

केंद्रीय सूचना आयोग
CENTRAL INFORMATION COMMISSION
बाबा गंगनाथ मार्ग
Baba Gangnath Marg
मुनिरका, नई दिल्ली – 110067
Munirka, New Delhi-110067

File no.: - CIC/CBRUI/A/2018/167272

In the matter of:

S Harish Kumar

... Appellant

VS

CPIO / Head of Branch

Central Bureau of Investigation, Anti – Corruption Bureau,
3rd Floor, Shastri Bhawan, No. 26, Haddows Road,
Nungambakkam, Chennai-600 006

... Respondent

RTI application filed on	:	14/09/2018
CPIO replied on	:	22/09/2018
First appeal filed on	:	01/10/2018
First Appellate Authority order	:	09/10/2018
Second Appeal dated	:	08/11/2018
Date of Hearing	:	03/11/2020
Date of Decision	:	03/11/2020

The following were present:

Appellant: Present through video conference.

Respondent: Mr. Sundravel, ASP & Representative of CPIO present through video conference.

Information Sought:

The appellant has sought information regarding Preliminary Enquiry and all other subsequent proceedings in case No.03(A)/2013-CBI/ACB/Chennai against officials of MSME Development Institute, Guindy, Chennai and Thirumaran of M/s Integrated Assessment Services Pvt. Ltd. Chennai:

1. Status and findings of preliminary enquiry
2. Reports of review of fraudulent claims

3. Closure report of the enquiry, if concluded.
4. Any other document.

Grounds for Second Appeal

The CPIO has not provided the desired information claiming exemption under Section 8(1)(h) of the RTI Act.

Submissions made by Appellant and Respondent during Hearing:

The Appellant stated that the reason for seeking this information is that the CBI sent a letter to the Deputy Secretary of the Disciplinary Directorate, ICAI and Self-Contained note in PE/03/ A/2013/CBI/ACB/Chennai to initiate disciplinary action against his client CA B.C Vadivel on the grounds of professional misconduct based solely on the initial preliminary report. That, as a result of this, his client has been subjected to disciplinary hearings even as there is no further information on the averred PE and informal inquiries have shown that the other parties i.e officials of MSME Development Institute, Guindy, Chennai and Thirumaran of M/s Integrated Assessment Services Pvt. Ltd. Chennai have been carrying on with their business as usual and it is hearsay that the proceedings have been dropped against the said parties. So this information is being sought only to confirm the status of the PE so that they can request the CBI for a closure report which can prove the innocence of his client.

The representative of the CPIO submitted that the information sought for has been denied to the Appellant as the investigation was continuing after the PE.

The Appellant stated that he has merely sought to know the status and outcome of the case, disclosure of which will not impede the process of the investigation.

Observations:

The Commission observes upon a perusal of the facts on record that the CPIO had merely invoked Section 8(1)(h) of the RTI Act without providing any justification as to what inquiry was pending as on the date of their reply or as to how the disclosure of the information would have impeded the process of the inquiry or apprehension or prosecution of offenders. Moreover, the Appellant has rightly pointed out that the disclosure of the status and outcome of the case as available at the relevant time would not have impeded the

process of the averred inquiry by any measure. Pertinently so, the representative of the CPIO also failed to provide any substantial submissions regarding the applicability of Section 8(1)(h) of the RTI Act during the hearing.

In this regard attention of the CPIO and his representative is drawn towards a judgment of the Hon'ble Delhi High Court in the matter of *Bhagat Singh Vs. CIC* dated 03.12.2007 wherein the following was observed:

"13. Access to information, under Section 3 of the Act, is the rule and exemptions under Section 8, the exception. Section 8 being a restriction on this fundamental right, must therefore be strictly construed. It should not be interpreted in manner as to shadow the very right itself. Under Section 8, exemption from releasing information is granted if it would impede the process of investigation or the prosecution of the offenders. It is apparent that the mere existence of an investigation process cannot be a ground for refusal of the information; the authority withholding information must show satisfactory reasons as to why the release of such information would hamper the investigation process. Such reasons should be germane, and the opinion of the process being hampered should be reasonable and based on some material. Sans this consideration, Section 8(1)(h) and other such provisions would become the haven for dodging demands for information..." Emphasis Supplied

Decision:

In view of the foregoing observations, the Commission directs the CPIO to provide a revised reply to the Appellant incorporating a cogent explanation justifying the applicability of Section 8(1)(h) of the RTI Act with respect to the information sought in the RTI Application in line with the ratio laid down by the Court in the *Bhagat Singh case* (supra). In addition to this, the CPIO is directed to provide the available information regarding the status and the outcome of the case as referred to in the RTI Application to the Appellant.

The information as directed above is to be provided free of cost to the Appellant by the CPIO within 7 days from the date of receipt of this order under intimation to the Commission.

The appeal is disposed of accordingly.

Vanaja N. Sarna (वनजा एन. सरना)

Information Commissioner (सूचना आयुक्त)

Authenticated true copy

(अभिप्रमाणित सत्यापित प्रति)

A.K. Assija (ऐ.के. असीजा)

Dy. Registrar (उप-पंजीयक)

011- 26182594 /

दिनांक / Date

