Commissioner : Shri Y. K. Sinha

Relevant facts emerging from appeal:

RTI application filed on : 17.10.2019
PIO replied on : 05.11.2019
First Appeal filed on : 15.11.2019
First Appellate Order on : 09.12.2019
2ndAppeal/complaint received on : Nil

Information sought and background of the case:

The Appellant filed an RTI application dated 17.10.2019 seeking *copy of approval of competent authority mentioned in the memorandum No. LPSC/HPS/A.5./19 dated 15.10.2019 issued to the appellant in his office address: D. Sajeev, Sr. PSO(Stores), LPSC/VMC by Shri. R. Padmakumar, Head, Purchase & Stores, LPSC/VMC.*

The CPIO vide letter dated 05.11.2019 intimated that the information sought for by the applicant cannot be disclosed under Section 8(1)(g) of the RTI, Act 2005.

Dissatisfied with the response received from the CPIO, the Appellant filed a First Appeal dated 15.11.2019. The FAA/Controller vide order dated 09.12.2019 upheld the reply of the CPIO.

Aggrieved and dissatisfied, the Appellant approached the Commission with the instant Second Appeal.

Facts emerging in Course of Hearing:

A written submission has been received from CPIO vide letter dated 16.11.2021, reiterating the above replies and adding the following:

SBS
9/10
APIO - please put up.
16/12/21

5. It is submitted that the applicant was issued with a warning Memorandum dated 15.10.2019 by his superior officer (Head Purchase and Stores Division, LPSC) advising him to maintain decorum in Office and to desist from unhealthy practices which cause hindrance to the time bound activities of the Centre. In the Memorandum, it was mentioned that "this issues with the approval of the Competent Authority". On the basis of the above, the applicant sought a copy of the approval for the Memorandum issued to him.

6. In this connection, the custodian of records at LPSC had informed that the approval note sought by the appellant contains critical information and other action points also to be initiated by the concerned authority if the applicant is not improving his attitude/behaviour to maintain decorum in office. The custodian also informed that considering the better relation between the staffs, the information cannot be shared to the appellant.

7. With regard to the allegation that LPSC had made false and baseless charges on him without any valid reason, it is submitted that the aforesaid Memorandum is self explanatory and a copy of which had been communicated to the Higher Authorities of the Centre.

8. The appellant is alleging that Head P&S is not a Competent Authority to issue Memorandum to Group A (Gazetted Officers) of ISRO against CCS (Conduct) Rules 1964 and Head P&S, LPSC had not followed the procedures as per CCS (Control, Classification and Appeal Rules), before issuing such Memorandum. With regard to the above allegation, it is submitted that the action of issue of warning Memorandum was not as per the CCS (Classification, Control and Appeal) Rules, 1965 or DOS Employees (CCA) Rules, 1976 as it is not a punishment. It is only an Administrative action. As per the extant orders, warning, letter of caution, reprimands or advisories administered to Government servants do not amount to a penalty.

9. It may please be considered the fact that the superior officer can exercise the power to issue warning Memorandum, to his subordinate officials in the capacity of Reporting officer, as a corrective measure commenting on the lapses even without taking approval from any other Authority. Hence the allegation made by the appellant is baseless.

In order to ensure social distancing and prevent the spread of the pandemic, COVID-19, hearing was scheduled through video conference after giving prior notice to both the parties. Both parties participated in the video conference and Appellant has narrated that he sought the information because he is aggrieved by issue of a Memorandum without hearing him and seeks to challenge the procedural lapse. The Respondent stated that the Appellant has already approached the Ernakulam Bench of CAT regarding his grievance and the matter is pending adjudication at the said forum.

Decision:

Upon hearing averments of the parties and examining the relevant facts of the case, the Commission wishes to note that similar issues have been decided by

decisions of the Hon'ble Supreme Court in support of the denial of information regarding identities of competent authorities, which are as follows:

1. Kerala Public Service Commission & ors. V. The State Information Commission & Anr. Civil appeal Nos. 823-854 of 2016:

Responding to the question whether identities of examiners can be made public, the SC held in Kerala Public Service Commission & ors. V. The State Information Commission & Anr. Civil appeal Nos. 823-854 of 2016 that they cannot allow details about examiners to be disclosed for various reasons, including the fact that this would endanger the safety of the examiners and serve no useful public function. Among other reasons, the SC also warned that revealing identities of examiners might encourage candidates sitting for future examinations to contact them and seek undue advantage.

We would like to point out that the disclosure of the identity of Examiners is in the least interest of the general public and also any attempt to reveal the examiner's identity will give rise to dire consequences. Therefore, in our considered opinion revealing examiner's identity will only lead to confusion and public unrest. Hence, we are not inclined to agree with the decision of the Kerala High Court with respect to the second question.

If we allow disclosing name of the examiners in every exam, the unsuccessful candidates may try to take revenge from the examiners for doing their job properly. This may, further, create a situation where the potential candidates in the next similar exam, especially in the same state or in the same level will try to contact the disclosed examiners for any potential gain by illegal means in the potential exam.

2. Bihar Public Service Commission V Saiyed Hussain Abbas Rizwi & Anr. In Civil Appeal No. 9052 of 2012:

While examining the applicability of exemption under section 8(1)(g) to a request for the names of interviewers who interviewed candidates for appointment to jobs, the Supreme Court clarified, in Bihar Public Service Commission V Saiyed Hussain Abbas Rizwi & Anr. In Civil Appeal No. 9052 of 2012 that the provisions of 8(1)(g) are applicable to everyone and not just to law enforcement or security organisations, as wrongly held by the Patna High Court.

The SC then went on to hold that the disclosure of the identity of members of the interview board would expose these interviewers to threat from disgruntled candidates, without serving any public purpose. It, therefore, held that such information was exempt under section 8(1)(g) of the RTI Act and held.

Now, the ancillary question that arises is as to the consequences that the interviewers or the members of the interview board would be exposed to in the event their names and addresses or individual marks given by them are directed to be disclosed. Firstly, the members of the Board are likely to be exposed to danger to their lives or physical safety. Secondly, it will hamper effective performances and discharge of their duties as examiners, direction to furnish the names and addresses of the interviewers would certainly be opposed to the very spirit of Section 8(1)(g) of the Act.

The disclosure of names and address of the members of the Interview Board would ex facie endanger their lives or physical safety. The possibility of a failed candidate attempting to take revenge from such person cannot be ruled out. On the one hand, it is likely to expose the members of the Interview Board to harm and, on the other, such disclosure would serve no fruitful much less any public purpose. Furthermore, the view of the High Court in the judgment under appeal that element of bias can be traced and would be crystallized only if the names and addresses of the examiners/interviewers are furnished is without any substance. The element of bias can hardly be co-related with the disclosure of the names and addresses of the interviewers. Bias is not a ground which can be considered for or against a party making an application to which exemption under Section 8 is pleaded as a defence.

In line with the above decisions of the Hon'ble Supreme Court, the following decisions were passed by the High Courts: i) *Union Public Service Commission Vs. Mahesh Mangalar WP(C)7431 of 2011* and ii) *Himachal Pradesh High Court in Himachal Pradesh Public Service Commission Vs. State Information Commission & Anr. CWP No. 96 of 2009*.

In the light of the aforementioned decisions wherein disclosure of details about identities of decision making authorities have been expressly denied under the provisions of Section 8(1)(g) of the RTI Act, the Commission finds no reason to direct disclosure of similar information in this case, particularly because no case has been made out as to how such disclosure could serve larger public interest. Moreover, the Appellant has already sought redressal of his grievance before the appropriate forum, viz. CAT, hence, this Commission is not inclined to entertain the query of the Appellant.

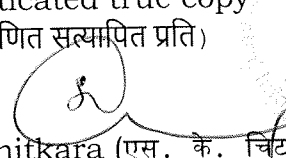
The appeal is disposed off accordingly.

Sd/

Y. K. Sinha (वाई. के. सिन्हा)

Chief Information Commissioner (मुख्य सूचना आयुक्त)

Authenticated true copy
(अभिप्रमाणित सत्यापित प्रति)


S. K. Chitkara (एस. के. चिटकारा)
Dy. Registrar (उप-पंजीयक)
011-26186535

Copy to:

The PIO
Liquid Propulsion Systems Centre
Valiamala P.O.
Thiruvananthapuram - 695547

Shri Sajeew D
TC-30/1404/1, KPNRA-158/A/20,
Neelambari, Kanjirampara PO,
Thiruvananthapuram - 695030

