

Central Information Commission

Mr. Ak Bagga vs Municipal Corporation Of Delhi. ... on 24 November, 2009

CENTRAL INFORMATION COMMISSION

Club Building (Near Post Office)

Old JNU Campus, New Delhi - 110067

Tel: +91-11-26161796

Decision No. CIC/SG/A/2009/002326/5464Penalt

Appeal No. CIC/SG/A/2009/00232

SHOWCAUSE HEARING:

Appellant	:	Mr. AK Bagga, GH 4/124, Meera Apartment, Paschim Vihar, New Delhi- 110063
Respondent	:	Mr. V.S.Chauhan Assistant Engineer & Deemed PIO Municipal Corporation of Delhi. DEMS EE Store, DEMS, Town Hall, Chandni Chowk, Delhi - 110006.

RTI application filed on	:	19/06/2009
PIO replied	:	27/08/2009 (After the 1st appeal)
First appeal filed on	:	03/08/2009
First Appellate Authority order	:	No order.
Second Appeal received on	:	15/09/2009
Date of Notice of Hearing	:	12/10/2009
Hearing Held on	:	11/11/2009

BACKGROUND

:

S. No Information Sought Reply of the PIO

1. The number of buildings constructed illegally, the 35 houses have been booked.

number of buildings booked, the no of buildings Answers cannot be provided to the that were destroyed and then rebuilt illegally in rest of the questions. ward nos 11 and 12 during the period 2008-09.

b) The reasons for not taking action against officials found guilty of dereliction of duty.

2. Whether House No 619 of Bhai Parmanand The MCD has passed the plan of Colony, Delhi-9 is being built as per a sanctioned House No 619. plan.

3. The name, designation and phone numbers of Junior Engineer is Mr Pushan officials responsible for adhering to the complaints Vishwas and his telephone no is filed by the Appellant regarding House No 619 of 9861211673. Bhai Parmanand Colony, Delhi-9.

Assistant Engineer is Mr V S

b) The proposed action to be taken on the basis of Chauhan and his telephone no is the complaints filed by the Appellant. 9717788534. First Appeal:

Unsatisfactory information provided by the PIO.

Order of the FAA:

No order given by FAA.

Ground of the Second Appeal:

Unsatisfactory information provided by the PIO and no order given by FAA.

Relevant Facts that emerged during Hearing on 11 November 2009: "The following were present:

Appellant : Absent;

Respondent : Mr. R. Prasad, Public Information Officer & SE;

The PIO has refused to give the information about 35 buildings booked for unauthorized construction without quoting any exemptions of the RTI Act. It almost appears that it is a statement claiming that information on illegal buildings will not be given. This is completely unacceptable. The PIO states that this information is provided by the holder of Mr. V.S.Chauhan, Assistant Engineer and Mr. Pannalal, Executive Engineer Civil Lines Zone."

Commission's Decision:

"The Appeal is allowed.

The PIO is directed to give all the details regarding 35 buildings booked for unauthorized construction to the Appellant before 23 November 2009."

Facts leading to showcause:

The issue before the Commission was of not supplying the complete, required information by the deemed PIOs Mr. V.S.Chauhan, Assistant Engineer and Mr. Pannalal, Executive Engineer within 30 days as required by the law. From the facts before the Commission it appeared that the deemed PIOs are guilty of not furnishing information within the time specified under sub-section (1) of

Section 7 by not replying within 30 days, as per the requirement of the RTI Act. Hence a showcause notice is being issued to them, and they are directed give their reasons to the Commission to show cause why penalty should not be levied on them on 24 November 2009 at 11.30am.

Relevant Facts emerging during Showcause Hearing on 24 November 2009: The following were present:

Appellant: Absent;

Respondent: Mr. V.S.Chauhan, Assistant Engineer and Deemed PIO;

Mr. Pannalal, Executive Engineer and Deemed PIO;

The Executive Engineer Mr. Pannalal states that he was looking after the charge only 03 or 04 days and hence is not responsible for providing the information. Hence it appears that no liability can be fixed on Mr. Pannalal. Mr. V.S.Chauhan, AE has signed the letter in which he has stated that 35 buildings have been booked (for unauthorized construction) but he will not give the reply to the list of buildings. After the Commission's decision on 11/11/2009 the list of properties booked for unauthorized construction has been provided to the Appellant, which shows that out of 35 properties booked for unauthorized construction during the period 01/04/2008 to 31/03/2009 in ward no. 11(Mukherjee Nagar) and ward no. 12 (GTB Nagar) partial demolition action has been taken on only two properties. Mr. Pannalal informs the Commission that since the showcause hearing is being held today demolition action is likely to be taken on 03 of the properties today.

Mr. V.S.Chauhan was asked to explain the reasons for refusing to give the information on 35 buildings booked for unauthorized construction. He has no reasonable explanation to offer except to claim that he meant something else. This is a fit case of levy of penalty under Section 20(1) of the RTI Act. The RTI Application was made on 19/06/2009 and the complete reply should have been given to the Appellant before 19/07/2009. Instead of which the complete reply has been given on 20/11/2009. Since the delay is over 100 days the Commission imposes the maximum of Rs.25000/- on Mr. V.S.Chauhan as per the provision of Section 20(1) of the RTI Act 2005.

Decision:

As per the provisions of Section 20 (1) of the RTI Act 2005, the Commission finds this a fit case for levying penalty on Mr. V.S.Chauhan, Assistant Engineer and Deemed PIO. Since the delay in providing the correct information has been over 100 days, the Commission is passing an order penalizing Mr. V.S.Chauhan for Rs. 25000/ which is the maximum penalty under the Act.

The Commissioner, Municipal Corporation of Delhi is directed to recover the amount of Rs.25000/- from the salary of Mr. V.S.Chauhan and remit the same by a demand draft or a Banker's Cheque in the name of the Pay & Accounts Officer, CAT, payable at New Delhi and send the same to Shri Pankaj K.P. Shreyaskar, Joint Registrar and Deputy Secretary of the Central Information Commission, 2nd Floor, August Kranti Bhawan, New Delhi - 110066. The amount may be deducted

at the rate of Rs.5000/ per month every month from the salary of Mr. V.S.Chauhan and remitted by the 10th of every month starting from December 2009. The total amount of Rs.25000 /- will be remitted by 10th of April, 2010.

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- 1- Commissioner  
Municipal Corporation of Delhi  
Town Hall, Delhi- 110006
2. Shri Pankaj K.P. Shreyaskar,  
Joint Registrar and Deputy Secretary  
Central Information Commission,  
2nd Floor, August Kranti Bhawan,  
New Delhi - 110066

(In any correspondence on this decision, mention the complete decision number.)