

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

File no.: CIC/ISPNR/C/2018/627207

In the matter of:

Varun Krishna

... Complainant

VS

Central Public Information Officer,
India Security Press (SPMCIL),
DM(HR)/ISP, Nashik Road,
District Nashik-422101, Maharashtra.

...Respondent

RTI application filed on	:	10/05/2018
CPIO replied on	:	31/05/2018
First appeal filed on	:	07/06/2018
First Appellate Authority order	:	04/07/2018
Complaint dated	:	29/07/2018
Date of Hearing	:	26/06/2020, 20/10/2020
Date of Decision	:	26/06/2020,20/10/2020

ORDER

1. The complainant filed an application under the Right to Information Act, 2005 (RTI Act) before the Central Public Information Officer (CPIO), India Security Press (SPMCIL), DM(HR)/ISP, Nashik Road, District Nashik, Maharashtra seeking information on three points, including, inter-alia:-

(i) Name, Designation, Email Address, and Official Mobile number of the concerned responsible official for providing investigation and Action Taken Report;

(ii) Copy of Investigation report and Action Taken Report (ATR); and

(iii) Copy of file noting pertaining to Email Dtd 6.10.17.

2. Being aggrieved with the response given by the CPIO/FAA, the complainant filed a complaint under Section 18 of the RTI Act before the Commission on the ground that action should be taken against the respondent.

Hearing:

3. The complainant attended the hearing through video-call. The respondent, Shri Ashesh Avinashi, CPIO attended the hearing through video-call.

4. The respondent submitted their written submissions dated 21.03.2020 and the same has been taken on record.

5. The complainant submitted that no information has been provided to him by the respondent on his RTI application dated 10.05.2018. The complainant submitted that the respondent has wrongly stated that no information is available on record and there is no file-noting on his e-mail dated 06.10.2017. The complainant apprised the Commission that in file no. CIC/ISPNR/C/2018/627199, there is a letter dated 23.10.2017 which was written by Manager (OL) & PIO to the General Manager, India Security Press, Nashik regarding his e-mail dated 06.10.2017. The complainant submitted that there must be documents on record with respect to the information sought by him in his RTI application. The complainant further submitted that evasive reply was given by the respondent on point no. 1 of the RTI application that the information is available on website. The complainant stated that as to how the information related to his e-mail is available on website. The complainant submitted that penalty should be imposed on the respondent.

6. The respondent reiterated the reply given by the CPIO and stated that no such information is available on their records. On query from the Commission regarding the letter dated 23.10.2017 written by the Manager (OL) & PIO regarding the e-mail of the complainant. The respondent has no plausible explanation with respect to the said query.

Interim Decision:

7. The Commission, after hearing the submissions of both the parties and after perusal of records, observes that the complainant has sought information on three points as enumerated above. In response to the RTI application, the respondent has informed that no such information is available on record on point nos. 2 and 3 of the RTI application. The respondent in response to point no. 1 of the RTI application has wrongly stated that the information is available on their website. The Commission is of the view that as to how the name, designation, email address, and official mobile number of the concerned responsible official for providing investigation and Action Taken Report in the case of appellant is available on website. The Commission further perused the

letter dated 23.10.2017 of Manager (OL) & PIO. The Commission is of the view that the Manager (OL) & PIO has forwarded the e-mail dated 06.10.2017 of the complainant in order to take necessary action in the matter. Therefore, any official of the respondent public authority must have processed the e-mail of the complainant on a note-sheet and information should have been available with the respondent public authority.

8. It was further observed that the respondent has not informed the Commission that correspondence has been made within the respondent public authority regarding the e-mail of the complainant. Further the e-mail of the complainant was forwarded for necessary action. It appears that there is a contradiction in the facts and the documents placed on record before the Commission, therefore, the Commission directs the CPIO to show-cause in writing the reasons that as to why penalty should not be imposed on him for wrongfully denying/obstructing the information under the RTI Act. The CPIO should comply the above directions of the Commission, within a period of 15 working days from the date of receipt of this order.

9. The Deputy Registrar is directed to fix hearing in the matter after 15 days for show-cause hearing.

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

Neeraj Kumar Gupta (नीरजकुमारगुप्ता)
Information Commissioner (सूचनाआयुक्त)
दिनांक / Date: 26.06.2020

Date of Hearing : 20/10/2020

The following were present

Respondent: Shri Ashesh Avinashi, Deputy General Manager (HR) and CPIO, present over VC

Submissions made by Respondent during Hearing:

Shri Ashesh Avinashi, Deputy General Manager HR and the CPIO submitted that with regard to the RTI application dated 10.05.2018 a reply was given on 31.05.2018. The subject matter of the information asked by the applicant was pertaining to his e-mail dated 06.10.2017 and reminder dated 18.10.2017. Since the e-mail is addressed to the CMD SPMCIL, New Delhi and other officials

were kept in CC of the said e-mail, the then CPIO downloaded the e-mail and the copy of which is available on records. As there was no material information available on the action taken on the e-mail, the applicant was informed that no such information is available on record and also no file noting is available as no action was taken in ISP pertaining to his e-mail dated 06.10.2017.

He further summed up stating that he as the then CPIO had tried his level best to provide the available information on record to the applicant on time. He had no intention to obstruct or deny any information. Therefore, he requested to condone the show cause issued.

Furthermore, he reiterated his written submissions dated 10.07.2020 in which he submitted that no such investigation report and action taken report was available on record. Further, all information pertaining to officers along with their names and designations, telephone numbers are already uploaded on the website of ISP; it also contains organisation chart, Directory of officers, designated PIOs, designated Nodal officers etc. The applicant was informed that the same was available on the website, as the query raised by the applicant is not specific regarding the concerned responsible official for providing investigation and action taken report. Further, the information was also given to the applicant on the letter head of the India Security Press, wherein the phone number and e-mail address are printed and further the address and telephone number of Headquarters are provided. Therefore the reference of website was given in the reply of point no.1 and no such file noting pertaining to e-mail dated 06.10.2017 was available on record, and same has been conveyed to the applicant vide ISP letter dated 31.05.2018.

He further submitted that he had provided the available information as per the records and to the best of his knowledge. He pointed out that reference of this information was made to the applicant in good faith. He further submitted that he had no additional information apart from what he had given in his reply to the RTI application dated 10.05.2018. He had not denied or obstructed any available information.

Observations:

The content of the e-mail dated 06.10.2017 shows that the complainant was offended due to certain remarks made by the CPIO in his written submissions and hence he sent an e-mail to the Chief Managing Director, Security Printing and Minting Corporation of India Ltd describing that it is his moral duty to inform that the APIO/CPIO had adopted to use cheap tactics in order to evade

from the RTI accountability and also stated that the concerned officer was confronted on 05.10.2017 before the Commission during hearing. He requested for disciplinary action against the concerned officer as well raised concern regarding his safety and security and also pressed for proof that foul language as alleged by the CPIO was used by him.

The chain of events is important to understand the wastage of time and resources of the Commission caused by the complainant. In a second appeal or complaint he was present before the earlier bench of the Commission on 05.10.2017 and though there is no copy of the impugned written submissions submitted by the Complainant where the concerned CPIO had falsely alleged him nor the concerned CPIO is present to rebut the contentions, the Commission considers the facts as pleaded to be factual. However, the fact remains that the complainant has misconstrued the basic objective of the RTI Act and is using it as a tool to punish officers under the RTI Act who are discharging their duties as CPIO, APIO etc. The applicant and all concerned need to understand that the RTI Act was enacted to contain corruption and ensure transparency and is not meant for redressal of personal grievances. First, there was a hearing on 05.10.2017 and as per applicant there was some verbal argument and being aggrieved with the same, he filed a complaint through e-mail dated 06.10.2017 and asked the CMD to take action. Now he himself should understand that it is only the CMD who is the concerned person who shall take action or dispose of his e-mail request if found relevant. However, as the RTI Act has not restricted anybody from asking any information u/s 6 of the RTI Act, the applicant after waiting for almost a year as per record, had filed a RTI application on 10.05.2018 asking for the action taken on his e-mail dated 06.10.2017. Here, the discussion is important because the CMD who is the apex authority of the organisation is not obviously receiving one or two e-mails everyday that action shall be taken or records shall be maintained compulsorily. The e-mail facility is available in any organisation to promote paperless governance and expedite the process of administration. However, the same does not mean that each and every e-mail filed to the organisation shall be maintained in a folder and action shall be taken. Having said that, the Commission also gives the benefit of doubt to the applicant that his contentions were genuine or he was really misrepresented before the earlier bench on 05.10.2017 but that does not mean that he will start a fresh litigation by first sending an e-mail to the CMD which he can do as a citizen . However, after sending the e-mail, filing an RTI application on

10.05.2018 asking the CPIO ISP about the action taken was purely illogical. Now in view of that RTI the concerned CPIO had replied on time i.e 31.05.2018 as per the availability of record. The applicant was not satisfied with the reply, and filed a first appeal and thereafter the present complaint. The earlier bench while issuing a show cause notice in this case had mentioned that the complainant had submitted that the respondent has wrongly stated that no information is available on record and there is no file-noting on his e-mail dated 06.10.2017. **The complainant apprised the Commission that in file no. CIC/ISPNR/C/2018/627199, there is a letter dated 23.10.2017 which was written by Manager (OL) & PIO to the General Manager, India Security Press, Nashik regarding his e-mail dated 06.10.2017.**The respondent in response to point no. 1 of the RTI application has wrongly stated that the information is available on their website. The Commission is of the view that as to how the name, designation, email address, and official mobile number of the concerned responsible official for providing investigation and Action Taken Report in the case of appellant is available on website. The Commission further perused the letter dated 23.10.2017 of Manager (OL) & PIO. The Commission is of the view that the Manager (OL) & PIO has forwarded the e-mail dated 06.10.2017 of the complainant in order to take necessary action in the matter. Therefore, any official of the respondent public authority must have processed the e-mail of the complainant on a note-sheet and information should have been available with the respondent public authority. The present bench perused the letter dated 23.10.2017 addressed to the General Manager, India Security Press, Nashik by Shri K.P Srivastava, Manager (OL) & PIO the content of the letter is extracted below for better understanding:

"Subject: Complaint of Shri Varun Krishna against PIO, India Security Press, Nashik.

Sir,

Please find enclosed a copy of e-mail dated 06.10.2017 sent by Shri Varun Krishna addressed to the CMD, SPMCIL complaining false allegation upon him of using foul language by PIO, ISP-Nashik.

As the matter pertains to India Security Press Nashik, the complaint of the applicant is sent herewith for necessary action."

The CPIO during the hearing was asked about this letter again, for which he tendered his unconditional apology for not being able to explain or communicate the facts correctly to the earlier bench. He further explained that

indeed the letter was received in ISP Nashik and was marked to the then CPIO. Thereafter as per record, the letter was simply filed and no action was taken.

The Commission observed that general information was given in respect of point no. 1, as specific to the complainant's e-mail who is the authority was not known to the CPIO. Moreover, in respect of points no. 2 & 3 the complainant is contesting the reply the CPIO has now explained categorically that there was no action taken on the e-mail dated 06.10.2017 and the subsequent letter dated 23.10.2017 also.

Decision:

The Commission is an implementing body of the RTI Act and is concerned with the growing trend of filing of these kind of personal vendetta applications in the form of RTI applications and which later on increases the number of appeals and complaints before the Commission. There is no ground found to initiate any action against the CPIO as per the RTI Act. The reply given in the case was just and proper and there is no scope for any action. The applicant is advised to exercise his right to information responsibly and constructively.

The CPIO is issued a warning for not providing a categorical reply to the complainant stating that no action was taken, as the same could have prevented this complaint and further proceedings. He is cautioned to be careful in future but as there was no malafide found on his part, the case is not fit for imposing penalty.

The show cause proceeding is disposed of accordingly.

Vanaja N. Sarna(वनजा एन. सरना)
Information Commissioner (सूचनाआयुक्त)

Authenticated true copy
(अभिप्रमाणितसत्यापितप्रति)

A.K. Assija (ऐ.के. असीजा)
Dy. Registrar (उप-पंजीयक)
011-26182594 /
दिनांक/ Date