

केन्द्रीय सूचना आयोग  
Central Information Commission  
बाबागंगनाथमार्ग, मुनिरका  
Baba Gangnath Marg, Munirka  
नईदिल्ली, New Delhi – 110067

द्वितीय अपील संख्या/ Second Appeal No. CIC/ERAIL/A/2018/636294

In the matter of:

Uttkarsh Kumar

... अपीलकर्ता/Appellant

VERSUS

बनाम

1. CPIO,  
Deputy General Manager (G),  
East Central Railway,  
Head Quarters, Hajipur,  
Dist. Vaishali,  
Bihar – 844 101

...प्रतिवादीगण  
/Respondent

2. CPIO,  
Sr. Comml. Manager (Catg.) & APIO,  
Eastern Railway,  
O/o. Chief Commercial Manager,  
3, Kolaghat Street,  
Kolkata – 700 001

3. CPIO,  
Indian Railway Catering &  
Tourism Corporation (IRCTC),  
B – 148, 11<sup>th</sup> Floor,  
Statesman House,  
Barakhamba Road,  
New Delhi – 110 001

Relevant dates emerging from the appeal:

RTI : 29.07.2018	FA : 13.09.2018	SA : 30.11.2018
CPIO : 09.08.2018, 10.09.2018, 11.09.2018 & 05.10.2018	FAO : 22.10.2018	Hearing : 13.10.2020

The following were present:

**Appellant:** Heard over the phone

**Respondent:** Shri K.K.Mishra, ACM (Catg.), East Central Railway, Hajipur, Dist. Vaishali, Bihar and Shri K.D.Das, Dy. CCM (System), Eastern Railway, Kolkata, heard over the phone

### **ORDER**

#### **Information Sought:**

The appellant filed an online RTI application on 29.07.2018, seeking information on four points pertaining to PNR No. 2448017482, including;

- 1) The passenger had filed online TDR on 27/06/18 for refund against PNR Number 2448017482 for reason that the train was late for more than three hours and passenger did not travel with Reference No : 100000249226100.
- 2) On date 02/07/18 passenger received an email from IRCTC informing that with reference to refund against PNR Number 2448017482, an amount of Rs. 495/- has been received from concerned Zonal Railways.
- 3) According to the extant refund rules of Indian Railways, if the train is delayed by more than 3 hours then full refund will be granted.

- 4) Total ticket amount of passenger ticket was 990 rupees then, why Railways refunded only 495 rupees to the passengers.

The CPIO, East Central Railway, vide online reply dated 09.08.2018, transferred the RTI application to CPIO, Eastern Railway u/s 6(3) of the RTI Act. The CPIO, Eastern Railway, vide online reply dated 10.09.2018, transferred the RTI application to CPIO, Indian Railway Catering & Tourism Corpn. Ltd. The CPIO, Indian Railway Catering & Tourism Corpn. Ltd., vide online reply dated 11.09.2018, transferred the RTI application to CPIO, Eastern Railway. Further, vide letter dated 05.10.2018, Sr. Comml. Manager (Catg.) & APIO, Eastern Railway informed the appellant that on receipt of a proper registration from IRCTC, his refund claim may be processed. Being dissatisfied, the appellant filed **first appeal** dated 13.09.2018. FAA, vide order dated 22.10.2018, upholding the action taken by Dy. CCM (G) & PIO/Eastern Railway vide letter no. C. 498/RTI Act/U.K. 207(18)/RTI Cell dated 03.10.2018, enclosed a copy of the same. With regards to the contention of the appellant in relation to East Central Railway, a copy of the RTI appeal along with its enclosure were sent by FAA with its decision to AGM/East Central Railway/Hajipur for necessary disposal of the RTI appeal, pertaining to his jurisdiction. The FAA, further, advised the appellant to approach the proper grievance redressal forum for redressal of his grievance in the matter of anomaly in getting refund against his reserved ticket.

**Grounds for Second Appeal:**

The appellant filed second appeal u/s 19 of the Act on the ground of unsatisfactory reply furnished by the respondent. He requested the Commission to direct the CPIO to provide the information sought for and take appropriate legal action against the concerned CPIO and also to provide him compensation.

**Submissions made by Appellant and Respondent during Hearing:**

The appellant submitted that as per Section 6(3) of the RTI Act, where an application is made to a public authority but the subject matter of the RTI application pertains to another public authority, the CPIO of the public authority receiving the RTI application has to transfer the same to the public authority concerned within five days of the receipt of the application. However, his RTI application on 29.07.2018 was transferred by East Central Railway to CPIO, Eastern Railway on 09.08.2018 i.e. after 11 days of the receipt of the application. Further, CPIO, Eastern Railway transferred his application to IRCTC on 10.09.2018 i.e. after 30 days. The appellant furthermore submitted that his first appeal was disposed off by the FAA without serving a notice of hearing upon the appellant. He alleged that the implementation of the RTI Act, 2005, in the Respondent Public Authority is far from satisfactory and that they were not adhering to the provisions of the RTI Act, 2005 and therefore, desired strict action to be initiated against the erring CPIO.

The written submissions dated 24.09.2020, filed by the appellant, were taken on record.

The respondent, Shri K. K. Mishra, submitted that since the appellant's RTI application was pertaining to refund against his reserved ticket, the position in respect of the same was being ascertained internally. On receipt of the status on 08.08.2018, it was found that the claim pertained to Eastern Railway, Kolkata and thus, the RTI application was accordingly transferred to the concerned division on 09.08.2018.

The written submissions dated 28.09.2020, filed by Dy. CCM/G, East Central Railway, were taken on record.

The respondent, Shri K. D. Das, submitted that the appellant, vide his RTI application in question, has not sought any information within the meaning of Section 2(f) of the RTI Act and has rather raised a grievance pertaining to the refund against his reserved ticket. Nonetheless, the CPIO instead of denying him information treated his RTI as an application for refund and immediately started the due enquiry with respect to the same. Subsequently, his claim was not found to be registered and hence, the RTI application was transferred to IRCTC to provide a proper registration number. The respondent furthermore apprised the Commission that the appellant's claim has now been settled in full and complete refund has already been made to him. However, the appellant is raising technical issues with respect to delay in transfer without appreciating the fact that despite being a grievance, his RTI application was duly processed.

The appellant contended that he never demanded to process his RTI application as an application for refund.

The written submissions dated 08.10.2020, filed by Jt. General Manager/IT & CPIO, IRCTC, were taken on record.

**Decision:**

The Commission, after hearing the submissions of both the parties and perusing the records, observes that the appellant, vide point nos. 1 – 3 of his RTI application in question, has merely stated facts of the case and vide point no. 4, the appellant has sought clarification with respect to the difference in the amount refunded. The

Commission finds it pivotal to note that under the provisions of the RTI Act only such information as is available and existing and held by the public authority or is under control of the public authority can be provided. The PIO is not supposed to create information that is not a part of the record. He is also not required to interpret information or provide clarification or furnish replies to hypothetical questions. Similarly, redressal of grievance, reasons for non-compliance of rules/contesting the actions of the respondent public authority are outside the purview of the Act. Further, the Hon'ble Supreme Court of India in the case of **Khanapuram Gandaiah Vs. Administrative Officer and Ors.** in SLP (C) 34868 of 2009 dated 04.01.2010 had held as under:

*“6. Under the RTI Act "information" is defined under Section 2(f) which provides: "information" means any material in any form, including records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, report, papers, samples, models, data material held in any electronic form and information relating to any private body which can be accessed by a public authority under any other law for the time being in force.*

*7. ....the Public Information Officer is not supposed to have any material which is not before him; or any information he could have obtained under law. Under Section 6 of the RTI Act, an applicant is entitled to get only such information which can be accessed by the "public authority" under any other law for the time being in force. The answers sought by the petitioner in the application could not have been with the public authority nor could he*

*have had access to this information and Respondent No. 4 was not obliged to give any reasons as to why he had taken such a decision in the matter which was before him. A judge cannot be expected to give reasons other than those that have been enumerated in the judgment or order.”*

Nonetheless, the respondent undertook to process the appellant’s complete refund against his reserved ticket on the basis of the grievance raised by him in his RTI application. Thus, it cannot be said that the respondent deliberately or with malafide intent delayed the transfer of the RTI application. Hence, in the absence of any malafide intention, it would not be appropriate to initiate any action for imposition of penalty on the respondent.

As regards to the appellant’s grievance that his first appeal was disposed of by the FAA without providing him an opportunity of being heard, the Commission observes that the FAA should invariably provide appellants an opportunity of hearing, especially if so requested. In view of this, the Commission would like to counsel the FAA, Eastern Railway, Kolkata to be more careful in future so that such lapses do not recur.

With the above observations, the appeal is disposed of.

Copy of the decision be provided free of cost to the parties.

**The appeal, hereby, stands disposed of.**

**Amita Pandove (अमिता पांडव)**  
**Information Commissioner (सूचना आयुक्त)**  
दिनांक / Date 13.10.2020

Authenticated true copy  
(अभिप्रमाणित सत्यापित प्रति)

B. S. Kasana (बी. एस. कसाना)  
Dy. Registrar (उप-पंजीयक)  
011-26105027

Addresses of the parties:

1. The First Appellate Authority (FAA)  
/Addl. General Manager (G),  
East Central Railway,  
Head Quarters, Hajipur,  
Dist. Vaishali, Bihar
2. The Central Public Information Officer  
Deputy General Manager (G),  
East Central Railway,  
Head Quarters, Hajipur,  
Dist. Vaishali,  
Bihar – 844 101
3. The Central Public Information Officer  
Sr. Comml. Manager (Catg.) & APIO,  
Eastern Railway,  
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4. The Central Public Information Officer  
Indian Railway Catering &  
Tourism Corporation (IRCTC),  
B – 148, 11<sup>th</sup> Floor,  
Statesman House,  
Barakhamba Road,  
New Delhi – 110 001



5. Mr. Uttkarsh Kumar