

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/DEPOL/A/2019/132210**

Shri Vikram Singh Meena

... अपीलकर्ता /Appellant

VERSUS/बनाम

PIO

...प्रतिवादीगण /Respondent

Delhi Police

Date of Hearing : 22.06.2021

Date of Decision : 23.06.2021

Chief Information Commissioner : Shri Y. K. Sinha

Relevant facts emerging from appeal:

RTI application filed on : 06.03.2019

PIO replied on : 05.04.2019

First Appeal filed on : 29.04.2019

First Appellate Order on : 30.05.2019

2ndAppeal/complaint received on : 05.07.2019

Information sought and background of the case:

The Appellant filed an RTI application dated 06.03.2019 seeking copy of FIR no 477/2018 registered against him at PS Vikaspur, New Delhi.

The PIO /ADCP, West District vide letter dated 05.04.2019 stated that case FIR no. 477/18 u/s 354D/506/509 IPC, PS Vikas Puri is registered against the Appellant and now the case is pending investigation. Hence copy of FIR could not be provided under Section 8(1)(h) & (g) of the RTI Act.

Dissatisfied with the response received from the CPIO, the Appellant filed a First Appeal dated 29.04.2019. The FAA/DCP, West Distt. vide order dated 30.05.2019 upheld the reply of the CPIO.

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

Facts emerging in Course of Hearing:

In order to ensure social distancing and prevent the spread of the pandemic, COVID-19, hearing through audio conference was scheduled after giving prior notice to both the parties.

The Appellant did not respond to the telephone calls made to his telephone number for the audio hearing. A written submission has been received from the Appellant vide letter dated 11.06.2021 wherein he inter alia stated that the copy of the FIR was not uploaded on the CCTNS website in violation of the direction of the Hon'ble Supreme Court in Youth Bar Association of India vs Union of India WP (CRL) No 68 of 2016. He further referred to the decision of the Hon'ble High Court of Delhi in Court on its own motion through Mr Ajay Chaudhary vs State and the decision of Jiju Lukose vs State of Kerala to argue to FIR is a "public document" and has to be made available on an RTI application. While stating that no opportunity of hearing was provided to him by the FAA, the Appellant stated that exemption u/s 8 (1) (g) and (h) were incorrectly claimed by the PIO without any reasonable justification.

The Respondent represented by Shri Surender Kumar, ACP, Tilak Nagar participated in the hearing through audio conference. He stated that since it was a sensitive matter relating to stalking, criminal intimidation and outraging the modesty of a women registered under u/s 354D/506/509 of the IPC, the copy of the FIR was not provided by the PIO since the matter was under investigation at that point of time. However, subsequent to filing of the case before the Mahila Court, Dwarka on 17.07.2019, the copy of FIR, Section 161 statements and chargesheet has been provided to the Appellant. The next date of hearing in the matter is scheduled for 01.10.2021.

Decision

Keeping in view the facts of the case and the submissions made by both the parties, the Commission observes that appropriate response as per the provisions of the RTI Act, 2005 has been provided by the Respondent. The Hon'ble Supreme Court in its decision in Youth Bar Association of India vs Union of India and Ors WP (Crl) 68/2016 decided on 07.09.2016 has provided clear guidelines in the context of uploading of each FIR registered in a Police Station on its website. The relevant extracts of the decision are as under:

"d. The copies of the FIRs, unless the offence is sensitive in nature, like sexual offences, offences pertaining to insurgency, terrorism and of that category, offences under POCSO Act and such other offences, should be uploaded on the police website, and if there is no such website, on the official website of the State Government, within twenty-four hours of the registration of the First Information Report so that the accused or any person connected with the same can download the FIR and file appropriate application before the Court as per law for redressal of his grievances. It may be clarified here that in case there is connectivity problems due to geographical location or there is some other unavoidable difficulty, the time can be extended up to forty-eight hours. The said 48 hours can be extended maximum up to 72 hours and it is only relatable to connectivity problems due to geographical location.

e. The decision not to upload the copy of the FIR on the website shall not be taken by an officer below the rank of Deputy Superintendent of Police or any person holding equivalent post. In case, the States where District Magistrate

has a role, he may also assume the said authority. A decision taken by the concerned police officer or the District Magistrate shall be duly communicated to the concerned jurisdictional Magistrate.

f. The word 'sensitive' apart from the other aspects which may be thought of being sensitive by the competent authority as stated hereinbefore would also include concept of privacy regard being had to the nature of the FIR. The examples given with regard to the sensitive cases are absolutely illustrative and are not exhaustive.

g. If an FIR is not uploaded, needless to say, it shall not ensure per se a ground to obtain the benefit under Section 438 of the Cr.P.C.

h. In case a copy of the FIR is not provided on the ground of sensitive nature of the case, a person grieved by the said action, after disclosing his identity, can submit a representation to the Superintendent of Police or any person holding the equivalent post in the State. The Superintendent of Police shall constitute a committee of three officers which shall deal with the said grievance. As far as the Metropolitan cities are concerned, where Commissioner is there, if a representation is submitted to the Commissioner of Police who shall constitute a committee of three officers. The committee so constituted shall deal with the grievance within three days from the date of receipt of the representation and communicate it to the grieved person.

i. The competent authority referred to hereinabove shall constitute the committee, as directed herein-above, within eight weeks from today.

j. In cases wherein decisions have been taken not to give copies of the FIR regard being had to the sensitive nature of the case, it will be open to the accused/his authorized representative/parokar to file an application for grant of certified copy before the Court to which the FIR has been sent and the same shall be provided in quite promptitude by the concerned Court not beyond three days of the submission of the application."

As per the above mentioned decision of the Hon'ble Supreme Court, details of FIRs registered have to be disclosed online within 24 hours of its registration. However, disclosure of sensitive FIRs is only permissible if a representation is filed before the Superintendent of Police in Rural Areas and Commissioner of Police for Metropolitan Areas who shall constitute a Committee of 3 officers to decide the grievance within 3 days from the receipt of the representation. In the present instance, the Respondent claimed that the information was denied to the Appellant since the FIR was sensitive in nature for the reasons mentioned in their submissions stated above. Moreover, it is the submission of the Respondent that after filing of the charge sheet copy of statements and FIR has been provided to the accused after the filing of the charge sheet. The Commission finds that an appropriate response has been provided to the Appellant and no further intervention is required in the matter.

With the above observation, the instant Second Appeal stands disposed off accordingly.

Y. K. Sinha (वाई. के. सिन्हा)
Chief Information Commissioner (मुख्य सूचना आयुक्त)

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