

Central Information Commission

Mr.Khushi Ram Tanwar vs Government Of Nct Of Delhi on 31 August, 2010

CENTRAL INFORMATION COMMISSION

Club Building (Near Post Office)

Old JNU Campus, New Delhi - 110067

Tel: +91-11-26161796

Decision No. CIC/SG/A/2010/002218/9131

Appeal No. CIC/SG/A/2010/002218

Relevant Facts

emerging from the Appeal:

Appellant : Mr. Khushi Ram Tanwar,
276, Village Dera,
New Delhi- 110074

Respondent : Public Information Officer &
Sub Divisional Magistrate (HK),
Government of National Capital Territory of
Delhi,
Old Tehsil Building, Mehrauli,
New Delhi- 110030

Assistant Public Information Officer (HK),
Government of National Capital Territory of
Delhi,
Old Tehsil Building, Mehrauli,
New Delhi- 110030

RTI application filed on : 10/11/2009
PIO replied on : No reply
First Appeal filed on : 11/06/2010
First Appellate Authority order of : 28/06/2010
Second Appeal received on : 06/08/2010

Information Sought:

RTI application bearing I.D. Number 167 of 10/11/2009 • Furnish the details of the total Gram Sabha land of Dera Mandi village (except notified ridge land).

- Furnish the details of the total Gram Sabha residential plots situated in the extended abode of village Dera.

- Furnish the details of the total Gram Sabha residential plots situated in the extended abode of village Mandi.

- Furnish the details of the total Gram Sabha residential plots situated in the extended abode of both village Mandi and Dera, which have been allotted to the landless villagers at the time of the

consolidation of the holding of the village in 1983. RTI application bearing I.D. Number 168 of 10/11/2009 Information sought in relation to plot situated to the south of Dera village:

- Measurement of plot situated between plot number 503 and 506, whether it belongs to the Gram Sabha, etc. • Specify plot number of the plot situated which has plot number 503 on its east, 506 on its north and a passage on its west.
- Who is the owner of the said plot?

RTI application bearing I.D. Number 169 of 10/11/2009 Information sought in relation to dimensions of land/ plot surrounding Dera village.

Reply of the Public Information Officer (PIO):

No information was provided by the PIO.

Grounds for the First Appeal:

No information was given by the PIO.

Order of the First Appellate Authority (FAA):

The FAA observed that there was a lapse of more than 6 months on the part of the PIO/ SDM (HK) in supplying the information sought. There was laxity on the part of the PIO and APIO (HK) and they were negligent towards discharging their legal duties under the RTI Act. The PIO/ SDM (HK) and the APIO (HK) were directed to furnish the information to the Appellant directly within 7 days under intimation to the office of the FAA.

Grounds for the Second Appeal:

No information was given by the PIO and non- compliance of the order of the FAA.

Decision:

The Commission has perused the documents submitted by the Appellant. The FAA has given a clear order dated 28/06/2010 directing the PIO/ SDM (HK) and the APIO (HK) to provide the information to the Appellant directly within 7 days under intimation to the office of the FAA. The Appellant has not been provided with the information requested for despite the order of the FAA. Further, no communication was received from the PIO/ SDM (HK) and the APIO (HK) regarding compliance of the order of the FAA.

The Commission therefore directs the PIO/ SDM (HK) and the APIO (HK) to provide the complete information requested for by the Appellant. Denial of information to an Appellant under the RTI Act can only be done if what is sought is not "information" as defined under Section 2(f) of the RTI Act

or is exempt under Section 8(1) of the RTI Act. The PIO/ SDM and the APIO (HK) have neither claimed that it is not "information" nor have they claimed that it is exempt under Section 8(1) of the RTI Act.

The Appeal is allowed. The PIO/ SDM (HK) and the APIO (HK) are directed to comply with the order of the FAA and provide the complete information requested by the Appellant vide I.D. Numbers 167, 168 and 169 dated 10/11/2009 before September 20, 2010.

From the facts before the Commission it is apparent that the PIO/ SDM (HK) and the APIO (HK) are guilty of not furnishing information within the time specified under Section 7(1) by not replying within 30 days as per the requirement of the RTI Act. They have further refused to obey the orders of the FAA, which raises a reasonable doubt that the denial of information may also be mala fide. The FAA has clearly ordered the information to be given. It appears that the actions of the PIO/ SDM (HK) and APIO (HK) attract the penal provisions of Section 20(1) of the RTI Act. A show cause notice is being issued to them and they are directed to give their reasons to the Commission to show cause why penalty should not be levied on them.

They will present themselves before the Commission at the above address on October 11, 2010 at 10:30 am along with their written submissions showing cause why penalty should not be imposed on them as mandated under Section 20(1) of the RTI Act. They will also submit proof of having given the information to the Appellant.

If there are other persons responsible for the delay in providing the information to the Appellant and for not complying with the order of the FAA, the PIO/ SDM (HK) and the APIO (HK) are directed to inform such persons of the show cause hearing and direct them to appear before the Commission with them.

Notice of this decision be given free of cost to the parties. Any information in compliance with this Order will be provided free of cost as per Section 7(6) of the RTI Act.

Shailesh Gandhi Information Commissioner August 31, 2010 (In any correspondence on this decision, mention the complete decision number.) (YM)